

# **ZONING ORDINANCE**

HOPE TOWNSHIP, BARRY COUNTY, MICHIGAN

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## **ARTICLE I TITLE, PURPOSE AND AUTHORITY**

### **SECTION 1.0 TITLE**

This Ordinance shall be known and may be cited as the Hope Township Zoning Ordinance.

### **SECTION 1.1 AUTHORITY**

This Ordinance has been enacted pursuant to the provisions the Michigan Zoning Enabling Act (P.A. 110 of 2006), as amended.

### **SECTION 1.2 PURPOSE**

In the interest of the public health, safety, comfort, convenience and general welfare, the purpose of this Zoning Ordinance is to establish zoning districts within the unincorporated portions of the Township of Hope, within which districts the use of land for agriculture, forestry, recreation, residences, industry, commercial trade, soil conservation, water supply conservation, and additional uses of land may be encouraged, regulated, or prohibited; and for such purposes, this Ordinance may divide portions of Hope Township into districts of such number, shape, and area as may be deemed best suited to carry out the provisions of the Act cited above; and to adopt within each district provisions designating and limiting the location, height, number of stories, and the size of dwellings, buildings, and structures that may hereafter be erected or altered including manufactured housing, tents, and alternative housing and the specific uses for which dwellings, buildings, and structures may hereafter be erected, altered, or used; for the regulation of the area of yards, courts, and other open spaces; that sanitary, safety, and protective measures shall be required for such dwellings, buildings, and structures; for the designation of the maximum number of families which may be housed in buildings, dwellings, and structures including tents, manufactured housing, and alternative housing; to provide for a method of amending said Ordinance; to provide for the administering of the Ordinance; to provide for conflicts with other acts, ordinances, or regulations; to provide for the collection of fees for the furtherance of the purposes of this Ordinance; to provide for the organization, procedure, and appeals procedure of the Hope Township Planning Commission and the Hope Township Zoning Board of Appeals; and to provide penalties for the violation of this Ordinance.

## ARTICLE II RULES FOR TEXT - DEFINITIONS

### SECTION 2.0 RULES APPLYING TO TEXT

When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number, and words used in the plural number include the singular. The word "shall" is always mandatory and not merely directory. Terms not herein defined shall have the meanings customarily assigned to them.

### SECTION 2.1 DEFINITIONS

For the purpose of this Ordinance, the following terms and words are defined as follows:

**ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or structure, excluding a mobile home and those with an area less than 200 square feet, devoted to an accessory use and located on the same premises with a main structure. An accessory structure attached to a main structure shall be considered part of the main structure. Parcels or lots of land that are under the same ownership and contiguous to one another may be considered the same "premises" for purposes of this provision. Parcels or lots of land that are under the same ownership and would be contiguous to one another except for an intervening public or private right-of-way may also be considered the same "premises" for purposes of this provision. (*amended November 2017*)

**ACCESSORY DWELLING:** A secondary dwelling unit established in conjunction with and clearly subordinate to a single-family dwelling located on the same parcel.

**ACCESSORY USE:** A use of a building, lot, or portion thereof, which is customarily incidental and clearly subordinate to the principal use of the main building or lot.

**ADULT BUSINESS:** means a business or commercial enterprise that conducts or engages in any of the activities hereinafter defined.

- A. **ADULT ARCADE** means any place to which the public is permitted or invited wherein coin-operated, slug-operated, electronically controlled or mechanically controlled still picture or motion picture machines, projectors, or image-producing or image projecting devices are maintained to show images to five or fewer persons per machine or device at any time, and where the images are so projected, produced or displayed are distinguished or characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- B. **ADULT BOOKSTORE OR ADULT VIDEO STORE** means a commercial establishment that, as one of its business purposes or services, offers or sale or rental for any form of consideration, any of the following:
  - 1. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations or



media which depict or describe Specified Sexual Activities or Specified Anatomical Areas;  
or,

2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in paragraphs 1 or 2, above, and still be categorized as an Adult Bookstore or Adult Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it compromises 20% or more of the establishment's gross revenues, or of such materials occupy 20% or more of the floor area or visible inventory within the establishment.

C. **ADULT CABARET** means a nightclub, bar restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity;
2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.
3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities;
4. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

D. **ADULT MOTEL** means a hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right-of-way that advertised the availability of any of the above;
2. Offers a sleeping room for rent for a period of time that is less than (12) twelve hours; or
3. Allows a tenant or occupant of a sleeping room to offer it for rent or other consideration for a period of time that is less than (12) twelve hours.

E. **ADULT MOTION PICTURE THEATER** means a commercial establishment which, for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction of Specified Sexual Activities or Specified Anatomical Areas.

- F. ADULT THEATER** means a theater, concert hall auditorium, or similar commercial establishment that regularly features a person or persons who appears in a state of nudity, or that regularly features live performances that are characterized by exposure of Specified Anatomical Areas or Specified Sexual Activities.
- G. ESCORT** means a person who, for consideration agrees or offers to act as a companion, guide, or date of another person or who agrees or offers to privately model lingerie or privately perform a striptease for another person.
- H. ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes or services, for a fee, tip, or other consideration.
- I. NUDE MODEL STUDIO** means any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, who pay money or any other form of consideration, but does not include an educational institution funded, chartered or recognized by the State of Michigan.
- J. SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its business purposes or services, offers for any form of consideration any of the following:
1. Any physical contact in the form of wrestling or tumbling between persons of the opposite sex or same sex; or
  2. Activities between male and female persons or between persons of the same sex, when one or more of the persons is in a state of nudity.

**ADULT FOSTER CARE:** A state-licensed establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include convalescent or nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, residential centers for persons released from or assigned to a correctional facility, or any other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq., as amended.

**AGRI-TOURISM ESTABLISHMENT:** A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products; and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, farm tours, horseback riding, corn mazes, ancillary food service facilities and similar activities.

**ALTER OR ALTERATION:** Any change, improvement, or repair to the structure that results in a change or modification to the exterior dimension of said structure. Roofing, siding, insulation, etc. shall not be construed to be a change in the exterior dimension.

**ANIMAL:** The following definitions shall apply so as to distinguish different categories of animals as they apply to land use:

**ANIMAL, DOMESTIC.** A domestic animal is one whose breeding, shelter, and nourishment have been controlled, supervised, and provided by humans over the course of generations. The following characteristics distinguish domestic animals from other animals:

- A. Domestic animals have been specifically bred for characteristics that make them compatible with people.
- B. Most domestic animals started out as social animals (usually living in social groups) where the herd social organization tends to provide the correct basic characteristics that are selected for compatibility with people.
- C. Because they have lived in close contact with people for thousands of years, the care requirements of domestic animals in captivity is documented and well known.
- D. Because they have lived in close contact with humans for thousands of years, the risks which the animals pose to their keepers is documented and well known.
- E. There is an established infrastructure available to care for domestic animals (training and care procedures, ample supply of food and medical products customized for the diet and health of domestic animals, and a well-trained and accessible corps of veterinary professionals).

Domestic animals shall be classified by the following specific categories:

**CONTAINER ANIMALS.** Domestic animals (such as fish, turtles, frogs, toads, guinea pigs, gerbils, birds, and the like) normally and customarily kept at all times within a container providing the appropriate habitat.

**HOUSEHOLD ANIMALS.** Any domestic animal normally and customarily allowed within, and generally allowed to run freely throughout, the same dwelling unit as the human occupants for pleasure and companionship such as dogs, cats, ferrets, and rabbits.

**NON-HOUSEHOLD ANIMALS.**

- A. Any domestic animal, generally and customarily kept outdoors, other than those defined as household animals or container animals; such as horses; and
- B. Any domestic animal generally and customarily kept outdoors for the purpose of creating food for human consumption and/or other products used by humans, but which may from time to time also be raised and maintained as pets, such as poultry, cattle, hogs, sheep, goats and the like.

**BASEMENT:** That portion of a building below the first floor joists, at least half of whose floor to ceiling height is below the level of the adjacent ground, including walkout basements. This refers to conventional homes, only, and not to bermed or earth-sheltered homes.

**BED AND BREAKFAST:** An owner-occupied private residence at which overnight accommodations and a morning meal are provided to transients for compensation, for periods no longer than seven (7) days.

**BERM:** A mound of earth used to reduce noise, or a pile of earth against the wall of a structure to increase the insulating factor of the wall.

**BOAT LAUNCHING FACILITIES:** An improved area (e.g. graveled, paved) abutting a body of water regularly used for introducing watercraft into and/or removing watercraft from the body of water.

**BOARDING HOUSE/ROOMING HOUSE:** A dwelling in which lodging or meals, or both, are furnished to guests for compensation.

**BUILDING:** A structure erected on site, a manufactured home or manufactured structure, or a premanufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals, or property of any kind.

**BUILDING HEIGHT:** The vertical distance from the established grade to the highest point of the roof surface for flat roofs, to the deckline of mansard roofs; and to the average height between eaves and ridge for gables, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**BUILDING LINE:** A line beyond which the foundation, wall or any enclosed porch, vestibule, or other portion of a building shall not project, excluding roof overhangs.

**CABIN:** A detached building which is used for seasonal occupancy as a dwelling or sleeping quarters, but not including motels.

**CAMPGROUND, PRIVATE:** An area to be used for transient occupancy generally on a limited or seasonal basis by travel trailers, recreational vehicles or units, as defined herein, and not operated for a fee.

**CAMPGROUND, PUBLIC:** An area to be used for transient occupancy by camping in travel trailers, recreational vehicles or units, as defined herein, or similar movable or temporary sleeping quarters, and offered to the public for a fee.

**CAR REPAIR FACILITY:** The use of a site for the repair of automobiles and noncommercial trucks weighing less than 7,000 pounds, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This use includes muffler shops, auto repair shops, oil change and similar general service establishments, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.

**CAR WASH FACILITY:** An establishment utilizing mechanical facilities for the washing, drying or waxing of private automobiles, light trucks and vans, but not commercial fleets, and which may be an accessory use to a gas station or car repair facility.

**CARE HOME:** Rest and nursing homes, convalescent homes, and boarding houses for the aged and/or infirm.

**CEMETERY:** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes including columbariums, crematoriums, mausoleums, and funeral establishments, when operated in conjunction with and within the boundary of such cemetery.

**CHURCH:** Places of assembly owned or maintained by an organized religious organization for the purpose of regular gatherings for worship services. The term church includes mosques, synagogues, temples, shrines, meetinghouses and pagodas, and which may include accessory private schools, administration offices, child care for members and visitors and other services incidental to the primary religious use.

**COMMERCIAL GRAIN ELEVATOR:** A facility intended and used for the commercial storage of dry farm products.

**CONTRACTOR'S YARD:** A facility or site and associated buildings used primarily for the office operations and the storage of equipment, vehicles, machinery, building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

**CONVENIENCE STORE:** A store selling general merchandise, gasoline, etc.

**DAY CARE CENTER:** A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Day care center does not include any of the following:

- A. A Sunday school, a vacation Bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- B. A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

**DAY CARE, FAMILY HOME:** A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**DAY CARE, GROUP HOME:** A private home in which between seven (7) and twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended

by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**DECK/PATIO:** Appendage to a building without walls or roof.

**DISTRIBUTION FACILITY:** A building or area in which freight brought by motor truck is assembled and/or stored for future shipment.

**DRIVE-THROUGH FACILITY:** A commercial establishment or part thereof whose character is significantly dependent on providing a driveway approach and service windows or facilities in order to serve patrons while in their vehicle.

**DWELLING, SINGLE-FAMILY:** A structure containing one (1) dwelling unit and that is not attached to any other dwelling by any means (not counting an accessory dwelling) and is surrounded by open space or yards.

**DWELLING, TWO-FAMILY:** A building containing two dwelling units (not counting an accessory dwelling).

**DWELLING, MULTIPLE-FAMILY:** A building containing three or more dwelling units.

**DWELLING UNIT:** A building, or portion thereof, designed for residential occupancy by one family.

**EDUCATIONAL INSTITUTION:** An institution providing full time instruction and including accessory facilities traditionally associated with a program of study which meets the requirements of the laws of the state.

**EQUIPMENT REPAIR:** An establishment primarily engaged in the provision of repair services to individuals or other businesses, including the repair of equipment, machines, large commercial trucks, and other vehicles.

**EQUIPMENT REPAIR, SMALL:** An establishment primarily engaged in the provision of repair services to individuals, including repair of minor household items such as appliances, yard maintenance equipment and similar items.

**ESSENTIAL SERVICES:** The phrase "essential services" means the erection, construction, alteration, or maintenance by public utilities or any governmental agency of underground or overhead distribution, collection, and/or transmission of gas, electricity, steam, water, communication systems, or supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection with, but not including buildings, towers, substations, and regulator stations. Nothing in this Ordinance shall be construed to permit the erection, construction, or enlargement of any above ground structure except utility poles, pole mounted transformers, wires, and pedestal boxes not exceeding four square feet by six feet in height, except as otherwise permitted in this Ordinance.

**FAMILY:** A family is defined as:

- A. an individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single domestic housekeeping unit in a dwelling; or
- B. a collective number of individuals domiciled together in one dwelling whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond characteristic of a cohesive unit, and who are in fact cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or other organization, which is not a recognized religious order, and shall also not include any group of individuals whose domestic relationship is transitory, temporary, or resort/seasonal in nature or character.

**FARM:** All the contiguous neighboring or associated land operated as a single unit on which bonafide farming is carried on directly by the owner or his agent or by a tenant farmer, provided that the area thereof is sufficient to constitute the type of farming being performed; and, for the purpose of this Ordinance, farms may be considered as including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, dairy farms, apiaries, and other similar activities. The words "agriculture" and "farming" shall be considered as synonymous.

**FARM BUILDING:** Any building or structure, other than a dwelling, used or maintained on a farm which is essential and customarily used on farms in the pursuit of agricultural activities.

**FARM SUPPLY STORE:** An establishment selling or renting machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming.

**FENCE:** A manmade enclosure or barrier constructed of wood, masonry, stone, wire, metal, or other material or combination of materials erected to enclose, screen or separate areas.

**FINANCIAL INSTITUTION:** Any building wherein the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

**FLOOD HAZARD AREA:** Areas designated as being within a special flood hazard area subject to inundation by the 1% annual chance flood on the official flood insurance rate map for Barry County, Michigan, as amended, and as produced by the Federal Emergency Management Agency and/or National Flood Insurance Program.

**FUNERAL HOME/MORTUARY:** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation, and which may include a crematorium.

**GAS STATION:** Any building or land area used for the retail dispensing or sales of vehicular fuels and convenience items; and which may include a car repair facility or a car wash facility as an accessory use, and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

**GOLF COURSE/COUNTRY CLUB:** A tract of land laid out with at least nine holes for playing golf and improved with tees, greens, fairways and hazards. A golf course or country club may include shelters, a clubhouse, driving ranges, incidental retail sales, repair of equipment used at the facility, and small-scale banquet and restaurant facilities as accessory uses, but shall not include miniature golf or other commercial enterprises.

**GROUNDWATER:** Water beneath the land surface.

**GREENBELT:** A strip of land which is planted and maintained with grass, trees, bushes, flowers, and similar vegetation.

**HAZARDOUS WASTE:** means waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitating, but reversible, illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous waste does not include material which is solid or dissolved material in domestic sewage discharge, or solid or dissolved material in an irrigation return flow discharge, or industrial discharge which is a point source subject to permits under Section 402 of the Clean Water Act of 1977, 33 U.S.C. 1342 or is a source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, Chapter 1073, 68 Stat. 919.

**HIGH WATER LINE:** The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

**HOME OCCUPATION:** An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

**HOME OCCUPATION, MAJOR:** A home occupation as defined herein that may be apparent to neighbors by virtue of activities on site, signage, outdoor storage or modifications to structures or grounds.

**HOME OCCUPATION, MINOR:** A home occupation as defined herein that, under normal circumstance, is not apparent to neighbors.

**HORSE STABLE, PUBLIC:** Any parcel or tract of land on which equines are kept for sale or rent, or kept and offered to the public to ride for a fee. Breeding, boarding, or training of equines may also be conducted.



**HOSPITAL:** A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.

**HOTEL/MOTEL:** A commercial establishment providing transient sleeping accommodations to the public for a fee, and which may also offer such additional services or facilities such as meals or restaurant service, meeting rooms, and recreational facilities.

**JUNK:** Worn-out, cast-off, or discarded articles or materials that have been collected or stored for salvage, destruction, or conversion to some use, but not including articles or material that, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new.

**JUNKYARD:** disposal area as defined and made licensable under Act 641, P.A. 1978, as amended.

**KENNEL:** Any place where more than three (3) cats over six (6) months of age or more than three (3) dogs over six (6) months of age are kept overnight (regardless of whether or not the animals are owned by the owner or occupant of the subject premises) and which is not an animal hospital.

**LANDFILL:** Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means for whatever purpose, of trash, sewage, refuse, or waste material of any kind as defined and made licensable under Act 641, P.A. 1978, as amended.

**LIBRARY:** A public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

**LOT/PARCEL/TRACT:** A piece of land described in a recorded plat or by metes and bounds.

**LOT AREA:** The total horizontal area included within lot lines. Where the front or side line is the center line of the street or lies in part or in whole in the right-of-way, the lot area shall include that part of the lot in use or to be used as the street or street right-of-way.

**LOT DEPTH:** The distance between front and rear lot lines measured in the mean direction of the side lot lines.

**LOT WIDTH:** Distance between the side lot lines measured at the building setback line.

**LUMBERYARD:** An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail.

**MACHINE SHOP:** A shop where lathes, presses, grinders, shapers, and other wood and metal-working machines are used generally in the conduct of repair or manufacturing service.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built upon a chassis and designed to be used as a residence with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder. Mobile home does not include a recreational vehicle.

**MANUFACTURED HOUSING COMMUNITY:** A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home.

**MANUFACTURING FACILITY:** An enclosed establishment engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, usually in a continuous and regular action or succession of actions.

**MANUFACTURING FACILITY, HEAVY:** A manufacturing facility, as defined herein, that may involve any of the following: the storage of large volumes of highly flammable, toxic matter; outdoor operations as a part of the manufacturing process; the potential to produce noise, dust, glare, odors or vibration beyond the lot line; stonework or concrete product manufacturing; metal fabrication; and similar activities.

**MARINA:** Any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers, private boat launches and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales, or promotional events, boat and jet-ski rental, and other uses clearly incidental to watercraft activities.

**MEDICAL CLINIC:** A facility in which medical, dental, health and related providers maintain offices and provide services to patients on an outpatient basis and which may include minor surgical care.

**MINING OPERATION:** The removal, loading, processing and/or transporting of topsoil, sand, gravel, or other such minerals on, to, or from a lot, tract or parcel, in excess of 1,000 cubic yards per year, and including the incidental maintenance of machinery or equipment used in connection with such mining operation. Minor alterations of the grade elevation by cutting or filling earth for noncommercial purposes, such as preparing a plot for construction, shall not constitute a mining operation.

**MUSEUM:** A building having public significance by reason of its architecture or former use or occupancy or a building serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of related goods to the public.

**NON-CONFORMING BUILDING OR STRUCTURE:** Any building or other structure which does not comply with the applicable regulations for the district, either at the effective date of this Ordinance or as a result of subsequent amendment thereto.

**NON-CONFORMING LOT OF RECORD:** A lot of record that is non-conforming because of a lack of the required number of acres, minimum number of square feet, or other dimensional criteria either at the effective date of this Ordinance or as a result of subsequent amendment thereto.

**NON-CONFORMING USE:** Any use, whether a building, structure, or tract of land, which does not conform to the applicable use regulations for the district, either at the effective date of this Ordinance or as a result of a subsequent amendment thereto.

**NURSERY AND GREENHOUSE:** A space, building or structure, or combination thereof, for the cultivation and storage of live trees, shrubs or plants offered for retail sale on the premises including products used for gardening or landscaping, but generally not including the sale of fruit or vegetables.

**NURSING HOME:** A home licensed by the state for the aged or chronically or incurably ill persons in which five (5) or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, medical clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**OPEN AIR BUSINESS:** A retail sales establishment operated substantially in the open air, including the sales or rental of motor vehicles, construction equipment, recreational vehicles, farm equipment, motorized boats, and manufactured homes. This does not include lumberyards or nursery and greenhouses.

**PARK:** A noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space for passive or active use. An improved park typically includes ancillary constructed or installed facilities, such as playground equipment, restrooms or picnic shelters, while an unimproved park may include interpretive programs and trail systems that take advantage of geological, biological or scenic resources. A park does not include a recreation facility.

**PERSONAL SERVICE ESTABLISHMENT:** An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel.

**PLANNED UNIT DEVELOPMENT (PUD):** A parcel of land, other than a plat or a mobile home park, developed under single ownership or control as a separate neighborhood or community unit. The development shall, except as provided in the following sentence, contain a mixture of housing types and shall be based on an approved plan which allows flexibility of design not available under conventional zoning requirements. This definition shall also include a parcel, other than a plat or mobile home park, having more than one single-family dwelling and/or two-family dwelling upon it.

