

KINDERHOOK TOWNSHIP
ZONING ORDINANCE
BRANCH COUNTY, MICHIGAN

Adopted September 24, 1990

Revised: January 25, 1999
May 16, 2002
December 11, 2003

Table of Contents

Title	
Preamble	
Article 1...Enacting Clause	
Short Title	Section 101
Purpose	Section 102
Article 2...Construction of Language and Definitions	
Construction of Language	Section 201
Definitions	Section 202
Article 3...Zoning Districts and Map	
Districts Established	Section 300
District Boundries	Section 301
District Boundries Interpreted	Section 302
A Agricultural District	Section 305
R-1 Residential District	Section 306
R-2 High Density Residential District	Section 307
R-3 Waterfront Residential District	Section 308
R-4 Mobile Home Park District	Section 309
Trailer Coaches and/or Mobile Homes Used as Dwellings	Section 310
C-1 Neighborhood Commercial District	Section 311
C-2 General Commercial District	Section 312
I Industrial Districts	Section 313
Open Space Preservation	Section 315
Article 4...General Provisions and Exceptions	
Supplementary Regulations	Section 401
Miscellaneous Regulations	Section 402
Non-Conforming Uses	Section 403
Parking Requirements	Section 404
Sign Regulations	Section 405
Article 5...Special Use Permits	
Applications and Determinations	Section 501
Multiple Family Residential Developments	Section 502

Other Specials

Section 503

Article 6...Administration and Enforcement

Enforcement

Section 601

Board of Appeals

Section 602

Changes and Amendments

Section 603

Penalties

Section 604

Vested Right

Section 605

Severance Clause

Section 606

Effective Date

Section 607

KINDERHOOK TOWNSHIP ZONING ORDINANCE
Branch County, Michigan

TITLE

Ordinance enacted under Act 184, Public Acts of 1943, as amended, governing the unincorporated portions of the Township of Kinderhook, Branch County, Michigan, to provide for the establishment of zoning districts within which the proper use of land and natural resources may be encouraged and regulated; to provide for the location, the size of, and the type of uses that be made of the open spaces; to provide for sanitary, safety, light and other protective measures; to provide for the maximum number of families that may be housed in dwellings, buildings, and structures, including mobile homes,; to provide for the administration and amendment of said ordinance; to be followed by the Board of Appeals; and to provide for penalties for the violation of said ordinance.

PREAMBLE

Pursuant to the authority conferred by Act 184 of 1943 and Act 168 of the public acts of the State of Michigan in such case, made and provided for the purpose of promoting, and protecting the public health, safety, peace, comfort, convenience and general welfare of the inhabitants of the Township by protecting and conserving the charter and social, and economic stability of the residential, commercial, industrial and other use area; by securing the most appropriate use of the land; preventing overcrowding of the land and undue congestion of the population; providing adequate light, air and reasonable access; and facilitating adequate and economical provisions of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan, now therefore:

Kinderhook Township requires the property owner to obtain a zoning, building, electrical, mechanical, plumbing and other applicable permit prior to any construction or alteration of any dwelling, accessory structure, or structure within the Township.

ENACTING CLAUSE
The Township of Kinderhook Ordains

ARTICLE 1: SHORT TITLE, PURPOSE

SECTION 101: SHORT TITLE:

This ordinance shall be known as the “Kinderhook Township Zoning Ordinance:

SECTION 102: PURPOSE:

This Ordinance has been established for the purpose of:

- 102.1 Promoting and protecting the public health, safety and general welfare;
- 102.2 Protecting the charter and the stability of the agricultural, residential and commercial areas within the incorporated portions of Kinderhook Township and promoting the orderly and beneficial development of such areas;
- 102.3 Providing adequate light, air, privacy and convenience of access to property;
- 102.4 Regulating the intensity of use of the land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light, air and to protect the public health;
- 102.5 Lessening and avoiding congestion in the public highways and streets;
- 102.6 Providing for the needs of agriculture, residence and commerce in future growth;
- 102.7 Providing healthful surroundings for family life in residential and rural areas;
- 102.8 Protecting the public and adjacent areas from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radio activity and other health and safety hazards;
- 102.9 Preventing overcrowding of land and other concentration of buildings and structures so far as possible and appropriate in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- 102.10 Enhancing the economic stability in the Township;
- 102.11 Conserving the taxable value of land, buildings and structures in the Township;
- 102.12 Enhancing the aesthetic desirability of the environment throughout the Township;

102.13 Conserving the expenditure of funds for public improvements and services to conform with the most advantageous uses of land.

ARTICLE 2: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

SECTION 201: CONSTRUCTION OF LANGUAGE:

For the purpose of this ordinance, certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future; words used in the singular number include the plural number. The word “shall” is always mandatory and not discretionary. The word “May” is permissive. The word “Person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The words “used” or Occupied” include the words “intended”, “designed” or “arranged” to be used or occupied.

SECTION 202: DEFINITIONS:

Terms not herein defined shall have the meaning customarily assigned to them in the latest addition of “Webster’s Unabridged Dictionary”.

- 202.1 **Accessory Structure:** A structure with a permanent foundation, customarily incidental and subordinate to the principal structure. It has a floor space of over 100 square feet in area, and is located on the same zoning lot as the principal building.
- 202.2 **Accessory Use:** A use customarily incidental and subordinate to the principal use of the land or building and located on the same zoning lot as the principal use, and not used for human habitation.
- 202.3 **Agriculture:** Any land or building used for pasturage, horticulture, floriculture, orchards, viticulture, and dairying, livestock, and poultry husbandry.
- 202.4 **Alterations:** Any change, addition or modification in construction or type of occupancy; and any change in the structural members of a building, such as walls, partitions, may be referred to herein as “altered” or “reconstructed”.
- 202.5 **Basement:** A portion of a building more than half of which is below the average grade level.
- 202.6 **Buildings:** Any structure either temporary or permanent, erected on a site, having a roof, and used or built for the shelter and enclosure of persons, animals or property of any kind, a mobile home or mobile structure, a pre-manufactured, a precut structure above or below ground.
- 202.7 **Building Administrator:** The appointed official or Branch County or the delegated representative charged with the issuance of building, electrical, mechanical or any other applicable permits associated with construction or structural changes.

- 202.8 **Building Height:** The vertical distance from the established grade to the highest point of the roof surface. Where a building is on a sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
- 202.9 **Building Inspector:** The appointed official of Branch County or their delegated representatives responsible for inspecting various phases of construction to ascertain said construction is in compliance with applicable building codes, adopted by the county.
- 202.10 **Building Line:** A line parallel to the front line at the minimum required set back line.
- 202.11 **Certificate of Zoning Compliance:** A certificate issued by the Township Zoning Officer to a party or parties intending to initiate any work or change any use of property in the Township.
- 202.12 **Club:** An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like but not for profit, and open to only members and not the general public.
- 202.13 **District:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.
- 202.14 **Dwelling, Single Family:** A detached building designed for or occupied by one family
- 202.15 **Dwelling, Two Family:** A detached building designed for or occupied exclusively by two families living independently of each other.
- 202.16 **Dwelling, Multiple Family:** A building designed or used as residence for three or more families living independently of each other.
- 202.17 **Dwelling Unit:** A building which is occupied wholly as the home, residence or sleeping place of one or more human beings, either permanently or transiently, containing lawful cooking and sanitary facilities reserved for the occupancy thereof, and complying with the following minimum standards:
- A. Each dwelling unit shall contain at least a minimum actual living space area of 1000 square feet, when consisting of one or two bedrooms or separate areas, plus an additional 150 square feet of living space for each additional bedroom or sleeping area exceeding two, exclusive of garages or basements.
 - B. The minimum ceiling height shall 7'6" of open air space.
 - C. Each dwelling shall have two separate entrances and exits.

- D. It shall comply with additional square footage required of this ordinance for the zone in which it is located.
- E. The dwelling shall comply in all respects to those standards and regulations for construction as composed by Township building code, and any Federal or State standard or regulation in effect.
- F. The dwelling shall contain a storage capacity area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate fully enclosed structure on the site, said separate structure being of standard construction similar to or of better quality than the principle dwelling, such storage area shall be in addition to the space for storage of automobiles and shall be equal to not less than ten percent of the minimum square footage requirement of this ordinance for the zone in which the dwelling is located.
- G. A dwelling shall also include earth homes or underground shelter homes which must have one exposed side of at least 14 feet in width with a height or not less than 7' 6", and meet all building codes and regulations pertaining thereto, and the other minimum requirements set forth therein.
- H. Each dwelling shall have a permanent foundation according to the county building code, except as defined elsewhere in this ordinance.

202.18Erected: The word erected includes; built, contracted, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill drainage and the like shall be considered part of erection.

202.19Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, communication, electrical, steam, fuel or water transmission systems, including towers, poles, wires, mains, drains, boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, convenience, or welfare, but not including office buildings or depots.

202.20Family: An individual or two or more persons related by blood or marriage or adoption, or a group not to exceed two persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit.

202.21Farm: Any parcel of land containing at least twenty acres which is used for gain in the raising agricultural products, livestock, poultry or dairy products. It includes the necessary farm structures within prescribed boundaries and the storage of farm equipment used. It excludes the raising of fur bearing animals, commercial dog kennels, and stone, gravel or sand quarries.

- 202.22**Fences:** An artificial contracted barrier of wood, metal, stone or any other manufactured materials erected for the enclosure of yard areas.
- 202.23**Filling:** The depository or dumping of any matter into or onto the ground except common household gardening and general care.
- 202.24**Floor Area Gross:** Is the sum of all gross horizontal areas of several floors of a building or buildings measured from the outside dimensions of the structure enclosed porches, courtyards or patios, whether covered or uncovered shall not be considered as part of the gross floor area unless used for commercial purposes such as sales of outdoor equipment or nursery beds.
- 202.25**Floor Area Useable:** For the purposes of computing parking requirements, is that area to be used for the sale of merchandise or services, or for the use to serve patrons, clients or customers. Such floor which is used or intended to be principally for the storage or processing of merchandise: hallways, stairways and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of “useable floor space”, measurement of useable floor space shall be the sum of the horizontal areas of several floors of the building, measured from the interior faces of the exterior walls.
- 202.26**Free Standing Sign:** A structure erected for the purpose of advertising a business or activity on the same parcel. Such structures shall not be attached to a building which may also be located on the same parcel. Such a sign may also be known as a pylon sign.
- 202.27**Funneling:** Funneling development (also known as “keyhole development”) is the use of a waterfront lot as a common open space for waterfront access for a larger number of users than are typical from a single family waterfront lot.
- 202.28**Gasoline Service Stations:** A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles or boats, and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for storage, motor repair, or servicing, but not including bumping, painting, refinishing or conveyor-type car wash operations.
- 202.29**Grade:** A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.
- 202.30**Home Occupation:** Any use customarily conducted entirely within a dwelling or accessory building and carried on by the inhabitants thereof, which use is clearly

incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any alteration of the structure or change the character thereof, home occupations shall consist of such things as hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate, insurance sales, state licensed group day care homes (7-12 children), professional office for not more than one physician, surgeon, dentist, attorney, architect, engineer, or similar recognized professional practitioner provided such home occupation shall satisfy the following conditions:

- A. The non-residential use shall only be incidental to the primary residential use.
- B. The occupation shall utilize no more than 25% of the ground floor area of the structure.
- C. Only normal domestic or household equipment and equipment characteristic of above named occupations shall be used to accommodate the home occupation.
- D. The home occupation shall involve no employees other than members of the immediate family residing on the premises.
- E. All activities shall be carried on indoors; such occupation shall not create a nuisance as defined herein. No outdoor activities or storage shall be permitted, except in the case of licensed daycare.
- F. There shall be no external evidence of such occupations except a small announcement sign not larger than two (2) square feet in area.
- G. The permission for home occupation as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.
- H. Garage sales, rummage sales, yard sales, and similar activities may be conducted for no longer than three days and no more than twice per calendar year on the same property.

