

Zoning Ordinance

Portland Township

Ionia County, Michigan

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PART 3 - ZONING

Article 1: Title, Purpose and Scope

Sec. 3.1.01: Short Title

This Part shall be known as the “Portland Township Zoning Ordinance.”

Sec. 3.1.02: Purpose

This Part is based upon the Portland Township Comprehensive Community Plan. The purpose of this Part is to promote and safeguard the public health, safety, morals, prosperity, and general welfare of the people. The provisions are intended, among other things, to encourage the use of lands, waters, and other natural resources in the township in accordance with their character and most suitable uses; to limit the improper use of land and resources; to reduce hazards to life and property; to provide for orderly development within the township; to avoid overcrowding of the population; to provide for adequate light, air, and health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion on the public roads and streets; to protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses; to facilitate the establishment of an economic system of transportation, sewage disposal, safe water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land; resources, and properties.

Sec. 3.1.03: Scope

It is not intended by this Part to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Part, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Part imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or ordinance, or any said rules, regulations, permits, or easements, then the provisions of this Part shall govern.

The requirements of this Part are to be construed as minimum requirements, and shall in no way impair or affect any covenant or restriction imposing greater requirements.

Article 2: Definitions

Sec. 3.2.01: Rules Applying to Text

In addition to the requirements set forth in Section 1.1.02 of this code the following listed rules of construction apply to the text of this Part:

A "building" or "structure" includes any part thereof.

The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended", "arranged", "designed to be used", or "occupied."

Terms not defined herein shall have the meaning customarily assigned to them or as defined by the Michigan Zoning Enabling Act, 110 PA 2006, as amended.

Any dispute over any language contained in this Part may be resolved under Article 19 pertaining to zoning authority and procedure before the Township Zoning Board of Appeals.

Sec. 3.2.02: Definitions

ACCESSORY BUILDING: A building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use.

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

ADULT FOSTER CARE FACILITY: A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Such facilities are licensed under Public Act 218 of 1979 as amended.

ADULT FOSTER CARE CONGREGATE FACILITY: An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care.

ADULT FOSTER CARE FAMILY HOME: A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

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 who shall be provided foster care.

ADULT FOSTER CARE SMALL GROUP HOME: An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

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

AGRICULTURAL SERVICE ESTABLISHMENT: Agricultural service establishments engage in performing agricultural or animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to, centralized bulk collection, refinement, storage, and distribution of farm products to wholesale and retail markets (such as grain cleaning and selling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer, and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; farm equipment sales, service, and repair; veterinary services; and facilities used in the research and testing of farm products and techniques.

AGRI-TOURISM BUSINESS: The practice of the general public visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, a companion animal or livestock show, for the purpose of purchase, recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation. More specifically, the farm must be actively producing agricultural products for purchase and sale. It may include any farm marketing or agricultural tourism endeavor such as farm markets, farm direct marketing, farm stays, farm visits, roadside markets or stands, U-Pick operations, rent-a-tree operations, community supported agriculture, rural tourism, farm museums, outdoor or barn weddings, corn mazes, cider mills, pumpkin patches, petting farms, on-farm retail meat shops, on-farm retail dairies and creameries, on-farm woolen goods shops, maple syrup farms, wineries, Christmas tree farms, multi-farmers' markets, on-farm retail nurseries, on-farm gift shops, on-farm flowers, herbs and spices stores, on-farm bakeries, and on-farm restaurants or cafes.

ALTERATIONS: Any change, addition, or modification in construction or type of use or 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."

ANIMAL HOSPITAL: An institution in which medical or surgical care is provided for other than human beings.

ANTENNA: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies, wireless telecommunications signals or other communication signals.

APPEARANCE TICKET: A complaint of written notice issued and subscribed by a public servant authorized by law to issue it, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his or her alleged commission of a designated violation or violations of state law or local ordinance.

AUTOMOBILE REPAIR: Any activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines, or trailer; collision service such as body, frame, or fender repair; overall painting and rustproofing; refinishing or steam cleaning.

AUTOMOBILE SERVICE STATION: A building designed or used for the retail sale of fuel, lubricants, and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for storage, minor repair, and servicing.

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

BANQUET FACILITY: It is a facility providing food service with tables and seating maintained and operated primarily for the purpose of serving a meal at a hosted party, banquet, or reception. This definition is intended to make clear that a Banquet Facility is not a nightclub.

BANQUET FACILITY, AGRICULTURAL: An establishment repurposing existing agricultural barns to hold prior reserved events such as banquets, weddings, meetings; receptions, reunions, private events and gatherings that may include serving food or beverages and to which the general public is not admitted; and for which no admission charge is imposed at the door.

BASEMENT: A floor or level of a building having one or more of its exterior walls located wholly or partially below finished grade, with grade being determined where the top of the ground rests against the building when construction is completed; not more than one-half of this floor or level shall have its height above grade.

BILLBOARDS, SIGNBOARDS, OR SIGNS: Any sign, display, device, figure, painting, structure, drawing, message, placard, poster, billboard, or any other thing intended, designed, or used to advertise, promote, or inform; and which is not necessary

except to advertise, promote, or inform an activity conducted on the premises and which can be seen from outside any building or structure, or from the out-of-doors.

BOARD OF APPEALS: As used in this Part, this term means the Portland Township Zoning Board of Appeals.

BUILDABLE AREA: The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Part have been complied with.

BUILDING: Any structure, temporary or permanent, having a roof.

BUILDING HEIGHT: In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs.

BUILDING INSPECTOR: That individual appointed by the Township Board as the Building Inspector of Portland Township.

BUILDING LINE: A line parallel to, and set back from, the front lot line a distance equal to the depth of the front yard required for the district in which the lot is located.

BUILDING, MAIN: A building in which is conducted the principal use of the lot on which it is situated.

BUILDING PERMITS: A building permit is the written authority as issued by the Building Inspector on behalf of the Township permitting the construction, moving, alteration, or use of a building or structure in conformity with the provisions of this Part.

CAMPGROUND: "Campground" shall mean and include the temporary or permanent buildings, tents, or other structures, together with the appurtenances pertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for recreation, education, or vacation purposes, on a commercial basis or for charity purposes. The term "camp" shall not be construed to include buildings, tents, or other structures maintained by the owner or occupant or premises used exclusively to house his farm labor.

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

CLUBS, LODGES, FRATERNITIES: An organization of persons for special purposes such as sports, arts, sciences, literature, politics, or the like, with meetings and memberships, but not operated for profit.

CO-LOCATION: The use of a single support structure, building and/or site by more than one wireless communication provider.

COMMERCIAL AGRICULTURE: The use of land and/or structures for the growing and/or production of farm products for income, including operations where fruits, vegetables, or similar farm products are picked by and sold to the consumer; i.e., "u-pick" operations.

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

CONVALESCENT OR NURSING HOME: A convalescent or nursing home is a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein four or more persons are cared for. Said facility shall conform to, and qualify for license under, applicable State laws.

DECK: An uncovered platform which extends above grade.

DISTRICT OR ZONE: A portion of the Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Part.

DRIVE-IN RESTAURANT: A drive-in establishment that furnishes the patron with food in a ready-to-consume state, and where the consumption of food is allowed either in the main building, a motor vehicle parked on the premises, another facility on the premises outside the main building, or off the premises.

DWELLING OR APARTMENT: A building or portion thereof, designated or used exclusively as a residence or sleeping place for one or more persons, permanently or temporarily, including one-family, two-family, multiple dwellings, apartment hotels with cooking facilities, board and lodging houses, and mobile homes used for such purposes, but not including motels, motor hotel, tourist rooms, travel trailers, motor homes, trailers, or truck campers.

DWELLING, MULTIPLE: A building or portion thereof, used or designated for use as a residence for three or more families living independently of each other and each doing

their own cooking in said building. This term includes apartment buildings and townhouses.

DWELLING, SINGLE FAMILY: A building used or designated for use exclusively by one family.

DWELLING, TWO FAMILY (DUPLEX): A detached building used or designated for use by two families living independently of each other and each doing their own cooking in said building.

EASEMENT: A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

ERECTED: This term 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 the erection.

ESSENTIAL PUBLIC SERVICES: The erection, construction, alteration, or maintenance by public utilities or township departments of the following utilities: gas, telephone, electrical, steam, water, or sewer for the purpose of transmission or distribution, collection, communications, supply or disposal or such utility services including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, towers, substations, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate public utility service by such public utilities or Township for the public health, safety, or general welfare, but not including buildings other than such as are primarily enclosures or shelters of the above essential service equipment. This definition shall not include sanitary landfills, recycling centers, or transfer stations.

FAMILY:

- (a) One or more persons related by blood, marriage, or adoption, including foster children and servants, occupying a single dwelling unit and living as a single non-profit housekeeping unit.
- (b) A collective number of individuals occupying a single dwelling unit whose relationship is of a permanent non-transient and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order nor does it include a group of individuals whose association is temporary and/or resort seasonal in nature nor include state licensed residential facilities, as defined by the Michigan Zoning Enabling Act, being 110 PA 2006, as amended, having more than six individuals.

FAMILY CHILD CARE HOME: means a private home in which 1 but fewer than 7 minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the internal revenue code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

FARM: All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a contiguous parcel of not less than ten acres in area. Farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, livestock and poultry farms, apiaries; but establishments for the purpose of keeping fur-bearing animals or game, or operating fish hatcheries, stock yards, stone quarries, or gravel, dirt, or sand pits shall not be considered farms.

FARM ANIMALS: Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals.

FARM BUILDINGS: Any building or accessory structure other than a farm or a non-farm dwelling unit which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or milkhouses.

FARM LABOR HOUSING: A tract of land, mobile homes, 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.

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

FARM PRODUCTS: Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing; fruits, vegetables,

flowers, seeds, grasses, trees, fish, apiaries, equine, and other similar products; or any other product which incorporates the use of food, feed, fiber, fur or flora.

FENCE: Any permanent partition, or structure erected as a dividing structure, barrier, or enclosure, and not part of a building.

FLOODPLAIN: Those areas which would be inundated by flood waters in a flood on one percent yearly probability.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls or from the centerline of common walls. Floor area shall not include elevator shafts, stairwells, floor space used for mechanical and utility equipment, attic space having headroom of less than seven feet, or interior balconies or mezzanines. Any space devoted to parking or loading shall not be included.

GARAGE - PRIVATE: A detached accessory building or portion of a main building for the parking or temporary storage of not more than three automobiles, including not more than one light delivery or pickup motor vehicle of rated capacity not to exceed one and one-half tons used by the occupants of the premises.

GARAGE - PUBLIC: A building, other than a private garage, used for the care, repair, or equipping of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

GASOLINE SERVICE STATION: A structure or structures and space combined, used solely for either/or both the sale and installation in or upon motor boats or motor vehicles of the usual operating commodities such as gasoline, fuel oil, oil, grease, alcohol, water, batteries, tires, light bulbs, windshield wipers, and other minor accessories or services such as washing, wiping, cleaning, and waxing, or repair of tires, lights, charging of batteries, and tune-ups.

GRADE: A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

GREENBELT: A natural or planted landscaped area consisting of trees, shrubs, bushes, and grasses designed to provide a visual and spatial buffer between land uses.

GROUP CHILD CARE HOME: means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year

HOME BASED BUSINESS: A business operation that is clearly a customary, incidental, and secondary use of the residential property for the purpose of providing financial support to the property's residents but which has a potential to possess characteristics more commercial or industrial than with the more traditional home occupation standards. Home-based businesses include, but are not limited to, automobile repair, machine shop, wood shop, outside construction activities, print shop, and vehicle body shops. A home-based business will be reviewed and approved as a special use permit pursuant to Article 15.

HOME OCCUPATIONS: Any use customarily conducted within the dwelling and/or an accessory structure and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area. Examples include, but are not limited to, typing service, answering service, proof reading, hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate and insurance sales; professional office, music lessons, craft or fine art and other similar occupations and other home occupations including incidental retail sales not to exceed 25% of the gross sales of the business.

JUNK YARD: This term includes automobile wrecking yards and salvage areas and includes any area of more than two hundred 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 uses established entirely within enclosed buildings.

KENNEL: Any premises on which more than three dogs, six months of age or older, are kept for the purpose of breeding, boarding, or sale.

LOT: A parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use.

LOT AREA: The total horizontal area within the lot lines or property boundary of a lot which includes the area within public and private road rights of way if such area is included within the legal description of the lot.

LOT CORNER: A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the centerlines of the street is one hundred thirty-five degrees (135) or less or a lot abutting upon a curved street or streets if tangents to the curve at the two points where the lot lines meet the centerline curve form an interior angle of one hundred thirty five (135) or less.

LOT COVERAGE: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

LOT DEPTH: The distance between the front lot line and the rear lot line measured along the median between the side lot lines.

LOT, DOUBLE FRONTAGE: Any lot, excluding a corner lot which fronts on two streets which do not intersect.

LOT, INTERIOR: A lot which has frontage on only one street.

LOT LINE, FRONT: The lot line separating a lot from a street right-of-way, private road, or other thoroughfare.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregular shaped lot or parcel, an imaginary line ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the event that none of these definitions are applicable, the Building Inspector shall designate the rear lot line.

LOT LINE, SIDE: Any lot line other than a front or rear lot line.

LOT WIDTH: The horizontal distance between the side lot lines, measured parallel to the front lot line at the minimum required building setback line.

MOBILE HOME: A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than thirty (30) consecutive days.

MOBILE HOME PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

MOTEL: A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

MOTOR HOME: A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

NONCONFORMING BUILDING OR STRUCTURE: A structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated.

NONCONFORMING USE: A structure, building, plot, premises, or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

OPEN AIR BUSINESS: A business, a substantial part of which involves activities or the display and sale of goods outside of a building, including motor vehicle and boat sales, mobile home sales, lawn and garden centers, golf driving ranges, and similar uses.

OPEN SPACE PRESERVATION PROJECT: A single family development in which a portion of the project will remain preserved in an undeveloped state in accordance with section 506 of the Michigan Zoning Enabling Act (MCL 125.3506).

PLANNED UNIT DEVELOPMENT: Land under unified control, to be planned and developed as a whole, in a single development operation or a definitely programmed series of development operations, including all lands and buildings. Such developments shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

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

PORCH, OPEN: A covered entrance to a building or structure which is unenclosed except for supporting columns.

PREMANUFACTURED UNIT: An assembly of materials or products intended to comprise all or part of a building or structure and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to ensure uniformity of quality and material content. Premanufactured unit includes a mobile home.

PRINCIPAL USE: The primary or predominant use of the premises.

PRIVATE ROAD: (See Section 3.4.21)

RENDERING PLANT: A facility where by-products of animal meat processing, kitchen grease or other dead animals are taken to be converted into other products such as industrial fats and oils or fertilizer.

RESTAURANT: A public eating place where food is prepared and served or sold for consumption solely within a building on the premises and which, as an incidental part of said principal business, may permit food to be taken from the premises for consumption. Property owned, leased, or in which an owner of a restaurant has an interest shall be considered as restaurant premises if used in the operation of such business.

RIGHT-OF-WAY: A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

RIVER'S EDGE: The mean annual waterline of the river or tributary.

ROADSIDE MARKET STAND: A building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

SETBACK: The minimum unoccupied distance between the lot line and the nearest wall of the principal or accessory building.

SIGN, ON-SITE: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premise.

SIGN, OFF-SITE: Any sign relating to matter off the premises.

SLAUGHTERHOUSE Also BUTCHER SHOP: A facility where live animals are killed and processed as meat for food products. This term includes corrals for live animals, cold storage and selling the processed meat and other incidental food items at a retail counter or to other customers such as restaurants.

SOLAR ENERGY SYSTEM:

- (a) Building-mounted solar energy collector: A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall or window or other element, in whole or in part, of a building.
- (b) Commercial solar energy system: A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Also known as a solar farm.
- (c) Commercial solar energy system responsible party: The party responsible for construction, maintenance, and/or long-term operation of a commercial solar

energy system. The responsible party may be the owner or leasee of the land on which the commercial solar energy system is established.

- (d) Ground-mounted solar energy collector: A solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located.
- (e) Solar energy collector: A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with a principal land use on the parcel of land on which the solar energy collector is located, or if permitted, for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.

SPECIAL USE: A use which shall be permitted in a zoning district only after review and approval by the Planning Commission when the facts and conditions specified in the Part as those upon which the use is permitted are found to exist.

STABLE: A structure, building, or land used for the keeping, care, and raising of horses.

- (a) **COMMERCIAL** - Any lot or parcel where horses are kept for training, riding, stabling, or breeding for compensation.
- (b) **PRIVATE** - Any lot or parcel where horses are kept and used solely by the owner or owners of the lot or parcel with no commercial activities involved.

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 be no floor above it, then the space between the floor and the ceiling next above it.

A "mezzanine" floor shall be deemed a full story only when it covers more than fifty percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four feet or more.

STREET: A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except an alley.

STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground; including, but without limiting the generality of the foregoing; advertising signs, billboards, tennis courts, swimming pools, and pergolas. Fences, sidewalks, and driveways shall not be considered structures.

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

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. Tower includes those used for transmission for radio and television, microwave, common carrier, cellular telephone, alternative tower structures and the like. Tower includes the structure thereof and any support thereto.

TOWER HEIGHT: The distance measured from the finished grade of the parcel of land to the highest point on the tower or other structure, including the base pad and any antenna.

USE: The lawful purpose for which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

VARIANCE: An adjustment of or variation from the requirements of this Part as authorized by the Zoning Board of Appeals or the Zoning Administrator under the provisions of this Part.

WIND ENERGY CONVERSION SYSTEMS:

- (a) Wind Energy Conversion System (WECS) shall mean a combination of:
 - (i) A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
 - (ii) 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
 - (iii) The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
 - (iv) The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
 - (v) Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
- (b) Abandonment: Any Utility Scale WECS, Special Use MET or Wind Testing Tower or that is not operating or producing electricity for a continuous period of 12 months shall be considered abandoned.

- (c) Anemometer: An anemometer means a device for measuring the speed of the wind.
- (d) ANSI: American National Standards Institute.
- (e) Blind Glint: The intermittent reflection of the sun off the surface of the blades of a single or multiple wind energy system.
- (f) Commercial WECS: Any WECS that is a Single WECS for Commercial Purposes, any WECS within a wind farm, or any other WECS meant to provide power which is utilized off the site on which the WECS is located.
- (g) dBA: The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
- (h) Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity.
- (i) FAA: U. S. Federal Aviation Administration.
- (j) Height: Means the total distance measured from the grade of the property as existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point.
- (k) Horizontal Axis WECS: A wind energy system design in which the shaft is parallel to the ground and the blades are perpendicular to the ground.
- (l) Interconnected WECS: A WECS that is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
- (m) On-site Service WECS: A WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.
- (n) Meteorological Tower (MET): A meteorological tower used for the measurement of wind speed. Michigan Tall Structure Act (Act 259 of 1959) governs the height of structures in proximity to airport related uses.
- (o) Nacelle: Refers to the encasement at the top of the pole or other structure which houses all of the generating components, gear box, drive tram, and other equipment.
- (p) Net metering: Is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
- (q) Property Line: Means the recognized and mapped property parcel boundary line. Project Property Line is the outermost boundary of a group of parcels being used for commercial wind energy conversion systems.

- (r) Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind and deliveries to a device which generates electricity.
- (s) SCADA Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment of wind data for use by the Supervisory Control and Data Acquisition (SCADA) system.
- (t) Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WECS casting shadows on the ground and stationary objects such as dwellings.
- (u) Single WECS for Commercial Purposes: A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
- (v) Sound Pressure: Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
- (w) Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
- (x) Tip Height: When referring to a Wind Energy System, the distance measured from ground level to the furthest vertical extension of the rotor.
- (y) WECS Testing Facility: A structure and equipment used to determine the potential for the placement of a WECS. Also see Meteorological Tower.
- (z) Wind Farm: Clusters of two (2) or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. The WECS facilities may or may not be owned by the owner of the property upon which the WECS is placed.

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

- (a) FRONT YARD - A required front yard is an open space extending the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the front street lot line, describing an unoccupied space between the front lot line and the nearest wall of the main building, excepting steps and unenclosed porches.
- (b) REAR YARD - A required rear yard is an open area extending across the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the rear lot line, describing an

unoccupied space between the rear lot line and the nearest wall of the main building.

- (c) **SIDE YARD** - A required side yard is 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 required side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line to the nearest wall of the main building.

(Amended 11-12-2014, 7-11-2018)

Article 3: Zoning Districts

Sec. 3.3.01: Zoning Districts

For the purpose of this Part, the Township is hereby divided into the following zoning districts:

A	Agricultural
R-1	Low Density Residential
R-2	Medium Density Residential
R-3	Mobile Home Park
C	Commercial
I	Industrial
PUD	Planned Unit Development

Sec. 3.3.02: Zoning Map

The locations and boundaries of these descriptions are hereby established on a map entitled "The Official Zoning Map of Portland Township" which is hereby made a part of this Part.

The official zoning map shall be located in the Township offices and shall be the final authority as to the current zoning status of any property in the Township. Said map is to be kept up to date, and accessible to the general public.

Sec. 3.3.03: Boundaries of Zoning District

Unless otherwise provided, the boundaries of zone districts shall be interpreted as following along section lines, or lines of customary subdivisions of such sections; or the centerlines of highway, streets, or open areas; or property lines of record; or the extension of any said lines.

Article 4: General Provisions

Sec. 3.4.01: General Intent and Application

It is the purpose of this Part to establish general regulations which have not been specifically provided for in other sections of this Part. Unless specifically noted, these regulations apply to uses in all zoning districts.

Sec. 3.4.02: The Effect of Zoning

Except as hereinafter specified, no lot or land or premises shall hereafter be used, maintained, or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zoning district in which it is located.

Nothing in this Part shall be deemed to require any change in the plans, construction, or design of any building upon which construction has lawfully begun or for which a valid building permit has been issued; provided, however, that such building shall be completed within two years from the adopting of the Portland Township Zoning Ordinance or subsequent amendments affecting the district in which the building is or will be located.

Sec. 3.4.03: Restoration of Unsafe Buildings

Nothing in this Part shall prevent the strengthening or bringing to a safe condition of any building or structure, or part thereof, which does not comply with the building codes in force in the Township and unsafe as determined by the Building Inspector.

Sec. 3.4.04: Required Area or Space

No lot or lots in common ownership and no yard, parking area, or other space shall be so divided, altered, or reduced as to make such area or dimension less than the minimum required under this Part. If already less than the minimum required under this Part, said area or dimension shall not be further divided or reduced.

Sec. 3.4.05: Accessory Buildings

- (a) General Regulations. The following regulations shall apply to accessory buildings in all zoning districts unless otherwise provided:
 - (1) In any zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an

integral part of the permitted principal building, it shall comply in all respects with the requirements of this Part applicable to the permitted principal building.

- (2) Accessory buildings shall not be erected in any required front or side yard.
- (3) Detached accessory buildings and garages shall not occupy more than 30% of any required rear yard space. Said accessory building, when located in the rear yard, shall not be located nearer than five feet to any side or rear lot line nor nearer than 10 feet to the principal building.
- (4) Accessory buildings or garages shall be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (5) No accessory building shall include residential or living quarters for human beings.
- (6) When an accessory use or building is located on a corner lot, it shall not project beyond the front yard setback line required on the lot in the rear of such corner lot.
- (7) Accessory uses or buildings in a manufactured home development located in an R-3 zoning district shall meet setbacks according to section R 125.1941 of the Mobile Home Commission Act PA 96 of 1987, as amended, and the Manufactured Housing Commission General Rules, as amended.
- (8) Accessory buildings less than two hundred (200) square feet in area do not require a zoning permit but shall conform to the setback requirements for accessory buildings.
- (9) Accessory buildings used for agricultural or farming use may be constructed on vacant agriculture parcels without dwellings but must apply for and receive a zoning permit.
- (10) One (1) accessory building exceeding 200 square feet may be permitted as a special exception use by the Planning Commission on a vacant parcel adjacent to a parcel with an existing residence as the principal use subject to Section 3.15.06 (j).
- (11) In all Districts, up to two (2) minor accessory buildings (each building under 200 square feet) may be permitted on a vacant parcel adjacent to a parcel with an existing residence as the principal use, subject to the following standards:
 - i. Minor accessory buildings shall not require a building permit or site plan approval by the Planning Commission; however, a sketch detail must be provided showing the proposed location, existing buildings on adjacent parcels, setbacks and lot lines. Approval shall be required by the Zoning Administrator.

- ii. The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
- iii. To be considered adjacent, the two (2) parcels shall share a common boundary extending not less than one hundred (100) feet or be directly across a public street, private street, access easement or right-of-way; such that the side lot lines of both parcels under consideration are aligned or off-set by no more than fifty (50) feet, measured perpendicular to the side lot line.
- iv. The two (2) parcels must be and must remain in common ownership so long as the minor accessory buildings exist and the minor accessory buildings shall be removed prior to a change in ownership, unless a dwelling is constructed on the secondary adjacent parcel.
- v. The provisions of this section shall be limited to two (2) parcels, so as to prohibit more than one vacant adjacent parcel from having minor accessory buildings. Only one vacant adjacent parcel shall include minor accessory buildings.
- vi. Minor accessory buildings shall comply with the minimum setback requirements for a principal building.
- vii. Other applicable provisions pertaining to accessory buildings shall be met.

(Amended 3-19-15)

Sec. 3.4.06: Existing Lots

Where a lot which was of record prior to the adoption of the Portland Township Zoning Ordinance has an area of not less than ninety percent of its zoning district requirements and where such lot can provide the side, front and rear yard requirements of its zone, the permitted uses of the district shall be allowed. If such lot of record contains less than ninety percent of its zoning district requirements it may be utilized for the permitted uses of that district and the required side yards may be reduced by the same percentage the area of such lot bears to its zone district requirements, provided that no side yard provision may be reduced to less than five feet. Permitted uses shall comply with the required front and rear yards and that off-street parking requirements shall also be met.

Sec. 3.4.07: Building Heights

- (a) ALL DISTRICTS. No building shall exceed 35 feet.
- (b) EXCEPTIONS. Subject to other provisions of law, the requirements of all zones shall be subject to the following exceptions: parapet walls not

exceeding four feet in height, chimneys, building mounted solar energy collectors not exceeding 4 feet in height, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators and driers, silos, stacks, water tanks, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, fruit storage facilities, and similar structures.

Amended 7-11-2018)

Sec. 3.4.08: Front Yard Averaging and Encroachment

Where an existing setback line has been established by existing buildings occupying 50 percent or more of the frontage within the same block or where unplatted, within two hundred feet of the proposed building or the same side of the street, such established setback shall apply. Unenclosed porches, steps, or similar facilities may project into a required front yard for a distance not to exceed five feet.

Sec. 3.4.09: Mobile Homes As Temporary Dwellings

- (a) Mobile homes may be used for one year for living accommodations while a permanent structure is under construction, upon approval of the Building Inspector, who shall determine that the following standards are met:
 - (1) The temporary mobile home shall be used solely by the owner who is constructing the permanent structure and his immediate family.
 - (2) The owner shall have secured a building permit for the permanent structure.
 - (3) The owner shall have site plans approved by the Building Inspector for the temporary mobile home which shall show the size of the lot on which the temporary mobile home will be placed, the dimensions of the temporary structures, and its location on the lot.
 - (4) The owner shall have submitted to and obtained approval by the Building Inspector of electrical and plumbing specifications for the temporary structure.
 - (5) The owner shall submit a certificate of approval for sewer and water from the proper health agency for the temporary structure.
 - (6) The temporary structure shall provide not less than 150 square feet per person who will occupy the same and must be not smaller than 12 feet wide throughout its length.
 - (7) Portland Township shall require a cash bond of Five Hundred Dollars (\$500.00) from the owner conditioned upon the prompt removal of the temporary structure upon the expiration of the permit. The cash bond shall be invested by the Township Treasurer in a savings account at the rate of interest then payable on such accounts. Upon removal of the temporary structure within the time allowed by the permit and the faithful performance by the

owner of the conditions of the permit specified in this section of the Township shall return the bond together with the interest accrued thereon to the owner. If the owner fails to remove the temporary structure within said time or fails to abide by the conditions of this section, he shall be deemed to have forfeited the bond and the Township may use the same for enforcement of its ordinances for the removal of such temporary structure. In addition to receipt of the bond proceeds, the Township may seek any other appropriate legal remedy for the enforcement of this Part.

- (8) Mobile homes may also be used temporarily while constructing a permanent nonresidential structure or a permanent dwelling damaged by wind, rain, fire, or the like for a period of one year. One extension of one year may be permitted by the Building Inspector. The mobile home, when used as a dwelling, must be connected to a well and septic system and/or public sewer or water system approved by Ionia County Health Department and must be not smaller than 12 feet wide throughout its length.

