

## ARTICLE 8.00 – USE STANDARDS

### ***Section 8.01      Accessory Uses and Accessory Buildings/Structures***

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- A. To qualify as an accessory use, the use shall:
  - 1. Be clearly incidental and subordinate to, and customarily and commonly associated with the, the operation of the principal use.
  - 2. Shall be operated and maintained under the same ownership as the principal use.
  - 3. Shall be operated and maintained on the same lot as the principal use, or on a contiguous lot.
  - 4. Shall not include structures or structural features inconsistent with the principal use.
- B. All references to accessory buildings in this section shall apply only to residential accessory buildings, including private garages.
- C. Except as otherwise provided in this Ordinance, an accessory building shall be subject to the following:
  - 1. No accessory building may be used as a dwelling except as provided for in Section 8.12 – Guest Houses.
  - 2. When an accessory building is not structurally attached to the residence, it shall be located in the side or rear yard. A corner lot shall be considered as having two (2) front yards.
  - 3. The total combined floor space of the accessory building(s) shall not exceed the following limits:

<i>Lot or Parcel Size</i>	<i>Total Combined Floor Space</i>
One acre or less	1320 sq ft
1.01 acres – 2.99 acres	2000 sq ft
3.00 acres – 4.99 acres	3000 sq ft
5.00 acres – 9.99 acres	4000 sq ft
10.00 acres or more	5000 sq ft

- 4. An accessory building shall not exceed a height of 25 feet, or 18 feet if located on a platted lot or site condominium unit of one acre or less.

5. Accessory buildings shall be subject to the following setback requirements:
  - a. The front setback requirement for the district in which it is located.
  - b. The side setback requirement for the district in which it is located. If detached from the principal building and located entirely within the rear yard, a six (6) foot side setback requirement shall apply.
  - c. The rear setback requirement for the district in which it is located. If detached from the principal building and located entirely within the rear yard, a six (6) foot rear setback requirement shall apply.
- D. Accessory buildings may be established to serve a lawful nonconforming residence providing that such accessory building(s) are established in accordance with this Section and Article 10.00.

## **Section 8.02      *Bed and Breakfast Inns***

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### A. Regulations and Conditions

1. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
2. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that carriage houses in existence as of the effective date of this section, and located on the same parcel as a Bed & Breakfast Inn may be utilized for sleeping rooms, in accordance with this Section.
3. The rental sleeping rooms shall have a minimum size of 120 square feet for one (1) or two (2) occupants with an additional 30 square feet for each occupant to a maximum of four (4) occupants per room.
4. There shall be no separate kitchen facilities in the guest room or available to guests.
5. Two (2) off-street parking spaces for use by the owner and one (1) parking space per rental sleeping room shall be provided.
6. The Bed and Breakfast Inn shall not alter the residential character of the building or structure nor the essential character of the area in terms of traffic generation or appearance.

7. The permit holder shall secure and maintain all required state and local permits.

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**Section 8.03      *Boarding Houses***

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A. Regulations and Conditions

1. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
2. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that accessory dwellings in existence as of the effective date of this section, and located on the same parcel as a Boarding House may be utilized for sleeping rooms, in accordance with this Section.
3. There shall be no separate cooking facilities in the guestrooms.
4. One (1) bathroom per two (2) guest bedrooms shall be provided.
5. Two (2) off-street parking spaces for use by the owner and one (1) parking space per rental sleeping room shall be provided.
6. The Boarding House shall not alter the residential character of the building or structure nor the essential character of the area in terms of traffic generation or appearance.
7. The permit holder shall secure and maintain all required state and local permits.

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**Section 8.04      *Campgrounds***

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A. Regulations and Conditions

1. All publicly and/or privately owned campgrounds shall comply with Michigan's Public Health Code, 1978 PA 368, as amended (the Act), and the administrative rules adopted pursuant to the Act.
2. A license from the Michigan Department of Environmental Quality is required to operate a campground.
3. Commercial uses designed and intended to serve primarily the convenience or recreational needs of the campground tenants shall be allowed. No commercial use

in a campground may be located abutting a public street bordering the campground. Off-street parking for commercial uses in the campground shall be provided in accordance with the parking standards set forth in Section 9.12.

4. Screening shall be established between any campground improvements and an adjacent premises used or zoned for residential purposes.
5. Campsites, common use areas, roadways and permanent buildings in the campground shall be so situated and designed as to minimize any adverse effects therefrom to owners and occupants of adjacent properties.

## ***Section 8.05            Clustered Land Developments***

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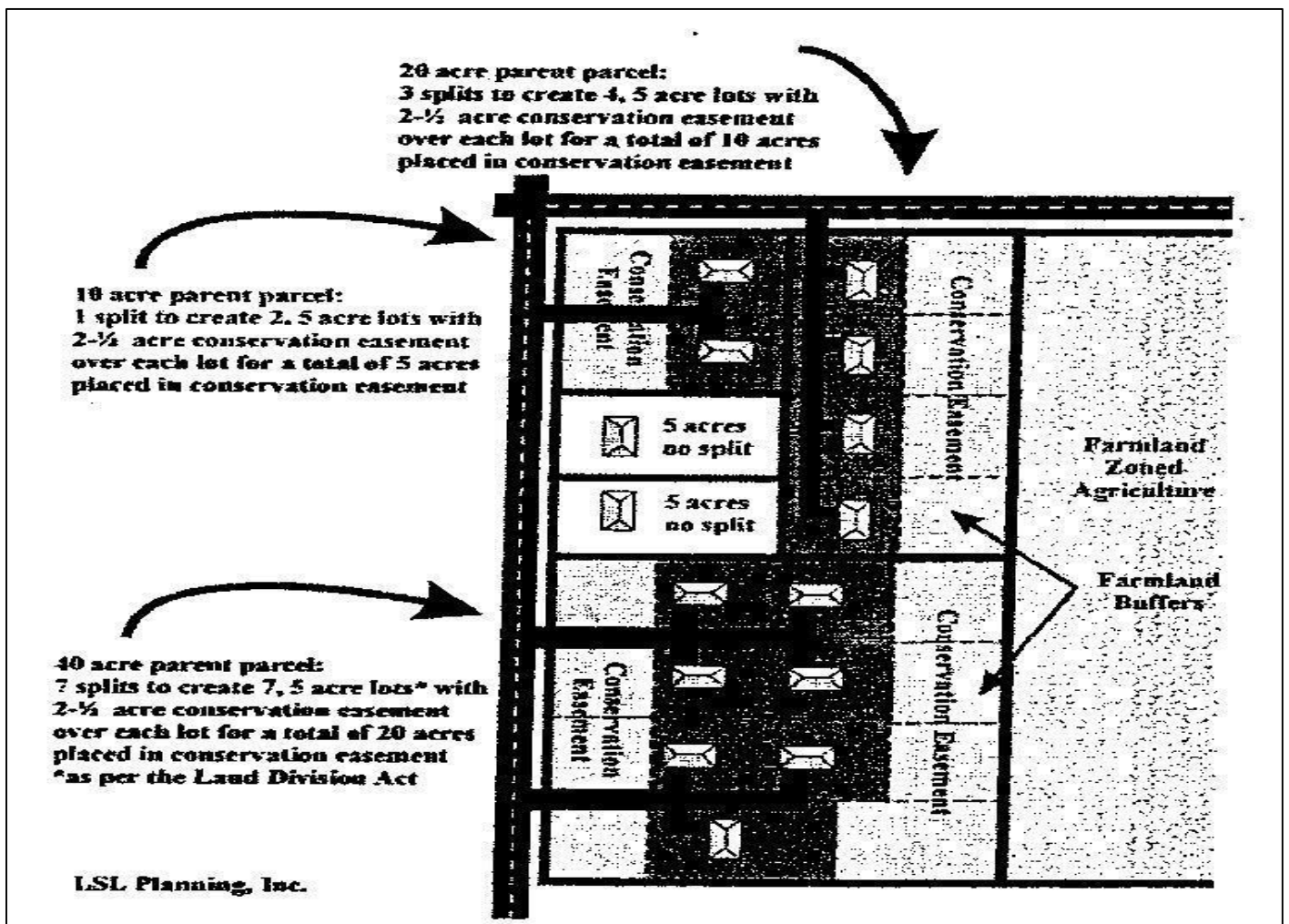
### **A. Regulations and Conditions**

For each parent parcel, as defined by the Michigan Land Division Act, the number of lots permitted by Section 108 of the Michigan Land Division Act, Michigan Public Act 288 of 1967, may be created, provided where a land owner chooses to develop lots under this provision, all of the following requirements shall be met:

1. The lots shall be subject to the lot, yard and area requirements set forth in Article 6.00, with the exception of lot area, lot width, and lot frontage requirements.
2. The lots shall be contiguous.
3. An area equal to or greater than the lots being created shall be set aside as permanent open space. These open spaces may be easements located on each of the lots or a single easement.
4. The open space shall be used for agricultural, conservation or recreational.
5. The open space shall be set aside through an irrevocable conveyance such as: recorded deed restrictions, covenants that run perpetually with the land, or conservation easements. The conveyance shall assure that the open space will be protected from all forms of development except as permitted under this provision.
6. Further division of the open space for use other than agricultural, conservation, or recreational, except for easements for utilities and driveways, shall be strictly prohibited.
7. The open space shall be maintained by parties who have an ownership interest in the open space. Maintenance responsibilities shall be specified in a deed restriction.

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8. A survey and legal description of the open space, as well as deed restrictions establishing the maintenance responsibilities of the open space, shall be provided with the land division application.
9. Public water and sanitary sewer services shall be required where reasonably available. Where such services are not reasonably available, lots shall meet Van Buren County Health Department requirements for private well and sanitation systems.
10. Any new utility lines to serve the lots shall be installed underground.
11. All lots shall have access limited to a shared residential driveway or a private road. A shared residential driveway may serve a maximum of two (2) lots. A private road may serve a maximum of four (4) lots.
12. A private road in conjunction with a Clustered Land Development shall be established in accordance with the provisions of Section 9.15.