202.31Junk: For the purpose of this ordinance the term “junk” shall mean any motor vehicles, machinery, appliances, products or merchandise with parts missing or scrap metals or other scrap materials that are damaged or deteriorated.

202.32Junk Yard: Any land or building used for abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, other scrap or discarded materials, or for abandonment, demolition, dismantling, storage or salvaging of

automobiles or other vehicles not in normal running conditions, machinery or parts thereof.

- 202.33**Kenel, Commercial:** Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.
- 202.34**Loading Space:** Is an off street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.
- 202.35**Lot:** Land occupied or to be occupied by a building, structure, land use or group of buildings, together with such open spaces or yards as are required under this ordinance and having frontage upon a street.
- 202.36**Lot, Corner:** A lot which has at least two contiguous sides abutting upon a street for their full length.
- 202.37**Lot, Depth of:** The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the side lines of the lot.
- 202.38**Lot, Interior:** A lot other than a corner lot.
- 202.39**Lot Line:** Any of the lines bounding a lot as defined herein.
- 202.40**Lot of Record:** A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds in Branch County, Michigan, or a parcel or lot described by metes and bounds, the deed to which has been recorded in the office of the Register of Deeds in Branch County, Michigan, prior to the adoption of this ordinance "September 24th, 1990".
- 202.41**Lot, Width of:** The straight line horizontal distance between the side lot lines, measured at the two points where the building line, or setback line intersects the side lot lines.
- 202.42**Master Plan or Comprehensive Development Plan:** The statement of policy by the Township Zoning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development. The plan consists of a series of maps, charts and written material representing in summary form the soundest concept for community growth to occur in an orderly, attractive, economical and efficient manner thereby creating the very best community living conditions.
- 202.43**Mobile Home:** A moveable or portable dwelling of thirty-five (35) feet or more in length, which is constructed to be towed on its own chassis, is capable of being connected to public utilities, and is designed for year-round living as a single

family dwelling unit without the necessity for a permanent foundation. The term shall not include pick-up campers, travel trailers, converted buses, or tent trailers.

202.44 Non-Conforming Use: A building, structure, or use of land lawfully in existence at the time of enactment of this ordinance, and which does not conform with the regulations of the district or zone in which it is situated.

202.45 Nuisance: Is an offensive, annoying, unpleasant, or obnoxious thing or practice. A cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or effects a human being, or the generation of an excessive or concentrated movement of people or things such as:

- A. Noise
- B. Dust
- C. Smoke
- D. Odor
- E. Glare
- F. Fumes
- G. Flashes
- H. Vibration
- I. Shock Waves
- J. Heat
- K. Electronic or Atomic Radiation
- L. Objectionable Effluent
- M. Noise of a congregation of people especially at night
- N. Passing traffic
- O. Invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities

- 202.46**Parking Spaces:** An area of not less than 20 feet in length or 10 feet in width, exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for parking of permitted vehicles.
- 202.47**Zoning Commission:** The Township Zoning Commission of the Township of Kinderhook, Branch County, Michigan.
- 202.48**Right-of –Way:** A street, alley or other thorough-fare or easement permanently established for passage of persons, vehicles or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
- 202.49**Shopping Center:** Is a business or group of businesses which provides a variety of merchandise and/or services which requires a location on a major road and a large parking area to accommodate vehicular traffic. Such a center may be a small neighborhood center, a discount store, or a mall, though this does not limit such use to be one or any of these.
- 202.50**Sign:** Any devise designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:
- A. Signs not exceeding one square foot in area bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
 - B. Flags and insignias of any government except when displayed in connection with commercial connotations.
 - C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
 - D. Integral decorative or architectural features of buildings except letter trademarks, moving parts or flashing lights.
 - E. Signs directing and guiding traffic and parking to private property, but bearing no advertising matter
- 202.51**Special Use Permit:** A permit issued by the Township Board to a person or persons intending to undertake the operation of an activity upon land or within a structure which is not specifically mentioned in the ordinance and possesses a unique characteristic found to be not injurious to the health, safety, convenience and general welfare of the Township’s inhabitants.
- 202.52**Street:** A public dedicated right-of-way which affords traffic circulation and principal means of access to abutting property.

202.53**Structure:** Anything constructed or erected which requires permanent location on the ground or attached to something having such location of the ground, and extending 30 inches above grade level.

202.54**Subdivision:** The division of a lot, tract, or parcel of land into five or more lots, tracts or parcels of land for the purpose, whether immediate or future, of sale or of building development. The meaning of the term “sub-division” shall not, however, apply to the partitioning or dividing of land into tracts or parcels of land of more than ten (10) acres.

202.55**Variance:** A modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

202.56**Yards:** (*Revised 12/11/2003*)

- A. Yard, Front: A yard extending the full width of the lot and lying between the front line of the lot and the nearest wall line of the principal building excluding up to a 24” overhang.
- B. Yard, Rear: An open space extending the full width of the lot and lying between the rear line of the lot and the nearest wall line of the principal building excluding up to a 24” overhang.
- C. Yard, Side: An open space between the side line of the lot and the nearest wall line of the principal building excluding up to a 24” overhang and extending from the front yard to the rear yard.
- D. In such cases where the lot line lies within the public road right of way, then front or rear line shall be edge of road.

202.57**Wireless Communication Facilities** shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of receiving or transmitting radio signals. This may include, but shall not be limited to: radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, short wave facilities, amateur radio facilities and satellite dishes. (*Revised 1/4/2001*)

ARTICLE 3: ZONING DISTRICTS AND MAP

SECTION 300: DISTRICTS ESTABLISHED:

For the purposes of this ordinance, the Township of Kinderhook is hereby divided into the following districts:

Residential Districts:

- A Agricultural District
- R-1 Residential District
- R-2 High Density Residential District
- R-3 Waterfront Residential District
- R-4 Mobile Home Park District

Non-Residential Districts:

- C-1 Neighborhood Commercial District
- C-2 General Commercial District
- I Industrial District

SECTION 301: DISTRICT BOUNDARIES:

The boundaries of these districts are hereby established as shown on the zoning map of this ordinance, Township of Kinderhook Zoning Ordinance which map with all notations, references and other information shown thereon shall be as much a part of this ordinance as if fully described herein. The official zoning map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, under the following words. This is to certify that this is the official zoning map referred to in Section 301 of the adopted ordinance. If, in accordance with the provisions of this ordinance, changes are made to district boundaries or other matter portrayed on the official zoning map, such changes made on the official zoning map after amendment has been approved by the Township Board together with an entry on the official zoning map as follows: On (date), by official action of the Township Board the following changes were made (brief description with reference number to board proceedings). One copy of the official zoning map is to be maintained and kept up to date by the Township Clerk, accessible to the public and shall be final authority as to the current zoning status of the properties in the Township.

SECTION 302: DISTRICT BOUNDARIES INTERPRETED:

Where uncertainty exists with respect to the boundaries of various districts as shown on the zoning map, the following rules shall apply:

- 302.1 Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.

- 302.2 Boundaries indicated as approximately following platted lot lines shall be construed as following Township limits.
- 302.3 Boundaries indicated as approximately following Township limits shall be construed as following Township limits.
- 302.4 Boundaries indicated as following railroad lines shall be construed as midway between the main tracks.
- 302.5 Boundaries indicated as shore lines shall be construed to follow such shore lines, and in the event of changes in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center line.
- 302.6 Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be construed as boundaries. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- 302.7 Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Appeals shall interpret the district boundaries.
- 302.8 Unless otherwise specifically noted herein, or on the official zoning map, boundaries in the waterfront districts around lakes, rivers, and other bodies of water shall include all land within 500 feet from the shoreline of such lake, river, or other body of water.

SECTION 303: DISTRICT REQUIREMENTS:

All buildings and uses in any district shall be subject to the provisions of Article 4 “General Provisions and Exceptions”.

SECTION 304: USES NOT PERMITTED IN ANY DISTRICT:

The following uses are not permitted in any district, subject to conditions imposed herein:

- 304.1 The wrecking, storage or dismantling of automobiles or the maintenance and/or operation of junk yards is prohibited, except as provided in Article 5 “Special Use Permits”.
- 304.2 No condition shall be allowed to exist which will constitute a hazard to the health, safety or welfare, is inconsistent with the accepted appearance of the zoning district, or in any way creates a nuisance or damages adjoining property.

SECTION 305: A DISTRICT: AGRICULTURE DISTRICT:

305.1 **Purpose:** It is the purpose of the Agricultural district to preserve prime soils for agricultural use and to protect viable agricultural enterprises. It is to be applied to areas which have soils well suited to agricultural activities. The district is designed to preserve these areas by prohibiting the intrusion of non-agricultural and incompatible uses into the prime agricultural areas. The district is intended to create large contiguous blocks of agricultural land, both by original designation and by future annexation of smaller holdings, at owners request to existing blocks. It is also the intent of this district to help maintain land values at levels which farm activities can support and to avoid property value increases through speculation for higher density uses, which force prime farm land into non-agricultural uses.

305.2 Uses Permitted by Right:

- A. Single family residential dwellings
- B. General Farming as defined in Section 202.21
- C. Public or private conservation area
- D. Accessory uses including:
 - 1) Barns, silos, sheds, equipment storage, and similar structures and uses customarily incidental to the permitted principal uses and structures.
 - 2) Roadside stand for agricultural produce raised on the property
 - 3) Home occupation

305.3 **Uses Permitted by Special Use Permit:** The following uses are permitted in this district subject to obtaining a special use permit as provided for in Article 5.

(Revised 1/4/2001)

- A. The removal of soil, sand, gravel and other materials.
- B. Public and private parks, camps, golf courses, clubs, garden nurseries, greenhouses, commercial stables, and bed and breakfast establishments.
- C. Public and private hospitals, schools, cemeteries, churches, and government buildings.
- D. Airports
- E. Public utility structures and substations.

- F. Veterinarians, commercial kennels and animal clinics.
- G. Public or private sanitary land fills or junk yards.
- H. Transient amusements (carnivals, circuses, and similar).
- I. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- J. Agriculture migrant labor housing constructed under the provision of Public Act 289 of 1965 as amended, and the administrative rules promulgated thereunder.
- K. The keeping for profit or pleasure of non-domesticated fur bearing animals.
- L. More intensive uses than stated in 305.4 (A) (3).
- M. Wireless communications facilities per section 402.6

305.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in the R District:

- A. Minimum Lot Areas:
 - 1) No farm building or structure used for the raising or keeping of cattle, hogs, horses, ponies, goats and similar livestock whether for profit or pleasure be established on any parcel less than five (5) acres in area.
 - 2) No single family residential dwelling shall be established on any parcel less than one (1) acre in area.
 - 3) On lots of more than 5 acres, no farm building or structure shall be established to house more than 5000 pounds of animals per acre of lot size. Farming operations shall at all times be operated and maintained in accordance with the recommendations set forth in the generally accepted agricultural management practices for manure management and nutrient utilization, approved by the Michigan Agricultural Commission, in accordance with 1981 Public Act 93, as amended.
- B. Minimum Lot Width: The minimum lot width shall be two hundred (200) feet.
- C. Yard and Setback Requirements:

- 1) Front Yard: Forty (40) feet from street or road upon which lot or parcel principally fronts.
- 2) Side Yard: For residential buildings and structures, there shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty (20) feet. For all other buildings, there shall be two (2) side yards of not less than fifty (50) feet each. Except in the case of a corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
- 3) Rear Yard: Fifty (50) feet.

D. Maximum Height Requirements:

- 1) For dwelling and non-farm structures. Height shall not exceed thirty-five (35) feet.
- 2) For general and specialized farm buildings and structures, height shall not exceed one hundred (100) feet.

E. Minimum building floor area. No residential dwelling unit shall have less than one thousand (1000) square feet of living area exclusive of garages and basements. Plus an additional 150 square feet of living area for each sleeping area or bedroom exceeding two (2)

F. No lot or record may be divided more than once (1) into a parcel of less than 20 acres.

SECTION 306: R-1 RESIDENTIAL DISTRICT:

306.1 **Purpose:** It is the purpose of the residential district to provide for single or two family residences. This housing is intended to provide a moderate density living environment. However, it must be recognized that without sanitary sewage treatment facilities, allowable densities for such housing must respect the limitations of septic systems. Therefore, while the designation of this district is moderate density, the interpretation of that term is relative to other allowable densities within the Township.