**PORCH:**

- A. **UNENCLOSED:** An appendage to a building with a floor, roof, and supporting posts only.

- B. **ENCLOSED:** An appendage to a building with foundations, floor, roof, and enclosed sides of glass, screening, etc.

**PORTABLE BLACKTOP PLANT:** A temporary facility that produces or processes concrete or asphalt only for use in a particular construction project and only for the duration of that project.

**PRIVATE CLUB OR ORGANIZATION:** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture, volunteering, or similar activities, but not operated for profit and open only to members, not the general public.

**PRIVATE BOAT LAUNCH:** A privately owned boat launching facility serving only the owners or occupants of two (2) or more dwelling units on lots or parcels having frontage on the subject body of water.

**PRIVATE LANDING STRIP:** An airstrip restricted to use by the owner of the land and, on an infrequent and occasional basis, by invited guests and by commercial aviation activities in connection with permitted uses of the land.

**PRIVATE WIND ENERGY FACILITY:** A wind energy conversion system which has a rated capacity of not more than .1MW and which is intended primarily to reduce on-site consumption of utility power. A wind energy conversion system shall mean any of the following: a mill or machine operated by wind acting on oblique vanes or sails that radiate from a shaft; a surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power; a shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device; the generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and, the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

**PROFESSIONAL OFFICE:** A place, such as a building, room, or suite, in which services, clerical work, professional duties, or the like are carried out.

**RECREATION FACILITY:** A facility operated as a business and open to the general public for a fee, or a facility operated for the benefit of members, and which provides the pursuit of leisure-time or sporting activities, whether indoor or outdoor. A recreation facility may include, but is not limited to, public and private parks, baseball/softball fields, basketball courts, soccer fields, tennis club, archery range, paintball facility, mudbogging facility or skating facility.

**RESTAURANT:** A public eating place providing full menu table service, and which may have incidental sales of alcoholic beverages.

**RETAIL ESTABLISHMENT:** An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

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

**RIPARIAN ACCESS LOT:** A lot designated, intended or used to allow water access for those who do not own property on the water body. See Section 10.12.

**ROADSIDE STAND:** A small building, structure or area of land designed or used for the display and sale of farm products including, but not limited to, fruits, vegetables, flowers, firewood and Christmas trees.

**SAWMILL OPERATION, PERMANENT:** A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, but not including a temporary sawmill operation.

**SAWMILL OPERATION, TEMPORARY:** The processing of timber for use on the same lot by the owner or resident of that lot, for a continuous time period of no more than twelve (12) months.

**SELF-STORAGE FACILITY:** A building or grouping of buildings consisting of individual, self-contained units, or an outdoor area, leased to individuals, organizations, or businesses for self-storage of personal property.

**SETBACK:** The minimum horizontal distance that a building or structure is required to be located from the boundaries of the lot or parcel of land upon which the same is situated.

**SIGN:** Any structure, part thereof, or device attached thereto or painted or represented thereon, or any material or thing which displays numerals, letters, words, trademarks, or any other representational use for direction or designation of any person, firm, organization, place, product, service, business, or industry, which is located upon any land or building, in or upon a window, or indoors in such a manner as to attract attention from outside the building; including the following specific sign types:

**Sign, Address Plaque:** An incidental sign displaying the street number of a building or dwelling.

**Sign, Billboard:** An outdoor sign advertising services, products, activities, persons or events which are not made, produced, assembled, stored, distributed, leased, sold or conducted upon the premises upon which the billboard is located.

**Sign, Changeable Copy:** A sign that consists, in whole or in part, of a message or image that can be changed periodically, whether manually or by automatic or technical means.

**Sign, Collective:** A sign intended and used to identify residents and/or street number addresses of residents living in a particular residential development.

**Sign, Development:** A freestanding sign which identifies the name of a residential development and which is located at an entrance to the development, for the purpose of assisting the public in determining the location of the development.

**Sign, Farm:** A sign identifying the name of an active farm or identifying a crop or product of the active farm.

**Sign, Freestanding:** A sign structurally separated from a building and supported by a foundation or base or one or more poles or braces.

**Sign, Marquee:** A sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the wall.

**Sign, Political:** A sign used in connection with a local, state or national election, political topic or referendum.

**Sign, Projecting:** A display sign which is attached directly to the building wall and which extends more than one foot from the face of the wall.

**Sign, Real Estate:** A temporary sign that relates to the sale, lease, or rental of property or buildings, or to construction activities on a site.

**Sign, Roof:** A sign which is erected, constructed and maintained on or above the roof of the building.

**Sign, Temporary Banner:** A sign constructed of cloth, fabric or other light temporary materials with or without a structural frame, and which is displayed only on a temporary basis.

**Sign, Vehicle:** A sign shall be considered a vehicle sign when the vehicle or trailer upon which the sign is painted or attached is parked or placed primarily for advertising purposes. Currently licensed commercial vehicles in general daily off-site use are not included as part of this definition.

**Sign, Wall:** A sign which is painted on or attached directly to a surface of masonry, concrete, frame or other approved building walls, and which extends not more than one foot from the face of the wall.

**SIGN AREA:** The surface of any structure used to convey the message exclusive of the necessary supports or any appurtenances required by the Building Code. The area of open sign structures consisting of letters or symbols without a solid surface in between shall be calculated as the basis of the total area within the perimeter of the group of letters and/or symbols. The area of a double face sign which is constructed back to back as a single unit shall be calculated according to the surface of one side only.

**SITE CONDOMINIUM:** A method of subdivision where the sale and ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978), as amended.

**SOLAR ENERGY COLLECTOR:** Means a system (including solar collector surfaces and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems. *(amended September 2019)*

- A. **ANCILLARY SOLAR EQUIPMENT:** Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters, or water heater tanks.

- B. **BUILDING-MOUNTED SOLAR ENERGY COLLECTOR:** A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall or window or other element, in whole or in part, of a building.
- C. **GROUND-MOUNTED SOLAR ENERGY COLLECTOR:** A solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located.
- D. **PROPERTY OWNER OR LESSOR:** Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.
- E. **SMALL-SCALE SOLAR ENERGY COLLECTOR:** A solar energy collector primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic (BIPV) systems, flush-mounted solar panels, ground-mounted solar energy collectors, or building-mounted solar energy collectors.
- F. **SOLAR COLLECTOR SURFACE:** Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.
- G. **SOLAR ENERGY:** Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.
- H. **UTILITY-SCALE SOLAR ENERGY SYSTEM:** A solar energy system that meets one or more of the following:
1. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
  2. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
  3. It is not considered an accessory use or structure by the Township Zoning Administrator.

**SPECIAL EXCEPTION USE:** A use that would not be appropriate generally or without restriction throughout the zoning district in which it is proposed but which, if controlled as to number, area, location, and character, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon the issuance of a Special Exception Use Permit by the Planning Commission in such zoning district as permitted, if specific provision for such Special Exception Use is made in this Ordinance.

**SPECIFIED ANATOMICAL AREAS**

- A. Less than completely opaquely covered human genitals, pubic region buttock or anus; or female breast immediately below a point immediately above the top of the areola; or,
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES**

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breast;
- B. Sex acts, normal or perverted, actual or simulated including but not limited to intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or,
- D. Excretory functions as part of or in connection with any of the activities set forth in paragraph A, B or C above.

**STREET:** Public or private property which affords the principal means of vehicular access to abutting property including roads and highways but not including an alley.

**STRUCTURE:** Anything constructed, erected, or to be moved to or from any premises which is permanently located above, on, or below the ground. For the purposes of this Ordinance, parking lots, wells and septic systems shall not be deemed structures.

**SUBDIVISION:** A plat or area which shall be platted as required by Act 288, P.A. 1967, as amended.

**TAVERN:** An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may also be available for consumption on the premises.

**TELECOMMUNICATION FACILITY:** Any facility that transmits and/or receives signals by electromagnetic or optical means, including antennas, microwave dishes, horns, or similar types of equipment, towers or similar structures supporting such equipment, and equipment buildings.

**THEATER:** An establishment for the performing arts, including motion pictures, live dramatic performances and music performances. Such establishments may include related services such as food and beverage sales and other concessions.

**THROUGH LOT:** Lot in which both the front yard and back yard abut a road. Yard-Road Front requirements shall apply.

**TRAVEL TRAILER and RECREATIONAL VEHICLE or UNIT:** A vehicle type structure, other than a manufactured home, primarily designed as temporary living quarters for recreational camping or travel use, which has its own power or is mounted on or drawn by another vehicle which is self-powered as defined by MCL 333.12501.

**VACANT LOT:** A lot that does not contain a structure.



**VARIANCE:** An action by the Zoning Board of Appeals to vary or modify the requirements of this Ordinance in certain circumstances where, owing to particular conditions, literal enforcement of the Ordinance would result in unnecessary hardship.

**VETERINARY CLINIC:** An establishment for the care and treatment of the diseases and injuries of animals and where animals may be boarded during their convalescence, also known as an animal hospital.

**YARD-ROAD FRONT:** That part of the lot lying between the main building and the street upon which said lot abuts, or the designated street for frontage purpose in the event of a corner lot. In the case of a through lot, yards abutting each street will be considered as front yard.

**YARD-LAKE FRONT:** That part of the lot lying between the main building and the lakeshore upon which said lot abuts. In such cases, the street side becomes the rear yard.

**YARD-REAR:** That part extending across the full width of the lot between the rear lot line or the right-of-way line to the nearest line of the building.

**YARD-SIDE:** That part extending from the front yard to the rear yard between the side lot line, or the right-of-way line and the nearest line of the building.

**WAREHOUSE:** A building used primarily for the storage of goods and materials and used in conjunction with a commercial enterprise.

**WHOLESALE ESTABLISHMENT:** An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

## **ARTICLE III THE PLANNING COMMISSION**

### **SECTION 3.0 ESTABLISHMENT AND MEMBERSHIP**

There shall be a Planning Commission as provided for by the Michigan Planning Enabling Act, Act 33 of 2008, as amended and the Michigan Zoning Enabling Act, Act 110 P.A. 2006, as amended. The membership, powers and duties shall be as prescribed by law.

### **SECTION 3.1 DUTIES OF THE PLANNING COMMISSION**

In addition to those provided by law, the Planning Commission will:

- A. Create and revise the Master Land Use Plan, subject to Township Board approval;
- B. Review and decide upon applications for Special Exception Use Permits;
- C. Review Site Plans in accordance with Article V of this Ordinance;
- D. Make a recommendation to the Township Board regarding approval or disapproval of a proposed plat (after holding a public hearing thereon);
- E. Make recommendations to the Township Board regarding an ordinance or ordinance amendments regulating plats.
- F. Prepare an annual written report to the Township Board concerning the Planning Commission's operations and the status of its planning activities; and
- G. Such other duties as are required by law.

### **SECTION 3.2 GENERAL PROVISIONS FOR THE PLANNING COMMISSION**

- A. The Planning Commission shall consist of five (5) members, as appointed by the Township Supervisor with the approval by majority vote of the members of the Township Board. Except for the ex officio member, who shall be a member of the Township Board, all other members of the Planning Commission shall serve staggered terms of three (3) years. The term of the ex officio member shall expire with his or her term on the Township Board.
- B. Except as otherwise provided herein, the approval of any request or decision shall be by a majority vote of the members present, provided a quorum is present. Planning Commission recommendations regarding adoption or amendment of the Township's Master Land Use Plan shall be by a majority vote of its full membership. A Planning Commission determination that a member has a conflict of interest requiring the member to be disqualified from Planning Commission deliberation and voting on a matter shall be made by a majority vote of the remaining members of the Planning Commission.

- C. The Planning Commission shall disqualify a member from deliberations and voting upon a matter in which the member has a conflict of interest.
- D. Planning Commission members may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charge following a public hearing.
- E. Compensation of members of the Planning Commission shall be determined by the Township Board.
- F. A Chairman and a Secretary shall be elected by the Planning Commission members. Minutes of the meetings shall be kept by the Secretary, or someone designated by the Secretary, and also filed with the Township Clerk and the Building Inspector and Zoning Administrator.
- G. The Township Clerk or his/her appointee shall post notices of Planning Commission meetings.
- H. The decisions of the Planning Commission shall be carried out by the Building Inspector or Zoning Administrator or any other Township Officer designated to do so.

## ARTICLE IV SPECIAL EXCEPTION USES

### SECTION 4.0 SPECIAL EXCEPTION USE STANDARDS

In order to make this Ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the Township, the Planning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses within the various zone classifications, which are designated as Special Exception Uses in this Ordinance.

Such Special Exception Uses have been selected because of the unique characteristics of the use which, in the particular zone involved, under certain physical circumstances and without proper controls and limitations, could cause the use to be incompatible with the other uses permitted in such zone and accordingly detrimental thereto.

With this in mind, such Special Exception Uses shall not be allowed within the particular zone in which they are listed unless and until the Planning Commission is satisfied that the same, as they are being, or will be, conducted under the conditions, controls, circumstances and safeguards proposed therefor and imposed by said Commission:

- A. The proposed Special Exception Use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.
- B. The proposed Special Exception Use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic.
- C. The location, size, intensity, site layout, physical and structural elements, and periods of operation of the proposed Special Exception Use shall be designed and established in a manner that eliminates any possible nuisance emanating there from which might be noxious to the occupants of any other nearby permitted uses, whether by reason of traffic, dust, noise, odors, glare, fumes, vibration, smoke or lights.
- D. The proposed Special Exception Use shall be such that the proposed location and height of buildings or structures and the location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land.
- E. The proposed Special Exception Use shall relate harmoniously with the physical and economic aspects of adjacent land uses with regards to convenience of access by prospective patrons, continuity of development, and need for particular service and facilities in specific areas of the Township.
- F. The proposed Special Exception Use is so designed, located, planned and to be operated so that the public health, safety and welfare will be protected.

- G. The proposed Special Exception Use shall not cause substantial injury to other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

The burden of proof of facts which might establish a right to a Special Exception Use Permit under the foregoing standards shall be upon the applicant.

## **SECTION 4.1 SPECIAL EXCEPTION USE PROCEDURE**

- A. Application for Special Exception Use Permit shall be filed with the Zoning Administrator and forwarded to the Planning Commission. The applicant shall attach to the application a Site Plan containing plans and specifications on their data or explanatory material required by this Ordinance, and also a statement outlining the methods by which the Use will comply with the conditions specified for each grant of Special Exception Use. At the time of filing a request for the Special Exception Use Permit, the applicant shall pay the fee determined by the Township Board to help defray expenses in connection with the application.
- B. The Township shall schedule a public hearing upon the request. Notice of the Public Hearing shall be given in accordance with applicable statutory requirements.
1. A notice of public hearing on the application shall be published in a newspaper circulated in the Township at least 15 days prior to the public hearing.
  2. Notices of the request and public hearing shall be sent by First Class mail to the applicant and owners and occupants of all parcels of land located within 300 feet of the boundaries of the property in question, as shown by the latest assessment roll.

If the name of an occupant is not known, the term "occupant" may be used in the notice. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than four dwelling units or spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure. Notice shall be published at least 15 days before the public hearing.

- C. After the public hearing, the Planning Commission shall either grant, deny, or table a request for such Special Exception Use Permit and shall state its reasons for its decision in the matter. The Planning Commission may impose such additional conditions, limitations, and requirements deemed necessary for the general welfare, protection of individual property rights on nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the Special Exception Use is proposed will be observed. All conditions, limitations, and requirements upon such permit as granted shall be specified in detail by the Planning Commission in its decision and shall be filed with the Building Inspector and Zoning Administrator.

- D. The Planning Commission shall have the right of annual review of compliance with the conditions and limitations imposed upon such use, if any.
- E. The Site Plan and specifications, and all conditions, limitations, and requirements imposed by the Planning Commission shall be recorded with the Township and shall be incorporated as part of the Special Exception Use Permit.
- F. Violations. Violations of any conditions, limitations, and requirements of the Special Exception Use permit, at any time, will be considered a violation of said permit and said Special Exception Use shall cease to be a lawful use.

The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Exception Use permit after giving notice to the permit holder, specifying the alleged violation(s) and holding a public hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Exception Use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).

- G. Expiration. The Special Exception Use permit will expire on the occurrence of one or more of the following conditions:
  - 1. If replaced or superseded by a subsequent permitted use or Special Exception Use.
  - 2. If the applicant or current owner of the property requests the rescinding of the Special Exception Use permit.
  - 3. If the Special Exception Use is considered abandoned pursuant to Section 4.1, H.
- H. Abandonment. Any permitted Special Exception Use shall be considered abandoned, and such use shall not be resumed thereafter without reapplying for a new Special Exception Use, if any of the following conditions apply:
  - 1. The owner declares or otherwise makes evident his intent to discontinue such use.
  - 2. When the use has been replaced by a different use.
  - 3. When utilities, such as water, gas and electricity to the property, have been disconnected.
  - 4. If equipment, fixtures, signs, or other items necessary for the existence of the Special Exception Use, have been removed.
  - 5. Other actions, which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the Special Exception Use.
- I. Performance Guarantee. To insure compliance with the Zoning Ordinance and any conditions, limitations, or requirements imposed by the Planning Commission as necessary to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check, irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation, or requirements conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the

Township at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six (6) months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as work progresses.

- J. Amendments. Amendments to Special Exception Use permit shall be handled in the same manner as the initial Special Exception Use application. Minor non-substantive changes may be made to an existing Special Exception Use with the approval of the Zoning Administrator.
- K. Reapplication. No application for a Special Exception Use which has been denied, wholly or in part, by the Planning Commission may be resubmitted for a period of one year from the date of denial, except on the grounds of newly discovered evidence or proof of changed conditions.
- L. Appeals. No decision or condition related to a Special Exception Use application shall be taken to the Zoning Board of Appeals.

## **SECTION 4.2 STANDARDS FOR SPECIFIC SPECIAL EXCEPTION USES**

- A. **AGRI-TOURISM ESTABLISHMENT.** An application for an Agri-Tourism Establishment shall include a complete site plan in accordance with Article 5 with detail on parking, sanitation, refuse and solid waste management, on site lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related facilities existing and proposed. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the Special Exception Use application to be relied upon by the Township in granting any approval.

For activities taking place at an agri-tourism establishment that are within generally accepted agricultural management practices (GAAMPs), as amended and as promulgated by the Michigan Department of Agricultural and Rural Development, such activities are permitted as a use by right in the AR and RR zoning districts are not subject to Special Exception Use approval. For uses that are not within GAAMPs or do not meet the standards of GAAMPs, as amended, the following standards shall apply.

1. The Planning Commission shall evaluate the proposed Agri-Tourism Establishment and the activities proposed to determine whether it will be compatible with other neighboring and allowed uses in the vicinity.
2. If an Agri-Tourism Establishment is intended to include any overnight accommodations, that element of the use shall comprise only a small part of the property, so that the farm use of the site is predominant and the accommodation use is secondary. The Planning Commission may approve a proposed departure from this requirement if it finds that the proposed accommodation use is substantially farm-related or that the use and its activities would not have impacts on the vicinity similar to impacts generated by a commercial

- business, including consideration of traffic, light pollution, noise, blowing trash, signage, odor, and aesthetics.
3. Farm Markets with a country theme dealing with products grown on site, locally-grown products as well as related items produced elsewhere, whether operating year-round or seasonally, shall be considered an Agri-Tourism Establishment under this Section. Provided, however, that roadside stands and markets for the sale of products primarily grown or produced upon the premises with no more than 600 square feet dedicated to retail sales shall not be considered an Agri-Tourism Establishment subject to the terms of this Section.
  4. Tasting rooms and related food service activities shall at all times comply with any and all requirements of the Barry County Health Department and the Michigan Liquor Control Commission.
  5. Periodic or permanent recreational or entertainment activities or facilities, such as but not limited to, rodeo demonstrations, tractor pull events, hay rides, corn mazes, concerts, haunted houses and similar features or events shall be clearly described in any application for Special Exception Use approval and must be authorized in advance pursuant to this Section.
  6. The Planning Commission may impose requirements on the placement of the facility on the site to protect adjacent properties from its impacts and to maintain rural views from public roads. The facility and all of its outdoor ancillary structures and activities such as parking and gathering space shall be located at least fifty (50) feet from property lines. The Township may approve a proposed departure from this requirement, if it finds that locational and layout attributes, buffers, adjacent uses and site configurations, and other features of the subject site and nearby property work together to minimize impacts of the proposed use; provided, that other applicable dimensional requirements of the Zoning Ordinance are met.
  7. The Township may require submittal of a traffic impact study, the purpose of which shall be to analyze the effect of traffic generated by the proposed use on the capacity, operations, and safety of the public road system and to propose mitigation measures.
  8. The Township may require landscaping and other features to screen the use from adjacent properties and the Township may impose limitations on the operation of the facility to protect adjacent properties from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.
  9. The applicant shall demonstrate that all vehicular parking will occur on the site. A pervious parking surface is preferred, and the applicant shall demonstrate that dust would be controlled.

