

ARTICLE 11.00 – GENERAL PROCEDURES AND RELATED STANDARDS

Section 11.01 Purpose

The purposes of this Article is to provided procedures and relate standards for the processing of all requests for Township action or review under the provisions of this Ordinance.

Section 11.02 Site Plan Review Process

A. Intent

The site plan review procedures, standards and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained in this Ordinance and other applicable ordinances and laws to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the Township and applicant so as to facilitate development in accordance with the Township's land use objectives.

B. Site Plan Required

1. Site Plan Required

Except as provided in the following sub-section 2, or with respect to matters subject to administrative site plan review as designated therein, the following uses shall not be conducted upon any land or in any building/structure until a site plan has been submitted to, reviewed, and approved by the Planning Commission in accordance with the provisions of this Ordinance:

- a. All permitted and special land uses and their accessory uses in all zoning districts, except single-family or two-family dwellings.
- b. Planned Unit Developments.
- c. Subdivisions, Condominium Subdivisions or Open Space Preservation Subdivisions.
- d. Erection, moving, relocation, conversion or structural alteration to a building or structure, other than a single-family or two-family dwelling.

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- e. Any change in use or site modification that could affect compliance with the standards set forth in this Ordinance, other than a single-family or two-family dwelling.
- f. Any excavation, filling, removal of trees or other vegetation, soil removal, mining or landfill, construction of improvements, or creation of ponds, except as otherwise specified in this Ordinance.

2. Site Plan Not Required

Notwithstanding the preceding sub-section 1, site plan approval is not required for the following activities:

- a. Single-family and two-family dwellings and their accessory uses in all zoning districts.
- b. General or specialized farming and forestry and their accessory uses, including roadside stands.
- c. Construction involving only interior improvements where there is no change in use.
- d. Any excavation, filling, removal of trees or other vegetation, soil removal, mining or landfill, construction of improvements, or creation of ponds that are less than one-half acre in area, provided that such activity is incidental to a single-family or two-family residential use.

C. Site Plan Review Applications and Procedures

1. Optional Pre-Application Conference

In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application site plan conference with the Zoning Administrator. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant need not present drawings or site plans at a pre-application conference, but even if drawings or site plans are presented, no formal action shall be taken on a site plan at a pre-application conference. At any time during the course of preparation of a site plan prior to submission of a formal application, the Township will upon request provide information concerning the Zoning Ordinance procedures and standards.

2. Optional Conceptual Review by Planning Commission

An applicant may file a request for conceptual review of a preliminary site plan by the Planning Commission or to evaluate the following:

- a. Relationship of the site to nearby properties;
- b. Density;
- c. Adequacy of landscaping, open space, vehicular drives, parking areas, drainage, and proposed utilities; and,
- d. Conformance with Township development policies and standards.

No formal action shall be taken on a site plan submitted for conceptual review, and neither the applicant nor the Planning Commission shall be bound by any comments or suggestions made during the course of the conceptual review.

3. Final Site Plan Review

In order to initiate formal review by the Planning Commission, the applicant is required to submit the following materials:

- a. One (1) completed and signed copy of the Application for Site Plan Review.
- b. Ten (10) individually folded copies and one (1) digital copy in pdf format of the site plan.
- c. Proof that the plan has been submitted for review to all appropriate affected governmental agencies, including but not limited to the Van Buren County Road Commission, Van Buren County Drain Commission, Van Buren County Health Department, Michigan Department of Transportation (where applicable), Michigan Department of Environmental Quality (where applicable) and any other agencies deemed appropriate by the Planning Commission.
- d. The required application fee.

These materials shall be submitted to the Township no later than 30 calendar days prior to the Planning Commission meeting at which the review is requested.

4. Distribution of Plans

Upon submission of all required application materials, the site plan proposal shall be

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placed on the next open Planning Commission agenda. The site plans and application shall be distributed to appropriate Township officials for review.

5. Public Hearing

Site plans involving uses that are subject to Special Land Use approval require a public hearing. After payment of required review fees, the Township will set the date of the public hearing, subject to the requirements of Section 11.09.

6. Review by Township Planner and Township Engineer

If required, the Township Planner and Township Engineer shall review the plans to determine compliance with the Zoning Ordinance, and shall submit written reports, which shall identify issues which must be resolved as well as all required revisions necessary to obtain site plan approval.

D. Review and Final Action

1. Planning Commission Review

The Planning Commission shall review the site plan proposal together with any public hearing findings and any requested reports and recommendations. The Planning Commission shall then make a final decision, based on the requirements and standards of this Ordinance. The Planning Commission may approve, approve with conditions, deny, or postpone action, as noted below.

- a. Approval. Upon determination that a site plan is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission shall approve the site plan.
- b. Approval Subject to Conditions. Upon determination that a site plan is in compliance except for minor modifications, the Planning Commission may impose reasonable conditions upon approval of the site plan. The conditions for approval shall be identified and the applicant shall be given the opportunity to correct the site plan. The conditions may include the need to obtain variances, obtain approvals from other agencies, or obtain special land use approval. The applicant shall submit a revised plan with a revision date, indicating compliance with the conditions. The applicant must re-submit the site plan to the Planning Commission for final approval after conditions have been met, unless the Planning Commission waives its right to review the revised plan, and instead authorizes administrative review after all required conditions have been addressed.
- c. Denial. Upon determination that a site plan does not comply with the standards and regulations set forth in this Article or elsewhere in this Ordinance, or if the

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site plan requires extensive revision in order to comply with said standards and regulations, the Planning Commission shall deny the site plan.