306.2 **Uses Permitted by Right:**

- A. Single family residential dwelling
- B. Duplex or two family residential
- C. Accessory uses associated with single family residential structures, such as garages, shed for yard tools, play house, boat houses, etc.

306.2 Uses Permitted by Special Use Permit: The following uses are permitted in this district subject to obtaining special use permit as provided for in Article 5:

- A. Home occupations
- B. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- C. Public parks and government buildings
- D. Public and private hospitals, schools, churches, and golf courses.
- E. Public utility structures and substations.
- F. Community buildings associated with a housing development

306.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in the “R-1” district: *(Revised 1/25/1999)*

- A. Minimum Lot Area:
 - 1) Single family detached dwellings shall require a minimum parcel area of fifteen thousand (15,000) square feet.
 - 2) Duplex or two family dwellings shall require a minimum parcel area of twenty thousand (20,000) square feet.
- B. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet.
- C. Minimum Yard and Setback Requirements:
 - 1) Front Yard: Thirty (30) feet from roadway upon which lot or parcel principally fronts
 - 2) Side Yards: Ten (10) feet except in the case of corner lot where the side yard on the street side shall not be less than the setback required for the front yard. When a lot width is less than eighty (80) feet, the side yard distance shall not be less than and need not be greater than the average of the four (4) principal structures on either side or the average of the existing structures when less than eight (8) exist. Except in the case of a corner lot where the side yard on the street side shall not be less than the set back required for the front yard.
 - 3) Rear Yards: Twenty-five (25) feet.

- D. **Maximum Height Requirements:** No dwelling shall exceed thirty-five (35) feet. All other structures shall not exceed twenty (20) feet.
- E. **Minimum Building Floor Area:** Each residential dwelling unit shall contain a minimum of one thousand (1000) square feet of floor area for each family unit, exclusive of walls, stairways, basements, garages, or storage areas. Plus an additional 150 square feet for each additional bedroom or sleeping area exceeding two, for each dwelling unit.

SECTION 307: R-2 HIGH DENSITY RESIDENTIAL DISTRICT

307.1 Purpose: It is the purpose of the high density residential district to provide for a variety of housing types – single family, duplex, apartments and townhouses. This housing is intended to provide a moderately high density living environment. However, it must be recognized that without sanitary sewage treatment facilities, allowable densities for such housing must respect the limitations of septic systems; therefore, while the designation of this district is high density, the interpretation of that term is relative to other allowable densities within the Township.

307.2 Uses Permitted by Right:

- A. Single family residential dwelling.
- B. Duplex or two family residential.
- C. Multiple family residential dwellings or developments containing three or more living units.
- D. Assessorly uses associated with residential structures such as garages and sheds for yard tools.

307.3 Uses Permitted by Special Use Permit: The following uses are permitted in this district subject to obtaining special use permit as provided in Article 5.

- A. Home occupations.
- B. Central sewage treatment facility in accordance with State of Michigan and Branch County Health Department standards.
- C. Public parks and government buildings
- D. Public and private hospitals, schools, churches, and golf courses.
- E. Public utility structures and substations.
- F. Community buildings associated with a housing development

307.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in the “R-2” district:

A. Minimum Lot Area:

- 1) Single family detached dwellings shall require a minimum parcel area of fifteen thousand (15,000) square feet.
- 2) Duplex or two family dwellings shall require a minimum parcel area of twenty thousand (20,000) square feet.
- 3) Structures containing three or more dwelling units shall require eight thousand (8,000) square feet per unit.
- 4) When public sewers are available, duplex and multiple family residential until may be constructed on the basis of five thousand (5,000) square feet per unit.

B. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet.

C. Minimum Yard and Setback Requirements:

- 1) Front Yard: Thirty (30) feet from roadway upon which lot or parcel principally fronts
- 2) Side Yards: Ten (10) feet except in the case of corner lot where the side yard on the street side shall not be less than the setback required for the front yard.
- 3) Rear Yards: Twenty-five (25) feet.
- 4) Multiple family residential dwellings or developments containing three or more living units must also meet the requirements set forth in Section 503.

D. Maximum Height Requirements: No dwelling shall exceed thirty-five (35) feet. All other structures shall not exceed twenty (20) feet.

E. Minimum Building Floor Area: Each residential dwelling unit shall contain a minimum of one thousand (1000) square feet of floor area for each family unit, exclusive of walls, stairways, basements, garages, or storage areas. Plus an additional 150 square feet for each additional bedroom or sleeping area exceeding two, for each dwelling unit.

SECTION 308: R-3 DISTRICTS: WATERFRONT RESIDENTIAL DISTRICT

308.1 Purpose: It is the purpose of the waterfront residential district to provide for single family residential uses, at moderate densities, in areas adjacent to lakes, streams and rivers. It is further the purpose to require lot areas large enough to protect Township lakes, streams, and rivers and ground waters from excessive pollution due to excessive concentration of septic systems adjacent to them. It is further the desire and intent of the Township of Kinderhook to control, regulate and maintain the physical characteristics of its waterfront districts and to prevent over population, overuse, and safety and the pollution of the waters, streams, ponds, and drainage ways within the Township of Kinderhook. It is a further desire and purpose to protect the integrity of riparian rights associated with lakes, streams, rivers, ponds and drainage ways of the Township, and to regulate and prohibit funneling to said waters.

308.2 Uses Permitted by Right:

- A. Single or two family residential dwelling.
- B. Accessory uses associated with single or two family residential structures, such as garages, sheds for yard tools and play houses.

308.3 Uses Permitted by Special Use Permit: The following uses are permitted in this district subject to obtaining a special use permit as provided in Article 5.

- A. Home Occupations.
- B. Public and private parks, clubs, camps and golf courses
- C. Public and private hospitals, schools, churches and governmental buildings
- D. Public utility structures and sub-stations.

308.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in “R-3” districts: *(Revised 1/25/1999)*

- A. Minimum Lot Area:
 - 1. No building or structure shall be established on a parcel less than fifteen thousand (15,000) square feet in area, provided that where a public sewer is provided, a lot size of twelve thousand-five hundred (12,500) square feet may be permitted.
- B. Minimum Lot Width: The minimum lot width shall be 80 feet at the lake side building line, provided that a public sewer is provided a minimum lot width of 75 feet may be permitted.

C. Yard and Setback Requirements:

1. Front Yard:

- a. Properties with water frontage: No building or structure shall be closer than 30 feet from front property line.
- b. Properties without water frontage: No buildings or structures shall be located closer than 30 feet from front property line.
- c. When two or more structures in existence at the time of the effective date of this ordinance are within 300 feet in the same zoned district and on the same side of the street, the setback from the waterfront or the setback from the front property line shall not be less and need not be greater than the average of the four principal structures on either side or the average of the existing structures when less than eight structures exist.

2. Side Yards: Ten (10) feet except in the case of corner lot where the side yard on the street side shall not be less than the setback required for the front yard. When a lot width is less than eighty (80) feet, the side yard distance shall not be less than and need not be greater than the average of the four (4) principal structures on either side of the average of the existing structures when less than eight (8) exist. Except in the case of a corner lot where the side yard on the street side shall not be less than the set back required for the front yard.

3. Rear Yards:

- a. Thirty (30) feet, which in the case of property with water frontage refers to the property line opposite the waterfront side.
- b. When two or more principal structures in the existence at the time of the effective date of this ordinance are within 300 feet in the same zoned district, the property line shall not be less than the average of the four principal structures on either side or the average of the existing structures when less than eight structures exist.

D. Maximum Height Requirements: No dwelling shall exceed thirty-five (35). All other structures shall not exceed twenty (20) feet.

E. Minimum building floor area: no residential dwelling unit shall have less than one thousand (1,000) square feet of living area, exclusive of garages and basements, plus an additional 150 square feet of living area for each additional bedroom or sleeping area exceeding two (2).

308.5 Garages and Boat Storage Units: Garages and/or boat storage units must comply with all set backs established in these sections.

- 308.6 **Regulations Existing in Planned Residential Developments:** The use of any waters, streams, ponds, drainage ways of all types shall be restricted to that right of use enjoyed by virtue of riparian rights only, and shall be confined to reasonable use by the owners or occupants, their immediate families or social invitees, or a riparian parcel which is contiguous to the water and has riparian rights as of the date of this ordinance.
- 308.7 **Special Uses:** If a riparian parcel is proposed to be used by persons other than the owners or occupants, and their immediate family and social invitees, for a park, beach, boat launch, picnic area or similar use for outdoor recreation, then in such an event said use may be made of said riparian parcel only when permitted by the Zoning Board of Appeals as a special exception, as provided in Sections 602.5 and 602.7 in the Zoning Ordinance.
- 308.8 **Special Use Considerations:** The Zoning Board of Appeals shall take into consideration as explicitly spelled out in the foregoing Section 602.5 that the proposed use does not impair the natural appearance of said land or overcrowd the parcel or water surface to tend to produce unreasonable noise or annoyance to surrounding properties. That the proposed construction or use because of its intensive nature of proposed location, does not pose substantial environmental hazards, and that all other factors considered in light of the proposed use and specific characteristics of the property and surroundings are favorable towards the proposed use; and that no use shall be made of any land or water for boat liveryes or public or commercial beaches or recreational use operated for profit.
- 308.9 **Any dredging and/or filling of water areas shall be permitted only after review and approval from the Michigan Department of Natural Resources, Branch County Drain Commission, and the Kinderhook Township Board of Zoning Appeals.**

SECTION 309: R-4 DISTRICT: MOBILE HOME PARK DISTRICT

- 309.1 **Purpose:** It is the purpose of the mobile home park district to provide for the location of mobile home dwellings in an attractive and orderly manner in Kinderhook Township. It is the particular purpose to concentrate such dwelling units in areas or similar housing and to avoid wherever possible the scattering of such units throughout the Township. Kinderhook Township recognizes that mobile home dwellings provide respectable, lower cost housing for persons who might otherwise be unable to economically locate within the Township. No travel trailer, camper trailer, or other mobile living unit may be used for occupied dwelling purposes in any area of Kinderhook Township. However, mobile homes designed for permanent residential living may be located in a residential district provided they meet the regulations and standards of that residential district or in areas zoned thereunder as mobile park home districts.

309.2 **Uses Permitted:** Subject to conditions set forth in Sections 309.3, 309.4, 309.5, 309.6.

- A. Mobile home dwellings within a mobile home park on a parcel of at least twelve thousand (12,000) square feet which may be reduced to six thousand (6,000) square feet if public sewers are provided.
- B. Accessory uses as described in Section 306.2 (C) and included community building and park maintenance equipment storage buildings.
- C. Home occupations by special use permit only.

309.3 **Definitions:**

- A. **Mobile Home:** Means a movable or portable dwelling of thirty-five (35) feet or more in length, which is constructed to be towed on its own chassis. Is capable of being connected to public utilities, and is designed for year-around living as a single family dwelling unit without the necessity for a permanent foundation. The term shall not include pick-up campers, travel trailers, converted buses, or tent trailer campers.
- B. **Mobile Home Lot or Site:** Means a parcel of land for placement of a single family unit and the exclusive use of its occupants within a licensed mobile home park.
- C. **Mobile Home Park:** Means a parcel of land under single ownership which has been planned and approved for the placement of mobile homes as defined in Section 309.3 (A).
- D. **Mobile Home Stand:** Means a part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.
- E. **Mobile Home Sub-divisions:** Means a sub-division established in accordance with Act 288 or the Michigan Public Acts of 1967, exclusively for the location of mobile homes.

