

ZONING ORDINANCE

TOWNSHIP OF DAYTON

NEWAYGO COUNTY, MICHIGAN

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(OVER)

DATE AMENDED

May 12, 2005
November 10, 2005

ORDINANCE

Ordinance 2005-2
Ordinance 2005-4

ARTICLES AND SECTIONS AMENDED

Art. XIX, Sec. 19.04
Art.III, Sec. 3.01; Art. IV
Art. V and Art. VI deleted,
Art. XIII., Sec. 13.29

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**ZONING ORDINANCE OF THE TOWNSHIP OF DAYTON,
COUNTY OF NEWAYGO, STATE OF MICHIGAN**

TITLE AND PREAMBLE

An ordinance to establish zoning districts, provisions and regulations for the unincorporated portions of the Township of Dayton pursuant to the provisions of Act 184 of the Public Acts of 1943, as amended; to set forth regulations and minimum standards for the use and protection of lands and structures within each district; to establish provisions for the administration, enforcement and amendment of this Ordinance; to establish a Zoning Board of Appeals; and to prescribe penalties for the violation of the provisions herein.

THE TOWNSHIP BOARD OF DAYTON TOWNSHIP, NEWAYGO COUNTY, MICHIGAN under the authority of the Township Rural Zoning Act, being Act 184 of the Public Acts of 1943, as amended, HEREBY ORDAINS AS FOLLOWS:

ARTICLE I - SHORT TITLE AND PURPOSE

1.1. SHORT TITLE.

This Ordinance shall be known as the Zoning Ordinance of 1974 of the Township of Dayton as amended in 1976, 1981, 1987, and 1991.

1.2. PURPOSE.

The Zoning Districts established by this Ordinance and the regulations specified for each such district have been developed in accordance with the formulation of a Master Land Use Plan for the physical development of Dayton Township as a part of Newaygo County. In their application and interpretation, the provisions of this Ordinance shall be held to be minimum requirements adopted to promote the public safety, health and general welfare. Among other purposes, these provisions are designed to conserve and protect lands, waters, and other natural resources in the Township for their most suitable purposes; to protect productive agricultural lands, for agricultural uses; to reduce hazards to life and property from flooding and air and water pollution; to secure safety from fire and other dangers of excessive public costs which result from unguided community development; to avoid undue concentration of population by regulating and limiting the density of use of land; to lessen congestion in the public highways and streets; to facilitate the economical provision of adequate streets and highways, educational and recreational facilities, sewerage, drainage and water supply systems while avoiding the installation of such utility services to illogical locations; and to enhance the social and economic stability of Dayton Township.

1.3. SCOPE.

It is not intended by this Ordinance to repeal, abrogate, annul or interfere with existing provisions of other laws or ordinances, except those specifically or impliedly repealed by this Ordinance, or with any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto.

1.4. CONTROL.

Where this Ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of this Ordinance shall control.

ARTICLE II - DEFINITIONS

2.1 CONSTRUCTION OF LANGUAGE.

For the purpose of this ordinance, the present tense shall include the future; the singular number shall include the plural; and the plural, the singular. The word "shall" is always mandatory. The words "zone" and "district" are the same. Reference to a whole shall apply to a part thereof. The word "lot" also means "plot" or "parcel." Any word or term not defined herein shall be used with a meaning of common utilization.

2.2 DEFINITIONS.

For the purpose of this Ordinance certain terms and words are herewith defined:

Accessory Building: A subordinate structure on the same premises with a main building, occupied or devoted to an accessory use. Where an accessory building is attached to a main building, such accessory building shall be considered part of the main building.

Accessory Use: A use naturally and normally incidental and subordinate to a principal use on the same premises,

Adult Bookstore: An establishment having as a substantial or significant portion of its stock in trade 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 so defined by this Ordinance.

Adult Cabaret: A bar, lounge, club or other establishment which may sell alcoholic or non-alcoholic beverages and/or food and which features as part of the regular entertainment topless or bottomless dancers, strippers or similar entertainers, whether male or female, whose acts are characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance. This definition shall include Adult Encounter Parlor, Adult Lounge, Adult Novelties, Adult Entertainment, and Adult Drafting Studio.

Adult Drive-Ins: An open-air establishment in which a substantial or significant portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance, for observation by patrons therein.

Adult Film Store: An establishment having as a substantial or significant portion of its stock in films, video tapes, video disks, or similar items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance.

Adult Motion Picture Theater: An enclosed building in which a substantial or significant portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as so defined by this Ordinance, for observation by patrons therein.

Adult Novelty Store: An establishment that has a substantial or significant portion of its activity in the sale of devices that simulate human genitals or devices designed for sexual stimulation.

Alley: A dedicated public way other than a street which provides only secondary access to abutting property and is not intended for general traffic circulation.

Alteration of Building: A change in the supporting members of a building, an addition diminution, change in use or conversion of a building or the removal of a building from one location to another.

Apartment: A structure designed or used for three (3) or more dwelling units, but not including motels, hotels, inter-connected tourist cabins, mobile homes, travel trailers, or seasonal dwellings.

Automotive Sales Area: An area used for the display, sale or rental, but not for the repair, of new or used motor vehicles, boats, trailers, snowmobiles, farm equipment, construction equipment, or mobile homes in operable condition.

Automotive Repair Shop: A garage, building or area where repairs of motor vehicles, boats, trailers, farm equipment or similar equipment are made for a fee.

Basement: A portion of a building which is partially or wholly below grade; provided that where the vertical distance from the average finished grade to the ceiling of said area is greater than one-half of the total height of the area, said area shall not be considered a basement.

Bed and Breakfast Facility: A dwelling unit that, as a subordinate use, offers sleeping accommodations and serves meals to guests in return for payment.(amended 11/00)

Billboard (or Signboard): Any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes, not related to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notice issued by a court or public body.

Board of Appeals: A Board authorized by Dayton Township to consider and act upon interpretations of this Ordinance, variances therefrom, or appeals on orders of the Building Inspector.

Building Inspector: The person or persons delegated by the County to issue Building Permits and/or Occupancy Permits and to make the required building inspections.

Building Line: A line parallel to the front lot line or road right-of-way line. For the purposes of this Ordinance, a minimum building line is the same as the minimum required front setback line.

Building Permit: A permit issued by the County to a person or persons authorizing

erection, enlargement, alteration or reconstruction of a structure.

Certificate of Zoning Compliance (Zoning Permit): A certificate issued by the Zoning Administrator to a party or parties intending to initiate any work or change any use of property in the Township.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary buildings.

County Board: The Newaygo County Board of Commissioners.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Drive-in Restaurant: A business establishment serving food and/or beverages that is so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve motor vehicles or serve patrons while in the motor vehicles or to serve patrons at the establishment who will consume the food and/or beverage while in the motor vehicles and on the premises of the drive-in establishment.

Dwelling: A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one or more persons. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage, shall not be considered as part of a dwelling for meeting area requirements. A dwelling shall comply with the following standards:

- (a) the dwelling shall meet the minimum square footage requirements for the district in which it is located.
- (b) the minimum width across any front, side, or rear elevation shall be at least twenty (20) continuous feet of exterior wall. (e.g. the minimum dimension between any two opposing exterior walls, measured at any point on the horizontal, shall be at least twenty (20) feet.)
- (c) the dwelling shall comply in all respects with the Michigan State Construction Code, as promulgated by the Michigan State Construction Code Commission under the provisions of P.A. 230 of 1972, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the building code in effect in the City, then in that event, the less stringent Federal or State standard or regulation shall apply.
- (d) the dwelling shall be placed upon and secured to a permanent foundation in accordance with the Building Code. The area between the grade elevation of

the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set-up instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.

- (e) if the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- (f) the dwelling shall be connected to a public sanitary sewer and to a public water system, if available. Private, on-site water or waste-water disposal facilities shall be approved by the District Health Department.
- (g) the dwelling shall contain a storage area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. The storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- (h) the dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang, or with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; not less than two exterior doors with the second one being in either the rear or side of the dwelling; and having permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans (which may include elevational sketches or photographs) submitted for a particular dwelling, subject to appeal by an aggrieved party to the Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design and appearance of one or more residential dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (i) the dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- (j) the dwelling shall conform to all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Develop-

ment, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- (k) the foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.

Dwelling Unit: One or more rooms designed for or occupied by not more than one family and roomers or boarders. (amended 11/00)

Essential Service: The erection, construction, alteration or maintenance by private companies or municipal departments of public utilities including gas, electrical, steam, communication, safety, water supply and distribution systems, sanitary sewer and storm sewer systems, but not including office buildings, substations, structures which are enclosures or shelters for service equipment, or maintenance depots.

Family: An individual, or two or more persons related by blood, marriage or adoption, or parents along with their direct lineal descendants, and adopted or foster children (including domestic employees) or a group not to exceed two persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit with single cooking facilities. Every additional group of two or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Ordinance. Said definition shall not apply in instances of group care centers, or state licensed residential facilities as established under Public Act 395 of 1976.

“Farm” means the land, plants, animals, buildings, structures, including ponds used for agricultural or aqua-cultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. A farm as defined by this Ordinance is not intended nor implied to permit trucking, equipment and/or vehicle repairs or sales, contractor yards, refuse composting operations, or any other activities than those incidental to the bona fide farm.

“Farm operation” means the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:

- (a) Marketing produce at roadside stands or farm markets.
- (b) The generation of noise, odors, dust, fumes, and other associated conditions.
- (c) The operation of machinery and equipment necessary for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway
- (d) Field preparation and ground and aerial seeding and spraying.
- (e) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- (f) Use of alternative pest management techniques.
- (g) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- (h) The management, storage, transport, utilization, and application of farm by-

products, including manure or agricultural wastes.

- (i) The conversion from a farm operation activity to other farm operation activities.
- (j) The employment and use of labor.

“Farm product” means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aqua-cultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture. However, Farm product does not include the management and harvesting of a wood lot.

Feedlot (Also Known as Concentrated Animal Feeding Operation (CAFO)):

Any parcel of land created or expanded after the effective date of this amendment (July 15, 2004) for the purpose of concentrated livestock operations such as but not limited to the commercial feeding, housing, breeding, milking, or fattening shall be defined as a CAFO. Whether a parcel is a CAFO shall be determined by the number of animals at the facility. To be considered a CAFO, an Animal Feeding Operation (AFO) must stable or confine and feed or maintain for a total of 45 days or more in any 12 month period, more than the number of animals as specified in the Michigan Department of Agriculture Generally Accepted Agriculture and Management Practices (GAAMPs) for Site Selection and Odor Control for New and Expanding Livestock production Facilities as adopted by the Michigan Commission of Agriculture in July 2002 and as may be amended from time to time.

Fence: A constructed barrier of wood, metal, stone, or any manufactured materials erected for the enclosure of yard areas.

Filling: The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

Flood Plain: All areas adjoining a lake, stream, river, or creek or a channel which are subject to inundation at the highest known flood water level.

Floor Area: The area of all floors computed by measuring the dimensions of the outside walls of a building excluding attic and basement floors, unenclosed porches and patios, terraces, breezeways, carports, verandas and garages.

Garage - Private: An accessory building or portion of a main building used primarily for the storage of passenger vehicles and for not more than one truck of a rated capacity not to exceed one (1) ton.

Garage - Apartment: A private garage, the second floor of which is designed, constructed and/or used for one dwelling unit.

Governing Body: The Township Board of Dayton Township.

Greenbelt: A strip of land of specified width and location reserved for the preservation or planting of shrubs and/or trees to serve as an

obscuring screen or buffer strip,

Home Occupations: Any use customarily conducted entirely within a dwelling or adjacent building and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling or dwelling purposes and does not involve any alteration of the structure or change the character thereof. Home Occupations shall comply with the following conditions:

- (a) The nonresidential use shall only be incidental to the primary residential use.
- (b) The nonresidential use shall utilize no more than 25% of the floor area of the principal building or accessory building.
- (c) No equipment or process shall be used in the nonresidential use which creates noise, vibration, glare, fumes, odors, or electrical interference, that is detectable to the normal senses beyond the boundaries of the property upon which the nonresidential use is located. With regard to electrical interference no equipment shall be used that creates or causes significant fluctuations in electrical line voltage or causes visual or audible interference in any radio or television receivers beyond the boundaries of the property upon which the nonresidential use is located.
- (d) The nonresidential use shall not involve persons other than those members of the immediate family residing on the premises.
- (e) The nonresidential use shall be carried on indoors. No outdoor activities or storage shall be permitted.
- (f) There shall be no change in the exterior appearance of the building or the premises, or other visible evidence of the conduct of the nonresidential use other than one announcement sign, not to exceed two square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- (g) No traffic shall be generated by such nonresidential use in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the nonresidential use shall be met off the street and shall not be located within the required front yard of the residence.
- (h) The permission for the nonresidential use as provided herein is to secure flexibility in the application of the requirements of this ordinance. Such permission is not intended to allow the essential residential character of residential districts to be changed in terms of use and appearance by the nonresidential uses.
- (i) Limited retail sales may be permitted on the premises as part of or in conjunction with the nonresidential use.
- (j) The nonresidential use qualifies as a "Home Occupation" if the primary purpose for engaging in the nonresidential use is for income or profit and is done with continuity and regularity. A sporadic activity or a hobby is not considered a "Home Occupation".

Institutional or Public Use: Churches, schools, hospitals, convalescent or nursing homes, parks, civic centers, libraries and other public or quasi-public uses.

Junk: For the purpose of this Ordinance, the term "junk" shall mean any motor vehicles, machinery, appliance, product or merchandise with parts missing; or scrap metals or other scrap materials that are damaged or deteriorated.

Junk or Salvage Yards: An open area used for the collection, storage, dismantling, dumping, display, resale, exchange, baling, cleaning or handling of second hand, salvaged or used waste materials, machinery, vehicles, trailers, equipment, furnishings or parts thereof, but excluding automobile, boat or trailer sales areas and similar uses carried on in completely enclosed buildings.

Kenel: Any lot or premises used for the sale, boarding, breeding or treatment of dogs, cats, or other household pets.

Licensed Day-Care Facility: A state-licensed facility for the care of preschool and/or school-aged children.

Lot: A parcel of land adjoining a dedicated public street or a perpetual, recorded private street but exclusive of any adjoining street right-of-way or any legal easement, and separated from other parcels by legal description, deed or sub-division plat.

Lot Area: The total horizontal area within the lot lines of a lot.

Lot Corner: A lot situated at the intersection of two (2) or more streets.

Lot Lines: Any of the lines bounding a lot as defined herein.

- (a) **Front Lot Line.** In the case of an interior lot, it is that line separating said lot from the street. For purposes of this definition, the front lot line shall be the same as the boundary of the street right-of-way. In the case of a through lot, it is that line separating said lot from either street. In the case of a corner lot, the shorter street line shall be considered the front lot line, except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.
- (b) **Rear Lot Line.** That lot line opposite and most distant from the front lot line. In the case of an irregularly shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10)feet in length, lying farthest from the front lot line and wholly within the lot.
- (c) **Side Lot Line.** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Major Street (Primary Road): A street or highway so designated on the Major Road Plan of the Newaygo County Master Plan, and which is designed and intended to carry heavy traffic volumes.

Minor or Local Street (Secondary Road): A dedicated public way or recorded private street which affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.

Mobile Home: A portable unit without a permanent foundation built to be towed on its own chassis, comprised of frame and wheels, designed to be connected to facilities at a site and used for year-round living. This term shall not include pick-up campers, travel trailers, motor homes or converted buses.

Mobile Home Dwelling: A mobile home which is electrically grounded and sufficiently anchored to a reinforced concrete slab four inches or more in thickness, with wheels and axles removed and the base of the unit enclosed with metal, fiberglass, or other approved skirting material and which meets the floor area, lot area and other requirements of the zone district in which it is located.

Mobile Home Court of Park: A licensed area under single ownership providing approved site locations, utilities and services for ten (10) or more mobile homes.

Modular and Sectional Homes: A dwelling unit consisting of two (2) or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for a conventional residence.

Non-conforming Building (Non-conforming Structure): A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Non-conforming Use: A use which is lawfully exercised within a structure or on land at the time of adoption of this Ordinance, or any amendment thereto, and which does not conform with regulations of the district in which it is located.

Nuisance: Is an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things such as: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) objectionable effluent, (j) noise of a congregation of people, particularly at night, (k) passing traffic, (l) invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

Occupancy Permit: A permit issued by the County Building Inspector prior to the occupancy of any newly established dwelling unit.

One-Family Dwelling (Single Family Dwelling): A detached residential building designed for or occupied exclusively by one family. (11/00)

Park: Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, which are open to the general public for recreation purposes.

Parking Area: An area used for the parking of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

Person: A legal entity or individual human being; "person" shall include an association, corporation, organization, partnership or a firm.

Playground: Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open to the general public for recreation or child care purposes.

Principal or Main Use: The primary or predominant use of the premises.

Property Lines: Legal boundaries of a lot, plot or parcel, not necessarily coincident with "lot lines" as defined herein.

Public Utility. Except for Wireless Communication Facilities, any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under state or municipal regulations to the public electricity, gas, steam, communications, telephonic, transportation or water. (11/00)

Right-of-Way Line: The boundary of a dedicated street or highway.

School: A public or private educational Institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned and used by such schools for education research and recreational purposes.

Seasonal Dwelling: One-family dwellings not regularly occupied but owned and maintained for occasional use.

Service Station (Filling Station): A place where fuel and lubricating oils for motor vehicles are offered for sale at retail to the public, including sales of automobile accessories and minor repair service but not including major automotive repairs.

Setback: The minimum unoccupied distance between a lot line and the principal and accessory buildings, as required herein.

Sexually Oriented Business: Those uses specified and defined as, but not limited to, all adult bookstore, adult cabaret, adult drive-in, adult film store, adult motion picture theater, and/or adult novelty store.

Sign: Any announcement, declaration, illustration or insignia used to advertise to promote the interests of any person, product, or project when the same is placed, painted or displayed out-of-doors in view of the general public.

Single Ownership: Ownership by one person or by two (2) or more persons jointly, as tenants by the entirety, or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

Special Exception Uses: Uses not of a general nature and not specifically provided for in the zone districts, requiring special approval by the Planning/Zoning Commission and Township Board.

Special Exception Permit: A permit issued by the Township Board to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this Ordinance which possess unique characteristics and are found to be not injurious to the health, safety, convenience and general welfare of the Township's inhabitants.

Story: That portion of a building included between the surface of any floor and the surface of the floor above it; where there is no second floor, then story shall mean the space between the floor and the ceiling next above it. A story, thus defined, shall not include any portion of a building having more than fifty (50) percent of its total cubic content below the established grade level.

Street: A public right-of-way of sixty-six (66) feet or more in width which has been dedicated for the purpose of carrying traffic and providing access to abutting private lots or land, including the space for pavements and sidewalks.

Structure: Anything constructed or erected which requires permanent location on the ground or attachment to something having such location. The term building shall mean the same.

Swimming Pool: A constructed basin or structure for the holding of water for swimming and aquatic recreation. Swimming pool does not include plastic, canvas or rubber portable pool temporarily erected upon the ground holding less than one thousand (1000) gallons of water.

Township Planning/Zoning Commission: The Commission appointed by the Dayton Township Board to prepare this Ordinance, conduct hearings, and make recommendations thereto to the Dayton Township Board and to the Newaygo County Planning/Zoning Commission.

Trailer: A portable unit built without a permanent foundation to be towed on its own chassis comprised of frame and wheels, designed either with self-contained utilities or to be connected to utilities at a site and used as temporary living quarters.

Variance: A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property for which the variance is requested.