Sec. 3.4.10: Dwelling Units Outside of Mobile Home Parks

All dwelling units located outside of mobile home parks shall comply with the following requirements:

- (a) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Part, shall be submitted to the Building Inspector. If the dwelling is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (b) All dwellings shall provide steps or porch areas where there exists an elevation differential of more than one foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (c) All additions to dwellings shall meet all the requirements of this Part.
- (d) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half feet.
- (e) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations, entitled "Mobile Home Construction and Safety standards", effective June 15, 1976, as amended; that is, the mobile home shall have a HUD sticker. All other dwellings shall meet the requirements of the construction code adopted by Portland Township.
- (f) Metal frame bearing mobile homes: Pillars shall be required to support

metal frame bearing mobile homes which pillars shall extend into the soil a minimum of 40 inches and have a minimum width of 16 inches. All pillars shall be placed in undisturbed soil. From the top of the pillars to the bottom of the frame of a mobile unit, a pier shall be made of 4" x 8" x 16" solid concrete blocks. The bottom of the pillars may be flared if possible but is not mandatory. If a concrete pad is poured around the pillars, a ½" expansion joint shall separate the pad from the pillar to allow movement of the pad. Said pillars shall be spaced not more than 10 feet apart on center with pillars at each end of the unit. Provided, however, such pillars may be spaced up to 13 feet apart on center at the axle area, provided that the number of pillars shall be equal; in number had they been placed at 10 feet intervals.

- (g) Metal frame bearing mobile homes, as an alternative to Section 3.4.10(f), may be placed upon a concrete pad of not less than four inches thick, reinforced with Number 10 wire mesh. The concrete pad must have not less than the same exterior dimensions of the mobile home that is placed upon the pad.
- (h) Metal frame bearing mobile home shall have a minimum clearance of 16 inches above the ground to the bottom of the frame of the mobile home.
- (i) Perimeter bearing mobile homes: A perimeter bearing mobile home shall have a perimeter frost wall of not less than 42 inches into the ground from the surface of the ground.
- (j) Perimeter bearing mobile homes shall have a minimum clearance of 24 inches above the ground to the bottom of the frame of the mobile home.
- (k) The entire exterior perimeter of a frame bearing mobile home, between the ground level and mobile home, shall be skirted with skirting material that meets exterior sheeting requirements of mobile homes and meets and is installed to mobile home industry standards. Such skirting must be installed with 30 days after placement of the mobile home on the lot or parcel.
- (l) All mobile homes, temporary and permanent, must be anchored by an anchoring system. Such anchoring system shall consist of a combination of the following:
 - (1) Ties - straps, cable or securing devices used to connect the mobile home to ground anchors.
 - (2) Anchoring equipment - straps, cables, turnbuckles, and chains, including tensioning devices which are used with ties to secure a mobile home to ground anchors.
 - (3) Ground anchors - any device at the mobile home site designed to transfer mobile home anchoring loads to the ground if the mobile home is supported by pillars; otherwise to transfer such loads to the concrete pad.
- (m) All supporting pillars and frost walls shall be placed in undisturbed soil.

Sec. 3.4.11: Clear Vision Corners

On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 30 inches and eight feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points 25 feet from the intersection of the right-of-way lines.

Sec. 3.4.12: Fences and Walls in Residential Districts

- (a) In all residential zoning districts, solid fences or walls, shall not exceed a height of three feet within the required front yard. A "see-through" type fence in the required front yard shall not exceed four feet in height. Height shall be measured from the average grade within a 25 foot radius of the fence, wall, or landscaping.
- (b) For all other areas, a fence or wall shall not exceed six feet in height.
- (c) On corner lots, a six foot privacy fence or wall may be erected within the front setback area parallel to the side of the house which faces the street subject to the restrictions for clear vision corners as contained herein.

Sec. 3.4.13: Essential Public Services

The erection, construction, alteration, or maintenance of essential services shall be permitted in any district. All such uses shall be exempt from the provisions of this Part.

Sec. 3.4.14: Demolition Permits

No principal building shall be razed unless a permit has been obtained from the Building Inspector. The demolition must be completed within 90 days of the issuance of the permit.

Sec. 3.4.15: Corner Lots

For a lot or parcel bounded by two intersecting streets, there shall be a front yard setback along each abutting street and one side and rear yard setback. The owner, builder or other person with a legal interest in the property may, after consulting with the Zoning Officer, designate which is the rear yard and which is the side yard. For a lot bounded by three intersecting streets, there shall be three front yard setbacks and the remaining setback shall be a rear setback.

Sec. 3.4.16: Principal Use

A lot or parcel shall not contain more than one main building or use, excepting groups of apartment or retail business buildings, or other groups of buildings the Zoning Officer deems to be a main use collectively.

Sec. 3.4.17: Repair of Damaged Buildings

A building damaged by fire, storm, collapse, or act of God, to such an extent that the cost of repair and reconstruction exceed 50% of the market value as determined by the assessed value for tax purposes of such structure at the time of damage, shall either be completely razed so as not to cause a nuisance or safety hazard or shall be substantially rebuilt and the premises cleared of debris within six months from the date such damages occur. Any re-building shall conform to all codes and ordinances of Portland Township.

Sec. 3.4.18: Special Controlled Uses

In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one area or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of this Part.

(a) Uses subject to these controls are as follows:

- (1) Adult book stores.
- (2) Adult cabarets.
- (3) Adult motion picture theaters.
- (4) Massage establishments.
- (5) Nude artist and photography studios.

(b) Definitions. As used in this section, the following terms shall have the indicated meanings:

- (1) Adult Motion Picture Theaters. Any establishment, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein for observation by patrons therein.
- (2) Adult Book Store. Any establishment, or part thereof, having as a substantial or significant portion of its stock in trade, videos,

books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

(3) Specified Sexual Activities. Specified sexual activities are defined as:

- (i) Human genitals in a state of sexual stimulation or arousal.
- (ii) Acts of human masturbation, sexual intercourse, or sodomy.
- (iii) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

(4) Specified Anatomical Areas. Specified anatomical areas are defined as:

- (i) Less than completely and opaquely covered:
 - (aa) Human genitals, pubic region,
 - (bb) Buttock, and
 - (cc) Female breast below a point immediately above the top of the areola; and
- (ii) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

(5) Cabaret. A café, restaurant, bar, or any establishment where patrons are entertained by performers who dance or sing or play musical instruments.

(6) Adult Cabaret. A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

(7) Massage Establishment. Any establishment, or part thereof, having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other

educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.

- (8) **Massage.** A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.
- (9) **Nude Artist and Photography Studios.** Any building, structure, premises, or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein, for artists and photographers for a fee or charge.

(c) **Authorization.** The Planning Commission may, by the issuance of a Special Use Permit, authorize the uses specified within this section only in the "C" zoning district as noted in Article 10 herein and after finding that the following conditions exist:

- (1) The parcel upon which the use is intended is located outside a two hundred (200) foot radius of any parcel upon which is located any residence, dwelling place, church, or school unless a petition requesting waiver of this requirement is received and certified by the Township Clerk signed by fifty-one percent (51%) of those adult persons or institutions residing within or owning residential, school, or church property within a three hundred (300) foot radius of the proposed location in which case the Planning Commission may waive this requirement.
- (2) The use is not located within a two hundred (200) foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:
 - (i) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this section will be observed.
 - (ii) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - (iii) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
 - (iv) That all applicable state laws and local ordinances will be observed.

- (d) **Limit in Reapplication.** No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

Sec. 3.4.19: Landscape Requirements for the R-2, Commercial and Industrial Zones

- (a) **Intent.** The intent of this section is to set forth minimum standards for required landscape buffer strips. Buffer strips planted with trees and shrubs are intended to maintain or improve air quality, stabilize soils, increase groundwater infiltration, decrease wind velocity, reduce noise, and create zones of privacy.
- (b) **Greenbelt Landscaping.** Where a landscape buffer strip or greenbelt is required by this Part, the following minimum landscape standards shall be observed.
 - (1) Two trees plus one additional tree for each 20 feet in length of the buffer strip or greenbelt measured along the outer periphery of the required landscape area.
 - (2) Two shrubs plus one additional shrub for each 15 feet in length of the buffer strip or greenbelt measured along the outer periphery of the required landscape area.
 - (3) All trees planted in a required landscaped area shall be a minimum of one and one half inch caliper at five feet in height. Shrubs shall have a minimum of 36 inches of spread at planting.
 - (4) Any and all plantings in the buffer strip shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.
- (c) **Landscape Requirements for Off Street Parking Lots Which are Required to be Paved.**
 - (1) All parking areas having at least 20 spaces, except those parking areas for industrial uses which are located in the rear yard, shall be landscaped with one canopy and one evergreen tree for every ten parking spaces, with a minimum of two trees. These trees shall be planted in and adjacent to the parking area.
 - (2) Landscape islands or peninsulas shall be installed at the end of those parking rows which are more than 20 spaces long. Within such rows, a landscaped island shall be installed every 20 spaces. As an alternative, the Planning Commission may permit larger but

- fewer landscape islands to provide shade and to break up the visual monotony of large paved areas.
- (3) Landscape islands or peninsulas at the end of parking rows shall be a minimum of 10 feet in width by the length of the parking space or spaces, with an appropriate curb radius. Islands within parking rows shall be a minimum of six feet wide by the length of the parking space or spaces. Islands shall be separated from the parking area by a rolled or stand up curb.
 - (4) Each island within a parking lot shall contain at least two trees. The Planning Commission may require low lying shrubs not to exceed two feet in height to be planted within the islands in order to provide ground cover for the islands and improve the appearance of the parking lot.
 - (5) Landscaping shall be arranged so as not to obscure traffic signs or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
- (d) Front Yard Landscaping for Commercial and Industrial Uses. Except for necessary driveways, frontage roads, service drives, or walkways, the front yard for Commercial and Industrial uses shall be landscaped according to the following minimum requirements:
- (1) One canopy tree, two evergreen trees and one understory tree for each 50 feet in length of road frontage.
 - (2) Landscaping shall be located so it does not obstruct the vision of drivers entering or leaving the site.
 - (3) Earthen berms within the front yard are encouraged to provide variety in appearance and for screening of parking areas.
- (e) Landscape Modifications. The landscape requirements of this section may be modified by the Planning Commission in consideration of existing trees on site, proposed building setbacks, existing and proposed uses on adjacent lands, topographical elevations on a site and on adjacent lands. In deciding whether to modify the landscape regulations of this section, the Planning Commission shall determine that the intent of the regulations will still be met if modifications are allowed.

Sec. 3.4.20: Environmental Performance Regulations

State and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal of hazardous substances shall be met. These regulations shall apply to all businesses or facilities which generate, store, or handle hazardous substances as defined by state and federal agencies.

Sec. 3.4.21: Private Roads and Shared Driveways

(a) DEFINITIONS

- (1) Lot means a parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use.
- (2) Non-buildable lot means a lot which is unable to have the minimum frontage, minimum lot area, cannot meet minimum setbacks or has topography or soils that prevent issuance of zoning and building permits for construction of buildings. At least two of the above criteria must be present or recording a deed restriction that no buildings may be erected on the property. For purposes of this section, non-buildable lots will not be counted as lots served by a shared driveway or private road even though an access easement may be present.
- (3) Driveway means an improved or unimproved path or road extending from a public or private road or right-of-way to a single building, dwelling or structure, intended to provide ingress and egress primarily for the occupants thereof.
- (4) Shared driveway means an improved or unimproved path or road extending from a public or private road or right-of-way to two lots, dwelling units, principal buildings, or structures, intended to provide ingress and egress primarily for the occupants thereof.
- (5) Private road is any undedicated path, trail or road which is privately owned and maintained and which provides or is intended to provide the primary means of ingress and egress to three or more lots, principal buildings, or dwelling units.
- (6) Existing Private Road - a private road which is used to provide access to lots, buildings or dwellings existing as of the effective date of this Part.
- (7) Private Road Easement - An easement which is granted exclusively for private access to three or more parcels of land and which contains a private road.

(b) APPLICABILITY

- (1) Private roads and shared driveways are permitted in all zoning districts.
 - (2) Lots in the "A" Agriculture zoning district which are used for agricultural purposes including placement of farm buildings but not used for dwellings are exempt from the private road requirements of this Part.
- (c) **EXISTING PRIVATE ROAD.** After the effective date of this amendment, no existing private road shall be reconstructed, extended, improved, or relocated, nor shall an existing private road be used or extended to provide access to a lot, dwelling or building which was not provided access by the private road as of the effective date of this amendment, unless the existing private road is re-constructed according to the minimum construction standards and other requirements of this Section.
- (d) **PROCEDURE FOR PERMITTING OF PRIVATE ROADS**

(1) Application and Fee

An application to establish, construct, extend, improve or relocate a private road shall be filed with the Township Zoning Administrator along with the appropriate fee as may be established by resolution from time to time by the Township Board. The application shall contain or be accompanied by the following information:

- (i) The names(s) of the owners and any other parties having any legal interest in the private road.
- (ii) Permanent parcel number or legal description of the property over which the private road is to be constructed.
- (iii) A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
- (iv) A scaled drawing which illustrates all of the lots which will be served by the private road.
- (v) A scaled drawing sealed by a registered engineer or surveyor showing the precise location, route, elevations,

dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public road or street which the private road is to intersect. This drawing shall include a profile of the proposed road.

- (vi) The location of all public utilities including but not limited to water, sewer, telephone, gas, electricity and television cable to be located within the private road right-of-way or within twenty (20) feet either side thereof.
- (vii) A road maintenance agreement, access easement agreement and deed restrictions as required in this Section shall also accompany the application.
- (viii) A driveway permit from the Ionia County Road Commission.

(2) Review by Zoning Administrator

- (i) The Zoning Administrator shall review the application in consultation with the Township Fire Chief (or his/her equivalent), Engineer, Planner and Attorney to determine compliance with the standards and requirements for private roads as contained herein.
- (ii) If the Zoning Administrator finds that the application meets the requirements of this Section and the Township Engineer approves the construction plans and Township Attorney approves the private road maintenance agreement, the application shall be approved and a Construction Permit shall be issued pursuant to this Section for the construction of the private road. The Construction Permit issued pursuant to this Section shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval, one copy shall be kept by the applicant, and one by the Township.

The Construction Permit is not a Private Road Permit and does not authorize the construction of any buildings on the private road and shall not be construed as any approval from any other agency or entity that may also have jurisdiction (e.g. the County Road Commission or the

County Drain Commission). The Construction Permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. In the event construction is commenced within the one year permit period, construction of the private road shall be completed no later than two (2) years from the date of approval. If the time limitations in this Section are not met, a new Construction Permit shall be required before construction can begin or continue.

- (iii) If the Zoning Administrator denies the application, the written reasons for denial shall be provided to the applicant within five (5) working days of the date of denial.
- (iv) Final Compliance Requirements - All private roads shall be inspected by the Township Engineer during the construction of the private road. Reasonable time (four (4) to five (5) working days) notification shall be given to the Township Engineer before commencing construction of the private road. Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
 - (aa) A letter from a registered professional engineer or surveyor that the road has been constructed in compliance with the approved private road plans, submit two (2) sets of as-built plans and a disk for the County GIS system.
 - (bb) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Ionia County Register of Deeds office.
 - (cc) The Zoning Administrator shall also conduct an inspection of the private road to ensure that all other requirements of this Section have been met.
 - (dd) The Township Engineer shall also conduct a final inspection of the private road to ensure that the private road was built according to the approved plans and that the private road ordinance

requirements have been satisfied.

- (v) Private Road Permit Issuance - Upon approval of items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (vi) Permits for Buildings on Private Roads - A Zoning Permit shall not be issued for any building, dwelling or structure which derives its primary access from a private road unless (i) the private road has been completed in accordance with an approved Private Road Construction Permit, or (ii) the applicant for the Zoning Permit or the owner(s) of the private road right-of-way have provided the Township with a financial guarantee in the form of cash, certified check or an irrevocable letter of credit in an amount estimated by the applicant's engineer and reviewed and approved by the Township to ensure construction and completion of the private road in accordance with the approved private road construction permit. The financial guarantee, in the case of a certified check or irrevocable letter of credit, shall be valid for a period of one year from the date of the issuance of the Zoning Permit and shall be renewed if the private road will not be fully completed prior to the expiration of the letter of credit. The Township shall have the right to draw on the funds at any time if the applicant fails to complete the private road in accordance with the Private Road Permit or if the private road is not fully completed to the satisfaction of the Township within sixty (60) days prior to the expiration of the certified check or letter of credit or any renewals.

(e) **MINIMUM STANDARDS FOR PRIVATE ROADS**

- (1) A private road shall be located within a private road easement. The private road easement shall not be less than 66 feet in width at any point. At any dead-end, the private road easement shall widen such that there is a minimum 120 foot diameter for residential private roads and 150 foot diameter for commercial/industrial private roads. Alternative turnaround private road easements may be proposed including, but not limited to, hammerhead, branch or continuous loop types. Sufficient private road easement widths, lengths and type shall be approved by the Township Engineer.
- (2) A buildable lot shall have frontage on the private road easement

which is at least equal to the minimum lot width required for the zoning district in which the lot is located. For lots on a cul-de-sac the frontage requirement shall be regulated by Section 3.4.24 herein.

- (3) A private road shall intersect and connect to a public road.
- (4) The private road shall be given a name that is not the same or similar to any other road or street name in the county. A sign bearing the name of the private road meeting Ionia County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.
- (5) The area in which the private road is to be located shall be cleared and kept clear of vegetation for a minimum width of 28 feet. The private road may be located anywhere within the private road easement, allowing for the required shoulder, provided that the balance of the right-of-way shall remain unencumbered to allow for future expansion.
- (6) A private road serving ten (10) or fewer residential lots or parcels shall be built to meet or exceed the specifications contained in the then existing Ionia County Road Commission requirements and specifications for plat developments or similar successor regulations. Provided, however, that the private road may be gravel or paved and the pavement width, surface and sub-base shall be built per the cross sections included in this ordinance. Other materials may be proposed but must be approved by the Township Engineer. The private road shall widen at any dead end so there is at least an eighty (80) foot diameter turn-around.
- (7) A private road serving eleven (11) through one hundred (100) residential lots or parcels shall be paved and shall be built to meet or exceed the specifications contained in the then existing Ionia County Road Commission requirements and specifications for plat developments or similar successor regulations, and notwithstanding any provision to the contrary, the private road shall widen at any dead end so there is at least an eighty (80) foot diameter turn-around and the pavement width, surface and sub-base shall be built per the cross sections included in this ordinance. Upon the recommendation of the Township Engineer, a private road which is required to be paved pursuant to this subsection may be paved in two (2) stages with a leveling course of two (2) inches pavement installed initially and a final surfacing course of one and

one-half (1 ½) inches pavement to be installed when building permits have been issued for seventy-five (75) percent of the lots or parcels served by the private road, or one year after installation of the base course, which ever occurs first. The applicant shall deposit with the Township the financial guarantees as set forth in paragraph (d)(2)(vi) to ensure completion of the private road.

- (8) A private road or system of private roads that provide(s) direct or indirect access to more than one hundred (100) lots or parcels shall be paved and have at least two entrances/exits onto a public road or street and shall be constructed in conformance with the then existing Ionia County Road Commission requirements and specifications for residential plats or similar successor regulations of Ionia County, and notwithstanding any provision to the contrary, the private road shall widen at any dead end so there is at least and eighty (80) foot diameter turn-around. Upon the recommendation of the Township Engineer, a private road or system of private roads which is/are required to be paved pursuant to this subsection may be paved in two (2) stages with a leveling course of two (2) inches pavement installed initially and a final surfacing course of one and one-half (1 ½) inches pavement to be installed when building permits have been issued for seventy-five (75) percent of the lots or parcels served by the private road, or one year after installation of the base course, which ever occurs first. The applicant shall deposit with the Township the financial guarantees as set forth in paragraph (d)(2)(f) to ensure completion of the private road.
- (9) A private road serving commercial or industrial uses shall be paved and shall be built to meet or exceed the specifications contained in the then existing Ionia County Road Commission requirements and specifications for commercial and industrial plats or similar successor regulations. Provided, however, that the pavement width, surface and sub-base shall be built per the cross sections included in this Section. The private road shall widen at any dead end so there is at least a one hundred (100) foot diameter turn-around.
- (10) A private road shall not exceed a grade of 6 percent or up to 10 percent upon recommendation of the Township Engineer based on the unique circumstances of the site and appropriate engineering design standards. Within 30 feet of the intersection of a private road with any other private road or with any public right-of-way, a private road shall not exceed a grade of four percent.

- (11) A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Ionia County Road Commission and State of Michigan requirements. Such bridge, culvert or other structure must be able to safely support a weight of 40,000 pounds to ensure fire truck access.
- (12) A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height.
- (13) The edge of the private road driving surface shall be no closer than 50 feet from any dwelling unit located on a parcel adjacent to the private road.

(f) PRIVATE ROAD MAINTENANCE AGREEMENT

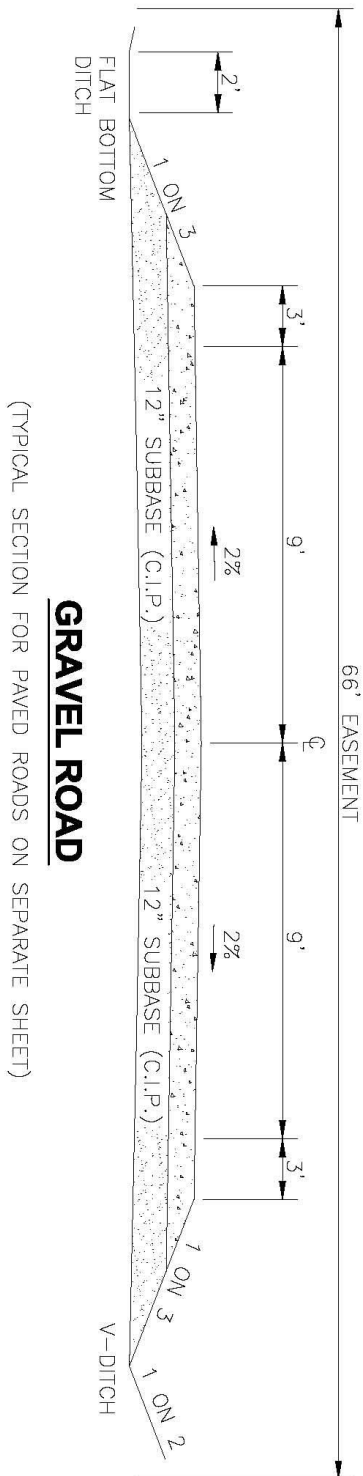
The applicant(s) and/or owner(s) of the proposed private road shall, prior to approval, provide to the Township a recordable private road maintenance agreement, private road easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such private roads and/or private road easements to a necessary and reasonable standard to serve the parties having an interest in the private road and private road easement. The private road maintenance agreement shall include the following:

- (1) A method of financing such private road and/or private road easements in order to keep the road in a reasonably good, safe and usable condition year round.
- (2) A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out.
- (3) A notification that no public funds of the Township of Portland will be used to build, repair, or maintain the private road and private road easement.
- (4) Easements to the public for purposes of emergency and other

public vehicles for whatever public services are necessary.

- (5) Each of the owners of property utilizing the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners and ensuring that the property owners shall have a mechanism provided to enforce these rights. Normal ingress and egress and use shall include use by family, guests, invites, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
- (6) If the private road entrance is secured by a locked gate or other similar mechanism the applicant shall arrange for emergency vehicle access with the Township Fire Chief or his/her equivalent.

**PORTLAND TOWNSHIP
 PRIVATE ROAD
 TYPICAL SECTION FOR GRAVEL ROADS
 (SERVING 3-10 LOTS)**



1/08

LEGEND

- GRAVEL 8" MDOT 23A
- SSB-(IF NECESSARY)
- MDOT GRANULAR MATERIAL CLASS II

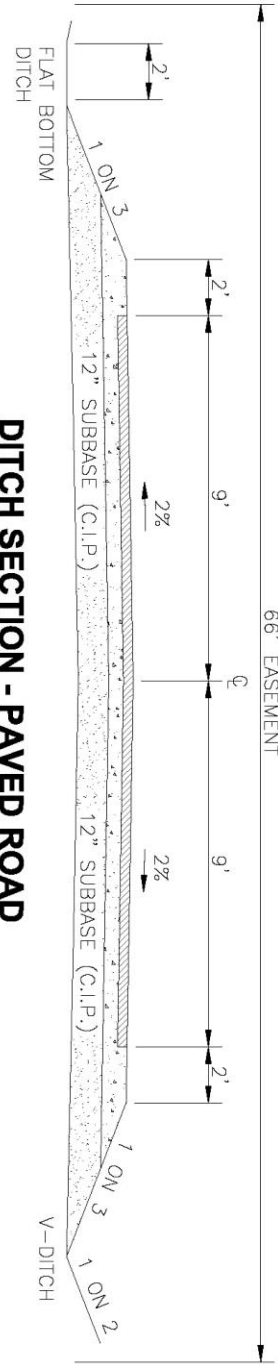


(3-10 LOTS)

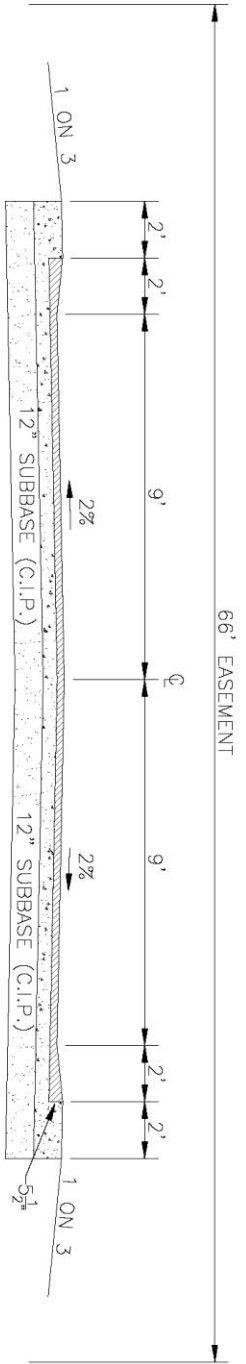
PRIVATE ROAD - GRAVEL

Williams & Works
 engineers • architects • interior designers
 616.234.1600 phone • 616.234.1901 fax
 549 Ottawa Ave NW • Grand Rapids, MI 49503

**PORTLAND TOWNSHIP
 PRIVATE ROAD
 TYPICAL SECTIONS FOR PAVED ROADS**
 (SERVING 3-10 LOTS)
 66' EASEMENT



VALLEY GUTTER SECTION - PAVED ROAD



LEGEND

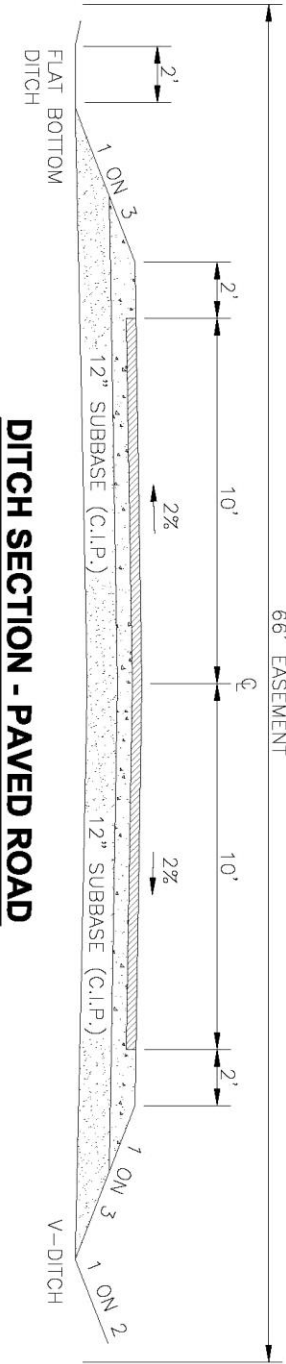
- HMA SURFACE 3 1/2"
- GRAVEL 8" MDOT 22A
- SSB - (IF NECESSARY)
- MDOT GRANULAR MATERIAL CLASS II

(3-10 LOTS)

PRIVATE ROAD - PAVED
Williams & Works
 ENGINEERS - ARCHITECTS - SURVEYORS
 614-254-5028 Phone 614-254-1801 Fax
 4800 Old County Road, Suite 200, Columbus, OH 43260
 www.williamsandworks.com