- d. Postponement. Upon determination that a site plan is not ready for approval or rejection, or upon a request by the applicant, the Planning Commission may postpone consideration of a site plan until a later meeting.

2. Performance Guarantee

- a. To ensure compliance with this Ordinance and conditions imposed at the time of granting of the site plan approval, the Planning Commission may require that a performance guarantee (cash deposit; certified check; irrevocable bank letter of credit; or surety bond) acceptable to the Planning Commission, covering estimated costs of improvements associated with a project for which the site plan approval is sought, be deposited with the Township Clerk.
- b. If any improvements are not constructed within the time limit established as part of the site plan approval or within any extension thereof, the Planning Commission shall by resolution request the Township Board take appropriate legal steps to ensure completion using as much of the security deposit as necessary for such purpose.
- c. As used herein, 'improvements' means those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources, or the health,, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening and drainage. 'Improvements do not include the entire project which is the subject of zoning approval.

3. Time Period for Obtaining Approval

An applicant shall have a maximum of two (2) years from the date of submittal of a site plan for formal review to achieve final approval. If approval is not achieved within this period, the application becomes null and void and a new application is required to pursue site plan review further.

4. Recording of Site Plan Review Action

Each action taken with reference to a site plan review shall be duly recorded in the minutes of the Planning Commission. The grounds for action taken upon each site plan shall also be recorded in the minutes.

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After final action has been taken on a site plan and all steps have been completed, three copies of the application and plans shall be marked APPROVED or DENIED, as appropriate, with the date that action was taken. One marked copy will be returned to the applicant and the other two copies will be kept on file in the Township Hall.

5. Procedure After Site Plan Approval

- a. Application for Building Permit. Following final approval of the site plan, the applicant may apply for a building permit. It shall be the responsibility of the applicant to obtain all other applicable Township, County, State, or Federal permits prior to issuance of a building permit.

No permits for construction in a proposed condominium project shall be issued until evidence of a recorded Master Deed has been provided to the Township.

- b. Expiration of Site Plan Approval. If construction has not commenced within 12 months after approval of the site plan, the site plan approval expires and a new application for site plan review shall be required.

The applicant may apply in writing to the Planning Commission for an extension of site plan approval. The Planning Commission may grant one or more extensions of up to 12 months upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved site plan adequately represents current conditions on and surrounding the site and provided that the site plan conforms to current Zoning Ordinance standards.

- c. Application for Certificate of Occupancy. Following completion of site work and building construction, the applicant may apply for a Certificate of Occupancy from the Building Official in accordance with the procedures set forth in Section. It shall be the applicant's responsibility to obtain this required certificate prior to any occupancy of the property.
- d. Property Maintenance after Approval. It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved.

Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

With respect to condominium projects, the Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium

owners, and public entities regarding maintenance of the property in accordance with the approved site plan on a continuing basis. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

- e. Recorded and As-Built Condominium Documents. Upon approval of the site plan for a condominium project involving new construction, the condominium project developer or proprietor shall furnish the Township with the following:
 - 1. One (1) copy of the recorded Master Deed;
 - 2. One (1) copy of any Condominium Bylaws and restrictive covenants; and
 - 3. One (1) copy of the recorded Condominium Subdivision Plan.

Upon completion of the project, the condominium project developer or proprietor shall furnish the Township with two (2) copies of an "as built survey". The as-built survey shall be reviewed by the Township Engineer for compliance with Township Ordinances. Fees for this review shall be established by the Township Board.

6. Site Plan Violation

In the event that construction is not in compliance with the approved plans, the Zoning Administrator shall take corrective action, unless a revised site plan is submitted for Township review, following the normal site plan review procedures in Section 11.02. If the builder or developer fails to take corrective action or pursue approval of an amended site plan, the Zoning Administrator may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.

7. Modification to Approved Plan

Minor modifications to an approved site plan may be reviewed by the Township Zoning Administrator.

- a. Minor Modification Defined. Minor modifications are changes that do not substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public services, or the danger from hazards. Examples of minor modifications include:

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1. An addition to an existing commercial or industrial building that does not increase or decrease the floor space by more than 25 percent or 2000 square feet, whichever is less.
 2. Re-occupancy of a vacant building (that does not constitute a change in use) that has been unoccupied for less than 12 months.
 3. Changes to building height that do not add an additional floor.
 4. Alterations or modifications involving less than 20 parking spaces. The construction of a new building or structure or the addition of curb cuts onto a public road are examples of modifications which are not considered minor.
- b. Determination of Minor Modification. The Zoning Administrator shall determine if the proposed modifications are minor in accordance with the guidelines in this section.
- c. Modifications Not Deemed "Minor". If the modifications are not deemed minor by the Zoning Administrator, or if the Zoning Administrator finds that there are characteristics of the site plan that warrant Planning Commission review, the full review and approval by the Planning Commission shall be required.

Planning Commission review and approval shall be required for all site plans that involve a request for a variance, a Special Land Use, a proposal that involves a discretionary decision, or a proposal that involves a nonconforming use or structure.

- d. Recording of Action. Each action related to modification of a site plan shall be duly recorded in writing on a copy of the approved plan, and shall be kept on file at the Township Hall. The Planning Commission shall be advised of all minor site plan modifications approved by the Zoning Administrator and such modifications shall be noted on the site plan and in the minutes of the Planning Commission.

E. Required Information on Site Plans

The following information shall be included on all site plans, where applicable:

1. Application Form

The application form shall contain the following information:

- a. Applicant's name and address.
- b. Name, address and signature of property owner, if different from applicant.