309.4 **Procedure and Permits:** The following describes the procedures and permits necessary for the development of a mobile home park:

- A. **Planning Stage:** In addition to those procedures described in this ordinance, the developer of a mobile home park shall first obtain a construction permit from the Director of the State of Michigan Department of Public Health and otherwise satisfy all other requirements and receive State approval as required in the State of Michigan Trailer Coach Act, being Act 243 of the Michigan Public Acts of 1959, as amended.

- B. Construction Permit: Said developer shall further obtain a building permit from the Kinderhook Building Administrator as required in the Township building code.
- C. Periodic Inspections: The Kinderhook Building Inspector or other agents authorized by the Kinderhook Township Board are granted the power and authority to enter upon the premises of such park at any time for the purposes of determining and/or enforcing any provision or provisions of this or any other Kinderhook Township Ordinance applicable to the conduct and operation of mobile home parks. The management shall maintain a current list of all persons occupying, permanently or temporarily, any mobile home located in the park which shall be available for inspection by Kinderhook Township Representatives.

309.5 Regulations and Standards for Mobile Home Parks:

- A. Park Area: The land area of a mobile home park shall not be less than fifteen (15) acres.
- B. Mobile Home: Each mobile home within such park shall contain a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections designed for attachment to appropriate external systems.
 - 1. The mobile home shall be connected to a public sewer and water supply system or to such private facilities approved by the local Health Department.
 - 2. Mobile homes shall in all respects shall comply with all construction, plumbing, electrical, and insulation requirements of a type and quality conforming to the “Mobile Home Construction and Safety Standards” as promulgated by the United States Department of Housing and Urban Development, being 24 CF 3280, and from time to time such standards may be amended.
 - 3. The Mobile home shall have a minimum floor area of one thousand (1000) square feet.
 - 4. The mobile home shall be aesthetically compatible in design and appearance with other residences in the vicinity and district. The compatibility in design and appearance shall be determined by the Township Zoning Officer upon review of the plans submitted for the particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals within fifteen (15) days of a decision.
- C. Yard Requirements: Each mobile home site shall have a minimum side yard of twenty (20) feet at the entry side of the mobile home and a minimum side yard of

ten (10) feet between the side and ends of mobile home and rear lot lines. Expandable rooms, enclosed patios or other structural appurtenances shall be included in determining the mobile home stand or concrete apron area. Patios and individual storage areas shall be disregarded when determining yard widths. The edge of an internal hard surfaced street shall be deemed a site boundary line.

- D. Height: No multiple decking of mobile homes shall be allowed. Maximum height shall not exceed fifteen (15) feet.
- E. Other dimensions requirements: No mobile home shall be located closer than thirty (30) feet to any private street or roadway, or the boundary of such park which is not a public street. No mobile home shall be located closer than seventy-five (75) feet to any public right of way, or fifty (50) feet to any service building. The buffer area thus created is to be landscaped and maintained by the park management in a neat and orderly manner.
- F. Each mobile home site shall be provided with a stand, consisting of a solid pad of reinforced concrete not less than four (4) inches thick, and not less than the length and width of the mobile home that will use that site. (The support can also be 16 inch diameter concrete piers extended four (4) feet below grade). Tie down facilities will also be incorporated into the concrete so that guy lines shall be installed under the mobile home at sufficient intervals to prevent upheaval of mobile homes during sever winds and storms. The pad or piers shall so be graded, constructed and placed on durable and adequate for support of maximum load during all seasons.
- G. Each mobile shall be supported on uniform jacks or block supplied by the mobile park management.
- H. No mobile home shall be occupied by more than one family which is defined, an individual or two or more persons related by blood, marriage or adoption, or a group not to exceed two (2) persons not related by blood or marriage, occupying a premises and living as a single housekeeping unit.
- I. Uniform skirting or each mobile shall be required within thirty (30) days after initial placement. Such skirting shall be of twenty-six (26) gauge solid sheet metal, aluminum or other non-corrosive material, or properly mortared concrete blocks; and so constructed and attached to the mobile home so as to deter and prevent entry of rodents and insects. Storage of goods and articles underneath any mobile home, or outdoors at any mobile home site, shall be prohibited. Skirting shall be vented and shall provide access to water supply and sewage disposal systems for inspection purposes.
- J. Canopies and awnings may be attached to any mobile home and may be enclosed and used for recreation or sun room purposes. When enclosed for living purposes, such devices shall be considered as part of the mobile home and a

permit required, issued by the Township Zoning Administrator, before such enclosure may be used for living purposes.

- K. On site indoor or outdoor laundry (coin operated washer and dryer accepted) of adequate area and suitable location, shall be provided and where outdoor drying space is required or desired, individual clothes drying facilities on each site of the collapsible umbrella type of hanging apparatus shall be allowed, with park management providing a concrete embedded socket at each site.
- L. All mobile homes within such parks shall be suitably connected to sewer and water services provided at each mobile home site, cost to be totally assumed by developer, and shall meet the requirements and be approved by the Branch County Health Department.
 - 1. All sanitary sewage facilities, including plumbing connections to each mobile home site, shall be constructed so that all facilities and lines are protected from freezing, from pumping or creating any type of health nuisance or health hazard. Sewage facilities shall be of such capacity to adequately serve all users at peak periods running water from a state tested and approved supply, designed for a minimum flow of two hundred (200) gallons per day per mobile home site shall be piped to each mobile home. Sewer connections shall not exceed ten (10) feet in length above ground.
 - 2. Storm drainage sewers shall be constructed as to protect those who reside in the mobile home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.
- M. Disposal of Garbage and Trash:
 - 1. All garbage and trash shall be placed in an approved container, and the removal shall take place not less than once a week. Individual incinerators shall be prohibited.
 - 2. The method used for such removal shall be approved by the State and inspected periodically by the Branch County Health Department.
 - 3. Disposal of garbage and trash is the responsibility of the park management.
- N. All electric, telephone and other lines from supply poles outside the park or other sources to each mobile home site shall be underground. In addition, street lights shall be provided attached to poles or other structures approved by the Kinderhook Township. They shall have the minimum capacity equal to seventy-five (75) watt mercury vapor lamp and shall be located at least each one hundred and seventy (170) feet along the street or streets situated in the mobile home park.

O. Every mobile home park shall be equipped at all times with fire extinguishing equipment in good working order of such type, size and number and so located in the park to satisfy regulations of the State Fire Marshall and the Kinderhook Fire Chief or Department serving that area.

P. Open Space and Recreation:

1. A buffer of trees and shrubs not less than fifty (50) feet in-depth shall be located and maintained along all boundaries of such park except at entrances and exits serving such park. When necessary for health, safety and welfare, a fence shall be required to be erected by developer to separate park from an adjacent property.
2. Any and all plantings within the park shall be hardy plant materials and shall be maintained there after in a neat and orderly manner. Weathered and dead plant material shall be replaced within a reasonable period of time but no longer than one growing season.
3. A recreation space shall be developed and maintained by the park management. This area shall not be less than one hundred (100) feet in its smallest dimension and its boundary no less than five hundred (500) feet from any mobile home site served. Streets, sidewalks and parking areas and accessory buildings, are not to be included as recreation space in computing the necessary area.

Q. Street Systems:

1. All mobile home parks shall be provided with at least two (2) points of safe and convenient vehicular access from an abutting street. No entrance to a park shall be closer than one hundred twenty-five (125) feet from the point of the proposed right of way of any two streets.
2. Each mobile home site shall butt, face or have clear unobstructed access to a drive, street or road within the park. All streets shall have an approved cross section in accordance with the standards of the Branch County Road Commission and the paved surface shall not be less than twenty-four (24) feet in width. No park shall provide or have direct access through any recorded single family subdivision.
3. All streets or drives shall be provided with a smooth grade, that is drained and of a durable surface commencing from the public street to and throughout the park. All street surfaces shall be maintained free of holes and other hazards.

R. Required Parking Areas:

1. Off street parking shall be provided in all mobile home parks for the use of all occupants and guests. Parking spaces shall be at the ration of at least two (2) car spaces, not less than ten (10) feet by twenty (20) feet in size for each mobile home site.
2. No motor vehicle shall be permitted to be parked or stored within any required open space between mobile homes or any drive or street within the park. The park developer or owner shall provide a separate area, within the park for storage of tenants camping trailers, boats, snowmobiles and other similar recreational equipment, and such items shall not be stored in any other area of the park.
3. Parking bays or off street parking spaces shall be provided within the thirty (30) foot set back area between interior park streets and the mobile home provided that no parking space shall be located closer than ten (10) feet to any other area of the park.
4. If carports are provided, they shall comply with all setback and open space requirements for mobile home.
5. Additional parking equal to one (1) space for four (4) mobile homes shall be provided for visitor parking equally distributed throughout the park.

S. Use of Park Areas for Non-Residential Purposes:

1. No part of any mobile home park shall be used for non-residential purposes, except such uses that are required for direct services and well being of park residents and for the management and maintenance of the park; provided, however, the retail sales of new or used mobile homes may be made from the park, by the owners, but all said mobile homes held for sales shall be displayed on regular mobile homes sites of the park and said mobile homes on display shall be limited to fifteen (15%) percent of the available sites.
2. Nothing contained in this section shall be deemed as prohibiting the sale of mobile homes located on a stand by the individual owner or his agent.

309.6 **Site Plan Review:** An application for the approval of any land for a mobile home park shall be submitted and processed under the following procedures:

- A. Applications: An application shall be submitted to the Zoning Commission on a special form provided for the purpose. Each application shall be accompanied by the payment of a preliminary sketch review fee, amount of such fee to be determined by the resolution of the Kinderhook Board. As a part of said application, the applicant shall file at least ten (10) copies of the site plan sketches, which shall conform to the following minimum requirements:

1. Contain as many illustrations as necessary to show the required data in sufficient detail to allow the Zoning Commission and Township Board to determine compliance with the sketch plan requirements.
2. Provide a legal description and show location, size and shape of the property involved.
3. Be drawn to such a scale to adequately reflect the size, shape, and location of existing and proposed man-made and natural facilities to be part of the site.
4. Show a vicinity sketch, scale and north point.
5. A list of the names and financial interest in the project of all owners. If owners are corporations, the names of the officers and major stockholders of these corporations should also be included.
6. Any other information deemed necessary by the Township Board.
7. Upon receipt of such materials by the Clerk, the Township shall transmit one (1) copy to each of the following:
 - a. Branch County Road Commission
 - b. Branch County Health Department
 - c. Branch County Drain Commission
 - d. School District Board of Education
 - e. Fire Chief
 - f. State Water Resources Commission

For their review and comments, the Clerk shall transmit the remaining copies of the preliminary site plan to the Zoning Commission and Township Board for their review. The Zoning Commission shall upon receiving the comments of the County and Local Agencies undertake a study of the preliminary site plan and shall report their findings to the Township Board within forty-five (45) days of the receipt of the application, unless extended by mutual agreement between the petitioner and the Zoning Commission.

- B. Hearing: After adequate review and study of any application, the Township Zoning Commission shall hold a joint public hearing. Following the hearing (not necessarily the same day) the Zoning Commission and Township Board may impose any additional conditions and safeguards deemed necessary for the general welfare, then either approve or deny the preliminary permit.

C. Final Detailed Site Plan: Following preliminary approval of the sketch site plan, the petitioner shall submit to the Township Clerk ten (10) copies of the detailed construction documents and site plan, as well as any other data, exhibits and information required, and pay to the Clerk a detailed site plan review fee, the amount of such fee to be determined by resolution of the Kinderhook Township Board.