**B. BED AND BREAKFAST.** Bed and breakfasts shall be subject to the following requirements:

1. The use shall not be incompatible with other existing or permitted uses in the vicinity.
2. The impact of the bed and breakfast shall be no greater than that of a private home with houseguests and the bed and breakfast shall not alter the residential character of the



- building. Special Exception Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
3. The bed and breakfast shall be a single-family dwelling, the principal dwelling unit on the property and shall be owner-occupied at all times.
  4. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
  5. The establishment shall have at least two (2) exits to the outdoors.
  6. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each additional occupant to a maximum of four (4) occupants per room.
  7. A site plan shall include a floor plan layout of the proposed structure that shows the specific layout of the proposed facility.
  8. The permit holder shall secure and maintain all required state and local permits. Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
  9. No conference/meeting room facilities will be permitted.
  10. The bed and breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.
  11. Any refuse containers on site shall be fully enclosed and screened.

**C. JUNKYARD.** Junkyards shall be subject to the following requirements:

1. The Planning Commission may establish hours of operation for junkyards to protect the character of the land uses in the vicinity.
2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by all county, state and federal regulations.
3. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
4. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable state and federal requirements.
5. All materials stored on site shall be located in the side or rear yards. All materials shall be screened with an eight (8) foot tall opaque fence. Stored materials shall not be stacked higher than eight (8) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
6. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.
7. A management office shall be provided on site.

8. The maximum lot area shall be twenty (20) acres.
9. The Planning Commission may require annual soil spot tests.
10. The following groundwater protection standards shall apply.
  - a. Sites shall be designed to prevent spills and discharges into the surface of the ground, groundwater, lakes, streams, rivers or wetlands.
  - b. All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the junkyard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
  - c. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  - d. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
  - e. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

**D. KENNEL.** Kennels shall be subject to the following requirements:

1. The Planning Commission may stipulate the maximum number of animals that may be kept at the facility, to protect the character of the area and adjacent properties.
2. Buildings where animals are kept, indoor or outdoor dog runs, and exercise areas shall not be located nearer than one hundred (100) feet to any dwelling on adjacent property and shall be set back at least seventy-five (75) feet from any property in the RR, R-L and MHC zoning districts.
3. Outdoor dog runs and outdoor exercise areas shall not be located in any front yard or required side or rear setback area.
4. All principal use activities, other than outdoor dog runs or exercise areas, shall be conducted within a totally enclosed building.
5. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Barry County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than twice per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site.

6. Activities shall not generate noise levels at any property line that exceed the standards and other requirements set in the Hope Township Noise Ordinance (Ordinance No. 6)

**E. MACHINE SHOP.** Machine shops shall be subject to the following requirements:

1. The applicant shall demonstrate that activity on site shall not be detectable at lot lines.
2. Outdoor storage shall be completely screened and not visible from neighboring properties or rights-of-way.
3. The use shall not alter the essential residential or agricultural character of the vicinity.

**F. MINING OPERATION.** Mining operations shall be subject to the following requirements:

1. Additional Site Plan Requirements. In addition to the regular application materials as required for any Special Exception Use, an application submittal for a mining operation shall be accompanied by the following information:
  - a. Name and address of the owner(s) of land on which mining will take place.
  - b. Name, address and telephone number of person or corporation who will be conducting the actual mining operation.
  - c. Location, size and legal description of the subject property, and total site area to be mined.
  - d. A plan for extraction and reclamation for the total project, which shall include:
    - i. Surface overburden and topsoil stripping and stockpiling plans.
    - ii. Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, blowing dust, sedimentation problems and public safety concerns.
    - iii. A feasible and detailed plan for the re-use of the reclaimed site, consistent with the zoning district(s) in which the facility is located and consistent with the intent of the Township Master Plan.
  - e. Surface water drainage provisions and outlets.
  - f. The location and size of any existing or proposed structures and any proposed vehicle or equipment staging and parking areas.
  - g. Approved soil erosion permits. If such permit has not been issued, a copy of the permit application may be appended to the Special Exception Use application and any approval shall be conditioned upon issuance of such soil erosion permit.
2. Reclamation. All extraction areas shall be reclaimed progressively as they are worked out. Reclaimed sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of six (6) feet shall be graded to angles which do not exceed one (1) foot in

- elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion and any other potential deterioration. The Planning Commission shall determine the amount of the site that may be open at any time. (*amended February 2020*)
3. Site Development Requirements.
    - a. Setbacks in which no part of the mining operation may take place, except for ingress and egress, shall be as follows:
      - i. Excavation below the existing grade of adjacent roads or property lines shall not take place within thirty-five (35) feet from any adjacent property line or road right-of-way.
      - ii. No machinery will be erected or maintained within one hundred (100) feet of any property line or road right-of-way.
    - b. If fencing or landscaping is deemed a necessary requirement, the Planning Commission shall specify the type, characteristics, and location of the required fencing or landscaping.
    - c. Interior access roads, parking lots, haul roads, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind blown dust.
    - d. Hours of operation shall be established by the Planning Commission as part of the Special Exception Use approval.
    - e. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of sixty (60) decibels at any property line.
  4. Failure to maintain all required county, state or federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the Special Exception Use approval may result in the immediate revocation of a Special Exception Use permit and any and all other sanctions and/or penalties available to the Township, county, and/or state.
  5. Evidence of Continuing Use. A Special Exception Use for a mining operation shall not expire unless it is deemed abandoned by the Zoning Administrator pursuant to Section 4.1(H) of this Ordinance. When the Zoning Administrator determines a mining operation or portion thereof to be abandoned, he/she shall give the operator written notice of their intention to declare the mining operation or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he/she shall not declare abandonment.
  6. Financial Guarantees. A minimum performance guarantee shall be filed with the Township Treasurer. The performance guarantee shall be in the form of a letter of credit, a certified check, a cash bond or an insurance policy with the Township named as an insured party. The bond shall be returned when all conditions stipulated in the Special Exception Use permit have been met and the Special Exception Use permit revoked prior to its release. There shall be no partial release of the bond. The Township shall determine the amount of the guarantee.

7. Inspection and Amendments. Permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.

Special Exception Use permits for mining operations may be amended by the Planning Commission in accordance Section 4.1(J) and the following procedures:

- a. A request for amendment of a Special Exception Use permit must be made at least thirty (30) days prior to the expiration of the existing permit.
  - b. The written request shall provide information concerning the mining operation/activities conducted during the current year and also show that such operation/activities are in compliance with the Special Exception Use approval and the permit requirements.
  - c. Any financial guarantee shall also be established or revised in accordance with Section 4.2, F, 6 above for the duration of the extension of the Special Exception Use permit.
8. Modification of the Site Plan. The site plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight. The Planning Commission may require the modification of the site plan when:
    - a. Modification of the plan is necessary so that it will conform to existing laws.
    - b. It is found that the previously approved plan is clearly impractical to implement and maintain.
    - c. The approved plan is obviously not accomplishing the intent of the Ordinance.
  9. The Planning Commission may establish hours of operation for mining operations to protect the character of the land uses in the vicinity.

**G. PRIVATE WIND ENERGY FACILITY.** Private wind energy facilities shall be subject to the following requirements:

1. Setbacks shall be no less than 1.5 times the total height of the private wind energy facility from the ground level to the top of the blade at the highest point in rotation.
2. Rooftop mounted and detached private wind energy facilities shall not exceed 1.5 times the maximum permitted building height for the district in which they are located.

**H. RECREATION FACILITY.** Recreation facilities shall be subject to the following requirements:

1. Facilities that include outdoor activity must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission.

2. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
3. The Planning Commission may limit the hours of operation of the facility to protect the character of the vicinity and surrounding uses.
4. The facility shall be compatible with surrounding neighborhoods in terms of scale and site layout.
5. The facility shall be maintained in an orderly and attractive manner.
6. The applicant shall demonstrate that large, periodic influxes in the number of patrons and/or spectators shall not occur except upon approval of an amended Special Exception Use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way.

**I. TELECOMMUNICATION FACILITY.** Telecommunication facilities shall be subject to the following requirements:

1. Purpose and Intent. The Telecommunications Act of 1996 as amended on February 6, 1996 sets forth provisions concerning placement, location and construction of towers and related facilities for communication. The purpose of this section is to establish general guidelines for the siting of Communication Towers, which include antenna structures. In order that such towers not cause visual pollution or create a safety hazard or reduce property values on adjacent properties, reasonable regulations for the location, use of existing structures (e.g., water towers, school and church steeples, tall buildings), design of structures and towers, is appropriate. Communication Towers are hereby specifically determined not to be essential services nor to be public utilities as such terms are used in this Ordinance. The intent of these provisions is to encourage users of towers to:
  - a. Protect land uses from potential adverse impacts of towers.
  - b. Place the location of new towers in non-residential-zoned areas.
  - c. Minimize the total number of towers throughout the community.
  - d. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
  - e. Locate them on publicly-owned water towers where feasible and to the satisfaction of the Planning Commission.
  - f. Locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
  - g. Configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.

- h. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
    - i. Consider the public health and safety of personal wireless service facilities.
    - j. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
    - k. In furtherance of these goals, Hope Township shall give due consideration to natural features, the Township Master Plan, zoning map, existing land uses, and other characteristics and policies of the Township in approving sites for the location of towers and antennas.
    - l. It is not the intent to regulate ham radio antennae under this section.
  2. Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:
    - a. Antennas on Existing Structures: Compact platform-type, omni directional, or singular-type antenna which is not attached to a new communication tower may be approved by the Zoning Administrator as a co-location or as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure, provided:
      - i. The antenna does not increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater;
      - ii. The antenna complies with all applicable FCC and FAA regulations;
      - iii. The equipment building for such co-located equipment can be incorporated into an existing structure or cabinet and does not increase the area of the existing equipment compound to greater than 2,500 square feet, and;
      - iv. The antenna complies with all applicable building codes.
    - v. Microcell Networks: Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
3. Antenna Placement on Publicly-Owned Facilities. Communication Towers may be installed on publicly-owned water towers or other facilities, and their accessory equipment and shelters may be installed on publicly-owned property, in any zoning district, with a lease approved by the Township Board, and subject to the requirements of the Site Plan Review provisions.
4. Review Provisions and Zoning Districts Allowed. Except as provided above, Communication Towers and their accessory equipment and shelters shall be considered a Special Exception Use.
5. Additional Information Required for Review. In addition to the requirements for all site plans and Special Exception Uses, the following shall be provided:
  - a. Name and address of the proposed operator of the site.

- b. Name and address, including phone number of the person responsible for determining feasibility of co-location as provided in this section.
  - c. Preliminary design of all proposed structures, including elevations and renderings showing the proposed facility from four vantage points located not less than 200 feet nor more than 500 feet from the proposed tower location.
  - d. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of 85 miles per hour. Such certification shall set forth the fall zone area for the proposed tower. If such fall zone area is less than that of a circle whose radius is equivalent to the height of the proposed tower, such certification shall provide structural calculations and detail sufficient to demonstrate the accuracy of such lesser fall zone area determination. Such certification shall be provided by an engineer licensed to practice in Michigan.
  - e. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - f. A notarized statement signed by the applicant indicating the number and type of additional antennae the proposed tower will accommodate through co-location.
  - g. Each applicant shall provide an inventory of existing towers, tall structures, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Hope Township, or within one mile of the border thereof, including specific information about the location, height, and design of each tower or tall structure. The Zoning Administrator may share such information with other applicants applying for approvals under this Ordinance or other organizations seeking to locate antennas within the Township, provided, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
  - h. The separation distance from other towers described in the inventory of existing sites shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known. The applicant shall also demonstrate the reasons such existing towers or tall structures cannot be used in lieu of the proposed communication tower.
6. Once all required materials are submitted, the Planning Commission shall review the application in accordance with the standards of Article IV and shall either approve, approve with conditions, or deny the application within 60 days of receipt of all required information, as determined by the Zoning Administrator. If the Planning Commission does not approve, approve with conditions, or deny the application within 60 days, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.
  7. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna.



8. General Provisions. Construction of Wireless Communication Antenna including its accessory equipment is permitted in Hope Township subject to the following provisions:
- a. A Communication Tower may be considered a principal or accessory use and shall be placed on parcels (whether the land is owned or leased by the tower owner) which have an area no less than the minimum parcel area and width for the district, except that the leased area in which the tower is located may have an area or width that is less than the minimum required.
  - b. All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer to any property line than the radius of the certified fall zone and in no case less than 200 feet from any residence or 200 feet from a zoning district which does not permit Communication Towers as a Special Exception Use.
  - c. All proposed towers of more than thirty-five (35) feet in height shall be submitted to the Michigan Aeronautics Commission and FAA for review and approval prior to approval by Hope Township. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
  - d. The service building shall be aesthetically and architecturally compatible with buildings within three hundred feet of the property on which it is located.
  - e. All connecting wires from towers to accessory buildings and all electrical and other service wires to the facility shall be underground.
  - f. Monopole tower design is preferred. If the applicant proposes to use a guyed or lattice tower, the applicant shall demonstrate why a monopole design cannot be used.
  - g. All exterior lighting shall be in accordance with applicable federal requirements.
  - h. The Planning Commission may require landscape screening of the service building and fencing.
  - i. Strobe lights shall not be allowed except as required by FAA.
  - j. Signs; No part of a wireless communication facility shall be used for advertising purposes. The Planning Commission may permit informational signs on the service building(s), fence or tower base that lists the name, address and contact telephone number of the operator, as well as safety-related signs, such as those that signaling "danger" or "no trespassing."
  - k. Towers shall be enclosed by a locked gate and security fencing at least 6 feet in height, and shall be equipped with an appropriate anti-climbing device.

- l. Applicant shall certify its intent to lease excess space on the proposed tower for co-located antennae of other operators. Such certification shall include a commitment to respond to any requests for information from another potential shared use applicant; to negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable, and; to make no more than a reasonable charge for a shared use lease.
    - m. Notwithstanding the provisions of this section, the maximum height for a Wireless Communication Tower in Hope Township shall be one hundred ninety-nine (199) feet.
    - n. Separation distances between proposed and pre-existing towers are as follows: monopole over 35 feet in height - 1,500 feet; lattice and guyed towers - 5,000 feet.
  9. Removal of Abandoned Antennas and Towers. A Communication Tower that is unused for a period of twelve (12) months shall be removed at the owner's expense. The applicant or owner is responsible for the removal of an unused tower. Failure to remove the wireless communication tower following reasonable notice shall be sufficient cause for the Township to regard the facility as a nuisance per se and remove the structure.
  10. Bonds. The owner of a Communications Tower; including equipment/accessory buildings, shall post a bond with Hope Township in an amount to cover the reasonable estimated costs and expenses of dismantling and removing the communication tower. Said bond shall be with a reputable insurance or guarantee company. The amount of the bond shall be established by the Planning Commission as a condition of approval.
  11. Nonconforming Towers.
    - a. Pre-existing towers that do not meet the requirements of this section shall be allowed to continue in use as they presently exist. Routine maintenance shall be permitted on such preexisting towers. New construction, other than routine maintenance on a pre-existing tower shall comply with the requirements of this Ordinance. Modifications to height and type of construction of pre-existing towers shall not be permitted, except in conformance with this Section.
    - b. Rebuilding Damaged or Destroyed Nonconforming Towers. Nonconforming towers that are damaged or destroyed may not be rebuilt except in conformance with the requirements of this Section.
- J. **CAMPGROUNDS (PUBLIC AND PRIVATE).** Campgrounds shall be subject to the following requirements:
  1. Public Campgrounds
    - a. A campground shall have direct access to at least one public street by means of a driveway complying with the private road design and construction requirements for private roads pursuant to Article XIX of this Ordinance. However, the width of the travelled roadbed may be modified by the Planning Commission in its approval of the Special Exception Use.
    - b. All buildings shall be served by a potable water supply, sufficient in quantity and pressure to assure proper operation of all water-using facilities under conditions of peak demand.

Such water shall be supplied by a public water system, if available, and if not available, then from a private source constructed, located and approved in accordance with applicable Township ordinances, County Health Department regulations and the requirements of state law.

- c. All buildings shall be provided with sanitary sewer service facilities sufficient to support usage levels under conditions of peak demand. Such service shall be accomplished by connection to a public sewer system, if available, and if not available, then by a private septic tank and drainfield system constructed, located and approved in accordance with applicable Township ordinances, County Health Department regulations and the requirements of state law.
- d. All showers, sinks, toilets and other restroom facilities installed and used in the campground shall be maintained free from obstructions, leaks and defects, and shall at all times be in a clean, sanitary and operable condition.
- e. All aspects and facilities of the campground shall comply with the Township's outdoor lighting requirements, as set forth in this Ordinance.
- f. There shall be adequate trash receptacles and trash dumpsters placed at various locations throughout the campground. All litter and refuse shall be promptly picked up and placed in such receptacles or dumpsters. A licensed refuse carrier shall be employed to empty the trash receptacles and dumpsters and to remove solid waste from the campground on at least a weekly basis when the campground is in regular use.
- g. Adequate off-street parking spaces and internal maneuvering lanes shall be provided to accommodate campground users and guests during periods in which the campground is at peak capacity. Off-street parking areas shall meet the standards of Article XII of this Ordinance.
- h. A campground shall be designed and constructed, as determined by the Township Fire Chief or the State Fire Marshal, under applicable fire codes, to ensure safe and adequate fire protection for the campground facilities and the users and occupants thereof.
- i. Any required Township, county or state permit for the campground, or for uses within the campground, shall be obtained and shall be kept fully in force. A copy of any required permit shall be promptly submitted to the Township upon issuance.
- j. No business or commercial uses shall take place within a campground, except for such convenience-goods store or similar facility that may be approved by the Planning Commission as a part of the Special Exception Use, and as regulated thereby.
- k. The use of the campground recreational, athletic and/or meeting facilities may be offered to persons not staying at the campground, provided that the use of such facilities does not alter the essential of the campground. Outdoor athletic or recreation facilities shall not be lighted.
- k. In addition to the standards of Section 4.0, the Planning Commission, in considering an application for a public campground Special Exception Use, shall have the discretion to determine the permissible number of camp sites, cabins, other types of overnight

accommodation facilities, and the number, size and location of permanent facilities to be located in the campground, upon consideration of the following criteria:

- i. The type and character of the land uses adjacent to and in the immediate area of the campground.
- ii. The effect of the campground on water and sewer services, storm water drainage, road capacity and volume of vehicle traffic and traffic safety and circulation.
- iii. The effect of the campground on police and fire services and other public safety and emergency services.
- iv. The effect of the campground on the protection and preservation of natural features and natural resources.
- v. The impact of the campground in relation to other pertinent land use factors including, but not limited to, the view from adjacent and nearby lands; off-street parking and loading; refuse removal and similar services; control of noise, glare and vibration; signs; outdoor lighting; and whether the campground would be consistent with the intent and purposes of the ordinance.
- vi. The extent to which the campground may support or impede the Hope Township Master Plan.

## 2. Private Campgrounds

- a. There shall be no outdoor lighting at the private campground.
- b. All necessary local, county and state permits shall be obtained and submitted to the Township prior to the operation of a private campground.
- c. In addition to the standards of Section 4.0, the Planning Commission, in considering an application for a private campground Special Exception Use, shall have the discretion to determine the permissible number of camp sites and the duration of the camping period based on the following criteria:
  - i. The type and character of the land uses adjacent to and in the immediate vicinity of the campground.
  - ii. The size of the parcel on which the private campground is to be located.
  - iii. The effect of the campground on the protection and preservation of natural features and natural resources.
  - iv. The impact of the campground in relation to other pertinent land use factors including, but not limited to, the view from adjacent and nearby lands; control of noise, glare and vibration; and whether the campground would be consistent with the intent and purposes of the ordinance.
  - v. The extent to which the campground may support or impede the Hope Township Master Plan.

**K. ADULT BUSINESSES.** Adult businesses shall be subject to the following requirements:

1. **Intent.** It is the purpose of this Section to regulate Adult Businesses in order to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of Adult Businesses within the Township. The provisions of this Section have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.
2. **Regulations.** In addition to the standard requirements of information requested of all uses under Special Exception Uses and site plan review, Adult Businesses shall provide the following:
  - a. A narrative statement and of supporting evidence demonstrating compliance with the requirements of this section.
  - b. A site plan compliant with the requirements of Article V depicting the location of all abutting streets, the location of all existing and proposed easements on site, the location of all existing and proposed structures and their uses, the location and extent of all above ground development, both existing and proposed on the site, site lighting, proposed signage, and exterior elevations of the proposed Adult Business depicting it, to the extent feasible, in what will become its "as-built" condition, all in legible form.
  - c. Final building floor plans and specifications of the proposed development.
  - d. A description of the proposed use, including references to definitions pertaining to this section.
  - e. An area map, in a scale (no larger than 1" = 100'), depicting and describing all land uses situated within 1,000 feet of the boundaries of the property upon which the proposed Adult Business is to be located. A survey, sealed by a licensed surveyor or engineer, shall be submitted showing that the proposed Adult Business will be located in accordance with the requirements of Section 4.2, K, 3, a.
3. In addition to the general requirements of Section 4.0, A through G, in reviewing an application for an Adult Business, the Planning Commission shall determine whether the following specific requirements have been met, or will be met in the proposed Special Exception Use:
  - a. **Isolation Distance Requirements.** The proposed Adult Business shall not be located within 750 feet of any residence, recreational facility, school, child care establishment, government-owned facility, place of worship, cemetery nor within 1,000 feet of any other Adult Business. For purposes of this paragraph, the distance between a proposed Adult Business and any of the above listed uses, shall be measured in a straight line, without regard to intervening structures or objects, from the proposed Adult Business structure to the above listed uses, regardless of the political jurisdiction.