*Clustered Land Development Example*

**Section 8.06**      **Child Care Facilities**

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A. Regulations and Conditions

1. Each child care facility shall be duly licensed or registered by the State of Michigan Department of Social Services (DSS) continuously and for all times it is operating as a child care facility. Any child care facility whose license or certificate of registration by the State of Michigan is no longer valid and/or which has been revoked or denied or refused by the DSS shall immediately lose its status and authorization to continue to operate.
2. Buildings and lots used for child care facilities shall conform to all state, DSS, and local requirements, rules, and standards.
3. Each child care facility shall provide, equip, and maintain on the premises the minimum square feet of indoor floor space and outdoor play area as required by the DSS. An applicant for a group child care home or child care center or day care center shall submit to the Planning Commission sufficient information and documentation regarding the maximum number of children allowed and the amount of indoor floor space and outdoor play area required by the DSS for the proposed child care facility prior to obtaining a special land use permit or site plan approval to operate within the Township.
4. The lot occupied by any child care facility shall have a fence which shall be not less than four (4) feet but not more than six (6) feet in height and which shall completely enclose the outdoor area where the minor children play or congregate, except that interior fences within a mobile home park shall not exceed 36 inches in height. However, the provisions of this subsection shall not apply to family child care homes.
5. A group child care home licensed or registered under Michigan Public Act 116 of 1973 shall be issued a special land use permit if the group child care home meets the following standards:
  - a. A group child care home shall comply with all the requirements set forth in subsections "1.", "2.", "3." and "4." above.
  - b. A group child care home shall be located not closer than 1,500 feet to any of the following:
    - 1) Another licensed group child care home, or

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- 2) Another adult foster care small group home or large group home licensed under the adult foster care facility licensing act, Michigan Public Act 218 of 1979, being Section 400.701 to 400.737 of the Michigan Compiled Laws, or
  - 3) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the Public Health Code, Michigan Public Act 698 of 1978, being Sections 333.6101 to 333.6523 of the Michigan Compiled Laws, or
  - 4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.
- c. The property containing a group child care home shall be maintained in a manner which is consistent with the visible characteristics of the neighborhood.
  - d. The operation of a group child care home shall not exceed 16 hours of operation during a 24-hour period.
  - e. A group child care home operator shall provide one (1) off-street parking space for each employee. These parking spaces shall be in addition to the off-street parking facilities serving the residents of the home. These off-street parking spaces shall be located on the lot in such a manner as to provide unblocked automobile access from the street to the required residential off-street parking facilities.
  - f. The subsequent establishment of any of the facilities listed in subsection 5.b. 1) to 4) of this Section, within 1,500 feet of the licensed or registered group child care home will not affect any subsequent special land use permit renewal, pertaining to the group child care home.
  - g. The distances specified in subsections b. and f. above shall be measured along a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.
  - h. An applicant for a group child care home shall submit to the Planning Commission a to-scale rendering which shows the dimensions of the zoning lot, setbacks of all structures on the lot, the proposed location of the fencing, the proposed parking arrangement, and any other features relevant to the application for special land use approval.

**Section 8.07 Commercial Medical Marihuana Facilities**

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A. Regulations and Conditions

1. A Commercial Medical Marihuana Facility may be authorized to operate within the Township by the holder of a state operating license, pursuant to Michigan Public Act 281 of 2016, as may be amended, the Rules promulgated thereunder, and all applicable local ordinances.
2. No Commercial Medical Marihuana Facility shall be located within 500 feet of any school, public park/playground, public library, church or medical facility with the minimum distance between uses measured between the Facility and the nearest property line of the school, public park/playground, public library, church or medical facility.
3. Outdoor trash containers or dumpsters may be required to control the disposal of waste or by-products from any facility operation. When required, an outdoor trash container or dumpster shall be subject to the following:
  - a. The placement of the container shall be subject to site plan review.
  - b. Adequate vehicular access shall be provided to the container which does not conflict with the use of the parking areas or access drives.
  - c. All containers shall rest on a concrete pad.
  - d. A solid ornamental screening wall or fence shall be provided around all sides of the container and shall include an access gate. The screening wall or fence and gate shall be of sufficient height to completely screen the container.
  - e. The container, screening wall or fence, and gate shall be maintained in a neat and orderly manner, free from debris.
4. A Commercial Medical Marihuana Facility shall be reviewed in consideration of the following:
  - a. Lighting – The placement and arrangement of outdoor lighting serving the facility shall provide adequate security and comply with the outdoor lighting standards set forth in Section 9.13.
  - b. Noise – Noise and vibration shall be minimized in their effect upon the surrounding area by the utilization of modern equipment designed to accomplish such minimization and the use of walls and vegetative buffers/screens.



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- c. Odor – Odor shall be minimized in its effect upon the surrounding area by the utilization of a modern odor control system designed to accomplish such minimization and operational procedures.
- d. Environmental – Information on the storage and use of products, water and energy consumption, and waste disposal associated with a facility will be required to allow for an assessment of potential impacts on the site and surrounding area and the applicability of state and local regulations.
- e. Traffic – A facility shall be located in consideration of the ingress/egress, loading and travel patterns of the traffic associated with the operation of the facility, with specific attention toward avoiding the creation of traffic through a predominantly residential area.
- f. Security – Security measures, such as fencing, access controls, and video surveillance, will be considered in determining the ability of the facility to adequately provide for public safety. Demonstration of compliance with the security measures required by State law shall be required.
- g. Impact on Neighboring Property – Barriers and/or buffers, facility separations, and/or operational requirements may be applied to minimize identified injurious or annoying impacts on surrounding properties.
- h. Annual Review – A facility shall be subject to an annual review by the Planning Commission to confirm compliance with the Special Land Use Permit and the provisions of this Ordinance.

***Section 8.08 Earth Removal, Quarrying, Gravel Processing, Mining and Related Commercial Mineral Extraction Business***

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- A. Earth removal, quarrying, gravel processing, mining and related commercial mineral extraction businesses shall be recognized as a special land use and controlled by the guidelines thereof. Control of such activities shall be the responsibility of the Planning Commission but shall only be permitted as a special land use in all zoning districts. Before a special land use permit shall be granted for this activity, the Planning Commission shall be satisfied that the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in this Ordinance or in any other Township Ordinance controlling such operations.

B. Location

1. All such operations shall be located on a primary road, as defined by the Van Buren County Road Commission, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than 150 feet to interior boundary lines of the property or such larger setback as may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Planning Commission may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to 50 feet if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission and adequate lateral support as set forth is at all times maintained.
3. No such excavation operation shall be permitted within 50 feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. The permanent processing plant and its accessory structures shall not be located closer than 100 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing shall apply to the digging or excavating apparatus and to the stockpiling or loading of materials and to the location of transportation equipment.
5. No such excavation operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

C. Screening

Screening shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth.

D. Nuisance Abatement

1. Noise and vibration shall be minimized in their effect upon adjacent property by the use of modern equipment designed to accomplish such minimization and by proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. Air pollution in the form of dust and dirt shall also be kept to a minimum by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. The Planning Commission may permit operations beyond these time periods if the nature of the operation requires longer hours and the effect upon adjacent properties is minimized to an acceptable level appropriate for such extended hours of operation.
4. All dangerous excavations, pits, or pond areas shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

E. Reclamation of Mined Areas

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one (1) acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
  - a. All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer ground water table in the excavation, or shall be graded or back-filled with non-hazardous, non-flammable, and noncombustible solids to insure:
    - 1) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or,

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- 2) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
  - b. The banks of all excavations shall be sloped to the water line in a water-producing excavation at a slope which shall not be steeper than one (1) foot vertical to four (4) feet horizontal, and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical and three (3) feet horizontal.
  - c. Topsoil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are to be completed within a one (1) year period. Where used, topsoil shall be applied to a minimum depth of four (4) inches to support vegetation.
  - d. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
  - e. Upon cessation of mining operations by abandonment or other-wise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
3. A performance bond, cash, or bank letter of credit shall be furnished to the Township Clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than \$3,000 per acre proposed to be mined or excavated in the following 12 months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of five feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one foot vertical to four feet horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the zoning inspector of the Township and the Planning

Commission. In no event shall such financial guarantee be less than \$3,000 in amount.

F. Submission of Operational and Reclamation Plans

1. No earth removal, quarrying, gravel processing, mining and related commercial mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of the within Ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
  - a. A contour map of the tract of land involved in the operations, including dimensions of the same, access to abutting public streets, and whether or not the same are "all-weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
  - b. The number of acres and the location of the same proposed to be operated upon within the following 12-month period after commencement of operations.
  - c. The type of mining or processing proposed to be conducted and the nature of the equipment to be used.
  - d. The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site.
  - e. In the event excavation or activities are to be conducted closer than 150 feet from the boundaries of the site, soil borings shall be made on the perimeter of the excavation site in sufficient number to disclose whether conditions exist satisfactory for lateral support of adjacent premises as determined by the Township Engineer. The written consent of the Planning Commission shall be required if mining operations shall be closer than specified in this Ordinance to the boundaries of the site. Such written consent shall only be granted if the Planning Commission determines, in its absolute discretion, that the requested operation will not have a material adverse impact upon adjacent properties. Such written consent may be made subject to such reasonable conditions and limitations, as the Planning Commission deems appropriate.
  - f. A map of plan disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

G. Hearing

1. After receiving an application for a grant of a special land use permit for an earth removal, quarrying, gravel processing, mining, or related commercial mineral extraction business accompanied by the required plans and specifications and permit fees, the Planning Commission shall hold a public hearing upon such application in the same manner as set forth in Article 7.00 pertaining to special land uses.

Following such hearing, the Planning Commission shall render a decision based upon the general criteria set forth in Article 7.00 of this Ordinance.

2. The extraction, by mining, of valuable natural resources from any property shall not be prevented unless very serious consequences would result from the extraction of those natural resources.
  - a. Natural resources shall be considered valuable for the purposes of this section if a person, by extracting the natural resources, can receive revenue and reasonably expect to operate at a profit.
  - b. The applicant shall have the initial burden of showing that there are valuable natural resources located on the relevant property, that there is a need for the natural resources (by the applicant or in the market served by the applicant), and that no very serious consequences would result from the extraction, by mining, of the natural resources.
  - c. In determining under this section whether very serious consequences would result from the extraction, by mining, of natural resources, the standards set forth in *Silva v Ada Township*, 416 Mich 153 (1982), shall be applied and all of the following factors may be considered, if applicable:
    - 1) The relationship of extraction and associated activities with existing land uses.
    - 2) The impact on existing land uses in the vicinity of the property.
    - 3) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
    - 4) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
    - 5) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

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- 6) The overall public interest in the extraction of the specific natural resources on the property.
  - d. The Township may apply reasonable regulation of hours of operation, blasting hours, noise levels, dust control measures, and traffic, not preempted by part 632 of Michigan Public Act 451, 1994 (Natural Resources and Environmental Protection Act). Such regulation shall be reasonable in accommodating customary mining operations.
3. In making any decision, the Planning Commission shall have the right and authority, as set forth in Article 7.00, to impose additional conditions and limitations with respect to the proposed special land use.

H. Liability Insurance

Except as otherwise provided herein, all parties receiving a special land use permit hereunder shall be required to carry personal injury and property damage insurance while un-reclaimed or un-rehabilitated area exists, in the amount of not less than 1,000,000 dollars for each person or property injured or damaged and not less than 4,000,000 dollars for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon other properties as a result of conditions or activities existing upon the site.

The Planning Commission shall have the authority to increase this minimum liability insurance requirement at the time of granting the special land use permit if the Planning Commission determines, in its sole reasonable discretion, that, because of unusual characteristics concerning the nature or location of the proposed operation, additional minimum liability insurance is necessary to adequately protect persons and property on or near the site of the operation. Similarly, the Planning Commission shall have authority to grant a partial waiver reducing the dollar amount of the insurance coverage required hereunder if the Planning Commission determines, in its sole reasonable discretion, that based upon the specific nature of the proposed operation, the property upon which it is located and/or the nature of the surrounding area, insurance coverage in such lesser dollar amount would adequately protect persons and property on or near the site of the operation.