1. Every detailed site plan submitted to the Zoning Commission shall be in accordance with the following requirements:
 - a. Contain as many illustrations as necessary to show required data in sufficient detail to allow the Zoning Commission and Township Board to determine compliance with the detailed site plan requirements.
 - b. Vicinity sketch of a scale of one (1) inch to one thousand (1,000) square feet.
 - c. Drawings other than vicinity sketch to be of scale of one (1) inch equals one hundred (100) feet.
 - d. Scale, North Point and all boundary dimensions.
 - e. Lot lines, including accurate dimensions, angles, and sizes correlated with the legal description of said property.
 - f. Existing natural features, topography, wood lots, streams, rivers, lakes, drains, wetlands, and similar features.
 - g. Existing man-made features such as buildings, structures, high tension towers, pipelines, existing utilities, excavations, bridges, culverts, drains and casements.
 - h. Any changes in existing natural or man-made feature intended, e.g. grading plan, landscape plan, etc.
 - i. Location, area and dimensions of proposed mobile home sites and stands; accessory building or buildings; height of all principal and accessory building or buildings; and a density schedule showing the number of proposed mobile home units.
 - j. Proposed streets, driveways, sidewalks, exterior lights and other vehicular and pedestrian circulation features within and adjacent to the site; location, area, number and dimensions of parking spaces, and identification of service lanes and services parking areas. Details of road and drives.

- k. Location use and size of all utility service facilities, including any common fuel storage tank facilities, water and fire hydrants.
 - l. Plans shall be designed and prepared by a qualified and registered professional architect, engineer, landscape architect, planner, or other professional.
 - m. Any other information deemed necessary by the Zoning Commission.
2. Upon receipt of such materials by the Clerk, the Township shall transmit one copy to each of the following:
- a. Branch County Road Commission
 - b. Branch County Health Department
 - c. Branch County Drain Commission
 - d. School District Board of Education
 - e. Fire Chief
 - f. State Water Resources Commission

For their review and written comments, the Clerk shall transmit the remaining copies of the detailed site plan to the Zoning Commission and Township Board prior to its next regularly scheduled meeting. The Zoning Commission and Township Board shall, upon reviewing the comments of the County Agencies, undertake a study of the detailed site plan and shall within sixty (60) days after Clerk's acceptance or within an extension of the sixty (60) days if there is mutual acceptance of this extension between the petitioner and the Township Zoning Commission, give their approval or disapproval of said detailed site plan.

SECTION 310: TRAILER COACHES AND/OR MOBILE HOMES USED AS DWELLINGS

310.1 **Purpose:** Where trailer coaches and/or mobile homes may be permitted to be used as a dwelling under the terms of the Kinderhook Zoning Ordinance, other than in the mobile home park district, the additional following rules and regulations shall apply.

310.2 **Procedures and Permits:** The following described procedures and permits shall be necessary before a trailer coach or mobile home may be moved upon or located on any lot or premises or parcel of land outside of a licensed mobile home park.

- A. The owner of such lot or premises or parcel of land shall file with the office of the zoning officer a description of the trailer coach and/or mobile home and the legal owners' name and address.
- B. Permit: Upon the filing of a written application containing the information required above, the zoning officer will determine if there is full compliance with this zoning ordinance and all of the in code ordinances currently in effect, in which event the zoning officer shall issue a permit to park and occupy the described trailer coach and/or mobile home as a dwelling.
- C. Appeal: Any party considering himself aggrieved by the decision of the zoning officer may file an appeal to the Board of Appeals established hereafter and according to the procedure established in Article 6.

310.3 **Occupancy:** To inhabit, conduct or operate a mobile home or trailer, the owner shall conform to all of the requirements of the Branch County Health Department currently in force as to the water supply and sewage disposal system to be used in and for said dwelling.

310.4 **Building Code Permit:** Secure any and all necessary building code permits as may be required by the Township building code ordinance then in force in Kinderhook Township.

310.5 **Regulations and Standards:** Each mobile home permitted and parked in the Township, outside of a licensed mobile home park, shall be subject to the additional regulations and standards found in Section 309.5 F through 309.5 J.

SECTION 311: C-1 DISTRICTS: NEIGHBORHOOD COMMERCIAL

311.1 **Purpose:** It is the purpose of neighborhood commercial district to provide for the day to day shopping and service requirements of persons residing within the Township while at the same time does not encroach in an undesirable manner on such uses.

311.2 Permitted Uses:

- A. Those non-residential uses which are permitted in the residential zoning districts, except as specifically provided otherwise in this chapter, to the same conditions, restrictions, and requirements, as are provided in the residential zoning districts.
- B. Antique shop without repair or restoration.
- C. Bakery goods store.
- D. Banks, loan and/or finance offices.

- E. Barber or beauty shops.
- F. Book, stationery or gift store.
- G. Candy stores, soda fountain and/or ice cream stores.
- H. Clothing and dry goods stores.
- I. Delicatessen stores.
- J. Drug stores.
- K. Florist and gift shops without nursery.
- L. Grocery stores, meat markets, and convenience stores.
- M. Hardware stores.
- N. Laundromats.
- O. Offices, with all activities carried on indoors.
- P. Retail fuel sales combined with any of the above permitted uses.

311.3 **Special Use Permits:** The following uses are permitted in this district subject to obtaining a special use permit as provided for in Article 5.

- A. Service stations
- B. Restaurants and/or cafes without dancing, floor shows, drive-in service, or the serving of alcoholic beverages.
- C. Funeral homes.

311.4 **Regulations and Standards:** The following maximum and minimum standards shall apply to all uses and structures in the “C-1” district.

- A. Minimum Lot Area: All uses permitted in this district shall provide a minimum lot of fifteen thousand (15,000) square feet in area.
- B. Minimum Lot Width: The minimum lot width shall be one hundred (100) feet.
- C. Yard and Setback Requirements:
 - 1. Front Yard: Where all the frontage on the same side of a street between two intersecting streets is located in a commercial zoning district and where a

setback has been established by fifty percent (50%) of said frontage, then this established setback shall determine the required front yard. In all other cases there shall be a front yard of not less than fifty (50) feet.

2. Side Yard:

- a. Where the side of a lot in a commercial zoning district abuts upon the side of a lot in a residential or agricultural zoning district, each side yard shall be not less than twenty-five (25) feet.
- b. There shall be a side yard of not less than forty (40) feet on the street side of a corner lot.
- c. No side yard shall be required when directly abutting other commercial uses or land included in a commercial or industrial district.

3. Rear Yard:

- a. Where the rear of a lot in a commercial zoning district abuts upon the side yard of a lot in any residential district or agricultural zoning district, there shall be a rear yard of not less than twenty-five (25) feet.
- b. In all other cases, there shall be a rear yard not less than ten (10) feet.

D. **Maximum Height Requirements:** Thirty-five (35) feet measured from the average finished grade at the front setback line.

E. **Landscaping:** All commercial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-commercial uses and roadways. Such landscaped areas shall be adequately maintained. Plans for such landscaping shall be approved by the Zoning Commission.

SECTION 312: C-2 DISTRICTS: GENERAL COMMERCIAL DISTRICT

312.1 **Purpose:** The purpose of this district is to provide areas primarily dedicated to community-wide general retail needs as well as service needs of the motoring public.

312.2 **Uses Permitted by Right:**

- A. All uses permitted in the neighborhood commercial district.
- B. Amusement enterprises.

- C. Antique shop with repair and restoration, provided all articles for sale are displayed or stored within the shop.
- D. Automobile and other vehicle sales.
- E. Automobile repair shop or garage, including major repair operations.
- F. Bank, loan and finance offices including drive-in branches.
- G. Clinics – dental and medical including laboratories.
- H. Contractor (plumbing, heating, electrical, etc.) provided all operations and storage are completely enclosed in a building.
- I. Eating places – including restaurants with the serving of alcoholic beverages, bars, grills, cocktail lounges, and drive-ins.
- J. Florist and gift shops including nurseries.
- K. Hotels, motels, motor hotels.
- L. Liquor stores.
- M. Lodge halls, private clubs, veterans' clubs.
- N. Malt beverage, liquor and wine distribution.
- O. Marinas.
- P. Offices.
- Q. Professional studios.
- R. Plumbing and heating shops, provided all operations and storage are completely enclosed in a building.
- S. Resale shops including “auction houses”.
- T. Resorts including seasonal cabins.
- U. Service stations.
- V. Taxidermists.
- W. Warehousing and storage structures.

- X. Wholesale sales.
- Y. Billboards and business signs.
- Z. Outdoor motor vehicle, boat, mobile home sales, rental, repair, and display or services.

312.3 Uses Permitted by Special Use Permit: *(Revised 1/4/2001)*

- A. Shopping centers.
- B. Outdoor theaters.
- C. Car washes, automatic and self serve.
- D. Transient amusement enterprises such as carnivals, circuses, and tent shows.
- E. Commercial beaches.
- F. Truck terminals.
- G. Other uses not specifically mentioned elsewhere of a commercial character.
- H. Wireless communications facilities per Section 402.6

312.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in the “C-2” district:

- A. Height Area and Yard Requirements: Height, area and yard requirements in the C-2 zone are the same as the C-zone.

SECTION 313: I DISTRICTS: INDUSTRIAL DISTRICTS:

313.1 Purpose: It is the purpose of the industrial district to provide for a variety of industrial land uses. This industrial district is limited to large tracts located along or with access to state highways and major county thoroughfares. These regulations are intended to provide standards of external effects or amenities compatible with the surrounding or abutting property owners. To these ends, development is limited to a low concentration, external effects are limited, and uses are limited to those industrial activities which can be operated in a clean and quiet manner and which will be least objectionable to adjoining owners.

313.2 Uses Permitted by Right:

- A. The manufacture, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- B. The manufacture, compounding, assembly, or treatment of articles from the following previously prepared material: Aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood and yarn.
- C. The manufacture, only by electricity or gas, or pottery and figurines or other ceramic products, using only previously pulverized clay.
- D. Petroleum storage located at least five hundred (500) feet from any residentially zoned property.
- E. Auto repair shops.
- F. Auto washes.
- G. Contractor yards.
- H. Machine shops.
- I. Printing shops.
- J. Sign painting and servicing shops.
- K. Taxidermists.
- L. Warehouses and storage.
- M. Wholesale sales.
- N. Junkyards.
- O. Airports.
- P. Parking lots.
- Q. Radio and TV towers.
- R. Billboards, business signs, real estate signs, identifying signs, name plates.

- S. Public buildings, and public utility structures.
- T. Accessory uses relating directly to and servicing the principal use on the site, including:
 - 1. Restaurant or cafeteria for employees
 - 2. Office facilities

313.3 Special Use Permit:

- A. Drive-in theaters.
- B. Any other industrial uses.
- C. Wireless communication facilities per Section 402.6.

313.4 Regulations and Standards: The following maximum and minimum standards shall apply to all uses and structures in the “I” district:

- A. Minimum Lot Area: All uses permitted in this district shall provide a minimum lot of twenty thousand (20,000) square feet in area.
- B. Minimum Lot Width: The minimum lot width shall be two hundred (200) feet.
- C. Maximum Lot Coverage: The maximum lot coverage shall not exceed fifty (50) percent.
- D. Yard and Setback Requirements:
 - 1. Front Yard: Fifty (50) feet from street or road upon which lot or parcel principally fronts.
 - 2. Side Yards: Ten (10) feet except in the case of a corner lot where the side yard on the side street shall not be less than the setback required for the front yard except when the side yard of a lot abuts the side yard of a lot zoned other than industrial, the side yard shall be fifty (50) feet.
 - 3. Rear Yard: Fifty (50) feet.
- E. Maximum Height Requirements: Forty-five (45) feet measured from the average finished grade at the front setback line (see Section 401.7 for exceptions).
- F. Landscaping: All industrial buildings and their parking areas shall be landscaped in a manner which is both attractive and which provides a buffer between adjacent non-industrial uses and roadways. Such landscaped areas shall be adequately

maintained. Plans for such landscaping shall be approved by the Zoning Commission.

- G. Residential Buildings or Structures: All residential buildings and/or structures must comply with the requirements of Section 202.17.