- b. Proposed signage shall not include animated or flashing illumination of any type and shall otherwise conform with the requirements of Article IX. Proposed signage may contain only the name of the Adult Business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
- d. Entrances to the proposed Adult Business shall be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than two inches in height that (a) "No one under the age of eighteen is permitted to enter the premises" and (b) "No alcoholic beverages of any type are permitted within the building or anywhere on the property."
- e. No product or service for sale or gift, or any picture or other representation thereof, shall be displayed so as to be visible from the street or exterior of the building.
- f. Hours of operation shall be limited to between the hours of 8:00 a.m. to 12:00 a.m. (midnight).
- g. Persons operating an Adult Business shall not permit any person under the age of 18 years to be on the premises.
- h. All off-street parking areas shall conform with the requirements of Article XII and shall be illuminated during all hours of operation and for one hour after closing and shall otherwise be open to view from the adjacent street.
- i. The proposed Adult Business owner/operator shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its Special Exception Use Application, which shall provide for routine reasonable and necessary grounds maintenance and shall include, at a minimum, the clearing of trash and rubbish from all parking areas and other portions of the premises not less than daily. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any Special Exception Use permit pursuant to this Section.
- j. The interior of the building shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Enclosed viewing booths shall not be permitted. Restrooms shall not contain video reproduction equipment. If the building has two or more manager's stations designated, then the interior of the building shall be configured in such a manner that there is an unobstructed view of each area of the building to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required by this subsection must be by direct line of sight from the manager's station.
- k. Any booth, room or cubicle available in any Adult Business used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
  - i. Be constructed in accord with the Michigan Building Code, as may be amended from time to time;
  - ii. Be unobstructed by any door, lock or other entrance and exit control device;

- iii. Have at least one side totally open to a lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
    - iv. Be illuminated by a light bulb of not less than one thousand sixhundred (1,600) lumens; and
    - v. Have no holes or openings, other than doorways, in walls.
  4. The premises shall meet all barrier free requirements and building code requirements applicable in the Township.
  5. The number of patrons allowed on premises at any one time shall be limited to the amount of seating available, but shall not exceed the maximum occupancy permitted by applicable codes.
  6. The applicant shall provide an overall management plan for the facility including explicit rules which prohibit total nudity and prevent any physical contact between or among performers, dancers or entertainers and the establishment patrons. Other rules shall include, but not be limited to, hours of operation which shall conform with the requirements of this Section, the prohibition of alcoholic beverages, and other rules that may be imposed by the Planning Commission.
  7. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effects reasonably documented to emanate from Adult Businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Section will be observed. The violation of any condition, safeguard, requirement or approved rule of operation shall be grounds for revocation of the permit by the Planning Commission, after not less than fifteen (15) days' written notice to the Adult Businesses and an opportunity to be heard at a meeting of the Planning Commission.

**L. SOLID WASTE DISPOSAL AREAS.** Solid Waste Disposal Areas are subject to the following requirements.

1. In addition to the standard requirements of information requested of all uses under Special Exception Uses and site plan review, an applicant proposing a solid waste disposal area shall also provide the following:
  - a. a contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, abutting public streets, and whether or not the same are on state or county primary roads, additional roads, if any, to be constructed and the location and nature of abutting improvements on adjoining properties; the contour map shall also show the location of any structures to be established upon the site;
  - b. the area (in acres) and location proposed to be operated upon within the following twelve (12) month period after commencement of operations;

- c. a written statement indicating the type of Solid Waste Disposal Area to be constructed, the nature of the equipment to be used in its operation, and the types of materials accepted for deposit and/or processing;
  - d. a map disclosing the location of all lakes, streams, creeks, water courses and public, private, residential, agricultural, and commercial water wells within 1,000 feet of the Solid Waste Disposal Area;
  - e. a contour map of the tract of land disclosing the final grades and elevations to be established following the completion of the Solid Waste Disposal Area, including the proposed uses then being contemplated for the land, and information that demonstrates that the land will not be devastated and rendered unusable by the proposed Solid Waste Disposal Area;
2. A narrative disclosing the following information:
    - a. The nature and quantity of all fuels, chemicals, hazardous materials to be disposed of on-site and all uses and activities shall at all times comply applicable federal, state and local regulations.
    - b. All operating and procedural details of the proposed facility including, but not limited to, equipment specifications, maintenance schedules, capital replacement schedules and plans for eventual decommissioning of the facility.
    - c. The chemical composition of all emissions to the air, groundwater and surface waters.
    - d. The organizational, capital and operating financial structure for the proposed facility including resumes of officers, all members of the board of directors and key technical staff assisting in the development.
    - e. The proposed phasing of the project including any change in ownership of the facility during development or following start-up.
    - f. All required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications. A solid waste disposal area shall not be approved by the Planning Commission until all necessary federal, state, county and local permits have been obtained and submitted to the Township.
  3. All Solid Waste Disposal Areas shall meet the following requirements.
    - a. Solid Waste Disposal Areas shall be no closer than 300 feet to any body of water;
    - b. Solid Waste Disposal Areas shall be located on a state highway or county primary road, as defined by the Barry County Road Commission, for ingress and egress thereto, and on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the applicant may be required to construct and/or improve to Michigan State Highway specifications, a road to accommodate the truck traffic necessitated by the operations as a condition of such operations, and for the purpose of routing traffic around residential areas. A stop sign shall be erected and



maintained by the owner/operator at all egress roads of the Solid Waste Disposal Area. Under no circumstances shall any access route for a solid waste disposal area be located within three hundred (300) feet of any dwelling;

- c. Any land used for Solid Waste Disposal shall be located:
    - i. A minimum of 100 feet to any property line;
    - ii. A minimum of 300 feet to any dwelling;
    - iii. A minimum of 100 feet to an adjacent public right-of-ways.
  - d. Buildings and structures, such as processing plants, offices and any accessory structure shall be located:
    - i. A minimum of 250 feet from the interior boundary lines
    - ii. A minimum of 500 feet from a residence
    - iii. Any processing plants or facilities shall be located as close to the center of the subject property as possible, and at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to a digging or excavating apparatus, nor to the stockpiling, loading, and transportation of equipment.
  - e. The Solid Waste Disposal Area shall be fenced with an eight (8) foot high chain link fence which shall be located along the exterior boundaries of the property. The entrance to the disposal area shall have a gate which shall be closed and locked at all times that the disposal area is not open.
3. Additional standards for consideration of a Solid Waste Disposal Area. A proposal to establish a solid waste disposal area shall not be approved unless the Planning Commission finds, based on objectively verified evidence, that all processes to be used in the handling and/or incineration of refuse shall be the most advanced such systems in terms of the following criteria:
- a. Potential environmental impacts on air, surface water, ground water, soils, and natural features, shall be minimized or fully mitigated,
  - b. Potential community impacts on nearby land uses, public infrastructure and the economic vitality of the community shall be demonstrated to be either neutral or positive,
  - c. Potential impacts on the health of residents of Hope Township and surrounding communities and on plant and wildlife communities in the vicinity shall be negligible,
  - d. Potential safety impacts on the residents of Hope Township and surrounding communities and employees of the facility shall be fully and adequately addressed.

Furthermore, in considering a solid waste disposal area, the Planning Commission shall consider the following standards, in addition to the standards of Section 4.2:

- a. if the proposed use is the most advantageous use of the land, resources, and property;
- b. if the character of the area in question is suitable for the proposed use;

- c. if the proposed use will have a detrimental impact on the conservation of property values, natural resources or the character of development in the subject area;
  - d. if the proposed use promotes the protection and preservation of the general health, safety, and welfare of persons within the Township;
4. Nuisance Abatement
- a. Air pollution and vibration, and their effect upon adjacent properties shall be minimized. Interior and adjoining roads used in the disposal operations shall have their surfaces treated to minimize any air pollution condition.
  - b. Any lighting shall be aligned so as not to produce a nuisance to adjoining or nearby residential property or to the traveling public on public roadways.
  - c. All litter shall be collected from the Solid Waste Disposal Area by the end of each working day and either placed in the fill, compacted and covered that day, or stored in a covered container.
  - d. Adequate water supply and facilities equipped with an adapter to fit fire hoses for quick delivery of water to any part of the property for the purpose of extinguishing fires shall be established. Capacity shall be such that at least 100 gallons of water per minute can be applied to any fire continuously for at least ten (10) hours. The source of the water shall be indicated on the plans submitted with the application for Special Exception Use.
  - e. Rodent traps shall be placed every 100 yards around the perimeter of the sanitary landfill, inside the fence, and shall be regularly inspected and cleaned, not less frequently than once each week.
  - f. A legible copy of all ground water monitoring reports or data filed on behalf of the owner/operator with the Barry County Health Department or the Michigan Department of Natural Resources shall also be filed by the owner/operator with the Township Clerk within three (3) days from the date of the original filing. This duty shall continue until termination and complete reclamation of the Solid Waste Disposal Area.
  - g. The Planning Commission may set hours of operation for solid waste disposal areas. A sign stating the hours and which prohibits dumping at other times shall be placed in a conspicuous location at the entrance.
  - h. Keys for admittance to the disposal area shall be filed with the Township Clerk.
  - i. Qualified personnel shall be on duty at all times the facility is open to direct the dumping, spreading, compaction, and covering of materials.
  - j. A performance guarantee shall be required for a solid waste disposal area in an amount determined by the Planning Commission.

M. **UTILITY SCALE SOLAR ENERGY SYSTEMS.** Solid Waste Disposal Areas are subject to the following requirements. *(amended September 2019)*

1. **Site Plan Required.** An application for special land use approval for a Utility Scale Solar Energy System shall include a site plan in accordance with Article V. In addition to the

information required for site plan approval in Section 5.2(A), all applications must also include the following:

- a. Equipment and unit renderings
  - b. Elevation drawings
  - c. Setbacks from property lines and adjacent structures, and height of proposed structures
  - d. Notarized written permission from the property owner authorizing the Utility Scale Solar Energy System
  - e. All additional plans and requirements set forth in this Section.
2. **Permits.** No utility-scale solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining a zoning compliance permit, building permit, and all other applicable permits. The construction, installation, operation, maintenance, or modification of all utility-scale solar systems shall be consistent with all applicable local, state, and federal requirements, and all buildings and structures that comprise a utility scale solar energy system shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications. Installation of the utility-scale solar energy system shall not commence until all necessary permits have been issued.
  3. **Lot Area.** Utility scale solar energy systems shall be located on a lot of at least twenty (20) acres.
  4. **Setbacks.** Utility scale solar energy systems shall be located at least 75 feet from all property lines or rights of way. The Township may modify the setbacks if it is determined that an alternate setback distance would protect adjacent residents and property owners. Screening methods may be permitted within the setbacks.
  5. **Height.** Utility scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the natural grade below the unit to the highest point at full tilt.
  6. **Noise.** Noise emanating from the solar energy collector system shall not exceed 50 decibels (dBA) as measured from any property line. The Township may reduce this maximum noise level in order to protect adjacent residents and property owners.
  7. **Screening.** The Planning Commission may require that a utility scale solar energy system be screened from residential properties or public rights-of-way. Screening methods may include the use of material, colors, textures, screening walls, fencing, berms, landscaping, and/or natural vegetation that will blend the facility into the natural setting and existing environment.
  8. **Glare and Reflection.** The exterior surfaces and structural components of utility scale solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A solar collector surface shall not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
  9. **Location.** Solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties while remaining functional.

10. **Obstruction.** Solar energy systems shall not obstruct solar access to adjacent and neighboring properties.
11. **Power lines.** On site power lines between all structures and ancillary equipment and inverters shall be placed underground.
12. **Fencing.** For the purpose of restricting unauthorized access to the site, the Planning Commission may require that the perimeter of a utility scale solar energy system be fenced in with at least a six (6) foot high fence.
13. **Operation and Maintenance Plan.** The applicant shall submit a plan for the operation and maintenance of the utility scale solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
14. **Emergency Services.** Upon request by Hope Township, the owner/operator of the utility scale solar energy system shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner/operator shall identify a responsible person for public inquiries throughout the life of the installation. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.
15. **Maintenance.** The utility scale solar energy system owner/operator shall maintain the facility in good condition at all times. Maintenance shall include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel. The owner/operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s).
16. **Decommissioning.**
  - a. Any utility-scale solar energy system which has reached the end of its useful life or has not operated continuously for one year or more shall be removed and the owner/operator shall be required to restore the site. The owner/operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.
  - b. The owner/operator shall notify the Township personally or by certified mail of the proposed date of discontinued operations and plans for removal.
  - c. If the owner/operator fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Township may enter the property and physically remove the installation.
  - d. Removal of the installation shall consist of the following:
    - i. Physical removal of all aboveground or underground utility-scale solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
    - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

iii. Stabilization or re-vegetation of the site as necessary to minimize erosion.

17. **Financial Guarantee.** The applicant for a utility scale solar energy system shall provide a form of surety, either through escrow account, letter of credit, bond, or other instrument acceptable to the Township Attorney. The purpose of the surety is to cover the cost of removal of the utility scale solar energy system in the event the Township must remove the installation. The amount of the financial surety shall not exceed more than 125 percent of all costs of removal and compliance with the additional requirements set forth herein. It shall be submitted by the applicant and be prepared by a qualified engineer. The surety shall be subject to review and approval by the Planning Commission and shall be a condition of special exception use approval.

## **ARTICLE V SITE PLAN REVIEW**

### **SECTION 5.0 PROJECTS REQUIRING SITE PLAN REVIEW**

- A. Site plan review and approval shall be required before any change of use, or before any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development; and, except as hereinafter provided, no building permit shall be issued for any building or use, or reduction or enlargement in size or other alteration of any building or change in use of any building including accessory structures unless a site plan is first submitted and approved by the Planning Commission pursuant to the provisions of this Article.
- B. All uses in the following districts shall require site plan approval:
1. C-1 Commercial I District
  2. C-2 Commercial II District
  3. C-3 Commercial III District
  4. I Light Industrial District
  5. MHP Manufactured Home Park
- C. In the RR, RL, S and NR districts, site plan approval shall be required for all uses other than single-family dwellings and their accessory buildings.
- In the AR district, site plan approval shall be required for all uses other than single-family dwellings, their accessory buildings and farming structures.
- D. Site Plan review and approval shall be required for all Special Exception Uses, and for all developments, including single-family homes, to be located in wetlands as defined by the Michigan Department of Natural Resources (DNR) or with a 100 year floodplain as determined by the Federal Emergency Management Agency (FEMA).
- E. Site plan review and approval shall not be required if the construction, alteration or change of occupancy or use does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of site plan review.

### **SECTION 5.1 OPTIONAL SKETCH PLAN REVIEW**

- A. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to site plan review. The purpose of such procedure is to allow discussion between a developer and the Planning Commission, to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall include as a minimum the following:
1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.

2. Legal description, property parcel number, and street address of the subject parcel of land.
  3. Sketch plans showing tentative site and development plans.
- B. The Planning Commission shall not be bound by any comments or tentative judgments made at this time and the applicant shall sign an affidavit acknowledging the advisory nature of the sketch plan review process.

## **SECTION 5.2 APPLICATION PROCEDURE**

A request for site plan review shall be made at least twenty-one (21) days prior to the next regular Planning Commission meeting by filing with the Zoning Administrator the following:

- A. An application for Site Plan Review consisting of the following:
1. A completed application form, as provided by the Township.
  2. Payment of a fee, in accordance with a fee schedule as determined by the Township Board.
  3. A legal description of the subject property.
  4. Ten (10) copies of the site plan, which shall include and illustrate at a minimum the following information:
    - a) Small scale sketch of properties, streets and use of land within one-half (1/2) mile of the area.
    - b) A Site Plan at a scale of not more than one (1) inch equals one hundred (100) feet showing any existing or proposed arrangement of:
      - 1) Existing adjacent streets and proposed streets.
      - 2) Existing proposed lots.
      - 3) Parking lots and access points.
      - 4) Proposed buffer strips or screening.
      - 5) Natural features including, but not limited to, open space, stands of trees, brooks, ponds, hills and similar natural assets both on the subject property and within one hundred (100) feet of the property lines.
      - 6) Location of any signs not attached to the building.
      - 7) Existing and proposed buildings.
      - 8) Existing and proposed general topographical features including contour intervals no greater than two (2) feet.
    - 10) Present zoning of the subject property and adjacent property.
    - 11) Location of public and private rights-of-way and easements contiguous to and within the proposed development which are planned to be continued, created, relocated or abandoned, including grades and types of construction of those upon the site.

- 12) Location and type of drainage, storm sewers and other facilities, including surface and subsurface drainage for all impermeable surfaces on the site and all drainage calculations.
  - 13) Existing and proposed water main and sanitary sewer, natural gas, electric, telephone, cable television and other utilities, the proposed location of connections to existing utilities and any proposed extensions thereof.
  - 14) Detail pertaining to proposed signage including an illustration of all proposed signs, their surface area, height and nature of illumination.
  - 15) Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be requested by the Zoning Administrator or the Planning Commission.
- c) A narrative describing:
- 1) The overall objectives of the proposed development.
  - 2) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives and open spaces.
  - 3) Dwelling unit densities by type, if applicable.
  - 4) Proposed method of providing sewer and water service as well as other public and private utilities.
  - 5) Proposed method of providing storm drainage.
- B. Modification of Requirements. The Zoning Administrator or Planning Commission may waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the application.
- C. Action on Application and Site Plans.
1. Upon receipt of the application and plans, the Zoning Administrator shall review the application materials for completeness. If complete, the Zoning Administrator shall transmit one copy to each Planning Commissioner; one (1) copy to the Fire Department when applicable, one (1) copy to other area review agencies when applicable and retain one (1) copy in the Township offices.
  2. A meeting shall be scheduled by the Chairman of the Planning Commission for a review of the application and site plan. The meeting shall be held within reasonable time of the date of the receipt of the plans and completed application.
  3. The Planning Commission or Zoning Administrator may determine to hold a public hearing on any application for its plan to be approved. The Planning Commission or Zoning Administrator shall set the time and place for such public hearing and arrange for notice of such hearing in accordance with the Michigan Zoning Enabling Act, Act 110 of 2006, as amended.
  4. The Planning Commission shall reject, approve, or conditionally approve the site plan, as it pertains to requirements and standards contained in this ordinance. Any conditions



required by the Planning Commission shall be stated in writing and delivered to the applicant.

5. The Planning Commission may require a performance guarantee pursuant to the standards of Section 30.8 as a condition of site plan approval.

### **SECTION 5.3 SITE PLAN REVIEW STANDARDS**

In the process of reviewing a site plan, the Planning Commission shall consider the following:

- A. That there is a proper relationship between the existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.
- B. That the buildings structures and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. That as many natural features of the landscape shall be retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- D. That any adverse effect of the proposed development and activities emanating therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing, walls or landscaping.
- E. That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Zoning Board of Appeals.
- F. That all buildings and structures are accessible to emergency vehicles.
- G. That a plan for erosion control, storm water discharge, has been approved by the appropriate public agency.
- H. That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.

## **SECTION 5.4 APPROVED SITE PLANS**

- A. Site Plan Approval. A Site Plan shall be approved if it contains the information required by, and is in compliance with, the Zoning Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. Two copies of the approved site plan and any supporting documents shall be signed by the Chairman or Secretary of the Planning Commission and the applicant. One copy of the approved site plan shall be kept on file by the Township and the other copy shall be retained by the applicant.
- B. Conformity to Approved Site Plans. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments or changes thereto which have received the approval of the Planning Commission or Zoning Administrator. If construction and development does not conform with such approved plans, a stop work order shall be issued by the Zoning Administrator in accordance with the standards of Section 30.5. Upon issuance of such stop work order, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.
- C. Duration of Approval. An approved site plan shall be valid for a period of one (1) year after the date of approval. Upon written request by the applicant stating the reasons therefore, the Planning Commission may extend a site plan approval for an additional one (1) year period if the evidence shows that all of the following conditions exist:
1. The conditions necessitating the delay in the construction and completion of the project are reasonably beyond the control of the applicant.
  2. The requirements and standards, including those of the zoning ordinance that are reasonably related to the development, have not changed.
  3. Development or redevelopment in the proximity to the approved site plan has not resulted in changed conditions impacting the site.
  4. There has not been a change in state or federal law, local charter, or other local ordinance prohibiting the construction or further construction of the approved project.
  5. An application for an extension of a site plan must be filed at least 60 (sixty) days prior to the expiration of the original site plan or the expiration of any extension previously approved by the Township, whichever is applicable.
- D. If a site plan expires pursuant to subsection 5.4, C, above, no work may be undertaken until a new site plan has been approved by the Planning Commission pursuant to the standards of this Article.