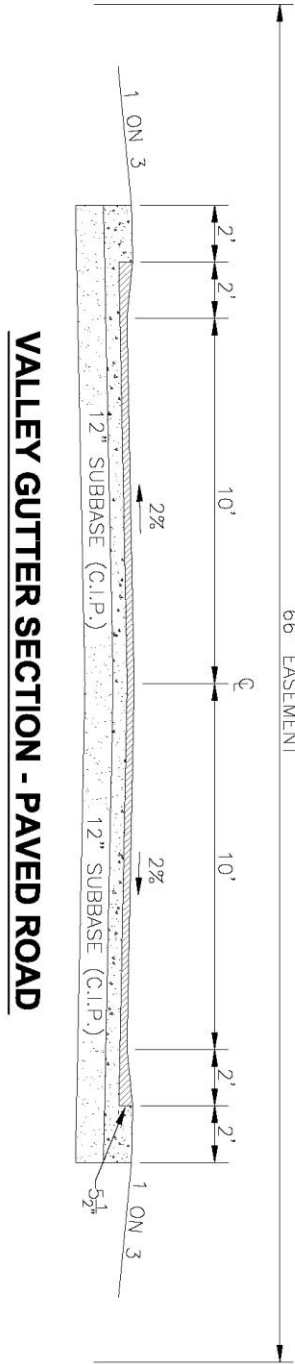
**PORTLAND TOWNSHIP
PRIVATE ROAD
TYPICAL SECTIONS FOR PAVED ROADS**
(SERVING 11-100 LOTS)

66' EASEMENT



DITCH SECTION - PAVED ROAD

66' EASEMENT



VALLEY GUTTER SECTION - PAVED ROAD

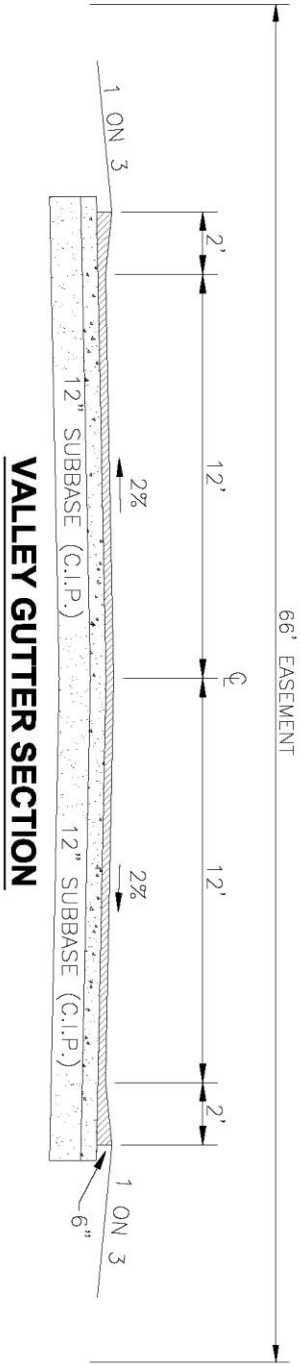
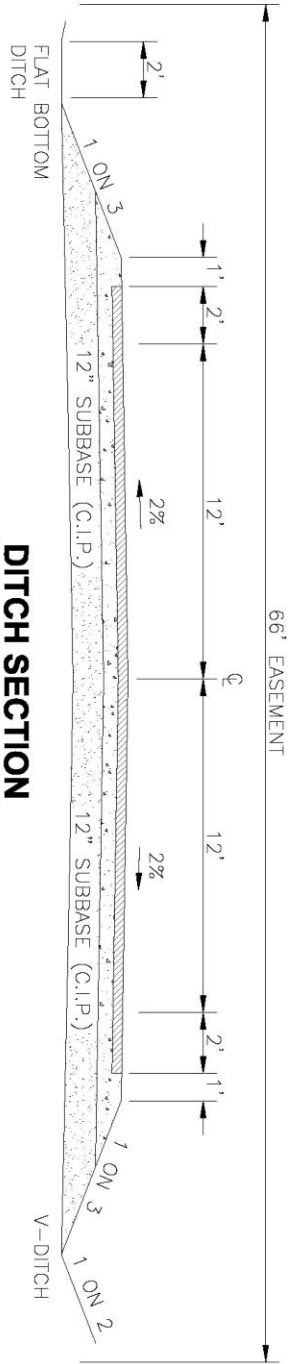
(11-100 LOTS)

1/08

LEGEND	
	HMA SURFACE 3 1/2"
	GRAVEL 8" MDOT 22A
	SSB - (IF NECESSARY)
	MDOT GRANULAR MATERIAL CLASS II

PRIVATE ROAD - PAVED
Williams & Works
INCORPORATED
114204 5008 Plover 01/23/08 10:01 AM
4800 Drexel Ave. St. Louis, MO 63103

PORTLAND TOWNSHIP PRIVATE ROAD TYPICAL SECTIONS (COMMERCIAL/INDUSTRIAL)



1/08

LEGEND

- HMA SURFACE $3\frac{1}{2}$ "
- GRAVEL 8" MDOT 22A
- SSB—(IF NECESSARY)
- MDOT GRANULAR MATERIAL CLASS II

(COMMERCIAL/INDUSTRIAL)

PRIVATE ROAD - PAVED

Williams & Works

INCORPORATED

114204-1008 Project 01/23/08 10:01 AM
1400 Drexel Ave. Philadelphia, PA 19102

Sec. 3.4.22: Swimming Pools

- (a) A swimming pool shall not be constructed, installed, enlarged, or altered until a permit has been obtained from the Building Inspector.
- (b) The outside edge of the pool wall shall not be located closer than 10 feet from any rear or side property line. No pool shall be located under any electrical wiring or in a required front yard.

Sec. 3.4.23: Farm Animals in Residential Districts

- (a) Farm animals are permitted in a Residential District, provided:
 - (1) They are kept at least 50 feet from any adjoining property and 150 feet from the front lot line.
 - (2) Such animals may only be kept on parcels of land at least one and one half acres.
 - (3) The keeping of such animals shall be accessory to the principal use.
 - (4) There shall be no more than one such animal per acre with a maximum of five such animals on any parcel excluding poultry, rabbits, or other similar sized animals which are typically caged or kept inside a building.
 - (5) The area on which the animal(s) are kept shall be completely enclosed by a fence or similar barrier to prevent the animal(s) from trespassing on adjoining property.
 - (6) The premises shall be maintained in sanitary condition and may be inspected at any reasonable time, or times, by the Building Inspector and/or Township or County Health Officer.

Sec. 3.4.24: Cul-De-Sac Lots

In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the minimum required front setback distance for buildings and structures. Such cul-de-sac lots shall have a minimum lot width of 40 feet at the front lot line. For lots in the Agricultural zone which have their entire frontage on a cul-de-sac, a minimum lot width of 150 feet shall be achieved at a point 125 feet from the front lot line.

A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required frontage on the cul-de-sac. The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.

Sec. 3.4.25: Antennas and Towers Over 35 Feet

Antennas and towers exceeding 35 feet in height shall be permitted in all zoning districts only if approved as a special land use under the terms of Article 15.

Sec. 3.4.26: Accessory Apartments

- (a) Intent. It is the intent of this section to permit the establishment of accessory apartments in owner occupied single family dwelling units which will provide homeowners with a means of obtaining, through tenants in accessory apartments, companionship, security and services; provide a means for homeowners to care for elderly or ailing relatives and still allow them to maintain the independence and comfort of separate living quarters; and add inexpensive rental units to the housing stock to meet the smaller household needs of both young and old.

These regulations are also designed to protect the stability, property values, and single family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner occupied houses in such a manner that the appearance of the building remains that of a single family residence.

For purposes of this section, an accessory apartment is defined as a dwelling unit designed for and occupied by one family which is a separate housekeeping unit complete with kitchen and bathroom facilities contained within or attached to the structure of a single family dwelling and which is accessory to it.

- (b) Authorization and Development Standards. The Zoning Officer shall only issue a permit for an accessory apartment in those zoning districts which permit single family dwelling units when the following development standards have been met:
 - (1) The accessory apartment shall be a complete housekeeping unit, containing kitchen and bathroom facilities, which is separate from the principal single family dwelling unit.
 - (2) Only one accessory apartment shall be created within or attached to the principal single family dwelling unit.
 - (3) The accessory apartment and principal single family dwelling unit shall be attached by a common wall, ceiling, or floor and shall be contained within a single building.
 - (4) The owner(s) of single family dwelling unit in which the accessory apartment is created or to which it is attached shall occupy one of the dwelling units in the building.
 - (5) The accessory apartment shall comply with all applicable

requirements of the Portland Township BOCA/National Building Code as amended, and shall consist of a minimum of 300 square feet of floor area.

The entire accessory apartment shall consist of no more than 35% of the total square footage of the principal single family dwelling unit but shall not result in the floor area of the principal building being reduced below the requirements of the zoning district in which it is located.

- (6) A minimum of three parking spaces shall be provided on the premises for use by occupants of the accessory apartment and the principal single family dwelling unit.
- (7) The accessory apartment shall be installed or constructed so that, to the degree reasonably feasible, the appearance of the building remains that of a single family residence. Exterior doorways constructed to serve the accessory apartment shall, where possible, be located on the side or rear of the building. If an exterior doorway is to be constructed to face the street, it shall be subject to review and approval of the Zoning Officer.
- (8) An accessory apartment shall be constructed in compliance with all applicable Zoning regulations as contained herein.
- (9) A site plan shall accompany a permit application for an accessory apartment. For purposes of this section, the site plan shall illustrate, at a minimum, the following:
 - (i) Dimensions of the site.
 - (ii) Dimensions of the building, including any additions required for the accessory apartment.
 - (iii) Existing and proposed building setback distances.
 - (iv) Floor plan of the accessory apartment illustrating room dimensions and location of the accessory apartment relative to the original single family house.
 - (v) Location of existing and proposed exterior doorways.
 - (vi) Dimensions and location of existing and proposed off-street parking area.

(c) General Regulations. Accessory apartments shall also comply with the following general regulations:

- (1) The establishment of an accessory apartment in a single family dwelling unit shall not result in any building site or use situation which is nonconforming.
- (2) An accessory apartment shall not be subject to the regulations contained herein which are applicable to two-family dwelling units.

- (3) The following shall not be considered as accessory apartments:
 - (i) A single family dwelling unit whose occupants share kitchen and bathroom facilities.
 - (ii) A detached single family dwelling unit located on the same lot with an existing single family dwelling unit.
 - (iii) Dwelling units designed for and occupied by transient or migrant workers.

Sec. 3.4.27: Lots Without Public or Private Road Frontage

A lot may be created which does not abut a public or private street. Such lot shall not contain a dwelling unit but may contain farm buildings as defined herein as well as essential service buildings and structures and radio towers and antennas.

Sec. 3.4.28: Minimum Lot Frontage

- (a) A building or dwelling unit shall be erected only on a lot or parcel which abuts or has frontage on a public street, private road or shared driveway easement in accordance with the lot width requirements for the zoning district in which it is located and in accordance with Section 3.4.06 herein.
- (b) Any lot created after the adoption of the Portland Township Zoning Ordinance shall front upon a public street, private road right-of-way, shared drive or access easement meeting the requirements of the Township private road regulations, for the minimum lot width required by this Part.

Sec. 3.4.29: Lots Which Contain More Than One Dwelling

If a lot contains more than one dwelling prior to the adoption of the Portland Township Zoning Ordinance, the dwellings may be removed and replaced with the same number of dwellings or dwelling provided the new dwellings or dwelling complies with all other applicable regulations of this Part.

Sec. 3.4.30: Lot Coverage

Single-family dwellings, two family dwellings or other principal buildings together with buildings and structures accessory thereto shall not occupy more than thirty-five percent (35%) of the ground area of the lot or parcel upon which the same is located in the Agriculture and R-1 Districts. Single-family, two-family or multiple-family dwelling or dwellings together with buildings and structures accessory thereto shall not occupy more than fifty percent (50%) of the ground area of the lot or parcel upon which the same is located in the R-2 District. There shall be no lot coverage requirements in the Commercial and Industrial Districts except for setback limitations.

Sec. 3.4.31: Home Occupations

The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such permission is not intended to allow the essential residential or agriculture character of the Township, in terms of use and appearance, to be changed by the occurrence of home occupations.

- (a) The non-residential use shall be only incidental to the primary residential use.
- (b) The occupation shall utilize no more than forty-nine (49) percent of the gross area of the dwelling unit. An accessory building may be used wholly or partially for a home occupation.
- (c) Only normal domestic or household equipment and equipment characteristic of small workshops, businesses and professional offices shall be used to accommodate the home occupation.
- (d) The home occupation shall involve only members of the immediate family and up to two non-resident employees.
- (e) No goods or materials used only in connection with a home occupation shall be parked or stored outside of the dwelling or accessory building used in conjunction with the home occupation.
- (f) No alterations, additions, or changes to a principal structure which will change the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.
- (g) There shall be no external evidence of such occupations, except a small announcement sign not to exceed nine (9) square feet in size and four (4) feet in height and must be located outside the road right-of-way. The business sign shall also comply with the applicable sign sections of Article 17.
- (h) Retail sales are permitted as a home occupation provided they meet the requirements of the above sections.
- (i) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential or agriculture neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street or where legally permitted along the street within the applicants lot frontage area.
- (j) No equipment or process shall be used in such a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference outside of typical or normal residential or agriculture types. 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 cause fluctuation in line voltage off the premises.
- (k) Before conducting a home occupation, the business owner shall apply for a zoning compliance permit on a form provided by the Township and shall pay the required application fee. When the application is complete, the zoning administrator shall issue the zoning compliance permit if all

standards are met. In issuing a zoning compliance permit, the zoning administrator may impose reasonable conditions and requirements consistent with the Township's ordinances. If the application is denied, the zoning administrator shall state in writing the reasons for denial.

Sec. 3.4.32 On-site Service Wind Energy Conversion Systems (to serve uses/buildings on the same parcel)

Purpose: This section establishes requirements and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within Portland Township. In keeping with Michigan's promotion of clean renewable energy, Portland Township has adopted ordinances to govern the requirements, standards and review process to allow these energy systems and also to protect the public health, safety and welfare of the community.

- (a) Definitions: all definitions related to WECS are found under "Wind Energy Conversion Systems" in Section 3.2.02, Definitions.
- (b) Review Requirements:
 - (1) An On-Site Service WECS (and WECS Testing Facility) shall be allowed as an accessory use in any zoning district, subject to the requirements of this Section. On-site service WECS shall be subject to the general requirements of this Section as well as Site Plan Review, as required in Article 14.
 - (2) Commercial WECS and WECS Testing Facilities associated with a Commercial WECS are a special land use in the AG Agricultural District and are subject to the general standards for Special Land Uses in Article 15, Section 3.15.04 and the specific standards in Article 15, Section 3.15.06 (h).
- (c) General Requirements for On Site Service WECS:
 - (1) WECS Height: The height of a WECS shall be the distance measured between the ground (at normal grade) and the highest point of the WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).
 - (2) WECS Setback. Setbacks shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line. No part of a WECS (including guy wire anchors, if present) shall be located within or above any required setback.
 - (3) No sound attributed to the WECS shall be discernible at the property line in excess of 35 dBA between the hours of 7:00 am to 7:00 pm, 30dBA between the hours of 7:00 pm to 11:00 pm and 25dBA between the hours of 11:00 pm to 7:00 am.

- (4) Except as required for commercial WECS, there shall be no signs on the WECS other than the name of the manufacturer and emergency contact numbers, which may only be affixed near the base of the tower or to the nacelle. No sign shall exceed three (3) square feet in area.
- (5) There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
- (6) WECS shall be painted in a neutral color, such as gray, white or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
- (7) A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.
- (8) A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
- (9) The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
- (10) All WECS installations shall comply with applicable ANSI (American National Standards Institute), NEC (National Electric Code) and National Building Code standards.
- (11) A WECS shall be removed (and all components properly disposed of and the land returned to its original state) when the device or equipment is no longer operating or when it has been abandoned. Within 90 days of the end of an approved WECS Testing Facility time span, the structure must be removed (and all components properly disposed of and the land returned to its original state). It will be up to the property owner on what to do with the footings at or below ground level. A WECS shall be deemed abandoned when it has not produced electrical energy to private buildings or to the electrical grid for twelve (12) consecutive months or longer. The owner(s) of such a structure shall be required to either provide to the Township a written explanation regarding why the tower is inoperable and a timeline of no longer than 60 days to bring the machine back into compliance or apply for the necessary demolition permits for removal within 90 days of receipt of written notice from the Township.
- (12) On-Site Service WECS Test Facility (or MET). The Zoning Administrator may issue a permit to erect a test facility for testing if adequate wind potential exists on the site proposed for an on-site service WECS, provided that the tower meets the height maximum

and setback requirements for an on-site service WECS on the same site. The WECS Test Facility permit shall be valid for a period of up to one (1) year.

- (13) Power rating of the on-site service WECS turbine shall not be greater than 50 kW.
- (14) The on-site service WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property. The interconnection and operation shall meet the requirements as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility. The utility company shall meet the State mandate on taking extra electricity generated beyond the property needs. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
- (15) An existing and approved on-site service WECS may be repaired and maintained; however, a WECS may only be replaced with a new or replacement WECS upon approval of the Zoning Administrator, subject to a finding that the new WECS is of the same or lesser height, rotor diameter, setback, etc. as the WECS it replaces. Any new or replacement WECS that is larger in any respect than the one it replaces must be approved via the Site Plan Review process. For the purposes of this paragraph, a "new or replacement WECS" shall mean all of the WECS, excluding the tower or support structure.

(d) Ground-Mounted On-Site Service WECS

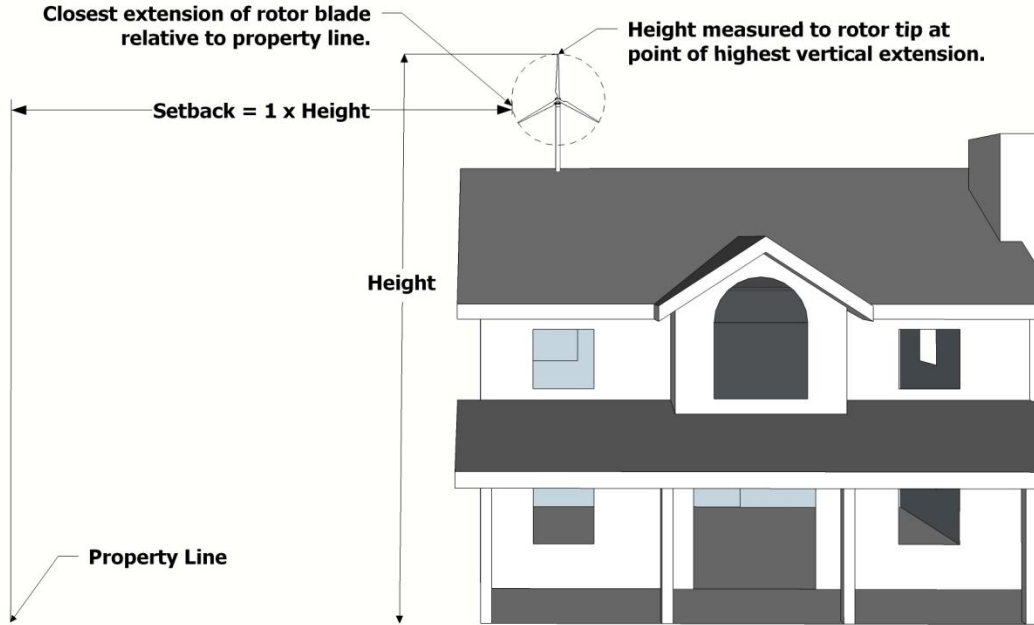
- (1) There shall be no more than one (1) ground mounted on-site service WECS on parcels or lots up to 3 acres. On larger parcels, more than one WECS may be approved with documented circumstances and need submitted with the application.
- (2) The on-site service WECS shall be located on the property so that it is set back from the nearest property line a distance equal to the WECS height, measured to the closest vertical extension of the rotor blade relative to the property line plus 10 feet.
- (3) Lot Area. The on-site service WECS height shall be limited by available setbacks as required in paragraph (c) (2), above; however, no WECS height shall exceed fifty (50)

feet on a property less than one (1) acre in area; seventy-five (75) feet on a property at least one acre but less than three (3) acres in area; or one hundred (100) feet on a property three (3) acres in area or greater.

- (4) The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
- (5) The minimum rotor blade tip clearance from any structure shall be twenty (20) feet.
- (6) The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
- (7) The tower used to support a WECS shall be adequately anchored meeting applicable codes and standards, as certified by an engineer.

(e) **Building Mounted On-Site Service WECS**

- (1) There may be more than one (1) on-site service WECS mounted on a single building; however, each individual WECS shall meet all of the requirements in this subsection, and each WECS shall be separated from any other WECS no less than ten (10) feet, measured between the maximum extension of the rotors.
- (2) The diameter of the rotor shall not exceed twenty (20) feet.



Building Mounted WECS Height and Setback

- (3) The WECS height shall not exceed the maximum height for principal buildings in the district, plus fifteen (15) feet.
 - (4) The WECS shall be mounted so that it is set back from the nearest property line(s) a distance equal to the combined height of the WECS and the height of the portion of the structure on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).
 - (5) The mount and the structure used to support a building mounted WECS shall meet applicable codes and standards, as certified by an engineer.
- (f) **Approval of On-Site Service WECS**
- (1) All on-site service WECS shall be reviewed and approved by the Planning Commission through the site plan review process, as outlined in Article 14.
 - (2) **Discretionary Conditions:** The Planning Commission may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any on-site service WECS. Such other terms and conditions may include, but are not limited to, the following:

- (i) The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
- (ii) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.
- (iii) Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
- (iv) Requiring a performance guarantee in the form of a bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the site plan approval, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance guarantee shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

Article 5: "A" Agriculture

Sec. 3.5.01: Description and Purpose

This district is intended to preserve and provide for large tract of land used for farming, dairying, forestry, and other rural activities, including vacant or fallow land. The specific intent is to encourage the proper use of lands through preventing mixture of urban and rural uses which may create incompatibility and conflict, place unbalanced tax burdens on agricultural lands, and otherwise contribute to the premature development of lands which should be preserved in their present state. The land within this district is well suited for growing crops due to climate and to a greater extent soil types and terrain which are a unique natural resource of the Township.

Sec. 3.5.02: Permitted Uses

Land and/or buildings in this district may be used for the following purposes only:

- (a) Agriculture, including farms for both general and specialized farming together with farm dwellings and other installations customary to such farms. Except as may otherwise be provided by this Part, no restrictions on the keeping of domestic animals, poultry, or livestock shall be applicable to unplatted land; provided, however, that all domestic animals, poultry, and livestock shall be housed and fenced so as not to create a public nuisance.
- (b) Livestock facilities shall comply with all regulations administered by the Michigan Department of Agriculture.
- (c) Detached single family dwellings.
- (d) Roadside stands on farm premises for the sale of farm products.
- (e) Tree and sod farms.
- (f) Storing, packaging, processing, canning and freezing of farm produce.
- (g) Commercial agriculture uses, including "u-pick" or "u-cut" operations with sufficient off-street parking provided.
- (h) Private stables.
- (i) Uses customarily incidental to the principal use.
- (j) Parks and playgrounds operated by a governmental agency.
- (k) Farm labor housing of any size as an accessory use to a farm, provided the following conditions are met in addition to the other requirements of the Agricultural District:
 - (1) Compliance with Michigan Public Health Code, being Act 368 of the Public Acts of Michigan of 1978, as amended, including any rules promulgated pursuant thereto;
 - (2) The occupants are employed for farm labor at some time by the owner of the property while they occupy the housing;

- (3) Mobile homes may be used to provide such housing per Section 3.4.10 herein;
 - (4) Farm labor housing must be at least 100 feet from all side and rear property lines and must be at least 75 feet from the street right-of-way on which the property fronts. Farm labor housing must also be at least 150 feet from any single-family residence located on a separate parcel of property owned by another individual or entity;
 - (5) Farm labor housing may be permitted as a principal use on a parcel which contains a minimum of one acre and which complies with all other requirements of this section. This parcel shall be adjacent to the farm parcel where the laborers are employed and both parcels shall be under the same ownership.
- (l) Cemeteries.
 - (m) Storage of materials, vehicles and equipment which are used by the occupant of the premises in the operation of a business which is conducted off the premises. This shall primarily include, but shall not be limited to, materials, equipment and vehicles used in the building and construction trades. Materials and equipment shall be located either indoors or screened from the view of adjacent roadways and properties. The property or parcel containing such a business shall not exceed three acres. Such storage shall be clearly incidental to the permitted principal use.
 - (n) Child and adult day care homes with no more than six minor children or adults.
 - (o) Adult foster care facilities.
 - (p) Towers and antennas which do not exceed 35 feet in height.
 - (q) Essential public service equipment and buildings.
 - (r) Home occupations as defined herein provided the occupation is clearly incidental, subordinate and secondary to the residential use of the dwelling.
 - (s) Single family dwellings designed as Open Space Preservation Projects as regulated by Article 6 herein.
 - (t) On-site service wind energy conversion systems (WECS), per Section 3.4.32

Sec. 3.5.03: Special Land Uses

The following uses may be permitted as a special land use in the Agricultural District when approval is granted by the Planning Commission. Such uses are subject to the provisions of Article 15 contained herein and the provisions noted below where applicable.

- (a) Airfields
- (b) Campgrounds

- (c) Country clubs, golf courses
- (d) Extraction of natural resources
- (e) Commercial kennels
- (f) Commercial stables
- (g) Junkyards or salvage yards
- (h) Establishments which provide retail sales of one or more of the following items:
 - (1) Nursery stock and accessory products
 - (2) Landscaping products
 - (3) Antiques and crafts
- (i) Churches on a lot or parcel of at least two acres.
- (j) Public and non-public schools not including colleges or universities.
- (k) Farm implement repair.
- (l) Agricultural service establishments which engage in performing agricultural, animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to the following:
 - (1) Centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower and agricultural produce milling and processing);
 - (2) The storage and sale of seed, feed, fertilizer, and other products essential to agricultural production;
 - (3) Crop dusting;
 - (4) Fruit packing;
 - (5) Farm equipment sales and service;
 - (6) Veterinary services;
 - (7) Facilities used in the research and testing of farm products and techniques.
 - (8) General repair and welding of farm implements and farm machinery.
 - (9) Slaughterhouse or butcher shop but not including a rendering plant.
- (m) Towers and antennas which are greater than 35 feet in height as regulated by Section 3.15.06 herein.
- (n) Municipal, State, Federal or educational administration or service buildings.
- (o) Clubs, lodges, and fraternities, including but not limited to, gun and shooting clubs for exclusive use of its members.
- (p) Home Based Business pursuant to Article 15 (g).

- (q) Commercial wind energy conversion systems (WECS) and WECS Testing Facilities associated with a Commercial WECS per section 3.15.06 (h).
- (r) Agri-tourism business pursuant with section 3.15.06 (i).
- (s) Agricultural Banquet Facility pursuant to the following standards.
 - (1) There shall be a minimum lot area of (5) five acres.
 - (2) Parking shall be of a sufficient number for the proprietor, employees, caterers and expected guests located off street and setback 25 feet from the street right of way and all lot lines.
 - (3) The facility building(s) on the site shall be setback 500 feet from neighboring dwellings.
 - (4) Accessory structures may include uses such as pavilions, picnic facilities and restroom facilities.
 - (5) Any refuse containers on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
 - (6) The establishment shall be located and designed such that no objectionable noise, or odor or fumes, shall be carried onto adjoining property.
 - (7) The Planning Commission may establish or limit hours of operations consistent with the character of the land uses in the vicinity.
 - (8) The facility use shall not alter the residential and agricultural character of the site as determined by the Planning Commission.
 - (9) The Fire Chief or Building Inspector shall establish a capacity of persons for events which shall be appropriate to the site and facilities in terms of safe capacity in buildings, parking area and sanitation limitations of the site.
 - (10) All other County and State permits shall be secured and maintained.
- (t) Group Child Care Home
- (u) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (v) Ground-mounted solar energy system as an accessory use to a dwelling or agricultural principal use.
- (w) Commercial solar energy system as a principal use or accessory use to a dwelling or agricultural principal use.

(Amended 11-12-2014, 7-11-2018, 12-9-2020)

Sec. 3.5.04: Area Regulations

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **FRONT YARD** - For residential buildings and buildings normally considered accessory thereto, there shall be a front setback of not less than 50 feet. For all other buildings, there shall be a minimum front setback of 100 feet.
- (b) **SIDE YARD** - For residential buildings and buildings normally considered accessory thereto, there shall be total side yards of 25 feet with a minimum side yard of at least 10 feet on one side.
- (c) **REAR YARD** - There shall be a rear yard of not less than 35 feet.
- (d) **LOT AREA** - The minimum lot area shall be one acre with a minimum of 150 feet of lot width at the minimum required building setback line. The lot area may include road right-of-way if it is noted in the legal description for the lot.

Sec. 3.5.05: Minimum Floor Area

Dwelling units in this district shall have a minimum floor area of 900 square feet.