SECTION 315: OPEN SPACE PRESERVATION *(Section added 12/11/2003)*

315.1 Open Space Preservation Option: At the option of the developer, land zoned R-1, R-2, R-3 may be developed for detached single-family residential subdivisions and condominiums in the fashion established under P.A. 177 of 2001. Land developed under this option must adhere to the following requirements:

- A. Minimum Open Space Required: In all developments proposed under the standards of this option, at least fifty (50) percent of the gross buildable area of the subject property must be perpetually preserved as open space. Gross buildable area is defined as that portion of the gross site area not containing open bodies of water, streams, wetlands (as defined by the MDEQ), and areas within the 100-year flood plain.
- B. The following land areas shall not be applied toward satisfaction of the minimum open space requirements stated under 315.1 (A).
 - 1. Unbuildable land, including wetlands, open bodies of water and streams, and areas within the 100-year flood plain.
 - 2. The area of any public road right-of-way or private road easement.
 - 3. Areas within lots or units.
 - 4. Public or private golf courses.
- C. The following land areas may be applied toward satisfaction of the minimum open space requirements stated under 315.1 (A).
 - 1. Uncleared areas of the site left in their natural condition.
 - 2. Landscaped greenbelts.
 - 3. Public and private parks developed with recreation amenities including but not limited to: landscaping, gazebos, benches, play equipment, pathways (woodchip or paved), and wildlife enhancements.

4. Stormwater management facilities, including detention, retention and sedimentation basins, up to 25% of the total amount of open space required under 315.1 (A).

315.2 **Open Space Standards:** Open space intended to satisfy the minimum requirements stated under 315.1 (A) must adhere to the following standards:

- A. Open space shall be centrally located, located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development.
- B. Open space must either be left in its natural condition, provided with recreational amenities, or landscaped. Preserved open space shall not be left primarily as lawn. This shall not apply to stormwater management basins.
- C. Open space provided along exterior public roads shall generally have a depth of at least one hundred (100) feet, and be either landscaped or left in a natural wooded condition. In either case, open space along exterior public roads shall be provided with a minimum of one (1) evergreen or canopy tree for each thirty (30) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into natural groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting this frontage landscaping requirement.
- D. Open space must be accessible. Access can be provided via sidewalks and pathways throughout the development or where open space abuts road rights-of-way within the development.
- E. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Planning Review Committee and/or the Planning Commission.
- F. Views of open spaces from lots (or units) and roads within the development are encouraged. For larger developments (Over 100 residential units or golf course communities), the Planning Commission may require viewsheds of lakes or other areas as a condition of approval. A viewshed shall be composed of at least one hundred (100) lineal feet of road frontage having an unobstructed view of a lake or other landscape feature found acceptable to the Planning Review Committee and the Planning Commission.
- G. Where lakes and ponds are located within or abut a development, the Planning Commission may require open space to provide lake access.

315.3 **Means of Open Space Preservation:** Open space shall be set aside by the developer through an irrevocable recorded document that is found acceptable to the Planning Review Committee and the Planning Commission, such as:

- A. Recorded deed restrictions;
- B. Covenants that run perpetually with the land;
- C. Dedication to a land conservancy approved by the Planning Commission; or,
- D. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (MCL 324.2140)

315.4 **Protection of Open Space:** Preservation of open space as described above under 315.1-315.3 shall assure that open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. The recorded document utilized shall indicate the proposed allowable use(s) of the preserved open space. The Planning Review Committee and/or the Planning Commission may require the inclusion of open space restrictions that prohibit, or require, the following:

- A. Dumping or storing of any material or refuse;
- B. Activity that may cause risk of soil erosion or threaten any living plant material;
- C. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
- D. Use of motorized off-road vehicles;
- E. Cutting, filling or removal of vegetation from wetland areas;
- F. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands;
- G. Require that the preserved open space be maintained by parties who have an ownership interest in the open space;
- H. Provide standards for scheduled maintenance of the open space;
- I. Provide for maintenance to be undertaken by the Township of Kinderhook, at the Township's option, in the event that the preserved open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

315.5 **Continuing Obligation:** The preserved open space shall remain open space, subject only to uses approved by the Township on the approved site plan or plat. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easement for utilities and septic system, shall be strictly prohibited.

315.6 Allowable Structures: Any structure(s) or buildings(s) accessory to a recreation, conservation or agriculture use may be erected within the preserved open space, subject to the approved site plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one (1) percent of the required open space area. Accessory structures may include:

- A. Maintenance buildings;
- B. Clubhouses;
- C. Recreation structures (gazebos, boardwalks, docks, play equipment, etc.);
- D. Other structures as approved by the Planning Committee or Planning Commission.

315.7 Lot Size Reduction:

- A. The minimum lot width and lot area for lots or units in the single-family detached residential developments, as stated in the Schedule of Regulations for each zoning district, may be reduced by up to fifty (50) percent when developed using the option provided under this sub-section.
- B. Notwithstanding 315.7 (A), no lot area shall be reduced below 6,600 square feet, nor shall the lot width be reduced below sixty-six (66) feet. Larger lot area may be required to the requirements of P.A. 288 of 1968, the Subdivision Control Act.
- C. Every square foot of lot area reduction proposed below the minimum lot area normally permitted for the district must be preserved as open space, and may be counted toward the minimum required open space described above under 315.1.
- D. Required yard setbacks shall not be reduced.

ARTICLE 4: GENERAL PROVISIONS AND EXCEPTIONS

SECTION 401: SUPPLEMENTARY REGULATIONS:

- 401.1 **Accessory Buildings and Structures:** No accessory building or structure which is not attached and made structurally a part of the principal building shall be closer than ten (10) feet to any other structure on the lot. Accessory buildings are subject to all set back and side yard requirements applying to the principal building.
- 401.2 **Fences, Walls and Screens:** The following regulations shall apply to all fences, walls, screens or similar devices of structural or plant materials.
- A. No fence, wall, screen of any material including plant materials shall be erected higher than six (6) feet from the average grade elevation of the property.
 - B. No fence, wall, screen or any planting shall obstruct the visibility of motorists at driveway entrances to streets.
 - C. No fence, wall, screen or planting shall be higher than three (3) feet if within twenty (20) feet of the front property line or if within thirty (30) feet of the waterfront property line if the property has water frontage.
- 401.3 **Variance Requirements on Lots of Record:** Any residential or waterfront residential lot created and recorded prior to the effective date of this ordinance may be used for residential purposes even though the lot area and/or are less than those required for the district in which the lot is located, provided that all other requirements of the district are met.
- 401.4 **Lot Area can be Allocated Once:** No portion of a lot can be used more than once in complying with the provisions for lot area and yard dimensions for construction or alteration of buildings.
- 401.5 **Uncovered Paved Terraces, Patios and Decks:** These structures are subject to the same requirements established for accessory buildings and structures if they exceed twelve (12) inches above the grade level of the principal structure.
- 401.6 **Swimming Pools:** All swimming pools are subject to the same requirements established for accessory buildings and structures.
- 401.7 **Height Requirement Exceptions:** The following are exempted from height limit requirements, providing that no portion of the excepted structure may be used for human occupancy.
- A. Church spires, belfries and flag poles.

- B. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, radio towers, masts and aerials, television antennas, fire hose towers, wire transmission structures and cooling towers.
- C. Those structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above height limitations and have no windows openings.
- D. Public utility structures.

401.8

401.9 Animals: The allowed Animal Density Shall Be:

- A. On a lot less than one (1) acre the animal density shall not exceed the aggregate weight of one hundred (100) pounds.
- B. On a lot of one (1) acre or more in a non-agriculture district the animal density shall not exceed the aggregate of one thousand (1000) pounds.
- C. On a lot of one (1) acre, but less than five (5) acres in an agriculture district, the animal density shall not exceed the aggregate of twenty-five hundred (2500) pounds.

401.10 Use of Vacant Land or Yard Space: No vacant land, yard space or parcel of land encompassing a dwelling or commercial building shall be used for open air storage, wrecking, parking, dismantling, storage, accumulation or abandonment, either temporary or otherwise, of disused, discarded or dismantled vehicles, machinery, apparatus, implements, furniture, appliances, used lumber, watercraft or any junk or similar used property, with the exception of currently and properly licensed vehicles or recreation equipment.

SECTION 402: MISCELLANEOUS REGULATIONS: *(Revised 1/4/2001)*

402.1 One Building on a Lot: No more than one principal building may be permitted on a lot or parcel, unless specifically provided elsewhere in this ordinance.

402.2 Unsafe Buildings: Nothing in this ordinance shall prevent compliance with an order by an appropriate authority to correct, improve or strengthen, or restore to a safe condition any building or any part of a building declared to be unsafe.

402.3 Building Grades: The finished surface of ground areas of outside walls or any building constructed or altered shall be so designed so that surface waters shall flow away from building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

402.4 **Required Water and Sanitary Sewage Facilities:** Any structure erected for human occupancy after the effective date of this ordinance and used for a dwelling, business, industrial, and recreation purposes shall be provided with a safe, sanitary and potable water supply and with a safe and effective means of collection treatment and disposal of human, commercial or industrial wastes. All such installations shall comply with the requirements of the State of Michigan and Branch County Health Departments. No outdoor sanitary (privies) shall be allowed.

402.5 **Required Permits:** Kinderhook Township requires the property owner to obtain a zoning, building, electrical, mechanical, plumbing and any other applicable permit prior to any construction or alteration to any dwelling, structure, accessory structure within the Township.

402.6 **Wireless Communications Facilities** are permitted by special use permit in the following districts: A - Agricultural, C-2 – General Commercial and I – Industrial with the following standards:

A. Monopole construction only

B. At least three (3) collocations must be allowed in addition to the original company on every tower

SECTION 403: NON-CONFORMING USES:

403.1 **Purpose:** It is the intent of this ordinance to permit the continuance of a lawful use of any building or land existing at the effective date of this ordinance, although such use of land or structure may not conform with the provisions of this ordinance. Further, it is the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same districts. The continuance of all non-conforming uses and structures within Kinderhook Township shall be subject to the conditions and requirements of this section.

403.2 **Structural Changes:** The building that is non-conforming shall not be structurally changed, enlarged, altered, unless the building conforms to the provisions of this ordinance for the district in which it is located except as provided below.

403.3 **Repairs:** Any lawful non-conforming building may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation and wear provided:

A. The addition or replacement may not increase the number of violations that existed at the adoption of the ordinance.

- B. The severity of the violation that existed at the adoption of the ordinance may not be increased.

403.4 **Alterations and Improvements:** Nothing in this ordinance shall prohibit the alteration, improvement or modernizing of lawful non-conforming building provided:

- A. The addition or replacement may not increase the number of violations that existed at the time the ordinance was adopted.
- B. The severity of the existing violation at the time of the adoption of this ordinance may not be increased.

403.5

403.6 **Prior Construction Approval:** Nothing in this ordinance shall prohibit the completion of construction and use of a non-conforming building for which a building permit has been issued prior to the effective date of this ordinance, provided that the construction be commenced within ninety (90) days; after the date of issuance of the permit, that construction is carried out diligently and without interruptions for a continuous period in excess of thirty (30) days; and that the entire building shall be completed according to the plans filed with the permit application within one (1) year after the issuance of the building permit.

403.7 **Discontinuance or Abandonment:** Whenever a non-conforming use has been discontinued for more than twelve (12) consecutive months, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the non-conforming use. At the end of this period of abandonment, the non-conforming use shall not be re-established and any future use shall be in conformity with the provisions of this ordinance.

403.8 **Reversion to a Non-Conforming Use:** If a non-conforming use is changed to a use permitted in the district in which it is located, it shall not revert or be changed back to a non-conforming use.

403.9 **Displacement of Conforming Use:** No non-conforming use shall be extended to displace a conforming use.

403.10 **Non-Conforming to Non-Conforming Use:** The Township Board of Appeals may authorize a change from one non-conforming use to another non-conforming use provided the proposed use would be more suitable to the zoning district in which it is located than the non-conforming use which is being replaced.

403.11 **Termination of Non-Conforming Land Use:** The non-conforming use of land, where no building is located, existing at the effective date of this ordinance may be

continued, provided that the non-conforming land use shall be terminated and converted to conform with the provision of this ordinance within one (1) year after the effective date of this ordinance, and provided further that the non-conforming land use shall not in any way be expanded or extended during this one (1) year interval, either on the same property or on adjoining property, provided, however, that vacant lands may be used for agricultural cultivation and crops.