## **SECTION 5.5 CHANGES TO AN APPROVED SITE PLAN**

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator pursuant to the following standards:

- A. Minor changes to an approved site plan involving changes in the location of buildings and structures, adjustment of utilities, walkways, trafficways, landscaping and building size up to ten (10) percent of the approved area, parking areas, and similar minor changes may be approved by the Zoning Administrator. The Zoning Administrator shall report all administratively approved changes of a site plan to the Planning Commission at their next regularly scheduled meeting.
- B. Major changes or amendments to an approved site plan involving change in the number and location of accesses to public streets and alleys, a reduction in the number of parking spaces, a major relocation or of a building, and increase in the gross floor area or heights of buildings, a reduction in the open space, and similar major changes, shall require the approval of the Planning Commission in the same manner as the original application was submitted, reviewed, and approved.

## **SECTION 5.6 APPEALS**

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the same manner as other administrative decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the Township, county, or state. The Zoning Board of Appeals shall state the grounds of each determination.

## **ARTICLE VI ZONING BOARD OF APPEALS**

### **SECTION 6.0 ESTABLISHMENT AND MEMBERSHIP**

There shall be a Zoning Board of Appeals as provided for by the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided by said Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety, and welfare of the public be secured; and that substantial justice be secured.

### **SECTION 6.1 MEMBERSHIP, TERMS OF OFFICE**

- A. The Zoning Board of Appeals shall consist of five (5) members, as appointed by the Hope Township Board of Trustees. One member of such board shall be a member of the Planning Commission, and that member's term on the board shall be concurrent with their term on the Planning Commission. The Township Board shall appoint the remaining members of the Board. The members selected shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as Chair of the Zoning Board of Appeals.
- B. The term of office of each member shall be three (3) years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The Township Board shall seek to stagger the expiration dates of members of the Zoning Board of Appeals so at least one member's term expires each year and to achieve a reasonable degree of continuity of membership from one year to the next. The Township Board may appoint up to two (2) alternate members, who shall serve for three (3) years.

### **SECTION 6.2 MEETINGS**

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

### **SECTION 6.3 DUTIES OF THE ZONING BOARD OF APPEALS**

The Zoning Board of Appeals shall review and act upon all questions as they may arise in the administration of this Ordinance. The concurring vote of three (3) members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant and any matter upon which the Board is required to pass upon or to grant a variance. An appeal may be taken by any person aggrieved or by any officer,

department, board or bureau of the Township, county, or state. The grounds of every determination shall be stated.

#### **SECTION 6.4 TIME TO AND NOTICE OF APPEAL: TRANSMISSION OF RECORD**

Such appeal shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule, by the filing with the Township Clerk, the Zoning Administrator or other officer from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds thereof together with a fee established by Township Board which shall be paid to the Township at the time the notice of appeal is filed. The officer from whom the appeal is taken shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken.

#### **SECTION 6.5 STAY OF PROCEEDINGS PENDING APPEAL**

An appeal shall stay all proceedings in furtherance of the action appealed, except as provided herein. Proceedings shall not be stayed in the event the officer from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that a stay would cause imminent peril to life or property. The Zoning Board of Appeals or the Circuit Court may issue a restraining order to reinstitute a stay on application and notice to the officer from whom the appeal is taken with due cause shown.

#### **SECTION 6.6. HEARINGS AND NOTICES, RIGHT TO BE HEARD, DISPOSITION OF APPEALS, DECISION FINAL**

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon hearing, any party may appear in person or by agent or by attorney. The Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals shall have the power, in passing upon appeals, to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done. The decision of the Zoning Board of Appeals shall be final, and any person having an interest affected by this Ordinance shall have the right to appeal to the Circuit Court.

#### **SECTION 6.7 DUTIES AND POWERS OF THE ZONING BOARD OF APPEALS**

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of intent of this Ordinance, but does have power to act on those matters where by statute or this Ordinance provision is made for an administrative review, interpretation, variance or exception as defined therein.

- A. The Board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or the

Planning Commission or by any other official in administering or enforcing any provision of this Ordinance, except that decisions on Special Exception Uses and Planned Unit Developments may not be appealed to the Zoning Board of Appeals. The allegation shall be duly made within thirty (30) days of the date of decision being appealed. The date of decision is presumed to be five (5) days after the literal date of decision.

- B. Interpretation. The Zoning 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.
- C. Variances. The Zoning Board of Appeals shall have the power to authorize, upon an appeal, variances from the requirements of this Ordinance provided it finds that all of the conditions contained in this Section are met. The appellant shall submit, along with the established fee and other materials, a narrative demonstrating why a variance is sought.

The Zoning Board of Appeals may not authorize the establishment of any use which is not permitted by right or by Special Exception Use within that zone district.

1. In granting a variance, the Zoning Board of Appeals shall find that the variance request meets all of the following conditions:
  - a. The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
  - b. The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property of the applicant is located.
  - c. The conditions or situations which necessitate the requested variance is not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
  - d. The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
  - e. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
  - f. The requested variance is the minimum variance that will make possible the reasonable use of the land.
  - g. Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
  - h. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

- D. Rules. In the granting of variances, the following rules shall be applied:
1. The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
  2. Each variance granted under the provisions of this Ordinance shall become null and void unless: The construction authorized by such variance has received a building permit within one (1) year after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance, unless an extension of time has been granted by the Zoning Board of Appeals.
  3. No application for a variance which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence of changed conditions found, upon inspection by the Board, to be valid. For such newly discovered evidence to be considered, an applicant shall submit a detailed description of such evidence to the Zoning Administrator who shall place it on the agenda of the Zoning Board of Appeals along with a report and recommendation on the nature of such newly discovered evidence and whether it may have been pertinent to the decision of the Zoning Board of Appeals. If the Zoning Board of Appeals determines that the newly discovered evidence would have been pertinent to its decision, it shall direct the Zoning Administrator to accept a new application for the previously denied variance. An application considered under the terms of this subparagraph shall be considered a new application and shall be subject to all hearing, notice and fee requirements of this Ordinance.
- E. Performance Guarantee. In authorizing any variance the Zoning Board of Appeals may require a performance guarantee pursuant to Section 30.8.

## **SECTION 6.8 VARIANCE APPLICATION PROCEDURES**

An application for a variance shall follow the following procedure:

- A. A completed application form accompanied by the payment of the fee established by the Township Board.
- B. A Site Plan to be reviewed by the Zoning Board of Appeals containing plans and specifications or other explanatory material required by the Ordinance required by Section 5.2, A, 4 of this Ordinance. The Zoning Administrator may waive the submission of certain required materials on the Site Plan if such materials are determined to be not applicable to the application.
- C. Public Hearing Required. The Zoning Administrator shall schedule a public hearing upon the request, pursuant to the requirements of Section 30.6 of this Ordinance.
- D. After the public hearing, the Zoning Board of Appeals shall grant, deny, or table the request for such variance, and shall state the reasons for its decisions. The Zoning Board of Appeals may impose such additional conditions, limitations, and requirements deemed necessary for the general welfare, protection of individual property rights on nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which a variance will be observed. All conditions, limitations, and requirements upon a decision of the

Zoning Board of Appeals shall be specified in detail by the Zoning Board of Appeals in its decision and shall be filed with the Township Clerk.

- E. A Site Plan and specifications, and all conditions, limitations, or requirements imposed by the Zoning Board of Appeals shall be recorded with the Township and shall be incorporated as a part of the variance and any permits sought as a result of the variance. Violations of any of these conditions, limitations, and requirements, at any time, will cause revocation of said permit and the land use shall cease to be lawful.



## **ARTICLE VII RESERVED**

## **ARTICLE VIII NONCONFORMING USES, STRUCTURES, AND LOTS**

### **SECTION 8.0 PURPOSE AND INTENT**

It is recognized that there exist within the districts established by this Ordinance and subsequent amendments, lots, uses of land, building or structures which were lawful before this ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. Such lots, uses, buildings or structures are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconforming lots, uses, buildings or structures shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the same district, except as permitted in this Article.

No building or structure, or part thereof, shall hereafter be erected, constructed, altered or maintained, and no new use or change of use shall be made or maintained of any building, structure or land, or part thereof, except in conformance with the provisions of this ordinance. It is the intent of this ordinance to permit legal nonconforming lots, structures, or uses to continue until they are brought into conformity, removed, or abandoned.

### **SECTION 8.1 GENERAL PROVISIONS FOR NONCONFORMITIES**

- A. Any lot, use of land, building or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, building or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall continue to be in violation of this Ordinance.
- B. An existing lot, use of land, building or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided that such lot, use of land, building or structure is in compliance with this Article.
- C. A lawful use of land, building or structure which is under construction at the time of adoption of this Ordinance shall be permitted to continue as a nonconformity, subject to the provisions of this Article.
- D. On any nonconforming building or structure, or on any building or structure located on a nonconforming lot or devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs or on repair or replacement of walls, fixtures, wiring or plumbing, provided that the building as it existed on the effective date or amendment of this ordinance, shall not be altered or increased except in compliance with this Article.

Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition any building or part thereof, or parcel declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- E. A change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted.

## **SECTION 8.2 NONCONFORMING BUILDINGS AND STRUCTURES**

- A. Lawful non-conforming buildings or structures may be continued, but shall not be extended, added to, or altered unless such extension, addition, or alteration does not increase the degree of the nonconformance, and provided that the building or structure complies with the other provisions of this Ordinance.
- B. In the event that a non-conforming building or structure is destroyed or damaged by windstorm, fire, explosion, or any act of God or the public enemy, it may be rebuilt or restored if the cost of restoration does not exceed fifty percent (50%) of the replacement value, as determined by the Township Building Inspector. If the cost of restoration exceeds fifty percent (50%) of the replacement value as determined by the Building Inspector, the building or structure shall only be rebuilt in conformance with all provisions of this Ordinance.
- C. A nonconforming building or structure shall not be moved in whole or in part unless the movement eliminates or reduces the nonconformity.
- D. A nonconforming building shall not be changed to another use that is also nonconforming. Once a conforming use is established, the prior nonconforming use may not be reestablished.

## **SECTION 8.3 NONCONFORMING USES**

- A. No part of any nonconforming use shall be moved unless the movement eliminates or reduces the nonconformity.
- B. If a nonconforming use is abandoned for any reason for a period of more than two (2) years, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined by the Zoning Administrator to be abandoned if one (1) or more of the following conditions exists:
  - 1. Utilities, such as water, gas and electricity to the property, have been disconnected.
  - 2. The property, buildings, and grounds, have fallen into disrepair.
  - 3. Signs or other indications of the existence of the nonconforming use have been removed.
  - 4. Removal of equipment or fixtures that is necessary for the operation of the nonconforming use.
  - 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.

- D. A nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Planning Commission upon approval of a site plan pursuant to Article V, and upon reaching a determination that the proposed enlargement, increase, or greater area:
1. Is not larger than twenty five percent (25%) of the original nonconforming area.
  2. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots.
  3. Complies with all other applicable regulations the area affected by the proposed enlargement, increase, or extension.
  4. Complies with any reasonable conditions imposed by the Planning Commission that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.

#### **SECTION 8.4 NONCONFORMING LOTS OF RECORD**

Lots that are non-conforming at the time of passage of this Ordinance, or subsequent amendment thereto, due to lot area or width, may be used for the purposes for which it is zoned, subject to the following standards:

- A. The nonconforming lot shall have been legally established by recorded deed, land contract, or other legal document prior to the effective date of this Ordinance;
- B. Any principal building shall meet at least fifty percent (50%) of the setback requirements for the district in which it is located.
- C. A structure to be located on the lot shall be no closer to any roadway or lakeshore than a straight line connecting the nearest building (other than a boathouse) on each side of the lot. If there is no such building within 300' of one of the side lot lines of the lot, then the point for beginning the line on that side of the lot shall be that point of the side lot line that intersects with the minimum required setback for conforming lots in that zoning classification.
- D. Potable water supply and proper, safe sewage disposal facilities can be provided in accordance with the requirements of the Health Department.

#### **SECTION 8.5 COMBINATION OF NONCONFORMING LOTS**

- A. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
  1. Are in common ownership.
  2. Are adjacent to each other or have continuous frontage.

3. Individually do not meet the lot width or lot area requirements of this Ordinance.

Parcels meeting the provisions of subsection A 1-3, above, shall be combined into a lot or lots complying as nearly as possible with the lot width and lot area requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this Ordinance.

## **ARTICLE IX SIGNS AND BILLBOARDS**

### **SECTION 9.0 PURPOSE AND INTENT**

The purpose of this Article is to regulate the size, number, location and manner of construction and display of signs in Hope Township. This Article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect uses from excessive signage, provide ability for the public to identify premises and establishments, encourage the preservation of rural character through sign design, and enhance the aesthetics of the community.

### **SECTION 9.1 SCOPE**

- A. It shall be unlawful for any person to erect, place, or maintain a sign in Hope Township except in accordance with the provisions of this Article.
- B. Unless otherwise provided by this Ordinance, all signs shall require permits and payment of permit application fees as determined by the Township Board.

### **SECTION 9.2 GENERAL PROVISIONS**

- A. Sign Placement.
  - 1. Unless otherwise permitted, all signs shall be located on the same parcel for which the sign is intended to serve. The provisions of this Article are not intended to conflict with provisions controlling signs regulated under the authority of MCL 252.301 et seq., the Highway Advertising Act, as amended.
  - 2. No sign shall be located closer than two (2) feet to a public or private road right-of-way or property line and no sign shall overhang a road right-of-way.
  - 3. No sign shall be located or erected in such a manner as to interfere with traffic visibility.
  - 4. A wall sign shall not extend beyond the edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.
- B. Sign Illumination.
  - 1. Unless otherwise specified by this Ordinance, all signs may be illuminated.
  - 2. Illumination shall not be flashing, blinking, intermittent, oscillating, or an on-and-off type of lighting.
  - 3. Illumination shall be arranged so that light is directed to only illuminate the sign face and deflected away from adjacent properties and that no direct sources of light shall be visible to any motorist located in a road right-of-way or from any adjacent property.
- C. Where a proposed sign appears to meet the definition of more than one (1) sign, the most restrictive requirements and limitations of the defined sign types shall apply, as determined by the Zoning Administrator.

- D. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Building Inspector or other designated representative. A sign which no longer serves the purpose for which it is intended or is abandoned or is not maintained in accordance with applicable regulations of Hope Township shall be removed by the owner.

### **SECTION 9.3 SIGNS NOT REQUIRING PERMITS**

- A. Signs shall not be erected without the issuance of a zoning compliance permit, except for the following signs, provided that such signs comply with the provisions of this Section and other applicable provisions in this Ordinance:
1. Signs erected by the Township, county or state for street direction or traffic control.
  2. Signs erected by governmental agencies to designate hours of activity; or use of parking lots, recreational areas, governmental buildings or other public space; or for other public purposes.
  3. Signs designating sites recognized by the State Historical Commission as Centennial Farms or Historic Landmarks.
  4. Real estate signs when not more than thirty-two (32) square feet in area and eight (8) feet in height for a commercial or industrial zoned property, or six (6) square feet in area and four (4) feet in height for other properties. A real estate sign shall be located on the property that is for sale, rent, or lease.
  5. Signs not larger than two (2) square feet in area posted to control and/or prohibit hunting or trespassing within the Township. Such signs shall be spaced not less than two hundred (200) feet apart.
  6. Signs erected by an essential services establishment denoting utility lines, railroad lines, hazards, and precautions, including portable flashing signs.
  7. A temporary special event sign, used to advertise a garage sale, estate sale, graduation party or similar temporary event, not to exceed six (6) square feet in area. Such sign shall be removed immediately after the completion of the event.
  8. Political signs not larger than thirty-two (32) square feet in area may be placed upon any parcel of property in all districts provided it does not obstruct the vision of vehicular traffic on any street.
  9. Address plaques not larger than eight (8) square feet.
  10. Holiday lights with no commercial message.

### **SECTION 9.4 PROHIBITED SIGNS**

- A. The following types of signs are prohibited in all zoning districts:

1. Abandoned signs, or signs in disrepair.
2. Air-filled or gas-filled balloon signs.

3. Signs with moving parts, audible signs, and/or flashing signs(except traffic control devices).
4. Roof signs.
5. Signs or illumination imitating or resembling official traffic or government signs or signals.
6. Vehicle signs.
7. Other signs not expressly permitted or which do not conform to the provisions of this Article.

## **SECTION 9.5 SUPPLEMENTARY SIGNS**

- A. In addition to the signs permitted and regulated in Section 9.7, the signs listed below shall be permitted in accordance with the following standards.
- B. Temporary Banner Signs. Temporary banner signs shall be permitted on a parcel of land zoned CL, C-1, C-2, C-3 or I, as follows:
  1. Only one (1) temporary banner sign shall be permitted for each separate business establishment located on a parcel of land.
  2. A temporary banner sign shall be displayed for not more than thirty (30) days (whether or not consecutive) in a calendar year.
  3. A temporary banner sign shall not be larger than eight (8) square feet. A temporary banner sign shall not utilize its own illumination.
  4. A temporary banner sign shall include any other or subsequent temporary banner sign of generally similar appearance, nature and purpose, as compared to the temporary banner sign initially permitted under the terms of this Section. Accordingly, an applicant shall not seek to extend the time limitation on the display of a temporary banner sign by the attempted display of a different, though similar, temporary banner sign following the maximum permitted period of display of a permitted temporary banner sign.
- C. Changeable Copy Signs. All or a portion of a freestanding sign, except a development sign, may be a changeable copy sign in compliance with all of the following requirements:
  1. The area of a changeable copy sign shall be included in the maximum sign area limitation.
  2. A changeable copy sign shall not change its message, image or other graphic material with such frequency as to be a flashing or oscillating sign, whether in whole or in part. For purposes of this Section, a flashing or oscillating sign shall include not only a sign having a message or image that changes with high rapidity, but shall also include a sign having a message or image that changes with a frequency such as to serve as a means of attracting attention to the sign or the land use, rather than for the purpose of providing identification or information. The message, image or other graphic material of a changeable copy sign shall change no more frequently than six (6) seconds and each change shall occur in one (1) second or less.
  3. The message, image or other graphic material of a changeable copy sign shall, when changing, appear only in its entirety or shall appear in successive letters, words or other graphic



elements from left to right only. The message, image or other graphic material shall not appear to flash, move from the center of the sign outward, move from the corners of the sign inward or demonstrate any other unusual movement, oscillation or method of appearance.

- D. Parking Area or Directional Signs. In parking areas, no signs other than directional or regulatory signs shall be permitted. Signs shall not include any advertising matter or commercial message and shall have a sign area no greater than four (4) square feet.
- E. Farm Signs. One (1) farm sign shall be permitted per active farm. Such sign shall not be larger than twelve (12) square feet, nor have a sign height greater than eight (8) feet.

**SECTION 9.6 PERMITTED SIGNS BY ZONING DISTRICT**

A. The following sign types shall be permitted in accord with the following regulations, in the AR, RR, RL and MHP Districts:

1. The following sign types are permitted in connection with a permitted residential development:

Type	Maximum Number	Maximum Sign Area	Maximum Height
Development	1 per development	32 square feet	8 feet
Collective	1 per development	15 square feet	5 feet

2. The following sign types are permitted identifying the name of a permitted non-residential use:

Type	Maximum Number	Maximum Sign Area	Maximum Height
Wall <u>OR</u> Marquee	1 per building wall facing a parking lot or public road	10% of the wall surface or 50 square feet, whichever is less	See Section 9.3, A, 4
Freestanding	1 per site or parcel	50 square feet	10 feet

B. The following sign types shall be permitted in accord with the following regulations, in the CL, C-1, C-2, C-3, and I Districts:

Type	Maximum Number	Maximum Sign Area	Maximum Height
Wall <u>OR</u> Marquee	1 per building wall facing a parking lot or public road	10% of the wall surface or 50 square feet, whichever is less	See Section 9.3, A, 4
Freestanding	1 per frontage	50 square feet	20 feet

1. Each individual establishment in a multi-tenant commercial or industrial building or development is not permitted a separate freestanding sign; one (1) collective freestanding sign may be used subject to the standards above. Each individual establishment may, however, erect one (1) wall or marquee sign subject to the standards above; in which case wall surface applies to the wall surface of the individual establishment.

**SECTION 9.7 BILLBOARDS**

- A. Billboards may be permitted in the C-3 and I Districts as Special Exception Uses in accordance with the requirements of Article IV and the following standards:
1. A billboard shall not have a sign area of greater than one hundred (100) square feet.
  2. A billboard shall be located at least seventy-five (75) feet from any road right-of-way and at least ten (10) feet from other lot lines.
  3. A billboard shall be located at least one thousand (1,000) feet from another billboard, regardless of municipal boundaries.
  4. A billboard shall be located at least two hundred (200) feet from a residential zone and/or existing residence; provided, that illuminated billboards shall be located at least three hundred (300) feet from a residential zone and/or existing residence.
  5. A billboard shall not exceed a height of thirty (30) feet.