Wireless Communications Facilities shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, micro-wave relay facilities, telephone transmission equipment building and commercial mobile radio service facilities. (amended 11/00)

Wireless Communications Facilities (Attached) shall mean Wireless Communication

Facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition. (amended 11/00)

Wireless Communication Support Structures shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, mono-poles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure. (amended 11/00)

Wireless Communication Facility Co-location shall mean the location by two or more wireless communication providers of Wireless Communication Facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community. (amended 11/00)

Yards:

- (a) **Front Yard:** An open unoccupied space unless occupied by a use as hereinafter specifically permitted, extending across the full width of the lot and lying between the front street right-of-way line and the nearest foundation of any part of the building.
- (b) **Side Yard:** An open unoccupied space unless occupied by a use as hereinafter specifically permitted, on the same lot with the building between the foundation of any part of the building and the side lot line, extending from the front yard to the rear yard.
- (c) **Rear Yard:** A space unoccupied except by an accessory building or use as hereinafter specifically permitted, extending across the full width of the lot between the rear foundation of any building, and the rear lot line.

Zoning Administrator: A person or persons delegated by the Dayton Township Board to administer this ordinance.

ARTICLE III - CLASSIFICATION OF DISTRICTS

3.1 ZONE DISTRICTS.

For the purpose of this Ordinance, Dayton Township, exclusive of incorporated cities and/or villages, is hereby divided into five (5) Zone Districts to be known as:

AG	Prime Agricultural	(Article IV)
C-1	Prime Commercial	(Article VII)
C-2	Rural Commercial	(Article VIII)
RS	Residential	(Article IX)
RL	Lake Resort	(Article X) (amended 11/05)

3.2 MAP.

The map entitled Zoning Map delineating the above districts is hereby declared to be a part of this Ordinance. (amended 11/05)

One copy of the Zoning Map is to be maintained and kept up-to-date by the Township Clerk, accessible to the public and shall be the final authority as to the current zoning status of properties in the Township.

3.3 INTERPRETATION OF DISTRICT BOUNDARIES.

Where, due to the scale, lack of details, or illegibility of the Zoning Map, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application to the Board of Appeals. The Board in arriving at a decision on such matters, shall apply the following standards:

- (1) The boundaries of zoning districts are intended to follow centerlines of alleys, streets or other rights-of-way, or lot lines, or be parallel or perpendicular thereto, unless such district boundary lines are otherwise clearly indicated on the Zoning Map.
- (2) Where district boundaries are so indicated that they approximately follow Lot of Record Lines, such lines shall be construed to be boundaries.
- (3) In unsubdivided property, or where a district boundary divides a Lot of Record, the location of such boundary, unless shown by dimensions on the Zoning Map, shall be determined by use of the map scale shown thereon.
- (4) Boundaries indicated as approximately following township limits shall be construed as following township limits.
- (5) Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
- (6) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with actual shoreline; boundaries indicated as approximately following

the centerline of streams, rivers, lakes, or other bodies of water shall be construed to follow such centerline.

- (7) A boundary indicated as parallel to, or an extension of, a feature indicated in 3.03 (a) through 3.03 (f) shall be so construed.
- (8) Where physical or natural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by 3.03 (a) through 3.03 (g) above, the Board of Appeals shall interpret the district boundaries.
- (9) Where a district boundary line of the Zoning Map divides a lot, the least restricted use shall not extend beyond such line.

3.4 ZONING OF FILLED LAND; USE OF WATERS.

Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable for lands to which the same shall attach or be adjacent, and the same be used for those purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

3.05 SCOPE OF PROVISIONS:

- (1) Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the Zoning District in which such use, building, or structure shall be located.
- (2) Uses are permitted by right only if specifically listed as uses permitted by right in the various zoning districts. Where not specifically permitted, uses are thereby prohibited unless construed to be similar to a use expressly permitted by the Zoning Board of Appeals.
- (3) Accessory uses are permitted as indicated for the various zoning districts, and if such uses are clearly incidental to the permitted principal uses.
- (4) The uses permitted subject to special conditions are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, etc.) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community.

ARTICLE IV AG PRIME AGRICULTURAL DISTRICT

(amended 11/05)

4 . 1 . PERMITTED USES.

The District is intended primarily to conserve and protect Prime Township Agricultural lands for farming and agricultural uses. The following uses are permitted therein:

- (1) Farms, as defined by this Ordinance, carrying on general or specialized farming operations,
- (2) Single family detached farm dwellings for use by the operator of a farm as permitted in paragraph (1) above.(11/00)
- (3) Institutional and public uses as included in Section 13.08 provided that any building shall be located at least eighty (80) feet from any adjoining street, and at least thirty (30) feet from a lot line or property line.
- (4) Essential services as included in Section 13.08 provided that any building shall be located at least eighty (80) feet from any adjoining street and at least thirty (30) feet from a lot or property line.
- (5) Transitional uses, home occupations and private swimming pools as regulated and permitted in Article XIII.
- (6) Greenhouses, nurseries and roadside stands for the display and sale of products grown on the property; provided, however that off-street parking and access to such parking shall be provided on the property and no hazardous traffic condition shall result from such activity,
- (7) Temporary uses as permitted and regulated in Section 13.14.
- (8) Non-farm single family detached dwellings as permitted and regulated in Section 13.30. (ARTICLE XIII)
- (9) Other uses which are determined by the Planning Commission to be of the same general character as those uses listed above.
- (10) Feedlots (Also Known as Concentrated Feeding Operations (CAFO) as defined in the Dayton Township Zoning Ordinance shall be permitted uses under the following conditions:
 - a. Application shall be made to the Michigan Department of Agriculture (MDA) for review and compliance with MDA GAAMPs to ensure compliance with the State Site Selection and odor control standards for new and/or expanding livestock production facilities as established by the Michigan Agriculture Commission and as may be amended from time to time.
 - b. Documentation that the proposed livestock production facility complies with all applicable GAAMPs shall be provided to the Township and shall

be maintained on file at the Township.

- c. A copy of the site plan shall be submitted to the Township Planning Commission for review in accordance with Article XI of the zoning ordinance.

4.02. ADDITIONAL USES PERMITTED UNDER SPECIAL CONDITIONS.

The following uses may be permitted as regulated by Article XVIII.

- (1) Non-farm single family detached dwellings (see Section 13.30).
- (2) Cemeteries and mausoleums.
- (3) Public and private airports.
- (4) Country clubs and golf courses.
- (5) Hunt clubs or gun clubs.
- (6) Private or church sponsored camping areas.
- (7) Travel trailer camps.
- (8) Agricultural service establishments, primarily engaged in performing agricultural, animal husbandry or horticultural services on a fee or contract basis.
- (9) Gravel pits, mineral extraction, gas and oil wells meeting the standards of Article XVIII.
- (10) Other Uses which are determined by the Planning Commission to be of the same general character as those uses listed above.

4.3 PERMITTED ACCESSORY USES.

The following uses shall be permitted so long as they are accessory to a permitted principal use or a Permitted Special Use.

- (1) Accessory uses that are customarily incidental to any permitted principal use as long as such accessory uses do not create a nuisance which adversely affects a legal use of adjoining premises.
- (2) Signs as regulated in Section 16.01.
- (3) Off-street parking as required in Section 15.01 and as permitted in Section 15.09.
- (4) Migrant housing that has been licensed and approved by the Michigan Department of Agriculture regardless of the number of Migrant employees.

4.04. HEIGHT AND AREA.

The following Height and Area Regulations shall be complied with:

- (1) Height: No building shall exceed a maximum of two and one half (2 1/2) stories or thirty-five (35) feet in height, whichever is the lesser; provided, however, that the Height Exceptions of Section 13.17 shall apply.
- (2) Front Yard: There shall be a front yard of not less than fifty (50) feet. The setback line shall be established in accordance with the provisions of Section 13.09.
- (3) Side Yard: There shall be two (2) side yards and no side yard shall be less than thirty (30) feet.
- (4) Rear Yard: There shall be a rear yard of at least fifty (50) feet.

- (5) Lot Area: There shall be a lot area of at least two (2) acres.
- (6) Lot Width: The minimum width at the front setback line shall be three hundred (300) feet.
- (7) Permitted non-residential buildings shall meet the yard requirements of Section 13.29.
- (8) Floor Area: There shall be a minimum floor area of one thousand square feet (1000sf). Dwellings having more than one story shall have a ground floor area of at least seven hundred (700) square feet.

ARTICLE V

(Deleted 11/05)

ARTICLE VI

(Deleted 11/05)

ARTICLE VII C-1 PRIME COMMERCIAL DISTRICT

7.01 PURPOSE.

The Prime Commercial District is oriented toward those commercial businesses that are closest to the City of Fremont and require public services. It is intended that this district should be developed in coordination with the expansion and development of City of Fremont services that may be provided to Township Businesses under Joint Cooperative Agreements in accordance with the Joint Comprehensive Development and Growth Management Plan that was adopted in 2001.

7.02 PERMITTED USES.

The following uses are permitted within the C-1 Prime Commercial District following site plan review by the Planning Commission and approval by the Township Board.

- (1) Video arcades
- (2) Movie Theaters
- (3) Book stores
- (4) Bakery
- (5) Appliance sales and repair
- (6) Financial establishments
- (7) Self Service laundry
- (8) Hotel or motel
- (9) Professional office including attorney, doctors
- (10) Photo, dance or other professional studio
- (11) Beauty salon or barber shops
- (12) Printing, publishing, lithographing
- (13) Restaurant without drive-thru
- (14) Retail stores
- (15) Any retail business or professional service business and service that does not exceed 8,000sf of building area that in the opinion of the Planning Commission is of a similar nature to the above noted businesses.

7.03 SPECIAL USES

The following commercial businesses are permitted in the C-1 Prime Commercial District following review and recommendation by the Planning Commission and approval by the Township Board as regulated by Article XVIII of this ordinance.

- (1) Automobile, truck, trailer, motorcycle, boat or farm implement sales and service
- (2) Lumber yard
- (3) Large machine equipment rentals
- (4) Large lot commercial retail stores with building size exceeding 8,000sf
- (5) Restaurants with drive-thru
- (6) Commercial, or public garages
- (7) Gasoline Filling stations
- (8) Animal hospitals and kennels.
- (9) Adult and Sexually Oriented Businesses

- (10) Any retail business or professional service business and service that in the opinion of the Planning Commission is of a similar nature to the above noted businesses.

7.04 ACCESSORY USES

Accessory uses that are necessary and incidental to any principal or special use when clearly accessory to a permitted use and the indoor storage of goods for sale.

7.5 REQUIRED CONDITIONS.

The following requirements shall be complied with:

- (1) Height: No building shall exceed a height of 35 feet.
- (2) Front Yard: There shall be a front yard set back of at least eighty (80) feet and the setback line shall be established in accordance with the provisions of Section 13.09.
- (3) Side Yard:
 - a) Where a side yard abuts a Commercial or Industrial District there shall be side yard set backs of not less than twenty five feet (25').
 - b) Where a side yard abuts a Residential zoning district or a Residential use regardless of zoning there shall be side yard set backs of not less than forty feet (40').
 - c) If a side yard abuts a street the side yard shall have the same set back as the front yard.
- (4) Rear Yard:
 - a) Where a rear yard abuts a Commercial or Industrial District there shall be a rear yard set back of at least fifty feet (50).
 - b) Where a rear yard abuts a Residential zoning district or a Residential use regardless of zoning there shall be a rear yard set back of not less than seventy five feet (75')

The Planning Commission may recommend reduction of side and rear yard set backs, if in the opinion of the Planning Commission, the applicant has documented increased landscaping and screening sufficient to insure the peaceful enjoyment neighboring residential property.

Parking areas are permitted within the front, side and rear set backs. Loading docks and access drives are permitted within side and rear set backs. Parking areas, Loading docks and truck and service access drives must be set back at least ten feet (10') from lot lines or road right of ways. Any loading docks or truck and service access drive or parking area that is adjacent to a residential district or a residential use regardless of zoning district must provide landscaping and screening as recommended by the Planning Commission.

- (5) Lot Width: No lot shall be less than one hundred fifty (150') feet at the required front set back line.

- (6) Lot Area: There shall be no minimum lot area, however a lot must be of sufficient size to accommodate all required parking, landscaping, screening and set back requirements.

7.06 SITE PLAN REVIEW.

All permitted or Special Uses must provide detailed site plans and landscape plans for review and recommendation by the Planning Commission and approval by the Township Board subject to the Site Plan Review criteria set forth in Article XI of this ordinance.

ARTICLE VIII C-2 RURAL - COMMERCIAL DISTRICT

8.01 PURPOSE.

The Rural Commercial district is oriented to meeting the rural business needs of the area. The Rural Commercial district is in an area that is not serviced by the City of Fremont public utilities. Additionally, the Joint Comprehensive Development and Growth Management Plan that was adopted in 2001 does not anticipate or plan for public utilities in this part of the Township. The Rural Commercial District has been identified as an area within the Township and within the Joint Comprehensive Development and Growth Management Plan that is available for small commercial activities that do not require public utilities and are oriented to low volume commercial uses

8.02 PERMITTED USES.

The following uses are permitted:

- (1) Small Retail or wholesale sales businesses
- (2) Farm implement sales and service
- (3) Propane sales and service
- (4) Large machine equipment rentals
- (5) Commercial, or public garages
- (6) Auto repair shops with no outside storage
- (7) New and Used Vehicle sales and service
- (8) Modular home sales
- (9) Lumber yards
- (10) Agricultural processing plants, except animal processing
- (11) Lawn and garden stores including greenhouses
- (12) Landscaping supply stores
- (13) Animal hospitals and kennels
- (14) Other uses determined by the Planning Commission to be similar to the above listed uses

8.03 ADDITIONAL USES PERMITTED UNDER SPECIAL CONDITIONS.

- (1) Gasoline Filling stations.
- (2) Other uses determined by the Planning Commission to be similar to the above listed uses.

8.04 REQUIRED CONDITIONS

The following requirements shall be complied with:

- (1) Height: No building shall exceed a height of thirty-five (35) feet.
- (2) Front Yard: There shall be a front yard set back of at least eighty (80) feet and the setback line shall be established in accordance with the provisions of Section 13.09.

(3) Side Yard:

- a) Where a side yard abuts a Commercial or Industrial District there shall be side yard set backs of not less than twenty five feet (25').
- b) Where a side yard abuts a Residential zoning district or a Residential use regardless of zoning there shall be side yard set backs of not less than forty feet (40').
- c) If a side yard abuts a street the side yard shall have the same set back as the front.

(4) Rear Yard:

- a) Where a rear yard abuts a Commercial or Industrial District there shall be a rear yard set back of at least fifty feet (50).
- b) Where a rear yard abuts a Residential zoning district or a Residential use regardless of zoning there shall be a rear yard set back of not less than seventy five feet (75')

The Planning Commission may recommend reduction of side and rear yard set backs, if in the opinion of the Planning Commission, the applicant has documented increased landscaping and screening sufficient to insure the peaceful enjoyment neighboring residential property.

Parking areas are permitted within the front, side and rear set backs. Loading docks and access drives are permitted within side and rear set backs. Parking areas, Loading docks and truck and service access drives must be set back at least ten feet (10') from lot lines or road right of ways. Any loading docks or truck and service access drive or parking area that is adjacent to a residential district or a residential use regardless of zoning district must provide landscaping and screening as recommended by the Planning Commission.

(5) Lot Width: No lot shall be less than one hundred fifty (150') feet at the required front set back line.

(6) Lot Area: There shall be no minimum lot area, however a lot must be of sufficient size to accommodate all required parking, landscaping, screening and set back requirements.

8.05 SITE PLAN REVIEW.

All permitted or Special Uses must provide detailed site plans and landscape plans for review and recommendation by the Planning Commission and approval by the Township Board subject to the Site Plan Review criteria set forth in Article XI of this ordinance.

ARTICLE IX - RS RESIDENTIAL DISTRICT

9.1 PERMITTED USES.

This residential district borders on the Fremont City Limits and is intended primarily for single family residential use on land where public services should be available in the near future. Only the following uses are permitted:

- (1) One single family residence on each lot, including modular and sectional homes.
- (2) Institutional and public uses and essential services as permitted in Section 13.08, provided that any building erected for such use shall meet the yard and lot area requirements of Section 13.29.
- (3) Accessory uses that are customarily incidental to any permitted principal use.
- (4) Customary gardening.
- (5) Farms as defined by this Ordinance, provided that where animals or fowl other than domestic animals are kept, structure, fenced pens or runs required for the keep of same shall be no closer than 200 feet to any adjoining property line.
- (6) Signs as regulated in Section 16.01.
- (7) Off-street parking as required in Section 15.01 and as permitted in Section 15.09.
- (8) Transitional uses, home occupations and private swimming pools as regulated and permitted in Article XVIII.
- (9) Temporary uses as permitted and regulated in Section 13.14.

9.02 PROHIBITED USES. All uses prohibited in the A-3, Agricultural 3 District are prohibited in the RS, Residential District.

9.03 HEIGHT AND AREA. The following regulations shall apply:

- (1) Height: No building shall exceed a maximum of two and one-half stories or thirty-five (35) feet in height, whichever is lesser, provided, however, that the height exceptions of Section 13.17 shall apply.
- (2) Front Yard: There shall be a front yard of not less than thirty (30) feet and the setback line shall be established in accordance with the provisions of Section 13.09.
- (3) Side Yard: There shall be two side yards totaling at least thirty-five (35) feet and no side yard shall be less than fifteen (15) feet.
- (4) Rear Yard: There shall be a rear yard of at least 25 feet.

- (5) Lot Area: There shall be a lot area of at least 18,000 square feet for each single family dwelling unit; provided, however, that where public water and/or sewer is provided, the minimum lot area may be reduced to 15,000 square feet.
- (6) Lot Width: The minimum lot width at the setback line shall be 110 feet.
- (7) Permitted non-residential buildings shall meet the yard requirements of Section 13.29.
- (8) Floor Area: There shall be a minimum floor area of eight hundred (800) square feet for all single family dwellings. Dwellings having more than one story shall have a ground floor area of at least six hundred (600) square feet. All dwellings in the RS Residential District shall have a minimum width of twenty-four (24) feet.

9.4 WATER AND SEWER.

In the absence of public sewage disposal services, the provisions of Article 13.18 shall apply.

ARTICLE X - RL LAKE RESORT RESIDENTIAL DISTRICT

10.1 PERMITTED USES.

This District is designed to permit the safe and healthful development of seasonal and year-round one family dwellings on lake shores in Dayton Township; to provide for other unique uses customarily associated with lake development; its regulations are drawn to avoid contamination or destruction of lakes and to protect the riparian rights of lakefront property owners. Only the following uses are permitted:

- (1) One residence on each lot as a single family dwelling.
- (2) Institutional and public uses and essential services as permitted in. Section 13.08, provided that any building erected for such use shall meet the yard and lot area requirements of Section 13.29.
- (3) Customary gardening.
- (4) Accessory uses that are customarily incidental to any permitted principal use.
- (5) Seasonal one-family dwellings meeting the lot area requirements of this ordinance.
- (6) Signs as regulated in Section 16.01.
- (7) Off-street parking as required in Section 15.01 and as permitted in Section 15.09.
- (8) Transitional uses, home occupations and private swimming pools as regulated and permitted in Article XIII.
- (9) Temporary uses as permitted and regulated in Section 13.14.
- (10) Mobile homes, mobile home dwellings, trailers, and mobile home parks as regulated in Article XVII.

10.2 PROHIBITED USES.

Any use or structure other than those permitted in Section 10.01 are prohibited. Provided, however, that hotels and motels are permitted subject to the provisions and regulations of Article XVIII. Mining or drilling for the extraction of minerals is prohibited within 100 feet; of any adjacent street or property lines.

10.3 HEIGHT AND AREA.

In the RL District certain yard modifications are permitted in Section 13.09. The following Height and Area regulations shall apply:

- (1) Height: No building shall exceed a maximum of two and one-half (2 1/2) stories or thirty-five (35) feet in height, whichever is lesser.