403.12 Illegal Non-Conforming Uses: Those alleged non-conforming uses which cannot be proved conclusively to have been existing prior to the effective date of this ordinance shall be declared illegal non-conforming uses and shall be discontinued following the effective date of this ordinance.

403.13 District Changed: Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district or another classification, the foregoing provisions shall also apply to any existing uses that become non-conforming as a result of the boundary changes.

403.14 Elimination of Non-Conforming Uses: The Township Board may acquire properties on which non-conforming buildings, or uses are located, by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the Township for a public purpose. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

SECTION 404: PARKING REQUIREMENTS:

404.1 Purpose: It is the purpose of these requirements that parking space shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles used by the occupants, employees, or patrons of each building constructed or altered under the provisions of the ordinance.

404.2 Use of Parking Areas: No commercial repair work, servicing or selling of any kind shall be conducted on any parking area except that which is specifically permitted by this ordinance. No items such as plastic animals, streamers, cloth signs, children's play areas, mechanical entertainment devices, or any other similar device shall be permitted in the parking area or outside a building. However, such devices may be permitted for short periods of time for advertising purposes upon receipt of a special permit from the Zoning Commission.

404.3 Schedule of Requirements for Parking Space: Parking space shall be provided in accordance with the following schedule:

USE	NUMBER OF SPACES
Residential	2 dwelling unit
Housing for elderly	1 each living units
Mobile Homes	2 dwelling unit
Institutional, churches, hospitals, auditoriums, theaters, clubs (public and private)	1 every 4 persons permitted by state law to occupy the building
Schools or colleges	1 each full time teacher or administrator and 1 each 3 students
Retail businesses	1/500 square feet of usable floor area
Restaurants, taverns	1 every 4 patron seats
Bowling alleys	5 each alley
Motels, hotels	1 each occupancy unit
Barber, beauty shops	2 each customer service station
Car washes, automatic	15 standing spaces/each bay
Car washes, self-service	3 standing spaces/each bay
Offices, banks	1/200 square feet of usable floor area
Gasoline service stations	2 each service bay plus 1/each employee
Industrial	1 each 2 employees in the largest work shift

404.4 Design and Construction Requirements:

- A. Minimum area per space shall be two hundred (200) square feet.
- B. Each space shall be clearly accessible to a public street.
- C. Parking areas shall be accessible by drives at least 20 feet wide, except in residential districts.
- D. Parking areas shall be maintained in a smooth, dust free condition and provided with adequate drainage.

- E. Parking areas for more than 10 vehicles shall be lighted, if used after dark, to insure safety of users, in a manner which minimizes the glare of lights visible to adjacent properties on the street.
- F. Parking adjoining a residential district shall not be closer than 10 feet to the property line and screen shall be provided to buffer adjacent residential properties.
- G. Parking areas shall not be located closer than 10 feet to the street right-of-way line.
- H. Parking areas shall be landscaped in an attractive manner, and shall be maintained in a litter free condition.

SECTION 405: SIGN REGULATIONS

405.1 **Purpose:** It is the purpose of this section to regulate the size, placement, and general appearance of all privately owned signs in order to promote the public health, safety, convenience and general welfare, and the stated purposes of this ordinance. These purposes include the enhancement of the aesthetic desirability of the environment, and the reduction of hazards to life and property in Kinderhook Township.

405.2 **Signs in Residential and Agricultural Districts:** Signs in accordance with the definition set forth in Section 202.49 of this ordinance shall be permitted subject to the following restrictions:

- A. Signs no larger than ten (10) square feet in area shall be permitted for any of the following purposes:
 - 1. Sale or lease of property (real or personal).
 - 2. Advertising home occupation.
 - 3. Political advertising
- B. Signs advertising new subdivisions or major developments may be permitted by the Zoning Commission for no more than one (1) year provided they do not exceed twenty-five (25) square feet in area.
- C. Public institutions and churches permitted in residential districts shall comply with regulations for commercial uses.
- D. No flashing signs.

405.3 **Signs in Commercial or Industrial Districts:** Signs shall be permitted subject to the following restrictions:

- A. Signs shall pertain exclusively to the business carried on within the building.
- B. Signs may be illuminated. The source of illumination shall be shielded from traffic and adjacent properties.
- C. Free standing signs shall:
 - 1. Not obstruct a clear view of traffic.
 - 2. Not exceed twenty-five (25) feet in height.
 - 3. Not exceed one per property, regardless of number of businesses.
- D. Shall not be placed within road right-of-way
- E. Flashing signs may not operate between the hours of 12:00 a.m. to 6:00 a.m.

ARTICLE 5 SPECIAL USE PERMITS

SECTION 501: APPLICATIONS AND DETERMINATIONS

501.1 **Purpose:** It is recognized that certain uses may not be totally compatible with the uses permitted in any district without careful attention to design features, location, and the public health, safety, and welfare of adjacent uses, as well as that of the entire community. For this reason, certain uses shall be required to obtain special use permits prior to their establishment in the appropriate zoning district. Therefore, the special use permit is created in order to provide for a more detailed consideration of certain specified activities as they may relate to proposed conditions of: location, design, size, operation, intensity of use; generation of traffic and traffic movement; concentration of population; processes and equipment employer; amount and kind of public facilities and services required; together with may other possible factors.

501.2 **Procedures for Making Applications:**

- A. Application shall be submitted through the Township Clerk to the Township Zoning Commission; each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover cost of processing the application. No part of any fee shall be refundable.
- B. **Date required in Application:** Every application shall be accompanied by the following information and date:
 1. Site plan, plot plan, or development plan, drawn to a readable scale, of the total property involved showing the locations of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses.
 2. Preliminary plans and outline specifications of the proposed development.
 3. A statement with supporting evidence regarding the required findings specified in Section 501.3.
- C. The Zoning Commission shall review the proposed development prior to submitting its recommendations for development prior to submitting its recommendations for action to the Township Board, in terms of the standards set forth in this ordinance.
- D. Prior to submitting recommendations, the Zoning Commission shall hold a public hearing on each application after publication of notice in a newspaper of general circulation in the Township once at least ten (10) days in advance of the hearing. Such notice shall indicate the place, time, and subject of the hearing.

- E. Upon conclusion of hearing procedures, the Zoning Commission shall recommend action to the Township Board including any time limit or specific requirements desired following favorable action by the Township Board, the Clerk shall issue a special use permit with all conditions clearly specified in writing.

501.3 **General Standard for Making Determinations:** The Zoning Commission in making recommendations to the Township Board shall establish the facts and shall find the adequate evidence showing that the proposed use:

- A. Will be harmonious with and accordance with the general objectives or with any specific objectives of the Township Master Plan of current adoption.
- B. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
- C. Will not be hazardous or disturbing to existing or future neighboring uses.
- D. Will be substantial improvement to property in the immediate vicinity and to the community as a whole.
- E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- F. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
- G. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or orders.
- H. Will be consistent with the intent and purposes of this ordinance.

501.4 **Time Periods:** Special Use Permits may be issued for time periods as determined by the Township Board in any case, if work is not completed to at least ten percent (10%) of completion within one (1) year of issuance of the special use permit, said permit shall become null and void special use permits may be renewed in the same manner as they were originally applied for.

501.5 **Financial Guarantee:** In authorizing a Special Use Permit, the Township Board may require that a bond, or other financial guarantee acceptable to the Township,

of ample sum be furnished by the developer to assure compliance with such requirements as sidewalks, drives, utilities, parking, landscaping and the like.

501.6 **Specific Requirements:** The foregoing general standards are basic to all special uses. The specific requirements accompanying the following sections relating to particular uses are in addition and shall be required in all applicable situations.

SECTION 502: MULTIPLE FAMILY RESIDENTIAL DEVELOPMENTS

502.1 Additional Information Required:

A. The developer shall submit his plans to the following agencies for comments in writing to be delivered to the Township:

1. Branch County Road Commission
2. Branch County Drain Commission
3. Branch County Health Department
4. The Board of Education in the district in which the project is located
5. The County Planning Commission

B. The developer shall submit a report including:

1. Number, size and dimensions of the buildings
2. Number and size of living units.
3. Number, size and type of parking areas.
4. Basis of calculations for determining the required parking and density
5. Description of utility (sewer, water, storm drainage) systems planned

502.2 Standards:

A. No building shall be closer than fifty (50) feet to another, except when there are no windows in abutting walls, then the distance may be reduced to twenty-five (25) feet.

B. Motor vehicle entrance and exit shall be only from a major street (minor arterial or collector) to avoid the impact of traffic generated on neighboring residential uses.

- C. Recreational facilities for the residents shall be provided in easily accessible areas, including play equipment for children as well as adult recreation area.
- D. Plantings: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features, when practical, and additional new landscaping shall be added for privacy, shade, beauty of buildings and ground, and to screen objectionable features. The landscaping shall be submitted in conjunction with the site plan with the application.
- E. Land use pattern: All of the elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the type and size of plot, the character of adjoining property and the type and size of buildings. The arrangement of building shall be in favorable relationship to the natural topography, existing desirable trees, and other buildings on the site.
- F. Community buildings shall be of sound construction, attractively designed, and located in convenient proximity to the greatest possible number of residential living units.
- G. Minimum open space: At least thirty percent (30%) of the land within multiple housing developments and subdivisions containing lots of less than twenty thousand (20,000) square feet shall be set aside or dedicated and permanently maintained for open space.

SECTION 503: OTHER SPECIAL USES:

503.1 **Purpose and Scope:** Land and structure uses that are not specified in any other section of this ordinance may be considered for Special Use Permit providing that they will not seriously injure surrounding properties by depreciative quality and value of such property and will not generally injurious to the community as a whole.

503.2 **Standards:** All standards expressed elsewhere in this ordinance are applicable to uses permitted by this section as well as any specific, reasonable standards which the Township wishes to apply to the consideration of the proposed use.

ARTICLE 6 ADMINISTRATION AND ENFORCEMENT

SECTION 601: ENFORCEMENT:

601.1 **Responsibility:** The administration and enforcement of this ordinance shall be the responsibility of the Township Board. The Township Board shall have the right to delegate said responsibility to appropriate Township officers or employees. The person or persons administering and enforcing this ordinance shall be known as the Zoning Administrator.

601.2 **Zoning Administrator:** If the Zoning Administrator shall find that any provision of this ordinance is being violated, he or she shall notify the person responsible for such violations in writing, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of any illegal work being done or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

601.3 **Violations:**

- A. Procedure: The Township Board, Building Inspector, duly authorized Attorney for the Township, Supervisor of the Township, Clerk of the Township, Zoning Administrator or other authorized Township official may institute injunctions, mandamus proceedings, abatement proceedings, criminal prosecutions, or other appropriate action or proceedings to prevent, enjoin, abate, remove or invoke penalties for any violation of this ordinance or any ordinance of the Township of Kinderhook. The Township Supervisor, Township Clerk and Zoning Administrator are hereby authorized and empowered to issue and serve appearance tickets based on reasonable cause to believe has committed a violation of this ordinance.
- B. Correction Period: All violations shall be corrected within a period of fifteen (15) days after the order to correct is issued. A violation not corrected within this time period shall be reported to the Township Attorney who shall initiate prosecution proceedings or by the issuance ticket by authorized personnel or the Constable.