A copy of the insurance policy shall be filed with the Township Clerk prior to commencing a special land use approved hereunder. The deductible written into the insurance policy shall not exceed five (5) percent of the per incident limit of the liability of the policy. The coverage obtained by the owner/operator to fulfill the requirements of this Section shall include the provision that the insurer shall notify the Township Clerk in writing at least 30 days before lapse or cancellation of the insurance for any reason.

**Section 8.09      *Farm Markets***

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A. Regulations and Conditions

1. Sales of farm products or commodities that have been processed/converted into a value-added product are allowed. Such farm products or commodities shall meet State of Michigan Guidelines for 'cottage food' items.
2. A parking area equivalent to one parking space per 25 square feet of the farm market area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turn-around area outside of the road right-of-way.

**Section 8.10      *Festivals, Concerts, Flea Markets and Outdoor Historical, Cultural and Entertainment Activities of a Rural Nature***

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A. Regulations and Conditions

1. Ingress to an egress from the premises shall be adequate to ensure the orderly flow of traffic onto and off of the premises and to ensure access for ambulance, fire equipment, and other emergency vehicles.
2. Off-street parking shall be in accordance with the provisions of Section 9.12 and sufficient to accommodate peak periods of use.
3. Rubbish disposal shall be handled in such a manner as will avoid any littering upon adjoining properties.
4. Adequate public restrooms and other sanitary facilities shall be provided and properly maintained; commensurate with the anticipated peak attendance at the particular activity involved.
5. Security arrangements shall be made, including the hiring of any necessary security personnel, as are necessary and sufficient to provide for the adequate security and protection of the persons attending the outdoor activity and for the preservation of order and protection of property in and around the site of the outdoor activity.
6. Camping incidental or accessory to the principal activity may be allowed by the Planning Commission subject to compliance with the requirements of Section 8.04.



**Section 8.11 Foster Care (Large Group) Facilities**

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A. Regulations and Conditions

1. Foster care facilities serving more than six (6) residents shall not be considered a single family dwelling.
2. Foster care facilities shall, as a condition of Special Land Use approval, at all times maintain all valid state and local licenses.
3. A foster care facility shall not be located within 1500 feet of any other foster care facility.
4. All outdoor lighting shall be in accordance with Section 9.13.
5. All off-street parking shall be in accordance with Section 9.12 and shall satisfy peak parking needs.
6. A landscape buffer shall be provided along all property lines that abut a less intense land use and around the perimeters of all parking areas visible from adjacent properties or streets.
7. The foster care facility shall maintain the property consistent with the visible characteristics of the surrounding area.

**Section 8.12 Guest Houses**

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A. Regulations and Conditions

1. No more than one (1) guest house shall be allowed on a lot.
2. A guest house may be located within an accessory building.
3. A guest house shall be used only to house guests of the occupants of the principal dwelling on the lot.
4. A guest house shall not be rented or used for commercial purposes.
5. A guest house may not:
  - a. Contain kitchen facilities.

- b. Have more than one (1) bathroom and two (2) other rooms, all of which shall be contiguous.
- c. Have a total living area that exceeds 480 square feet.

**Section 8.13 Kennels**

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A. Regulations and Conditions

- 1. The kennel shall be operated in conformance with all applicable county and state laws and regulations.
- 2. The kennel shall be located on property with a lot area of at least five (5) contiguous acres for a kennel with a capacity for up to 10 dogs, and an additional one (1) acre for each three (3) additional dog capacity, up to a limit of 25 dogs.
- 3. The facilities and activities of a kennel that is not fully-enclosed and/or that has any outside animal runs shall be located at least 500 feet from all boundary lines of any residential zoning district, and at least 500 feet from all lot lines of any property upon which a dwelling is situated.

The facilities and activities of a fully-enclosed kennel, without any outside animal runs, shall be located at least 100 feet from all boundary lines of any residential zoning district, and at least 100 feet from all lot lines of any property upon which a dwelling is situated.

A kennel may include an approved exercise area pursuant to Subsections 4.-6. and 9. herein and still be considered a fully-enclosed kennel facility for purposes of this Section.

- 4. A kennel intending to offer any outside dog exercise opportunities shall enclose the area intended to be used for such purposes with fencing at least six (6) feet in height, and otherwise sufficient to preclude dogs from straying beyond the exercise area.
- 5. A kennel with an approved outside dog exercise area, but without any outside animal runs, shall not allow dogs outside except in the approved exercise area, for reasonable periods of time, and shall be operated in such a manner as to not allow more than four dogs in the exercise area at the same time.
- 6. Outside animal runs and/or outside dog exercise areas shall be sufficiently monitored such that any dog(s) engaging in repetitive barking shall be promptly brought inside.

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7. The kennel shall have waste disposal systems adequate to handle all animal waste generated by the facility at its maximum capacity.
8. The kennel shall be designed, constructed, operated and maintained in such a manner as to at all times provide humane, clean, dry, and sanitary conditions for each animal kept on the premises, including sufficient square footage for each animal, in accordance with applicable state laws and regulations, and the recommendations of the American Kennel Association.
9. A kennel that is not fully-enclosed and/or that has any outside animal runs shall not create noise, odor, or other objectionable characteristics incident to the operation of the facility that is discernible beyond the boundaries of the property upon which the facility is located. A fully-enclosed kennel (including a facility with an approved outside exercise area) shall not create noise, odor, or other objectionable characteristics incident to the operation of the facility that is discernible beyond the boundaries of the property upon which the facility is located at a level beyond what is reasonable and customary in residential areas where dogs reside with residents.
10. A kennel may be located on the same lot as a single-family dwelling owned by the owner and/or operator of the kennel; provided that in such circumstances the nature and character of all buildings and facilities used for kennel purposes shall be aesthetically compatible with the dwelling use of the premises and with the principle uses of all adjoining properties.
11. Sufficient off-street parking shall be provided upon the premises upon which the kennel is operated to accommodate all potential customers and employees, and to prevent any traffic congestion as a result of the kennel. The off-street parking area shall, at a minimum, be gravel surfaced. The Planning Commission may require the off-street parking area to be hard-surfaced with asphalt or concrete pavement, if the parking area is located such that fugitive dust from an unpaved parking area will migrate off-site and be detrimental to the uses and occupants of adjoining property, or to the public health, safety and welfare, generally.
12. The Planning Commission may require a vegetative buffer to be installed and maintained around the perimeter of some or all of the kennel facilities for visual screening and/or noise abatement purposes, and/or to diminish off-site distractions to any dog(s) that may be in any permissible exercise area or other permissible outside area. The Planning Commission may determine whether to impose such requirements and/or the extent of such requirements as a condition of approval of the special land use permit and/or as a condition of approval of a subsequent site plan for the facility.

**Section 8.14      Major Home Occupations**

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- A. Occupations engaged in upon a residential premise by the resident or residents of the same and which do not materially impair the rural character of the general area and which also comply with the following conditions and regulations.
  
- B. Conditions and Regulations
  - 1. The home occupation conducted upon the premises is clearly incidental and subordinate to the principal use of the premises for residential purposes.
  - 2. The home occupation shall be conducted within the dwelling, attached garage or in a detached accessory building located on the same premises as the dwelling. The term “premises” as used in this section shall include adjoining parcels under common ownership and occupancy. This term shall also include parcels under common ownership and occupancy that would be contiguous to one another except for an intervening public or private right-of-way.
  - 3. No occupation conducted upon the premises shall occupy an area greater than 25% of the combined floor area of the dwelling and any open porch, attached garage and detached accessory building(s).
  - 4. The home occupation must be owned and operated by a person or persons residing on the premises. However, the Planning Commission shall have the authority to permit additional assistants who do not so reside within such dwelling where the same would not materially impair the rural character of the general area or cause traffic congestion or parking problems.
  - 5. No home occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, traffic, parking, or lighting.
  - 6. There shall be no alteration in the rural character of the premises in connection with such home occupation.
  - 7. All articles or material used in connection with the home occupation shall be stored in an enclosed building.
  - 8. No article or service shall be sold or offered for sale on the premises except as is produced on the premises by the home occupation or is clearly incidental and directly related to the principal activity constituting the home occupation.

9. The home occupation special land use permit may be revoked by the Planning Commission for noncompliance with this Ordinance and/or the terms and conditions of the special land use permit. Any such revocation shall be preceded by not less than seven (7) days written notice by first class mail to the occupant of the subject property of the proposed revocation, the reasons therefore, and the date, time, and place of the hearing at which the Planning Commission will consider such revocation.
10. The home occupation shall be permitted only after the issuance of a special land use permit as provided in this Ordinance. A home occupation shall not be allowed if the Planning Commission determines that the home occupation would alter or change the rural/residential character of the area.
11. A sketch plan containing the following information shall accompany any application for a special land use permit for a home occupation:
  - a. North arrow and accurate scale;
  - b. Area of subject parcel;
  - c. Location of all existing and proposed structures on the subject site;
  - d. Identification of all structures intended to be used in connection with the home occupation;
  - e. Setbacks of all structures from property lines;
  - f. Access, parking, loading, and proposed on-site circulation; and
  - g. Location and separation distances of structures on adjacent properties.

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**Section 8.15      *Micro-Breweries, Wineries, Cideries and Distilleries***

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A. Regulations and Conditions

1. This section is intended to promote local agricultural production by allowing the construction of micro-brewery, winery, cidery and distillery production facilities, along with associated tasting rooms and retail sale of related products.
2. This section is intended to encourage the growing of crops and production as an integral component of the rural and agricultural ambiance of Paw Paw Township and

to maintain the viability of farming in Paw Paw Township by allowing valued added processing and direct sales of beverages.

3. If required by law, a micro-brewery, winery, cidery or distillery must be licensed by the applicable federal, state and/or local agency and shall provide proof of such licensing (or pending application) with the special land use application. All required licensing must be kept current by the licensee. The facility shall comply with the requirements of said license at all times.
4. Microbreweries, wineries, cideries and distilleries may also include ancillary services such as tasting rooms, associated food service and sale of associated retail products. Any ancillary services must obtain all appropriate licenses as required by the federal, state and/or local agencies and provide proof of such licenses (or pending application) with the special land use application. All required licensing must be kept current by the licensee. The facility shall comply with the requirements of said license at all times.
5. All production activities shall take place within a fully enclosed building.
6. All buildings and structures used for micro-brewery, winery, cidery or distillery purposes must meet minimum required setbacks in the applicable zoning district. However, in order to encourage the use and/or reuse of existing structures, the Planning Commission may consider reduction of setback requirements, upon site plan review and a finding that such reduction in the required setback will not be injurious to the public health, safety and welfare and will not cause negative impacts on surrounding properties or public areas (including roads and road rights of way).

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**Section 8.16      *Mini/Self Storage Facilities***

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A. Regulations and Conditions

1. The development site shall be at least two (2) acres in size.
2. All outdoor storage areas shall be fenced and screened from view from adjoining roadways and residentially-used and/or zoned properties.
3. All outdoor storage areas shall be provided with a smooth and dust free surface.
4. All parking, maneuvering and drive aisles shall be 40 feet in width.

**Section 8.17      *Minor Home Occupations***

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- A. Home occupations shall be permitted only after the issuance of a zoning compliance permit by the Zoning Administrator as provided in this Ordinance.
  