## ARTICLE X GENERAL PROVISIONS

### SECTION 10.0 GENERAL REGULATIONS

- A. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.
- B. No buildings shall be erected, nor any existing building be altered, enlarged, moved, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner except in conformity with the yard, lot, area, and building regulations thereafter designated for the zone in which such building or open space is located except as otherwise specifically provided for in this Ordinance.
- C. No yard or other open space provided about any building for the purpose of complying with the provisions of this Article shall be considered as a yard or open space for any other building.

### SECTION 10.1 AREA REQUIREMENTS

- A. Every dwelling hereafter erected shall contain not less than 720 square feet of floor area on the main level, exclusive of garage or other non-residential areas.

### SECTION 10.2 SETBACK REQUIREMENTS

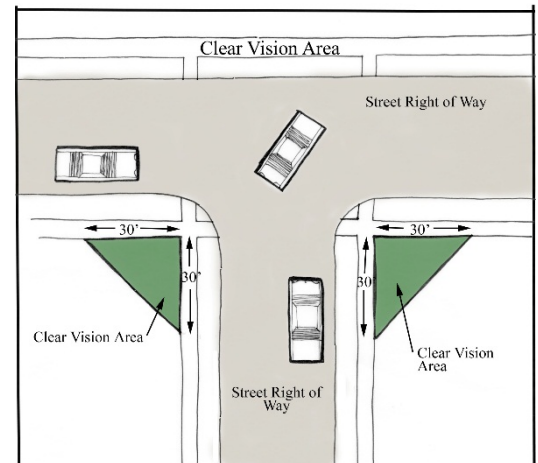
- B. Every dwelling or structure shall comply with applicable setback requirements listed for the zoning district within which it is located.
- C. One-story waterfront boat houses used exclusively for boating and bathing facilities may be constructed immediately adjacent to a side lot line as long as the view of any neighboring property will not be obstructed, as determined by the Building Inspector.

### SECTION 10.3 MOVING OF BUILDINGS

The moving of a building to a different location shall be considered the same as the erection of a new building, and all provisions, regulations, or requirements relative to the erection of a new building shall be applicable thereto.

### SECTION 10.4 INTERSECTION VISIBILITY

On a corner lot in any district, no fence, wall, hedge, sign, parked vehicle, or other structure or planting shall obstruct vision between the heights of two (2) feet and ten (10) feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30) feet distance from their point of intersection. Such heights of clear vision area shall be measured from the elevation of the street center lines at their point of intersection. (see image at right)



## **SECTION 10.5 HEALTH AND SANITATION**

- A. Every residential structure hereafter built or placed on any lot, parcel, or tract shall be provided with a potable water supply and safe sewage facilities as required by the rules and regulations of the Health Department of this county and any commission, agency, or special district created to provide or regulate the aforementioned services.
- B. No outside toilets shall hereafter be built or placed on any lot, parcel, or tract except as may be allowed by the County Health Department.
- C. All toilets, cesspools, septic tanks, sewers, or any other alternative and approved methods of sewage disposal shall be constructed and maintained according to the latest regulations of the Health Department of the county and state and of any commission, agency, or special district created to supervise, regulate, or provide these services and/or facilities.
- D. No open ditch, drain, pond, lagoon, or other device or operation shall be produced, used, or maintained by any person, firm, association, corporation, institution, municipality, or authority which shall be a menace to or endanger the health, comfort, or well-being of the residents or users of this Township or surrounding territory. No sewage or contaminating material shall be produced, used, or maintained by any person, firm, association, corporation, institution, municipality, or authority which shall harbor mosquitoes, larvae, or disease-carrying insects or which shall produce obnoxious odors.

## **SECTION 10.6 DUMPING AND BURNING OF WASTES**

- A. No public dumping shall be permitted except as provided for by the Township and/or licensed by the State of Michigan. No person, firm, association, corporation, institution, municipality, or authority shall dump, deposit, leave, or abandon within this Township any scrap or waste material, including the leakage from the storage of petroleum or petroleum products. The dumping of toxic wastes is expressly prohibited. The Township Board may levy fines for violations of this Section.
- B. The outdoor storing, parking, accumulating, or placing of junk, discarded material, building materials, metal, or solid waste of any kind is hereby prohibited, except in approved and authorized solid waste disposal facilities or salvage yards. (Also see Section 12.2)
- C. The filling of marshes and wetlands with discarded materials and wastes, or soil, gravel, clay, or sand is forbidden by state law, which regulations are adopted as a part of this Ordinance.

## **SECTION 10.7 REGULATIONS CONSTITUTING A HABITABLE DWELLING**

- A. A non-conforming (under 720 square feet on the main level) mobile home, basement, or other temporary or partial structure may be used for dwelling purposes on a temporary basis during the construction or reconstruction of a permanent dwelling upon the premises for a period not to exceed one (1) year with the granting of a permit for a Temporary Residential Use as outlined in Section 10.25.

- B. Single-family dwellings must comply with the following requirements:
1. A core area of living space of at least 20'x20' in size is required.
  2. A minimum square footage of 720 square feet on the main level is required.
  3. Dwellings must be firmly attached to a permanent basement or foundation of the same perimeter dimensions as the dwelling or to a slab floor, properly protected from frost action.
  4. Dwellings must comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation in and connected to the mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24CFR3280, and as from time to time such standards may be amended. Additionally, it shall meet or exceed all applicable roof snow load and strength requirements.
  5. Dwellings must be connected to a water supply and sewage facility approved by the Health Department.
  6. Any additions shall be constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation or slab as required herein.
  7. Dwellings must satisfy all applicable area regulations for the zoning district in which it is located.
  8. In the event it is a mobile home as defined herein, it shall be installed with the wheels removed. Additionally, it shall not have any exposed towing mechanism, undercarriage or chassis.

## **SECTION 10.8 GENERAL SAFETY REGULATIONS**

- A. Any swimming pool which has an apron less than 48 inches above ground level at any point shall be enclosed by a fence, wall, or other structure which shall be at least four (4) feet high as measured on the outside. Any opening under the fence shall not be more than four (4) inches high. Any gates for the enclosure shall be self-closing and have a latch on the pool side of the fence. Any other swimming pools need not be fenced, provided that the steps can be raised out of reach of small children or secured by an enclosure and gate as mentioned herein.
- B. Repair, clean-up, or removal of damaged, destroyed, or abandoned buildings, structures, accessory buildings, or manufactured homes will be the responsibility of the property owner. Repair, clean-up, or removal of same must be completed within six (6) months of the occurrence of the damage. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe.
- C. Methane gas digesters may emit some odors and fumes. Therefore, such digesters should be placed so as to present the least possible hazard to nearby residences, buildings, or premises.
- D. Solar energy devices must be placed so as to not reflect sunlight to a dangerous degree.

- E. Any working or abandoned quarry or mining site whose sides are deemed precipitous and dangerous, and/or subject, or very likely to be subject, to cave-ins and whose sides are near a residential area, presenting danger to those residents, may be required to be fenced far enough back to allow for reasonable erosion or cave-ins. The residents and the quarry or mining site owner may be required to share in the cost of the fencing if the quarry or mine existed before the residences.

## **SECTION 10.9 ABANDONED JUNKYARDS OR WASTE DISPOSAL SITES**

Abandoned junkyards or waste disposal sites that are not used for that purpose for a least one (1) year must receive a Special Exception Use permit and comply with all standards of this Ordinance in order for that site again to be used for a junkyard or waste disposal site.

## **SECTION 10.10 THE KEEPING OF ANIMALS**

- A. It is recognized that the keeping of an unlimited number of domestic animals within residential areas for a considerable period of time detracts from, and in many instances, is detrimental to the healthful and comfortable use of such areas. The keeping of the following domestic animals is permitted, subject to the following regulations and limitations:
1. Container animals, no limitation.
  2. Household animals, if there are not more than three (3) such animals, boarded or kept on a single lot, except that a litter of pups or a litter of kittens may be kept for a period not exceeding four (4) months from birth, provided that no more than two (2) such litters shall be permitted on a property within any consecutive 12-month period.
  3. In the A-R and R-R districts, non-household animals may be kept without restriction, except that:
    - a. All such land areas used by said non-household animals shall be properly fenced in such a manner to prevent the animals from leaving the property and all such animals shall be maintained and accommodated in a fashion that prevents them from becoming a nuisance to adjoining property or a hazard to public health, safety and welfare.
    - b. Any building or other structure sheltering or housing non-household animals shall meet setbacks required for the district in which it is located.
  4. In the C1, C2 and C3 districts, up to six chickens may be kept as an accessory use if authorized by the Planning Commission as a special exception use. In considering such authorization, the Planning Commission shall apply the following standards:
    - a. The land area where the animals are to be kept.
    - b. The density of land uses in the vicinity of the site.
    - c. Whether or not noise or odors are likely to adversely affect the use of adjoining properties or the surrounding neighborhood. In no case shall roosters shall be permitted.
    - d. Methods by which such animals will be sheltered, fed, and restrained from leaving the premises.

Failure to comply with the terms and provisions of the permit or with the requirements of this Section shall be grounds for revocation of such permit at any time during the term of said permit. The revocation will take effect forty-five (45) days after notice of the revocation unless the revocation is vacated by the Planning Commission, upon petition by the permit holder.

- B. This Section shall not prohibit the keeping of small domestic animals or livestock for supervised youth agricultural experiences sponsored by an organization that is exempt from taxation under Section 501(c)(3) of the IRS Code of 1986, or by any subsequent corresponding IRS code of the United States as from time to time amended, in any area which is zoned for residential use, on lots of one (1) or more acres.
- C. The provisions of this section do not apply to farms and farm operations as defined in the Right to Farm Act (Act 93 of 1981), provided that such farms and farm operations are in compliance with adopted Generally Accepted Agricultural Management Practices (GAAMPs).

### **SECTION 10.11 NUMBER OF USES ON A LOT**

- A. No lot or parcel of land shall contain more than one (1) main building or one (1) principal use, except as may be permitted otherwise in this ordinance.
- B. Multiple uses of land and/or multiple buildings may be considered a principal use collectively if the land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features. *(amended May 2017)*

### **SECTION 10.12 RIPARIAN LOT USE REGULATIONS**

Keyholing, also referred to as funneling, is the practice of allowing by common ownership, easement, license, lease or other written form of conveyance the owners/occupants of a non-waterfront lot or parcel to have access to a lake through a lot or parcel abutting the lake. The result is an increase of the use of the body of water by people who do not live directly on the lake. It is important that the adverse effects of keyholing be minimized as lakes within Hope Township are further developed. For purposes of this Ordinance, a lot or parcel of land used for keyholing purposes shall be deemed a "Riparian Access Lot". Riparian Access Lots shall only be allowed as a Special Exception Use in the "RL" zoning district, subject to the following conditions:

- A. If the proposed Riparian Access Lot will serve six or more dwelling units, the applicant shall, prior to the granting of Special Exception Use approval, submit a capacity study of the subject lake. The capacity study will address the quality of the water, the habitat of the lake, and the projected impact of the proposed Riparian Access Lot on the subject lake. The capacity study shall be performed by a qualified expert identified on a list prepared and approved by the Planning Commission or any other party approved by the Planning Commission as being professionally competent to perform the study. The Planning Commission shall have authority to waive the requirement of a capacity study if the Planning Commission determines that given (1) the nature of the subject lake, (2) the nature of the proposed Riparian Access Lot and the properties to be served by the Lot, and (3) the nature of existing development abutting the subject lake, a capacity study is not needed to determine that the proposed Riparian Access Lot satisfies



the standards in this section and in Section 4.0 for the granting of the requested Special Exception Use permit.

- B. The Riparian Access Lot shall have a lot depth of at least 150 feet.
- C. The Riparian Access Lot shall have not less than (1) 180 feet of water frontage or (2) 50 feet of water frontage for each dwelling unit being served by the Riparian Access Lot, whichever is greater. Water frontage shall be measured by a straight line which connects each side line of the lot at the points where the side lines intersect the high water line.
- D. Portions of a Riparian Access Lot consisting of swamp, bog, marsh, or other type of wetland, as commonly defined, shall not be used for riparian access or recreational purposes, but may be counted toward the minimum lot depth, width, and water frontage requirements set forth above.
- E. No artificial channel, peninsula, or artificial feature shall be counted in the computation of Riparian Access Lot depth, width, or water frontage.
- F. The Riparian Access Lot shall have a buffer strip not less than 15 feet wide along each side lot line. No building or structure of any kind other than fencing shall be constructed or erected upon a required buffer strip. Required buffer strips shall not be used for any motorized vehicular traffic, parking, boat ramps, or for storage purposes (including junk, waste, or garbage) or other development purpose of any kind, and shall be preserved to provide a natural barrier between the usable portion of the Riparian Access Lot and adjacent lots.
- G. No channel or canal shall be created which touches, expands, or is connected to any lake for the purpose of riparian access.
- H. The Riparian Access Lot shall contain no more than one dock for every six dwelling units or fraction thereof being served by the Riparian Access Lot (e.g., one dock shall be allowed if the Lot serves 2-6 dwelling units; two docks shall be allowed if the Lot serves 7-12 dwelling units). Each dock shall be no more than 4 feet in width and 50 feet in length. The Planning Commission shall have authority to approve a greater dock length if it is demonstrated to the Planning Commission's reasonable satisfaction that, because of the lake terrain, a longer dock is needed to reach a navigable water depth.
- I. No commercial or business facilities shall be permitted on the Riparian Access Lot.
- J. No buildings or structures (except for fencing, trash receptacles, a boat launching ramp, a permitted dock, and outdoor recreational equipment such as swings, slides, and volleyball courts) shall be permitted on the Riparian Access Lot.

## **SECTION 10.13 ACCESSORY DWELLINGS**

**Purpose and Intent.** The purpose of this section and any regulations adopted pursuant hereto is:

- A. To permit property owners in specified zoning districts to establish an accessory dwelling on property where a single-family dwelling exists, primarily to provide accommodation to guests of the property owner on a limited basis.
- B. To prevent the proliferation of rental dwellings, absentee ownership, property disinvestment, building code violations, and associated decline in the quality of neighborhoods and properties.
- C. To discourage the use of an accessory dwelling for permanent residency and the incessant rental or lease of an accessory dwelling.
- D. To accommodate accessory dwellings with minimal impacts on the community in terms of traffic, noise, parking, congestion, scale and aesthetics.

Accessory dwellings shall comply with the following standards:

- A. Accessory dwellings shall be a Special Exception Use in the AR - Agricultural/Residential, RR - Rural Residential, and RL - Single Family Residential Lake zoning districts and the procedure for review set forth in Article IV shall be followed. In addition to the required application materials listed in Article IV, the applicant shall provide a written and signed declaration describing the proposed accessory dwelling and explaining how it would meet each of the following standards and the purpose and intent statement above.
- B. One accessory dwelling may be allowed on a property with one existing single-family dwelling. An accessory dwelling shall not be established on a parcel with a two-family dwelling, multiple-family dwelling, another accessory dwelling or other multiple dwellings of any kind.
- C. An accessory dwelling shall clearly be accessory and subordinate to the principal dwelling, shall retain the character of the neighborhood and shall be compatible and similar in appearance, structure and design to the principal dwelling.
- D. The accessory dwelling shall comply with setback, height, and other applicable dimensional requirements for the parcel; provided that if the accessory dwelling is a stand-alone structure, it shall be located a minimum of 10 feet from any other buildings on the property.
- E. The Planning Commission reserves the right to require that an accessory dwelling be within or attached to a single-family dwelling or within an accessory building or other building on the property, to avoid clutter, the undue congestion of buildings and to help safeguard views to the Township's lakes. *(amended November 2017)*
- F. Accessory dwellings shall comply with all applicable construction, housing, plumbing, and building codes in effect at the time the accessory dwelling is constructed. The accessory dwelling shall have a minimum of 400 square feet of floor area; and if detached from the principal dwelling, shall have a core area of living space of at least 20 feet by 20 feet. The accessory dwelling shall be firmly attached to a permanent basement or foundation of the same perimeter dimensions as the accessory dwelling or to a slab floor properly protected from frost action. The accessory dwelling, if a mobile home, shall be installed with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis.

- G. At least one off-street parking space shall be provided for the accessory dwelling unit; and such parking space shall be in addition to the off-street parking required for the principal dwelling.
- H. Installation of a separate gas and/or electric meter for the accessory dwelling is prohibited.
- I. The Planning Commission may establish additional requirements for an accessory dwelling to ensure that the purpose of this Section is met.
- J. The owners of the subject property shall sign a Statement of Conditions in a form acceptable to the Zoning Administrator and/or the Planning Commission containing a legal description of the subject property and specifying the restrictions on the accessory dwelling set forth in this Section as well as any other conditions imposed by the Planning Commission in granting Special Exception Use approval for the accessory dwelling. No Township building or zoning permits for the accessory dwelling shall be issued until the Township Zoning Administrator is provided with satisfactory proof that the fully executed Statement of Conditions has been recorded with the Register of Deeds of Barry County.

## **SECTION 10.14 PRIVATE BOAT LAUNCH**

- A. Private boat launching facilities serving only the owners or occupants of two or more dwelling units on lots or parcels having frontage on the subject body of water, is permitted as a Special Exception Use in the AR, RR, and RL districts, subject to the following conditions:
  - 1. The lot or parcel shall have a buffer strip not less than 15 feet wide along each side lot line. No building or structure of any kind other than fencing shall be constructed or erected upon a required buffer strip. Required buffer strips shall not be used for any motorized vehicular traffic, parking, boat ramps, or for storage purposes (including junk, waste, or garbage), or other development purpose of any kind, and shall be preserved to provide a natural barrier between the boat launching facility and adjacent lots.
  - 2. If the lot or parcel on which the boat launching facility is established has no additional structure upon it (other than a fence or sign), then the lot or parcel shall not be subject to the minimum lot dimension and setback requirements in Section 18.3 or elsewhere in this Ordinance. Instead, the lot or parcel shall have a minimum lot width of 50 feet and a minimum lot depth of 50 feet.

## **SECTION 10.15 OUTDOOR LIGHTING**

Any outdoor lighting shall be aligned so as not to produce a nuisance to adjoining or nearby residential property, or to the traveling public on public roadways.

## **SECTION 10.16 SCREENING REQUIREMENTS**

Screening by walls, fencing, plantings, berms, or other means may be required:

- A. between residential areas and abutting commercial or industrial areas for either new construction or where a complaint is brought by residents of property abutting commercial or industrial areas existing before this Ordinance became effective;

- B. for any unsightliness on any premises in any district which is considered reasonably objectionable and in need of screening.

## **SECTION 10.17 GRADES AND RUN-OFF**

- A. No property shall be filled or graded so as to cause a discharge of surface water run-off onto abutting premises in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed, existing grades on adjacent property shall have priority.
- B. Leaching pond(s) or holding pond(s) to handle maximum water run-off may be required when large buildings or parking lots are constructed.

## **SECTION 10.18 YARD ENCROACHMENTS**

The yard requirements of all Zoning Districts are subject to the following permitted encroachments:

- A. ground level terraces, patios, walkways, and similar structures may project into a yard as required herein, provided that such structure be unroofed and without walls or other continuous enclosures;
- B. unenclosed porches, decks, or above ground swimming pools may project into a required yard a distance not to exceed eight (8) feet, provided that such porch, deck, or above ground swimming pool shall not be permitted within five (5) feet of any lot line. Enclosed porches and other enclosed appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof;
- C. roof overhangs, chimneys, flues, belt courses, leaders, sills, pilasters, cornices, building-mounted solar energy collectors, and similar features may project into any required yard a maximum of 24 inches; *(amended September 2019)*
- D. unenclosed and unroofed fire escapes, outside stairways, and balconies may project into a required yard a maximum of five (5) feet, provided that such structure shall not be permitted within five (5) feet of any lot line.

## **SECTION 10.19 HEIGHT RESTRICTIONS**

Unless otherwise permitted or required by this Ordinance, the height of all structures shall be restricted to the following:

- A. Agricultural/Residential, State Land, Natural River Districts: 35 feet except for agricultural silos and grain handling equipment;
- B. Commercial Districts: 35 feet;
- C. RL, RR and Mobile Home Park Districts: 35 feet for dwellings. The height of accessory buildings shall not exceed the standards of Section 10.24(C); and; *(amended November 2017)*

- D. chimneys, utility poles, wireless communication antenna and television and microwave towers shall be exempt from height restrictions in all zones.