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- c. Common description of property and complete legal description including the Tax Identification number.
 - d. Dimensions of land and total acreage.
 - e. Existing zoning of applicant's parcel.
 - f. Existing use of the applicant's parcel.
 - g. Proposed use of land and name of proposed development, if applicable.
 - h. Proof of property ownership.
 - i. Names, addresses, and telephone numbers of engineers, attorneys, architects, and other professionals associated with the project.
 - j. Review comments and/or approvals from County, State, and Federal agencies. Copies of letters or approval forms should be submitted with the site plan application.
2. Descriptive and Identification Data

A site plan shall consist of an overall plan for the entire development, drawn to a scale of not less than one (1) inch = 20 feet for property less than one (1) acre, one (1) inch = 30 feet for property larger than one (1) acre but less than three (3) acres, and one (1) inch = 50 feet for property larger than 3 acres, unless another scale is approved by the Zoning Administrator.

The following descriptive and identification information shall be included on a site plan:

- a. Applicant's name and address, and telephone number.
- b. Title block indicating the name of the development.
- c. Scale.
- d. North point.
- e. Dates of submission and revisions (month, day, year).
- f. Location map drawn to scale with north point.
- g. Legal and common description of property, including acreage.

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- h. The dimensions of all lots and property lines, showing the relationship of the site to abutting properties. If the site is a part of a larger parcel the plan should indicate the boundaries of total land holding.
 - i. A schedule for completing the project, including the phasing or timing of all proposed developments.
 - j. Identification and seal of the architect, engineer, land surveyor, or landscape architect who prepared or supervised and approved the plan.
 - k. Written description of proposed land use.
 - l. Zoning classification of applicant's parcel and all abutting parcels.
 - m. Proximity to driveways serving adjacent parcels.
 - n. Proximity to section corner and major thoroughfares.
 - o. Notation of any variances that have or must be secured.
 - p. Net acreage (minus rights-of-way) and total acreage, to the nearest 1/10 acre.
3. Site Data
- a. Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site.
 - b. Front, side, and rear setback dimensions.
 - c. Topography on the site and within 100 feet of the site at two foot contour intervals, referenced to a U.S.G.S. benchmark.
 - d. Existing and proposed site features, including buildings, roadway widths and names, and parking areas.
 - e. Existing structures within 50 feet of the subject property.
 - f. Dimensions and centerlines of existing and proposed roads and road rights-of-way, and acreage of proposed roads and road rights-of-way.
 - g. Acceleration, deceleration, and passing lanes, where required.
 - h. Proposed vehicular circulation system, including location of driveway entrances, roads, and on-site driveways.

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- i. Typical cross-section of proposed roads and driveways.
- j. Location of existing drainage courses, floodplains, lakes and streams, with elevations, and acreage of bodies of water.
- k. Boundaries of all wetland areas, with sufficient dimensions between various points on the wetland boundary and buildings, property lines, or other features to allow accurate portrayal of the wetlands. The acreage shall be provided separately for all wetlands, and wetlands regulated by the State shall be identified. Wetlands staking and identification shall be done by a qualified wetlands expert. If deemed necessary because of site or soil conditions or because of the scope of the project, a detailed hydrology study may be required.
- l. Location of existing and proposed interior sidewalks and sidewalks in the road right-of-way.
- m. Exterior lighting locations and method of shielding lights from shining off the site.

Trash and recycling receptacle locations and method of screening.
- n. Transformer pad location and method of screening, if applicable.
- o. Parking spaces, typical dimensions of spaces, indication of total number of spaces, drives, and method of surfacing.
- p. Information needed to calculate required parking in accordance with Zoning Ordinance standards.
- q. The location of lawns and landscaped areas, including required landscaped greenbelts.
- r. Landscape plan, including location, size, type and quantity of proposed shrubs, trees and other live plant material.
- s. Location and types of land cover, before and after proposed development.
- t. Cross-section of proposed berms
- u. Location and description of all easements for public rights-of-way, utilities, access, shared access, and drainage.
- v. Designation of fire lanes.
- w. Loading/unloading areas.

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- x. The location of any outdoor storage of materials and the manner by which it will be screened.
 - y. Locations of steep slopes.
4. Building and Structure Details
- a. Location, height, and outside dimensions of all proposed buildings or structures.
 - b. Indication of the number of stores and number of commercial or office units contained in the building, if applicable.
 - c. Building floor plans.
 - d. Total floor area.
 - e. Location, size, height, and lighting of all proposed signs.
 - f. Proposed fences and walls, including typical cross-section and height above the ground on both sides.
 - g. Building facade elevations. Elevations of proposed buildings shall indicate type and color of exterior building materials, roof design, projections, canopies, awnings and overhangs, screen walls and accessory buildings, and any outdoor or roof located mechanical equipment, such as air conditioning units, heating units, and transformers.
5. Information Concerning Utilities, Drainage, and Related Issues
- a. Schematic layout and description of existing and proposed sanitary sewers, sewage treatment systems, and/or septic systems; water mains, well sites, and water service leads; hydrants that would be used by public safety personnel to service the site; storm sewers and drainage facilities, including the location of retention/detention facilities; and, the location of gas, electric, and telephone lines .
 - b. Layout and description of telecommunications infrastructure.
 - c. Indication of site grading and drainage patterns.
 - d. Types of soils and location of floodplains and wetlands, if applicable.
 - e. Soil erosion and sedimentation control measures.