Article 6: Open Space Preservation Projects

Sec. 3.6.01: Description and Purpose

Act No. 110 of the Public Acts of Michigan of 2006 (the "Act") requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential purposes at a density equivalent to 2 or fewer dwelling units per acre must adopt zoning regulations to permit "open space preservation" developments.

Under these regulations, a landowner has the option to retain at least 50% of the property as open space and place dwellings on the remaining portion. The number of dwellings cannot be less than the number which would be permitted on the land without the open space preservation regulations.

The purpose of this section is to adopt open space preservation provisions consistent with the requirements of the Act.

Sec. 3.6.02: Definitions

If not otherwise defined by Part 3, words and phrases used in this Section, if defined by the Act, shall have the same meaning as provided in the Act.

Sec. 3.6.03: Review Procedure

- (a) An open space preservation project shall be reviewed by the Planning Commission in accordance with the requirements of site plan review contained in Article 14 of this Part and according to the requirements and standards contained in this Section.
- (b) A public hearing shall be required for an Open Space Preservation Project. The requirements for notification shall be as set forth in Section 3.15.03(d) of this Part.
- (c) Items Submitted for Review.
 - (1) The applicant shall submit an application for an open space preservation project as required by Portland Township.
 - (2) Open Space Preservation Plan.

The applicant shall submit 10 sets of the Open Space Preservation Plan which shall be professionally prepared and which shall include information required by Section 4.2.02 of Part 4, Subdivision of Land, and the following information:

 - (i) The areas devoted to preserved open space.

- (ii) The site development plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed lots on the site development plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission.
 - (iii) The total number of acres of land that are proposed for preserved open space, the total number of acres of land that are proposed to be used for dwellings, and the percentage of each, as compared to the total site acreage.
 - (iv) The site development plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (v) If the open space development will not be served by public sanitary sewer, the applicant shall submit documentation from the Ionia County Health Department that the soils are suitable for on site septic systems.
- (3) If an open space preservation development is proposed as a platted subdivision or a site condominium, the applicant must also submit all information and follow the procedures required by Part 4, Subdivision of Land, or the Portland Township Site Condominium regulations of this Part, as applicable.
- (4) Existing Zoning Plan.

In addition to the information required above, the applicant must also submit a separate Existing Zoning Plan.

This plan is to be prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the open space preservation option provided by this Section were not exercised. The Existing Zoning Plan shall be professionally prepared and shall include at least the following information:

- (i) Date, north arrow and scale, which shall not be more than 1" = 200'.
- (ii) Location of streets adjacent to and within the site.
- (iii) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
- (iv) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan.

- (v) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the applicant shall submit written documentation from the Ionia County Health Department that at least 40 percent of the lots are suitable for on site disposal systems. Such lots shall be spread evenly over the site.
- (vi) The Existing Zoning Plan shall illustrate all unbuildable land, which shall include slopes of 20% or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction of buildings or roads.

Sec. 3.6.04: Determination of Number of Lots

The Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number of lots that could be developed on the land under its existing zoning if the clustering option provided by this Section were not exercised.

The Commission shall either approve the number of lots illustrated on the Existing Zoning Plan or require the Plan to be revised to accurately reflect the number of lots which could be developed on the land under the standards required for preparing the Existing Zoning Plan in this Section.

Sec. 3.6.05: Open Space Requirements

- (a) Required Open Space.
Not less than 50 percent of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space") by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township Attorney.
- (b) Additional Open Space.
The Planning Commission may, however, in its discretion, allow more than 50 percent of the site to be preserved as open space if the additional open space meets one or more of the following criteria: preserves a unique natural feature on the site; creates a transition to improve compatibility with adjacent land uses; allows more creativity in site design; serves as an amenity to residents of the project; or does not result in a substantial reduction in the minimum lot sizes required for an open space preservation project.
- (c) Areas Not Counted as Open Space.
 - (1) The area within all public or private road rights-of-way.
 - (2) Golf course.

- (3) The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
- (4) Detention and retention ponds created to serve the project.
- (5) Community drain fields if such areas are not completely underground.
- (6) 50% of the area of wetlands, creeks, streams, existing ponds or lakes or other bodies of water.
- (7) 50% of the area of floodplains and 50% of areas of slopes which are 20% or over.
- (8) The Planning Commission may allow up to 60 % of those areas listed in (6) and (7) above to be counted as open space if physical amenities which can be utilized by the residents of the open space project are provided such as a walking trail, a ball field, play structures or similar item.

(d) Standards for Open Space.

The following standards shall apply to the preserved open space required by this Section:

- (1) The open space may include a recreational trail, picnic area, children's play area, community building or other use which, as determined by the Planning Commission, is substantially similar to these uses or it may serve simply as viewing area or wildlife habitat.
- (2) The open space shall be available for all residents of the development, subject to reasonable rules and regulations.
- (3) If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
- (4) The open space shall be reasonably useable by the residents of the open space project.
- (5) Open space shall be located so as to be reasonably accessible to the residents of the open space development. Safe and convenient pedestrian access points to the open space from the interior of the open space shall be provided.

(e) Methods to Preserve Open Space.

The applicant shall submit before final approval of the project a copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this

Section in an undeveloped state. Such legal instrument shall be reviewed by the Township attorney prior to recording, and shall be subject to the approval of the attorney, consistent with the terms of this Section. The legal instrument shall:

- (1) Indicate the proposed permitted use(s) of the open space.
- (2) State the parties who have an ownership interest in the open space.
- (3) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except such drainage improvements, utility lines, walking trails, picnic areas, park or playground equipment, or similar improvements that are approved by the Planning Commission.
- (4) Require that the open space be maintained by parties who have an ownership interest in the open space.
- (5) Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.

Sec. 3.6.06: Development Requirements

- (a) **Water and Sanitary Sewer.**
Open Space Preservation projects shall be served by either public or community water and sanitary sewer OR by private wells and septic systems subject to the approval of the Ionia County Health Department.
- (b) **Minimum Lot Sizes and Setbacks.**
In order to accommodate both the required open space and the number of lots permitted according to the Existing Zoning Plan the Planning Commission shall allow a reduction in the minimum lot size and building setback requirements of the zoning district in which the Open Space Preservation project is located.

For Open Space Preservation projects, the minimum lot sizes shall not be less than the following:

	<u>Minimum Lot Size</u>	<u>Minimum Lot Width</u>
A Zone (Current rule is 1 acre, 150' wide)	20,000 square feet	110 feet
R-1 Zone with or without public or community sewer (Current rule is 30,000 sq. ft., 132' wide)	13,500 square feet	100 feet w/o public or community sewer; 80 ft. w/public or community sewer

- (1) The minimum setback for buildings may be reduced to not less than 20% of the minimum required setbacks for the zoning district in which the Open Space Preservation project is located.
- (2) The Planning Commission may allow a decrease in the above minimum lot sizes however, for the purpose of achieving the number of lots allowed by the Existing Zoning Plan.

(c) Compliance with Zoning District.

The development of land under this Section shall comply with all requirements of this Part applicable to the zoning district in which the land is located, except for the lot size and setback requirements.

(d) Maximum Number of Lots.

The Open Space Preservation project shall contain no more than the maximum number of lots as determined from the Existing Zoning Plan approved by the Planning Commission.

(e) Perimeter Lots.

Notwithstanding any other provision of this Section, the Planning Commission may require that the Open Space Preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing). The Planning Commission may however, allow a decrease in the minimum lot sizes specified in Section 3.6.06(b) for non-perimeter lots for the purpose of achieving the number of lots allowed by the Existing Zoning Plan.

(f) Sidewalks.

The Planning Commission may require sidewalks in accordance with the Township's Site Condominium regulations or Part 4, Subdivision of Land, of this Code.

(g) Private Roads.

A private road which is part of an Open Space Preservation project shall comply with the requirements for private roads as contained in Section 3.4.21 of this Part.

(h) Grading.

Grading shall comply with the following requirements:

- (1) To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof.
- (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading or excavating, except as permitted by the Planning Commission.

Sec. 3.6.07: Standards for Approval

Prior to approving a site plan for an Open Space Preservation project, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section, this code, or in other Township ordinances are met, the site plan shall be approved.

- (a) The site plan complies with all open space requirements of this Part.
- (b) The houses are arranged to respect the natural features of the site and so residents can benefit from viewing or utilizing the required open space.
- (c) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or by making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Part.
- (d) 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.
- (e) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Township Fire Department.
- (f) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public stormwater drainage system. Provisions shall be made to accommodate stormwater, prevent erosion particularly during construction, and prevent the formation of dust. The use of detention/retention ponds may be required. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
- (g) Site plans shall conform to all applicable requirements of county, state and federal statutes and approval may be conditioned on the applicant receiving necessary county, state and federal permits before final site plan

approval or an occupancy permit is granted.

Sec. 3.6.08: Conditions of Approval

As part of an approval to an Open Space Preservation Plan, the Planning Commission may impose additional conditions that may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review standards of Section 3.6.07 are met.

Sec. 3.6.09: Validity of Approved Site Plans

- (a) An approved Open Space Preservation Plan which is also approved under the Township's Site Condominium regulations or Part 4, Subdivision of Land, of this Code shall remain valid as prescribed in this Code.
- (b) For all other approved Open Space Preservation Plans, the approval shall be valid for one year from the date of approval as regulated by Section 3.14.09 of this Part.

Sec. 3.6.10: Performance Guarantee

The Planning Commission may require reasonable performance guarantees in accordance with Section 3.14.10 of this Part.

Sec. 3.6.11: Amendments to Approved Site Plan

- (a) Any person who has been granted site plan approval for an Open Space Preservation Project shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- (b) A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction in the number of dwellings.
- (2) An alteration of the required open space which does not materially affect the approved intended use of the open space.
- (3) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
- (4) Changes required or requested by the Township for safety reasons or to better accommodate stormwater management or other utilities.
- (5) Changes which will preserve the natural features of the site without

changing the basic site layout.

- (6) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

Article 7: "R-1" Low Density Residential

Sec. 3.7.01: Description and Purpose

The R-1 zoning district is intended to provide primarily for detached single family dwelling units with a maximum density of 3.63 units per acre with public water and sewer. Lot sizes are permitted to vary, depending upon the availability of public utilities. Non-residential uses such as churches, schools, and public buildings are also permitted as a special exception according to their compatibility with nearby single family homes. Existing agricultural uses in the R-1 zone shall be permitted to continue but the intent of this district is to phase out such uses over time so that the predominant use becomes detached single family dwelling units.

Sec. 3.7.02: Use Regulations

Land in the "R-1" zone may only be used for the following purposes:

- (a) Single family detached dwelling units.
- (b) Two family dwellings.
- (c) Adult foster care facilities.
- (d) Family day care homes and adult day care homes with no more than six minor children or adults.
- (e) Accessory buildings, structures, and uses customarily incidental to any of the above uses when located on the same lot.
- (f) Towers and antennas which do not exceed 35 feet in height.
- (g) Home occupations as defined herein provided the occupation is clearly incidental, subordinate and secondary to the residential use of the dwelling.
- (h) Single family dwellings designed as Open Space Preservation Projects as regulated by Article 6 herein on parcels which are not served by existing public or community sanitary sewer.
- (i) On-site service wind energy conversion systems (WECS), per Section 3.4.32

Sec. 3.7.03: Special Land Uses

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Article 15 herein.

- (a) Churches, synagogues, or similar religious institutional uses on a minimum of two acres.
- (b) Public and non-public schools not including colleges or universities.
- (c) Cemeteries.

- (d) Housing for the elderly or senior citizens including but not limited to assisted living facilities, nursing homes, or retirement housing.
- (e) Parks, playgrounds, community centers, or similar recreational uses when operated by a governmental agency or non-profit organization.
- (f) Municipal, county, state, and federal administration or educational or service buildings.
- (g) Essential public services buildings or equipment which are above ground.
- (h) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (i) Towers and antennas which are greater than 35 feet in height as regulated by Section 3.15.06 herein.
- (j) Home Based Business pursuant to Article 15 (g).
- (k) Group Child Care Home
- (l) Ground-mounted solar energy system as an accessory use to a dwelling or agricultural principal use.

Amended 7-11-2018)

Sec. 3.7.04: Area Regulations

No buildings or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) FRONT YARD - For residential buildings and buildings normally considered accessory thereto, there shall be a front setback of 30 feet.
- (b) SIDE YARD - There shall be total side yards of 20 feet provided that no side yard shall be less than eight feet.
- (c) REAR YARD - There shall be a rear yard of not less than 35 feet; except that for duplexes, the rear yard setback shall not be less than 50 feet.
- (d) LOT AREA-
 - (1) For single family dwellings without public sewer and water, the minimum lot area shall be 30,000 square feet with a minimum of 132 feet of lot width at the minimum required building setback line.
 - (2) For single family dwellings with either public sanitary sewer or public water or a community septic or well system the minimum lot area shall be 20,000 square feet with a minimum of 100 feet of lot width at the minimum required building setback line.
 - (3) For single family dwellings with both public sanitary sewer and water or a community septic and well system the minimum lot area shall be 12,000 square feet with a minimum of 80 feet of lot width

- at the minimum required building setback line.
- (4) For two family dwellings with or without public sanitary sewer or water the minimum lot area shall be 30,000 square feet with a minimum of 132 feet of lot width at the minimum required building setback line.

Sec. 3.7.05: Minimum Floor Area

For single family and two family dwelling units, the minimum floor area shall be 900 square feet per unit.

Article 8: "R-2" Medium Density Residential

Sec. 3.8.01: Description and Purpose

The "R-2" zoning district is intended to provide for medium density residential development up to six units per acre. Multi-family dwelling units are permitted in this zoning district along with duplexes. Certain non-residential uses are also permitted by special land use. Medium density residential uses shall be located on paved streets in order for better accessibility by fire and police services. Medium density residential uses are also intended to serve as a buffer or transition zone between non-residential uses and low density residential uses.

Sec. 3.8.02: Use Regulations

Land in the "R-2" zone may only be used for the following purposes:

- (a) Single Family dwellings and Two-family dwelling units.
- (b) Multiple family dwelling units.
- (c) Uses customarily incidental to the permitted principal use.
- (d) Towers and antennas which do not exceed 35 feet in height.
- (e) Home occupations as defined herein provided the occupation is clearly incidental, subordinate and secondary to the residential use of the dwelling.
- (f) On-site service wind energy conversion systems (WECS), per Section 3.4.32

Amended 2-8-2023)

Sec. 3.8.03: Special Land Uses

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Article 15 herein.

- (a) As permitted by Section 3.7.03 herein.

Sec. 3.8.04: Area Regulations

- (a) FRONT YARD - The minimum front yard shall be 35 feet.
- (b) SIDE YARD -
 - (1) For two-family dwelling units as regulated by Section 3.7.04(b) herein.
 - (2) The minimum side yard setback for multi-family dwelling units which abut a different zoning district shall be 30 feet. For multi-family units which abut an "R-2" district, the minimum side yard setback shall be 15 feet.

The minimum distance between multi-family dwelling structures shall be 30 feet.

(c) REAR YARD -

- (1) For two family units as regulated by Section 3.7.04(c) herein.
- (2) For multiple family units, the minimum rear yard shall be 50 feet.

(d) LOT AREA - The minimum lot area in this district shall be as follows:

- (1) Two family dwellings shall have a minimum lot area of 30,000 square feet with a minimum lot width of 132 feet at the minimum required building setback line.
- (2) Multiple family dwellings shall have a minimum lot area of 7,260 square feet per dwelling unit with a lot width of not less than 200 feet at the building line.

(e) ADDITIONAL REGULATIONS - A project approved under this Section shall provide a play area with equipment or facilities for use by the children residing in the project. The Planning Commission shall determine the size and type of equipment to be provided based on the number of dwellings, the children likely to be living there, and the existence of nearby play areas.

Sec. 3.8.05: Minimum Floor Area

Multiple family dwelling units shall have the following minimum floor areas:

One bedroom	Three hundred fifty (350) square feet.
Two bedroom	Five hundred fifty (550) square feet.
Three bedroom	Eight hundred (800) square feet.

All other uses shall meet the requirement of the "R-1" District.

Sec. 3.8.06: Landscape Buffer

Where an "R-2" zone abuts an "R-1" zone, a landscape buffer strip shall be installed as required by Section 3.4.19 herein.

Sec. 3.8.07: Site Plan Review

Multi-family dwelling units in the "R-2" zone shall be subject to the site plan review requirements contained in Article 14 herein.

Sec. 3.8.08: Additional Requirements

Parcels containing multi-family buildings shall be located on paved roads.

Article 9: "R-3" Mobile Home Park District

Sec. 3.9.01: Purpose and Regulation

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, being Act 96 of 1987, as amended, and the Michigan Administrative Code. A mobile home park established within this district shall be subject to the site plan review procedures of Article 14 herein.

Public sewer and communal water facilities shall be provided for each mobile home park. The Township Board, however, may permit the use of a treatment system meeting all State and County regulations if public sewer facilities are not available. Connection shall be made to public sewer and water within one year after same shall become available within five hundred (500) feet of the premises.

Sec. 3.9.02: Towers and Antennas Not Exceeding 35 Feet

Towers and antennas which do not exceed 35 feet in height.

Sec. 3.9.03: Towers and Antennas Exceeding 35 Feet

Towers and antennas which are greater than 35 feet in height as regulated by Section 3.15.06 herein.

Article 10: "C" Commercial

Sec. 3.10.01: Description and Purpose

This district is intended to permit local retail business and service uses that are desirable to serve the residential areas of the Township and nearby areas. The intent of this district is also to encourage the concentration of business uses, to the mutual advantage of consumers and merchants.

Sec. 3.10.02: Permitted Uses

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

- (a) Retail shops and stores, including but not limited to bakeries, drug stores, hardware stores, appliance and furniture stores, clothing shops, and similar uses.
- (b) Personal service establishments such as barber shops, beauty salons, shoe repair, and other similar establishments.
- (c) Professional offices of doctors, dentists, lawyers, architects, and other similar professions.
- (d) Retail building supply sales.
- (e) Temporary building or trailer offices incidental to construction activities.
- (f) Essential public services buildings and equipment.
- (g) Vehicle service stations not performing vehicle body work.
- (h) Outdoor retail sales of trees, fruit, seeds, lawn furniture, playground equipment, and other home garden supplies and equipment.
- (i) Financial and business service establishments such as banks, insurance offices, and other similar businesses.
- (j) Health and physical fitness salons.
- (k) Gas station/convenience stores.
- (l) Indoor and outdoor community recreation establishments such as bowling centers, indoor theaters, skating rinks, miniature golf, play fields such as soccer, football and similar, go-cart tracks and video amusement establishments.
- (m) Tire shops including recapping and retreading.
- (n) Eating and drinking establishments.
- (o) Auto wash facilities.
- (p) Sign painting.
- (q) Mini-warehouse/self storage.
- (r) Dry cleaning establishments.
- (s) Printing shops.
- (t) Other similar uses.
- (u) Accessory uses and structures customarily incidental to the permitted principal uses.

- (v) Towers and antennas which do not exceed 35 feet in height.
- (w) Public and private business, educational, music or art schools.
- (x) Hotels and motels.
- (y) Veterinary clinics.
- (z) Private clubs.
- (aa) On-site service wind energy conversion systems (WECS), per Section 3.4.32
- (bb) Banquet facility
- (cc) Child care centers and nursery schools. A special land use shall not be required if such use is located within a principal building such as a church or school or similar public or institutional building.
- (dd) Businesses in the building and construction trade that include office, storage of materials, vehicles and equipment which are used by the occupant of the premises in the operation of a business which is typically conducted off the premises. Materials and equipment shall be located either indoors or screened from the view of adjacent roadways and properties.
- (ee) Municipal buildings, Post Office and similar government operated buildings and uses, State, Federal or educational administration or service buildings.

(Amended 11-12-2014, 7-11-2018, 2-8-2023)

Sec. 3.10.03: Special Uses

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Article 15 herein.

- (a) Special controlled uses as regulated by Section 3.4.18 herein.
- (b) Open air businesses including but not limited to sale of new and used motion vehicles, farm implements, lawn and garden equipment sales and service, motor homes, mobile or modular homes, boats or similar uses.
- (c) Vehicle body shops provided all work is performed within an enclosed building and storage of vehicles is within an area which is well screened from the view of nearby properties and roadways.
- (d) Towers and antennas which are greater than 35 feet in height as regulated by Section 3.15.06 herein.

Sec. 3.10.04: Area Requirements

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) FRONT YARD - There shall be a front setback of not less than 35 feet.
- (b) REAR YARD - There shall be a rear yard of not less than 20 feet.

- (c) SIDE YARD - A side yard is not required in this zone except that where it is not desired to build to the property line, a minimum side yard of 10 feet shall be required. Where this zone abuts any zone other than commercial or industrial, a minimum side yard of 20 feet is required.
- (d) LOT WIDTH - There shall be a minimum lot width of 150 feet.

Sec. 3.10.05: Greenbelt

When a "C" zone abuts a residential zoning district, a greenbelt 20 feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 3.4.19 herein.

Sec. 3.10.06: Site Plan Review

All uses permitted within the "C" zoning district shall be subject to the site plan review provisions of Article 14 herein.

Sec. 3.10.07: Additional Requirements

- (a) Loading areas shall be located so that trucks and other vehicles do not need to maneuver off site to access the loading area.
- (b) All dumpsters shall be within a three sided solid enclosure at least six feet in height.

Article 11: "I" Industrial

Sec. 3.11.01: Purpose

This zone is intended to permit industrial uses which are not offensive or debilitating to surrounding property through the effects of noise, smoke, odor, dust, noxious gases, vibration, glare and heat, fire hazards, industrial wastes, or traffic. In those instances where there is a doubt regarding the effect of the operation, the prospective operator shall demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized which will categorically assume the control of the questioned factor. All buildings, storage, and handling of flammable and explosive materials and other activities shall conform to all applicable regulations and requirements. No operations shall directly discharge waste of any kind into any river, stream, or lake. All methods of sewage disposal shall be approved by the appropriate agencies.

Sec. 3.11.02: Permitted Uses

In addition to complying with the above requirements, only uses hereafter listed shall be permitted in this zone.

- (a) The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The manufacturing, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
- (c) Transportation, communications, and utility facilities.
- (d) Commercial fuel depots.
- (e) Vehicle body shops provided all vehicles and materials are kept within a building or in an area well screened from the view of nearby properties and roadways.
- (f) Bottle plants and dairies.
- (g) Contractor yards.
- (h) Crating and packing service.
- (i) Lumber yards and other building supply establishments.
- (j) Machine shop.
- (k) Printing shops.
- (l) Sign painting and servicing shops.
- (m) Tool and die manufacturing establishments.
- (n) Warehouse and storage including self storage facilities.
- (o) Wholesale establishments.

- (p) Accessory building and uses customarily incidental to the permitted principal uses.
- (q) Essential public service equipment and buildings.
- (r) Accessory building and uses customarily incidental to the permitted principal uses.
- (s) Towers and antennas which do not exceed 35 feet in height.
- (t) Uses which are similar to the above.
- (u) On-site service wind energy conversion systems (WECS), per Section 3.4.32

Sec. 3.11.03: Special Land Uses

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Article 15 herein.

- (a) Asphalt manufacturing or refining, tar distillation or tar products manufacture.
- (b) Iron, steel, aluminum, and other ferrous and nonferrous forging, casting, or rolling.
- (c) Rendering plant.
- (d) Slaughter house or yards.
- (e) Manufacture, processing, and bulk storage of petroleum products and by-products.
- (f) Salvage yards.
- (g) Scrap tire collection.
- (h) Towers and antennas which are greater than 35 feet in height as regulated by Section 3.15.06 herein.
- (i) Recycling stations.
- (j) Ground-mounted solar energy system as an accessory use.
- (k) Commercial solar energy system as a principal use or accessory use.

Sec. 3.11.04: Additional Requirements

- (a) All outdoor storage of materials shall be screened from the view of adjoining properties and roadways as approved by the Planning Commission.
- (b) Uses permitted in this zone shall not produce noise, smoke, dust, vibration, or similar nuisance which significantly affects adjoining properties in an adverse manner.
- (c) Drives and service roads to industrial buildings must be paved. All utilities must be placed underground.
- (d) Loading areas shall be located so that trucks and other vehicles do not need to maneuver off site to access the loading area.

- (e) All dumpsters shall be within a three sided solid enclosure at least six feet in height.

Sec. 3.11.05: Area Requirements

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, enlargement:

- (a) FRONT YARD - There shall be a front setback of not less than 50 feet.
- (b) REAR YARD - There shall be a rear yard of not less than 20 feet unless the parcel abuts an R1 or R2 district then the minimum setback shall be 100 feet.
- (c) SIDE YARD - There shall be a side yard of not less than 20 feet unless the parcel abuts an RA, R1, or R2 district then the minimum setback shall be 100 feet.
- (d) LOT AREA - The minimum lot area shall be two acres with a minimum lot width of 200 feet.

Sec. 3.11.06: Greenbelt

When an "I" zone abuts an R1 or R2 zoning district, a greenbelt 20 feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 3.4.19 herein. If an Industrial Zone abuts an Agricultural Zone and an existing dwelling is within 100 feet of the industrial parcel, a greenbelt shall be provided per Section 3.4.19 herein.

Sec. 3.11.07: Site Plan Review

All uses permitted in the "I" zoning district shall be subject to the site plan review provisions of Article 14.

Article 12: PUD - Planned Unit Development District

Sec. 3.12.01: Intent

This Article provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments. It is the intent of this Article to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

- (a) To encourage the use of land in accordance with its character and adaptability.
- (b) To promote the conservation of natural features and resources including prime agricultural land.
- (c) To encourage innovation in land use planning and development.
- (d) To promote the enhancement of housing, employment, shopping, traffic circulation, and recreational opportunities for the people of Portland Township.
- (e) To promote and ensure greater compatibility of design and use between neighboring properties.
- (f) To provide for the regulation of legal land uses not otherwise authorized within this Part.

The provisions of this Article are not intended as a device for ignoring the provisions of this Part or the planning upon which it has been based. To that end, provisions of this Part are intended to result in land use development substantially consistent with the recommendations of the Township's Comprehensive Plan, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Article to ensure appropriate, fair, and consistent decision-making.

Sec. 3.12.02: PUD Authorization and Permitted Uses

A Planned Unit Development may be approved in any location within Portland Township by the Township Board except that in the Agricultural zone only single family residential uses shall be permitted within a PUD. Any land use authorized in this Part may be included in a Planned Unit Development, as a principal or accessory use, as well as any other legal land use not otherwise authorized in this Part, subject to adequate public health, safety and welfare mechanisms being designated into the development, and the following.

Sec. 3.12.03: Qualifying Conditions

- (a) In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of two acres except in the case of two-family or multiple family dwelling project for which the minimum area requirement shall be one acre.
- (b) Unified Control. The proposed development shall be under unified ownership or control, so that one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.
- (c) Guarantee of Dedicated Open Space. The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the PUD plan, unless an amendment is approved by the Township Board.
- (d) The agreement must be acceptable to the Township Board and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended. The agreement shall:
 - (1) Indicate the proposed allowable use(s) of the dedicated open space.
 - (2) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - (3) Provide standards for scheduled maintenance of the dedicated open space including necessary pruning, harvesting of trees and new plantings.
 - (4) Provide for maintenance to be undertaken by Portland Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance. Any costs incurred by the Township shall be assessed to the owners of the property within the PUD.

Sec. 3.12.04: Development Requirements

The lot area, lot width, building setback, and yard requirements applicable within a PUD shall be determined by the Planning Commission and Township Board in order to

achieve the objectives of this section based on the application of site planning criteria to achieve integration of the project with the characteristics of the project area. Other criteria which shall be used in making these determinations shall include the following:

- (a) Number and type of dwelling units.
- (b) Proximity and impact of the PUD on adjacent existing and future land uses.
- (c) Preservation of existing vegetation or other natural features on site.
- (d) Topography of the site.
- (e) Provision of water, sanitary sewer and storm sewer or approval of the Ionia County Health Department for on site well and septic systems.
- (f) Access for emergency vehicles to all dwellings.
- (g) To encourage the availability of open space, as a part of the development of residential lands, and to promote the development of passive and recreational land uses.

Sec. 3.12.05: Density Based on Zoning District Equivalent of Future Land Use Category

- (a) An area which is requested for rezoning to PUD shall only be developed in accordance with the density and land uses recommended by the Township Comprehensive Plan. The permitted number of dwellings per acre (density) for the proposed PUD area shall be based on the density requirements of the zoning district which is the equivalent of the future land use category proposed by the Plan. The zoning district equivalent for the Plan future land use category and the density permitted are contained in the following Density Table.