- (2) Front Yard: There shall be a front yard of not less than thirty (30') feet and the set back line shall be established in accordance with the provisions of Section 13.09 which states that in the RL Lake Resort Residential District the lake frontage shall be the 'front' yard. (11/00)
- (3) Side Yard: There shall be two side yards totaling at least thirty-five (35) feet and no side yard shall be less than fifteen (15) feet.
- (4) Rear Yard: There shall be a rear yard of at least thirty-five (35) feet.
- (5) Lot Area: There shall be a lot area of at least eighteen thousand (18,000), square feet, except that where public sewer and water are provided a lot area of fifteen thousand (15,000) square feet may be permitted.
- (6) Lot Width: The minimum lot width at the setback line shall be 100 feet.
- (7) Floor Area: Dwellings shall have a minimum floor area of 800 square feet. Dwellings having more than one story shall have a ground floor area of at least 600 square feet.
- (8) Waterfront Yard: No building or structure shall be located closer than fifty (50) feet to any lake except docks or similar unenclosed structures, boat houses not exceeding eight (8) feet in height and pump houses.

ARTICLE XI SITE PLAN REVIEW

11.01 PURPOSE.

The purposes of Site Plan Review are as follows: to determine compliance with the provisions of this Ordinance, to promote the orderly development of the Township, to prevent the depreciation of land values through uses or structures which do not give proper attention to siting or area protection, and to provide consultation and cooperation between the applicant and the Township in order that applicants may accomplish their objectives in the utilization of their land within the regulations of this Zoning Ordinance.

11.2 SITE PLAN REVIEW REQUIRED.

A site plan shall be submitted for review according to the provisions of this chapter for all land uses except the following:

- (a) Single and two-family dwelling units on individual lots.
- (b) Residential and agricultural accessory buildings.
- (c) Home occupations which do not require the construction or enlargement of any building. For home occupations, a sketch plan drawn to scale shall be provided. The sketch plan shall include the location, dimensions, and area of all structures and parking areas on the site; scale, north arrow, and date of drawing; property owner's name and address; and description of the nature of the home occupation.
- (d) A change of use in the commercial or industrial districts provided the Zoning Administrator finds that the proposed use meets the requirements of this Ordinance.

11.03 APPLICATION PROCEDURE.

- (a) Nine (9) copies of an application for site plan review shall be made to the Zoning Administrator along with a fee as required by Township Board resolution. 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 and/or parcel number of the property.
 - 5. Project description, including number of structures and dwelling units, square footage of each building, number of parking spaces, estimated number of employees, and any unique features of the site or proposed development.
 - 6. Area of the parcel in acres, excluding road right-of-ways.
 - 7. A site plan for the project containing all of the information listed in Section 11.04, below.

- (b) The Zoning Administrator shall forward copies of the application and site plan to the Planning Commission for discussion and review at the next regularly scheduled Planning Commission meeting.

11.3 SITE PLAN CONTENT.

Each site plan submitted for review under this chapter shall be drawn at a minimum scale of 1" = 200 and shall contain the following information:

- (a) Name of development and general location sketch showing major thoroughfares and site location.
- (b) Name, address and phone number of site owner(s), developer and designer, including professional seal of designer.
- (c) North arrow, scale, and date of original drawing and any revisions.
- (d) The area of the site in square feet and acres, excluding all existing and proposed rights-of-way. Property lines, dimensions, and building setback distances and dimensions of all structures and lot lines within one hundred (100) feet of the site shall also be indicated. If the parcel is a part of a larger parcel, boundaries of the total land holding shall be shown.
- (e) Existing zoning of the site and all adjacent properties.
- (f) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of ten (10) feet outside the boundary lines of the site. Ground elevations of all existing buildings, drives and parking lots, and any unusual surface conditions shall be provided.
- (g) Direction of storm water drainage and indication as to how storm water runoff will be handled.
- (h) Location of existing and proposed buildings; their intended use; the length, width and height of each building; and the square footage of each building.
- (i) Location of abutting streets, existing and proposed rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and all driveways within one hundred (100) feet of the site. The centerline of road rights-of-way shall be shown.
- (j) Location and size of all water and sanitary sewer lines, storm drainage lines, fire hydrants, catch basins, septic tanks and drainfields and utility easements.
- (k) Proposed parking areas and access drives, showing the number and size of

spaces, aisles, loading areas, and handicapped access ramps. Also, the method of surfacing such areas shall be noted.

- (l) Location of all sidewalks, bike paths, and other pathways.
- (m) Location and size of any walls, fences, greenbelts, or other screening provisions.
- (n) Landscape plan indicating type and size of all plant material, including all areas to be sod or seeded for grass. Provide cross sections of all berms.
- (o) 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 shall be illustrated.
- (p) Building floor plans and architectural wall elevations. The height of all buildings or structures shall be indicated.
- (q) Location of all proposed accessory structures, including outdoor lighting fixtures, flagpoles, storage sheds, transformers, dumpsters or trash removal areas or devices, signs, and existing and proposed utility poles. Indicate screening for trash receptacles.
- (r) Location of all outdoor storage areas for materials and the manner in which materials shall be screened or covered.
- (s) 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 Ordinance or other state or federal agencies.
- (t) If phased construction is to be used, each phase must be noted and each phase must stand on its own.
- (u) Notation of any variances or conditional use permits which are required, any legal non-conforming uses or structures, and any State or Federal permits which have been secured or may be necessary to secure.
- (v) Other data which the Planning Commission may reasonably deem necessary for adequate review.

11.4 REVIEW PROCEDURE AND AUTHORIZATION.

All site plans required under this Chapter shall be subject to review as follows:

- (a) **Authorization.** The Planning Commission shall review all site plans and shall make recommendations to the Township Board. The Township Board, upon recommendation from the Planning Commission shall approve, deny, modify, or approve with conditions all site plans submitted to it under this Ordinance. The

Township Board shall advise the applicant of its action in writing. A building permit shall not be issued until a site plan has been approved as required herein.

- (b) **Review Standards.** The Planning Commission shall review each site plan according to the standards for site plan review as contained in Section 11.06 of this chapter and any other applicable regulations of this Ordinance. In addition, the Planning Commission may seek the review and recommendation of appropriate county, state or federal agencies, the Township Engineer or Planner, or other professionals, consultants, or agencies as the Commission deems necessary to assist it in its review and recommendation.
- (c) **Approval.** Upon approval of a site plan, three (3) copies of the plan shall be signed and dated by the Township Clerk. One copy of the plan shall be returned to the applicant and one copy shall be retained in the Township property files and the third copy shall be submitted to the Building Inspector as part of the building permit review process.
- (d) **Effect of Approval.** Approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a building permit, provided all other requirements for a building permit have been met. In the case of uses without buildings or structures, approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a certificate of occupancy, provided all other requirements for such certificate have been met.
- (e) **Expiration of Approval.** Approval of a final site plan shall expire and be of no effect unless construction has begun on the property in conformance with the approved site plan within one (1) year (365 days) of the date of the Township Board approval.

11.5 STANDARDS.

In making its recommendation, the Planning Commission shall review the site plan for compliance with the requirements of this Ordinance and conformance with the following general standards:

- (a) The applicant may legally apply for site plan review.
- (b) All required information has been provided.
- (c) The proposed development conforms to all regulations of the zoning district in which it is located.
- (d) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- (e) The landscape shall be preserved in its natural state, insofar as practical, by

minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

- (f) Natural resources will be preserved to and protected to the maximum feasible extent and organic, wet, or other soils which are not suitable for development will be undisturbed or will be modified in an acceptable manner.
- (g) The proposed development will not cause soil erosion or sedimentation problems.
- (h) The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
- (i) The proposed development properly respects floodways and floodplains on or in the vicinity of the subject property.
- (j) The plan meets the specifications of Newaygo County for water supply, sewage disposal or treatment, storm drainage, and other public facilities.
- (k) With respect to vehicular and pedestrian circulation on the site, including walkways, interior drives, and parking; special attention shall be given to the location, number and spacing of access points; general interior circulation; separation of pedestrian and vehicular traffic; the avoidance of building corners next to access drives; and the arrangement of parking areas that are safe and convenient, and insofar as practicable, do not detract from the design of the proposed buildings and structures, neighboring properties and flow of traffic on adjacent streets.
- (l) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means as required by the Township fire department.
- (m) The site plan shall provide reasonable, visual, and sound privacy for all neighboring dwelling units. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- (n) All loading and unloading areas and outside storage of materials which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials. Also, outdoor storage of garbage and refuse shall be prohibited unless approved by the Planning Commission following site plan review.
- (o) All lighting shall have shoe box type fixtures so that the lighting is shielded from adjacent properties and public right-of-way.
- (p) Phases of development are in logical sequence so that any phase will not depend upon a subsequent phase for adequate access, public utility services,

drainage, or erosion control.

- (q) Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before a building permit or occupancy permit is granted.

11.6 ISSUANCE OF BUILDING PERMIT.

The Building Inspector shall, upon receipt of notice of approval from the Township Board and upon application by the applicant, issue a building permit provided all other applicable Township regulations have been met.

11.7 AMENDMENT OF APPROVED SITE PLAN.

A site plan may be amended upon application and in accordance with the procedures and requirements provided in Section 11.03 herein. Minor changes to a site plan may be made without following the procedures of Section 11.03 at the discretion of the Planning Commission. The Planning Commission may require, in case of minor changes to an approved site plan, that a revised site plan drawing(s) be submitted showing such minor changes for purposes of record. The Planning Commission shall have the authority to determine if a proposed change is minor or major and if such change requires an amendment to an approved site plan. The Planning Commission shall record its determinations and reasons for allowing amendment in the minutes of the meeting at which the action is taken.

11.8 MODIFICATION OF PLAN DURING CONSTRUCTION.

All site improvements shall conform to the approved site plan. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes shall be made at the applicant's risk, without any assurances that the Planning Commission will approve the changes. It shall be the responsibility of the applicant to notify the Zoning Administrator of any changes. The Zoning Administrator shall require the applicant to correct the changes so as to conform to the approved site plan or comply with Section 11.08.

11.10 AS-BUILT DRAWINGS.

- (a) The applicant shall provide as-built drawings of all sanitary sewer, water, and storm sewer lines and all appurtenances which were installed on a site for which a site plan was approved. The drawings shall be submitted to the Township Engineer or appropriate County Officials for review and approval.
- (b) The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of manholes and catch basins; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location and type of other utility installations.

The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.

- (c) The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional engineer.

11.11 PHASING OF DEVELOPMENT.

The applicant may divide the proposed development into two or more phases. In such case, the site plan shall show the entire property involved and shall clearly indicate the location, size, and character of each phase. However, complete site plans for all phases of a project need not be approved at once. Subsequent site plans shall be submitted for review and approval for each phase as the project proceeds.

Each phase of a project shall stand on its own; no phase shall rely on the completion of any subsequent phases of the project for parking, utilities, landscaping, or any other element required by this Ordinance.

11.12 PERFORMANCE GUARANTEE.

The Planning Commission may recommend that the Township Board require a performance bond, letter of credit, or certified check in an amount equal to the estimated cost of a road, lighting, utility, sidewalk, landscaping, drainage, and other required improvements associated with the project. The estimated amount shall be determined by the applicant and the Planning Commission. Such performance guarantee shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated with the approved site plan. If not, the performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of this Chapter have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements and the balance, if any, shall be returned to the applicant.

11.13 FEES.

Fees for the review of site plans and inspections as required by this Chapter shall be established and may be amended by resolution of the Township Board.

11.14 VIOLATIONS.

An approved site plan shall become part of the record of approval, and subsequent action relating to a site in question shall be consistent with the approved site plan, unless the Planning Commission agrees to such changes as provided in this Chapter. Any violation of the provisions of this Chapter, including any improvement not in

conformance with the approved final site plan, shall be deemed a violation of this Ordinance and shall be subject to all penalties therein.

ARTICLE XII PUD PLANNED UNIT DEVELOPMENT DISTRICT

12.1 INTENT.

It is the intent of this Chapter to provide enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments (PUD).

This chapter is further intended to provide for an added degree of flexibility in the placement and interrelationship of buildings incorporating a variety of uses, and encouraging a more creative approach to development. Such criteria are further intended to:

- (a) Result in a more efficient development pattern with shorter streets and utility networks.
- (b) Preserve existing natural assets, such as stands of trees, flood plain, open fields and the like.
- (c) Accomplish a more desirable residential environment than would be possible through the strict application of minimum requirements of the Zoning Ordinance.
- (d) Encourage the utilization of open space and the development of recreational facilities generally located within a reasonable distance of all living units.
- (e) Such development may consist of individual lots or common building sites. Common land and open space are essential elements of the plan related to affecting the long-term aesthetic and economic values of the entire development.

The provisions of this Chapter are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this Chapter are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Chapter to ensure appropriate, fair, and consistent decision-making. A Planned Unit Development must comply with this Chapter.

12.2 EFFECT OF "PLANNED UNIT DEVELOPMENT" DESIGNATION.

The approval of a Planned Unit Development application shall require an amendment to the Zoning Ordinance to revise the zoning map and designate the subject property "PUD, Planned Unit Development." An approval granted under this Chapter, including all aspects of the final site development plan and conditions imposed on it, shall constitute an inseparable part of the zoning ordinance.

12.3 PUD AUTHORIZATION.

A Planned Unit Development may be approved by the Township Board in any location within the Township, except the AG-1 Zoning District. Uses authorized in this Ordinance 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 Ordinance, provided that the purpose and requirements of this Chapter are met; that adequate public health, safety, and welfare protection mechanisms are designed into the development; and further subject to the qualifying conditions as set forth in this Chapter.

12.04 BASIC LOCATION CRITERIA FOR CREATION OF A RESIDENTIAL PUD

All of the following requirements must be met PRIOR to approval of any proposed Residential PUD.

A. Site Condominium Developments and Subdivision Plats

The Township Board shall have the authority to deny any application for approval of a site Condominium development or Subdivision plat if, in the Township Board's opinion and after a report from the Planning Commission, such development will result in premature development of the area involved, or will result in improper scheduling of various public improvements such as, but not limited to, roads, utilities, and schools.

B. PUD District Location criteria

1. All proposed Residential PUD developments proposing more than five (5) dwellings shall be restricted to sites having direct access to a paved public county road that is maintained by the Newaygo County Road Commission.
2. All proposed Residential PUD developments must conform to the Township Master Plan.
3. All proposed Residential PUD developments must be adequately served by public facilities and services such as: highways, streets, sidewalks, street lights, police and fire protection, drainage courses, water and sanitary sewer facilities, refuse disposal.
4. All proposed Residential PUD developments must insure that traffic to, from, and within the site will not be hazardous or inconvenient to the project or to the surrounding area. In applying this standard the Planning Commission shall consider, among other things, convenient routes for pedestrian traffic; relationship of the proposed project to main thoroughfares and street intersections; and the general character and intensity of the existing and potential development of the surrounding area.
5. The mix of housing unit types and densities, and the mix of residential and non-residential uses shall be acceptable in terms of convenience, privacy, compatibility, and similar measures.
6. All proposed Residential PUD developments must insure that noise, odor, light, or other external effects which are connected with the development will not adversely affect adjacent and surrounding area uses.
7. All PUD documents must note that the development is to be located in an Agricultural area and that active farm operations on neighboring property may result in odors and noises associated with agricultural operations.
8. The proposed development shall create a minimum disturbance to natural features and surrounding land use developments.

12.05 PERMITTED RESIDENTIAL PUD DEVELOPMENT

If in the opinion of the Township Board as recommended by the Planning Commission all of the criteria listed in Section 12.04 have been met, the following Residential PUD developments may be permitted subject to the rules and regulations set forth in this chapter.

A. Permitted Uses in Residential Planned Unit Development Districts

1. Cluster residential developments, provided that the overall density is increased only as permitted for open space developments as provide in this Chapter.
2. Residential development as part of a Farmland Preservation TDR development as provided in this Chapter.

12.06 CONDITIONS FOR CONSIDERATION AND APPROVAL.

A proposed Planned Unit development must demonstrate the following:

- (a) The Planned Unit Development will result in a recognizable and substantial benefit to the ultimate users of the project and to the Township in general where such benefit would otherwise be unfeasible or unlikely to be achieved.
- (b) In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
- (c) The proposed development shall be compatible with the Master Plan of the Township and shall be consistent with the intent and spirit of this Ordinance.
- (d) In relation to underlying zoning, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.
- (e) The proposed development shall contain at least as much green area and usable open space as would otherwise be required by this Ordinance with respect to the most dominant use in the development.
- (f) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Township Clerk.

12.07 APPLICATION AND PROCESSING PROCEDURES.

- (a) **Preapplication Conference.** Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Township Planning & Zoning Administrator and Supervisor and such consultants as may be deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development, and the following information:

1. A legal description of the property in question.
2. The total number of acres to be included in the project.
3. A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units.
4. The approximate number of acres to be occupied and/or devoted to or by each type of use.
5. Departures from the regulations of the Ordinance which will be requested.
6. The number of acres to be preserved as open space or recreation space.
7. All known natural resources and features (wetlands, trees, scenic views, etc.) to be preserved, lost, or replaced.

The purpose of the meeting is to inform Township and other officials of the concept of the proposed development and provide the potential applicant with information regarding land development policies, procedures, and requirements of the Township in terms of the proposed development. To this end, the applicant is encouraged to present schematic plans, site data, and any other information that will explain the proposed development.

Statements made at the pre-application conference shall not be legally binding commitments.

- (b) **Site Location review and recommendation.** Following the above conference or conferences, copies of a Site Location sketch shall be submitted. The submission shall be made to the Township Planning & Zoning Administrator who shall present it to the Planning Commission for consideration at a regular or special meeting. The Sketch shall contain the following information:
1. Applicant's name and address
 2. The name of the proposed development
 3. Common description of property and complete legal description
 4. Dimensions of land; width, length, acreage and frontage
 5. Existing Zoning and land use of the proposed site and all adjacent properties
 6. Statement of intent of proposed use of land and any phasing of the project
 7. Existing and proposed right of way width of all adjoining and internal roads, and layout of all internal roads
 8. Location of existing drainage courses, floodplains, lakes, streams, and wetlands
 9. Intentions with respect to water, sewer, and storm drainage
 10. All known natural resources and natural features and those to be preserved
 11. Gross and net density calculations, number and types of dwelling units
 12. Concept Plan illustrating PUD concept, including each proposed use, approximate locations of each principal structure.
- (c) **Preliminary Development Plan - Submission and Content.** Following the above conference or conferences, copies of a preliminary site development plan and application for a PUD rezoning request shall be submitted. The submission shall be made to the Township Planning & Zoning Administrator who shall present it to the Planning Commission for consideration at a regular or special meeting. The plan shall be accompanied by an application form and fee as determined by the Township Board. The Preliminary Development Plan shall

contain the following information:

1. Applicant's name and address.
2. The name of the proposed development.
3. Common description of property and complete legal description.
4. Dimensions of land: width, length, acreage, and frontage.
5. Existing zoning and land use of the proposed site and all adjacent properties.
6. Statement of intent of proposed use of land and any phasing of the project.
7. Name, address, and phone number of: firm or individual who prepared the plan; owner of the property; and applicant, if other than owner.
8. Existing and proposed right-of-way width of all adjoining and internal roads, and layout of all internal roads.
9. Proposed acceleration, deceleration, and passing lanes.
10. Location of existing drainage courses, floodplains, lakes, streams, and wetlands.
11. Intentions with respect to water, sewer, and storm drainage.
12. All parking areas and number of spaces by size.
13. The number and location of areas to be preserved as open or recreational space.
14. All known natural resources and natural features and those to be preserved.
15. Gross and net density calculations, number, and types of units, and habitable floor area per unit (if applicable).
16. Concept Plan illustrating PUD concept, including each proposed use, square footage, or acreage allocated to each use, approximate locations of each principal structure and use, setbacks, and typical floor plan and elevation for each building.
17. Specifications of each deviation from the applicable ordinance regulations which will be sought to be approved, and the safeguards, features, and/or planning mechanisms proposed to achieve the objectives intended to be accomplished by the regulations from which a deviation is being sought.