## **SECTION 10.20 LOT ACCESSIBILITY**

No building shall be built or placed on a lot unless the lot abuts on a public street or upon a permanent unobstructed access easement of record to a public street. Such easement of record shall have a minimum width of 66 feet, except where an access easement of record of lesser width existed prior to the adoption of this Ordinance. All regulations contained in this Ordinance shall apply to such easements of record in the same manner as if the same were dedicated streets. (See Section 10.2)

## **SECTION 10.21 FENCING** *(amended October 2018)*

- A. A zoning compliance permit is required for fences in all districts except on farms or farm operations.
- B. No fence, wall, other than necessary retaining wall, or other screening structure located within the side or front yard of a lot in any RL or RR zoning district, (other than the front yard of a waterfront lot) shall exceed six (6) feet in height.
- C. No fence, wall or other screening structure located within a lake-front yard shall exceed four (4) feet in height.
- D. No fence, wall, or other screening structure located within a rear yard of a lot in a RL or RR zoning district, shall exceed eight (8) feet in height.
- E. There shall be no electric fences allowed in any RL or RR zoning district or residential platted area. There shall be no barbed wire, spiked fence, or similar fences allowed in a RL zoning district or residential platted area.
- F. Measurement, Materials, Orientation, and Maintenance
- a) The maximum height of a fence shall be measured from ground level adjacent to the fence, provided that fill shall not be permitted for the purpose of achieving a greater height than otherwise would be permitted.
  - b) Fences shall be made of materials that are commonly used in conventional fence construction, such as wood, vinyl, wrought iron, chain link, or other high-quality, rigid, durable materials.
  - c) If one side of a fence, wall, or screen has a more finished appearance than the other, then it shall be erected so that the finished side faces adjacent properties with any posts or supports located on the inside of the fence.
  - d) Fences, walls, and screens shall be maintained in good repair and in safe and attractive condition, including but not limited to replacement of missing, decayed or broken structural and decorative elements with the same materials.
  - e) All fences shall be constructed in such a manner as to adequately provide the purpose for which they are installed and shall not be injurious or disruptive to adjoining properties.

- G. A zoning compliance permit shall not be required for the placement of temporary fences (6 months or less) that are used in accordance with the purpose for which they were designed, such as the placement of a snow fence during the winter or a silt fence for construction.
- H. Fences meeting the standards of this Section are not subject to minimum setback requirements of the zoning district in which they are located.

## **SECTION 10.22 HOME OCCUPATIONS**

- A. A minor home occupation meeting criteria set forth below may receive a zoning compliance permit from the Zoning Administrator for the conduct of the minor home occupation without holding a public hearing. All other home occupations shall file for Special Exception Use approval as prescribed in this Section.
- B. The following land uses and activities shall not be considered home occupations: adult businesses, motor vehicle repair and service, motor vehicle sales, bed and breakfasts, self-storage facilities, and junk yards.
- C. **Minor Home Occupations.** Minor home occupations shall comply with the following standards:
1. The use shall be conducted entirely within the dwelling or one accessory building.
  2. The use shall be operated only by persons residing in the dwelling.
  3. The exterior appearance of the dwelling shall not be modified to accommodate the home occupation.
  4. The home occupation shall not occupy more than four hundred (400) square feet of floor area or thirty (30) percent of the floor area of the dwelling, excluding area of basement, whichever is less.
  5. There shall be no selling of goods, merchandise, supplies or products, provided that orders made by telephone or at sales events off the premises may be filled on premises so long as customers do not arrive on premise to acquire orders.
  6. Outdoor storage or display is prohibited.
  7. There shall be no regular deliveries from commercial suppliers to the premises.
  8. There shall be no activity on premise resulting in noise, vibration, smoke, dust, odors, heat or glare that creates a nuisance to adjoining properties.
  9. As a result of operating the home occupation, there shall occur no more motor vehicle traffic than would be normal for a dwelling.
  10. No combustible, toxic or hazardous substances shall be kept on premise attendant to the home occupation.
  11. Each home occupation shall be subject to an annual compliance inspection.
  12. The Zoning Administrator shall have discretion to refer any home occupation application to the Planning Commission for approval.

D. **Major Home Occupations.** All other home occupations shall be considered major home occupations and a Special Exception Use permit shall be required as issued by the Planning Commission following public hearing and subject to the following criteria:

1. The use shall be conducted entirely within the dwelling and/or not more than one accessory building.
2. The use shall be operated by persons residing in the dwelling and not more than one (1) other person.
3. The exterior appearance of the dwelling and accessory building, if used in connection with the home occupation, shall not be modified to accommodate the use.
4. The home occupation shall not occupy more than four hundred (400) square feet of floor area or thirty (30) percent of the floor area of the dwelling, excluding area of basement, whichever is greater.
5. The use shall be clearly incidental and secondary to the dwelling.
6. Outdoor display of goods or merchandise is prohibited.
7. Equipment used in connection with the home occupation shall be parked or stored within a building or within a gated six (6) foot high screening fence enclosure.
8. There may be only incidental and occasional selling of goods, merchandise, supplies or products.
9. No combustible, toxic or hazardous material may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state, and other governmental requirements concerning the use, handling, transport, storage, and disposal of any such materials; provided, however, that the safe storage of pesticides and herbicides by landscaping enterprises shall be permitted, if otherwise lawful.
10. There shall be no activity that would interfere with radio or television signals, smoke, dust, odors, heat, or glare resulting in an adverse effect at or beyond the property line.
11. As a result of the home occupation, there shall not be any appreciably greater motor vehicle or pedestrian traffic than would be normal for the zoning district in which the use is located.
12. There shall be no deliveries from commercial suppliers, except on an occasional or incidental basis.
13. One 4-square foot non-illuminated sign may be permitted.

## **SECTION 10.23 ROADSIDE STANDS**

Roadside stands shall meet the following regulations:

- A. Roadside stands shall be permitted as an accessory use in the AR, Agricultural/Residential and RR Rural Residential District.
- B. Adequate off-street parking area shall be provided to avoid motor vehicles parking along a roadway or in a right-of-way.

- C. Buildings and structures proposed as part of a farm market shall meet the required setbacks of the zone district in which it is located.
- D. One sign of up to twelve (12) square feet in area and up to eight (8) feet in height is permitted.

## **SECTION 10.24 ACCESSORY BUILDINGS**

- A. Accessory buildings are permitted in every zoning district and are subject to the minimum required setbacks applicable in the respective zoning district.
- B. In the RL zoning district, only one detached accessory building is permitted on lots with an area of less than one (1) acre. Lots with an area of one acre or greater are permitted not more than two (2) accessory buildings.
- C. Accessory buildings shall be subject to the following height requirements:
  - 1. In the RL district, accessory buildings located on a lakefront lot shall not exceed twelve (12) feet at the sidewall or one story in height, whichever is less. Accessory buildings located on a non-lakefront lot in the RL district shall not exceed sixteen (16) feet at the sidewall or one story in height, whichever is less. *(amended September 2019)*
  - 2. In the MHP and RR zoning districts, detached accessory buildings and structures shall not exceed sixteen (16) feet at the sidewall or one story in height, whichever is less.
  - 3. There shall be no limitations on the number and size of accessory buildings and structures in other zoning districts, provided that the maximum permitted building height applicable in the zoning district shall be applied.
- D. Accessory buildings on vacant lots are permitted for purposes accessory to permitted residential and agricultural uses in the AR, RR and RL zoning districts.
- E. All applicable building and constructions codes shall be adhered to.
- F. A mobile home may not be used as an accessory building. *(amended November 2017)*

## **SECTION 10.25 TEMPORARY RESIDENTIAL USES**

The Zoning Administrator shall have the authority to issue a zoning compliance permit to allow a non-conforming mobile home, basement, or other temporary or partial structure to be used for dwelling purposes for a period of not more than two (2) years. The applicant must erect, reconstruct, or complete a permanent dwelling on the premises within two the (2) years the applicant is permitted to live in the temporary non-conforming residence.

- A. Procedures. To obtain such a zoning compliance permit for the purposes outlined above, the following steps shall be completed:
  - 1. The applicant shall first obtain a building permit for the construction or reconstruction of a permanent dwelling upon the premises.



2. The applicant shall pay the fee for a zoning compliance permit as determined by the Township Board by resolution to help defray expenses in connection with the application.
  3. The applicant shall commence construction or reconstruction of the permanent dwelling within sixty (60) days after issuance of the permit. If construction or reconstruction has not commenced within sixty (60) days, the permit shall be considered expired.
- B. The temporary residence shall be located upon the premises where the permanent dwelling is being built and must be connected to proper, safe sewage disposal facilities in accordance with the requirements of the Health Department.
- C. The temporary residence must comply with all applicable codes. In the case of a mobile home being used as the temporary residence, the mobile home shall comply with the requirements of the "Mobile Home Construction and Safety Standards." The Building Inspector shall make an inspection of all temporary residential uses to make sure that all pertinent codes are met before a zoning compliance permit is issued.
- D. If, at the expiration of the two (2) year period, the permanent dwelling has not been completed in accordance with the requirements of this Ordinance, an extension may be granted an additional period not to exceed six (6) months, if the following conditions are met:
1. The applicant demonstrates a hardship, good cause or unique situation beyond the control of the owner justifying the extension, and;
  2. the payment of the required additional fee, as determined by the Township Board.
- E. The permit shall expire upon the completion and occupancy of the permanent dwelling upon the premises. Any mobile temporary residence shall be removed from the premises within thirty (30) days after expiration of the zoning compliance permit, or completion and occupancy of the permanent dwelling upon the premises, whichever occurs first.

## **SECTION 10.26 SMALL-SCALE SOLAR ENERGY SYSTEMS** *(amended September 2019)*

**Applicability.** This section applies to any system of small-scale solar energy collector systems. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground, nor does this section apply to utility-scale solar energy collector systems, which are regulated in Section 4.2(M). Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.

### A. General Requirements.

1. **Permit Required.** No small scale solar energy collector system shall be installed or operated except in compliance with this section. A zoning compliance permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system. All small-scale solar energy systems shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications.

2. **Applications.** In addition to all other required application contents as listed in Section 30.4, equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.
  3. **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads or private roads.
  4. **Installation.**
    - a. A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable Township and State requirements.
    - b. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
  5. **Power Lines.** On-site power lines between solar panels and inverters shall be placed underground.
  6. **Abandonment and Removal.** A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned. Following the abandonment of a solar energy collector system, the following standards are applicable:
    - a. The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Township is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
    - b. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
- B. **Building-Mounted Solar Energy Collectors.** These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.
1. **Maximum Height.** Building-mounted solar energy collectors shall be attached directly to the building and shall not be taller than the peak of the building to which they are attached.
  2. **Obstruction.** Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
- C. **Ground-Mounted Solar Energy Collectors.** These systems are permitted in all zoning districts subject to the following conditions.
1. **Rear and Side Yards.** The unit may be located in the rear yard or the side yard but shall be subject to the setbacks for accessory buildings.
  2. **Front Yard.** The unit may be located in the front yard only if located not less than one hundred fifty (150) feet from the front lot line.
  3. **Obstruction.** Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.

4. **Maximum Number.**
  - a. **Residential uses.** There shall be no more than two (2) ground-mounted solar energy collectors per principal building on a lot.
  - b. **Agricultural, Commercial, and Industrial uses.** There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
5. **Maximum Size.**
  - a. **Residential uses.** There shall be no more than one percent (1%) of the lot area, up to two thousand (2,000) square feet, of collector panels on a ground-mounted solar energy collector system.
  - b. **Agricultural, Commercial, and Industrial uses.** There shall be no more than ten thousand (10,000) square feet of collector panels on a ground-mounted solar energy collector system unless a Utility Scale Solar Energy Systems is approved pursuant to Section 4.2(M).
6. **Maximum Height.**
  - a. **Residential uses.** The maximum height shall be twelve (12) feet, measured from the natural grade below the unit to the highest point at full tilt.
  - b. **Agricultural, Commercial, and Industrial uses.** The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.
7. **Minimum Lot Area.** Two (2) acres shall be the minimum lot area to establish a ground-mounted solar energy collector system.
8. **Screening.** Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.

## **ARTICLE XI REGULATIONS FOR FLOOD HAZARD AREAS**

### **SECTION 11.0 THE NATIONAL FLOOD INSURANCE PROGRAM**

The Federal Insurance and Mitigation Administration (FIMA) administers the National Flood Insurance Program (NFIP) to provide flood insurance to property owners of participating communities. By participating in this program, Hope Township enables its property owners to obtain flood insurance.

### **SECTION 11.1 DELINEATION OF FLOOD HAZARD AREAS**

Flood hazard areas are delineated on the Flood Insurance Rate Maps (FIRMs) produced by the NFIP.

### **SECTION 11.2 DEVELOPMENT AND BUILDING PERMITS FOR FLOOD HAZARD AREAS**

- A. A Zoning Compliance permit for a lot that is, in whole or in part, within a flood hazard area shall not be issued until all necessary permits shall have been issued by appropriate local, state, and federal authorities or agencies. Where a permit from another local, state or federal authority or agency cannot be issued prior to the issuance of a Zoning Compliance Permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
- B. An applicant seeking a Zoning Compliance Permit in a flood hazard area shall submit the following information, in addition to any other information required by this Ordinance or other applicable laws or local Ordinances:
  - 1. the elevation in relation to mean sea level of the floor, including the basement, of all structures;
  - 2. where floodproofing will be employed,
  - 3. the elevation in relation to mean sea level to which a structure will be floodproofed;
  - 4. A certificate from a registered professional engineer or architect that the floodproofing criteria of this Ordinance will be met;
  - 5. a description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
  - 6. any additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.
- C. Manufactured homes shall not be placed in a designated floodway, as determined by the NFIP. Manufactured homes which are situated within a flood hazard area shall have installed an anchoring system in compliance with the State of Michigan's Mobile Home Commission Rules.

### **SECTION 11.5 SETBACK REGULATIONS FOR FLOOD HAZARD AREAS**

- A. Any building constructed on a lot abutting a lake, stream, pond, or marsh shall be set back at least fifty (50) feet from the high water line or from the boundary of the flood hazard area

whichever is greater. Where the majority of the property abutting said water line within 300 feet of both sides of a vacant lot has been built upon at the time of the passage of this Ordinance, any structure located on the lot shall be no closer than a straight line connecting the nearest building (other than a boathouse or a building for the storage of a seaplane or amphibious aircraft) on each side of the lot.

- B. If there is no such building within 300 feet of one of the side lot lines of the subject lot, then the point for beginning the line on that side of the subject lot shall be that point of the side lot line that intersects with the minimum required setback for the zoning district in which it is located.
- C. One-story boat houses used exclusively for boating and bathing facilities may be constructed at the ordinary high water line, but not over the water. However, docks, together with temporary boat shelters which are dismantled during the winter months, may be constructed such that they project out into the water beyond the said high water shoreline not more than 100 feet from said shoreline.
- D. A one-story accessory building used for the storage of a seaplane or amphibious aircraft and related equipment is permitted at the high water shoreline, but not over the water, only as a Special Exception Use.

## **SECTION 11.6 GENERAL STANDARDS FOR DEVELOPMENT IN FLOOD- HAZARD AREAS**

- A. All new construction and substantial improvements within a flood hazard area, including the placement of pre-fabricated buildings, manufactured homes, and any additions thereto, shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure, and shall be constructed with materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
- C. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- D. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.

- G. The flood-carrying capacity of any altered or relocated watercourse (including county drains under the jurisdiction of the Drain Commissioner) not subject to state or federal regulations designed to insure flood-carrying capacity, shall be maintained.
- H. All new construction and substantial improvements of residential structures within a flood hazard area shall be constructed such that the lowest habitable floor, including a basement, is at least one foot above the base flood elevation.
- I. All new construction and substantial improvements of non-residential structures within a flood hazard area shall be constructed such that the lowest habitable floor, including a basement, is at least one foot above the base flood elevation; or be constructed such that if below the base flood elevation, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that these standards are satisfied, and shall indicate the elevation to which the structure is floodproofed.
- J. Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway area, as designated by the NFIP, unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

## ARTICLE XII PARKING REGULATIONS

### SECTION 12.0 MINIMUM PARKING SPACES REQUIRED

- A. In all Zoning Districts each vehicle parking space shall be not less than 200 square feet and not less than ten (10) feet wide, exclusive of driveway and aisle space.
  
- B. The number of parking spaces required on a site shall be determined based on the requirements below. The requirements below reflect the actual requirement and not a minimum, but the requirements may be adjusted per Section 12.0, C. The parking requirements below for residential uses shall be considered the minimum required. Where the requirements indicate a certain number of spaces “per employee,” it shall mean the total number of employees working in the largest shift. Where the requirements indicate that the applicant demonstrate parking demand, the applicant shall submit a detailed analysis that clearly relates the proposed number of parking spaces to actual projected demand; however, the Zoning Administrator may consult technical publications from entities such as the Institute of Transportation Engineers to determine required parking to evaluate and confirm any such parking demand projection.

Use	Parking Requirement
Accessory dwelling	1 space per unit
Adult business	Applicant shall demonstrate parking demand
Agri-tourism establishment	Applicant shall demonstrate parking demand
Bed and Breakfast	2 spaces for principal dwelling use plus 1 space per rental room
Campground, private	Applicant shall demonstrate parking demand
Campground, public	2 spaces on each campsite plus 1 space per 5 campsites
Car repair facility	1 space per employee plus 2 spaces per service bay
Car wash facility	3 stacking spaces per bay plus 1 space per 350 square feet of retail/office space
Cemetery	Applicant shall demonstrate parking demand
Church	1 space per 4 units of legal capacity in main worship room
Commercial grain elevator	Applicant shall demonstrate parking demand
Contractor’s yard	1 space per employee plus 1 space per 500 square feet of retail or showroom space
Day care center	1 space per employee plus 1 space per 500 square feet of retail or showroom space
Day care, family home	2 spaces for principal dwelling use plus 1 space per employee plus 1 client space
Day care, group home	2 spaces for principal dwelling use plus 1 space per employee plus 2 client spaces

Use	Parking Requirement
Distribution facility	Applicant shall demonstrate parking demand
Drive-through facility	5 stacking spaces for drive-through lane with window service or 3 stacking spaces for drive-through ATM, in addition to any spaces required for non-drive-through uses
Dwelling, multiple-family	2 spaces per unit
Dwelling, single-family	2 spaces per unit
Dwelling, two-family	2 spaces per unit
Educational institution	1 space per employee plus 1 space per classroom plus 1 space per 4 seats of seating capacity in a gymnasium, stadium or auditorium, whichever has the greatest capacity
Equipment repair	Applicant shall demonstrate parking demand
Farm	2 spaces for any principal dwelling use, if applicable, plus any additional spaces and maneuvering area needed for farm equipment
Farm supply store	1 space per 2,000 square feet of usable floor area and display area
Financial institution	1 space per 200 square feet of usable floor area
Funeral home / mortuary	1 space per employee plus 1 space per 4 units of legal capacity
Gas station	1 space per 150 square feet dedicated to retail activity plus 1 space at each fuel pump plus 1 stacking space per fuel pump
Golf course / country club	8 spaces per hole
Home occupation, major	2 spaces for principal dwelling use plus up to 2 additional off-street spaces, unless the Planning Commission approves more
Home occupation, minor	2 spaces for principal dwelling use plus up to 2 additional off-street spaces
Horse stable, public	Applicant shall demonstrate parking demand
Hospital	1 space per employee plus 1 space per in-patient bed plus 1 space per 1,000 square feet dedicated to out-patient services
Hotel / motel	1 space per rental room, plus additional spaces for restaurant, convention and other space as determined by the Zoning Administrator based on publications from the Institute of Transportation Engineers or similar
Junkyard	Applicant shall demonstrate parking demand
Kennel	1.5 spaces per 1,000 square feet of usable floor area
Landfill	Applicant shall demonstrate parking demand
Library	1 space per 500 square feet of usable floor area
Lumberyard	1 space per employee plus 1 space per 1,000 square feet of display area
Machine shop	1 space per employee plus 1 space per 2,000 square feet usable floor area



Use	Parking Requirement
Manufactured housing community	2 spaces at each unit plus 1 off-street space per 10 units
Manufacturing facility	1 space per employee plus 1 space per 2,000 square feet usable floor area
Manufacturing facility, heavy	1 space per employee plus 1 space per 2,000 square feet usable floor area
Marina	1 space per 1.5 slips or racks
Medical clinic	1 space per employee plus 1 space per 200 square feet usable floor area
Mining operation	Applicant shall demonstrate parking demand
Museum	1 space per 500 square feet usable floor area
Nursery and greenhouse	1 space per 2,000 square feet usable floor area
Nursing home	1 space per 2 dwelling units or bedrooms
Open air business	Zoning Administrator shall determine parking demand based on publications from Institute of Transportation Engineers or similar
Park	5 spaces per acre unless the Planning Commission finds that additional spaces are needed
Personal service establishment	1 space per 350 square feet usable floor area
Portable blacktop plant	Applicant shall demonstrate parking demand
Private club or organization	1 space per 300 square feet usable floor area
Private boat launch	Applicant shall demonstrate parking demand, plus any additional area needed for safe off-street maneuvering
Private landing strip	Applicant shall demonstrate parking demand
Professional office	1 space per 3 units of legal capacity
Recreation facility	Zoning Administrator shall determine parking demand based on publications from the Institute of Transportation Engineers or similar
Restaurant	1 space per 3 units of legal capacity
Retail establishment	1 space per 250 square feet usable floor area up to 10,000 square feet, plus 1 space per 350 square feet usable floor area in excess of 10,000 square feet
Riparian access lot	Applicant shall demonstrate parking demand, plus any additional area needed for safe off-street maneuvering
Sawmill operation, permanent	1 space per employee plus additional off-street maneuvering area
Sawmill operation, temporary	1 space per employee plus additional off-street maneuvering area
Self-storage facility	3 spaces per 100 storage units
Tavern	1 space per 3 units of legal capacity

Use	Parking Requirement
Theater	1 space per 3 units of legal capacity
Veterinary clinic	1.5 spaces per 1,000 square feet of usable floor areas
Warehouse	1 space per employee plus 5 visitor spaces
Wholesale establishment	1 space per employee plus 1 space per 350 square feet of retail space

- C. The Planning Commission may increase or decrease the requirements of Section 12.0, B upon request of an applicant, up to 20% of the required number of spaces. The applicant shall submit, in writing, justification for the proposed adjustment. Modifications shall not result in inadequate parking area; large, unwarranted amounts of unused parking space; or a reduction in critical open space or natural features. In addition, in approving any request to modify the parking standards, the Planning Commission must find that the proposed quantity of parking spaces would preserve the rural character of the Township and protect the public health, safety and welfare.