Density Table

<u>Master Plan Category</u>	<u>Zoning District</u>	<u>Maximum Ave. Density</u>
Agricultural	= Agricultural	<i>One unit/acre</i>
Low Density Residential	= R1, Low Density Residential	<i>1.45 units/ac.w/o public sewer& water. 2.17 units/acre w/ either public sewer or water. 3.63 units/acre w/ both public water & sewer.</i>
Medium Density Residential	= R2, Medium Density Res.	<i>3.63 units/ac. for two family dwellings. Six units/acre for multi-family dwellings.</i>

- (b) To determine the number of dwelling units which may be constructed within the PUD, multiply the permitted density from the Density Table by

the total acreage of the site excluding those areas within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers, one-half of the areas with existing slopes of 20% or more and one half of the area of any golf course. The Planning Commission and the Township Board may in their discretion allow fewer dwelling units than would otherwise be permitted by this section.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Environmental Quality or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission.

- (c) Additional dwellings above what is allowed by Section 3.12.05(a) & (b) may be permitted at the discretion of the Township Board and Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the PUD. Items which could be added to a PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:
 - (1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreation facility.
 - (2) Additional landscaping to preserve or enhance the rural view along the roadway.
 - (3) Enhancement of existing wetlands, subject to applicable regulations.
 - (4) Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
 - (5) Provision of a public or private community water and/or sanitary sewer system.

- (d) If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the density permitted in the Density Table by the total acreage of the site including wetlands, floodplain, bodies of water, steep slopes, golf courses, and portions of the site within existing road right of way. In no case shall the number of dwelling units exceed what is permitted by this subsection.

Sec. 3.12.06: Minimum Open Space Requirements

- (a) A PUD shall provide and maintain a minimum of 20 percent of the gross area of the site as Dedicated Open Space or a minimum of two acres of the site's gross area as open space, whichever is greater.
- (b) Areas Not Considered Dedicated Open Space. The following land areas shall not be classified as Dedicated Open Space for the purposes of this Section:
 - (1) The area within any public street right-of-way.
 - (2) The area within private road access easements.
 - (3) Any easement for overhead utility lines unless adjacent to qualified open space.
 - (4) Fifty percent of any floodplain, lakes, streams, detention ponds or other surface water bodies, or wetlands.
 - (5) The area within a platted lot or site condominium lot.
- (c) Standards for Dedicated Open Space. The following standards shall apply to the Dedicated Open Space provided in the development:
 - (1) Dedicated Open Space shall be for use by all residents of the PUD.
 - (2) The dedicated open space may either be centrally located, along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development.
 - (3) If the site contains a lake, stream or other body of water, a portion of the Dedicated Open Space shall abut the body of water.
 - (4) A portion of the Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 50 feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.
 - (5) A Dedicated Open Space area shall be configured such that the open space is reasonably usable by residents of PUD. The minimum size of a Dedicated Open Space area shall be 20,000 square feet; provided, however, that the required open space abutting a public street may be less than 20,000 square feet; and, further provided, that the Planning Commission may approve other Dedicated Open Space areas of less than 20,000 square feet if such areas are designed and established as pedestrian or bicycle paths or are otherwise determined by the Planning Commission to be open space reasonably usable by residents of the PUD.

- (6) Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
- (7) Grading in the Dedicated Open Space shall be minimal, with the intent to preserve existing topography where practical.
- (8) Dedicated Open Space may consist of ball fields, tennis courts, swimming pools and related buildings, community buildings and golf courses, and similar recreational facilities. These uses however shall not utilize more than 50 percent of the Dedicated Open Space.

Sec. 3.12.07: Procedures

- (a) Preapplication Conference. Before submitting an application for a PUD, an applicant may meet with the Planning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed PUD and to confer with the Planning Commission, or staff, about the proposed application and the PUD.
- (b) Application for PUD Approval. An application for a PUD rezoning shall be in accordance with the application procedures for site plan review as required by Article 14 of this Part.
- (c) Preliminary Development Plan. An applicant for PUD rezoning shall submit a site plan in accordance with the requirements for Preliminary Site Plan review as set forth in Article 14 of this Part.
- (d) Environmental Impact Assessment. The Planning Commission may require an environmental impact assessment as part of the Preliminary or Final Site Plan. This assessment shall describe the effect and impact that the proposed PUD will or may have upon or with respect to the following matters.
 - (1) The lands involved and the adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation; the effect, if any, on surrounding property values.
 - (2) Population in the immediate area and the Township; local school systems; traffic congestion.
 - (3) Additional costs to governmental units and school districts; police and fire protection; storm water drainage; water supply and sewage disposal.
 - (4) Noise, vibration, dust and dirt, litter, smoke, odor, light, and glare;
 - (5) General appearance and character of the area; historic structures and places; archeological sites and artifacts.
 - (6) Such other matters as the Planning Commission may request to be included. If requested by the Planning Commission, the environmental impact assessment shall include statements or

comments from the following public agencies or officials concerning those aspects of the proposed land use within their respective responsibilities and jurisdictions: County health department; county road commission; county drain commissioner; department of natural resources; intermediate school district; local board of education; county sheriff's department local fire department and other appropriate agencies.

- (7) Traffic impact study.
- (8) A community impact analysis.
- (9) An economic feasibility study for the principal uses of the proposed PUD.
- (10) An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities, and water supply and distribution systems.

(e) Review of Preliminary Development Plan. The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the PUD, together with any recommended changes or modifications thereof. Such review and other consideration of the preliminary plan shall take place at a public meeting or meetings of the Planning Commission, and at meetings of committees of the Commission, where appropriate. The recommendations of the Planning Commission to the applicant, regarding the PUD, shall be based on the following considerations:

- (1) The requirements of this Part.
- (2) The setback and placement of buildings and structures.
- (3) Ingress to and egress from the PUD and proposed buildings and structures therein, including motor vehicle and pedestrian safety and convenience, traffic flow and control and emergency access.
- (4) Off-street parking and loading areas where required.
- (5) Screening and buffering, including type, dimensions and character of materials used therefore.
- (6) Water supply and sanitary sewage disposal, including locations, availability and compatibility, the preservation of natural resources and natural features.
- (7) Open spaces and recreational areas.
- (8) Drainage courses, flood plains, lakes, streams, and wetlands.
- (9) The number of dwellings proposed.
- (10) Impact and adverse effects, if any, upon adjacent and nearby lands, the surrounding area and the Township.
- (11) Other aspects and effects of the PUD, as reasonably deemed appropriate by the Planning Commission.

- (f) Final Development Plan.
 - (1) After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant for PUD rezoning shall submit a Final Development Plan to the Township office in accordance with the requirements for Final Site Plan Review as contained in Article 14 of this Part. Copies of the plan shall be forwarded to the Planning Commission.
 - (2) The final development plan shall contain all of the information required for Final Site Plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the PUD plus the following:
 - (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon, or if the applicant has not incorporated all of such recommendations, the final development plan shall indicate such fact and shall state the basis or grounds upon which such recommendations have not been included.
 - (ii) Projected time for completion of the entire PUD; proposed phasing, if any, of the PUD and the projected time for completion of each phase.
 - (iii) Any other information reasonably required by the Planning Commission in connection with its review of the -PUD and consideration of the rezoning of the lands in accordance with the PUD plan.
- (g) Public Hearing on Final Development Plan. The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning in accordance with the plan. Notice of the public hearing shall be in compliance with the Michigan Zoning Enabling Act, 110 PA 2006 and shall provided as follows:
 - (1) A notice of the hearing shall be published in a newspaper of general circulation in the local unit of government.
 - (2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures

within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

- (3) The notice shall be given not less than 15 days before the date the application will be considered for approval.
 - (4) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 - (5) The notice shall do all of the following:
 - (i) Describe the nature of the request;
 - (ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (iii) State when and where the request will be considered; and
 - (iv) Indicate when and where written comments will be received concerning the request.
- (h) **Consideration of Final Development Plan by Planning Commission.** After public hearing, the Planning Commission shall make recommendations concerning the final development plan and the modifications in the final development plan, to the Township Board. The Planning Commission may recommend in favor of the rezoning of the lands in accordance with the final development plan; may recommend against rezoning of the lands in accordance with the final development plan; or may recommend such rezoning only if certain changes or modifications in the PUD are made or if certain specified conditions are imposed. The recommendations of the Planning Commission shall then be transmitted to the Township Board.
- (i) **Standards for Approval.** In making a recommendation to approve a PUD, the Planning Commission must find that the proposed PUD meets the following standards:
- (1) Granting the PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
 - (2) The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
 - (3) The PUD will be compatible with the Master Plan of the Township and consistent with the intent and purpose of this Part.

- (4) The PUD will not result in significant adverse effects upon nearby or adjacent lands, and will not significantly change the essential character of the surrounding area.
 - (5) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as approved for essential services or recreation amenities.
 - (6) Preserves and maintains mature woodlands, fields, pastures, meadows, orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
 - (7) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public road rights-of-way.
 - (8) Avoids siting new construction on prominent hilltops or ridges by taking advantage of lower topographic features.
 - (9) Protects the rural roadside character by establishing buffer zones along scenic corridors and improves public safety and vehicular carrying capacity by avoiding development that front directly on to existing roadways.
 - (10) Includes a pedestrian walkway designed to ensure that pedestrians can walk safely and easily throughout the site.
 - (11) The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.
- (j) Final Consideration of PUD by Township Board. The Township Board shall review the final development plan and the recommendations submitted by the Planning Commission. The Township Board shall determine whether the final development plan complies with the standards, conditions, and requirements of this Part and, in addition, shall determine whether the proposed project promotes the intent and purpose of this Part; insures that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and insures that the proposed project will be consistent with the public health, safety, and welfare needs of the Township. Upon a determination that a proposed project meets such standards, conditions, and requirements, the Township Board may approve the final development plan and grant the rezoning request.
- (k) Conditions of Approval. The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in

a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.

- (1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project, and the community as a whole.
- (2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.
- (3) They shall be necessary to meet the intent and purpose of this Part, be related to the standards established in the Part for the proposed PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Township Board and the property owner. The Township Board shall maintain a record of conditions which are changed.

If the Township Board approves the final development plan and the proposed application for rezoning, it may rezone the property in accordance with the Michigan Zoning Enabling Act as amended. The amendment shall be forwarded to the Township Clerk for inclusion in the Portland Township Code of Ordinances. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law. Following approval of the PUD rezoning the Official Zoning Map of Portland Township shall be changed to reflect the PUD zoning for the parcel.

Sec. 3.12.08: Amendments to Approved PUD

- (a) An approved Final PUD Development Plan and any conditions imposed upon Final PUD approval shall not be changed except upon the mutual consent of the Township Board and the applicant except as otherwise noted below.
- (b) Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction of the size of any building and/or sign.
- (2) Movement of buildings and/or signs by no more than 10 feet.
- (3) Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- (4) Changes of building materials to a higher quality.
- (5) Changes in floor plans which do not alter the character of the use.
- (6) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (7) Changes required or requested by the Township for safety reasons.
- (8) Changes which will preserve the natural features of the site without changes the basic site layout.
- (9) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

- (c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

Sec. 3.12.09: Performance Guarantees

The Township Board, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Township Board based on a recommendation from the Planning Commission. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the PUD and construction and placement of all of the improvements therein. In its discretion, the Township Board, upon recommendation by the Planning Commission, may rebate or refund a proportionate

share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official.

Sec. 3.12.10: Time Limitations on Development

Each PUD shall be under construction within one year after the date of approval of the final development plan and adoption of a zoning ordinance amendment by the Township Board. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD. If the PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, any building permits issued for the PUD or any part thereof shall be of no further effect, at the conclusion of said periods of time, and the Planning Commission and Township Board may then, in their discretion, initiate proceedings for the rezoning of the lands to some other zoning district.

Article 13: Site Condominiums

Sec. 3.13.01: Purpose and Scope

Site condominiums are developments by a land division in which each condominium unit consists of an area of land and a volume of air space within which a building or other improvements may be constructed. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirements of this Part and other applicable laws, ordinances and regulations. Site condominiums may also include general common elements consisting of common open space, recreational areas, streets, and other areas and amenities available for use by all owners of condominium units within the development.

This Part requires preliminary review by the Planning Commission followed by final review and approval by the Township Board of site condominium plans to ensure that site condominiums comply with this Part and other applicable provisions of this code Township ordinances.

Sec. 3.13.02: Definitions

For purposes of this Part, the following words and phrases are defined as follows:

- (a) "Building envelope" means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium. In a single-family residential site condominium project, the building envelope refers to the areas of each condominium unit within which the dwelling and any accessory structures may be built.
- (b) "Building site" means either:
 - (1) The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope; or
 - (2) The area within the condominium unit, taken together with any contiguous and appurtenant limited common element.

For purposes of determining compliance with the applicable requirements of this Part (including, without limitations, height, area, yard, and density requirements) or with other applicable laws,

ordinance or regulations, a "building site" shall be considered to be the equivalent of a "lot."

- (c) "Condominium Act" means Public Act 59 of 1978, as amended.
- (d) "Limited common element" means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the exclusive use of the owner or co-owners of a specific unit or units.
- (e) "Site condominium development" means a plan or development consisting of not less than two site condominium units established in compliance with the Condominium Act.
- (f) "Site condominium development plan" means the plans, drawings and information prepared for a site condominium development as required by Section 66 of the Condominium Act and as required by this Part for review of the development by the Planning Commission and the Township Board.
- (g) "Site condominium unit" means a condominium unit established in compliance with the Condominium Act which consists of that portion of the condominium project designed and intended for separate ownership and use.
- (h) Except as otherwise provided by this Article, the following words and phrases, as well as any other words or phrases used in this Part which are specifically defined in the Condominium Act, shall conform to the meaning given to them in the Condominium Act: "common elements"; "condominium documents"; "condominium unit"; "contractible condominium"; "convertible area"; "expandable condominium"; "general common elements"; and "master deed."

Sec. 3.13.03: Review of Preliminary Plans by Planning Commission

(a) Prior to final review and approval of a site condominium development plan by the Township Board, a preliminary site condominium development plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided by this Part. Such review shall take place following a public hearing by the Planning Commission on the preliminary plan. For such hearing, notice shall be given as set forth in section 103 of the Michigan Zoning Enabling Act as follows:

- (1) A notice of the hearing shall be published in a newspaper of general circulation in the local unit of government.
- (2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

- (3) The notice shall be given not less than 15 days before the date the application will be considered for approval.
 - (4) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 - (5) The notice shall do all of the following:
 - (a) Describe the nature of the request;
 - (b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (c) State when and where the request will be considered; and
 - (d) Indicate when and where written comments will be received concerning the request.
- (b) Application for review and approval of a site condominium development plan shall be initiated by submitting to the Township Clerk:
- (1) A minimum of 10 copies of a preliminary site condominium development plan which complies with the requirements of Section 4.2.02 of Part 4, Subdivision of Land; and
 - (2) An application fee in accordance with the fee schedule established by resolution of the Township Board.
- (c) The Planning Commission shall review the preliminary site condominium development plan in accordance with the standards and requirements contained in Article 4 of Part 4, Subdivision of Land. All of the requirements for plats, as set forth in said Article 4, shall be requirements for site condominium developments. In addition, the following standards and requirements shall apply:
- (1) In its review of a site condominium development plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, development layout and design, or other aspects of the proposed development.
 - (2) The building site for each site condominium unit shall comply with all applicable provisions of this Part, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.
 - (3) All private streets in a site condominium development shall be developed as required by Part 3, Zoning, Sec. 3.4.21.

- (4) If public water and sanitary sewer facilities are not available, each condominium unit shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within the condominium unit's building site. Water and sanitary sewer facilities shall be approved by the Ionia County Department of Health and the Township in accordance with applicable standards.
- (5) The Planning Commission shall require that portions of the plan as relevant to the reviewing authority in question be submitted to the Ionia County Health Department, Ionia County Road Commission, Ionia County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies where approval is required by law over any aspect of the proposed site condominium development.

Sec. 3.13.04: Planning Commission Recommendations

After reviewing the preliminary site condominium development plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium development, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

Sec. 3.13.05: Review and Approval of Final Plans by Township Board

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk a minimum of 10 copies of a final site condominium development plan which complies with the requirements of this section and of Section 4.2.02 of Part 4, Subdivision of Land. All of the requirements for plats, as set forth in said Article 4 of Part 4, Subdivision of Land, shall be requirements for site condominium developments. The Township Clerk shall forward the copies of the final plan to the Township Board.
- (b) The final site condominium plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission.

Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission prior to approval of the plan by the Township Board.

- (c) After receiving the Planning Commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the standards and requirements provided by Article 4 of Part 4, Subdivision of Land, and other applicable procedures, standards and requirements provided by this Part.
- (d) As a condition of approval of a final site condominium development plan the Township Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Board covering the estimated cost of improvements associated with the site condominium development for which approval is sought to be deposited with the Township as provided by Section 505 of the Michigan Zoning Enabling Act.

Sec. 3.13.06: Contents of Site Condominium Project Plans

A condominium development plan shall include the documents and information required by Section 66 of the Condominium Act and by Section 4.2.02 of Part 4, Subdivision of Land, and shall also include the following:

- (a) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
- (b) A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair and maintenance of all drainage facilities.
- (c) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair and maintenance of all utilities.
- (d) A narrative describing the overall objectives of the proposed site condominium development.
- (e) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- (f) A street construction, paving and maintenance plan for all private streets within the proposed condominium development.

Sec. 3.13.07: Construction in Compliance with Approved Final Site Condominium Development Plan

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium development except in compliance with a final site condominium development plan as approved by the Township Board, including any conditions of approval.

Sec. 3.13.08: Commencement of Construction, Issuance of Permits

No building permit shall be issued, and no public sewer or public water service shall be provided for any dwelling or other structure located on a parcel established or sold in violation of this Part. The sale, or the reservation for sale, of site condominium units shall be as regulated by the Condominium Act. No building in a site condominium development may be occupied or used until all required improvements have been completed and all necessary utilities installed.

Sec. 3.13.09: Expandable or Convertible Condominium Developments

Approval of a final site condominium development plan shall not constitute approval of expandable or convertible portions of a site condominium development unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission and Township Board in compliance with the procedures, standards and requirements of this Part.

Sec. 3.13.10: Changes to Approved Plan

Any change proposed in connection with a development for which a final site condominium plan has previously been approved shall be regulated by this section.

(a) The following definitions shall apply:

- (1) "Exempt change" means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this Part. Exempt changes shall be limited to the following:
 - (i) a change in the name of the development; in the name of a street within the development; or in the name of the developer;
 - (ii) a change in the voting rights of co-owners or mortgagees; or
 - (iii) any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout,

topography or any other aspect of a development which is subject to regulation under this Part.

(2) "Major change" means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:

- (i) an increase in the number of site condominium units;
- (ii) any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Part, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.

(3) "Minor change" means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:

- (i) a decrease in the number of site condominium units;
- (ii) a reduction in the area of the building site for any site condominium unit;
- (iii) a reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
- (iv) a reduction in the total combined area of all limited common elements of the site condominium;
- (v) any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Part, and which, as determined by the Zoning Administrator, does not constitute a major change.

(b) Any change which constitutes a major change shall be reviewed by the Planning Commission, at a public hearing and with the notice required for an original approval of a site condominium development, as set forth in Section 3.13.03 (a) of this Article, and shall also be reviewed and approved by the Township Board, as provided in this Article for the original review and approval of preliminary and final plans.

(c) Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by

the Planning Commission, at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this Article for an original approval.

- (d) Any change which constitutes an exempt change shall not be subject to review by the Township under this Article, but a copy of the exempt changes shall be filed with the Township Clerk.

Sec. 3.13.11: Incorporation of Approved Provision in Master Deed

All provisions of a final site condominium development plan which are approved by the Township Board as provided by this Part shall be incorporated by reference in the master deed for the site condominium project. Further, all major changes to a development shall be incorporated by reference in the master deed. A copy of the master deed as recorded with the Ionia County Register of Deeds shall be provided to the Township within 10 days after recording.

Sec. 3.13.12: Commencement of Construction

Construction of an approved site condominium development shall commence within two years after such approval and be diligently pursued to completion in accordance with the terms and conditions of the approval. Such two-year period may be extended by the Township Board in its discretion, for additional periods of time as determined appropriate by the Board. Any such extension shall be applied for by the applicant within such two-year period.

Sec. 3.13.13: Variances

A variance from the provisions of this Article may be granted if the applicant demonstrates that literal enforcement of any of the provisions of this Article is impractical, or will impose undue hardship in the use of the land because of special or peculiar conditions pertaining to the land. Upon application, the Township Board, after recommendation by the Planning Commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this Part. The Planning Commission and Township Board may attach conditions to the variance.

Article 14: Site Plan Review

Sec. 3.14.01: Purpose

The purposes of Site Plan Review are: to determine compliance with the provisions of this Part; to promote the orderly development of the Township, to prevent the depreciation of land value through uses or structures which do not give proper attention to siting or area protection; to provide consultation and cooperation between the applicant and the Township Planning Commission and Township Board in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this Part and achieve the purposes of the Portland Township Master Plan.

Sec. 3.14.02: Site Plan Review Required

A site plan shall be submitted for review and approval prior to the issuance of a building permit as follows:

- (a) Planning Commission Review:
 - (1) Any new principal commercial, office, industrial, business, or institutional use or a residential use having more than a two family dwelling unit. Farm buildings as defined herein, in the Agricultural and Rural Agricultural zoning district, shall not require site plan review.
 - (2) An alteration of the building or property or change in the use of a building or property which results in the increase in the intensity of the use or results in the need for more parking spaces as required by this Part.
 - (3) Special land uses and planned unit developments.
 - (4) All other uses requiring site plan approval as required by this Part.

- (b) Staff Review: The following uses shall be reviewed by the Zoning Administrator, or the Township Planner and Township Engineer if deemed necessary by the Zoning Administrator, to ensure compliance with the site plan review requirements. The Zoning Administrator may also refer such uses to the Planning Commission to be reviewed in accordance with the requirements of this Part.
 - (1) Expansion of an existing use or building which comprises less than 50 percent of the area of the existing building or use.
 - (2) Construction of a building which is accessory to the principal use or building and which is less than 1,000 square feet in area.

Review of site plans by the Zoning Administrator shall be in accordance with the same procedures, requirements and standards used by the Planning Commission except the number of site plan copies and submittal date shall be subject to the discretion of the Zoning Administrator.

The Zoning Administrator may waive specific site plan review submittal requirements if it is determined that such requirements are not relevant to the site plan under consideration. The Zoning Administrator shall keep a record of those items specifically waived and document reasons for the waiver.

Sec. 3.14.03: Application and Procedures

- (a) An application for site plan review along with 10 sets of the site plan shall be submitted to the Zoning Administrator in accordance with the submittal schedule established by the Planning Commission along with the fee as set by the Township Board. The application shall at a minimum contain the following information:
 - (1) The applicant's name, address and phone number.
 - (2) Proof that the applicant is the owner of the property or has a legal or financial interest in the property, such as a purchase agreement.
 - (3) The name, address and phone number of the owner(s) of record if different than the applicant.
 - (4) The address of the property.
 - (5) Legal description of the property.
 - (6) Current zoning.
 - (7) Project description.
 - (8) Size of the parcel in acres.
 - (9) Signature of the applicant and owner of the property.

Sec. 3.14.04: Preliminary Site Plan Review

- (a) If desired by the applicant, a preliminary site plan may be submitted to the Planning Commission. The purpose of this procedure is to allow discussion between the applicant and the Planning Commission, to better inform the applicant of the acceptability of the project before significant engineering efforts are incurred which might be necessary for final site plan approval.
- (b) Applications for preliminary site plan review shall be made in accordance with the application procedures of this section.
- (c) Upon receipt of the preliminary site plan and application, the Zoning Administrator may forward copies to the Township Fire Chief, Planner,

Engineer and others as necessary for review and subsequent report to the Planning Commission. The Clerk shall send the application and site plan to members of the Planning Commission prior to the meeting at which it will be considered.

- (d) The preliminary site plan shall be drawn at a scale of not more than one inch equals 100 feet and shall contain the following information unless specifically waived by the Planning Commission.
 - (1) Existing adjacent streets and proposed streets, public or private, as well as development within 100 feet of the site.
 - (2) Parking lots and access points.
 - (3) Proposed buffer strips or screening.
 - (4) Significant natural features and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
 - (5) Existing and proposed building.
 - (6) General topographical features including existing contour intervals not greater than ten feet.
 - (7) Proposed method of providing public or private utilities including storm drainage.
 - (8) Also, small scale sketch of properties, streets, and zoned uses of land within one-half mile of the site.
- (e) The Planning Commission shall review the preliminary site plan and may make recommendations to assist the applicant in preparing a final site plan which will conform to the standards of this Part.

Sec. 3.14.05: Final Site Plan Review

- (a) If desired by the applicant, a final site plan may be submitted for review without first receiving preliminary site plan approval. Application for final site plan review shall be made in accordance with the application procedures of this section and shall be reviewed in accordance with the same procedures for preliminary site plans.
- (b) Final site plans shall be drawn at a scale of not more than one inch to 100 feet and shall contain the following information unless specifically waived by the Planning Commission:
 - (1) The date on which the site plan was prepared.
 - (2) The name, address and professional seal of the architect, landscape architect, engineer or professional surveyor who prepared the plan.
 - (3) A north arrow and legal description based upon the most current survey.

- (4) Property lines, dimensions, and building setback distances and all structures, lot lines and wetlands within 100 feet of the site.
- (5) Existing and proposed topographic elevations at two-foot intervals on the site and to a distance of 50 feet outside the boundary lines of the site.
- (6) Direction of storm water drainage and how storm water runoff will be handled as well as a statement describing where storm water will be ultimately discharged such as a creek, stream, lake or wetland.
- (7) Location of existing and proposed buildings, their intended use, the length, width and height of each building, and the square footage of each building.
- (8) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet on either side of the site. Also driveway width, curb radii and design of proposed deceleration lanes.
- (9) Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drainfields, and utility easements.
- (10) Location and type of all sidewalks, bike paths, and other walkways.
- (11) Location, type and size of any walls, fences or other screening devices.
- (12) Location of all proposed landscape materials, including size and type of plantings.
- (13) Location, size and height of all proposed accessory structures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas or devices, and methods of screening, signs, and existing and proposed utility poles. Roof top or outdoor equipment shall also be indicated, including proposed methods of screening where appropriate.
- (14) Proposed parking areas and access drives showing the number and size of spaces and aisles, loading areas, handicapped access ramps, and the method of surfacing such areas.
- (15) Exterior lighting showing areas of illumination and type of fixtures as well as the method of shielding lights from adjacent properties and roadways.
- (16) Location and type of significant existing vegetation, water courses, and water bodies including county drains and manmade surface drainage ways, floodplains, and wetlands. Vegetation which is to be retained on the site must be illustrated.
- (17) Location of existing and proposed slopes which are 20 percent or greater.

- (18) Zoning and land use on adjacent properties.
 - (19) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by this Part or by state or federal agencies.
 - (20) The Planning Commission may request architectural elevation drawings of a building and cross-section drawings of the site.
 - (21) Small-scale sketch of properties, streets and zoned uses of land within one-half mile of the site.
- (c) The final site plan for developments which have been proposed in phases shall generally conform to the approved preliminary plan.
 - (d) The Planning Commission may require written statements relative to the effects on the existing traffic capacity of streets, and the proposed development's impact on schools, existing utilities, the environment and natural features.

In addition, the Commission may request additional studies, graphics or other written materials from the applicant in order to assist in determining the appropriateness of the site plan.

Sec. 3.14.06: Final Site Plan Approval

- (a) The Planning Commission shall review the final site plan according to the general standards for site plan review as contained in this Article and any other applicable regulations of this Part. Based on these standards and regulations, the Commission shall approve, deny, or approve with conditions the final site plan.

If approved, the applicant shall revise the site plan as necessary and submit the final site plan to the Zoning Administrator, Planner, Engineer, Fire Chief or others as necessary to ensure that all revisions as required by the Planning Commission have been made.

- (b) Upon approval of the final site plan, three copies of this plan shall be stamped as approved, dated, and signed by the Zoning Administrator. One copy of the approved plan shall be retained by the applicant, one shall be retained by the Building Inspector as part of the building permit review process, and one copy shall be kept by the Clerk.

Sec. 3.14.07: Standards for Approval

Prior to approving a site plan, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section or in other provisions of this Code are met, the site plan shall be approved.

- (a) The Planning Commission shall have the authority to limit the number of driveways for a site, to require that parking lots on contiguous parcels be connected, that driveways for contiguous parcels be shared, and that opposite driveways be directly aligned.
- (b) Landscaping, landscape buffers and greenbelts shall be provided and designed in accordance with the Township's landscape provisions.
- (c) All elements of the site plan shall be designed to take into account the site's topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Part.
- (d) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or by making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Part. A development shall respect the natural resources of the Township.
- (e) Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- (f) The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.
- (g) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Township Fire Department.
- (h) A pedestrian circulation system which is separated from the vehicular circulation system may be required. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, shopping areas and other uses which generate a considerable amount of pedestrian traffic.
- (i) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern serving adjacent development shall be of a condition appropriate to the traffic volume and type of traffic they will carry.
- (j) Appropriate measure shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm

water drainage system. Provisions shall be made to accommodate storm water, prevent erosion particularly during construction, and prevent the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.