- B. Home occupations, as regulated by this section, shall include professional business and personal service on a small scale including, but not limited to: insurance agencies, beauty shops, barber shops, income tax services, repair shops, arts and crafts, real estate, photographic studio, music teaching, small appliance and electrical motor repair, professional office, and consulting services. Other similar uses may be permitted as home occupations, subject to the provisions of this section.
  
- C. Regulations and Conditions
  - 1. The home occupation shall be conducted entirely within the dwelling.
  - 2. No home occupation conducted within the dwelling shall occupy an area greater than 25 percent of the total floor area of the dwelling exclusive of any open porch, attached garage, or similar space not suited for or intended to be occupied as living quarters. In no event, however, may a home occupation occupy an area greater than 300 square feet.
  - 3. The home occupation must be owned and conducted by a person or persons residing in the dwelling on the premises.
  - 4. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, traffic, parking, or lighting.
  - 5. There shall be no alteration in the residential character of the premises in connection with such home occupation.
  - 6. There shall be no external evidence of said home occupation, such as window displays, other than the small name plate sign as specified herein.
  - 7. No article or service shall be sold or offered for sale on the premises except as is produced on the premises by the home occupation or is clearly incidental and directly related to the principal activity constituting the home occupation.
  
- D. The zoning compliance permit for the home occupation may be revoked by order of the Planning Commission for noncompliance with this Ordinance and/or the terms and conditions of the zoning compliance permit. Any such revocation shall be preceded by

not less than seven (7) days written notice by first class mail to the occupant of the subject property of the proposed revocation, the possible reasons therefore, and the date, time and place of the hearing at which the Planning Commission will consider such revocation.

**Section 8.18      *Motor Vehicle Sales and Service***

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A. Regulations and Conditions

1. Adequate security outdoor lighting shall be provided upon the premises to illuminate any outdoor goods, merchandise or activities located thereon.
2. Outdoor display or parking of sales items and equipment shall be maintained on a dust-free surface.
3. The size and location of such outdoor sales businesses shall not be such as to unreasonably interrupt or impede pedestrian or vehicular travel by customers or patrons of adjoining commercial businesses.
4. Vehicle service activities shall occur within a completely enclosed building.
5. Partially dismantled vehicles, damaged vehicles, new and used parts, and discarded parts shall be stored within a completely enclosed building.
6. Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall comply with the locational requirements for parking lots as specified in Section 9.12, with the exception of the front setback requirement.

**Section 8.19      *Multiple Family Dwellings***

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A. Regulations and Conditions

1. A minimum of two (2) access streets connecting said development to a public street shall be provided. The Planning Commission may waive this requirement upon a finding that due to the particular characteristics of the proposed development, a second access street would not improve traffic safety.
2. Adequate frontage shall be provided to accommodate any ingress/egress design requirements.



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3. The minimum allowable distance between buildings shall be 50 feet.
4. The minimum dwelling unit sizes shall be as follows:
  - a. Efficiency – 400 square feet
  - b. One (1) bedroom – 500 square feet
  - c. Two (2) or more bedrooms – 500 square feet plus 150 square feet for each additional bedroom above one (1).
5. Buildings shall not contain more than eight (8) dwelling units and shall not contain more than four (4) units if located within 150 feet of a single family residential district. No more than four (4) units shall be allowed on the first floor level.
6. Multiple family developments shall not exceed eight (8) dwelling units per acre.
7. Each dwelling unit containing more than two (2) bedrooms shall be provided an additional parking space for each additional bedroom. All off-street parking shall be in accordance with Section 9.12.
8. An outdoor recreation area equivalent to 500 square feet per dwelling unit shall be provided. Recreation area is defined for the purposes of this Ordinance as that area specifically set aside for outdoor leisure activities.
9. A multiple family development containing 40 or more dwelling units shall provide a minimum of 800 square feet of indoor recreation area at a single location. An additional 100 square feet of indoor recreation area shall be provided for every eight (8) additional dwelling units. Any one (1) indoor recreation area shall be a minimum of 800 square feet.
10. All utility lines shall be placed underground.

***Section 8.20      Open Air Businesses***

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A. Regulations and Conditions

1. Lot area, lot width, and any other dimensional requirement of the zoning district shall be complied with; provided, that no item or items displayed outdoors shall be greater than 35 feet in height.

2. All exterior lighting shall be in accordance with Section 9.13.
3. The Planning Commission may establish, as a condition of approval, hours of operation for the Open Air Business.
4. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen landscaping, berms, and fencing; and such conditions may be in addition to the screening standards of Section 9.17 to mitigate the visual impact of an Open Air Business.
5. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.
6. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
7. The outdoor sales/display area shall be paved, or otherwise provided with a dust-free surface. The site plan shall include measure satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.

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## **Section 8.21      *Open Space Preservation Developments***

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### A. Purpose

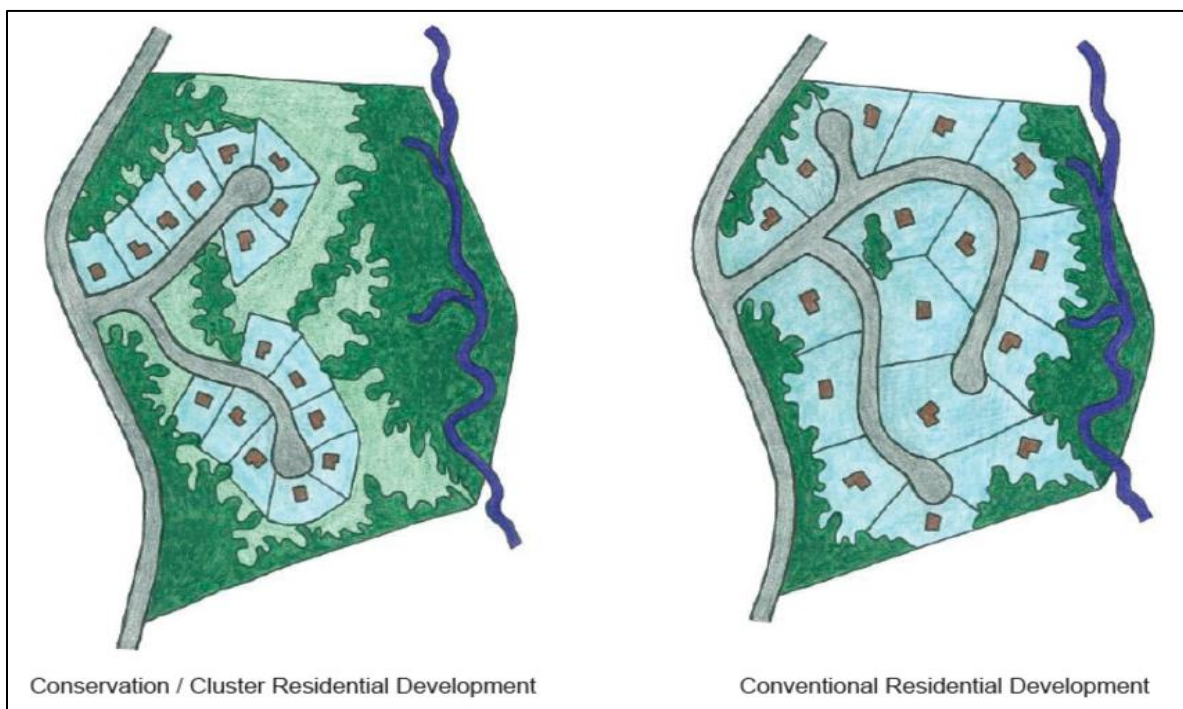
The purpose of this Section is to offer an alternative to traditional subdivisions through the use of open space preservation development opportunities, as authorized by Section 506 of the Michigan Public Act 110 of 2006, as amended, for the purpose of:

1. Assuring permanent preservation of substantial open space and other natural resources;
2. Allowing innovation and greater flexibility in the design of residential developments;
3. Facilitating construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
4. Providing for site development that maintains a low visual impact, particularly along roadways and abutting properties;

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5. Encouraging a less sprawling form of development, thus preserving open space, natural features, and wildlife habitat areas consistent with the Township’s rural character; and
6. Ensuring compatibility of design and use between neighboring properties.

These regulations are intended to result in a development substantially consistent with these Ordinance requirements, generally, yet allowing for specific modifications from the general requirements. These regulations are not intended as a device for ignoring the Township’s zoning requirements or the planning concepts upon which this Ordinance has been based.



**B. Scope**

An open space preservation development is defined as a residential development where the protection of substantial open space is the primary site development consideration, and the clustering or grouping of dwelling units and/or sites upon a small portion of the property is a fundamental feature.

An open space preservation development shall be permitted within the “CSV”, “AGR”, “ARR”, “LDR”, “WFR” and “VE” zoning districts, subject to the following requirements and standards.

C. Open Space Requirements

1. A minimum of 50 percent of the gross contiguous land area of the open space preservation development shall be designated as “open space”.
2. All significant/sensitive environmental resources (steep slopes, wetlands, woodlands, prime agricultural soils, scenic features, etc.) should be considered for inclusion within the designated “open space”.
3. The following land areas within the boundaries of the open space preservation development shall not be included as designated “open space”:
  - a. Land devoted to a residential lot or unit, accessory use, vehicle access, parking, and/or approved land improvement (other than those land improvements specifically referenced in the definition of “undeveloped state” in Subsection 4. below.);
  - b. Public street right-of-way, or right-of-way deeded to the Township; and
  - c. Private street easements.
4. Designated “open space” shall remain perpetually in an undeveloped state. “Undeveloped state” shall be defined as a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children’s play area, greenway, or linear park.
5. Designated “open space” shall, except for open space used for agriculture, consist of contiguous land area and be easily accessible to all residents of the open space preservation development through open space segments between clusters, visual and pedestrian linkages and proximity to such open spaces. Open space design should consider adjacent properties for the purpose of linking open spaces and creating connected open space and wildlife corridors.
6. Division (by platting, site condominium-izing or otherwise) of the designated “open space” is prohibited.
7. Designated “open space” shall be under common ownership or control, such that there is a single person or entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided.

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8. Designated “open space” shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as:
  - a. Recorded deed restrictions;
  - b. Covenants that run perpetually with the land;
  - c. Conservation easements; and
  - d. Land trusts.
9. Such conveyance shall assure that the “open space” will be protected from all forms of development, except as shown on the approved site plan, and shall never be changed to another use. Such conveyance shall also:
  - a. Indicate the proposed allowable use(s) of the designated “open space”;
  - b. Require that the designated “open space” be maintained by parties who have an ownership interest in the “open space”; and
  - c. Provide standards for scheduled maintenance of the “open space”.
10. Failure of the party(ies) having an ownership interest in the designated open space to maintain the open space in accordance with the standards set forth in the terms of conveyance described in Subsection 8. shall constitute a violation of this ordinance and subject the violator(s) to all sanctions, including injunctive relief, provided for under this Ordinance.