- (d) **Preliminary Development Plan - Planning Commission Review.** The Planning Commission shall review the preliminary development plan and shall make reasonable inquiries of the applicant. This review shall begin within thirty (30) days of receipt of all materials required in the application unless an extension is mutually agreed upon between the Planning Commission and the applicant.

Following review of the preliminary development plan, the Planning Commission shall make its recommendations, along with any comments and recommended modifications to the plan. These shall be made part of the official minutes of the Planning Commission.

- (e) **Transmittal of Planning Commission Recommendations.** The Planning Commission shall transmit its recommendation and comments relative to the preliminary development plan to the applicant. A copy of the Planning Commission recommendations, together with the Preliminary Development Plan, shall also be forwarded to the Township Clerk who shall notice the preliminary plan for public hearing as provided in Article XVIII (Special Exception Uses), except that such hearing shall be held by the Township Board.

- (f) **Preliminary Development Plan - Township Board Review - Required Public Hearing.** Within a reasonable time following the required public hearing, the Township Board shall approve, approve with conditions, or deny the preliminary plan. The effect of the approval, or approval with conditions, shall be to authorize the concept embodied in the preliminary plan, subject to submission, review, and approval of the final plan as provided below. In reviewing the preliminary plan, the Township Board shall make a finding and determination with respect to compliance with the PUD Standards set forth in this Chapter, and generally review and determine whether the basic concept of the proposal is consistent with the intent and spirit of this Chapter. Approval of the preliminary plan shall not constitute a final approval, and preliminary plan approval shall be subject to review and approval of the final plan as further provided for in this Chapter.
- (g) **Final Development Plan Submission.** Within six (6) months following receipt of Preliminary Plan Approval, the applicant shall submit to the Planning Commission five (5) copies of a final plan, conforming with requirements of this Chapter. This plan shall constitute an application to amend this Ordinance and shall be noticed for public hearing before the Planning Commission pursuant to Article XXI. If the final plan has not been submitted within such period, the preliminary plan approval shall lapse and the applicant must recommence the review process. The Township Board may extend the time for submission of the final plan upon a showing by the applicant that no material change of circumstance has occurred.
- (h) **Contents of Final Plan Application.** An application for final PUD approval shall include all of the information required in this Chapter and Article XI and the following:
1. A final site plan meeting all the requirements for site plan contents under Chapter 18 of this Ordinance.
 2. All open spaces, including preserves and recreational areas, and each proposed use for such areas.
 3. Summary of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this Planned Unit Development Chapter. This shall include ordinance provisions from which deviations are sought the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought shall be specified.
 4. The Township Board may, after recommendation of the Planning Commission, require one or more of the following as part of final Development plan submission:
 - Evidence of market need for the use(s) and economic feasibility of the project.
 - A Traffic Impact Assessment.
 - An Environmental Impact Assessment.
 - A Fiscal Impact Assessment.

Any of the above studies, if required, shall be conducted by consultants retained by the Township. The applicant shall be required to reimburse the Township for any expenses incurred in the preparation of the study(s).

12.08 GENERAL REQUIREMENTS, RESTRICTIONS AND STANDARDS

- (a) The minimum project area allowable for a PUD shall be fifteen (15) acres.
- (b) Underlying Zoning Regulations may be waived by the Township Board upon recommendation of the Planning Commission. Consistent with the Planned Unit Development concept and to encourage flexibility and creativity in development, departures from the regulations of the underlying zoning district may be granted at the discretion of the Township Board as part of the approval of a Planned Unit Development. Such departures may be authorized only if there are alternate features or planning mechanisms designed into the project for the purpose of achieving the objectives intended to be accomplished by each of the regulations from which a departure is sought.
 - 1. All required yards shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining such yards.
- (c) Access: Each lot, main building, and principal use within the Planned Development district shall have vehicular access from a public street. Adequate provision shall be made for dedications of land for streets and essential services. The arrangements of public and common ways for pedestrian and vehicular circulation shall be coordinated with other existing or planned streets in the area.
- (d) Land Usage: The approximate location of structures, shown on the conceptual development plan, shall be so arranged as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.
- (e) Privacy: Each development shall provide reasonable visual and acoustical privacy for dwelling units. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
- (f) Off-Street Parking: Parking convenient to all dwelling units and other uses, shall be provided pursuant to the minimum requirement of Article XV of this Ordinance. Common driveways, parking areas, walks, and steps may be required together with appropriate lighting, in order to insure the safety of the occupants and the general public.
- (g) Development Concept: All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings.
- (h) Utilities: PUD's shall, where feasible, provide for underground installation of utilities (including electricity and telephone).
- (i) Recreation Areas: Recreational facilities for the resident of the project shall be provided.
- (j) Planting: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new

landscaping shall be added for privacy, shade, beauty of buildings, and grounds and to screen out objectionable features.

12.09 PUD DEVELOPMENT STANDARDS.

1. Density: The density (dwelling units per acre) in a PUD shall not exceed the density of the zone in which it is located. When more than one zone is involved, the density of the project will be the average of the zones, weighted in direct proportion to the size of the property within the project in each zone. Only one-half (1/2) of the total portion of the site comprised of floodplain, swamps, (wetland) or a water body, may be used in the calculation of densities of a project.
2. Bonus Densities: The Township Board upon recommendation from the Planning Commission may approve a PUD's developed at densities in excess of the allowed maximum, when the developer can compensate for the increased densities by providing unique and extraordinary amenities, incorporating special site planning and landscape design techniques or preserving substantial areas of natural assets. Increased densities permitted through various bonus density provisions shall be cumulative, but not exceed fifty (50) percent. Criteria for approving bonus density shall include:
 - (a) Design - fifteen (15%) percent bonus increase for distinctiveness and desirable variations in design including: landscaping, siting and design features.
 - (b) Open Space: Fifteen (15%) percent bonus increase for dedicated public open space
 - i. Ten (10%) percent bonus increase for commercial recreation open space, such as golf course.
 - ii. Ten (10%) percent bonus increase for open space area over the required 25% of the total land area of the PUD.
 - (c) Natural Assets – Ten (10%) percent bonus increase for preservation or provision of unique amenities, including wood lot preservation or provision of a permanent pond, both of which must be twenty thousand (20,000sf) square feet or larger in size.
3. Open Space is defined as an area of water or a combination of land and water designed and intended for the use or enjoyment of the residents of the PUD or of the general public. "Open Space" does not include proposed street rights-of-way, open parking area, or commercial areas. Open Space may contain accessory structures and improvements necessary or desirable for recreational or cultural uses. A variety of open space and recreational area is encouraged such as: children's informal play areas in close proximity to individual dwelling units, according to the concentration of dwellings; formal parks, picnic areas; playgrounds; and scenic open areas and communal, non-commercial, recreational facilities. To be considered as an "Open Space" the area within a PUD project may not be less than twenty-five (25%) percent of the total land area of the project.
 - (a) All Common Open Space shown on the final development plan must be reserved or dedicated by lease or conveyance of title to a corporation, association or other legal entity, or by reservation by means of a restrictive

covenant. The terms of such lease or other instrument must include provisions guaranteeing the continued use of such land for the purposes intended and for continuity of proper maintenance of those portions of the open space land requiring maintenance. Such conveyance shall:

- (1.) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space. Maintenance standards and a maintenance schedule shall be included.
 - (2.) Provide for assessment of the private property owners by the Township for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
4. **Mixed Uses.** In any PUD, non-residential uses in underlying areas zoned for residential purposes may be permitted with a residential component to the extent the applicant demonstrates by expert analysis and the Township Board finds, at its discretion, that such uses are compatible. Non-residential uses, including parking lots and driveways serving them, shall be separated and buffered from residential units. In addition, a greenbelt of at least thirty (30) feet wide shall be required when nonresidential uses abut a residential area, school site, park, or similar area.
 5. **Natural Resources and Features.** The development shall be designed to incorporate and promote the preservation of natural resources and features. Natural resources and features may not be impaired or destroyed unless it is in the public interest to do so. The removal or extraction of sand, gravel, soil, rock, minerals, and similar natural resources or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds, or other bodies of water may only be permitted when such action will prepare or render the premises suitable for an ultimate use permitted under the terms of this Section. In determining whether such action is in the public interest, the benefit which would reasonably be expected shall be balanced against the reasonably foreseeable detriments of the activity. The extent to which the proposal is able to replace or ameliorate impaired or lost resources and features shall be considered in making this determination. Also, all soils and mineral extraction shall take place in conformance with the Township's Soil Removal Ordinance.

12.10 PUD DESIGN CONSIDERATIONS.

A proposed Planned Unit Development shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- (a) Perimeter setbacks.
- (b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- (c) Underground installation of utilities.
- (d) Insulation of pedestrian ways from vehicular streets and ways.
- (e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- (f) Noise reduction and visual screening mechanisms for adjoining residential uses.

- (g) Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- (h) Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
- (i) Screening and buffering with respect to dimensions and character.
- (j) Yard areas and other open space.
- (k) Density and intensity of development expressed in terms of percent of gross and net land area coverage and gross and net housing units per acre and the height of buildings and other structures.
- (l) The preservation of natural resources and natural features.
- (m) Architectural design and transitional use techniques incorporated into the proposal to minimize or ameliorate potential land use conflicts thereby facilitating the integration of the proposed use with surrounding uses.

12.11 PLANNING COMMISSION - FINAL ACTION.

After a public hearing, the Planning Commission shall recommend that the proposed project be approved, denied, or approved with conditions. The recommendation shall be based on review and findings of fact with respect to the standards and guidelines included in or referenced in this Chapter.

12.12 TOWNSHIP BOARD - FINAL ACTION.

After receiving the recommendation of the Planning Commission, the Township Board shall either approve, deny, or approve with conditions the PUD application and final site plan.

- (a) **Conditions.** In approving a Planned Unit Development, the Township Board may impose reasonable conditions which include but are not limited to conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protect the natural environment and conserve natural resources and energy, ensure compatibility with adjacent uses of land, and promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
 1. Be designed to protect natural resources; the health, safety, welfare, or social and economic well being of those who will use the land use or activity under consideration; residents or landowners immediately adjacent to the proposed land use or activity, or the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- (b) **Record of Conditions.** 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 applicant. The approving Township Board shall maintain a record of conditions which are changed. The final development plan, as approved, shall act as a restriction upon the development. The development must conform with the final development plan.

12.13 PERFORMANCE GUARANTEES.

The Township Board, after recommendation from the Planning Commission or at its own discretion, may require a performance bond or similar guarantee.

12.14 PHASING AND COMMENCEMENT OF CONSTRUCTION.

- (a) **Phasing.** If a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned Unit Development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall provide that at least thirty-five (35) percent of all proposed residential units are completed concurrent with the first phase of any non-residential construction; completion of at least seventy-five (75) percent of all proposed residential construction prior to the second phase of non-residential construction; and completion of one hundred (100) percent of all residential construction prior to the third or final phase of non-residential construction. The percentages shall be approximations and determined at the discretion of the Township Board. The percentages may be significantly varied should the Township Board determine that the applicant has presented adequate assurances that the residential component or components of the project shall be completed within a specified period.
- (b) **Commencement and Completion of Construction.** Construction shall be commenced within one (1) year following final approval of a Planned Unit Development or within one (1) year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. If construction is not commenced within such time, approval of the final plan for the project shall expire. An extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period. Moreover, in the event a final plan has expired, the Township Board may rezone the property in any reasonable manner following Planning Commission recommendation and a public hearing in accordance with Section 20.07. If a final plan has expired and, at the discretion of the Township Board, the property remains classified as Planned Unit Development, prior to the commencement of construction, a new application shall be required and shall be reviewed in light of the then prevailing conditions and applicable law and ordinance provisions.

12.15 EFFECT OF APPROVAL.

The Planned Unit Development amendment and all conditions imposed, if any, shall constitute the land use authorization for the property. All improvements and uses shall be in conformity with this amendment. The applicant shall record an affidavit with the County Register of Deeds which shall contain the following:

- (a) Date of approval of the PUD by the Township Board.
- (b) Legal description of the property.
- (c) Legal description of the required open space along with a plan stating how this open space is to be maintained.
- (d) A statement that the property will be developed in accordance with an approved PUD site plan and any conditions imposed by the Township Board unless an amendment thereto is duly approved by the Township upon the request and/or approval of the applicant or applicant's transferee's and/or assigns. Notice of any amendments shall be similarly recorded.

12.16 REVISION OF APPROVED PLANS.

- (a) **General Revisions.** Approved final plans for a Planned Unit Development may be revised. If the revision constitutes a 'Major' revision the approval must comply with the same provisions as applicable for new developments.
 - 1. Major changes include, but are not limited to, increases in density, land area, or building size; the addition of uses not authorized by the original Planned Unit Development approval; the rearrangement of lots, blocks, or building tracts; changes in the character or function of a street; and changes in the concept of the development.

Minor changes may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of the Zoning Ordinance and all other Township regulations or State law, and subject to a finding by the Planning Commission that:

- 1. Such changes will not adversely affect the initial basis for granting approval.
- 2. Such minor changes will comply with all applicable requirements of this Zoning Ordinance and all other Township regulations or state law, and will not adversely affect the overall Planned Unit Development in light of the description and purpose of such development.

12.17 APPEALS/VARIANCES.

The Board of Appeals is without jurisdiction to accept appeals or grant variances with respect to an approved Planned Unit Development or from the regulations of the PUD Planned Unit Development District.

12.18 OTHER REQUIRED PROCEDURES AND APPROVALS.

- (a) **Platting.** Where provisions of Michigan Public Act 288 of 1967 as amended (Subdivision Control act and the Tallmadge Township Subdivision Control Ordinance) apply to PUD projects, the proprietor shall be required to make

application for plat approval subsequent to final PUD approval.

- (b) **Site Condominium Subdivision Proposals.** Where a Planned Unit Development is to involve the technique of Site Condominium Subdivision, approval of the site condominium subdivision may be accomplished through the application, review, and approval process outlined in this Chapter as part of the PUD application for rezoning.

- (c) **Issuance of a Building Permit.** To insure conformance to an approved Planned Unit Development Plan, each principle structure or use indicated on an approved Planned Unit Development Plan shall be subject to review and approval under the provisions of Section 20.04, prior to the issuance of a building permit

ARTICLE XIII - GENERAL PROVISIONS

13.1 ZONING AFFECTS ALL STRUCTURES AND LAND AND THE USE THEREOF.

No structures land or premises shall hereafter be used or occupied and no building shall be erected, moved, removed, reconstructed, extended or altered except in conformity with the regulations herein set forth.

13.2 RESTORING UNSAFE BUILDINGS.

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any structure declared unsafe by the Building Inspector.

13.3 BUILDING PERMITS.

No structure shall hereafter be erected, enlarged, altered or reconstructed until a Zoning Permit has been obtained from the Township Zoning Administrator and a Building Permit has been obtained from the County Building Inspector. Provided, however, that in the Agricultural Districts 1, 2, and 3, agricultural accessory buildings shall not require a Building Permit. Plans for such agricultural accessory buildings shall be checked by the Zoning Administrator before construction is started to insure that the requirements of the Zoned Districts are met.

13.4 PENDING BUILDING PERMITS.

Any building permit issued prior to the effective date of this Ordinance shall be valid; provided, however that construction shall be commenced within sixty (60) days after said date and shall not thereafter be discontinued for a continuous period in excess of 60 days.

13.5 MIXED OCCUPANCY.

Before issuing a Zoning Permit for any premises intended for use as a combination of dwelling and commercial occupancy or where an increased number of dwelling units would result from a proposed alteration, the Zoning Administrator shall request a report from the Newaygo County Health Officer as to any hazards that exist or may be expected to exist from the proposed use together with his recommendations for any additional provisions or alterations necessary in the interests of safety or health. Such recommendations shall be complied with before issuance of a permit.

13.6 REQUIRED AREA OR SPACE.

No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced.

13.7 TRAFFIC VISIBILITY AND CORNER CLEARANCE.

On any corner lot in any zone, where no yard space is required, no fence sign structure or planting, which is over 30 inches in height above the curb line shall be erected or maintained within 20 feet of the intersection of right-of-way lines in order to prevent traffic hazards arising from inadequate visibility.

13.8 INSTITUTIONAL USES AND ESSENTIAL SERVICES.

Institutional uses are permitted in all zones, following the review and approval of a site development plan by the Dayton Township Planning/Zoning Commission, the Dayton Township Board, and the Newaygo County Planning/Zoning Commission prior to the issuance of a building permit. Before approving such a site plan such agencies shall determine that all aspects therein conform to the requirements of this Ordinance and that the physical lay-out and relationship of improvements will provide for the convenience, safety and welfare of the general public and will not adversely affect existing or potential, adjacent primary permitted uses.

Essential services may be located in any zone subject to the approval of the Dayton Township Board, providing that the reviews by the Township Planning/Zoning Commission and the County Planning/Zoning Commission, as required in Institutional Uses, shall precede Township Board action where a structure is to be erected.

13.9 YARDS.

Every lot must provide front, rear and side yards as required within its zone district. All front yards must face upon a street except that in the RL Lake Resort Residence District the lake frontage shall be the front yard. In no cases shall buildings be permitted within 30 feet of the street right-of-way. On streets with less than 66 feet width of right-of-way, the minimum of 30 feet shall be increased by one-half of the difference between the actual width of the right-of-way and 66 feet. On lots facing a major street or highway, the required front yard shall be a minimum of 100 feet from the boundary line of the street or highway. The following modifications may be made (amended 11/00)

- (1) On a lot facing upon a minor or local street where lots adjoining it on both sides have been built upon with a setback less than required by this Ordinance, the front yard may conform to the established front yard setback; provided, however, that no front yard may hereafter be less than one-half of the zone requirements of this Ordinance.
- (2) If forty percent (40%) of the frontage on one side of a street in a block has been developed the front yard so established shall prevail. This section shall not be construed to require a front yard of more than thirty (30) feet.

13.10 PRINCIPAL USE.

No lot may contain more than one (1) principal building provided that groups of apartment buildings, farm buildings, or retail business buildings under single ownership shall be deemed a principal use collectively.

13.11 ACCESSORY BUILDINGS (WITHOUT PRINCIPAL BUILDING).

No accessory building may be built upon any lot for which there is no principal building, except under the following conditions:

- (1) Farm accessory buildings shall not be subject to the above restriction.
- (2) Adjoining lots in single ownership may be considered one lot in considering accessory buildings.
- (3) In the RL Lake Resort District, where an owner has a lot across a street right-of-way from his principal building, construction of an accessory building on the lot may be approved by the Zoning Administrator provided its location conforms to Section 13.25 of this Ordinance.

13.12 ONE DWELLING PER LOT.

No more than one principal dwelling may be permitted on a lot or parcel unless specifically provided for elsewhere in this Ordinance.

13.13 CORNER LOTS.

Where a lot is bounded by two intersecting streets, the front yard requirement shall be met on one abutting street only, provided that no portion of the lot within 25 feet of the side lot line of any adjoining property may be utilized unless the front yard requirement of the adjoining property is met.

13.14 TEMPORARY PERMITS.

The following temporary uses are permitted by special temporary permit in districts as regulated herein. All such uses shall be terminated within 30 days after expiration of such permit.

- (1) Signs and Supplies. The storage of building supplies and machinery, temporary storage buildings and customary trade, contractor or architect's identification signs in connection with a construction project may be authorized by the Building Inspector for a period up to 12 months.
- (2) Subdivision Office. The Dayton Township Board, after a hearing, may authorize a Temporary Certificate of Occupancy for a dwelling in a new subdivision to be used as a sales and management office for a period of 12 months.
- (3) Temporary Structure Removed. Temporary buildings for uses incidental to construction work shall be removed within 30 days after completion or abandonment of work.
- (4) Emergency Temporary Dwellings. Temporary Dwellings for use following fire, storms or other acts of nature may be authorized by the Zoning Administrator. Temporary Dwellings may only be used by residents whose principal dwelling has been destroyed or damaged by fire, storms or other acts of nature. The Temporary Dwelling must be located on the same parcel as the principal dwelling. The Temporary Use Permit is valid for one (1) year only and may only be extended upon application to the Planning Commission. Temporary Dwellings must be removed within thirty (30) days of occupancy in the new or repaired principal dwelling. (11/00)

13.15 BASEMENT DWELLINGS.

The use of a basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. The use of a basement more than four (4) feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside. Further provided, that where one wall is entirely above grade level of the yard adjacent to said wall and access or egress to the out-of-doors is provided through said wall, the structure is not a basement dwelling.