- (k) Exterior lighting shall be arranged so that illumination is deflected away from adjacent properties and so that it does not interfere with the vision of the motorist along adjacent streets. Flashing or intermittent lights shall not be permitted. Excessive lighting of buildings or structures shall be minimized to reduce light pollution.
- (l) All loading and unloading areas and outside storage areas including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials not less than six feet in height. The finished side of any wall, fence or other screen shall face adjacent properties.
- (m) Site plans shall conform to all applicable requirements of county, state and federal statutes and approval may be conditioned on the applicant receiving necessary county, state and federal permits before final site plan approval or any occupancy permit is granted.

Sec. 3.14.08: Conditions of Approval

- (a) As part of an approval to any site plan, the Planning Commission, as applicable, may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest.
- (b) Such conditions shall be related to and ensure that the review standards of Section 3.14.07 are met.
- (c) Approval of a site plan, including conditions made as part of the approval, shall apply to the property described in the application, regardless of subsequent changes in ownership.
- (d) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved in accordance with this Part.
- (e) A record of the decision of the Planning Commission, the reasons for the decision reached and any conditions attached to such decision shall be kept as part of the minutes of the Planning Commission.
- (f) The Zoning Administrator may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall be violations of this Code.

Sec. 3.14.09: Validity of Final Site Plans

- (a) Approval of the final site plan is valid for a period of not longer than one year unless extended as allowed herein. If actual construction of a substantial portion of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the final site plan shall be null and void.
- (b) Upon written application, filed prior to the termination of the one-year review period, the Planning Commission may authorize a single extension of the time limit for approval of a final site plan for a further period of not more than one year. Such extension shall only be granted based on evidence from the applicant that there is a likelihood of construction commencing within the one-year extension.

Sec. 3.14.10: Performance Guarantee

The Planning Commission may require reasonable performance guarantees in order to assure the completion of required improvements. Such performance guarantees may include a performance bond, letter of credit or other written guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Planning Commission. Such arrangements shall have such sureties or guarantors as are satisfactory to the Planning Commission and shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved site plan and construction and placement of all of the improvements therein. In its discretion, the Planning Commission may reduce a proportionate share of the amount specified in a performance bond, letter of credit or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official. Furthermore, the Planning Commission may recommend to the Township Board the rebate or refund of a proportionate share of a cash bond.

Sec. 3.14.11: Amendments to Approved Site Plan

- (a) Any person who has been granted site plan approval shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- (b) A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction of the size of any building and/or sign.
- (2) Movement of buildings and/or signs by no more than 10 feet.
- (3) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
- (4) Changes of building materials to a higher quality.
- (5) Changes in floor plans which do not alter the character of the use.
- (6) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (7) Changes required or requested by the Township for safety reasons.
- (8) Changes which will preserve the natural features of the site without changing the basic site layout.
- (9) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

- (c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

Article 15: Special Land Uses

Sec. 3.15.01: Purpose

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district, but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location to neighboring properties. The special use permit procedure established herein is designed to provide the Township Planning Commission with an opportunity to review and act upon any application for a special use permit.

Sec. 3.15.02: Authorization

The Township Planning Commission shall have the power to hear and decide such questions as are involved in determining whether special exception permit applications should be granted; to approve special exception permit applications with such conditions and safeguards as are appropriate under this Part; or to deny special exception permit applications where not in harmony with the purpose and intent of this Part.

Sec. 3.15.03: Special Land Use Procedure

Application for a special exception shall be submitted and processed under the following procedures:

- (a) An application shall be submitted to the Planning Commission on a form for that purpose. Each application shall be accompanied by the payment of a fee as determined by resolution of the Township Board.
- (b) Site Plan Requirement: Applications for a special land use permit shall also be accompanied by a site plan which shall contain the information for final site plans required by Article 14 herein.
- (c) Additional Information: The Planning Commission may also require that the applicant provide additional information about the proposed use. Such information may include, but shall not be limited to, traffic analysis, environmental impact statement, an economic analysis justifying the need for a proposed commercial use or uses, impact on public utilities and services and effect on the public school system.
- (d) Upon receipt of an application for a special land use, the Township shall provide notice that a public hearing will be held on the application.
 - (1) A notice of the hearing shall be published in a newspaper of general circulation in the local unit of government.

- (2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
 - (3) The notice shall be given not less than 15 days before the date the application will be considered for approval.
 - (4) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 - (5) The notice shall do all of the following:
 - (i) Describe the nature of the request;
 - (ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (iii) State when and where the request will be considered; and
 - (iv) Indicate when and where written comments will be received concerning the request.
 - (6) The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.
- (e) At the public hearing or within a reasonable time thereafter, the Planning Commission shall deny, approve, or approve with conditions, the request for a special land use. The decision shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed.

The decision of the Planning Commission rendered pursuant to the request shall be final unless such decision is reversed or modified by a court of competent jurisdiction. The Board of Appeals is without jurisdiction to accept appeals or grant variances from the decision of the Planning Commission.

Sec. 3.15.04: Standards for Approval

The following general standards shall serve as the basis for decisions by the Planning Commission involving special land use permits. The Commission shall find that, in addition to specific standards for a particular use, the proposed use shall:

- (a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not significantly change the essential character of the area in which it is proposed.
- (b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (d) 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 of traffic, noise, smoke, fumes, glare or odors.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located.

Sec. 3.15.05: Imposition of Conditions

Reasonable conditions may be imposed with approval of a special land use. The conditions may include conditions necessary to insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will exercise the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of this Part, be related to any standards established in this Part for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (d) The conditions imposed shall be recorded in the record of the approval action, and shall remain unchanged except as provided by law.

Sec. 3.15.06: Site Design Standards

Uses permitted as special land use shall be subject to the requirements of the zoning district in which they are permitted. In addition, specific site design and development standards shall apply to the following uses:

(a) AIRFIELDS OR LANDING STRIPS

- (1) The land areas beneath runway approaches shall be under the ownership or control of the owner or operator of the airfield. Ownership or control shall extend a minimum of 1,200 feet from each runway end and laterally 500 feet from the center line of the runway. The above requirements may be modified if the landing strip is intended solely for the use of ultra light aircraft.
- (2) The facility shall not exceed a Michigan Aviation System Plan (MASP) classification of U-1, offering service to small single engine utility aircraft.
- (3) The landing strip shall be of turf construction.
- (4) Unless specifically waived by the Planning Commission, areas upon which airplanes taxi shall be at least 200 feet from any property line. The airfield must be of a size and location that will not require limitations on the height of structures on land that is not controlled by the airfield operator.
- (5) The Planning Commission may require the fencing of appropriate areas to insure public safety. If required, such fencing shall be not less than six feet in height with suitable gating.

(b) CAMPGROUNDS, TRAVEL TRAILER PARKS

- (1) The term "lot" or "park" shall mean a campground or travel trailer park. The minimum lot size shall be 10 acres.
- (2) No commercial enterprises shall be permitted to operate within the park, except that a convenience goods shopping building may be provided in a park containing more than 50 campsites.
- (3) No building or camp site shall be located within 200 feet of a property line. A house used only for purposes of residence by a park manager or owner shall be subject to the agricultural zoning regulations. 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 State land, and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.

- (4) All parks shall afford direct vehicular access to a county primary road or a state highway, with no openings closer than one hundred (100) feet to a side property boundary line.
- (5) In order to provide visual screening and privacy for nearby residents, the Planning Commission may require that landscaping be installed along the borders of a campground. Such landscaping shall comply with Section 3.4.19 herein.

(c) ANTENNAS AND TOWERS EXCEEDING 35 FEET

- (1) Purpose - It is the general purpose and intent of the Township to comply with the requirements of the Federal Telecommunications Act of 1996 by authorizing towers and antennas needed to operate wireless communication systems. It is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and quality of the Township.

It is the further purpose and intent of this Section to:

- (i) Facilitate adequate and efficient provision of sites for towers and antennas.
 - (ii) Ensure that towers and antennas are situated in appropriate locations and relationships to other land uses, structures and buildings.
 - (iii) Limit overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
 - (iv) Require adequate information about plans for towers and antennas in order to permit the Township to effectively plan for the location of such facilities.
 - (v) Minimize adverse impacts of the technological obsolescence of such facilities.
 - (vi) Minimize the negative visual impact of towers and antennas on neighborhoods, community land marks, natural beauty areas and public rights-of-way, by reducing the numbers of towers through co-location where feasible.
- (2) Application - Antennas and towers exceeding a height of 35 feet shall be permitted only if approved as a special land use by the Planning Commission under the terms of this section.

The application for special land use for such antenna or tower shall include the following information, in addition to what is otherwise required by the terms of this Part:

- (i) A detailed site development plan depicting the nature, type, appearance and location of the antenna and tower, any buildings or other structures and all other external features of the special land use, including driveways, fencing, isolation distances, screening and landscaping and other matters.
 - (ii) A visual impact analysis which shall include graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area.
 - (iii) A justification for the proposed height of the antenna and tower and an evaluation of alternative designs which might result in lower heights.
 - (iv) A maintenance plan and any applicable maintenance agreement, prepared so as to ensure long-term, continuous maintenance of the antenna and tower and any supporting structures.
 - (v) A list of all properties investigated for placement of the proposed tower and antenna and the rationale and other background material for selecting the proposed location. The applicant shall provide copies of correspondence to and from owners of properties who have been contacted by the applicant and who have refused to allow their property to be utilized, purchased or leased by the applicant.
 - (vi) A list of other wireless communication providers who have been contacted by the petitioner regarding co-location as well as any correspondence to and from the other providers.
 - (viii) A map showing existing and known proposed telecommunications facilities or other structures within and surrounding the Township which could possibly be used by the applicant to co-locate the proposed antenna.
- (3) Co-location -
- (i) It is the policy of the Township that all wireless communication providers co-locate on existing towers or structures capable of accommodating antennas to minimize the overall number of newly established towers within the Township and to encourage the use of existing towers and structures for new antennas.

The policy of the Township is for co-location. Thus, if a party who owns or otherwise controls a tower as defined herein, shall fail or refuse to allow the alteration of a tower so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

- (ii) Approval of co-located antenna. An application for co-location on an existing tower shall require only site plan review in order to obtain approval. The site plan shall be reviewed by the Zoning Administrator in accordance with the requirements of Article 14 of this Part. The Zoning Administrator shall also review the application in accordance with the applicable requirements and standards of this Section.
- (4) Requirements and Standards - An antenna or tower approved as a special land use shall comply with all of the following requirements:
- (i) The antenna or tower shall be permanently secured to a stable foundation.
 - (ii) No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation.
 - (iii) All antennas and towers must be grounded to protect against damage from lightening.
 - (iv) Amateur radio antennas operating under a license issued by the Federal Communications Commission shall not be subject to the provisions of this section.
 - (v) In addition to the standards for approval of all special land use permit applications contained in Article 15, the Planning Commission shall consider the following factors in determining whether to issue a special use permit;
 - (aa) Height of the proposed tower;
 - (bb) Proximity of the tower to residential structures and residential district boundaries;
 - (cc) Nature of uses on adjacent and nearby properties;
 - (dd) Surrounding topography;
 - (ee) Surrounding tree coverage and foliage;
 - (ff) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

- (gg) Proposed ingress and egress; and
 - (hh) Availability of suitable existing towers, or other structures for co-location, or alternative technologies not requiring the use of towers or structures, as discussed in Section 15.06c(4)(vi) below.
- (vi) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structures or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (aa) No existing towers or structures are located within the geographic area which meets the needs of the applicant.
 - (bb) Existing towers or structures are not of sufficient height to meet the applicant's needs.
 - (cc) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (dd) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - (ee) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - (ff) The applicant demonstrates that there are other material limiting factors that render existing towers and structures unsuitable.

- (gg) The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.
- (vii) Facilities shall be located and designed so as to be reasonably harmonious with the surrounding area.
- (viii) The maximum height of the antenna and tower shall be the minimum height necessary for reasonable communications by the applicant, and by other entities which may collocate on the structure.
- (ix) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes.
- (x) The support system shall be constructed in accordance with all applicable building codes.
- (xi) A proposed tower for commercial telecommunications services shall be required to be designed, constructed and placed so as to accommodate both the applicant's equipment and comparable equipment for at least three or more additional users. The Planning Commission may permit a tower design which would allow fewer than three other users if the Commission finds that three additional users would not be consistent with the intent and purposes of this section.

The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.

- (xii) Towers for telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory. The monopole may be designed to resemble natural features or to fit in with the design of other existing structures in the area.
- (xiii) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them. The Commission may require plantings to be placed on properties adjacent to the tower site in order to provide a more effective visual screen.

- (xiv) Towers for commercial telecommunications services which are abandoned or unused shall be removed by the owner or operator along with any associated buildings, structures or equipment within 180 days of a written notice from the Township, unless a time extension is granted by the Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to insure its removal. The Planning Commission shall require the filing of a corporate surety bond, cash deposit, certified check, or irrevocable bank letter of credit with the Township Board to insure compliance with this section.
- (xv) Tower lighting shall not be permitted unless required by federal or state agencies.
- (xvi) Any ancillary building housing equipment needed for the operation of the antenna or tower, or any other appurtenance, shall be of a size, type, color and exterior materials which are aesthetically compatible with existing principal buildings within the surrounding area.

The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

- (xvii) Where a tower or antenna is proposed for the roof a building or for the top of another existing structure, the tower shall be designed, constructed and maintained so as to be reasonably architecturally compatible with the principal building or structure.
- (xviii) Any antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission based on documentation from the applicant that a closer setback will not create a hazard to adjoining properties or roadways.
- (xix) The requirements of the Federal Aviation Administration, the Federal Communications Commission and the Michigan Aeronautics Commission shall be fully complied with.
- (xx) In its reasonable discretion, the Planning Commission may impose additional terms and conditions regulating the

construction, installation, use, repair, maintenance and removal of an antenna or tower in order to achieve the intent and purposes of this section.

- (5) Revocation of Permit. Failure to comply with conditions of approval stipulated for a tower or antenna under this section may result in the revocation of the Special Use Permit. In considering whether or not to revoke a Special Use Permit, a hearing shall be held by the Planning Commission in accordance with the procedures of Article 15.

- (d) **REMOVAL OF NATURAL RESOURCES** The removal or extraction of sand, gravel, soil, rock, mineral, and similar natural resources or the reshaping, enlarging, straightening, damming, or diminution of lakes, waterways, ponds, or other bodies of water is permitted in all zoning districts but only if done in such manner as to prepare or render the premises suitable for the primary intended uses of the district in which such premises is located. No such operation, change, removal or extraction shall be permitted unless the following provisions are complied with:

- (1) Exceptions: The provisions of this section shall not apply to the following:

- (i) Where the removal or extraction of natural resources is more than 500 feet from any street or property line, occupies not more than five acres in area, does not constitute a weekly average intensity of use of more than 15 yards of material per day, and creates no area which fills with water other than a watering pond for farms.
- (ii) Where only natural resources processing, storage or refining takes place in the I, Industrial District.
- (iii) The control and regulation of oil or gas wells.

- (2) Procedure for Permit: No zoning permit shall be issued to the owner of any parcel of land or body of water desiring to proceed with any undertaking set forth in this Section until application to the Planning Commission for a temporary occupancy permit has been approved. Said application shall include the following information and fees:

- (i) A fee of ten dollars for each acre of land affected or from which natural resources are to be removed.

- (ii) A map of the parcel to be so changed depicting all buildings, streets, drainage facilities and natural features within 200 feet thereof, which map shall show contour elevation readings at five foot intervals along the perimeter of the subject property or portion involved.
 - (iii) A two foot interval contour plan of proposed final elevations, the location of proposed temporary structures, drives, parking areas, loading equipment, drainage facilities and the extent of the operation during the first year and subsequent phasing.
 - (iv) A written statement describing the equipment to be used and the process involved, estimating the time such removal will require, describing the proposed use of the premises after such removal, and an agreement to conform to the provisions of this section.
- (3) Required Conditions: The following conditions shall be complied with:
- (i) Final grades shall be harmonious with surrounding grades and shall not be in excess of five percent unless demonstrably necessary for the future intended use of the land. No topsoil shall be removed from the property unless demonstrably necessary for the proper intended use of the property. All remaining topsoil shall be redistributed properly upon termination of the zoning permit. Except as provided in (c) of this section, no final grades shall be such as to create any area which will fill with water after the removal operation. No removal shall be permitted below the grades of the proposed plan unless a cash bond satisfactory to the Township Board, or at its discretion, a surety bond or letter of credit, is posted with the Township to insure that the final grades of the plan will be met by the expiration date of the permit.
 - (ii) No mechanical processing of natural resources may be permitted in any Residential or Commercial District where such operation would be detrimental to an adjacent use of land. Stormwater runoff shall be led to existing drainage systems in a manner approved by the Township and the County Drain Commissioner.
 - (iii) The creation or enlargement of a lake shall only be permitted where the applicant demonstrates from engineering and geological studies that such water will not become polluted or stagnant; submits a plan for future use

of the lakeshore and lake; and shows that such lake has been approved by the Department of Natural Resources of the State of Michigan and the Ionia County Drain Commission.

- (iv) The alteration, straightening, damming, widening or diminution of a waterway or body of water shall be approved by the said Department and the Drain Commissioner.
 - (v) No removal, storage area, structure, access drive, or loading area shall be closer than 150 feet to any property line. All unpaved areas and roadways shall be regularly maintained and kept in a dust-free condition.
 - (vi) Truck routing shall be only on streets approved by the County Road Commission under such conditions and securities as may be imposed by the Township or the County to protect or repair the roads and to insure the safety of the public.
 - (vii) All structures and stored material equipment shall be removed from the property within six months of the discontinuance of the use for removal or extraction of natural resources. All land shall be graded to final elevations and reseeded so as to avoid erosion following the expiration of activities at the end of each mining season.
 - (viii) To the extent required by the Planning Commission, areas of steep grades or other areas of hazard shall be enclosed by a chain link fence at least four feet high or other suitable fence, so as to prevent or inhibit persons who may enter the removal area from being in parts of the removal area where there may be hazards.
- (4) The Planning Commission shall examine the proposed plans in relation to the Township Comprehensive Plan, the effects of such use or change upon the area involved, the effects of proposed ultimate uses on planned and future streets, lots, grades and waterways proposed.
- (5) Determination by Planning Commission: Following public hearing, as required by this Part, the Planning Commission shall determine the proper disposition of the application. In making its determination, the Planning Commission shall determine that the proposed change or removal will:
- (i) Prepare the premises for a permitted primary intended use for the district in a reasonable period of time.

- (ii) Not significantly adversely affect permitted uses in the district.
 - (iii) Conform to all provisions of this Section.
 - (iv) Not create any condition which will significantly adversely affect the public health, safety or general welfare.
- (6) Authorization: Upon approval of the application, the Planning Commission shall inform the Township Board of its action, of the amount of bond required, and of special conditions imposed. Upon receipt of the cash bond, or in its discretion, upon approval of a corporate surety bond or letter of credit by the Township Board, the Township Board shall direct the Zoning Administrator to issue any necessary zoning permit and an occupancy permit for a one year period. All approved plans, sureties, recommendations, reports and special conditions shall be filed by the Zoning Administrator for future reference.
 - (7) Renewal of Permit: An occupancy permit may be renewed for up to three years at a time or for the duration of an accepted surety bond or letter of credit, whichever is lesser, upon a finding by the Planning Commission that all conditions and plans are being complied with and no nuisance has been created by prior operations. Where any new removal or operational area is to be considered proceedings for such purpose shall be the same as those for an original application.
 - (8) Revocation of Permit: The Zoning Administrator shall revoke an occupancy permit where operations do not conform to approved plans or special conditions. All operations shall cease following notification by the Zoning Administrator of such violations unless such conditions are corrected. Reinstatement of a revoked permit shall require a new application and approval therefor.

(e) KENNELS

- (1) The minimum lot size shall be two acres with an additional one-third acre for each dog in excess of three.
- (2) Buildings for housing dogs, dog runs, and/or exercise areas shall not be located nearer than 100 feet to any adjoining property.

(f) SALVAGE YARDS/RECYCLING USES

- (1) The minimum lot area shall be 10 acres.
- (2) All vehicles, parts, material and equipment must be stored within enclosed buildings or within an area completely enclosed by a screening fence at least eight feet in height. The fence shall be

located no closer than the minimum setback required for the material or equipment stored on site.

- (3) The setback from the front property line to the area upon which materials are stored and/or processed shall be not less than 150 feet.
- (4) The area upon which materials are stored and/or processed shall be located not less than 100 feet from any side or rear yard line.
- (5) All other requirements pertaining to the I, Industrial District shall be met.
- (6) No such use shall be permitted within 500 feet of a Residential or Rural Agricultural District.
- (7) No items placed within the enclosed area shall exceed the height of the screening fence.
- (8) All fluids shall be drained from vehicles or appliances in order to prevent such fluids from leaking into the groundwater and to minimize the possibility of fire hazards.
- (9) One sign, not to exceed 32 square feet in area, is permitted subject to other provisions of this Part.
- (10) All stored material and equipment shall be removed within six months of the discontinuance of the use. The Planning Commission may require the filing of a corporate surety bond, cash deposit, certified check, or irrevocable bank letter of credit with the Township Board to insure compliance with this section.

(g) HOME BASED BUSINESS

- (1) The home-based business area includes the lot area containing the dwelling unit and adjacent and contiguous property to such lot area owned by the applicant. Property may be contiguous even though separated by a road.
- (2) No persons other than the property's residents and up to four (4) non-resident employees may work on the home-based business area as part of the operation of the home-based business. This does not preclude the use of additional employees who may be employed by the home-based business who work in other locations off the home-based business area.
- (3) The use of the dwelling unit, for purposes related to the home-based business, shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home-based business shall be operated in its entirety on the home-based business area. The area of the dwelling unit dedicated to the operation of the home-based business, shall not exceed a floor area more than forty-nine (49) percent of the total gross living area of the dwelling unit. Accessory buildings meeting the requirements

of the district in which it is located may be used in conjunction with the operation of a home-based business.

- (4) No changes shall be made to the outside appearance of the dwelling unit, accessory building, or home-based business area except for normal maintenance, and there shall be no other visible evidence of the conduct of such home-based business on the home-based business area other than permitted by the Planning Commission and this section. One non-illuminated sign shall be permitted not exceeding nine (9) square feet in size, four (4) feet in height, and must be located outside of any road right-of-way. The business sign shall also comply with the applicable sign sections of Article 17.
- (5) A home-based business shall not have a negative impact on street and roads, reduction in property values, change in the character of the area, blight, excessive noise, odors, or electrical interference. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electronic device off the home-based business area or causes fluctuation in line voltage off the premises.
- (6) Parking or storage of vehicles or other equipment related to the home-based business shall be located off the street and not permitted in any required yard setback as specified in the zoning district. Parking areas for more than 4 vehicles and outdoor storage areas related to the business shall be screened from adjoining lots and adjacent streets by landscaping consisting of a solid natural evergreen barrier or fence.
- (7) With the Special Land Use application, the following information shall be included:
 - (i) Type of business.
 - (ii) Hours of operation.
 - (iii) Number of employees.
 - (iv) Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
 - (v) Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
 - (vi) Anticipated traffic levels (customer, delivery vehicles, etc.).
 - (vii) Sketch size, number and type of proposed outdoor business items
- (8) Before conducting a home-based business, the business owner shall apply for a special use permit on a form provided by the Township and shall pay the current required application fee as set from time to time by the Township Board.

(h) **COMMERCIAL WIND ENERGY CONVERSION SYSTEMS**
Commercial Wind Energy Conversion Systems (WECS) and WECS Testing Facilities associated with a Commercial WECS. This section establishes requirements and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within Portland Township. In keeping with Michigan's promotion of clean renewable energy, Portland Township has adopted ordinances to govern the requirements, standards and review process to allow these energy systems and also to protect the public health, safety and welfare of the community.

1. Site Requirements:

(i) General Requirements:

- (aa) WECS Height: The height of a WECS shall be the distance measured between the ground (at normal grade) and the highest point of the WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).
- (bb) WECS Setback. Setbacks shall be measured from the outside project property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line.
- (cc) No sound attributed to the WECS shall be discernible at the project outside property line in excess of 35 dBA from 7 am – 7 pm, 30 dBA from 7 pm -11 pm and 25dBA from 11 pm – 7 am.
- (dd) There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
- (ee) The WECS shall be painted in a neutral color, such as gray, white or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
- (ff) A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.
- (gg) A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.

- (hh) The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
- (ii) All WECS installations shall comply with applicable ANSI (American National Standards Institute), NEC (National Electric Code) and National Building Code standards.
- (jj) A WECS shall be removed (and all components property disposed of and the land returned to its original state) when the device or equipment is no longer operating or when it has been abandoned. Within 90 days of the end of an approved WECS Testing Facility time span, the structure must be removed (and all components property disposed of and the land returned to its original state). It will be up to the property owner on what to do with the footings at or below ground level. A WECS shall be deemed abandoned when it has not produced electrical energy to private buildings or to the electrical grid for twelve (12) consecutive months or longer. The owner(s) of such a structure shall be required to either provide to the Township a written explanation regarding why the tower is inoperable and a timeline of no longer than 60 days to bring the machine back into compliance or apply for the necessary demolition permits for removal within 90 days of receipt of written notice from the Township.
- (kk) Except for a WECS Testing Facility, all WECS must be a monopole design.
- (ll) The owner(s) of the WECS tower(s) shall provide an annual report to the Township Board regarding the amount of electricity that is being generated.
- (mm) Minimum Area: Minimum project area shall be twenty (20) acres. Multiple parcels may be assembled to create a project area, but all parcels shall be contiguous along adjoining property lines for no less than fifty (50) feet. All setback requirements shall be measured from the outside parcel line project limits.
- (nn) Height: The permitted maximum height of a WECS or WECS Testing Facility shall be two hundred and fifty (250) feet, subject to setback limitations. Towers shall be required to be less than two

hundred and fifty (250) feet in height under the following circumstances:

- (A) Where setbacks require a lesser height per subparagraph (oo), below.
 - (B) When state or federal regulations require a lesser height.
 - (C) As part of a special land use review, a determination is made that lesser tower heights would be more appropriate for a certain area of the community.
- (oo) Setbacks: No part of a WECS or Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS towers shall be setback from the closest non-project property line and any dwellings a minimum distance equal to eight (8) times the WECS height. No portion of a WECS or WECS Testing Facility shall be located within thirty (30) feet of an above ground utility line. Setbacks may be reduced below the minimum requirement at the request of the owner of property where the setback of the structure is being measured against. The request, if approved as part of the special land use, and proof of ownership is submitted, must be recorded at the County Register of Deeds as a deed restriction against the property.
- (pp) Separation: Each WECS shall be separated from any other WECS a distance equal to or greater than the diameter of the largest rotor of any two adjacent WECS.
- (qq) Rotor Clearance: Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, overhead power line, land or tree.
- (rr) Tower Access: To prevent unauthorized climbing, WECS and Testing Facility towers must comply with one or more 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) A tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
 - (D) A locked door for interior access to the top of the tower.
 - (ss) Signs: In addition to signs allowed by Article 17, each WECS and WECS Testing Facility shall have one sign, not to exceed three (3) square feet in area, posted near 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.
 - (tt) Utility Company Interconnection (Interconnected WECS):
 - (A) No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the Township.
 - (B) All wiring from the WECS facility to the connection to the utility grid shall be underground.
- (2) Application Requirements: In addition to the application requirements for site plans in Article 14 and for special land uses in Article 15, an application for a Commercial WECS or WECS Testing Facility shall be accompanied by the following:
- (i) Site Plan requirements:
 - (aa) Lot lines and dimensions. All exterior lot lines of the project area shall include bearings and distances.
 - (bb) Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
 - (cc) Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the project site housing the WECS and/or Testing Facility. The boundaries shall 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.

- (dd) Existing and proposed setbacks of all WECS and other structures located on the project site.
- (ee) Sketch elevation of the premises accurately depicting the proposed WECS installation 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.
- (ff) Access road to the WECS and Testing Facility with detail on dimensions, composition, and maintenance.
- (ii) Planned security measures to prevent unauthorized trespass and access.
- (iii) WECS and Testing Facility Maintenance Programs – Provide a description of the maintenance program used to maintain the WECS and Testing Facility, including removal when determined to be obsolete or abandoned.
- (iv) Shadow flicker studies, to show how shadow flicker will be eliminated at the outside project property line. If an adjacent property owner, with proof of ownership, provides written approval of permitting shadow flicker beyond the property line, it can be approved and recorded at the Register of Deed Office as a deed restriction on that property.
- (v) A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township.
 - (aa) Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS 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 as adopted by the Township.
 - (bb) Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
- (vi) Additional detail as required by this Section.