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- f. Proposed finish grades on the site, including the finish grades of all buildings, driveways, walkways, and parking lots.
 - g. Assessment of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable.
6. Information Concerning Residential Development
- a. The number, type and location of each type of residential unit (one bedroom units, two bedroom units, etc.).
 - b. Density calculations by type of residential unit (dwelling units per acre).
 - c. Lot coverage calculations.
 - d. Floor plans of typical buildings with square feet of floor area.
 - e. Garage and carport locations and details, if proposed.
 - f. Pedestrian circulation system.
 - g. Location and names of roads and internal drives with an indication of how the proposed circulation system will connect with the existing adjacent roads.
 - h. Community building locations, dimensions, floor plans, and facade elevations, if applicable.
 - i. Swimming pool fencing detail, including height and type of fence, if applicable.
 - j. Location and size of recreation open areas.
 - k. Indication of type of recreation facilities proposed for recreation area.
 - l. If common area or community buildings are proposed, then the site plan should indicate the responsibilities of the subdivision or condominium association, property owners, or other public entity, with regard to maintenance of the common areas or community property on a continuing basis.
7. Information Applicable to Mobile Home Parks
- a. Location and number of pads for mobile homes.
 - b. Distance between mobile homes.

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- c. Proposed placement of mobile home on each lot.
 - d. Average and range of size of mobile home lots.
 - e. Density calculations (dwelling units per acre).
 - f. Lot coverage calculations.
 - g. Garage and carport locations and details, if proposed.
 - h. Pedestrian circulation system.
 - i. Location and names of roads and internal drives.
 - j. Community building location, dimensions, floor plans, and facade elevations, if applicable.
 - k. Swimming pool fencing detail, including height and type of fence, if applicable.
 - l. Location and size of recreation open areas.
 - m. Indication of type of recreation facilities proposed for recreation area.
8. Additional Information
- a. Information Related to Condominium Development. The following information shall be provided with all site plans involving condominium development:
 - 1. Condominium documents, including the proposed Master Deed, condominium Bylaws, and Condominium Subdivision Plan.
 - 2. Condominium subdivision plan requirements, as specified in the Condominium Rules promulgated by the Department of Licensing and Regulatory Affairs, Bureau of Commercial Services and Corporations, or successor agency.
 - b. Items Not Applicable. The Planning Commission or Zoning Administrator may waive any of the above enumerated requirements whenever it is determined that such requirement is not necessary for a specific site plan due to the fact that:
 - 1. The condition does not apply and is therefore unnecessary to evaluate the proposal, or

2. There are hardships of a non-monetary nature in providing the required information.

c. **Other Data That May Be Required.** Other data may be required if deemed necessary by the Planning Commission to determine compliance with the provisions in this Ordinance. Such information may include traffic studies, market analysis, environmental assessment and evaluation of the demand on public facilities and services.

F. **Standards For Site Plan Approval**

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

1. **Adequacy of Information**

The site plan shall include all required information in sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.

2. **Site Design Characteristics**

All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this Ordinance.

3. **Appearance**

Landscaping, earth berms, fencing, signs, wall and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby existing or future developments.

4. **Compliance with District Requirements**

The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements set forth in the Schedule of Regulations (Article 6.00) unless otherwise provided in this Ordinance.

5. **Preservation of Natural Areas**

The landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal alteration to the natural drainage course and the

amount of cutting, filling, and grading.

6. Emergency Vehicle Access

All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.

7. Ingress and Egress

Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.

8. Pedestrian Circulation

Each site plan shall provide a pedestrian circulation system that is insulated as completely as is reasonably possible from the vehicular circulation system.

9. Vehicular and Pedestrian Circulation Layout

The arrangement of public and common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets or pedestrian or bicycle pathways in the vicinity of the site. The width of streets shall be appropriate for the volume of traffic they will carry, based on Van Buren County Road Commission standards. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.

10. Drainage

Appropriate measures shall be taken to insure that the removal or drainage of surface waters will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system. Provisions shall be made for a feasible storm drainage system, the construction of storm water facilities, and the prevention of erosion. Surface water on all paved areas shall be collected at intervals so that it will not obstruct vehicular or pedestrian traffic and will not create nuisance ponding in paved areas. Grading and drainage plans shall be subject to review by the Township Engineer.

11. Soil Erosion and Sedimentation

The proposed development shall include measures to prevent soil erosion and sedimentation during and upon completion of construction, in accordance with current County and Township standards.

12. Exterior Lighting

Exterior lighting shall be designed so that it is focused downward and deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.

13. Public Services

Adequate services and utilities, including water, sewage disposal, sanitary sewer, and storm water control services, shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.

All streets and roads, water, sewer, and drainage systems, and similar facilities shall conform to the design and construction standards of the Township or County, as appropriate.

14. Screening

Off-street parking, loading and unloading areas, outside refuse storage areas, and other storage areas that are visible from adjacent homes or from public roads, shall be reviewed in consideration of screening and landscaping objectives.

15. Danger from Hazards

The level of vulnerability to injury or loss from incidents involving hazardous materials or processes shall not exceed the capability of the Township to respond to such hazardous incidents so as to prevent injury and loss of life and property. In making such an evaluation, the Township shall consider the location, type, characteristics, quantities, and use of hazardous materials or processes in relation to the personnel, training, equipment and materials, and emergency response plans and capabilities of the Township.

Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharge of polluting materials to the surface of the ground, groundwater, or nearby water bodies.

16. Health and Safety Concerns

Any use in any zoning district shall comply with applicable Federal state, county, and local health and pollution laws and regulations with respect to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic radiation; radioactive materials; and, toxic and hazardous materials.

17. Sequence of Development

All development phases shall be designed in logical sequence to insure that each phase will independently function in a safe, convenient and efficient manner without being dependent upon subsequent improvements in a later phase or on other sites.