13.16 WALLS AND FENCES.

Retaining walls and fences not more than four (4) feet in height are permitted in the required yards of all zones except as regulated in 13.07. Walls and solid fences of not more than six (6) feet in height are permitted in side or rear yards in any zone and a well maintained wire protective fencing without height limitation is permitted in all yards in the C1 and C2 Zones; provided, however, that in all cases the provisions of Section 13.07 and Article XVIII must be met.

13.17 HEIGHT EXCEPTIONS.

The height limitations of all zones may be exceeded by the following structures: parapet wall, chimneys, silos and farm barns, roof mounted television and radio antennas, monuments, cupolas, spires, or other ornamental projections, water towers or fire towers. In the Commercial Zones, chimneys, cooling and fire towers, elevator buildings and bulkheads, roof storage tanks and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line.

13.18 SEWER AND WATER.

Where public utility services are available, no Building Permit shall be issued for any building to be occupied by human beings, in whole or in part, for commercial, residential or recreational purposes unless provisions have been made to install public sewers and water service to such buildings; in the absence of public sewer and/or water, no Building Permit shall be issued for any building to be occupied by human beings in whole or in part for commercial, industrial or recreational purposes unless adequate provisions have been made for a safe water supply and sewage disposal system; evidence of compliance with the requirements of the District 5 Health Department and the Dayton Township Board shall accompany the application for a Building Permit. In no case shall a permit be issued for new septic tanks and drain fields, or modifications to old ones, until percolation tests have been made and unless the installation is made in accordance with the specifications provided in the Sanitary Code of District Health Department No. 5, of Lake, Newaygo, and Oceana Counties, Michigan, and the lot area restrictions of the Zone District are met.

13.19 REFUSE.

The storage, collection, or placing of refuse, discarded material or inoperable equipment or vehicles is prohibited in all zones except as provided in Article XVIII.

13.20 FLOOD PLAIN.

The Flood Plain areas of lakes, major rivers, and their branches and tributaries as determined from time to time by an engineer or agency designated by the Newaygo County Board shall be a public record of information kept in the office of the Township Zoning Administrator. No building for human occupancy shall be erected, or hereafter occupied if vacant, in Flood Plain areas.

13.21 EXCAVATION OF TOP SOIL.

Top soil shall not be stripped, excavated or otherwise removed on any premises for sale or for use other than on the premises except when in connection with construction and grading operations, the top soil is in surplus amounts; or as a product of authorized excavation of muck, peat, sand, gravel or other mineral deposits; or by special permit from the Dayton Township Board.

13.22 GREENBELT PRESERVATION.

In order to preserve water quality in rivers and streams of the Township and to prevent deterioration of those streams and the major Great Lakes tributaries to which these waters drain, it is necessary to regulate the use of adjoining land, within 300 feet of any stream. The Township will cooperate with other governmental agencies to meet their water quality standards.

13.23 CHANNELIZATION.

On any lake in Dayton Township, there shall be no channelization on lakefront properties which would increase the number of lake users and therefore substantially increase the dangers of polluting or degrading the water quality; of the lake.

13.24 ACCESSORY BUILDINGS. (HEIGHT AND SETBACK REGULATIONS).

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

- (1) No accessory building and no structure exceeding a height of thirty (30) inches shall be erected in any required front yard. Accessory buildings shall not exceed sixteen(16) feet in height, shall be at least ten (10) feet from any dwelling and at least five (5) feet from any other accessory building on the lot.
- (2) Accessory buildings in the rear yard are permitted three (3)feet from any interior side or rear lot line.
- (3) Where a corner lot adjoins the side yard of any adjacent lot no part of an accessory building and no part of the main buildings within twenty-five (25) feet of such common lot line shall be nearer the street than the full front yard required on the adjacent lot, and in either case the side yard requirements of the District shall be met along said common line.
- (4) Where a corner lot adjoins in the rear of another corner lot, a detached accessory building may be erected three (3) feet from such common rear lot line

provided the side street setback is maintained.

13.24 TRANSITION ZONING.

The following transitional uses are permitted on certain residentially zoned premises where the side yard adjoins a Commercial District:

- (1) The first one hundred-fifty (150) feet thereof may be utilized for off-street parking, subject to the provisions of Section 15.09.
- (2) Any single principal structure located or built completely upon the first one hundred-fifty (150) feet thereof may be used for a two-family dwelling or professional offices provided;
 - (a) Yards must meet the District requirements in which the lot is located.
 - (b) The building shall conform to the residential character of the neighborhood.
 - (c) Signs shall comply with the provisions of Section 16.02.

13.25 PRIVATE SWIMMING POOLS.

Private swimming pools are permitted in all districts, provided the following regulations are complied with:

- (1) The pool shall be maintained in a clean and healthful condition in accordance with local, county and state requirements.
- (2) No swimming pool shall be emptied in any manner that will cause water to flow upon another lot or be emptied on any adjacent land or street.
- (3) Every swimming pool shall be completely enclosed with a permanent substantial fence and gates at least five (5) feet in height above the ground level. No opening shall be designed or maintained as to permit access to the pool except under the supervision of the possessor or by his permission.
- (4) The swimming pool shall not be closer than ten (10) feet to any side or rear lot line and no part of any pool shall be constructed within the front yard or a required side street side yard.

13.26 STORAGE.

The storage and parking of trailers, trucks, vans or any type of mobile housing unit are prohibited in any front yard and required side yard or on any vacant lot. When stored in a rear yard the side yard setbacks shall be met. Such units shall be locked to prevent access by children.

The storage of boats and unlicensed or inoperable motor vehicles or recreational vehicles in any front or required side yard or on any vacant lot is also prohibited. This shall not be deemed to prohibit up to three (3) days of non-recurrent parking of a mobile home, trailer or boat in a side yard.

13.27 NON-RESIDENTIAL USES.

Public and institutional uses shall provide front, side and rear yards which are at least twice the height of the wall facing thereon, or the distance required by the zone district, whichever is the greater. Any such use which provides living quarters for more than ten (10) persons shall be located on a lot of at least two (2) acres.

13.28 NON-FARM SINGLE FAMILY DETACHED DWELLINGS.

One (1) non-farm single family detached dwelling shall be permitted, in the Prime Agricultural (AG) District, upon application to and determination by the Zoning Administrator that the proposal has eleven (11) or more points in accordance with the following criteria:

- (1) The distance from the proposed dwelling unit to the County primary, or secondary, or State or US Highway as measured from the centerline of the road is:
 - (a) Less than one (1) mile 2 points
 - (b) Between one (1) and two (2) miles 1 point
 - (c) Greater than two (2) miles 0 points

- (2) The number of occupied dwelling units currently located within one-half mile radius of the proposed dwelling is:
 - (a) Seven (7) or more 3 points
 - (b) Four (4), five (5), or six (6) 2 points
 - (c) Two (2), or three (3) 1 point
 - (d) One (1) or less 0 points

- (3) Utilizing the "Limitations to Agricultural Use" map (Figure 11 - DAYTON TOWNSHIP MASTER LAND USE PLAN) at least fifty (50) percent of the parcel proposed for development into non-farm residential is classified as being:
 - (a) Very severe or severe 4 points
 - (b) Moderate-severe or moderate 2 points
 - (c) Slight 0 points

- (4) During the last five years the parcel has been:
 - (a) Not used for crops or is woodland 2 points
 - (b) Used for hay, pasture, row or crops or other farmland 1 points
 - (c) Used for orchard or specialty crops 0 points

- (5) The distance from the proposed dwelling to the nearest feedlot, cattle or hog farm, liquid manure lagoon or storage area (and similar agricultural facilities or operations) is:
 - (a) Greater than one-half (3/4) mile radius 2 points
 - (b) Greater than one-quarter (1/4) mile but less than one-half (3/4) mile radius 1 points

(c) Less than one-quarter (1/4) mile radius 0 points

Applications scoring less than eleven points or involving more than one (1) non-farm dwelling shall be forwarded to the Planning Commission for consideration as a Special Exception Use, under the provisions of Section 18. The Zoning Administrator shall report to the Planning Commission on a regular basis regarding approved applications for non-farm dwellings.
(amended 11/05)

13.30 WIRELESS COMMUNICATION FACILITIES

EXEMPT USES

The following uses shall be exempt from the provisions and requirements of this section:

- Private mobile radio service facilities with antennas less than 100' in height;
- Citizen band radio facilities; short wave receiving facilities;
- Federally licensed amateur (ham) radio facilities;
- Satellite dishes; and
- Governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

PERMITTED USES

Subject to the standards and conditions set forth in this section, Wireless Communication Facilities shall be permitted uses in all zoning districts under the following circumstances;

- A. When an existing structure will serve as an Attached Wireless Communication Facility within a non-residential zoning district, and the existing structure is not, in the discretion of the Administrative Official, proposed to be materially altered or materially changed in appearance;
- B. When an existing structure will serve as an Attached Wireless Communication Facility within a residential zoning district and the accessory building associated with the Wireless Communication Facility is either not visible from any residence or can be screened to that extent and where the existing structure is not, in the discretion of the Administrative Official, proposed to be either materially altered or materially changed in appearance.
- C. When the proposed co-location upon an Attached Wireless Communication Facility which had been pre-approved for such co-location as part of an earlier approval by the City.
- D. When the existing structure which will serve as an Attached Wireless Communication Facility is a utility pole located within a right-of-way, where the existing pole is not proposed to be modified in a manner which, in the discretion of the Administrative Official, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

SPECIAL LAND USES

A Wireless Communication Facility may be authorized under the procedures as provided in Article XVIII, as a Special Land Use, if it is demonstrated by an applicant to the satisfaction of the Planning Commission and as agreed to by the Township Board

that a Wireless Communication Facility may not reasonably be established as a permitted use under this Section and is required in order to operate a wireless communication service.

An application for a Wireless Communication Facility as a Special Land Use must comply with the standards and conditions set forth in Article XVIII and the following specific regulations:

- A. At the time of the submittal, the applicant shall demonstrate to the satisfaction of the Planning Commission and the Township Board that location of a facility under the conditions required for a Permitted Use cannot meet the need required for operation of a system. The following criteria will be used by the Planning Commission and the Township Board to assist in determining the need for the facility to be located as proposed:
 - (1) Proximity to an interstate or major thoroughfare.
 - (2) Areas of population concentration.
 - (3) Concentration of commercial, industrial, and/or other business enters.
 - (4) Areas where signal interference has occurred due to tall buildings; masses of trees, or other obstructions.
 - (5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - (6) Other specifically identified reason(s) creating facility need.
- B. Wireless Communication Facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the character of the proposed site, neighborhood and general area, as approved by the Township.
- C. The proposal shall be reviewed in conformity with the co-location requirements of this section. In residential neighborhoods, locations shall be considered first on the following sites, not stated in any order of priority, subject to application of all other standards contained in this section:
 - (1) Municipally owned site
 - (2) Other governmentally owned site.
 - (3) Religious or other institutional site.
 - (4) Public park or other permanent open space areas when compatible.
 - (5) Public or private school site.
 - (6) Other locations if none of the above is available.
- D. The applicant must demonstrate to the satisfaction of the Planning Commission and the Township Board that a practical co-location is not available for the coverage area and capacity needs.
- E. Any new or modified Wireless Communication Facilities shall be designed and constructed so as to meet the co-location requirements of this section.

STANDARDS AND CONDITIONS APPLICABLE TO ALL FACILITIES

All applications for Wireless Communication Facilities whether Permitted Uses or Special Land Uses shall be reviewed in accordance with the following standards and

conditions, and, if approved, shall be constructed and maintained in accordance with such standards and any conditions imposed with a Special Land Use approval:

- A. Facilities shall be located and designed to be harmonious with the surrounding area. Among other things, all reasonable attempts shall be made and thoroughly explored to utilize existing structures on which to place facilities, i.e., to utilize Attached Wireless Communications Facilities.
- B. Wireless Communication Facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions, as confirmed by submission of a certification of compliance by the applicant's licensed engineer.
- C. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights. Structures which require or are proposed to have high intensity strobe lighting shall not be permitted.
- D. The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to colocate on the structure. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
- E. The setback of a new or materially modified support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the structure.
- F. Where the proposed new or materially modified support structure abuts a parcel of land zoned for a use other than residential, the minimum setback of the structure, and accessory structures, from that parcel shall be in accordance with the required setbacks for principal buildings as provided in the schedule of regulations for the zoning district in which the support structure is located.
- G. There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and, the type of equipment which will need to access the site.
- H. The division of property for the purpose of locating a Wireless Communication Facility is prohibited unless all zoning requirements and conditions are met.
- I. Where an Attached Wireless Communication Facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. 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. For co-location facilities served by an accessory building, there should be a single, architecturally uniform accessory building for all providers.
- J. The design and appearance of the support structure and all accessory buildings

shall be reviewed and approved so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the Wireless Communication Facility in a neat and orderly condition.

- K. The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.
- L. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
- M. A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonably prudent standard.
- N. The use of high intensity (strobe) lighting on a Wireless Communication Facility shall be prohibited, and the use of other lighting shall be prohibited absent a demonstrated need.
- O. Applications made which do not include the signature of the licensed operator of a wireless communication service at the time of processing by the Township may be tentatively approved, but shall not receive final approval unless and until the application has been amended to include a signature on behalf of a licensed operator. A tentative approval shall be valid for ninety (90) days. If, during a ninety (90) day tentative approval period, final approval is granted to authorize a Wireless Communication Facility within two miles of the property on which a facility has been tentatively approved, such tentative approval shall thereupon expire unless the applicant granted tentative approval demonstrates that it would not be feasible for it to co-locate on the facility that has been newly granted final approval.
- P. The antenna and other attachments on a Wireless Communication Facility shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number and size of such attachments, and shall be designed and constructed to maximize aesthetic quality.

APPLICATION REQUIREMENTS

1. A site plan prepared in accordance with Sections 7.05 and 8.05 of the Zoning Ordinance shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.
2. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.

3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
4. The application shall include a description of the monetary security to be posted with the Township to ensure removal of the facility when it has been abandoned or is no longer needed, as noted in the Section of this ordinance pertaining to Removal that is provided below. In this regard, the security shall, at the election of the applicant, be in the form of:
 - (1) Cash
 - (2) Surety Bond
 - (3) Letter of Credit or, An agreement in a form approved by the Township Attorney and recordable at the office of the Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys fees incurred by the Township in securing removal.
5. The application shall include a map showing existing and Known proposed Wireless Communication Facilities within the Township, and within areas surrounding the borders of the Township, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility.
6. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
7. The application fee, in the amount specified by the Township Board.
8. The owner or duly authorized representative of all ownership interest in the land on which the Wireless Communication Facility is proposed to be located shall sign the application. In addition, if a licensed entity intended to be the operator on the facility does not sign the application, approval shall be restricted as provided in this Section.

Any information provided with the application that is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the Township.

CO-LOCATION

The following criteria will be used by the Planning Commission and the Township Board to assist in determining whether Co-location shall be deemed to be practical for

purposes of this section:

- A. The owner of the existing wireless communication facility will accept market rent or other market compensation and the applicant will undertake to pay market rent or other market compensation for co-location.
- B. The site on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- C. The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- D. The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the intent and purpose of this section and the several standards contained herein.

Penalty for Failure to Co-locate or allow Co-location

- A. The policy of the Township is to require co-location when ever possible. Therefore, if a party who owns or otherwise controls a Wireless Communication Facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereafter be deemed to be a nonconforming structure and a nonconforming use, and shall not be altered, expanded or extended in any respect.
- B. If a party who owns a Wireless Communication Facility shall fail or refuse to permit a feasible co-location, and this requires the construction of a new wireless communication support structure, the party failing to permit a feasible co-location shall be deemed to be in direct violation of the policy, intent and purpose of the Township, and such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new Wireless Communication Support Structure within the Township for a period of five years from the date of the failure to permit the co-location. Such a party may seek a variance from the Zoning Board of Appeals if the applicant demonstrates entitlement to variance relief which shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services.
- C. Incentive Review of an application for co-location, and review of an application for a permit for use of a facility permitted under this Section, shall be expedited by the Township.

Removal

- 1. A condition of every approval of a Wireless Communication Facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:

- (a) When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - (b) Six months after new technology is available at reasonable cost as determined by the municipal legislative body, which permits the operation of the communication system without the requirement of the support structure, or with a support structure which is lower and/or more compatible with the area.
- 2. The situations in which removal of a facility is required may be applied and limited to portions of a facility.
 - 3. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Township Board.
 - 4. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
 - 5. The person who had used the facility shall immediately notify the Township Clerk in writing if and as soon as use of a facility ceases.

EFFECT AND APPROVAL

- 1. Subject to the provisions of Article XVIII for approval of Special Land Uses, final approval under this section shall be effective for a period of six (6) months.
- 2. If construction of a Wireless Communication Facility is commenced within two miles of the land on which a facility has been approved, but on which construction has not been commenced, the approval for the facility that has not been commenced shall be void thirty (30) days following notice from the Township.

ARTICLE XIV - NON-CONFORMING USES

14.1 CONTINUANCE OF NON-CONFORMING USE OR STRUCTURE.

The lawful use of any land or structure, exactly as such existed at the time of the enactment of this Ordinance may be continued even though such use or structure does not conform with the provisions of this Ordinance. Structures or uses non-conforming by reason of height, yards, and area or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, area or parking provisions are occasioned thereby.

14.02 UNLAWFUL USE NOT AUTHORIZED.

Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of regulations in effect immediately prior to the date of this Ordinance.

14.3 CHANGE OF USE.

The use of a non-conforming building may be changed to another non-conforming use if the Board of Appeals finds that such new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a non-conforming use to a prior non-conforming use nor to waive the other provisions of this Article.

14.4 RESTORATION AND REPAIRS.

Such repairs and maintenance work as are required to keep a non-conforming building or structure in sound condition may be made. If a non-conforming building or structure is damaged or destroyed to the extent of 60% of its real value by fire, flood, wind or other calamity, its reconstruction shall be in accordance with this Ordinance. Proof of extent of damage to be supplied by owner to the Board of Appeals for approval. A non-conforming use damaged to a lesser extent may be restored to its size at the time prior to such damage and its resumed. Any such restoration shall be started within a period of one (1) year of the time of such damage and diligently prosecuted to completion.

14.5 NON-CONFORMING DUE TO RECLASSIFICATION.

The foregoing provisions of this Article shall also apply to buildings, land or uses which hereafter become non-conforming due to any reclassification of districts or any subsequent change in the regulations of this Ordinance.

14.6 NON-CONFORMING USE DISCONTINUED.

No building or premises where a non-conforming use has ceased for more than twelve (12), consecutive months shall be devoted to a non-conforming use except as provided in Section 14.03.

14.7 NON-CONFORMING USES ELIMINATED.

All existing junk yards, as herein defined, with a location that is approved under the regulations of Article XVIII may continue if the operator complies with the requirements of Section 18.06 (3). Notwithstanding the provisions of Section 14.01, all other junk yards not meeting the above conditions shall be discontinued within three (3) years of notification by the Zoning Administrator. Non-conforming signs and billboards may be maintained until such time as the sign structure, frame or supports must be replaced, renovated, altered or moved. At such time the sign shall comply with all provisions of this Ordinance. This shall not be construed to prohibit the re-lettering or repainting of a sign or billboard.