- (vii) At the Township’s request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, avian species and other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed.
3. Approval of Testing Facilities: Township granting of a Special Land Use permit for a WECS Testing Facility does not guarantee subsequent approval of a Commercial WECS. Should the Testing Facility prove the viability of a Commercial WECS, a separate Special Land Use application to establish one or more Commercial WECS is required.
 4. Performance Requirements
 - (i) Inspection: The Township shall have the right upon issuing any WECS and WECS Testing Facility Special Land Use permit to inspect the premises on which the WECS facility is located at all reasonable times. The Township may hire a consultant to assist with any inspection of a WECS or Testing Facility at the applicant’s cost.
 - (ii) Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation. The applicant shall keep a maintenance log on each WECS which the Township can review on request.
 - (iii) Security: If a Special Land Use is approved pursuant to this Article, the Planning Commission shall require a performance guarantee in accordance with the following provisions, which will be furnished by the applicant to the Township in order to ensure full compliance with this subsection and any conditions of approval.
 - (aa) When determining the amount of the required guarantee, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor).
 - (bb) The performance guarantee shall be deposited or filed with the Township Clerk after a Special Land Use has been approved but before approval of a building permit for construction of the WECS or WECS Testing Facility.

- (cc) At a minimum, the performance guarantee shall be in an amount determined by the Township to be sufficient to have the WECS or Testing Facility fully removed (and all components properly disposed of and the land returned to its original state) should the structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use approval. The performance guarantee shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place.
- (dd) The performance guarantee shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least thirty (30) years from the date of the Special Land Use approval. The type of acceptable financial guarantee will be determined by the Township. A cash deposit may be required. Failure to keep the performance guarantee in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a Special Land Use approval and this Ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the Special Land Use approval.
- (iv) Road repair: Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense.
- (v) Liability: The applicant shall insure each Commercial WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and land owner.
- (vi) The applicant shall be responsible for compensation to persons damaged by a WECS, including damage caused by stray voltage from a WECS.
- (vii) If a noise complaint is received, the Township will determine if a noise study is warranted. If it is determined that a complaint is justifiable, an independent State certified acoustics engineer qualified to study WECS noise issues will be approved and hired by the Township to assess and determine if a violation of the permit or

ordinance has occurred. The study will be paid for by the applicant/approved WECS owner/firm/company.

(i) **AGRITOURISM BUSINESS**

A farm enterprise that provides additional activities to the public for the enjoyment and education of the people and that may generate additional income by promoting farm products and experiences. Agri-tourism businesses are permitted by special use permit subject to the following standards:

- (1) The parcel or parcels on which the use is located shall have the owner or appointed manager on site during events.
- (2) The business shall not be incompatible with other allowed uses in the vicinity, as determined by the Township.
- (3) Bedrooms in the dwelling unit may be offered for rental as sleeping rooms, subject to the following:
 - (i) The establishment shall be the principal dwelling unit on the property and shall be owner-occupied or appointed resident manager occupied at all times.
 - (ii) The accommodation use shall be limited to five (5) or fewer sleeping rooms.
 - (iii) The rental sleeping rooms shall have a minimum size of one-hundred and twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
 - (iv) A site plan shall include a floor plan layout of the proposed structure drawn to a scale that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
 - (v) The business shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - (vi) Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
- (4) Sleeping tents may be permitted on the site, provided:
 - (i) The site shall not provide more than ten (10) total sleeping units, including rental sleeping rooms and sleeping tents.
- (5) Markets for the sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of the business are permitted.
- (6) The Fire Chief and Building Inspector shall establish a capacity for meetings, training, special events or educational events which shall be appropriate to the site and facilities in terms of safe capacity in buildings,

- parking area and sanitation limitations of the site.
- (7) All buildings and structures on the site shall conform to the minimum setback requirements of the A, Agricultural District.
 - (8) Minimum parking requirements shall be as follows: two (2) off-street spaces for the use of the proprietor; one (1) off-street space per rental sleeping room or rental sleeping tent, as applicable; and, one (1) off-street space per additional employee, as applicable. For additional, seasonal or future activities such as weddings, haunted buildings, hay rides, parties or picnics are anticipated to occur on the site, the applicant shall demonstrate to the Township that the proposed parking area, or any future parking area, would meet the demand generated by the use. Parking areas may be on mowed grass, gravel or paved surface marked to show spaces and rows.
 - (9) Section 3.17.10 shall govern signage on the site.
 - (10) Accessory buildings shall comply with Section 3.4.05 and may include, but are not limited to: nature centers; decks, pavilions; picnic facilities; barns and restroom facilities.
 - (11) Where livestock or animal viewing, feeding or petting operations are proposed, appropriate hand washing facilities must be supplied.
 - (12) Any refuse containers on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
 - (13) The establishment shall be located and designed such that no objectionable noise, or odor or fumes, shall be carried onto adjoining property (excepting normal farm odors and noise).
 - (14) The accommodation use shall not alter the residential character of the building or structure, and shall not alter the agricultural character of the site, as determined by the Township.
 - (15) The permit holder shall secure and maintain all required state and local permits.
 - (16) Where off-site activities or tours are proposed, the Township shall identify and approve travel routes and may consult with the Ionia County Road Commission or other appropriate agency.
 - (17) The Township may limit hours of operation for Agri-tourism Business uses, or specific elements thereof, consistent with the character of the land uses in the vicinity.
 - (18) An application for an Agri-tourism Business shall include a complete description of the proposed use, the services to be provided, hours of operation, activities to be conducted, a site plan and any other information necessary to properly convey the nature of the facility proposed.
 - (19) A small bakery, ice crème or similar small scale eating area may be included in the general floor plan that allows customers of the establishment, whether sleeping there or attending an event, to receive other meals or food during specific open hours.
 - (20) Lighting fixtures used to illuminate off-street parking areas shall be so

arranged as to direct light downward away from any adjoining properties or streets and highways.

(Amended 11-12-14)

(j) **ACCESSORY BUILDING ON VACANT ADJACENT PARCEL**

This section establishes requirements and standards for circumstances where an owner of a parcel with a residence also owns a vacant adjacent parcel and wants to construct an accessory building on it. The following standards regarding an application shall be reviewed by the Planning Commission:

- (1) The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
- (2) To be considered adjacent, the two parcels shall share a common boundary extending not less than one hundred (100) feet or be directly across a public street, private street, access easement or right-of-way; such that the side lot lines of both parcels under consideration are aligned or off-set by no more than fifty (50) feet, measured perpendicular to the side lot line.
- (3) The applicant shall demonstrate that placement of the accessory building on the parcel with an existing residence as the principal use is physically impractical; or that physical or other constraints exist on the adjacent vacant parcel that limit the use of that parcel. In addition, the applicant shall demonstrate that approval of the special use application will not have an adverse impact on adjacent lands.
- (4) The two parcels must be and must remain in common ownership and a deed restriction, satisfactory to the Township Attorney, shall be recorded for the two parcels, stipulating that the two parcels shall be conveyed jointly so long as the accessory building is in existence.
- (5) The provisions of this section shall be limited to two (2) parcels, so as to prohibit more than one (1) vacant adjacent parcel from having an accessory building. Only one vacant adjacent parcel shall include an accessory building.
- (6) The accessory building shall comply with the minimum setback requirements for a principal building, except the Planning Commission may require greater or lesser setbacks to preserve rural views or to position the accessory building so that any future dwelling built on the parcel would meet minimum setback requirements.
- (7) Other applicable provisions pertaining to accessory buildings shall be met.

(k) **GROUP CHILD CARE HOME**

- (1) The minimum lot size shall conform to the minimum lot size regulations applicable in the district in which the group child care is located.

- (2) A group child care home shall not be located closer than 1,500 feet (measured along a road, street or other public thoroughfare) to any of the following: another child or adult group child care home (i.e., another facility of the same type); an adult foster care small group home or large group home, licensed by the State of Michigan; a facility offering substance abuse treatment and rehabilitation service to 7 or more people, licensed by the State of Michigan; or a community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the State Department of Corrections.
- (3) A drop off/pick up site area shall be provided for motorists to be off the public street, which permits vehicles to exit the property without backing into the street. One (1) parking space is required for each two (2) beds, plus one (1) space for each employee and owner.
- (4) The yard area must have appropriate fencing for the safety of all children at least 4 feet high but not more than 6 feet high. The Planning Commission may waive this requirement after determining whether fencing is needed.
- (5) Operating hours of the group day-care home shall not exceed 16 hours during any 24-hour period and shall be limited from 6 a.m. to 10 p.m. daily unless specifically approved by the Planning Commission based upon a finding under the particular circumstances of no detriment to the surrounding area.
- (6) Signs shall conform to the sign regulations for home businesses applicable in the district in which the group child care home is located.
- (7) The property shall be maintained consistent with the visible characteristics of the neighborhood.
- (8) The group child care home shall be registered and licensed as required for such group child care homes by the State of Michigan.

(1) SOLAR ENERGY SYSTEMS

- (1) Applicability. This section applies to ground-mounted and commercial solar energy systems.
- (2) This section does not apply to smaller-scale solar energy collectors mounted on building roofs or walls except that roof mounted solar energy collectors shall not project more than four (4) feet above the highest point of the roof and not exceed the maximum building height for the building

and shall not project beyond the eaves of the roof. This section also does not apply to small collectors mounted on fences or poles, or ground mounted with collector surface areas less than eight (8) square feet and less than six (6) feet high. This section does not apply to repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.

- (3) General Requirements. Solar energy collector systems except for section 2 (above) require a special use application.
 - (i) Applications. In addition to all other required application contents, equipment and unit renderings or plans shall be submitted for review.
 - (ii) Glare and Reflection. A unit may not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
 - (iii) Location. Solar energy equipment shall be located in the area least visibly obtrusive to adjacent residential properties while remaining functional. The equipment shall not be located in the setback distances for accessory buildings unless permitted by the Planning Commission.
- (4) Installation.
 - (i) A solar energy collector shall be permanently and safely attached to the ground based on the manufacture's installation guide. Solar energy collectors shall comply with building codes and other applicable Township, County, State and Federal requirements.
 - (ii) Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
- (5) Power lines. On site power lines between solar panels and inverters shall be placed underground.
- (6) Abandonment. Solar energy collection systems that cease to produce energy on a continuous basis for 12 months will be considered abandoned unless the responsible party (or parties) with ownership interest in the system provides substantial evidence every six (6) months after 12 months of no energy production to the Township of the intent to maintain and reinstate the operation of that facility. The responsible party shall remove all equipment and facilities and restore the site to its condition prior to development of the facility within one (1) year of abandonment.
- (7) Ground-Mounted Solar Energy Collectors. These systems may be established as accessory uses to principal dwellings or farms. The following requirements apply:

- (i) Location.
 - (aa) The unit may be located in the rear yard and/or the side yard but shall be subject to the setbacks for accessory buildings. However, as a condition of approval, the Township may require increased setbacks if it determined that greater separation would better protect adjacent residents and landowners. (Amended 9-8-2021)
 - (bb) The unit may be located in the front yard only if permitted by the Planning Commission in its approval of the special land use provided that the unit is no less than 100 feet from the front lot line.
- (ii) Maximum Number. One (1) ground-mounted solar energy collector structure per whole acre.
- (iv) Maximum Size. 1,500 square feet of collector panels per ground-mounted solar energy collector support structure unless an oversized system is approved in accordance with this section.
- (v) Minimum Spacing. 10 feet between ground-mounted solar energy collector structures, when multiple structures are established on a parcel.
- (vi) Maximum Height. 20 feet measured from the natural grade below the unit to the highest point at full tilt.
- (vii) Minimum Acreage. One (1) acre. (Amended 9-8-2-21)
- (viii) Screening. Screening consisting of fences or landscaping may be required in cases where ground-mounted units impact views from adjacent residential properties.
- (ix) Removal of Equipment. Owner must remove all equipment related to the solar energy system when the system is no longer producing energy. Solar energy collection systems that cease to produce energy on a continuous basis for 12 months will be considered abandoned unless the responsible party (or parties) with ownership interest in the system provides substantial evidence every six (6) months after 12 months of no energy production to the Township of the intent to maintain and reinstate the operation of that facility. The responsible party shall remove all equipment and facilities and restore the site to its condition prior to development of the facility within one (1) year of abandonment.

- (8) Commercial Solar Energy System. Commercial systems may be established as principal or accessory uses. The following requirements apply:
- (i) **Minimum Setbacks.** 100 feet minimum from all lot lines and road right of ways. However, as a condition of approval, the Township may require increased setbacks if it determined that greater separation would better protect adjacent residents and landowners.
 - (ii) **Maximum Height.** 20 feet, measured from the natural grade below the unit to the highest point at full tilt.
 - (iii) **Minimum Acreage.** Five (5) acres.
 - (iv) **Screening.** Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of materials, colors, textures, screening walls and landscaping that will blend the facility into the natural setting and existing environment.
 - (v) **Emergency Contact.** A small sign with emergency contact information shall be installed on or near the solar energy equipment.
 - (vi) **Decommissioning.** A decommissioning plan signed by the responsible party and the landowner (if different) addressing the following shall be submitted prior to approval:
 - (aa) Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
 - (bb) Removal of all utility owned equipment and non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations. The land owner may request to allow some items to remain such as access road, fencing or concrete if approved by the Planning Commission.
 - (cc) Restoration of property to condition prior to development of the system.
 - (dd) The timeframe for completion of decommissioning activities.
 - (ee) Description of any agreement (e.g. lease) with landowner regarding decommissioning, if applicable.
 - (ff) The entity or individual responsible for decommissioning.
 - (gg) Plans for updating the decommissioning plan.
 - (hh) A performance guarantee shall be posted in the form of a bond, letter of credit, cash, or other form acceptable to the

Township, to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the Township when setting the performance guarantee amount. The performance guarantee shall be valid throughout the lifetime of the facility. Bonds and letters of credit shall be extended on a regular basis with expiration dates never less than two (2) years from the annual anniversary of special land use approval.

(m) **SLAUGHTERHOUSE OR BUTCHER SHOP**

- (1) The minimum lot size shall be two (2) acres and 150 feet on a public road.
- (2) All animal corralling and processing must meet any County, State or Federal licensing, inspections and regulations.
- (3) Adequate parking must be available for workers, customers and trucks pursuant to Article 16.
- (4) The building shall be set back a minimum of 30 feet from a side or rear lot line and 70 feet from the street right of way.
- (5) Lighting as required in Article 16.
- (6) No rendering of by-products are permitted onsite.

(Amended 3-19-2015, 7-8-2018, 8-5-2018, 7-11-2018, 12-9-2020)

Sec. 3.15.07: Expiration of Permit

A special land use permit shall expire one year after it is granted, unless construction is complete or commencement of the use has substantially begun. The Planning Commission may, upon request by the applicant, extend the term of the special land use by successive periods of up to one year each upon a finding that there have been no changed conditions in the area which would require reconsideration of the special land use application or site plan.

Sec. 3.15.08: Revocation of Permit

If a violation of any of the conditions or standards imposed on a special land use is found to exist following inspection, the Zoning Administrator shall notify the owner of the premises of the special land use and the Planning Commission that such violation exists and that the permit will be revoked within 15 days of such notification. If said violation is not corrected within 15 days, the Planning Commission shall revoke the permit. Furthermore, such a violation is hereby declared to be a violation of this Part, subject to all of the remedies and penalties provided for in this Code.

Article 16: Off Street Parking

Sec. 3.16.01: Purpose

The purpose of this Article is to prescribe regulations for off-street parking of motor vehicles in residential and nonresidential zoning districts, to ensure by the provision of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other affects of parking areas.

Sec. 3.16.02: Scope

- (a) At the time any building or structure is erected, enlarged, or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Article.
- (b) No parking or loading area or space which exists at the time of the adoption of this Article shall thereafter be relinquished or reduced in any manner below the requirements established by this Article.
- (c) Parking areas must be in the same zoning classification as the property it serves.

Sec. 3.16.03: Location of Parking Areas

- (a) For all residential uses, the number of parking spaces required by this Article shall be located on the same lot or parcel as the dwelling units served.
- (b) For all other uses, the number of parking spaces required by this Part shall be located on the same lot, or lots under the same ownership, within 300 feet of the building it is intended to serve, measured from the building to the nearest parking space of the on-premise parking lot.

Parking on lots under different ownership within 300 feet of the building it is intended to serve shall also be permitted if such arrangement does not result in a parking deficiency for the other use, and a legal agreement specifying the terms for the parking arrangement, signed by all involved parties is provided.

Sec. 3.16.04: General Requirements

- (a) Units of Measurement

- (1) For requirements stated in terms of employees, the calculation shall be based upon the maximum number of employees likely to be on the premises during the largest shift.
- (2) When units of measurement determining the number of required parking spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.

(b) Shared Parking and Mixed Occupancy

- (1) In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements for the individual uses computed separately.
- (2) Joint or collective provision of off-street parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the Planning Commission may approve a lesser parking requirement for such uses if evidence of a signed agreement between the owners of both properties agreeing to such joint use is provided to the Planning Commission.

(c) Parking Requirements for Uses Not Listed

- (1) The minimum parking space requirements for all uses shall be as listed in Section 3.16.07. For uses not specifically listed in Section 3.16.07, the Zoning Administrator may establish the parking requirement by making the determination that the proposed use is similar in parking requirements to a use which is listed in Section 3.16.07.

Sec. 3.16.05: Design, Location and Construction Requirements

The following regulations shall apply to all uses except one and two family dwellings and farm uses.

(a) Parking Lot Surface and Drainage

For uses which provide or are required to provide 20 or more off street parking spaces for patrons or customers (not employees of the use), all drives, driveways, and parking spaces shall be surfaced with asphalt or cement pavement. Such surfaces shall be graded and drained to dispose of all surface water and prevent drainage onto abutting properties.

For such uses which are required by this Part to provide less than 20 off street parking spaces, all drives, driveways and parking spaces shall be surfaced with 22a compacted gravel.

In order to reduce the amount of impervious surface and the corresponding storm water runoffs as well as improve parking lot aesthetics, the Planning Commission may approve alternate parking lot surfaces for overflow parking or employee parking. Such alternate parking lot surfaces may include but shall not be limited to gravel, crushed stone, or products which are installed in the ground to support a vehicle but allow grass to grow within the supporting spaces.

(b) Lighting

Lighting fixtures used to illuminate off-street parking areas shall be so arranged as to direct light downward away from any adjoining properties or streets and highways. Lighting fixtures in required parking facilities for commercial, industrial, or office districts within 150 feet of a Residential Zoning District or an area recommended for such use in the Township Master Plan shall not exceed 23 feet in height. All other fixtures shall not exceed 35 feet in height. Light fixtures shall be designed to achieve total luminary cutoff.

(c) Parking Lot Setback

All off-street parking areas, except those serving residential dwellings with less than five dwelling units, shall be set back a minimum of 5 feet from the rear and side lot lines, and a minimum of 15 feet from the front lot line. The Planning Commission may permit parking aisles or vehicle maneuvering areas to encroach within the parking setback where substantial additional screening or landscaping acceptable to the Planning Commission is provided.

(d) Traffic Islands

Parking areas shall be designed to delineate access aisles or drives and to provide drivers proper sight distance at the end of parking rows where such rows intersect access aisles or drive. The Planning Commission may require traffic islands, striped pavement or other methods to achieve this.

(e) Greenbelts

Where off-street parking areas for non-residential uses abut or are across the street from property which is zoned or planned for residential use

property, a greenbelt not less than 15 feet wide shall be provided adjacent to the parking area. The greenbelt shall be landscaped according to the landscape requirements of this Part.

(f) Driveways

Driveways serving off-street parking areas shall be at least 20 feet from any residentially zoned property.

(g) Side and Rear Location

Parking areas wherever reasonably possible shall be placed at the side or rear of buildings.

Sec. 3.16.06: Size of Parking Space and Aisle

Off-street parking spaces and aisles for various parking angles shall be designed and constructed in accordance with the minimum standards provided in Table 16-13

**TABLE 16-1
MINIMUM STANDARDS FOR SIZE OF PARKING AISLES AND DRIVEWAYS**

Parking Angle	Maneuvering Aisle Width		Parking Stall Width	Parking Stall Length	Total Width of 2 Stalls of Parking Plus Maneuvering Aisle	
	One Way	Two Way			One Way	Two Way
0° parallel	12 feet	22 feet	8.5 feet	22 feet	29 feet	39 feet
Up to 53°	13 feet	22 feet	9.0 feet	18 feet	49 feet	58 feet
54° to 74°	16 feet	22 feet	9.0 feet	18 feet	52 feet	58 feet
75° to 90°	12 feet	24 feet	9.0 feet	18 feet	48 feet	60 feet

Sec. 3.16.07: Schedule of Off Street Parking Requirements

Each use shall provide spaces in conformance with the following schedule of requirements:

<u>Use</u>	<u>Number of Motor Vehicle Parking Spaces Required per Unit of Measure</u>
a) <i>Residential</i>	
1) Single family, two family, or multiple family with three or more bedrooms.	Two for each dwelling unit.

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| 2) Multiple family with one or two bedrooms. | Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit. |
| 3) Efficiencies | One for each dwelling unit. |
| 4) Mobile Home Parks | Two for each mobile home or mobile home site. |
| 5) Elderly housing or retirement communities. | For independent living units, one for each unit. For “interim” or “intermediate care” units, one for each two beds, plus one per employee. Should the units revert to another use, then the required parking shall be re-determined based on the new use. |
| 6) Bed and breakfast, boarding houses. | One for each guest room plus two for the dwelling unit. |

b) Institutional/Public Assembly

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| 1) Churches, temples, mosques, synagogues, or similar types of facilities. | One space per each four seats in the worship room. |
| 2) Hospitals. | One for each two beds plus one for each staff doctor, plus one for each two employees other than doctors. |
| 3) Outpatient care stations. | Two spaces per exam room/station or procedure/operating room, plus one space per laboratory or recovery room plus one per employee. |
| 4) Child Care Centers. | One space for every eight children of licensed capacity, plus one space for each employee. A minimum of three employee spaces shall be required. |
| 5) Elementary, junior high, middle schools. | Two spaces per classroom, plus one and space for each three seats of maximum seating capacity for that indoor place of assembly having the greatest seating capacity. |
| 6) High schools. | Eight spaces per classroom, or one space per each four seats of maximum seating capacity |

for that indoor place of assembly having the greatest capacity, whichever is greater.

7) Private club and lodges.

One space per 2.5 persons allowed within the maximum occupancy load as established by the appropriate fire, health, or building code.

8) Auditoriums (non-school), stadiums, and sports arenas.

One space per each three seats.

9) Conference rooms, exhibit halls, halls, ballrooms, civic clubs, or similar places of assembly without fixed seats whether public or private.

One space per each four persons allowed within the banquet maximum occupancy load as determined by the Township building or fire codes.

10) Libraries, museums, and non-commercial art galleries.

One parking space per 400 square feet of gross floor area.

c) Offices

1) Medical/dental clinics or offices.

Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.

2) General office buildings.

One space per 300 square feet of gross floor area. A minimum of four spaces shall be required.

3) Banks, credit unions, or savings and loans.

Six spaces per 1,000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive up window or drive through automatic teller.

d) Retail and Service Uses

1) Retail shopping centers, discount stores, and department stores containing between 25,000 and 400,000 square feet.

Four spaces per 1,000 square feet of stores, and usable floor area.

2) Retail centers containing between 400,000 and 600,000 square feet.

Four and one-half spaces per 1,000 square feet of usable floor area.

3) Retail centers containing greater than 600,000 square feet.	Five spaces per 1,000 square feet of usable floor area.
4) Other retail uses not otherwise specified herein.	One space per 200 square feet of usable floor area plus one per employee.
5) Supermarkets and grocery stores.	One space per 200 square feet of usable floor area.
6) Personal service establishments not otherwise provided herein.	One space per each 300 square feet of usable floor area plus one per employee.
7) Appliance stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.
8) Automobile service stations.	Two parking spaces per each service bay, plus one per each per each employee, plus one per each 200 square feet of retail area. A service bay and the area on each side of a gas pump may count as a parking space.
9) Automobile wash establishments (automatic).	One parking space per each employee, plus fifteen on-site waiting spaces at each wash-bay entrance, plus two drying spaces at the exit.
10) Automobile wash establishments (self-service).	One parking space per each employee, plus three on-site waiting spaces at each wash-bay entrance.
11) Barber shops, beauty salons.	Two for each barber or beauty operator chair/station plus one for every two employees.
12) Building supply store, home improvement store, paint and hardware store containing up to 25,000 square feet of gross floor area.	One space per 200 square feet of usable floor area plus one for each employee.
13) Building supply store, home improvement store, paint and hardware store with more than 25,000 square feet of gross floor area.	Three and one-half spaces per 1,000 square feet of usable floor area plus one for each employee.
14) Convenience stores.	Four spaces per 1,000 square feet of gross floor area. A minimum of six spaces shall be required.

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| 15) Dry cleaners. | Two spaces per 1,000 square feet of gross floor area. A minimum of four spaces shall be required. |
| 16) Funeral homes and mortuaries. | One space per 50 square feet of parlor and chapel areas. |
| 17) Furniture, carpet, and home furnishing stores. | One space per 800 square feet of usable floor area. |
| 18) Hotel, motel, or other commercial lodging establishment. | One space for each guest room, plus one for each two employees, plus amount required for accessory uses provided at the rate of fifty percent of the requirements for such uses as specified herein. |
| 19) Laundromats. | One space per each three washing machines. |
| 20) Mini-storage houses/warehouses. | Six spaces. |
| 21) Motor vehicle dealerships. | One space per 5,000 square feet of outdoor sales area, plus one space per sales desk/office, plus three spaces per service bay. A minimum of six spaces shall be required. |
| 22) Quick oil change establishments. | Two spaces per bay plus one per each employee. |
| 23) Recreational vehicle and boat dealerships. | One space per 800 square feet of gross floor area, plus two spaces per each vehicle service bay. A minimum of six spaces shall be required. |
| 24) Restaurants that serve non-fast food and have no drive-through window. | Twelve spaces per 1,000 square feet of gross floor area, or 0.4 spaces per seat, whichever is greater. |
| 25) Restaurants that serve mostly take out, with six or less booths or tables. | Six spaces plus one for each employee. |
| 26) Restaurants that serve fast food and have no drive through window. | Seven spaces per 1,000 square feet of gross floor area. |

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| 27) Restaurants that serve fast food and have a drive through window and indoor seating. | Fifteen spaces per 1,000 square feet of gross floor area, plus three designated drive through, short term waiting spaces plus 10 on site waiting spaces. |
| 28) Restaurants that serve fast food and have a drive through window, but no indoor seating. | Fifteen spaces. |
| 29) Video rental stores. | One space per each 100 square feet of gross floor area plus one per each employee. |
| 30) Service companies doing repair. | Two spaces per 1,000 square feet of electrical, and plumbing work gross floor area. A minimum of five spaces shall be required. |

e) Recreational Entertainment

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|-------------------------------------|--|
| 1) Arcades. | One space for every 70 square feet of gross floor area. A minimum of six spaces shall be required. |
| 2) Batting cage facilities. | Three spaces per cage. |
| 3) Bowling centers. | Five spaces per bowling lane plus 50 percent of the spaces otherwise required for accessory uses such as restaurants, bars, banquet facilities, etc. |
| 4) Golf driving ranges. | One and one-half spaces per tee. |
| 5) Golf courses, miniature. | One and one-half spaces per each hole. |
| 6) Golf courses, par-three. | Three spaces per hole. |
| 7) Golf courses. | Five spaces per hole. |
| 8) Health fitness centers. | Five spaces per 1,000 square feet of gross floor area. |
| 9) Movie theaters. | One space per each four seats, plus four spaces per screen. |
| 10) Racquetball and tennis centers. | Five spaces per 1,000 square feet of gross floor |

area or six spaces per court, whichever is greater.

11) Public recreation centers.

Five spaces per 1,000 square feet of gross floor area.

12) Roller/ice skating rink.

Six spaces per 1,000 square feet of gross floor area.

f) Industrial Uses

1) Manufacturing, light industrial, and research establishment.

One and one-half parking spaces per 1,000 square feet of gross floor area.

2) Wholesale, warehouses, or distribution facilities, and trucking terminals.

One parking space per each 1,500 square feet of gross floor area or one per employee whichever is greater.

(g) Deferred Parking Construction

In order to avoid excessive amounts of impervious surface, the Planning Commission may approve a development which provides less than the minimum number of parking spaces required herein if the applicant demonstrates to the satisfaction of the Planning Commission that a reduced amount of total parking space will meet the projected parking needs of the project due to:

- (1) The nature, size, density, location or design of the proposed development, including the design of the circulation and parking plan;
- (2) The availability of vacant or otherwise undeveloped land on the same parcel as shown on the proposed development plan, will remain available to provide additional off-street parking space if additional parking space is subsequently determined to be necessary by the Planning Commission to meet the parking needs of the development;
- (3) Characteristics of the development which will affect the parking needs, including factors such as nonconflicting peak hours of operation and the sharing of spaces by different uses; and
- (4) Any other factors reasonably related to the need for parking for the proposed development.