18. Coordination with Adjacent Sites

All site features, including circulation, parking, building orientation, landscaping, lighting, utilities, common facilities, and open space shall be coordinated with adjacent properties.

Section 11.03 Appeals, Interpretations and Variances

A. Intent

The purpose of this Section is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

B. Authority of the Zoning Board of Appeals

1. General Authority

The Zoning Board of Appeals (ZBA) shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or special approval/appeal, and shall have authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

2. Administrative Review/Appeal

The ZBA shall have authority to hear and decide appeals of administrative decisions where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made in carrying out or enforcing any provisions of this Ordinance. Such appeal shall be requested by the applicant within 30 days of the date of the order, refusal, requirement, or determination being appealed.

In hearing and deciding appeals under this sub-section, ZBA review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not

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consider new information which had not been presented to the administrative official from whom the appeal is taken. The ZBA shall not substitute its judgment for that of the administrative official being appealed, and the appeal shall be limited to determining, based upon the record, whether the administrative official breached a duty or discretion in carrying out this Ordinance.

The ZBA shall not have the authority to consider an appeal of a decision concerning a special land use or a planned unit development.

3. Interpretation

The ZBA shall have authority to hear and decide requests for interpretation of the Zoning Ordinance, including the Zoning Map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed.

Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map interpretations shall be made based upon rules in the Ordinance, and any relevant historical information.

In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultants to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance.

4. Variances

The ZBA shall have authority to grant dimensional or "non-use" variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done.

A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance.

Such authority shall be exercised in accordance with the following standards.

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- a. The ZBA may grant a requested "non-use" variance only upon a finding that practical difficulties exist. In determining whether practical difficulties exist, the ZBA shall consider the following factors:
 1. Strict compliance with the letter of the Zoning Ordinance will unreasonably prevent the owner from using the property for a permitted purpose or will render ordinance conformity unnecessarily burdensome.
 2. A grant of the variance will do substantial justice to the applicant, as well as to other property owners.
 3. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.
 4. That the hardship asserted by the applicant by way of justification for a variance is due to the unique circumstances of the property.
 5. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
 6. That, in granting a variance, the ZBA is insuring that the spirit of the Zoning Ordinance is observed, public safety secured, and substantial justice done.
- b. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings.

5. Conditions

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to insure 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, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements:

- a. Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

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- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case.

C. Applications and Notices

1. Application

All applications to the ZBA shall be filed with the Township, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board.

Applications shall include three (3) individually folded and one (1) digital copy of all plans, studies and other information and data to be relied upon by the applicant. These materials shall be submitted to the Township no later than 30 days prior to the Zoning Board of Appeals meeting at which the review is requested.

2. Applications Involving an Appeal of Administrative Order

In a case involving an appeal from an action of an administrative official or entity, the administrative official shall transmit to the ZBA copies of all papers constituting the record upon which the action appealed was taken.

3. Plot Plan

A plot plan shall be required with all variance requests. The plan, which shall accompany all variance requests, shall be based on a mortgage survey or land survey prepared by a licensed land surveyor. The plan shall be to scale and shall include all property lines and dimensions, setbacks and all existing and proposed structures. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 11.02 shall satisfy the requirements of this section.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

4. Consent of Property Owner Required

Applications to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

5. Notice

Notice of a public hearing concerning a request for a variance shall be given following the procedures of Section 11.09. Notice of a public hearing concerning a request for an interpretation of the zoning ordinance, or an appeal of an administrative decision shall be given as follows:

- a. A notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation in the Township and sent to the person requesting the interpretation not less than 15 days before the public hearing.
- b. If the request for interpretation or appeal involves a specific parcel, written notice stating the nature of the request and the time, date, and place of the public hearing shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

6. Stay of Proceedings

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property, in which case proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

7. Decision by the Zoning Board of Appeals

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board of commission made in the administration of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a "non-use" variance from the terms of this ordinance.

D. Disposition and Duration of Approval

1. ZBA Powers

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions.

2. Decision Final

A decision by the ZBA shall be considered final as of the meeting at which the decision has been made, and the date of such meeting shall be deemed to be the date of notice of the decision to the applicant. To the extent that decisions are requested or required to be in writing, a ZBA Decision form will be completed at the meeting by the Chair of the ZBA, and shall constitute the certification of decision.

3. Period of Validity

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one (1) year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

4. Record of Proceedings

The Township administrative staff, under the supervision of the secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be within the ultimate authority, and shall be the responsibility, of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.

5. Appeal of a ZBA Decision

Appeals of a ZBA decision shall be taken in the manner provided by law.

6. New Application for Variance

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to re-consideration for a period of one year, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

Section 11.04 Amendments

A. Initiation of Amendment

Upon recommendation by the Planning Commission, the Township Board may amend, supplement, or change the district boundaries or the regulations herein, pursuant to the authority and procedures set forth in Michigan Public Act 110 of 2006, as amended. Text amendments may be proposed by any governmental body or any interested person or organization. Changes in district boundaries may be proposed by any governmental body, any person having a freehold interest in the subject property, or by the designated agent of a person having a freehold interest in the property.

B. Application for Amendment

A request for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property, shall be commenced by filing an application on the forms provided by the Township and accompanied by the fees specified. The application shall describe the proposed amendment and shall be signed by the applicant. Applications for rezoning of a specific site shall be accompanied by a plot plan or survey. These materials shall be submitted to the Township no later than thirty (30) calendar days prior to the Planning Commission meeting at which the review is requested.