**D. General Development Requirements**

1. An open space preservation development shall be limited to single- and two-family residential dwelling units, provided that the total number of dwelling units does not exceed the density for the open space preservation development permitted by subsection 2.
2. The total number of dwelling units allowable within an open space preservation development shall not exceed the density allowed by the applicable requirements of the underlying residential zoning district.

The number of residential lots allowable within an open space preservation development shall be determined in the following manner:

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- a. A parallel design for the project consistent with the State and Township requirements and design criteria for a tentative preliminary plat shall be presented to the Planning Commission for review.
  - b. The design shall be reviewed to determine the number of lots that could be feasibly constructed following the adopted plat requirements.
  - c. The number of lots determined by the Planning Commission in this review shall be the maximum number of residential sites allowable for the open space preservation development.
3. Minimum lot area and width requirements shall not apply within an open space preservation development. All other zoning ordinance dimensional requirements for the underlying zoning district shall apply, unless specifically modified by the Planning Commission.

The Planning Commission is authorized to approve specific modifications from the dimensional requirements set forth in this Ordinance. Any dimensional modification shall be approved through a finding by the Planning Commission that the modification meets the purpose of the open space preservation development set forth in Subsection A. Such a dimensional modification is not subject to variance approval or further relief by the Zoning Board of Appeals.

4. Residential sites shall be designed to accommodate adequate sewage disposal facilities where public sewer is not required.
5. Residential sites shall be confined to cluster areas established within the open space preservation development.
6. Cluster area design standards:
  - a. A range of approximately five (5) to 10 sites per cluster area, arranged in a small, cohesive neighborhood, shall be considered a desirable design feature, as opposed to a linear arrangement.
  - b. Cluster areas should provide access to accommodate vehicles, utilities, and commonly owned facilities, as well as a linkage to the project open space system.
  - c. Cluster areas should be visually and physically separated from one another and off-site roadways by open space buffers.
  - d. Cluster areas should be integrated into the site without causing significant impacts on neighboring properties.

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- e. Cluster areas should be designed to be compatible with the surrounding community character.
  - f. The use of single-loaded streets (houses on only one side), especially alongside “open space”, around community common areas, and to create foreground meadows along the public road that serves the development should be incorporated into cluster area designs to avoid a traditional suburban subdivision appearance.
7. Visual screening of dwellings from off-site street networks and open space preservation development boundaries shall be accomplished through the siting of residences, maximizing existing screens, and providing new natural screens and/or open space buffers where appropriate.
8. The proposed open space preservation development shall be under common ownership or control while being constructed, such that there is a single person or entity having proprietary responsibility for the full completion of the project. Sufficient documentation of ownership or control, that indicates the proposed development will be completed in its entirety, shall be submitted with the application for approval.
- E. Design Standards

1. Interior Street System

The open space preservation development shall be serviced by an interior street system; dwelling units shall not front on or gain direct access from an off-site road network. Interior streets may be public and/or private subject to Township approval.

- a. Public streets shall be constructed to the standards of and dedicated to the Van Buren County Road Commission.
- b. Where adjoining areas are not subdivided, the arrangement of streets within the proposed open space preservation development shall be required to be extended to the boundary line of the project to make provision for the future projection of streets into adjoining areas.
- c. When an interior street will serve as a connecting link between different land ownerships or different public roads, either currently or within the future, it shall be constructed as a public road in the Van Buren County road system or, if approved by the Township, it may be a private road located upon a 66-foot public right-of-way/easement granted to the Township for public ingress and egress.

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- d. If approved as a private road, the Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.
- e. Where space permits, cul-de-sacs should be designed with a central island where vegetation shall be preserved/established.
- f. Street systems should be designed so that their curvature or alignment produces “terminal vistas” of open space elements, such as water features, meadows, or playing fields. This may commonly occur at the terminus of street intersections or through the use of single-loaded streets.
- g. Street systems shall be designed to accommodate required emergency vehicle access and circulation.

2. Access

Access to the open space preservation development shall be designed consistent with the rural, natural character of the area.

3. Utilities

- a. Public water and/or sanitary sewer services shall be required where reasonably available.
- b. Where such services are not reasonably available, private sewer facilities may be permitted subject to the review and regulation of the Michigan Department of Environmental Quality and/or the Van Buren County Health Department and the approval of the Township.
- c. All utility lines and installations capable of being placed underground, including telephone, electric and cable television, shall be placed underground.

4. Storm Water Management

Storm water management systems and drainage facilities shall be designed so as to:

- a. Protect the natural environment, including wetlands, water bodies, watercourses, flood plains, groundwater and soils;
- b. Retain the natural retention and storage capacity of any wetland, water body, or watercourse, and not increase flooding or the possibility of polluting surface water or groundwater, on-site or off-site; and



- c. Incorporate and/or use natural drainage systems existing on the site.
- 5. Street Lighting

Street lighting shall be designed and arranged so as to avoid light spillover onto adjacent premises and so that any light source is shielded or directed so that the light intensity or brightness will not be reasonably objectionable to surrounding areas.
- 6. Natural Features

The development shall be designed to promote the preservation of natural features.

F. Review Criteria

In considering an application for approval of an open space preservation development, the Planning Commission shall make its determination on the basis of the site plan review criteria set forth in Section 11.02 and the following standards and criteria:

- 1. The overall design and land uses proposed in connection with an open space preservation development shall be consistent with the intent of the open space preservation development concept and the specific open space/general development/design standards set forth herein.
- 2. The proposed open space preservation development shall be serviced by the necessary public and/or private facilities to assure the public health, safety, and welfare of project residents and users.
- 3. The proposed open space preservation development shall be designed to minimize the impact of traffic generated by the development on the surrounding land use and road network.
- 4. The proposed open space preservation development shall be designed so as to be in character with surrounding conditions as they relate to the bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
- 5. The proposed open space preservation development shall be designed and constructed so as to preserve the integrity of existing on-site and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.
- 6. The designated “open space” shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.

7. The proposed open space preservation development shall comply with all applicable federal, state and local regulations.

G. Application Guidelines

1. Conceptual Development Plan Review

- a. The applicant shall present the following information on the proposed open space preservation development for a conceptual review by the Planning Commission:

- 1) Sketch plan of the proposed layout;
- 2) An accurate legal description of the development site;
- 3) The names and addresses of all current owners of the development site;
- 4) The total acreage of the project site;
- 5) The number of acres to be developed by use;
- 6) The number of acres ineligible for density computation or open space;
- 7) The number of acres to be preserved as open space;
- 8) A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon PA 288 of 1967, as amended, and the Township Subdivision Control Ordinance. The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;
- 9) The number and type of proposed dwelling units;
- 10) The concept of the pedestrian and vehicular circulation system; and
- 11) The location and dimension of known natural features.

- b. Conceptual Development Plan approval shall not constitute an approval of a detailed final development/site plan but shall be deemed a tentative approval of the development concept and layout as a guide to the preparation of the final development/site plan. A request for modification of the conceptual

development plan shall be submitted to the Planning Commission for review in the same manner as the original conceptual development plan.

2. Development/Site Plan Review

- a. Following conceptual development plan review, an open space preservation development shall undergo a final development/site plan review by the Planning Commission. The final development/site plan review shall conform to the approved conceptual development plan and incorporate any revisions required by the Planning Commission at the conceptual development plan review. If a final development/site plan is not submitted for review within six (6) months of conceptual development plan approval, the Planning Commission may require a resubmission of the conceptual development plan for further review and possible revision. Development/site plan review shall be subject to all appropriate sections of this Ordinance.
- b. The following information shall be provided as part of the development/site plan:
  - 1) Boundaries of the open space preservation development;
  - 2) A general location map showing the existing zoning designations, uses, and ownerships of the open space preservation development and all land within one quarter (1/4) mile of the boundaries of the open space preservation development;
  - 3) The topography of the site and its relationship to adjoining land;
  - 4) A general description of existing soil conditions per the Van Buren County Soil Survey Map. Locations and dimensions of wetland areas and other significant natural features such as: woodland areas, slopes in excess of eight (8)%, lakes, ponds, streams and water drainage areas;
  - 5) The location of existing roads adjacent to the open space preservation development with an indication of how they will connect with the proposed circulation system for the proposed development;
  - 6) The pedestrian and vehicular circulation system proposed within the open space preservation development;
  - 7) Delineation of proposed residential cluster areas indicating for each such area its size and number of buildings, dwelling unit density, building envelopes, and orientation of units;

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- 8) The interior open space system and park/recreation areas;
- 9) Proposed landscaping, including greenbelts, berms, and/or screening;
- 10) The overall storm water drainage system;
- 11) The proposed sewage treatment method and water systems;
- 12) A colored rendering of the development plan for presentation purposes;
- 13) The overall plan shall represent the development concept using maps and illustrations for each use; specify square footage or acreage allocated to each use which is not residential; approximate locations of each principal structure in the development; setbacks, and typical layouts and architectural building elevations for each use. The plan shall summarize in a table form, the underlying zoning district requirements and specify, in table form, requested modifications from those requirements;
- 14) A parallel plan for determining the maximum allowable density. This plan shall meet the requirements for a plat based upon Michigan Public Act 288 of the 1967, as amended, and the Township Subdivision Control Ordinance. The plan shall be based upon the minimum lot area and the required dimensions for the underlying zoning district;
- 15) Maps and written analysis of the significant natural, cultural, and geographic features of and near the site. Analysis must include:
  - existing vegetation
  - topography
  - water bodies
  - streets, rights-of-way, easements
  - existing structures
- 16) An analysis of vehicular traffic impact of the proposed open space preservation development on existing road network;
- 17) A specific time schedule for the intended development and construction details, including proposed phasing or timing of all improvements;

18) The names, address, and telephone number of:

- all persons with an ownership interest in the land on which the open space preservation development will be located together with a description of the nature of each entity's interest
- all engineers, attorneys, architects or registered land surveyors associated with the open space preservation development
- the developer or proprietor of the open space preservation development
- any person(s) authorized to represent the owner in the review process

19) An accurate legal description of the open space preservation development, including appropriate tax identification numbers;

20) A statement as to how common open space and park/recreation areas are to be owned and maintained;

21) A narrative describing how the open space preservation development is consistent with the Township's Land Use Plan, the capacity and availability of necessary public facilities to the development, and the impact the development will have on adjoining properties;

22) Written reviews/approvals from all applicable regulatory agencies;

23) Easements, deed restrictions, and other documents pertaining to the open space system and park/recreation areas;

24) If condominium ownership is proposed, all documentation required by any condominium regulations of the Township; and

25) Engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the Township, including the cross sections of proposed streets, drive aisles, paved areas, and on-site drainage, including retention and/or detention areas.

### 3. Public Hearings and Noticing

The Planning Commission shall hold a public hearing on an application for conceptual development plan review and development/site plan review for an open space preservation development. Notice of a public hearing for an open space preservation development shall be accomplished in accordance with Article 7.00.

4. Effect of Approval

After a development/site plan has been approved and construction of any part thereof commenced, no other type of development is permitted on the site without further approval thereof by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.

5. Conformity to Approved Plan

Property which is the subject of approval for an open space preservation development must be developed in strict compliance with the approved development/site plan and any amendments thereto which have received Planning Commission approval. If construction and development does not conform to same, the approvals thereof shall be forthwith revoked. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.