The Township Board may acquire by purchase, condemnation or other means, private property or an interest in private property for the removal of any non-conforming use or structure. The cost or expense of a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

14.8 EXISTING PLATTED LOTS.

Any lot platted or created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zone district may be used in the following manner:

- (1) A lot in single ownership at the effective date of this ordinance which contains less than 80% of the Zone District width and area requirements and is not adjacent to lots owned by the same person, family, partnership or corporation may be sold and/or utilized for a single family dwelling, provided all other provisions of the Zone District are met.
- (2) Any lot which meets 80% or more of the zone district width and area requirements may be sold and/or utilized as a separate lot whether in single ownership or not; provided, however, that the front and side yard must conform to the requirements of the Zone District in which said lot is located. Any lot facing upon a major street or highway must conform to the provisions of Section 13.09.
- (3) Two (2) or more adjacent lots containing less than 80% of the zone district requirements and owned by the same person, family, partnership or corporation, at the effective date of this Ordinance, shall be redivided to meet at least 80% of the zone district requirements; provided that the Board may permit the use or redivision of less than four (4) such lots in conformity with the established character of existing and adjoining homes.

ARTICLE XV OFF-STREET PARKING AND LOADING REQUIREMENTS

15.1 DESCRIPTION AND PURPOSE.

The purpose of this chapter is to recognize that automobile and motor vehicles, while necessary to the social and economic development and well-being of the community, often cause conditions and problems of parking and storage which can have negative impact on the safety, appearance, health, and welfare of the community. It is the purpose of this chapter to provide minimum standards for the parking and storage of automobiles and motor vehicles to minimize their negative impacts on the community.

15.02 SCOPE.

In all zoning districts, off-street parking facilities shall be provided for the storage and parking of motor vehicles and automobiles for the use of occupants, employees, and patrons of all residences, buildings, structures, businesses, or other establishments erected, constructed, or commenced after the effective date of this Ordinance. Such space (or spaces) shall be maintained and not be encroached upon so long as the building, structure, business, or enterprise remains, unless an equivalent number of such spaces are provided elsewhere, in conformance with this Ordinance.

15.03 GENERAL REQUIREMENTS.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as follows:

- (a) **Off-Street Parking for One and two-family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- (b) **Off-Street Parking for Non-Residential Uses.** Off-street parking facilities required for non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership or a use easement, duly recorded with the County Register of Deeds, shall be shown for all land areas intended for use as parking by the applicant.
- (c) **Location on Site.** No part of any public or private parking area, regardless of the number of spaces provided, shall be located closer than ten (10) feet to any road right-of-way line.

In the Residential zoning districts, off-street parking for residential uses may be located only within a side or rear yard. In the AG, Commercial zoning districts or in Residential Districts for non-residential uses, off-street parking may be permitted in all front, side, and rear yard areas, however, all parking areas must

be located at least ten feet (10') from the road right of way or side and rear lot lines.

- (d) **Designated Parking Facilities.** Any area once designated as required off-street parking shall never be changed to any other use, unless or until equal facilities are provided elsewhere. Off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- (e) **Collective Off-Street Parking.** Two or more buildings or uses may collectively provide the required off-street parking; in which case, the required number of parking spaces shall not be less than the sum of the requirements for the individual uses computed separately.
- (f) **Non-Overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 15.06.
- (g) **Storage:** A parking lot may not be used for the storage or parking of trailers, mobile homes, travel trailers, boats, boat trailers, or junked or wrecked vehicles of any type; for the storage of merchandise or industrial equipment or material; or as a dump for refuse of any description.
- (h) **Repair Prohibited.** No repairs or service to vehicles shall be permitted on areas designated as required off-street parking.
- (i) **Uses Not Specified.** For those uses not specifically mentioned under Section 15.06, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

15.04 PARKING LOT LAYOUT AND CONSTRUCTION.

Off-street parking facilities containing five (5) or more spaces shall be designed, constructed, and maintained in accordance with the following requirements:

- (a) **Review and Approval Requirements.** Plans for the construction of any parking lot in conjunction with a new development shall be submitted for review and approval according to the normal site plan review procedures of Chapter 11. Plans shall be drawn at a scale showing existing and proposed grades, drainage, watermains and sewers, surfacing and base materials, and the proposed parking layout.
- (b) **Access.** All spaces shall be provided adequate access by means of maneuvering aisles. Backing directly onto a street or alley shall be prohibited.
- (c) **Ingress and Egress.** Adequate ingress and egress to a parking lot shall be provided by means of clearly defined and limited drives, and such drives shall be located so as to minimize traffic congestion. Ingress and egress to a parking lot in a non-residential district shall not cross through land zoned for single-family residential use. No entrance or exit from any parking lot in a non-residential

district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district. All driveway entrances shall be reviewed and approved by the Township Engineer, County Road Commission or State Department of Transportation.

- (d) **Surfacing.** All parking and loading facilities and access drives for uses other than one and two family residential uses, active farms, and accessory farm produce sales shall be provided with a pavement surface consisting of bituminous asphalt or concrete.
- (e) **Drainage.** All off-street parking and loading areas shall be graded and drained to dispose of surface water. No surface water shall be permitted to drain onto adjoining properties. No surface water drainage shall be permitted to drain across a public sidewalk. All drainage plans shall be approved by the Township Engineer and submitted to the County Drain Commissioner for review and comment.
- (f) **Obscuring Fences or Greenbelts, and Landscaping.**
 - 1. Except when accessory to one or two family dwelling and permitted agricultural uses, each off-street parking area which abuts a Residential zoning district shall be provided with a continuous and obscuring fence, wall, or greenbelt.
 - 2. Where a parking lot lies adjacent to a road right-of-way all land between a parking lot and the front property line or street right-of-way shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material, and ornamental trees as approved by the Planning Commission during site plan review shall. The ground area shall be planted and kept in lawn or other live ground covering. All such landscaping and plantings shall be maintained in a healthy, growing condition, neat and orderly in appearance.
 - 3. Whenever a parking lot contains fifty (50) or more parking spaces internal landscaping shall be provided within the parking lot, designed to break up the expanse of parking. Landscaped areas may be combined or dispersed throughout the parking lot, and shall include ornamental trees, shrubs, and other plant materials as approved by the Planning Commission during site plan review.
- (g) **Wheel Stops.** Wheel stops or curbing shall be provided for all parking spaces to prevent any vehicle from projecting beyond the parking lot area, bumping any wall or fence, or encroaching upon any landscaping.
In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on, or hang over, any part of the sidewalk.
- (h) **Striping.** All spaces shall be outlined with three (3) inch wide strips of paint, the color of which contrasts with the parking lot surface.
- (i) **Lighting.** With the exception of facilities for one and two-family dwellings and permitted agricultural uses, the parking and loading facilities utilized during night-time hours shall be artificially illuminated. All lighting used to illuminate any off-

street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed downward or shielded so as not to shine onto any adjacent properties or public rights-of-way.

- (j) **Maintenance.** All parking areas shall be maintained in good condition, free of dust, trash, debris, and refuse.
- (k) **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as reasonably necessary by the Planning Commission for the protection of abutting properties in a residential district.

15.05 PARKING LOT DESIGN STANDARDS

A. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

PARKING LOT DESIGN STANDARDS				
Parking Pattern	Two-Way Aisle Width	One-Way Aisle Width	Parking Space Width	Parking Space Length
Parallel Parking	18 ft.	12 ft.	9 ft.	25 ft.
30-75 degree angle	24 ft.	12 ft.	9 ft.	21 ft.
76-90 degree angle	26 ft.	15 ft.	9 ft.	18 ft.

15.6 TABLE OF REQUIRED NUMBER OF PARKING SPACES.

The minimum number of off-street parking spaces by type of use in all zoning districts shall be determined in accordance with the following schedule:

a. Minimum Parking Requirement

The Schedule of Off-Street Parking Requirements provided in section (c) below is the suggested minimum off street parking for various uses or similar uses as determined by the Planning Commission if not specifically listed. The Planning Commission may reduce the minimum parking spaces required if the applicant has shown to the satisfaction of the Planning Commission that the minimum required spaces provide in the Schedule of Off-Street Parking is not needed.

b. Maximum Parking Requirement

1. To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no parking lot shall have parking spaces totaling more than an amount equal to ten percent (10%) greater than the minimum parking space requirements, as determined by the Schedule of Off-Street Parking Requirements, except as may be approved by the Planning Commission.
2. The Planning Commission, upon application may grant additional spaces beyond

those permitted in subparagraph 1, above. In granting such additional spaces the Planning Commission shall determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking needs of the particular use and that the additional parking will be required to avoid overcrowding of the parking area. The actual number of permitted spaces shall be based on documented evidence of use and demand provided by the applicant.

c. The minimum required off-street parking spaces are set forth as follows:

For the purposes of this Section Usable Floor Area shall be defined as; The area of all floors computed by measuring the interior dimensions of a building excluding maintenance rooms, attic, basement and storage areas.

The Planning Commission shall use the closest use possible for any use that is not specifically listed below:

DAYTON TOWNSHIP	
SCHEDULE OF OFF STREET PARKING REQUIREMENTS	
Use	Parking Space per Unit of Measurement
Residential	
Single family dwellings	Two (2) for each dwelling unit
Two family dwellings	Two (2) for each dwelling unit
Multiple family dwellings	Two (2) for each dwelling unit, plus one (1) additional space for each two (2) units
Institutional	
Churches, theaters, assembly areas, auditoriums, gymnasiums	One (1) space for each four (4) seats or each eight feet (8 ft.) of pew length or one (1) space for and each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Schools, elementary and middle	Two (2) spaces for each three (3) employees, plus amount required for auditorium or gymnasium seating
Schools, secondary, trade, industrial, and institutions of higher learning	One (1) space for each eight (8) students, plus one and one-half (1½) spaces for each classroom, plus amount required for auditorium or gymnasium seating

Commercial

Vehicle wash establishments (self service or automatic)	One (1) space for each five (5) stalls
Beauty/barber shop	Three (3) spaces for each chair
Bowling alleys	Four (4) spaces for each bowling lane plus required spaces for each accessory use
Assembly halls without fixed seats	One (1) space for each three (3) persons allowed within the maximum occupancy load established by any applicable codes or ordinances
Restaurants - without drive-through facilities	One (1) space for each one hundred square feet (100 sq.ft.) of usable floor area or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space per one hundred square feet (100 sq.ft.) of usable floor area or one (1) space per one and one-half (1½) persons allowed within the maximum occupancy load under the applicable codes, whichever is greater
Vehicle service stations	One (1) space per service stall, plus one (1) space per pump island, plus one (1) space for the maximum number of employees on the premises at any one time
Personal service establishments not otherwise specified	One (1) space for each fifty square feet (50 sq.ft.) of usable floor area
Furniture, appliance and household goods retail	One (1) space for each one thousand square feet (1,000 sq.ft.) of usable floor area
Funeral homes and mortuary establishments	One (1) space for each fifty square feet (50 sq.ft.) of usable floor area
Open air businesses	One (1) space for each two hundred square feet (200 sq.ft.) of indoor usable floor area plus one (1) space for each one thousand square feet (1,000 sq.ft.) of outdoor display area
Retail stores not otherwise specified	One (1) space for each two hundred square feet (200 sq.ft.) of usable floor area
Hotels and motels	One (1) space for each guest room, plus required spaces for any accessory uses
Video rental stores	One (1) space for each one hundred square feet (100 sq.ft.) of usable floor area plus one (1) space for the maximum number of employees on the premises at any one time

Offices

Banks, credit unions, savings and loan associations and other similar uses	One (1) space for each one hundred and fifty square feet (150 sq.ft.) of usable floor area plus three (3) spaces for each non-drive through automatic teller machine
Offices not otherwise specified	One (1) space for each three hundred square feet (300 sq.ft.) of usable floor area
Medical and dental offices and clinics	One (1) space for each seventy-five square feet (75 sq.ft.) of waiting room area plus one (1) space for each examining room, dental chair, or similar use area

Industrial

Manufacturing, processing, and research establishments and Industrial uses not otherwise specified	One (1) space for each one thousand square feet (1,000 sq.ft.) of gross floor area plus those spaces required for offices located on the premises
Warehouses and wholesale establishments	One (1) space for each two thousand square feet (2,000 sq.ft.) of gross floor area plus those spaces required for offices located on the premises

15.04 OFF-STREET LOADING REQUIREMENTS

- A. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise there shall be provided and maintained on the lot adequate space for standing, loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
- B. All loading spaces shall be located in the side or rear yard and shall be computed separately from off-street parking requirements.
- C. Loading spaces for non-residential uses in Residential Districts shall be located in the rear yard and shall be computed separately from off-street parking requirements.
- D. In Industrial Districts at least one (1) loading space shall be provided. All loading spaces shall be at least twelve feet by fifty five feet (12 ft. x 55 ft.) or a minimum of six hundred sixty square feet (660sq.ft.) in area. A minimum fourteen feet (14 ft.) clearance height shall be provided. Loading spaces shall only be permitted off-street and in the rear yard or interior side yard. All dedicated loading spaces shall be provided with a pavement of either asphalt or concrete.

ARTICLE XVI - SIGNS

16.01 DESCRIPTION AND PURPOSE

Regulating commercial messages or advertising commercial businesses. A sign is a fixture using colors, forms, symbols, or writing to advertise or identify a business product, service, or activity.

16.02 DEFINITIONS

Words and phrases shall have the meaning as defined in this Ordinance. Words and phrases not specifically defined shall have the meaning as generally accepted or ordinarily used.

- A. Accessory Sign: A sign providing information customarily accepted or expected such as "telephone" or "restroom."
- B. Action Sign: A sign that uses movement, lighting, or animation to create a special effect or message.
- C. Awning Sign: A sign attached against the surface of an awning as opposed to a marquee.
- D. Banner: An advertising sign made of fabric or fabric-like material having no supporting framework attached at all edges against a building.
- E. Billboard: A freestanding off-premises sign.
- F. Changeable Sign: A sign having a surface that allows characters, letters, or illustrations to be changed or rearranged on the surface, not including signs or that portion of a sign that offers the time, temperature, or Dow Jones Industrial Average.
- G. Directional Sign: Traffic control signs customarily accepted or expected at driveways and parking areas having "arrows" or the words "enter" or "exit."
- H. Freestanding Sign: A sign supported by structures or supports that are placed on or anchored in the ground and that is independent from and not attached to any building or other structure.
- I. Ground Sign: A freestanding sign with a base that is directly attached to the ground and does not use structural supports to extend its height.
- J. Inflatable Sign: Constructed of vinyl or similar material which is filled with air or gas which may or may not float or be tethered to the ground.
- K. Mansard or Marquee Signs: Signs attached to or made a part of a mansard roof or building marquee.
- L. Portable Sign: A sign designed to be moved from one location to another,

including:

1. Signs on structures not permanently attached to the ground.
2. Vehicles containing advertising messages.

Usage of such portable signs shall require the following conditions:

Permit: A permit shall be required and may be obtained from the Zoning Administrator.

Time: A time restriction of not more than two (2) weeks in a one (1) year period. This shall require approval by permit from the Zoning Administrator.

Identification: An identification tag indicating the name, address, and telephone number of the portable sign owner shall be permanently affixed to the sign.

Safety: Placement and installation of the sign shall adhere to all building and electric codes and the requirements of this Ordinance. No sign shall be placed in a location which obstructs the vision of motorists entering or exiting driveways. There shall be no flashing lights on the sign.

- M. Projecting Sign: A sign attached to a framework extending perpendicular to the face of a building in such a way that it projects beyond the building's vertical plane.
- N. Pylon Sign: A freestanding sign extending above the ground by means of a pole or other single vertical support member.
- O. Roof Sign: A sign erected on the roof of a building that may or may not extend above the roofline.
- P. Seasonal Sign: A temporary sign, located within the property lines of a dwelling advertising seasonal sales of produce or Christmas trees.
- Q. Suspended Sign: A sign that is suspended from the underside of a structural surface above.
- R. Temporary Sign: A sign not permanently attached to the ground or a building. Temporary signs are defined as including the following types only:
1. Construction Sign: A sign placed at the site of a construction project which may only contain information related to the ownership, address, financing, design firms, description of the project, and a depiction of the finished product.
 2. Political Sign: A sign containing a political message concerning a candidate or ballot proposal at a forthcoming election.
 3. Real-Estate Sign: A sign advertising the sale or lease of the property on which it is located.
- S. Wall Sign: A sign attached flat against the wall of a building or located parallel to the wall and projecting no more than eighteen (18) inches from said wall.

16.03 COMPUTATION OF SIGN DIMENSIONS

- A. The area of a sign shall be computed by an area that encompasses the entire outside limits of the writing, graphics, or display as well as the background and framing, but not including the structural support members providing the support structure, is incidental to the message, and does not include any writing, graphics, or display.
- B. Signs having more than two sides are not permitted, provided, however, signs having identical back-to-back messages and being less than 24 inches in thickness, shall be considered one (1) sign for purposes of computing sign area. Signs shall be measured as the sum of all sides meeting the area described above.
- C. Corner lots and parcels having frontage on more than one street shall be allowed the sign area for each frontage according to the district standards. Each frontage shall be said to constitute a percentage of the total frontage based on the relative frontage width. The total sign area on any frontage may not exceed the percentage of the parcel's total signage area that is derived from the parcel width on that street. Sign area may not be accumulated and used on one frontage in excess of that which would normally be allowed.
- D. Sign height shall be computed as the distance from the top of the highest point of the sign to the normal grade level as determined to be the lowest of either an existing grade or a newly established grade exclusive of any filling, berming, or mounding done for the purpose of locating the sign.
- E. All signs shall be located at least ten feet (10 ft.) from any right-of-way, lot line, driveway, parking area, internal drive, utility, or structure. This shall include support structure for the sign as well as the sign itself.
- F. Signs shall be permitted within a clear-vision area only when their height is less than three feet (3 ft.) or greater than ten feet (10 ft.) providing freestanding signs have support members no greater than twelve inches (12 in.) in width or diameter.
- G. Lighting must be directed to the sign only so that lighting does not reflect on neighboring property or into traffic. No flashing lights are permitted, or lighting with the appearance of traffic control devices.

16.04 SIGNS IN RESIDENTIAL AND AGRICULTURAL DISTRICTS

A. The following signs shall be permitted in all Residential and Agricultural Districts subject to the standards indicated herein:

Sign Type	Number of signs Sign Standards
Professional or Nameplate	1 sign not to exceed 1sf
Temporary signs for sale or lease of property	1 sign not to exceed 8sf
Real Estate Development sign	1sign as permitted in Section 13.14
Permitted Non Residential Use Sign	1 sign not to exceed 12sf
Farm/Farm Crop Sign	No limit so long as signs are customary crop or seed signs on active farms
Seasonal Sign	1 Temporary or portable sign, located within the property lines, advertising seasonal sales subject to the following: c. Display period no more than ninety days. b. Area no more than 32sf

- B. SIGN STANDARDS FOR RESIDENTIAL AND AGRICULTURAL DISTRICTS
General standards applicable to all signs, unless otherwise permitted:
- a. Illumination: No sign shall be lighted
 - b. Nameplate or mailbox signs with an area less than 72 square inches may be placed within a front yard,
 - c. All signs listed herein shall be set back at least 13'. Set back distances must be measured from the road right of way. Also see Clear Vision Corner Requirements for corner lots (Section 3.04c)
- C. Signboards and Billboards in the A-1 District. For the convenience of the travelling public and the preservation of values in community business areas, local service billboards are permitted on any road in the A-1 Agricultural District within a radius of one mile from the boundaries of a city or village subject to the following provisions:
- (a) The billboards must serve to identify a Newaygo County community or advertise a Newaygo County community business.
 - (b) The billboard shall not exceed thirty two (32) square feet area.
 - (c) The billboard shall not be nearer than three-hundred thirty (330) feet to any road intersection, any other billboard or any residential building.