A required plot plan or survey shall contain the following information:

1. Applicant's name, address, and telephone number.
2. Scale, north point, and dates of submittal and revisions.
3. Zoning classification of petitioner's parcel and all abutting parcels.

4. Existing lot lines, building lines, structures, parking areas, driveways, and other improvements on the site and within 50 feet of the site.
5. Dimensions, centerlines, and right-of-way widths of all abutting streets and alleys, both public and private.
6. General location of existing drainage courses, floodplains, lakes and streams, and woodlots.
7. All existing and proposed easements.
8. Location of existing sanitary sewer or septic systems, water mains, and well sites.

C. Review Procedures

After the completed application form and all required supporting materials have been received and fees paid, the request shall be reviewed in accordance with the following procedures:

1. Planning Commission Review

The request shall be placed on the agenda of the next regularly scheduled meeting of the Planning Commission. The Planning Commission shall review the request for amendment in accordance with the procedures and public hearing and notice requirements set forth in Michigan Public Act 110 of 2006, as amended, and schedule a public hearing for the request on the next available Planning Commission agenda. Notice of the public hearing shall be given following the procedures listed in Section 11.09.

2. Action by the Planning Commission

Following the hearing on the proposed amendment, the Planning Commission shall make written findings of fact which it shall transmit to the Township Board, together with the comments made at the public hearing and its recommendations.

3. Action by the County Planning Commission

Following the hearing on the proposed amendment, the Township shall submit the proposed amendment and the recommendations of the Planning Commission to the Van Buren County Planning for review and recommendation. The County will have waived its right for review if the recommendation of the County is not received by the Township within 30 days from the date the proposed amendment is received by the County.

4. Action by the Township Board

The Township Board may hold additional hearings if the Board considers it necessary, following the hearing and notice requirements of Michigan Public Act 110 of 2006, as amended. The Township Board may by majority vote of its membership adopt the proposed amendment, reject the proposed amendment, or refer the proposed amendment back to the Planning Commission for further review and recommendation within a specified time period. Thereafter, the Township Board may either adopt the amendment with or without the recommended revisions, or reject it.

5. Review Considerations

The Planning Commission and Township Board shall at minimum, consider the following before taking action on any proposed amendment:

- a. Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?
- b. Will the proposed amendment further the comprehensive planning goals of the Township as reflected in the Master Plan?
- c. Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendment?
- d. Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather than merely grant special privileges?
- e. Will the amendment result in unlawful exclusionary zoning?
- f. Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?
- g. If a rezoning is requested, is the proposed zoning consistent with the zoning classification of surrounding land?
- h. If a rezoning is requested, could all requirements in the proposed zoning classification be complied with on the subject parcel?
- i. If a rezoning is requested, is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?

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- j. Will the proposed amendment be consistent with the purposes of this Ordinance and, in particular, will the proposed amendment promote the public health, safety and welfare?

6. Notice of Record of Amendment Adoption

Following adoption of an amendment by the Township Board, one (1) notice of adoption shall be filed with the Township Clerk and one (1) notice shall be published in newspaper of general circulation in the Township within 15 days after adoption, in accordance with Michigan Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the Township Clerk. A master Zoning Map shall be maintained by the Township, which shall identify all map amendments.

D. Referendum

Within 30 days following the passage of the Zoning Ordinance, a petition signed by a number of qualified and registered voters as specified in Section 402 of Public Act 110 of 2006, as amended, may be filed with the Township Clerk requesting submission of an ordinance or part of an ordinance to the electors for their approval, in accordance with Section 402(2) of Michigan Public Act 110 of 2006, as amended.

Section 11.05 Conditional Rezoning

A. Intent

The Planning Commission and Township Board recognize that, in certain instances, it would be an advantage to the Township and to property owners seeking rezoning if the application for rezoning was accompanied by a site plan and was subject to certain conditions. Accordingly, it is the intent of this Section of the Zoning Ordinance to provide a conditional rezoning option to property owners in connection with the submission of an application for rezoning.

B. Definitions

The following definitions shall apply in the interpretation of this Section:

1. Applicant

The property owner, or a person acting with the written and signed authorization of the property owner to make application under this Section.

2. Conditional Rezoning Agreement (CR Agreement)

A written agreement approved and executed by the Township and property owner, incorporating a CR Plan, and setting forth Rezoning Conditions and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a conditional rezoning.

3. Conditional Rezoning Plan (CR Plan)

A plan of the property which is the subject of a conditional rezoning, prepared by a licensed engineer or architect, that shows the location, size, height, design, and other measures or features of buildings, structures and improvements on and adjacent to the property. The details to be offered for inclusion on a CR Plan shall be determined by the applicant, subject to approval of the Township Board after recommendation by the Planning Commission.

4. Rezoning Conditions

Conditions proposed by the applicant and approved by the Township as part of an approval under this Section, which shall constitute regulations in connection with the development and use of property for which conditional approval has been granted. Such Rezoning Conditions shall not:

- a. Authorize uses or developments of greater intensity or density than are permitted in the district proposed by the rezoning.
- b. Authorize uses that are not permitted in the district proposed by the rezoning.
- c. Permit uses or development expressly or implicitly prohibited in the CR Agreement.

5. Rezoning

The amendment of this Ordinance to change the Zoning Map classification on property from its existing district to a new district classification.

C. Authorization and Eligibility

1. Application for Optional Conditional Rezoning

A property owner shall have the option of seeking conditional rezoning in connection with submission of an application seeking rezoning. The conditional rezoning option shall be selected by filing an Application for Conditional Rezoning Review. Conditional

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rezoning represents a legislative amendment to the Zoning Ordinance, pursuant to Section 405 of Michigan Public Act 110 of 2006, as amended.