6. Amendment to Approved Plan

A proposed amendment or modification to a previously approved development/site plan shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.

7. Project Phasing

When proposed construction is to be phased, the project shall be designed in a manner that allows a phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of users of the open space preservation development and the residents of the surrounding area.

Each phase of the project shall be commenced within 12 months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void.

8. Security Deposit

The Planning Commission may require that a security deposit, in accordance with Article 11.00, be deposited with the Township to insure completion of the site in accordance with the approved plans.

9. Recording of Action

No building permit shall be issued for an open space preservation development and no construction activity commenced within the open space preservation development until an affidavit containing the full legal description of the open space preservation development, specifying the date of final Planning Commission approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation development/site plan, is recorded with the Register of Deeds for Van Buren County.

In addition, all required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be duly filed with the Township and have been recorded with the Register of Deeds for Van Buren County.

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**Section 8.22      *Outdoor Recreational Facilities***

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A. Regulations and Conditions

1. All parks and playgrounds shall be fenced.
2. Tees, fairways and greens within a golf course shall be located not less than 50 feet from adjacent residentially zoned property under separate ownership, and not less than 50 feet from a public street. Provided further that any tees, fairways or greens within 150 feet from property used for residential purposes under separate ownership shall be adequately fenced to prevent trespassing upon said residential property. The Planning Commission is hereby given authority to determine upon application to it the adequacy of such fences to prevent trespassing upon adjacent property.
3. Pro shops, clubhouses (including the sale of food and beverages) and maintenance buildings (not including storage buildings) must have a sideline setback of not less than 500 feet from adjoining residentially zoned land under different ownership, and a front yard setback of not less than 110 feet from the adjoining highway center line. The side line setback for storage buildings shall be 40 feet.
4. No overnight accommodations shall be permitted except for the owners and/or managers of the facility
5. Adequate public rest rooms and other facilities shall be constructed and properly maintained.

6. Rubbish disposal shall be handled in such a manner as will be adequate for the purpose and avoid any nuisance or annoyance to adjoining property owners.
7. Any sale of foodstuff, beverages or merchandise shall be clearly incidental to the needs of the occupants and users of the facility while on the property.

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**Section 8.23      *Outdoor Sales or Activities***

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- A. Outdoor sales or activities accessory to a Permitted or Special Land Use are allowed subject to the review and approval of the Planning Commission.
- B. Regulations and Conditions
  1. Outdoor display of merchandise shall be subject to the setback requirements applicable to a principle building within the district.
  2. Outdoor activities shall not be located so as to reduce required on-site parking or impair site access and circulation.
  3. The Planning Commission may restrict the hours of operation or the duration of the outdoor activity based upon the character of the surrounding area.

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**Section 8.24      *Planned Unit Developments***

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A. Purpose

To permit greater flexibility in the regulation of land and encourage creative and imaginative design in development through the use of planned unit development legislation, as authorized by the Michigan Public Act 110 of 2006, as amended, in order to achieve the following:

1. Innovation in land use and variety in design, layout, and type of structures constructed;
2. Provision of a harmonious mixture of housing choices with the integration of commercial and community facilities and recreational opportunities;
3. Efficient provision of public services, utilities, and transportation facilities;



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4. Safe and convenient vehicular and non-motorized access throughout the development;
5. Greater protection and preservation of natural resources and natural features than associated with conventional development;
6. Provision of useful and desirable open space as an integral part of the development; and
7. Compatibility of design and use between neighboring properties.

These planned unit development regulations are intended to result in land use development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, yet allow for specific modifications to facilitate an improved quality of development. These regulations are not intended as a device for circumventing the more specific standards and requirements of this Ordinance, nor the planning concepts upon which the Zoning Ordinance has been based.

B. Scope

A planned unit development shall be recognized as a special land use and controlled by the guidelines thereof. Such developments shall be allowed as a special land use within the “LDR”, “WFR”, and “VE” zoning districts.

C. Planned Unit Development Requirements

1. Minimum Area: The minimum size of a planned unit development shall be 20 acres of contiguous land.
2. Permitted Uses: Planned unit developments are restricted to one (1) or more of the following uses regardless of the zoning district in which the development is located:
  - a. Single family, two-family, and multiple-family dwellings, including uses and buildings accessory thereto.
  - b. Nonresidential uses of an educational, cultural, recreational, office or commercial character, including uses and buildings accessory thereto, which uses are an integral part of a residential development, logically oriented to and coordinated with the planned unit development.
3. Density Requirements: Within any planned unit development approved under this Section, the requirements set forth below shall apply in determining the permitted

density of development:

- a. The overall density of the residential uses within a planned unit development shall be determined by dividing the planned unit development area (total parcel area less land area deemed unbuildable due to wetlands or natural features, less 10 percent of the parcel total for roads/infrastructure) by the minimum residential lot area per dwelling unit required by the zoning district in which the development is located.
  - b. The total density of all phases developed prior to completion of the project shall not exceed five (5) dwelling units per acre.
  - c. Nonresidential uses permitted, including related access roads and parking areas, shall not occupy more than 20 percent of the planned unit development area.
3. Dimensional Requirements: Except for minimum lot area, frontage, and width requirements, all Zoning Ordinance dimensional requirements for the underlying zoning district shall apply, unless specifically modified by the Planning Commission, pursuant to this Section. To encourage flexibility and creativity consistent with the purposes of the planned unit development concept, the Planning Commission may grant specific deviations from the dimensional requirements set forth in the Zoning Ordinance. Any dimensional deviation shall be approved through a finding by the Planning Commission that the deviation meets the purpose of the planned unit development set forth in Section A. Such a dimensional deviation is not subject to variance approval by the Zoning Board of Appeals.
4. Open Space Requirements: Within any planned unit development there shall be designated an amount of open space not less than 15 percent of the total planned unit development parcel size, subject to the following standards:
- a. Designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access. Any significant and/or sensitive environmental resources shall be included within the designated open space.
  - b. Designated open space shall be located so as to be visible and accessible to all residents of the development, preserve natural features, buffer adjacent uses, and/or connect open spaces throughout the development.
  - c. All designated open space shall be within and contiguous to the rest of the planned unit development.

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- d. The following land areas shall not be included as designated open space for purposes of meeting minimum open space requirements:
  - 1) Area proposed as a single family lot;
  - 2) Residential yards, or required building setbacks areas for any use;
  - 3) The area of any public street right-of-way or private road easement; and
  - 4) Parking and loading areas; storm water detention/retention basins, unless designed as a created wetland;
- e. Structures or buildings which are accessory to the designated open space may be permitted and shall be erected only in accord with the approved site plan.
- f. Designated open space shall be set aside through an irrevocable conveyance approved by the Planning Commission, such as recorded deed restrictions; covenants that run perpetually with the land; a conservation easement; or land trust. Such conveyance shall assure that the open space is protected from development, except as approved by the Planning Commission. Such conveyance shall also:
  - 1) Indicate the proposed allowable uses(s) of the designated open space;
  - 2) Require that the designated open space be maintained by parties who have an ownership interest in the open space;
  - 3) Provide standards for scheduled maintenance of the open space; and
  - 4) Provide for maintenance to be undertaken by the Township in the event that the designated open space is inadequately maintained, or is determined by the Township to be a nuisance, with the assessment of the costs for maintenance upon the open space ownership.
- g. Designated open space shall be under common ownership or control, such that there is a single entity having proprietary responsibility. Sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions shall be provided.

5. Design Requirements

- a. Access: A planned unit development shall have direct access onto a public street. More than one (1) access point onto the public street network shall be considered if a traffic study is provided that demonstrates overall traffic operations and safety will be improved.
- b. Interior Street System: The planned unit development shall be serviced by an interior street system complying with the following requirements:
  - 1) No use within the planned unit development shall front or gain direct access from an off-site road network. Interior streets may be public or private subject to Township approval.
  - 2) Public streets shall be constructed to the standards of and dedicated to the Van Buren County Road Commission. Private roads shall be constructed to Van Buren County Road Commission standards and subject to the pavement and easement widths as indicated below.
  - 3) All private two-way interior roads within a planned unit development shall have a paved driving surface with a minimum width of 24 feet, exclusive of parking area, and a minimum easement width of 66 feet. All private one-way interior roads within a planned unit development shall have a paved driving surface with a minimum width of 15 feet, exclusive of parking areas, and a minimum easement width of 66 feet. The paved driving surface shall be located in approximately the center of the required easement.
  - 4) Where adjoining areas are not subdivided, the arrangement of streets within the proposed planned unit development shall be designed to extend to the property line(s) of the project to allow for the future construction of streets extensions that make provision for the future projection of streets into adjoining areas.
  - 5) When an interior street will serve as a connecting link between different land ownerships or different public streets, either currently or within the future, it shall be constructed as a public street in the Van Buren County road system or, if approved by the Township, it may be a private road located upon a 66-foot public right-of-way/easement granted to the Township for public ingress and egress.

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- 6) If approved as a private road, the Township shall have no obligation or liability for the private road or maintenance thereof by virtue of the right-of-way/easement.
- 7) Street systems shall be designed to accommodate required emergency vehicle access and circulation.
- c. Parking: To encourage integration of mixed uses and improved efficiency in land use, an overlap in the parking requirements may be permitted between uses that have alternating peak parking demands.
- d. Sidewalks: Sidewalks shall be required to provide for improved pedestrian access and circulation within the planned unit development and with adjoining areas.
- e. Utilities: Public water and sanitary sewer facilities shall be provided as part of the planned unit development. All utility lines and installations capable of being placed underground, including telephone, electric, and cable television, shall be placed underground.
- f. Street Lighting: Street lighting shall be in accordance with Section 9.13.
- g. Storm Water Management: The design of storm water management systems within the planned unit development shall seek to protect the natural environment, retain the natural retention and storage capacity of any wetland or water body, and not increase flooding or pollute surface or groundwater, onsite or off-site.
- h. Screening: Screening shall be required along the planned unit development boundaries if determined to be necessary to minimize any adverse impacts upon or from properties which are not within the development. Screening shall be accomplished through the siting of land uses, maximizing existing screens or land cover, and/or providing new natural screens and/or open space buffers where appropriate.
- i. Natural Features: The planned unit development shall be designed to promote the preservation of natural features.

D. Procedural Requirements

- 1. Application Requirements: The application for approval of a planned unit development shall be made according to the procedures and application requirements for special land uses in Article 7.00.