16.05 SIGNS IN THE COMMERCIAL (C-1) and (C-2) DISTRICTS

A. The following signs shall be permitted in the C – 1 and C – 2 Commercial Districts subject to the standards indicated herein:

	Sign Type	Total number of signs permitted per street frontage	Specific Standards
1	Wall Sign	1	<ul style="list-style-type: none"> a. Shall be flat and parallel to the face of the building wall b. Shall not extend more than 15" from the building wall, however, when a wall sign extends more than 3" from the building the sign must be at least 8' above grade level. c. The width of a wall sign shall not exceed 90% of the width of the wall to which it is attached or related
2	Free Standing/ Pylon sign	1	<ul style="list-style-type: none"> a. Shall be set back at least 10' from the road right of way b. The Sign area shall not exceed 200sf c. Monument signs shall not exceed 5' in height. Pylon signs shall have at least 8' clearance between the ground and the bottom edge of the sign and shall not exceed 25' in height.
3	Miscellaneous signs	These signs are permitted in addition to the total allowable signs.	<p>The following signs are permitted in addition to the other signs permitted in the Commercial and Industrial Districts</p> <ul style="list-style-type: none"> a. Temporary sign - one (1) temporary sign, located within the property lines, advertising special sales or services subject to the following: <ul style="list-style-type: none"> 1. The total display period shall not exceed ninety days per year. 2. No sign shall exceed 16sf in area b. Directional sign - directional signs or lettering displayed over individual entrance doors or bays c. Insignias - Customary lettering which are structural part of a gasoline pump d. Credit Card Signs - A non illuminated sign announcing acceptance of credit cards e. Parking Lot signs - Parking lot or parking area signs subject to the following: <ul style="list-style-type: none"> 1. Sign shall only be used to designate entrance, exit or conditions of use. 2. Total area shall not exceed 12sf
4	Off Premises sign and Billboards	1 per lot or parcel	<ul style="list-style-type: none"> a. Except for Local Service Billboards permitted in the A-1 "Agricultural District" Off Premises signs or Billboards shall be located only within the C-1 or C-2 Commercial Districts. b. Signs shall be located on a vacant lot or parcel. No other accessory principal use shall be located on the same lot or parcel c. Sign shall not exceed 300sf in area d. Vacant lots or parcels must meet the minimum area requirements for lots or parcels in the Commercial zoning district in question, however, A Billboard or off premises sign shall not be placed on a lot with less than 100' of road frontage. Signs located on the parcel must comply with all height and set back regulations as noted in this Section. e. Off premises signs and billboards on the same side of the street shall be spaced at least one thousand feet (1,000') apart.
5	Pennants and Banners	N/A	<ul style="list-style-type: none"> a. No permit is required if posted for a period not to exceed 30 days and if maintained in good repair. b. Periods of placement in excess of 30 days shall require approval by the Zoning Administrator

B. Unless otherwise permitted, no sign shall be permitted in the C-1 and C-2 Districts unless, accessory to the business conducted on the property. Further,

all signs in the C-1 and the C-2 Districts shall comply with the following standards:

SIGN STANDARDS FOR COMMERCIAL DISTRICTS

General standards applicable to all signs, unless otherwise permitted:

- a. Illumination: No sign shall be lighted by flashing or intermittent illumination. All sources except diffused lighting within translucent signs, used for the illumination of signs, businesses, buildings, or areas surrounding them shall be completely shielded from the view of vehicular traffic using the road or roads abutting the business property.
- b. Except as may be otherwise permitted herein the height of a sign shall not exceed thirty five feet (35') in height.

16.06 SIGNS IN PARKING AREAS

No sign, other than entrance, exit, and condition of use signs, shall be maintained and the aggregate area of all such signs shall not exceed twelve square feet (12 sq. ft.).

16.7 PENNANTS AND BANNERS.

Temporary pennants, flags, or banners may be permitted in any business or industrial zoning district for a period of not more than thirty (30) days without a permit, provided that they are kept in a state of good repair.

16.8 SIGN MAINTENANCE.

A sign 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 sign must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.

ARTICLE XVII - MOBILE HOMES, MOBILE HOME OR TRAILER PARKS

17.1 LOCATION.

Pursuant to the Joint Comprehensive Development and Growth Management Plan adopted by Dayton Township, Sheridan Township and the City of Fremont; The Mobile Home Park land use classification shall be limited to land area within the City of Fremont currently occupied by Mobile Home Parks. No additional land is planned for future mobile home park development due to the following reasons as documented in the Joint Comprehensive Development and Growth Management Plan: lack of public utilities and infrastructure in the Townships; due to the fact that two of the four existing parks within the City have undeveloped expansion areas, and because of the existence of four Mobile Home Parks which provide sufficient opportunities for mobile home living in the area.

ARTICLE XVIII - SPECIAL EXCEPTION USES

18.0 INTENT.

In a rural area certain uses will from time-to-time, be planned which are not of so general a nature as to warrant their inclusion in any specific district or districts. In other cases, an exceptional use may be the mining of minerals or the drilling of oil and gas wells and the location of such natural resources cannot be determined and defined by establishing zone lines. Certain uses, such as junk yards, though necessary to day's life pattern, should only be permitted where the best use of surrounding land would not be jeopardized by the presence of such a facility and where their presence will not threaten the public health and general welfare.

18.01 TYPES OF USES REQUIRING APPROVAL OF THE DAYTON TOWNSHIP PLANNING COMMISSION AND THE DAYTON TOWNSHIP BOARD.

Uses permitted under this article as referenced in each zoning district

18.2 PROHIBITED USES.

Uses not similar to those above are not permitted under this Article.

18.03 APPLICATION AND REVIEW PROCEDURE

- (1) APPLICATION. Applications shall be submitted through the Township Clerk to the Township Planning/Zoning Commission; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover the cost of processing the application. No part of any fee shall be refundable.
- (2) DATA REQUIRED IN APPLICATION. Every application shall be accompanied by the following information and data:
 - (a) Special form supplied by the Township Clerk filled out in full by the applicant.
 - (b) Site plan, plot plan, or development plan drawn to a readable scale, showing the location of existing natural features and proposed man-made facilities to be part of the site, the location of all existing and proposed structures, the types of buildings and their uses.
 - (c) Preliminary plans and outline specifications of the proposed development.
 - (d) A District Health Department on-site sewage disposal permit and/or a water supply permit, as required.
 - (e) A statement with supporting evidence regarding the required findings specified in Section 18.03 F.

- (3) PLANNING COMMISSION PUBLIC HEARING. Prior to submitting recommendations, the Planning/Zoning Commission shall hold a public hearing on each application after giving notice of the hearing in a newspaper of general circulation in the Township, to the owner of the property in question to all persons to whom any real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by ordinary mail to the respective owners and tenants at the address given not less than five (5) nor more than fifteen (15) days before the date the application will be considered. Such notice shall indicate the place, time and subject of the hearing.
- (4) PLANNING COMMISSION RECOMMENDATION. Upon conclusion of such hearing procedures, the Planning Commission shall transmit a written recommendation within thirty (30) days to the Township Board setting forth the reasons for the acceptance, denial or modification of the special exception permit application. Such recommendation shall be forwarded to the Township Clerk.
- (5) TOWNSHIP BOARD ACTION. Upon receipt of the Planning Commission recommendation, the Township Board shall consider the special exception permit application at its next regular meeting. The Township Board shall accept or reject the application based upon materials received and testimony recorded at the public hearing. Following favorable action by the Township Board, the Clerk shall issue a Special Exception Permit, subject to site plan review and/or other conditions as have been placed on such permit by the Planning Commission and Township Board. All conditions shall be clearly specified in writing.
- (6) GENERAL STANDARDS FOR MAKING DETERMINATIONS. The Planning Commission shall review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:
 - (a) Will be harmonious with and in accordance with the general objectives of the Master Land Use Plan of current adoption;
 - (b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
 - (c) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (d) Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;

- (e) Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishments of the proposed use shall be able to provide adequately any such service;
- (f) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- (g) Will not involve uses, activities, processes, material and equipment and 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;
- (h) Will be consistent with the intent and purposes of this Ordinance;

18.04. GRAVEL PITS - EXTRACTION OF MINERALS.

Gravel pits, including the removal of any soil resources are permitted when authorized by the Dayton Township Planning Commission and the Dayton Township Board after public hearing. The following procedures and conditions shall be met before approval of any such proposal is given:

- (1) Any owner, lessee or other person shall file an application for a permit with the Zoning Administrator. Said application shall contain the following information:
 - (a) Name of owner of lands from which removal is to be made.
 - (b) Name of applicant requesting such permit.
 - (c) Location, description and size of the area from which removal is to be made.
 - (d) Proposed method of removal and equipment to be used in the removal.
 - (e) Proposed method of restoration of area after removal of resources is completed.
- (2) The application shall be accompanied by a map of the parcel, indicating all buildings, streets, drainage facilities and natural features within 200 feet thereof, as well as location of drives and any temporary structures to be erected on the premises shall be presented with the application.

- (3) Prior to holding a public hearing, the Dayton Township Planning Commission shall submit the application and required maps to the Newaygo County Planning Commission for study and opinion and shall seek the advice of the County Road Commission or an Engineer designated by the County, the County Drain Commissioner and the Soil Conservation Service to determine that the proposed use will not severely threaten the public safety or the property rights of others and that the Sedimentation Control Standards of the Newaygo County will be met.
- (4) In making a decision, the Dayton Township Planning Commission shall determine that the following conditions will be met:
 - (a) The change in the natural contour of the land during mining operations and at cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and for all trespassers.
 - (b) No business or industrial structures or buildings of a permanent nature shall be erected, except when the mining activity occurs in a Commercial or Industrial District where such buildings are a permitted use.
 - (c) No truck parking or truck storage shall be located within 200 feet of any adjacent residence, or within 50 feet of any adjoining property.
 - (d) A well-maintained wire or painted wooden fence will be erected on any side adjoining a residential property.
 - (e) No part of the removal shall take place closer than 200 feet to the nearest adjacent residence, or closer than 100 feet to any street line.
 - (f) The proposed restoration elevations will be compatible with surrounding areas, and adequate safeguards are being made to insure proper drainage.
 - (g) The property will be restored by the replacement of topsoil and such soil shall be stabilized by appropriate planting.
 - (h) All truck traffic shall be directed away from residential streets
- (5) The Township Board shall require such bond as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not met.

18.5 OIL, GAS OR OTHER DRILLING ACTIVITY.

Oil and gas wells, including the drilling operations for any underground resources, though not controlled by this Ordinance shall comply with the following conditions:

- (1) No truck parking or storage shall be located within 200 feet of an adjoining residence or within 50 feet of an adjoining property line.
- (2) All truck operations shall be directed away from residential streets.

18.06 JUNK YARDS.

In the A1, A2, or A3 Districts where property abuts a major street, a fenced junk yard may be permitted by the Board under the following conditions:

- (1) Requests for such uses shall first be referred to the County Health Department and the Dayton Township Planning Commission for reports upon the effect such use would have upon the surrounding area.
- (2) If the Board receives a favorable report from the Planning Commission, a public hearing shall be held before a permit is granted.
- (3) In making its decision the Planning Commission shall determine that the following conditions exist and will be maintained:
 - (a) The location shall have preliminary approval from the County Health Department and other public agencies charged with the protection of the general welfare and the resources of the County.
 - (b) The site shall be at least 500 feet from any dwelling unit, church, school, public building, public or semi-public place including parks and recreation areas.
 - (c) The area shall be completely enclosed by a solid fence of at least 6 feet but not to exceed 8 feet in height and no material stored within the fenced area shall be visible above said fence.
 - (d) No dumpings of garbage or trash shall be permitted.
 - (e) The site shall not create a nuisance adversely affecting adjoining properties.

18.07 SERVICE STATIONS, AUTO REPAIR SHOPS, AUTOMOBILE SALES AREAS

- (1) **WHERE PERMITTED.** An automotive repair shop, automotive trailer or boat sales area or motor vehicle service station, while necessary, may be detrimental to adjacent land values and to the public safety and welfare if located without due consideration of conditions and surroundings. No permit for such uses shall be issued other than in the C1 and C2 Districts. The sale of used automobiles, trailers, mobile homes, recreational vehicles or boats as an accessory use to a service station, or automotive repair shop is prohibited except in the C1 District.
- (2) **APPLICATION FOR PERMIT.** Any person desiring to use any building for the above uses shall make application as per Section 18.03. In addition, such shall set forth the following information:

- (a) A plot plan drawn to scale showing the location premises and the building to be erected thereon; the street entrances and exits and driveways; the location of fuel tanks, pumps, lifts and other appurtenances.
 - (b) The location, type of structure and present use of all buildings within three hundred (300) feet of the boundary lines of the premises.
- (3) REQUIREMENTS. The Township shall not authorize the issuance of such permit unless the plot plan shows that:
- (a) The lot has a street frontage of at least one hundred (100) feet and an average depth of at least one hundred (100) feet.
 - (b) The walls of any structure where oils, fuels, lubricants, gases or other flammable materials are used or stored are set back at least twenty (20) feet from every property line.
 - (c) The area used for the outdoor parking of vehicles conforms to the provisions of Article XV.
 - (d) All structures requiring the use of storage of fuels, gases or other highly flammable materials shall be at least three hundred (300) feet from any school, church, hospital, public building, theater or other building of public congregation, playground, fire house or another use similarly employing or storing such materials.

18.08 ACCESSORY APARTMENT OR "ECHO" HOUSING.

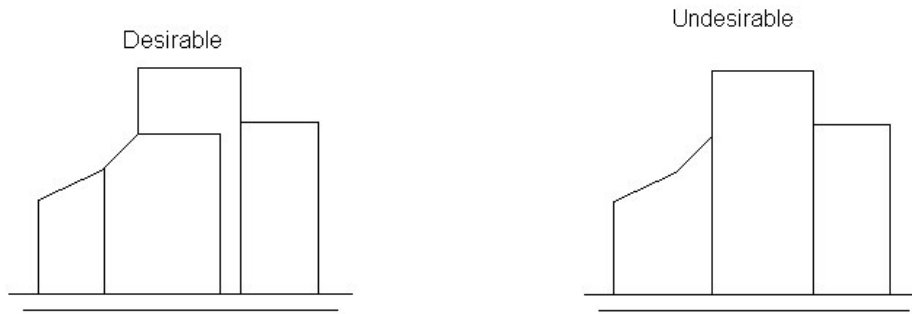
- (1) Intent: It is the intent of this Section to provide standards that will allow extended family living in what have traditionally been single-family only, zoning districts and neighborhoods. Such provisions will permit the conversion of a single-family dwelling to include an accessory apartment, as a means of accommodating an elderly parent or other family member, or extending this economic life of a large, older home. Also permitted will be the placement of detached, removable, self-contained residential units designed for installation on the same lot as the principal dwelling - usually in the back yard. It is intended that by providing housing opportunities for the elderly or an extended household - allowing independence, yet close contact to younger family members - a vital need can be met, yet without diminishing the quality of affected neighborhoods.
- (2) Accessory Apartment: In addition to those requirements set forth in Section 18.03, the following provisions shall be met.
 - (a) Only owner-occupiers are permitted to install or rent accessory apartments.
 - (b) There shall be no visible change in the exterior appearance of the dwelling containing the accessory apartment.
 - (c) All improvements associated with construction of the accessory apartment shall meet current, applicable codes.

- (d) Any additional parking as needed or required by this Ordinance shall be provided in off-street space.
 - (e) Adequate provision for wastewater disposal, either by public sanitary sewer or expanded private on-site facilities, shall be required.
- (3) Elder Cottage Housing Opportunities (ECHO): In addition to those requirements set forth in Section 18.03, the following provisions shall be met.
- (a) Only owner-occupiers of the principal dwelling are permitted to install echo housing units.
 - (b) Said echo housing units shall be temporary in nature and are to be removed upon cessation of the occupancy for which they are intended. Permits for echo housing may be issued for time periods as determined by the Township Board.
 - (c) The front and side yard requirements applicable to the principal dwelling shall be complied with in placement of the echo housing unit. The Township Board shall determine rear yard requirements upon consideration of lot size and placement of surrounding structures or uses.
 - (d) The echo housing unit shall meet all applicable codes for manufactured housing or mobile home dwellings.
 - (e) Any additional parking as needed or required by this ordinance shall be provided in off-street space.
 - (f) The Township Board may impose any other reasonable conditions including lot coverage, landscaping, skirting of mobile home units and similar requirements deemed necessary to protect adjoining properties and the public welfare.

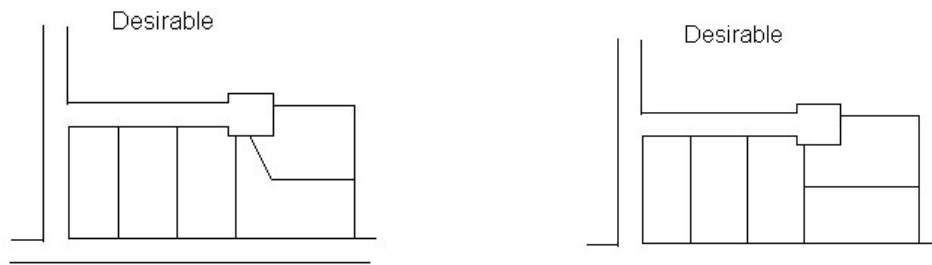
18.9 USE OF FLAG LOTS:

A flag lot may be used for residential Purposes without the minimum required frontage on a street, in the Following instances and with the following stipulations:

- (1) The flag lot makes it possible to better utilize irregularly shaped properties or areas with resource limitations.



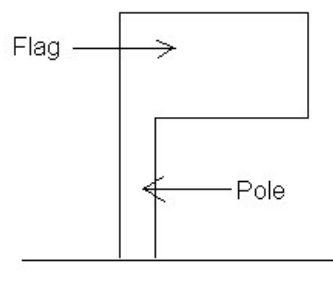
(2) Where flag lots are utilized to eliminate direct access to major arterial roadways.



(3) Stipulations:

- (a) Access shall be provided by a right-of-way, no less than twenty (20) feet wide.
- (b) No more than one lot may be served by such an access route.
- (c) All site development standards of the applicable zoning district shall be met.

Commentary: the "pole" portion of the flag lot, as indicated on the following illustration, shall not be considered as part of a lot in the application of said site development standards - lot area, lot width, lot coverage and yard and setback provisions.



- (d) No more than ten (10) percent of the lots in a subdivision may be flag lots.
- (e) Flag lots shall not be permitted in a subdivision when their intent is to avoid the costs of constructing an access road.

18.10 NON-FARM SINGLE FAMILY DETACHED DWELLINGS:

Non-farm single family detached dwellings meeting all of the requirements of Section 4.04 may be permitted in the Agricultural I District upon application for and special exception use approval. Applications may include:

- (1) Those non-farm dwelling applications scoring less than twelve points under the provisions of Section 13.30.
- (2) Proposals involving more than one non-farm dwelling on an existing parcel:

In addition to the requirements set forth in Section 18.03, the Planning Commission shall determine that the following shall be met:

- (a) The application is compatible with the intent of the Agricultural I District and the Dayton Township Master Land Use Plan.
- (b) The application would not interfere with or substantially hinder any existing or potential future farming operation or activity within the immediate area.
- (c) The application will not significantly alter the stability of the overall land use pattern of the immediate area.
- (d) The proposed nonfarm dwelling(s) is situated upon land generally unsuitable for the production of farm crops, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, and the location and size of the parcel involved.

18.11 BED & BREAKFAST:

Bed & Breakfast Facilities as defined in the Dayton Township Zoning Ordinance may be permitted as Special Exception Uses in all Zoning Districts, except C-1, provided the Planning Commission finds that all of the following conditions have been met:

- 1. A site plan has been submitted and approved in accordance with sections 7.05 and 8.05 of the zoning ordinance
- 2. Signs shall meet the requirements of Article XVI
- 3. Parking shall meet the requirements of Article XV Section 15.03. Parking areas shall be a minimum of two spaces for the dwelling unit and an additional parking space for each room that is rented for the Bed and Breakfast Facility.
- 4. The dwelling unit in which the Bed and Breakfast Facility is located shall be the principal residence of the operator. The Bed and Breakfast Facility shall be open only when the operator is living in the dwelling unit.
- 5. A Bed and Breakfast Facility shall use no more than 35% of the total floor area of the dwelling and shall be limited to no more than three (3) sleeping rooms for rent.