2. Site-Specific Regulations

In order to be eligible for review of an application for conditional rezoning, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific regulations (to be set forth on a CR Plan and in a CR Agreement) which are equally or more strict or limiting than the regulations that would apply to the land under the proposed zoning district.

D. Review and Approval Procedures

1. Pre-Application Meeting

Prior to submitting an Application for Conditional Rezoning, the applicant may schedule a pre-application meeting with the Township Planner to review the conditional rezoning guidelines and expectations. The applicant shall pay the expenses incurred by the Township for this meeting.

2. Application

A property owner or his/her designated agent may submit an Application for Conditional Rezoning at the time the application for rezoning is filed or at a subsequent point in the process of review of the proposed rezoning. The application, which may be amended during the review process, shall include a CR Plan proposed by the applicant and a list of Rezoning Conditions proposed by the applicant, recognizing that the Rezoning Conditions shall not authorize uses or development not permitted in the proposed zoning district.

3. Planning Commission Review

After the completed application and all required supporting materials have been received and fees paid, the petition shall be reviewed by the Planning Commission in accordance with the procedures outlined in Section 11.04.

4. Township Board Consideration

Upon receipt of the recommendation of the Planning Commission, the Township Board shall deliberate on the proposed conditional rezoning. If the Township Board determines that it may approve the conditional rezoning, then the Township Board shall work with the landowner to clarify tentative conditions so that the applicant (or designee) can develop a draft CR Agreement.

5. Township Board Action

Upon completion of the CR Agreement, the Township Board, by majority vote of its membership, shall make a final determination to approve or deny the conditional rezoning.

6. Zoning District Designation

If approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to “CR, Conditional Rezoning.” The use of property so designated shall be restricted to the uses specified in the CR Agreement, and no other development or use shall be permitted.

7. Effects of Approval

The use of property in question shall conform with all regulations governing development and use in the zoning district to which the property has been rezoned, subject to the following:

- a. Development Subject to Conditional Rezoning Requirements. Development and use of the property shall be subject to the more restrictive requirements specified on the CR Plan, in the Rezoning Conditions and in the CR Agreement, required as part of the Conditional Rezoning approval. Such requirements shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
- b. Site Plan Review and Other Approvals Required. Approval of the CR Plan and Agreement confirms only the rezoning of the property, subject to any conditions imposed as reflected in the CR Plan. Site plan, special land use, plat, and condominium approval, as appropriate, shall be required, pursuant to procedures in Article 11.00, prior to any improvements to the property. Any use or development proposed as part of any offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
- c. Recordation and Publication of CR Agreement. A conditional rezoning shall become effective following publication in the manner provided by law, and, after recordation of the CR Agreement, whichever is later.

8. Amendment of CR Agreement

Amendment of a CR Agreement shall be proposed, reviewed, and approved in the same manner as a new conditional rezoning application.

9. Expiration of CR Agreement

The conditional rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning unless: 1) approved development of the property commences within such two (2) year period and proceeds without delay and in good faith as required by ordinance toward substantial completion, or 2) the rezoning is extended for good cause by the Township Board as provided herein.

- a. Extension of Approval. In the event that a development has not commenced within two (2) years from the effective date of the rezoning, the Township Board shall initiate reversion of the zoning to its former classification. However, the land owner may apply to the Township Board for a one (1) year extension one (1) time. The request for extension must be submitted to the Township Clerk before the two (2) year time limit expires. The land owner must show good cause why the extension should be granted.
- b. Reversion of Zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified above, then the land shall revert to its former zoning classification as set forth in MCL 125.286i. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

10. Violations of the CR Agreement

If development or actions are undertaken on or with respect to the property in violation of the CR Agreement, such development or actions shall constitute a nuisance per se. In such case, the Township may issue a stop work order relative to the property and seek any other lawful remedies. Until curative action is taken to bring the property into compliance with the CR Agreement, the Township may withhold, or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of such other lawful action to achieve compliance.

E. Elements of a Conditional Rezoning Application

As an integral part of the conditional rezoning, the following elements shall be provided by the applicant for review by the Township.

1. CR Plan

A CR Plan, with such detail as proposed by the applicant and approved by the Township Board in accordance with this Section. The CR Plan shall not replace the requirements for site plan, subdivision or condominium approval, as the case may be.

2. Rezoning Conditions

Rezoning conditions, which shall not authorize uses or development not permitted in the proposed zoning district and which shall not permit uses or development expressly or implicitly prohibited in the CR Agreement. Rezoning conditions may include some or all of the following:

3. CR Agreement

A CR Agreement, which is voluntarily offered by the applicant (or designee), shall incorporate the CR Plan and set forth the Rezoning Conditions, together with any other term mutually agreed upon by the parties, including the following terms:

- a. Agreement and acknowledgement that the conditional rezoning was proposed by the applicant to induce the Township to grant the rezoning, and that the Township relied upon such proposal and would not have granted the rezoning but for the terms in the CR Agreement.
- b. Agreement and acknowledgement that the conditions and CR Agreement are authorized by all applicable state and federal laws and constitution, and that the CR Agreement is valid and was entered into on a voluntary basis, representing a permissible exercise of authority by the Township.
- c. Agreement and understanding that the property in question shall not be developed or used in a manner that is inconsistent with the CR Plan and CR Agreement.
- d. Agreement and understanding that the approval and CR Agreement shall be binding upon and inure to the benefit of the property owner and the Township, and their respective heirs, successors, assigns, and transferees.
- e. Agreement and understanding that, if a conditional zoning expires in the manner provided in this Section, no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.
- f. Agreement and understanding that each of the requirements and conditions in the CR Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved conditional rezoning, taking into consideration the changed zoning district classification and the specific use authorization granted.