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2. **Effect of Approval:** After a site plan for a planned unit development has been approved and construction of any part thereof commenced, no other type of development shall be allowed on the site without further approval by the Planning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners.
3. **Conformity to Approved Plan:** Property which is the subject of approval for a planned unit development must be developed in strict compliance with the approved special land use permit and site plan. If construction and development do not conform with same, the approval thereof shall be forthwith revoked. Upon revocation of such approval, all further construction activities shall cease upon the site other than for the purpose of correcting the violation.
4. **Amendment to Approved Plan:** A proposed amendment or modification to a previously approved site plan for a planned unit development shall be submitted to the Planning Commission for review in the same manner as the original application was submitted and reviewed.
5. **Project Phasing:** When a planned unit development is proposed to be constructed in phases, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and residents of the surrounding area. Each phase of the development shall be commenced within one (1) year of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void for all uncompleted phases.
6. **Security Deposit:** The Planning Commission may require that a security deposit be deposited with the Township to ensure completion of the site in accordance with the approved site plan.
7. **Recording of Action:** No building permit shall be issued for the development and no construction activity commenced within the planned unit development until an affidavit containing the legal description of the planned unit development, the date and terms of the final approval, and a declaration that all improvements will be carried out in accordance with the approved planned unit development is approved by the Township and recorded with the Register of Deeds for Van Buren County. All required public dedications for streets, utility easements or other public facilities, and deed restrictions shall be approved by the Township and recorded at the Register of Deeds for Van Buren County.

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8. Revocation: In any case where construction of the planned unit development has not commenced within one (1) year of the date of the final approval, all approvals shall be null and void.

E. Preliminary Approval Process

1. Pre-Application Meeting: An applicant desiring to submit an application for a planned unit development is encouraged to attend a pre-application meeting with Township staff and applicable Township consultants. The purpose of the pre-application meeting is to determine general compliance with the planned unit development eligibility and design requirements, and to identify issues of significance regarding the proposed application.

The applicant shall present the following information on the proposed planned unit development for a pre-application meeting:

- a. Sketch plan of the proposed layout;
  - b. Accurate legal description of the development site;
  - c. Names and addresses of all current owners of the development site;
  - d. Total project acreage;
  - e. Number of acres to be developed by use;
  - f. Number of acres of undeveloped land;
  - g. Number of acres of designated open space;
  - h. Number and type of residential units;
  - i. Details of nonresidential use;
  - j. Details of vehicular and pedestrian circulation system; and
  - k. Location and details of known natural features.
2. Preliminary Plan Review: A planned unit development shall undergo a mandatory preliminary plan review by the Planning Commission. The review is intended to provide an indication of the issues and concerns that must be resolved prior to site plan review. Preliminary plan approval shall not constitute an approval of a detailed site plan but shall be deemed an expression of approval of the layout as a guide to the

preparation of the site plan. A request for a modification to the approved preliminary plan shall be submitted to the Planning Commission for review in the same manner as the original preliminary plan was submitted and reviewed.

3. Preliminary Plan Requirements: Engineering details of a preliminary plan are not required to be developed beyond a level of detail required to determine the feasibility of the proposed layout. The preliminary plan, drawn to a reasonable scale, shall provide the following information:
  - a. Boundaries of the planned unit development;
  - b. General location map showing existing zoning, existing land use, and ownership of the planned unit development and all adjacent land;
  - c. Topography of the site and its relationship to adjoining land;
  - d. Location of existing streets adjacent to the planned unit development; proposed connection of existing streets with the planned unit development circulation system;
  - e. Pedestrian and vehicular circulation system and related parking facilities within the planned unit development;
  - f. Delineation of proposed residential and nonresidential areas indicating for each area its size, number and composition of buildings, dwelling unit density, building envelopes, height and orientation of buildings;
  - g. Designated open space system and recreation areas;
  - h. Proposed landscaping, including greenbelts, berms, and/or screening;
  - i. Storm water drainage system; and
  - j. Public facilities.

The following documentation shall accompany the preliminary plan:

- 1) Name, address and telephone number of:
  - all persons with an ownership interest in the land on which the planned unit development will be located together with a description of the nature of each entity's interest



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- all engineers, attorneys, architects or registered land surveyors associated with the planned unit development
  - the developer or proprietor of the planned unit development
  - any person authorized to represent the owner in the review process
- 2) Accurate legal description of the planned unit development;
  - 3) Total acreage of the planned unit development;
  - 4) Number and type of units to be developed;
  - 5) General statement as to how open space and recreation areas are to be owned and maintained;
  - 6) General indication of the proposed sequence and approximate timeframes of development phases; and
  - 7) A narrative describing how the planned unit development is consistent with the Ross Township Master Plan and the purposes of a planned unit development; the capacity and availability of necessary public facilities to the development; and the impact the development will have on adjoining properties.
4. Additional Information: During the preliminary plan review process, the Planning Commission may require additional information reasonably necessary to demonstrate compliance with the planned unit development review standards. Such information may include, but not be limited to, hydrological tests, traffic studies, or wetland determinations.

F. Final Approval Process

1. Special Land Use Permit/Site Plan Review: The Planning Commission shall hold a public hearing on a planned unit development application in accordance with applicable laws and the special land use provisions in Article 7.00.

A planned unit development shall be subject to site plan review by the Planning Commission. The detailed site plan shall conform to the approved preliminary plan and incorporate any revisions required by the Planning Commission at the preliminary plan review. Site plan review shall be subject to all appropriate sections of the Zoning Ordinance. If a detailed site plan is not submitted for review within six (6) months of preliminary plan approval, the Planning Commission may require resubmission of the preliminary plan for further review and possible revision.

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2. Site Plan Requirements: The following information shall be included on, or attached to, all site plans:
  - a. An update of the approved preliminary plan pursuant to the site plan informational requirements in Section 11.02;
  - b. Engineering plans presented in sufficient detail to indicate compliance with the engineering standards adopted by the Township, including street design/construction, paved areas, and storm water drainage;
  - c. Easements, deed restrictions, and other documents pertaining to the designated open space system and park/recreation areas; and
  - d. If condominium ownership is proposed, all related condominium documentation.
3. Review Criteria: Approval of a planned unit development shall be determined on the basis of the special land use criteria in Article 7.00, the site plan review criteria in Article 11.00, and the following criteria:
  - a. The overall design and land uses proposed in connection with a planned unit development shall be consistent with the purpose of the planned unit development concept and the specific design standards set forth herein.
  - b. The planned unit development shall be serviced by the necessary public facilities to ensure the public health, safety, and welfare of the residents and users of the development.
  - c. The planned unit development shall be designed to minimize the impact of traffic generated by the development on the surrounding land uses and road network.
  - d. The planned unit development shall be designed so as to be in character with surrounding conditions as they relate to bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.
  - e. The planned unit development shall be designed and constructed so as to preserve the integrity of the existing onsite sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources; and also so as to not impair or otherwise adversely affect such environments off-site on property not included in the development.

- f. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, agricultural use, recreation, visual impact, and access.
- g. The planned unit development shall comply with all applicable Federal, State, and local regulations.

## ***Section 8.25      Roadside Stands***

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### A. Regulations and Conditions

- 1. A roadside stand shall not exceed 150 square feet in area. The 150 square foot area dedicated as the 'roadside stand' may be located within a larger structure.
- 2. A roadside stand may only be located within a larger structure if the larger structure complies with the lot, yard and area requirements in Article 6.00.
- 3. A roadside stand that is less than 25 square feet in area or is only left in place seasonally may be located adjacent to the abutting road right-of-way. All other lot, yard and area requirements in Article 6.00 shall apply.
- 4. Awnings may be established on up to three sides of a roadside stand and shall not project more than four feet from the stand. In the event the roadside stand is located within a larger structure, the awnings may only be established on that portion of the structure constituting the roadside stand.
- 5. A parking area equivalent to one parking space per 25 square feet of the roadside stand area is required. Parking areas are not subject to paving requirements but shall be clearly marked and provide adequate turn-around area outside of the road right-of-way.
- 6. It is the intent of this Section to provide only for the limited seasonal sale of agricultural and related products. It is not intended to encourage the size of investment in equipment that would require a commercial district.

## ***Section 8.26      Solar Panels***

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- A. Solar panels, either attached to principal or accessory buildings or as accessory structures, shall be allowed in all zoning districts.

B. Regulations and Conditions

1. Attached to a building. Where attached to a building, the solar panels shall be subject to the same regulations as the building in terms of height and setback. Solar panels may be attached to the roof or the wall, but not both.
  - a. Roof-mounted solar panels shall include solar panels integrated as the surface layer of the roof structure with no additional apparent change in relief or projections (the preferred installation), or separate flush-mounted solar panels attached to the roof surface.
    - 1) Flush-mounted solar panels installed on a sloped roof surface shall not project vertically above the peak of the roof to which it is attached.
    - 2) Flush-mounted solar panels installed on a flat roof shall not project vertically higher than the height of the parapet wall surrounding the roof or shall be screened by architectural features.
    - 3) Solar panels integrated as the surface layer of the roof structure may be located on any part of the roof. Flush-mounted solar panels may only be located on the rear or side-facing roof.
    - 4) Roof-mounted solar panels shall be only of such weight as can safely be supported by the roof. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
  - b. Wall-mounted solar panels.
    - 1) Wall-mounted solar panels shall not exceed the height of the wall to which they are affixed.
    - 2) Wall-mounted solar panels may only be attached to a side or rear building façade.
  - c. Building-mounted solar panels shall be permanently and safely attached to the building or structure. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
2. Freestanding. Solar panels may be freestanding.
  - a. Freestanding solar panels shall be subject to the height, setback and location requirements applicable to accessory buildings established by Section 8.01.

- b. The surface area covered by freestanding solar panels shall be included in the lot coverage calculations for the lot.
  - c. Freestanding solar panels shall be permanently and safely attached to the ground. Proof thereof shall be submitted to the Township Building Official prior to installation and shall be subject to the Building Official's approval.
  - d. All related power transmission lines shall be placed underground.
  - e. After the installation of solar panels, accessory structures or vegetation shall not be established on an abutting property in a location that will block the solar panels' access to solar energy during 10:00 a.m. and 3:00 p.m.
3. The exterior surfaces of solar panels shall be generally neutral in color and substantially non-reflective of light.
  4. Solar panels shall conform to applicable industry standards and shall be installed, maintained and used only in accordance with the manufacturer's directions. The Building Official may inspect the completed installation to verify compliance.
  5. Solar panels shall comply with all applicable Township construction-related codes and permitting requirements.
  6. Solar panels allowed as a permitted accessory use shall require an Administrative Review.
  7. Solar panels failing to meet the height, setback, location or lot coverage requirements set forth herein may be allowed as a special land use, in accordance with Article 7.00.

## ***Section 8.27      Solar Farms***

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### **A. Purpose**

The purpose of this section is to establish guidelines for the siting of solar panel energy systems placed on property with the intent to provide utility-scale energy to the grid which shall hereafter be referred to as a Solar Farm. It is further the purpose and intent of this Section to:

1. Allow the safe, effective, and efficient use of a renewable energy system consistent with the goals and objectives set forth in the Paw Paw Township Master Plan.

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2. Preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse effects of solar farms, including aesthetic impacts and risks to the values of adjoining properties.
3. Establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of solar farms shall be governed.

B. Scope

Solar farms shall be allowed as a Special Land Use in the “AGR”, “ARR” and “HCI” zoning districts as the principal use on a lot.

C. Solar Farm Requirements

1. Siting of solar farms must conform to the front, side, and rear setback requirements of the zoning district.
2. When oriented at maximum tilt, freestanding solar panels shall not exceed the maximum accessory building height requirements of the zoning district.
3. All power transmission lines shall be located underground, unless otherwise modified by the Planning Commission in consideration of the Special Land Use Criteria for Review.