601.4 **Procedure or Administration:** Application for a permit for the erection, alteration, moving of any building, or change of use shall be made in writing on the required form to the Zoning Administrator accompanied by all needed information and the required fee. The Zoning Administrator shall act on said application within 15 days. Upon approval of said application a permit shall be issued by the Zoning Administrator, such permit shall be valid for a period of one (1) year from date of issue. If the permit is denied, written notice shall be given stating the reasons for denial. Upon denial of a permit the applicant may appeal the decision of the Zoning Administrator using the procedures stated in Section 602.7. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed,

converted, or wholly or partly altered, or enlarged in its use or structure until a final inspection and certificate of zoning compliance shall have been issued therefore by the Zoning Administrator. The certificate shall state that the building, structure, and lot, and use thereof, conform to the requirements of this ordinance. The Zoning Administrator shall maintain a record of all permit applications and of all certificates of zoning compliance and said record shall be open for public inspection. Failure to obtain a certificate of zoning compliance shall be a violation of this ordinance and punishable under Section 604 herein. It shall not be necessary for a legal non-conformity existing on the effective date of this ordinance to obtain certificates of zoning compliance in order to maintain its legal non-conforming status. However, no non-conforming building, structure, or use shall be changed, until certificate of zoning compliance shall notify the Zoning Administrator when final inspection is desired. The certificate of zoning compliance shall be issued upon final inspection or written notice shall be given to the applicant stating the reasons why said certificate cannot be issued. Such notice shall be sent to the applicant not later than fifteen (15) days after the Zoning Administrator is notified that the building, structure or premises is ready for inspection.

601.5 **Fees:** The Township Board shall periodically establish by resolution a schedule of fees for administering this ordinance. The schedule of fees shall be posted on public display and may be changed only by the Township Board. No certificates shall be issued unless such fees have been paid in full.

SECTION 602: BOARD OF APPEALS:

602.1 **Established Membership:** A Board of Appeals is hereby established in accordance with Act 184 of the Public Acts of 1943, as amended. The Board shall consist of three (3) members: A member of the Zoning Commission, a member of the Township Board appointed by the Township Board, and a third appointed by the Township Board from the electors residing in the unincorporated area of the Township. The term of office of the member from the Township Board shall not exceed his term of office on the Township Board. Should either of the first two members of the Board change, the third member must be reelected. Members may be re-appointed. No elected officer of the Township or any employee of the Township may serve simultaneously as such officer of employee and as the third member of the Board of Appeals. The member appointed from the Zoning Commission shall act as the Chairman of the Board of Appeals. The Township Board may appoint no more than two alternate members for the same term as regular ZBA members. An alternate member may be called as specified in the zoning ordinance to serve as a regular ZBA member in the absence of a regular member if the regular member is absent from or will be unable to attend two or more consecutive meetings or meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member to reach a decision on a case in which the regular member has abstained because of a conflict of interest. The alternate member appointed shall serve in the case until a

final decision is made. The alternate member has the same voting rights as a regular member.

602.2 Procedures of the Board: The Board of Appeals shall adopt rules and regulations to govern its procedures. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to revise any order, requirements, decisions or interpretations under this ordinance or to effect any variation in this ordinance. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions, facts, and other relevant factors; including the vote of each member upon such fact, and all of its official actions. All minutes shall be filed in the office of the Township Clerk.

602.3 Hearings: The Board of Appeals shall fix a reasonable time and date for a hearing. The Board shall send due notice of the hearing by first class mail to the parties of interest and to owners of adjacent properties. Where the matters of general applicability in the Township and does not concern only individual lots or parcels, such notice shall be given in a newspaper of general circulation in the Township. However, the Board of Appeals shall notify the parties of interest by first class mail. All notices of a hearing shall be mailed and published not more than fifteen (15) days, nor less than three (3) days prior to the date on which the hearing is to be held. *(Revised 1/25/1999)*

- A. Zoning Administrator to make list of people to be notified.
- B. Clerk uses list to address envelopes for notices, makes copies of stamped envelopes, mails notices and returns copies of envelopes to Zoning Administrator for verification and file.

602.4 Duties and Powers: The Board of Appeals shall perform its duties and exercise its powers as provided in Act 184 of the Public Acts of 1943, as amended, so that the objective of this ordinance shall be attained, the public health, safety, and welfare secured, and substantial justice done. The Board of Appeals shall hear and decide only those matters which it is specifically authorized to hear and decide as provided therein; administrative review, variance, and expansions of non-conforming buildings and structures. The Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms of intent of this ordinance, but does have power to act on those matters for which this ordinance provides an administrative review, interpretation variance or exception.

- A. Review: The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination of the Zoning Administrator.
- B. Interpretation: The Board of Appeals shall have the power to:

1. Interpret, upon request, the provisions of this ordinance in such a way as to carry out the intent and purpose of the ordinance.
2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
3. Classify a use which is not specifically mentioned as a part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district.
4. Determine the parking space requirements of any use not specifically mentioned in Section 404 either by classifying it with one of the groups listed in that section by an analysis of the specific need.

602.5 Variance: The Board of Appeals shall have the power and duty to authorize upon appeal in specific cases such variance from the provisions of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship or practical difficulty. A variance shall not be granted by the Board of Appeals unless and until the following conditions are met:

- A. A written application for a variance is submitted, demonstrating:
 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district.
 2. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 3. That the special conditions and circumstances do not result from the actions of the applicant.
 4. That granting the variance required will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
- B. Any non-conforming use of neighboring lands, structures, or buildings shall not be considered grounds for the issuance of a variance.
- C. The Board of Appeals shall make findings that the requirements of this section have been met by the applicant.

- D. The Board of Appeals shall further find that the reasons set forth in the application justify the granting of the variance, and that it is the minimum variance that will make possible the reasonable use of the land, building or structure.
- E. The Board of Appeals shall further find that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public interest.
- F. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance, and punishable under Section 605 herein.
- G. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.
- H. In exercising the above mentioned powers, the Board of Appeals may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly or may modify the order, requirements, decision, or determination appeal from and may make such order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the public official from whom the appeal is taken.

602.6 Voiding of and Reapplication for Variance: The following provisions shall apply:

- A. Each variance granted under the provisions of this ordinance shall become null and void unless:
 - 1. The construction authorized by such variance or permit has proceeded to at least 50% of completion within one hundred and eighty (180) days after the granting of such variance and pursued diligently to completion, or
 - 2. The occupancy of land or buildings authorized by such variance has taken place within one hundred and eighty (180) days after the granting or such variance.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred and sixty-five (365) days from the date of such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

602.7 Appeals; How Taken:

- A. Appeals to the Board of Appeals concerning interpretation and administration of this ordinance may be taken by any person aggrieved or by any office of the Township affected by any decision of the Zoning Administrator. Appeals shall be taken within a reasonable time, not to exceed ten (10) days following action by the Zoning Administrator or Township Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals copies of all papers constituting the record upon which the action appealed from was taken.
- B. A fee shall be paid to the Township Treasurer, at the time of filing the notice of appeal and shall be deposited in the Township's general fund. The appeal fee shall be established by the Township Board.
- C. Any party or parties may appear at the hearing in person or by agent or attorney.
- D. The Board of Appeals shall decide upon all matters within a reasonable time. The decision of the Board of Appeals shall be in the form of a resolution containing a full record of its findings and determinations in each case.
- E. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Appeals after the notice is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a Court of Record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

602.8 Duties on Matters of Appeal: All questions concerning application of the provisions of the ordinance shall first be presented to the Zoning Administrator. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the Zoning Administrator. Recourse from decisions of the Board of Appeals shall be to the courts as provided by law.

SECTION 603: CHANGES AND AMENDMENTS:

Only the Township Board may amend this ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Zoning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment.

603.1 Procedures: The procedure for making amendments to this ordinance shall be in accordance with Act 184 of the Public Acts of 1943, as amended. A petition, together with a completed and signed application and fees, shall be filed with the Township Clerk. The Clerk shall review the application as to form and, when it is approved, transmit the same to the Township Zoning Commission for review and report. The Clerk shall, at the same time, establish a date for a public hearing on the petition for the Zoning Commission and shall give proper notice of the hearing as provided in Act 184, P.A. 1943, as amended. The Clerk shall also, for any proposed amendment to the zoning map, give notice thereof, and of the public hearing, to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings delivered personally or by first class mail to the respective owners and tenants at the address given in the last assessment roll. If the notice is delivered by first class mail, an affidavit of mailing shall be filed with the Zoning Commission prior to the hearing. The notice shall be made at least eight (8) days prior to the hearing requirements of written notice to property owners shall not apply to comprehensive revisions to the zoning ordinance. Public hearing requirements shall also apply to amendments initiated by the Township Board or the Township Zoning Commission.
(Revised 1/25/1999)

603.2 Notice of Hearing: The Clerk shall give notice of hearing in the following manner: (Revised 1/25/1999)

- A. By two (2) publications in a newspaper of general circulation in the Township, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second no more than eight (8) days before the date of the hearing.
- B. By posting the property involved at least eight (8) days prior to the hearing, and notice to contain the time, date, place and purpose of the hearing.
- C. By mailing, first class mail, at least twenty (20) days in advance on the hearing, a notice to each electric, gas pipeline, and telephone company that choose to register its name and mailing address with the Zoning Commission for the purpose of receiving such notice.
- D. By mailing, first class mail, at least twenty (20) days in advance of the hearing, a notice to each railroad operating within the Township, in the case of textual changes, or within five hundred (500) feet of the area purposed to be rezoned, if the amendment proposed is in the nature of rezoning.
- E. In the manner prescribed in Section 603.1 regarding notice to adjacent properties.

603.3 Information Required: The petitioner shall submit a detailed description of the petition to the Township Clerk. When the petition involves a change in the zoning map, the petitioner shall submit the following information:

- A. A legal description of the property.
- B. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
- C. The name and address of the petitioner.
- D. The petitioner's interest in the property, and if the petitioner is not the owner, the name and address of the owner.
- E. Date of filing with the Township Clerk.
- F. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.
- G. The desired change and reason for such change.

603.4 Steps in Making a Change:

- A. Petitioner submits application and fee.
- B. Clerk transmits application to Zoning Commission, sets hearing date, and publishes notices of hearing as prescribed in Sections 603.1 and 603.2.
- C. Zoning Commission holds hearing, makes a decision, transmit decision to the County Planning Commission and to the Township Board.
- D. Township Board either enacts or rejects proposed changes as an ordinance amendment, and publishes the text of the change in the newspaper.

603.5 Finds of Facts Required: In reviewing any petition for a zoning amendment, the Zoning Commission shall identify and evaluate all factors relevant to the petition and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board, within sixty (60) days of the filing date of the petition. The facts to be considered by the Zoning Commission shall include, but not limited to, the following:

- A. Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
- B. The precedents, and the possible effects of such precedence, which might likely result in form approval or denial of the petition.

- C. The compatibility of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
- D. Effect of approval of the petition on adopted development policies of Kinderhook Township and other government units.
- E. All finds of fact shall be made a part of the public records of the meetings of the Zoning Commission and the Township Board. An amendment shall not be approved unless these and other identified facts by affirmatively resolved in terms of the public health, safety, welfare, comfort, and convenience of the citizens of Kinderhook Township, or of other civil divisions where applicable.

SECTION 604: PENALTIES: *(Revised 12/11/2003)*

Violations of the provisions of this ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with variances and conditional uses and violation of approved site plans, shall constitute a civil infraction. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon the finding of responsibility, be fined according to the following schedule:

- A. Not less than \$100 nor more than \$500 for a first offense;
- B. For a second offense, in which a civil infraction ticket is issued within 90 days of a first civil infraction (even if the finding of responsibility occurs more than 90 days after the date of the first ticket or the admission of responsibility) a fine of not less \$200, nor more than \$500.
- C. For a third offense, in which a civil infraction ticket is issued within one year of a first civil infraction (even if the finding of responsibility occurs more than one year after the date of the first ticket or the admission of responsibility) a fine of not less \$400, nor more than \$500.

Each day such violation continues shall be considered a separate offense, subject to a separate civil infraction citation.

The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, building contractor, agent, or person who commits, participates in, assist, in, or maintains such a violation may each be found guilty of a separate offense and suffer penalties herein provided. The imposition of any fine shall not exempt the violator from compliance with the provisions of this ordinance.

SECTION 605: VESTED RIGHT:

Nothing in this ordinance should interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and they are hereby declared subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

SECTION 606: SEVERANCE CLAUSE:

Sections of this ordinance shall be deemed to be several and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not effect the validity of this ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

SECTION 607: EFFECTIVE DATE:

The ordinance shall become effective thirty (30) days following publication in its entirety as required by applicable law.