- g. Any other agreement voluntarily proposed by the applicant (or designee) that is consistent with all applicable state and federal laws and is agreed to by the Township.

F. Approval Criteria

The applicant shall have the burden of demonstrating that the following requirements and standards are met by the CR Plan, Rezoning Conditions, and CR Agreement:

1. Enhancement of the Project Area

The Township Board, upon recommendation from the Planning Commission, shall determine that approval of the conditional rezoning shall accomplish the integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area, and such enhancement would be unlikely to be achieved or would not be assured in the absence of the use of conditional rezoning.

2. In the Public Interest

The Township Board, upon recommendation from the Planning Commission, shall determine that, in considering the site specific land use proposed by the applicant, sufficient conditions have been included in the CR Plan and CR Agreement so that it would be in the public interest to grant the conditional rezoning. In determining whether approval of a proposal would be in the public interest, the benefits that would be reasonably expected to accrue from the proposal shall be balanced against, and be found to clearly outweigh the reasonably foreseeable detriments thereof, taking into consideration reasonably accepted planning, engineering, environmental and other principles.

3. Consistency with the Master Plan

The proposed rezoning shall be consistent with the Master Plan and Future Land Use Map for the Township.

4. Review Considerations

The Planning Commission and Township Board shall consider the review considerations set forth in Section 11.04 C. 5.

Section 11.06 Fees

All applications shall be accompanied by a filing fee which shall be established by resolution of the Township Board, in accordance with Section 406 of Public Act 110 of 2006, as amended. This filing fee may include a deposit toward the costs of any consultants retained by the Township for reviewing the application, such as consulting planning services, consulting engineering services, legal services, court reported services, or similar services.

The filing fee and deposit shall be paid before the review process begins. Upon notification of deficient payment of fees, administrative officials charged with enforcement of the Ordinance shall suspend further review of the application. Any deposit toward the cost of any consultants shall be credited against the expense to the Township of such consultants, which shall be fully charged to the applicant. Any portion of the deposit not needed to pay such expense shall be refunded without interest to the applicant within 30 days of final action on the application.

A schedule of the current filing fees and deposit requirements shall be made available in the office of the Zoning Administrator.

The assessment and payment of application fees does not affect the requirements for a performance guarantee as specified in Section.

There shall be no fee in the case of application filed in the public interest by a municipal department or Township Official.

Section 11.07 Violations and Penalties

A. Nuisance Per Se

Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which begun, maintained or changed in violation of any provision of this Ordinance are hereby declared to be a nuisance per se, and shall be subject to abatement or other action by a court of appropriate jurisdiction.

B. Violation Defined

Any person, firm, corporation, or agent, or any employee, contractor, or subcontractor of same, who fails to comply with any of the provisions of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance.

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C. Penalties

Any violation of this Ordinance shall constitute municipal civil infraction (as defined by Michigan Statute). The penalty for a municipal civil infraction shall be a civil fine determined in accordance with the following schedule:

	<u>Minimum Fine</u>	<u>Maximum Fine</u>
1st Offense	\$75.00	\$500.00
2nd Offense	\$150.00	\$500.00
3rd or Subsequent Offense	\$350.00	\$500.00

In addition, the violator shall pay costs which may include all expenses, direct and indirect, which Paw Paw Township has incurred in connection with the municipal civil infraction.

Upon notice of a violation, the appropriate Township employee shall investigate any violation and then make a determination as to whether the penalty shall be imposed. This municipal civil infraction ticket shall serve as notice of the alleged violation. The imposition of a municipal civil infraction fine for any violation shall not excuse the violation or permit it to continue. Further violations subject the owner or occupant, or person or persons, agent, firm or corporation to subsequent municipal civil infraction violations. Furthermore, the owner or tenant of any building, structure, premise, or part thereof, and any architect, engineer, builder, contractor, agent, or other person who commits participants in, assists in, or maintains any violation of the Ordinance may each be found responsible for a separate offense and may be subject to the penalties provided herein. The cost of prosecution shall also be assessed against the violator. The imposition of any sentence shall not exempt the offense from compliance with the requirement of this Ordinance.

D. Authority to Commence Court Action

The Township Board or its duly authorized representative is hereby empowered to commence and pursue any and all necessary and appropriate actions or proceedings in the Circuit Court, or any other court having jurisdiction, to restrain or prevent any non-compliance with or violation of any of the provisions of this Ordinance, and to correct, remedy, or abate such noncompliance or violation. Any person aggrieved or adversely affected by such noncompliance or violation may institute suit or join the Township Board in such a suit to abate the violation.

E. Other Remedies

The rights and remedies set forth above shall not preclude the use of other remedies provided by law, including any additional rights of the Township to initiate proceedings in an appropriate court of law to restrain or prevent any noncompliance with any provisions of this Ordinance, or to correct, remedy, or abate such non-compliance.

F. Rights and Remedies Preserved

Any failure or omission to enforce the provisions of this Ordinance, and failure or omission to prosecute any violations of this Ordinance, shall not constitute a waiver of any rights and remedies provided by this Ordinance or by law, and shall not constitute a waiver or nor prevent any further prosecution of violations of this Ordinance.

Section 11.08 Records

The Township shall keep accurate records of all decisions on all applications submitted pursuant to this Ordinance.

Section 11.09 Public Notice

Any application process requiring a public hearing shall comply with the noticing requirements of PA 110 of 2006, as amended, and the procedures of this Article.