D. Glare

Solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties, or roadways. The exterior surfaces of solar panels shall be generally neutral in color and substantially non-reflective of light.

E. Batteries

When a battery storage system is included as part of the solar farm, it must be placed in a secure temperature-controlled enclosure when in use. When no longer in use, such batteries must be disposed of in accordance with applicable laws and regulations.

Battery storage enclosures shall conform to the solar farm provision set forth in subsection C.

F. Permits

Solar farms shall conform to applicable industry standards and shall be installed, maintained and used only in accordance with the manufacturer's directions. The Building Official may inspect the completed installation to verify compliance.

Solar farms shall comply with all applicable Township construction-related codes and permitting requirements.

G. Removal

1. A decommissioning plan shall be provided and shall:
  - a. State the anticipated life of the project;
  - b. Describe estimated decommissioning costs in current dollars and provide that this figure will be updated every fifth (5<sup>th</sup>) year after commercial operation of the utility-scale solar panel energy system;
  - c. Be signed by the party responsible for decommissioning and the landowner (if different);
  - d. Define the conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.);
  - e. State that all equipment, conduit, structures, fencing, roads, and foundations will be removed by the end of the decommissioning period;
  - f. Require property to be restored to the condition it was in prior to the development of the solar farm;
  - g. Describe the timeframe for completion of decommissioning activities;
  - h. Describe any agreement (e.g. lease) with the landowner regarding decommissioning;
  - i. State the party currently responsible for decommissioning; and
  - j. Describe any plans or circumstances requiring an update of the decommissioning plan.

2. A recorded copy of the decommissioning plan shall be submitted to the Planning Commission.
3. Decommissioning shall be completed within 12 months of determination by the Zoning Administrator that the solar farm is no longer being maintained in an operable state of good repair, unless the current responsible party with ownership interest in the facility provides substantial evidence to the Planning Commission of the intent to maintain and reinstate operation of the farm.
4. A cash deposit, certified check, irrevocable bank letter of credit, surety bond, corporate guaranty, or other similar financial instrument acceptable to the Planning Commission that is equal to the cost of decommissioning is required. The amount of security shall be adjusted to equal the latest estimated net decommissioning costs under Section G.1.b. above.

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**Section 8.28      *Special Events Facilities***

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A. Regulations and Conditions

1. A Special Event Facility shall be located on a minimum of 10 acres of contiguous land.
2. No Special Event Facility shall be approved for an attendance level in excess of 250 people, nor host a special event that lasts longer than two (2) days during a single weekend, not including set up and take down.
3. Drives and parking areas shall be subject to compliance with Article 9.12, except parking shall be provided at one (1) space for every four (4) persons of the maximum attendance level approved for the facility and shall be subject to compliance with applicable barrier-free requirements.
4. A parking attendant(s) shall direct traffic into the facility and towards available parking during the arrival of guests.
5. A Special Event Facility is limited to the following operational period, unless otherwise modified by the Planning Commission:
  - a. 9 a.m. to 9 p.m. on Sundays
  - b. 9 a.m. to 12 a.m. on Fridays and Saturdays



6. Adequate lighting shall be provided on the premises to illuminate outdoor activities and parking areas. All lighting shall be in accordance with Article 9.13. Lighting associated with the special event shall be turned off when the event is not in operation.
7. A Special Event Facility shall provide a water supply and sewage disposal system necessary to accommodate all special events to the satisfaction of the Van Buren County Health Department.
8. Noise levels generated at a Special Event Facility shall not constitute a nuisance to adjoining properties.
9. Structures and features related to the Special Event Facility shall be kept within an esthetic that is appropriate within the surrounding area.
10. Barriers and/or buffers and facility separations designed to minimize identified injurious or annoying impacts on surrounding properties may be required by the Planning Commission.

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**Section 8.29      *Wind Energy Systems (WES)***

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- A. The height of the WES with the blade in vertical position shall not exceed 65 feet.
- B. A WES shall be set back from all lot lines a distance which is at least equal to the height of the WES (with the blade in the vertical position) as measured from the lot line to the base of the tower. No portion of the WES, including the guy wire anchors, shall be located within or above the required front, side or rear yard setback.
- C. A structure-mounted WES shall have a distance from the nearest property line which is at least equal to the height of the WES as measured from the point of attachment to the structure or building to the top of the WES with the blade in the vertical position. Blade arcs created by a WES mounted on a structure shall have a minimum clearance of eight (8) feet.

**Section 8.30      Wireless Communications Facilities**

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A. General Requirements

1. Standard A: Wireless communications support structure and equipment is a permitted use of property and is not subject to special land use approval or any other approval if all of the following requirements are met:
  - a. The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.
  - b. The existing wireless communications support structure or existing equipment compound is in compliance with the Township Zoning Ordinance or was approved by the Planning Commission.
  - c. The proposed co-location will not do any of the following:
    - 1) Increase the overall height of the wireless communications support structure by more than 20 feet or 10 percent of its original height, whichever is greater.
    - 2) Increase the width of the wireless communications support structure by more than the minimum necessary to permit colocation.
    - 3) Increase the area of the existing equipment compound to greater than 2,500 square feet.
  - d. The proposed co-location complies with the terms and conditions of any previous final approval by the Planning Commission.
2. Standard B: Wireless communications support structure and equipment is subject to special land use approval, in accordance with Article 7.00, if the equipment does not meet requirements “(c.)” and “(d.)” under Standard A, but meets the requirements “(a.)” and “(b.)” under Standard A.
3. Standard C: Wireless communications support structure and equipment is subject to special land use approval, in accordance with Article 7.00, if the proposed use does not involve co-location (e.g., a new facility).

B. Approval Procedures

The following procedures have been established to achieve approval of a proposed wireless communications facility:

*Paw Paw Township Zoning Ordinance*

1. Standard A: A wireless communications support structure and equipment proposal requires no zoning approval. However, plans for Standard A improvements shall be submitted to the Township.
2. Standard B: A wireless communications support structure and equipment proposal requires special land use approval. Accordingly, such proposals are subject to the procedures in Article 7.00, including the following:
  - a. Applicant submits plan and applicable fee.
  - b. Within 14 days Township administration determines if application is complete.
  - c. If application is incomplete, administration notifies applicant.
  - d. If application is complete, administration initiates special land use review by scheduling special land use public hearing. Special land use review must be complete 60 days after the application is considered complete.
  - e. Planning Commission reviews plan, approves or denies application.
3. Standard C: A wireless communications support structure and equipment proposal requires special land use approval. Accordingly, such proposals are subject to the procedures outlined for Standard B, except that in Step 4 the special land use review must be complete not more than ninety (90) days after the application is considered complete.

C. Regulations and Conditions

All applications for wireless communications facilities that require special land use approval shall be reviewed in accordance with the following standards and conditions. If approved, such facilities shall be constructed and maintained in accordance with such standards and conditions and any additional conditions imposed by the Planning Commission.

1. Public Health and Safety. Facilities and/or support structures shall not be detrimental to the public health, safety and welfare.
2. Harmony with Surroundings. To the extent feasible, facilities shall be designed to be harmonious with the surrounding areas.
3. Compliance with Federal, State and Local Standards. Wireless communications facilities shall comply with applicable federal and state standards, including

requirements promulgated by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), and Michigan Aeronautics Commission. Wireless communications support structures shall comply with all applicable building codes.

4. **Maximum Height.** Applicants shall demonstrate a justification for the proposed height of the support structures and an evaluation of alternative designs which might result in lower heights. The maximum height of a 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 co-locate on the structure), but shall not exceed 120 feet. Higher support structures may be permitted, however, if necessary to achieve collocation. The buildings, cabinets, and other accessory structures shall not exceed the maximum height for accessory structures in the zoning district in which the facility is located.
5. **Minimum Setbacks.** The setback of a new or modified support structure from any residential-zoned district or existing or proposed right-of-way or other publicly traveled road shall be no less than the total height of the structure and attachments thereto. Where the proposed new or modified support structure abuts a parcel of land zoned for a use other than residential, the support structure shall comply with the required setbacks for principal buildings specified for the zoning district in which the facility is located. Buildings and facilities accessory to the wireless communication facility (other than the support structure) shall comply with the required setbacks for principal buildings specified for the zoning district in which the facility is located.
6. **Access.** Unobstructed permanent access to the support structure shall be provided for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. The permitted type of surfacing, dimensions and location of such access route shall be subject to approval by the Planning Commission, based on evaluation of the location of adjacent roads, layout of buildings and equipment on the site, utilities needed to service the facility, proximity to residential districts, disturbance to the natural landscape, and the type of vehicles and equipment that will visit the site.
7. **Division of Property.** The division of property for the purpose of locating a wireless communication facility shall be permitted only if all zoning requirements, including lot size and lot width requirements, are met.
8. **Equipment Enclosure.** If an equipment enclosure is proposed as a building or ground-mounted structure, it shall comply with the required setbacks and other requirements specified for principal buildings for the zoning district in which the facility is located. If an equipment enclosure is proposed as a roof appliance on a

building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building.

9. Design Objectives. The support structure and equipment shall be designed to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. Accordingly, support structures shall be grey or white (or another color that is found to be more harmonious with surroundings) and shall not have lights unless required otherwise by the Federal Aviation Administration (FAA). Equipment buildings shall have a brick exterior. No signs or logos visible from off-site shall be permitted on a support structure.
  10. Fencing. Wireless communications facilities shall be enclosed by an open weave, green or black vinyl-coated, chain link fence having a maximum height of six (6) feet. Barbed wire may be permitted.
  11. Structural Integrity. Wireless communications facilities shall be constructed and maintained in structurally sound condition, using the best available technology, to minimize any threat to public safety.
  12. Maintenance. A plan for the long term, continuous maintenance of the facility shall be submitted. The plan shall identify who will be responsible for maintenance, and shall include a method of notifying the Township if maintenance responsibilities change.
- D. Removal of Unused or Obsolete Facilities.
1. A condition of every approval of a wireless communications facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of the following event:
    - 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 no use.
    - b. The situations in which removal of a communications facility is required, as set forth in paragraph (1) above, may be applied and limited to portions of a facility.
    - c. 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 for any required demolition or removal permits, and immediately proceed with and complete the demolition, removal, and site restoration.

- d. If the required removal of a communications facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Township may secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

E. Application Requirements

1. Site Plan and Special Land Use Review. A site plan prepared in accordance with Section 11.02 shall be submitted, showing the location, size, screening and design of all buildings, outdoor equipment, and structures. Where the wireless communications facility is subject to special land use approval the procedures and standards in Article 7.00 shall be followed.
2. Landscape Plan. A detailed landscaping plan shall be submitted illustrating the number, species, location, and size at the time of planting of all proposed trees and shrubs. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
3. Structural Specifications. Structural specifications for the support structure and foundation shall be submitted for review. The structural specifications shall state the number of various types of antennae capable of being supported on the structure. A soils report prepared by a geotechnical engineer licensed in the State of Michigan shall also be submitted confirming that the soils on the site will support the structure. Structural plans shall be subject to review and approval by the Township Engineer.