Sec. 3.16.08: Barrier Free Parking and Design Requirements

(a) Barrier free parking shall be provided as follows:

<u>Total Parking in Lot</u>	<u>Minimum Number of Accessible Spaces Required</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	8
301 to 400	12
401 to 700	14
701 to 1,000	1 per 50 spaces provided or fraction thereof
Over 1,000	20 plus 1 per 100 over 1,000 or fraction thereof

(b) Requirements for barrier free parking spaces, curb, ramps, and signs shall be as required by the Township Building Code and the Michigan Barrier Free Rules.

Sec. 3.16.09: Off Street Loading Requirements

- (a) Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- (b) Required loading spaces shall not be included in the count of off-street parking spaces.
- (c) Loading spaces shall not use any portion of any public right-of-way.
- (d) Maneuvering space for trucks using the loading spaces shall be provided on-premise, and shall not necessitate the use of public right-of-way.
- (e) The design, location, and screening of off-street loading areas shall be reviewed at the time of Site-Plan approval to ensure adequate protection is afforded adjacent properties, especially residential districts.
- (f) Off-street loading spaces shall be no closer than 50 feet to any Residential Zone unless such space is wholly within a completely enclosed building or enclosed on all sides by a wall or a uniformly painted solid board or masonry fence of uniform appearance not less than six feet in height.

Article 17: Signs

Sec. 3.17.01: Description and Purpose

This Article is intended to regulate the size, number, location and manner of display of signs in Portland Township in a manner consistent with the following purposes.

- (a) To protect and further the health, safety and welfare of residents, property owners and visitors.
- (b) To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract or confuse drivers, or are improperly secured or constructed.
- (c) To conserve and enhance community character.
- (d) To promote uniformity in the size, number or placement of signs within districts.
- (e) To promote the economic viability of commercial areas by minimizing visual clutter, and allowing for proper placement of signs to safely direct motorists to their destination.
- (f) To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the rights of businesses and other non-business uses to communication.
- (g) It is further recognized that special circumstances or events may create a need for portable signage for a limited and reasonable period of time.
- (h) The purpose of this Part does not include the regulation of the content or any information included on the sign.

Sec. 3.17.02: Definitions

- (a) Agricultural Industry Sign - A sign which identifies items, products, breeds of animals, poultry or fish, materials, or farming methods used on a farm and also including signs for farm organizations.
- (b) Billboard: A sign which advertises an establishment, product, service or activity not available or not conducted on the lot on which the sign is located.
- (c) Business or commercial Sign. A sign, including a sign on the wall of a building, on lettered, figured or pictorial messages which are displayed for advertising a business, service, entertainment, or other enterprises or commerce conducted on the land where the sign is located, or products primarily sold, manufactured, processed or fabricated on such land.
- (d) Community Special Event Sign: A portable sign which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies,

- schools or other groups which are non-profit and whose purpose is charitable, philanthropic, religious or benevolence.
- (e) Non-Commercial Sign - A sign either portable or non-portable not advertising commerce, trade, or location and not otherwise defined herein. A political sign is a non-commercial sign.
 - (f) Portable or Temporary Sign: A sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another such as frame signs or signs on moveable trailers whether rented or owned, devices such as banners, pennants, flags (not including flags of state or organizational flags when displayed in the manner prescribed by law), search lights, twirling or sandwich type signs, sidewalk or curb signs, and balloons or other air or gas filled figures.
 - (g) Real Estate Sign: A temporary sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
 - (h) Residential Subdivision Sign: A sign identifying or recognizing a platted subdivision, site condominium, multi-family or other residential development.
 - (i) Sign: A device, structure, fixture, or placard which may or may not use graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity or otherwise intended or used to advise or inform.
 - (j) Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of a wall to which it is attached.

Sec. 3.17.03: Signs Exempted

The following signs shall be exempted from the provisions of this Part except for the regulations of Section 3.17.05.

- (a) Official traffic signs erected by a government agency.
- (b) Government signs two square feet or less.
- (c) Non-commercial signs two square feet or less.
- (d) Window signs.
- (e) Memorial signs.
- (f) Murals of an un-commercial nature.
- (g) Signs not visible from any street.
- (h) Signs for essential services which are two square feet or less.
- (I) Placards.
- (j) Community service group or agency signs two square feet or less.
- (k) Nameplates two square feet or less.
- (l) Newspaper box signs
- (m) Farm identification signs.

- (n) Incidental signs two square feet or less.
- (o) Flags or insignia of any nation, State, township, community organization or educational institution or flags of a non-commercial nature.

Sec. 3.17.04: Sign Permits and Application

- (a) Permits Required. A sign permit shall be required for the erection, use or construction of all signs which exceed 32 square feet.
- (b) Application. An application for a sign permit shall be made to the Township Zoning Administrator along with a fee as required by Township Board resolution. The application, at a minimum, shall include the following:
 - (1) Name, address, and telephone number of applicant and the person, firm or corporation erecting the sign.
 - (2) Address or permanent parcel number of the property where the sign will be located.
 - (3) A sketch showing the location of the building, structure, or lot upon which the sign is to be attached or erected, and showing the proposed sign in relation to buildings and structures along with setback from lot lines.
 - (4) Two blueprints or drawings of the plans and specifications, method of construction and attachment to structures or ground, stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction of not less than 30 pounds per square foot of area.
 - (5) Any required electrical permit shall be attached to the application.
 - (6) The zoning district in which the sign is to be located.
 - (7) Any other information which the Building Inspector/Zoning Administrator may require in order to demonstrate compliance with this Charter.
 - (8) Signature of applicant or person firm or corporation erecting the sign.
- (c) Electrical Signs. All signs requiring electrical service shall be reviewed for compliance with the Townships electrical code. Approval of electrical signs shall be noted on or attached to the sign permit.
- (d) Issuance of Sign Permit The Zoning Administrator shall issue a sign permit if all provisions of this Part and other applicable Township ordinances are met. A sign authorized by a permit shall be installed or under construction within one year of the date of issuance of the sign permit or the permit shall expire. A new permit may be issued upon filing of a new application and fee.

Sec. 3.17.05: Design, Construction and Location Standards

- (a) All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or as a result of the weather.
- (b) Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
- (c) Signs shall be constructed to withstand all wind and vibration forces normally expected to occur in the vicinity.
- (d) Signs, may be internally or externally illuminated. The source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
- (e) Signs shall not be placed in, upon or over any public right-of-way, or alley, except as may be otherwise permitted by the Ionia County Road Commission or Michigan Department of Transportation.
- (f) A light pole, or other support structure not specifically designed as sign support structure may not be used for the placement of any sign unless specifically approved for such use.
- (g) A sign shall not be erected where by reason of its position, shape, color, or other characteristics, interfere with, obstruct or be confused with an official traffic sign, signal, or device.
- (h) A sign shall not contain flashing, moving or animated parts except for automatic changeable copy signs or barber pole signs.
- (i) A wall sign shall not extend beyond the edge of the wall to which it is affixed or extend above the roof line of a building.
- (j) A sign and its supporting mechanism shall not extend beyond the lot lines of the property on which it is located.

Sec. 3.17.06: Sign Regulations Applicable to All Districts

The following sign regulations are applicable to all zoning districts.

- (a) All signs shall be stationary and shall pertain only to the business or activity conducted on the premises except for billboards, non-commercial signs, community special event signs and signs advertising farm products or operations as permitted herein.
- (b) Any pole sign, including awnings to which signs are affixed or displayed shall maintain a minimum clear space of eight feet from the bottom of the sign to the ground.
- (c) Real estate signs are permitted in any District but shall be removed within 30 days after completion of the sale or lease of the property. Such signs shall not exceed 32 square feet.
- (d) Community special event signs, including banner signs, are permitted in any District, subject to the following restrictions:

- (1) Such signs may be located either on or off the lot on which the special event is held.
 - (2) Such signs shall have a maximum size of 32 square feet in area, and a maximum height above ground level of eight feet.
 - (3) Such signs shall be removed within seven days of the conclusion of the special event which is being advertised.
- (e) On-Site Directional signs are permitted in any district subject to the following restrictions:
- (1) Such sign shall not exceed four square feet in area and three feet in height, and shall be setback at least five feet from any lot line.
 - (2) Directional signs shall be limited to traffic control functions only.
- (f) Signs advertising the sale of farm products or farm operations which are not located on the property which contains the farm are permitted in any district provided that such signs shall be no larger than 32 square feet and no higher than eight feet above grade.
- (g) Non-commercial signs are permitted in all zoning districts subject to the following restrictions:
- (1) Such signs shall be subject to the regulations for signs contained in Section 3.17.05 herein.
 - (2) Non-commercial signs are not subject to regulations pertaining to size and number.
 - (3) Non-commercial signs may remain until such signs are in disrepair and are deemed to no longer comply with Section 3.17.05 of this Part except that if such sign pertains to an election, it shall be removed within seven days after such election.

Sec. 3.17.07: Billboards

Billboards are permitted only in those areas which are within 300 feet of the I-96 right-of-way line subject to the following regulations:

- (a) Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e, two parallel billboard faces facing the same direction and side-by-side to one another) or stacked billboard faces (i.e, two parallel

billboard faces facing the same direction with one face being directly above the other) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection "B" below.

- (b) No billboard shall be located within 1,320 feet of another billboard measured in any direction.
- (c) No billboard shall be located within 250 feet of a residential zone.
- (d) No billboard shall be located closer than 10 feet from a right-of-way line and 50 feet from all other property lines.
- (e) Billboards may be constructed to a maximum size of 672 square feet per face.
- (f) The height of a billboard shall not exceed 35 feet above; (1) the grade of the ground on which the billboard sits or, (2) the grade of the abutting roadway, whichever is higher.
- (g) A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
- (h) A billboard must be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
- (i) A zoning permit shall be required in order to construct an outdoor sign or billboard. Each application for a zoning permit shall include a drawing with specifications prepared and sealed by a registered engineer or architect, licensed by the State of Michigan. A drawing shall also be submitted illustrating the setback of the outdoor sign, billboard from all lot lines of the site on which the outdoor sign, billboard is to be located. The applicant shall also provide proof of permission from the property owner to place the outdoor sign, billboard on the site.
- (j) The non-conforming use provisions of Article 18 of this Part shall apply to pre-existing outdoor signs and billboards.
- (k) Signs advertising the person's own business, products or profession by means of a sign located on his/its own premises are permitted under the same terms of this section.
- (l) The provisions of this subsection shall not apply to the following types of signs:
 - (1) Directional and other official signs, including, but not limited to, signs pertaining to natural wonders, scenic and

historical attractions, which are required or authorized by law, and which comply with rules promulgated by the State Department of Transportation relative to the lighting, size, number and spacing thereof.

- (2) Signs advertising the sale or lease of real property upon which they are located.

Sec. 3.17.08: Nonconforming Signs, Illegal Signs, and Signs Accessory to Nonconforming Uses

- (a) Every legal permanent sign which does not conform to the height, size, area or location requirements of this Article as of the adopting of the Portland Township Zoning Ordinance is hereby deemed to be nonconforming.
- (b) Nonconforming signs may be maintained and repaired so as to continue the useful life of the sign but may not be expanded, enlarged, or extended.
- (c) A nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of nonconforming use.
- (d) A sign accessory to a nonconforming use may be erected in the Township in accordance with the sign regulations for the District in which the property is located.

Sec. 3.17.09: Measurement of Signs

- (a) Unless otherwise specified within this Part for a particular type of sign, the area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- (b) The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back-to-back and are of equal size, and are no more than two feet apart at any point the area of the two back-to-back faces shall be counted as one face. If the two back-to-back faces are of unequal size, the larger of the two sign faces shall be counted as the one face.
- (c) The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or

the average grade of the ground immediately beneath the sign, whichever is less except for billboards as specified herein.

Sec. 3.17.10: A and RA Agricultural Districts

The following signs are permitted in the Agricultural and Rural Agricultural Zoning Districts:

- (a) WALL SIGN - For permitted uses other than dwellings.
 - (1) One sign per street frontage to be placed on that side of the building which directly faces the street. Each sign shall not exceed 100 square feet.
- (b) GROUND SIGN - For permitted uses other than dwellings.
 - (1) One per parcel not to exceed 50 square feet in area.
 - (2) The height of a ground sign shall not exceed six feet above grade.
 - (3) Ground signs shall be setback a minimum of 10 feet from the front lot line and a minimum of 25 feet from all other lot lines.
- (c) AGRICULTURAL INDUSTRY SIGNS - Such signs shall not be limited in number, size or placement except they shall not be placed to create a hazard or visibility problem for motorists, pedestrians, or cyclists.

Sec. 3.17.11: Residential Districts

The following signs are permitted in the R1, R2, and R3 Zoning Districts.

- (a) WALL SIGN - For non-residential uses only:
 - 1. One sign per street frontage to be placed on that side of the building which directly faces the street. Each sign shall not exceed 100 square feet.
- (b) GROUND SIGN - For residential subdivisions or site condominiums, multiple family developments, elderly housing, mobile home or manufactured home parks, schools, churches or other permitted non-residential uses:
 - (1) One per parcel not to exceed 50 square feet in area.
 - (2) The height of a ground sign shall not exceed six feet above grade.
 - (3) Ground signs shall be setback a minimum 10 feet from the front lot line and a minimum of 25 feet from all other lot lines.

- (4) For residential subdivisions a ground sign identifying the development is permitted only if a subdivision or home owners association is established and provisions are made for such an association to maintain the sign.

Sec. 3.17.12: Commercial and Industrial Districts

The following signs are permitted in the "C" and "I" Zoning Districts.

(a) **WALL SIGNS**

- (1) Each commercial establishment or business shall be permitted to have one wall sign. For each commercial establishment on a corner lot, one wall sign per public or private street frontage is permitted. Each commercial establishment shall have no more than one sign per wall.
- (2) Wall signs shall not exceed 100 square feet in area for each sign.

(b) **FREE STANDING SIGN** - One ground sign or pole sign per lot subject to the following regulations:

- (1) **Pole Sign** - A sign no more than 64 square feet shall be permitted for each lot and shall also be subject to the following:
 - (i) For those lots with more than one commercial establishment, the size of the pole sign may be increased to no more than 96 square feet.
 - (ii) Pole signs shall not exceed 35 feet in height and shall have a minimum height between the bottom of the sign and the ground of eight feet.
- (2) **Ground Signs** - One sign of no more than 64 square feet shall be permitted for each lot and shall also be subject to the following:
 - (i) The height of a ground sign shall not exceed six feet above ground.
 - (ii) Ground signs shall be setback a minimum of five feet from the front and side lot lines.

(c) **INDUSTRIAL PARK IDENTIFICATION SIGN**

One sign may be erected at each industrial park entrance in accordance with the requirements for ground signs to identify the park and the industries within.

(d) **PORTABLE SIGNS.**

Only one portable sign shall be permitted on a parcel at any one time for a period not to exceed a total of 60 days in any calendar year. A portable sign shall not exceed 32 square feet in area and shall not have any flashing, colored or glaring lights. Such signs shall be placed outside of the public right-of-way and shall not hamper the visibility of a driver on or off the site. A permit shall be obtained each time a portable sign is installed on a site.

Article 18: Nonconforming Uses

Sec. 3.18.01: Purpose and Description

With the districts established by this Part and any subsequent amendments thereto, there exist lots, structures, and uses of land and structures which were lawful before the effective date of the Portland Township Zoning Ordinance originally but which would be prohibited or restricted under the terms of this Part.

- (a) It is the intent of this Part to permit these nonconformities to continue until they are removed, but not to encourage their continuance.
- (b) Nothing in this Part shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun prior to the effective date of the Portland Township Zoning Ordinance, provided that actual construction has been diligently performed. Further, any building permit issued prior to the effective date of the Portland Township Zoning Ordinance shall entitle the bearer of such permit to construct such building in accordance with the requirements of the permit as long as such permit remains valid.

Sec. 3.18.02: Repairs and Maintenance's

Such repairs and maintenance as are required to keep a nonconforming use or building in a safe and sound condition may be made. A nonconforming structure which is damaged by any natural catastrophe or by acts of maliciousness may be restored to its original condition. Permitted restoration shall be commenced within six months from the date of such damage and diligently pursued to completion.

Sec. 3.18.03: Enlargement of Nonconforming Buildings

In all zoning districts, buildings which are non-conforming by reason of setback, height, parking, building square footage or other dimensional requirements may be altered or enlarged beyond the size which existed Article prior to the effective date of the Portland Township Zoning Ordinance provided the alteration or enlargement complies with all setback, height, parking, and other applicable regulations of the zoning district in which it is located and does not increase the extent of the non-conformity. The extension of a non-conforming building in such a manner that the extension itself does not conform to the setback, height or other applicable standards of this Article shall be deemed an increase in the extent of the non-conformity of the original building and is not permitted.

Sec. 3.18.04: Moving

Should any nonconforming structure be moved for any reason, it shall thereafter conform to regulations of the district in which it is located after being moved.

Sec. 3.18.05: Nonconforming Use Discontinued

No structure or premises where a nonconforming use has discontinued, ceased operation, or become abandoned for a continuous period of 12 months or more, or has changed to a conforming use shall again be devoted to a use not in conformity with the regulations of the district within which located.

Sec. 3.18.06: Change in Nonconforming Use

Any nonconforming use may be changed to another nonconforming use provided that the Board of Appeals, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.

Sec. 3.18.07: Changes in Tenancy or Ownership

There may be a change in tenancy, ownership, or management of a nonconforming use, provided that there is no change in the nature or character of said nonconforming use.

Sec. 3.18.08: Enlargement of Non-Conforming Use

- (a) All non-conforming uses located within a building may be enlarged beyond the size which existed prior to the effective date of the Portland Township Zoning Ordinance provided that the following requirements are met:
 - (1) That the gross square footage of the enlargement of the building or of any new buildings does not exceed 50 percent of the gross square footage of the building which existed prior to the effective date of the Portland Township Zoning Ordinance.
 - (2) That the enlargement of the existing building or use or construction of a new building complies with all setback, parking, landscaping, lighting, height and other applicable regulations of the zoning district in which it is located including all site plan review requirements.
 - (3) Such enlargement shall be on the parcel occupied by the non-conforming use on the effective date of the Portland Township Zoning Ordinance.
 - (4) A use within a building which is non-conforming because such use now requires a Special Land Use Permit as of the effective date of the Portland Township Zoning Ordinance may expand in accordance with the provisions of this Section without obtaining a Special Land Use Permit from the Planning Commission. An

expansion of such use beyond what is permitted by this Section shall only be permitted by Special Land Use.

- (b) Non-conforming uses which are not located within a building including but not limited to open air businesses, sand and gravel mines, campgrounds, golf courses, contractor equipment yards and salvage yards, shall not be increased in size so that the use occupies more land area than the area occupied by the use on December 10, 2000 unless such expansion is authorized by a Special Land Use.

Article 19: Zoning Board of Appeals

Sec. 3.19.01: Creation, Membership, Term of Office

There is hereby created and/or continued a Township Zoning Board of Appeals of five members. The first member of such Board shall be a member of the Township Planning Commission; one member may be a member of the Township Board, and the remaining members shall be selected and appointed by the Township Board from the electors of the Township residing in the unincorporated areas of the Township, provided that an elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals nor, except as otherwise provided, shall an employee or contractor of the Township Board serve as a member of the Zoning Board of Appeals.

The term of each member shall be for three years, except that of the members first appointed, two shall serve for two years and the remaining members for three years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

Sec. 3.19.02: Rules of Procedure

The Zoning Board of Appeals may adopt those rules of procedure it deems necessary to assist it in the performance of its duties.

Sec. 3.19.03: Powers and Duties

The Zoning Board of Appeals shall act upon all questions as they arise in the administration of this Part, unless otherwise specified herein, including the interpretation of zoning maps. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Part. It shall also hear and decide all matters referred to it or upon which it is required to pass under the terms of this Part. An appeal may be taken by any person aggrieved, or may be taken by any officer, department, board, or bureau of the Township, county, or state. The grounds for every such determination of the Zoning Board of Appeals shall be stated as a public record.

- (a) **VARIANCE.** Subject to the provisions of this Part, the Board shall have jurisdiction to decide applications for variances:
 - (1) Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Part, the Zoning Board of Appeals, in passing upon appeals, may vary or modify any of its rules or provisions so that the spirit of this Part is observed, public safety is secured, and substantial justice done.

(b) **DIMENSIONAL VARIANCES.** If an applicant seeks a variance from the provisions or requirements of this Part because of dimensional characteristics of the lot or parcel of property, or because of exceptional topographic or other conditions of the land, buildings or structures, the applicant must demonstrate, and the Board must make findings based upon competent, material and substantial evidence on the whole record that all of the following exist:

- (1) That the enforcement of the literal requirements of this Part would involve practical difficulties.
- (2) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (3) That literal interpretation of the provisions of this Part would deprive the applicant of property rights commonly enjoyed by other properties in the same zoning district.
- (4) That the special conditions or circumstances do not result from the actions of the applicant.
- (5) That the authorizing of such variance will not be of substantial detriment to the neighboring properties and will not be contrary to the spirit and purpose of this Part.

No nonconforming use of nearby lands, structures, or buildings shall in itself be considered grounds for the issuance of a variance.

(c) **USE VARIANCES.** If an applicant seeks a variance from the provisions or requirements of this Part in order to conduct or establish a use not permitted by that zoning district, the applicant must demonstrate, and the Board must make findings based upon competent, material and substantial evidence on the whole record that all of the following exist:

- (1) That the enforcement of the literal requirements of this Part would cause unnecessary hardship.
- (2) That special conditions or circumstances exist which are peculiar to the land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (3) That the property could not reasonably be used for the purposes permitted in that zone district.
- (4) That the special conditions or circumstances do not result from the actions of the applicant.

- (5) That the authorizing of such variance will not be of substantial detriment to the neighboring properties and will not be contrary to the spirit and purpose of this Part.

No nonconforming use of nearby lands, structures, or buildings shall in itself be considered grounds for the issuance of a variance. A vote of 2/3 of the members of the Zoning Board of Appeals is required to approve a use variance.

Sec. 3.19.04: Removal

A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

Sec. 3.19.05: Meetings Record

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board in rules of procedure may specify. The Chairperson, or if not present, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record.

Sec. 3.19.06: Procedure

- (a) The presence of three (3) members shall constitute a quorum. The Board shall not conduct business unless a quorum is present. The concurring vote of a majority of the members shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide on any matter upon which it is required to pass under this Part or to effect any variation in said Part. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify him or herself from a vote in which there is a conflict of interest shall constitute malfeasance in office.
- (b) Appeals shall be filed with the Township Clerk specifying the grounds thereof. Appeals shall be taken within such time as prescribed by general rule of the Zoning Board of Appeals. If the appeal is based upon a determination of the Zoning Administrator, the appeal shall be transmitted to the Board along with the papers constituting the record upon which the action is being appealed.
- (c) Each appeal or application for variance shall be accompanied by a filing fee to be determined by Ordinance of the Township Board. When a matter

is referred by the Planning Commission as required by this Part to the Board of Appeals for consideration, no fee shall be charged.

- (d) Following receipt of a written request concerning a request for a variance, the Zoning Board of Appeals shall fix a reasonable time for the hearing of the request and cause notices to be served as follows.
 - (1) A notice of the hearing shall be published in a newspaper of general circulation in the local unit of government.
 - (2) Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
 - (3) The notice shall be given not less than 15 days before the date the application will be considered for approval.
 - (4) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
 - (5) The notice shall do all of the following:
 - (i) Describe the nature of the request;
 - (ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (iii) State when and where the request will be considered; and
 - (iv) Indicate when and where written comments will be received concerning the request.
- (e) Upon receipt of a written request seeking an interpretation of the Zoning Ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeal of an administrative decision involves a specific parcel, written notices stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

- (f) Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notices as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.
- (g) At the hearing, any party may be heard in person or by agent or attorney.
- (h) The Board 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 officer from whom the appeal was taken and may issue or direct the issuance of a permit.

Sec. 3.19.07: Imposition of Conditions

The Board of Appeals may impose conditions with an affirmative decision. Conditions may include those necessary to ensure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and land owners immediately adjacent to the proposed land use or activity, and the community as a whole.
- (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (c) Be necessary to meet the intent and purpose of this Part, be related to any standards established in this Part for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- (d) The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except as provided by law.

Sec. 3.19.08: Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notices to the Zoning Administrator, and on due cause shown.

Sec. 3.19.09: Decisions of the Board

The Board of Appeals shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and the terms and conditions of the same shall be incorporated in the permit to the applicant or appellant whenever a permit is authorized by the Board of Appeals.

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court as provided by law. An appeal to the circuit court shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. An appeal may be had from the decision of any circuit court to the Court of Appeals.

Any party aggrieved by any order, determination, or decision of any officer, board, Zoning Board of Appeals, or Township Board made under MCL 125.3208, regarding non-conforming uses and structures, may appeal in the circuit court as provided in this Section. Any person required to be given notice under Section 3.19.06(d) shall be a proper party to any such appeal.

Sec. 3.19.10: Time Limitations on Variances

Any variance granted by the Board shall not be valid after a period of 12 months from the date granted unless the owner shall have taken substantial steps, as determined by the Board, in implementing the variance granted by the Board, provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of 12 months upon showing that the expiration of the variance will cause an undue hardship to the owner.

Sec. 3.19.11: Alternate Members

As provided by law, the Township Board may appoint two alternate members to the Zoning Board of Appeals. Whenever a regular member is not available or will abstain from participating by reason of conflict of interest and is replaced by an alternate member, the regular member shall not be included for purposes of determining a quorum

or majority of the members of the Board, but the alternate member shall be included. Whenever an alternate member is called to serve because a regular member will abstain by reason of conflict of interest, the alternate member shall serve only to hear and decide the matter within which the conflict of interest arises, and shall not hear or decide any other matters, unless authorized to hear such other matters upon any of the other grounds stated in this section

Article 20: Administration

Sec. 3.20.01: Administration

Except as otherwise provided, the provisions of this Part shall be administered and enforced by a Zoning Administrator or any other employee as designated by the Township Board.

Sec. 3.20.02: Zoning Permit

- (a) It shall be unlawful for any person to commence excavation for, or construction of, any building or structure, parking area or to make structural alterations in any existing building or structure, without first obtaining a Zoning Permit from the Township Zoning Administrator as hereinafter provided. Any temporary structure that is erected for less than 14 days does not require a permit.
- (b) The application for a Zoning Permit shall designate the existing or intended use of the structure or premises, or part thereof which is proposed to be altered, erected, or extended, and the number of dwelling units, if any, to occupy it. The application shall be accompanied by two ink, blueprint or photostat copies of drawings, drawn to scale, showing the actual lines, angles and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, and other information necessary to demonstrate compliance with this Part. The Zoning Administrator may waive or vary portions of the foregoing requirements not necessary for determination of compliance with this Part, or require the submission of additional information which is necessary to make such a determination.
- (c) One copy of the plans and specifications shall be filed in and retained by the Office of the Zoning Administrator, and another shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit and a copy of the permit shall also be provided to the Ionia County Building Inspector.
- (d) Every permit granted under this section shall no longer be valid unless the excavation, construction, alteration, erection or extension shall have been commenced within 90 days from the date of issuance of the permit; and every permit so granted shall further no longer be valid unless all exterior aspects of the construction, alteration, erection or extension shall have been completed within 18 months from the date of issuance of the permit.

Sec. 3.20.03: Filing Fees

All applicants for permits, special land use, rezoning, site condominiums, variances, site plan approval, and other land use review or approval required by this Part, shall pay the fee and any escrow established by resolution of the Township Board from time to time. The Zoning Administrator, Planning Commission, Zoning Board of Appeals, and Township Board shall not consider any application for land use approval for which the required fee has not been paid, or any escrow maintained at the required level.

Sec. 3.20.04: Amendments

Amendments and supplements to this Part may be initiated by the Township Board upon its own motion, by the Planning Commission, or may be proposed for consideration by the owner or owners of real property with the Township; and all amendments to this Part, with reference to both the text thereof or the zoning of land, shall be made in accordance with the provisions of the Michigan Zoning Enabling Act, 110 PA 2006.

Sec. 3.20.05: Violations and Penalties

Any land use commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or changed in violation of any provision of this Part is hereby declared to be a nuisance per se. A violation of this Part is a municipal civil infraction, for which the fine shall be not less than \$100 nor more than \$2,500 for the first offense and not less than \$500 nor more than \$5,000 for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, expenses, and other remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Part committed by the same person within 12 months of a previous violation of the same provision of this Part for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.