6. Meals shall be served only to residents of the dwelling unit and guests of the Bed and Breakfast Facility.
7. There shall be no separate cooking facilities used for the Bed and Breakfast guests.
8. In no event shall the use of a single family residence for Bed and Breakfast operations alter the residential character of the premises.
9. Reasonable conditions may be attached to the granting of each request to ensure well-being of adjoining property owners.
10. Permitted Bed and Breakfast Facilities shall meet the mixed occupancy requirements of Article XIII Section 13.05 (11/00)

18.12 ADULT SEXUALLY ORIENTED BUSINESS:

Adult Sexually Oriented Businesses shall be subject to and comply with the respective standards and conditions stated in this section, in addition to other applicable requirements of the zoning district in which such special land uses are located and in addition to other applicable requirements of this Article.

All adult and sexually oriented businesses shall be treated as a special land use and shall be subject to review and approval under the following provisions.

- A. For the purposes of this section the following definitions shall apply for terms used in association with Adult or Sexually Oriented Businesses:
 - i) Specified Anatomical Areas: includes any of the following:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
 - ii) Specified Sexual Activities: Includes any of the following:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy;
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breasts.
 - iii) Substantial or Significant Portion: An establishment will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:
 - a) Ten percent (10%) or more of the stock, materials or services provided are distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities, specified anatomical areas, or both.
 1. "Emphasis" or "emphasis on" means that the type of matter specified is the apparent matter upon which the particular work or exhibition is based, or that the matter specified is a

substantial or significant portion of such work or exhibition.

- b) Ten percent (10%) or more of the usable floor area of the building is used for the sale, display or provision of services distinguished or characterized by their emphasis on matter depicting, describing or related to specified sexual activities, specified anatomical areas, or both.
 - c) The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business describes or relates to specified sexual activities, specified anatomical areas, or both.
- B. Location. No person shall cause or permit the operation of any adult or sexually oriented business within one thousand (1,000) feet of existing specified uses as follow:
- i. Another adult or sexually oriented business. This requirement may be waived upon a determination by the Planning and Zoning Commission and Township Board that a second adult use would not contribute to blighting or an excessive concentration of such uses.
 - ii. Church, synagogue or other places of religious worship, park, playground, school, or licensed day-care facility.
 - iii. Agricultural, recreational or residential zoning district, or any residential dwelling.

For purposes of the distance limitations, the measurement shall be made by extending a straight line from the property line of adult and sexually-oriented business to the nearest property line occupied by any other use or to the property line of any church, synagogue or other places of religious worship, park, playground, school, licensed day-care facility, or any adjacent agricultural, residential or recreational district.

C. Signs. Any message, image or picture that depicts or refers to any specified anatomical area or specified sexual activity shall be prohibited. All signs shall comply with the requirements of Article XVI.

D. Building Exterior. Upon order of the Zoning Administrator, graffiti appearing on any exterior surface of a building or structure shall be removed and that surface restored within seventy-two (72) hours of notification of the owner or person in charge of the premises. Adult products or services or any picture or other representation shall not be displayed so as to be visible from a point outside the establishment.

E. Lighting. All adult and sexually oriented business shall be required to install outdoor low intensity lighting that illuminates the entire parking and vehicular use area. The lighting shall be installed on structures that do not exceed sixteen (16) feet in height from finished grade. The lighting shall also be adjusted and shielded to direct, focus and point all the illumination from the lighting onto the parking and vehicular use area, and to avoid any spillage of illumination onto surrounding properties. Other applicable lighting provisions of this Ordinance shall apply.

F. Age Restrictions. No person operating a sexually oriented business shall permit any person under the age of 18 to be on the premises either as an employee or as a customer.

G. Hours of operation of a adult and sexually oriented business shall be limited to 10:00 a.m. to 10:00 p.m.

H. Other Regulations, Permits or Licenses. The provisions of this Section do not waive or modify any other provision.

- I. Alcohol Prohibited. Open alcohol shall not be permitted in any adult and sexually oriented business, as defined by this Ordinance.
- J. All adult and sexually oriented businesses must obtain a business license and obtain fees as set by the township board.
- K. Penalty. Violation of special use authorization for an adult and sexually oriented business is a nuisance per say subject to penalties as noted in section 19.04 (1).

18.13 Reserved for future use.

ARTICLE XIX - ADMINISTRATION

19.1 ADMINISTRATION.

The Township Board shall establish the office of Zoning Administrator and shall designate a Zoning Administrator to act as its officer to effect proper administration of this Ordinance with terms of employment and rate of compensation established in accordance with the provisions of Act 184, P.A. 1943. For the purpose of this Ordinance, the Zoning Administrator shall have the power of a police officer.

19.2 ZONING AND BUILDING PERMITS AND PLANS.

No building or part thereof shall hereafter be erected, moved enlarged or altered until a Zoning Permit has been granted by the Zoning Administrator and until a Building Permit has been granted by the County Building Inspector. Application shall be filed by the owner or his agent and it shall state the intended use of the structure and of the land. The application shall be accompanied by building plans, a plot plan, and such other information as may be necessary to provide for the enforcement of this Ordinance. Plans shall be drawn to scale, and shall show dimensions in figures, and in the case of multi-family, business or industrial buildings by complete specification. Building and plot plans shall be signed by the person preparing them and by the owner of the property or building involved.

Fees, including a late fee, shall be set by the Township Board to defray the costs of administration and inspections and shall accompany any plans or applications.

No Building Permit shall be issued unless the plans and intended use conform in all respects to the provisions of the State Building Code. All Building Permits shall expire one year from their date of issuance. A copy of all approved Building Permits shall be sent to the Township Supervisor.

19.3 DUTIES OF THE ZONING ADMINISTRATOR.

This Ordinance shall be enforced by the Zoning Administrator, who shall in no case issue any Zoning Permit where the proposed building, alteration or use would be in violation of any provision of this Ordinance except under written order of the Board or the Governing Body.

- (1) Violations: The Zoning Administrator shall investigate any alleged violation of the Zoning Ordinance coming to his attention. If a violation is found to exist, he shall serve notice upon the person responsible for such violation, indicating the nature of the violation and stating the action necessary to correct it. If said owner fails to act diligently to correct said violation, after 14 days of notification, the Zoning Administrator shall serve notice upon the owner, notify the Dayton Township Board, and prosecute a complaint to terminate said violation.

- (2) Inspections: The Zoning Administrator will inspect all new construction or alterations at the time footings are placed and shall make such additional inspections as he deems necessary. The Zoning Administrator shall make periodic inspections of the Township to ascertain that the requirements of this Ordinance are being complied with. No person shall refuse to permit the Zoning Administrator to inspect any premises at reasonable times nor shall any person molest or resist the Zoning Administrator in the discharge of his duties.
- (3) Records: The Zoning Administrator shall keep records of all inspections, applications, and permits issued, with a notation of all special conditions involved. He shall file and safely keep copies of all plans, and records of any fees submitted with applications. The same shall form a part of the records of his office and shall be readily available to the Dayton Township Board and all other officials of the Township and County.

19.04 PENALTIES AND REMEDIES.

Civil Infraction. A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction violation hereunder shall be not less than \$50.00, in addition to all other costs, damages, expenses and remedies provided by law. Increased civil fines may be imposed for subsequent violations by a person of any requirement or provision of this Ordinance. The fine for any offense which is a first repeat offense shall be not less than \$100.00, plus costs. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$200.00, plus costs. For purposes of this section, "subsequent offense" means a violation of the provision of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense. Both the owner and the tenant, occupier or possessor (if different than the owner) of any property in violation of this Ordinance may each be found responsible for a separate offense and shall suffer the penalties herein provided.

Other Remedies. Notwithstanding the above section, the Township Board may also institute proceedings for injunction, mandamus, abatement or other appropriate remedies to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine or jail sentence or both shall not exempt the violator from compliance with the provisions of this Ordinance.

ARTICLE XX - BOARD OF APPEALS

20.01 MEMBERSHIP AND APPOINTMENT.

- (1) Pursuant to the Township Rural Zoning Act (Act 184, 1943) as amended, there shall be a Township Board of Appeals of three (3) members. The first member of the board of appeals shall be the chairman of the Township Planning Commisison, the second member shall be a member of the Township Board appointed by the Township Board; and the third member shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected officer of the Township or any employee of the Township Board may not serve simultaneously as the third member of or as an employee of the Township Board of Appeals. The total amount allowed the Board of Appeals in any one (1) year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board. Members of the Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charge and after public hearing.
- (2) The Township Board may provide that the Board of Appeals also include two (2) alternate members, who shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An additional member shall not be an employee of the Township Board. The member who is a member of the Township Board appointed by the Township Board shall not serve as chairman of the Township Board of Appeals.

20.2 GENERAL GRANT OF POWER.

The Board of Appeals shall perform all duties and have all the powers prescribed by Act 184, Public Acts of 1943, as amended. It shall adopt rules of procedure consistent with the provisions of said Act and other local ordinances as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

20.3 EMPLOYEES.

The Board may employ clerical or other assistance as may be necessary, provided that it shall not at any time incur any expense beyond the amount made available for the purpose, by the Township Board.

20.4 MEETINGS.

Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board may determine for the efficient conduct of its business. All meetings shall be open to the public.

20.5 APPEALS.

Appeals to the Board may be taken by any party aggrieved by a decision or order of the Zoning Administrator or by an officer or agency of the Township affected by such decision or order. A notice of appeal, specifying the grounds thereof, shall be filed with the Clerk of the Appeal Board within 30 days after the date of the action appealed from. A copy of the notice shall promptly be served upon the officer from whom the appeal is taken who shall forthwith transmit to the Appeal Board all records upon which the action appealed from was taken. An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Board that a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order by the Board or by the Circuit Court.

20.6 VARIANCES.

Subject to the provisions of Section 20.07 of this Ordinance, and in addition to other duties and powers specified herein, the Board, after public hearing shall have the power to decide applications for variances:

- (1) Where it is alleged that there is error or misinterpretation in any order, requirement, decision or refusal made by the Zoning Administrator or other administrative agency of the Township in the carrying out of the provisions of this Ordinance; or
- (2) Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or other extra-ordinary situation of the land or building or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship; provided that the Board of Appeals shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot; or
- (3) Where it is alleged that there is practical difficulty or unnecessary hardship in carrying out the strict letter of this Ordinance and a request made to vary such regulations, so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

20.7 VARIANCES PROHIBITED.

No variance in the provision or requirements of this Ordinance shall be authorized by the Board of Appeals unless the Board finds from reasonable evidence that such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or of the public health, safety and welfare, and further; that two of the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone.

- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the zone, provided that increased financial return shall not be deemed sufficient to warrant a variance.
- (3) That the condition or situation of the specific property or the intended use is not of so general or recurrent a nature as to make reasonably practical a general regulation as part of this Zoning Ordinance.

20.8 LAND USE VARIANCE.

The Board shall not schedule a public hearing on a land use variance for a use not permitted in a zone for a period of 30 days after receipt of the appeal. The Board of Appeals shall notify the Township Planning Commission and the Newaygo County Planning Commission of the appeal and request a study and report from each. No decision shall be made by the Board of Appeals until the reports of these agencies are received, provided such reports shall be made within 60 days.

20.9 SPECIAL CONDITIONS.

The Board of Appeals shall have the power to hear and decide applications for interpretations and other special questions on which the Board of Appeals is herein authorized to pass. In considering such applications, the Board shall review the case within the intent of this Ordinance. Before authorizing a use, the Board of Appeals shall determine whether the proposal would be hazardous, harmful or a nuisance to the surrounding neighborhood by reason of noise, atmospheric pollution, vibration, glare, fire potential, parking, traffic, aesthetic effect, devaluation of property values or psychological effects. For such purpose the Board may enlist experts, technicians and consultants. The Board may impose such additional requirements and conditions necessary to preserve the intent of this Ordinance.

20.10 PUBLIC HEARINGS.

Upon the filing of any appeal or other matter over which the Board of Appeals has jurisdiction, the Board of Appeals shall hold a public hearing, on such matter not earlier than 15 days after the date of such filing, and shall cause notice of the time and place of the hearing to be given to the applicant and a similar notices stating, the purpose of the hearing to be published in a newspaper of general circulation. The applicant shall give personal notice of the time, place and purpose of the hearing by hand with signatures obtained, or by certified mail, to all owners of property within 300 feet of the property to be affected by said appeal or application at least 72 hours prior to said hearing. The applicant shall present satisfactory proof to the Board of Appeals at the time of the hearing that said notices have been served. Whenever said owners are non-residents, such notice may be given by certified mail to the last known address of the property owner as shown by the most recent tax lists.

20.11 DECISIONS.

The Board of Appeals shall render its decision upon such application within 60 days after the hearing thereon and notify the applicant of its decision. Upon failure to do so, such application shall be deemed to be decided adversely to the applicant in the same manner as though the Board of Appeals had rendered its decision to that effect.

20.12 FEES.

Upon filing of any appeal or application to the Board of Appeals, the applicant shall pay a fee to defray the cost of publishing notice of hearing and recording the matter. The fee shall be paid to the Township Treasurer before any action is taken on said petition.

Fees may be changed by the Township Board at any regular meeting, which change shall take effect 30 days after publication of such change.

20.13 TIME LIMIT.

If the variance is granted or other action by the applicant is authorized, the necessary permit shall be secured and the authorized action begun within three months after the date the variance is granted, and the structure or alteration shall be completed within twelve months of said date.

The Board may, upon application stating the reasons therefore, extend either the three (3) or 12 months periods, but if the Board finds no good cause for the failure to act or complete within such periods and if the Board further finds that conditions have altered or changed in the interval since the action was granted, the Board shall revoke or rescinded its approval. Should the applicant fail to obtain the necessary permit or fail to commence work within such three month period, it shall be conclusively presumed that the applicant has waived, withdrawn and abandoned his appeal and all permissions, variances and permits shall be deemed automatically rescinded.

20.14 VOTE NECESSARY FOR DECISION.

The final disposition of any matter of the Board shall require the concurring vote of a majority of its members.

20.15 MINUTES AND RECORDS.

The Secretary shall keep minutes of the Board's proceeding showing the vote of each member upon every question, or if absent or failing to vote, indicating the fact. The Secretary shall keep records of the Board's examinations and official actions, all of which shall be filed with the Township Clerk and be a public record.

20.16 LIMITATION OF BOARD ACTION. The Board of Appeals may not through any decision, interpretation or action alter, vary or otherwise negate any provisions of this Ordinance except as specified. Where the Board of Appeals finds recurrent requests for relief of any specific provision of this Ordinance, or where the Board considers that any specific provision is creating unnecessary hardship, the Board of Appeals shall submit a request for re-study and reconsideration to the Township Planning Commission and the Newaygo County Planning Commission.

ARTICLE XXI - AMENDMENTS AND DISTRICT CHANGES

21.1 PROCEDURES.

The procedure for making amendments to this Ordinance shall be in accordance with Act 184 of the Public Acts of 1943, as amended.

A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form and when it is approved, transmit same to the Township Planning Commission for review and report. The Clerk shall, at the same time, establish a date for a public hearing on the petition for the Planning Commission and shall give proper notice of the hearing as provided in Act 184, P.A. 1943, as amended. The Clerk shall also, for any proposed amendment to the zoning map, give notice thereof and of the public hearing to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. Requirements of written notice to property owners shall not apply to comprehensive revisions to the Zoning Ordinance. Public hearing requirements shall also apply to amendments initiated by the Township Board or the Township Planning Commission.

21.2 NOTICE OF HEARING.

The Clerk shall give notice of hearing in the following manner:

- (1) By two (2) publications in a newspaper of general circulation in the Township, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second no more than eight (8) days before the date of the hearing.
- (2) By mailing, using certified mail, at least twenty (20) days in advance of the hearing, a notice of hearing to each electric, gas, pipeline and telephone company that chooses to register its name and mailing address with the Township Clerk for the purpose of receiving such notice. An affidavit of mailing shall be maintained.
- (3) By mailing, using certified mail, at least twenty (20) days in advance of the hearing, a notice of the hearing to each railroad operating within the township, in the case of textual changes, or within five hundred (500) feet of the area proposed to be rezoned if the amendment proposed is in the nature of rezoning. An affidavit of mailing shall be maintained.
- (4) In the manner prescribed above regarding notice to adjacent properties and the owner of the property in question.

21.03 FACT FINDING.

- (1) In reviewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board.
- (2) The facts to be considered by the Planning Commission shall include, but not be limited to, the following:
 - (a) Whether the requested zoning change is justified by a change in conditions since the original Ordinance was adopted or by an error in the original Ordinance.
 - (b) The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition.
 - (c) The ability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
 - (d) Are there any significant and negative environmental impacts which would reasonably occur if the petitioned zoning change and resulting permitted structures were built; including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources.
 - (e) Effect of approval of the petition on adopted development policies of Dayton Township and other government units.
 - (f) All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board. An amendment shall not be approved unless these and other identified facts be affirmatively resolved in terms of the general health, safety, welfare, comfort and convenience of the citizens of Dayton Township, or other civil divisions where applicable.

ARTICLE XXII - SEPARABILITY AND REPEALS

22 . 1 SEPARABILITY.

In case any Article, section or provision of this Ordinance shall be held invalid in any court, the same shall not affect any other Article, Section, or Provision of this Ordinance, except so far as the Article, Section or Provision so declared invalid shall be inseparable from the remainder or any part thereof.

22 . 2 REPEALING CONFLICTING ORDINANCES.

Any and all ordinances, or parts thereof, in conflict with any of the terms of this Ordinance are hereby repealed to such extent as they are so in conflict or inconsistent, provided however, that the adoption of this Ordinance shall not prevent or bar the continuance or institution of any proceedings for offenses heretofore committed in violation of any existing Ordinance.

22 . 3 EFFECTIVE DATE.

The provisions of this Ordinance are hereby declared to be effective immediately upon adoption by the Township Board.

SCHEDULE OF DISTRICT REGULATIONS

DISTRICT	MINIMUM	MINIMUM	FRONT YARD SET BACK	SIDE YARD SET BACK	REAR YARD SET BACK	MINIMUM FLOOR AREA
AGRICULTURAL 1 *	2 Acres	300 Feet	50 Feet	30 Feet	50 Feet	1,000 Sq Ft. - One Story 700 Sq. Ft. - 1st Floor
AGRICULTURAL 2 *	2 Acres	300 Feet	50 Feet	30 Feet	50 Feet	800 Sp. Ft. - One Story 600 Sp. Ft. - 1st Floor
AGRICULTURAL 3 *	1 Acre	165 Feet	30 Feet	15 Ft. Minimum /35 Ft. Total	35 Feet	800 Sp. Ft. - One Story 600 Sp. Ft. - 1st Floor
RS - RESIDEN- TIAL	18,000 Sq. Ft.	110 Feet	30 Feet	15 Ft. Minimum /35 Ft. Total	35 Feet	800 Sp. Ft. - One Story 600 Sp. Ft. - 1st Floor
RL-LAKE RE- SORT RESIDENTIAL	18,000 Sq. Ft. 15,000 Sq. Ft. Water/Sewer	100 Feet	30 Feet	15 Ft. Minimum /35 Ft. Total	35 Feet	800 Sp. Ft. - One Story 600 Sp. Ft. - 1st Floor
RM-MOBILE HOME RESIDENTIAL			50 Feet	20 Feet	20 Feet	
C-1 COMMERCIAL		60 Feet	80 Feet	10 Feet	25 Feet	
C-2 COMMERCIAL		60 Feet	80 Feet	10 Feet	25 Feet	

* - Agricultural Districts 2 and 3 were deleted and Agricultural District 1 was renamed Prime Agricultural District on 11/10/2005.