**SECTION 12.1 OTHER PARKING REGULATIONS**

- A. Except for one and two family dwellings, a site plan showing the required parking and loading spaces, including the means of access and interior circulation, shall be provided at the time of application for a building permit.
- B. No parking area, parking space, or loading space which exists at the time this Ordinance becomes effective, or which subsequently thereto is provided for the purpose of complying with the provisions of this Ordinance, shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance upon the premises.
- C. No parking space shall be closer than five (5) feet from any property line.
- D. All off-street parking facilities shall be drained in such a way as to prevent any damage to abutting properties or public streets.
- E. All lighting fixtures used to illuminate any off-street parking area shall be arranged so as to reflect the light away from any adjoining or nearby residential lot.
- F. Space for all necessary loading and unloading operations for any commercial, industrial, or other use must be provided in addition to the required off-street parking area. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
- G. Every resident shall be permitted to park one (1) recreational vehicle in the rear or side yard if space permits.
- H. Any new business must provide adequate turn around to enable vehicles to drive forward upon leaving the premises.



**ARTICLE XIII RESERVED**

## **ARTICLE XIV RESERVED**

## **ARTICLE XV PLANNED UNIT DEVELOPMENTS (PUD)**

### **SECTION 15.0 INTENT**

The specific requirements as set forth in these sections of the Ordinance assure compliance with objectives deemed essential to the public health, safety, and general welfare of the community. It is recognized that permitting flexibility in the placement and the interrelationship of buildings and uses will foster more creative design and a desirable quality of development. Allowing greater flexibility, however, is possible without sacrificing established values and rights to adequate light, air, safety, and privacy. These sections are further intended to foster efficient and economical use of land, resources, public services or utilities, and energy; to encourage useful open space, and promote variety in housing, both in cost and lifestyle. By allowing the dwelling type, density, and open space to vary, yet maintaining those general policies and objectives of the Township Land Use Plan, the PUD concept will allow desirable environmental features to become part of the overall development pattern. Finally, because flexibility is inherent in PUD review, a higher degree of public direction and scrutiny is an essential ingredient in the process.

### **SECTION 15.1 MINIMUM PERFORMANCE OBJECTIVES**

A PUD shall be considered a Special Exception Use and shall be reviewed in accordance with the procedures of Article IV. In addition to the Special Exception Use review standards of Section 4.0, a proposed PUD shall meet the objectives listed below.

- A. shall minimize the cost of utility and street construction and associated maintenance costs, while adhering to accepted construction standards;
- B. shall provide a safe, well-designed circulation system with both internal and external connections for pedestrians, as well as vehicles. Points of conflict within the system shall be minimized and special provisions for pedestrian safety, such as overpasses, are to be encouraged;
- C. shall utilize natural characteristics, such as vegetation or topographical characteristics, to protect homes from prevailing winds, provide visual variety, encourage on-site storm drainage retention, promote solar use awareness and other similar benefits;
- D. shall enhance and preserve any wildlife habitat areas or identifiable natural features, such as wetlands, swales, ponds, and woodlots or orchards;
- E. shall retain on-site for storage and infiltration all stormwater runoff attributed to the proposed development;
- F. shall provide for active and/or passive recreation activities in keeping with the character of the development and its open space;
- G. shall provide for buffering by the use of plantings, earth berms, or distance between any internal conflicting elements or between adjoining residential uses and on-site features.

## **SECTION 15.2 APPLICATION AND PROCEDURES**

**A. OPTIONAL PRE-APPLICATION MEETING:** Prior to the submission of an application for Special Exception Use, the applicant may meet with the Zoning Administrator, Planning Commission, and such consultants as deemed appropriate. The applicant shall present at the meeting a sketch plan of the proposed Planned Unit Development, and the following information:

1. A legal description of the property in question;
2. The total number of acres to be included in the project;
3. A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units;
4. The approximate number of acres to be occupied by and/or devoted to or by each type of use;
5. The number of acres to be preserved as open space or recreation space; and
6. All known natural resources and natural features.

**B. SPECIAL EXCEPTION USE APPLICATION.** Following the above conference, copies of a Site Plan and application for a PUD Special Exception Use shall be submitted to the Zoning Administrator. The Zoning Administrator shall review the information submitted for completeness. If complete, the Zoning Administrator shall transmit the completed application and site plan to the Planning Commission.

In addition to the requirements of Articles IV and V, the PUD site plan shall include the following information:

1. The location and proposed use for all proposed structures on the site.
2. Size and location of all areas devoted to green space.
3. A phasing plan indicating boundaries and uses included to be constructed during the phase.
4. A narrative describing:
  - a. The nature of the project.
  - b. The proposed density, number, and types of dwelling units if a residential PUD.
  - c. A statement describing how the proposed project meets the objectives of the PUD.
  - d. A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
  - e. Proof of ownership or legal interest in property.
5. Any other information deemed necessary by the Planning Commission to aid in the review of the proposed PUD.

**C. PLANNING COMISSION REVIEW.** Review and action on a PUD Special Exception Use shall follow the requirements of Section 4.1 of this Ordinance.

**SECTION 15.3 GENERAL RESTRICTIONS AND STANDARDS**

- A. **LOCATION:** Planned Unit Developments of allowable size may be located in the AR and RR zoning districts.
- B. **USES PERMITTED:** All uses permitted in the AR, RL, and RR zoning districts shall be permitted. In addition, the following land use may also be permitted in a PUD:
1. Multiple family dwellings shall be allowed in PUD's of twenty (20) acres or larger.
  2. Commercial uses permitted in the C-1 and C-2 zoning districts may be permitted in PUD's of forty (40) acres or larger, provided that commercial development of any nature, excluding multiple family dwellings, shall not exceed three percent (3%) of the total land area of any Planned Unit Development.

Land used for non-residential purposes in a PUD shall not be used to determine allowable residential densities.

- B. **MODIFICATION OF REQUIREMENTS:** The yard, setback, lot area, lot width, and frontage requirements of this Ordinance may be modified for a Planned Unit Development. The Planning Commission, however, may determine that certain setbacks can be established within all or a portion of the site. Further, the Commission may stipulate setbacks for perimeter development adjacent to established residential areas.



## **ARTICLE XVI ESTABLISHMENT OF ZONING DISTRICTS**

### **SECTION 16.0 DIVISION OF THE TOWNSHIP OF HOPE**

Hope Township of Barry County, State of Michigan, shall be divided into zoning districts, as hereinafter described, within which districts no buildings or premises shall be used and no building shall hereafter be erected, altered, or located except for the uses and purposes hereinafter set forth as Permitted Uses or as Special Exception Uses under each separate zoning district classification, and subject to such prior approval as required by this Ordinance.

### **SECTION 16.1 MAP OF THE ZONING DISTRICTS**

The locations and boundaries of these districts, so established, are shown on the map entitled "Official Zoning Map, Hope Township", which accompanies and is hereby declared to be part of this Ordinance.

### **SECTION 16.2 DISPUTES OVER THE ZONE OR ZONING DISTRICT BOUNDARIES**

Where uncertainty exists as to the boundaries of any of the districts or zones shown on the Zoning Map, the following rules shall apply:

- A. zone boundary lines are intended to be parallel or perpendicular to street, alley, or lot lines, unless such zone boundary lines are fixed by dimensions, as shown on said Zoning Map;
- B. where zone boundaries are indicated as approximately following street or alley lines or proposed street lines, such lines shall be construed to be such boundaries;
- C. where zone boundaries are so indicated that they approximately follow lot lines and are not more than 25 feet distant therefrom, such lot lines shall be such boundaries;
- D. if subdivided property or where a zone boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot;
- E. if all or any portion of any public street, alley, right-of-way, easement, or land which is not included in any zone shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of the regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zones, if there be more than one.

If, after applying the standards of items A - E above, there is uncertainty or a dispute as to the exact boundary of a zoning district, a property owner may request that the Zoning Board of Appeals interpret the location of the boundary in question.

## **SECTION 16.3 GENERAL REGULATIONS**

- A. General regulations apply to all districts except as noted in this Ordinance. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.
- B. In all districts, all uses and construction must adhere to Article XI, Regulations for Flood Hazard Areas

## **SECTION 16.4 THE ZONING DISTRICTS OF HOPE TOWNSHIP**

The Zoning Districts of Hope Township are:

AR	Agricultural/Residential
RL	Single Family Residential Lake
RR	Rural Residential
MHC	Manufactured Housing Community
C-1	General Commercial
C-2	Medium Commercial
C-3	Heavy Commercial
C-L	Commercial Lake
S	State Land
NR	Natural River
I	Light Industrial

## **SECTION 16.5 LAND USE STANDARDS**

Regulations affecting the use of buildings and land, and the bulk arrangement of buildings, materials and equipment occupying such land for each of the districts are hereby established as set forth in this ordinance.

- A. The List of Permitted and Special Exception Uses presents the uses that are permitted in each zoning district in the Township of Hope. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail. Moreover, all uses, buildings and structures shall conform to the other requirements of this Ordinance. (*amended May 2017*)

List of Permitted and Special Exception Uses – Hope Township Zoning Ordinance									
P = Permitted Use      SE = Special Exception Use									

Uses	AR	RR	RL	MHC	CL	C-1	C-2	C-3	I
	Agricultural/ Residential	Rural Residential	Single Family Residential Lake	Manufactured Housing Community	Commercial Lake	General Commercial	Medium Commercial	Heavy Commercial	Light Industrial
Accessory dwelling	SE	SE	SE						
Adult business							SE		
Agri-tourism establishment	SE								
Bed and Breakfast	SE	SE	SE		SE				
Campground, private	SE								
Campground, public	SE								
Car repair facility						SE	SE	SE	
Car wash facility						SE	SE	SE	
Cemetery	SE								
Church	SE	SE	SE		SE	SE	SE	SE	
Commercial grain elevator	SE					SE	SE	SE	
Contractor's yard	SE					SE	SE	SE	SE
Day care center	SE					P	P	P	
Day care, family home	P	P	P	P	P	P	P	P	
Day care, group home	SE	SE	SE	SE	SE	SE	SE	SE	
Distribution facility									P
Drive-through facility						SE	SE	SE	
Dwelling, multiple-family	SE	SE	SE		SE	SE	SE	SE	
Dwelling, single-family	P	P	P	P	P	P	P	P	

Uses	AR	RR	RL	MHC	CL	C-1	C-2	C-3	I
	Agricultural/ Residential	Rural Residential	Single Family Residential Lake	Manufactured Housing Community	Commercial Lake	General Commercial	Medium Commercial	Heavy Commercial	Light Industrial
Dwelling, two-family	SE	SE	SE		SE	SE	SE	SE	
Educational institution	SE					SE	SE	SE	
Equipment repair						SE	SE	SE	SE
Equipment repair, small	SE								
Farm	P	P							
Farm supply store							SE	SE	
Financial institution						P	P	P	
Funeral home / mortuary						SE	SE	SE	
Gas station							P	P	
Golf course / country club	SE	SE							
Home occupation,	SE	SE	SE		SE	SE	SE	SE	
Home occupation,	P	P	P	P	P	P	P	P	
Horse stable, public	SE								
Hospital							SE	SE	
Hotel / motel						P	P	P	
Junkyard	SE								
Kennel	SE								
Landfill	SE								
Library	SE				SE	SE	SE		
Lumberyard	SE						SE	SE	SE
Machine shop	SE					SE	SE	SE	SE
Manufactured housing				P					

Uses	AR	RR	RL	MHC	CL	C-1	C-2	C-3	I
	Agricultural/ Residential	Rural Residential	Single Family Residential Lake	Manufactured Housing Community	Commercial Lake	General Commercial	Medium Commercial	Heavy Commercial	Light Industrial
Manufacturing facility									P
Manufacturing facility, heavy									SE
Marina					SE				
Medical clinic						P	P	P	
Mining operation	SE								
Museum	SE				SE	SE	SE		
Nursery and greenhouse	P					P	P	P	
Nursing home	SE					SE	SE		
Open air business						SE	SE	SE	
Park	P	P	P	P	P	P	P	P	
Personal service establishment						P	P	P	
Planned unit development	SE	SE							
Portable blacktop plant	SE								
Private club or organization	SE				SE	SE	SE	SE	
Private boat launch, subject	SE	SE	SE						
Private landing strip	SE								
Private Wind Energy Facility	SE	SE	SE	SE	SE	SE	SE	SE	SE
Professional office					P	P	P	P	
Recreation facility	SE					SE	SE	SE	
Restaurant					P	P	P	P	
Retail establishment					P	P	P	P	

Uses	AR	RR	RL	MHC	CL	C-1	C-2	C-3	I
	Agricultural/ Residential	Rural Residential	Single Family Residential Lake	Manufactured Housing Community	Commercial Lake	General Commercial	Medium Commercial	Heavy Commercial	Light Industrial
Riparian access lot,			SE						
Sawmill operation,	SE							SE	SE
Sawmill operation,	P								
Self-storage facility	SE					P	P	P	P
Tavern					SE	SE	SE	SE	
Telecommuni- cation facility	SE							SE	SE
Theater						SE	SE	SE	
Veterinary clinic	SE					SE	SE	SE	SE
Warehouse									P
Wholesale establishment									P

Requirements for the S and NR Districts are listed in respective Articles of this Zoning Ordinance.

## SECTION 16.6 DIMENSIONAL STANDARDS

- A. The Summary of Dimensional Standards provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail. Moreover, all uses, lots, buildings and structures shall conform to the other requirements of this Ordinance.

<sup>1</sup> In the RL district, non-lakefront lots shall have a front yard setback of at least 35 feet and lakefront lots

Summary of Dimensional Standards – Hope Township Zoning Ordinance							
District		Minimum Yard Setback in Feet			Maximum Building Height in Feet	Minimum Lot Size	Lot Width in Feet
		Front Yard	Side Yard	Rear Yard			
AR	Agricultural/Residential	50	20	20	50	1 acre	200/50 <sup>3</sup>
RR	Rural Residential	35	20/25 <sup>2</sup>	20	35	1 acre/ .5-acre w/sewer	130
RL	Single Family Residential Lake	50/35 <sup>1</sup>	20/25 <sup>2</sup>	20	35	19,500 sf	130
MHC	Manufactured Housing Community	See Article XX			35	See Article XX	
CL	Commercial Lake	75	10	n/a	50	n/a	n/a
C-1	General Commercial	75	10	n/a	50	n/a	n/a
C-2	Medium Commercial	75	10	n/a	50	n/a	n/a
C-3	Heavy Commercial	75	10	n/a	50	n/a	n/a
S	State Land	See Article XXV			50	See Article XXV	
NR	Natural River	See Article XXVI			50	See Article XXVI	
I	Light Industrial	No specific requirements					

shall have a front yard of at least 50 feet. On lakefront lots, the lakefront yard is the front yard.

<sup>2</sup> In the RR and RL districts, the street side of a corner lot shall provide at least a 25-foot setback.

<sup>3</sup> In the AR district, minimum lot width at the building line is 200 feet and minimum frontage is 50 feet.

## **ARTICLE XVII AR ZONING DISTRICT: AGRICULTURAL / RESIDENTIAL**

### **SECTION 17.0 PURPOSE**

This zoning district is set aside primarily for agricultural purposes. While recognizing that there exists a need for areas suitable for low density, rural residential living, it is intended that normal farming operations conducted within this district will generally take precedence over further uses permitted; and that the customary noise, dust, odors, and the use of fertilizers and pesticides associated with such operations will be considered a necessary part of such farming activity. If the farm or farm operation existed before a change in the land use or occupancy of the land within one (1) mile of the boundaries of the farm land, the farm or farm operations, that may be the subject of a complaint, shall not be considered to be a public or private nuisance as long as the farm and farm operations conform to normal farm operations, as determined by the Zoning Board of Appeals.

### **SECTION 17.1 PERMITTED USES IN THE AR ZONE**

Land and/or buildings in the AR Zone shall be used for the following purposes only:

- A. Day care, family home
- B. Dwelling, single-family
- C. Farm
- D. Home occupation, minor
- E. Nursery and greenhouse
- F. Park
- G. Sawmill operation, temporary

### **SECTION 17.2 SPECIAL EXCEPTION USES IN THE AR ZONE**

Special Exception Uses in the AR zone listed below may be authorized in this Zone upon issuance of a Special Exception Use Permit in accordance with Article IV:

- A. Accessory dwelling
- B. Agri-tourism establishment
- C. Bed and breakfast
- D. Campground, private
- E. Campground, public
- F. Cemetery
- G. Church
- H. Commercial grain elevator
- I. Contractor's yard



- J. Day care center
- K. Day care, group home
- L. Dwelling, multiple-family
- M. Dwelling, two-family
- N. Educational institution
- O. Equipment repair, small
- P. Golf course / country club
- Q. Home occupation, major
- R. Horse stable, public
- S. Junkyard
- T. Kennel
- U. Landfill
- V. Library
- W. Lumberyard
- X. Machine shop
- Y. Mining operation
- Z. Museum
- AA. Nursing home
- BB. Planned unit development
- CC. Portable blacktop plant
- DD. Private club or organization
- EE. Private boat launch, subject to Section 10.14
- FF. Private landing strip
- GG. Private wind energy facility
- HH. Recreation facility
- II. Sawmill operation, permanent
- JJ. Self-storage facility
- KK. Telecommunication facility
- LL. Utility Scale Solar Energy Systems (*amended September 2019*)
- MM. Veterinary clinic

**SECTION 17.3 AREA REGULATIONS FOR THE AR ZONE**

No building or structure shall hereafter be erected, altered, or enlarged in the AR Zone unless the following yard and lot area requirements are provided and maintained in connection with such building erection, alteration, or enlargement:

- A. front yard shall be a minimum of 50 feet except as regulated in Section 8.5;
- B. side yard shall be a minimum of 20 feet except as regulated in Section 8.5;
- C. rear yard shall be not less than 20 feet except as regulated in Section 8.5;
- D. the minimum lot area for use in this Zone shall be one acre with a minimum lot width as measured at the building line of 200 feet and a minimum lot width as measured at the road of 50 feet.
- E. the minimum floor area for any dwelling shall be 720 square feet.

## **ARTICLE XVIII RR ZONING DISTRICT: RURAL RESIDENTIAL**

### **SECTION 18.0 PURPOSE**

The purpose of this zoning district is to provide a stable and sound environment for single-family detached dwellings in a rural environment and to allow two-family and multiple-family dwellings on a restricted, controlled basis consistent with the intended rural residential character of this zoning classification.

### **SECTION 18.1 PERMITTED USES IN THE RR ZONE**

Land and/or buildings in the RR Zone shall be used for the following purposes only:

- A. Day care, family home
- B. Dwelling, single-family
- C. Farm
- D. Home occupation, minor
- E. Park

### **SECTION 18.2 SPECIAL EXCEPTION USES IN THE RR ZONE**

Special Exception Uses in the RR Zone listed below may be authorized in this Zone upon issuance of a Special Exception Use permit in accordance with Article IV:

- A. Accessory dwelling
- B. Bed and breakfast
- C. Church
- D. Day care, group home
- E. Dwelling, multiple-family
- F. Dwelling, two-family
- G. Golf course / country club
- H. Home occupation, major
- I. Private boat launch, subject to Section 10.14
- J. Private wind energy facility

### **SECTION 18.3 AREA REGULATIONS FOR RR ZONE**

No building or structure shall hereafter be erected, altered, or enlarged in the RR Zone unless the following yard and lot area requirements are provided and maintained in connection with such building erection, alteration, or enlargement:

- A. front yard of not less than 35' except as regulated in Section 8.5 for non-conforming lots and Article XI for flood hazard areas.
- B. side yard of not less than 20' on each side of any dwelling or accessory building, except on the street side of a corner lot where a 25' side yard shall be provided and maintained, except as regulated by Section 8.5.
- C. rear yard of not less than 20', except as regulated in Section 8.5.
- D. the minimum lot area for use in this Zone shall be one acre unless the property is served by a public sanitary sewer, in which case the minimum lot area shall be one-half acre. The minimum lot width shall be 130'.
- E. floor area for dwellings hereafter erected in this district shall be a minimum of 720 square feet.

## **ARTICLE XIX RL ZONING DISTRICT: SINGLE FAMILY RESIDENTIAL LAKE**

### **SECTION 19.0 PURPOSE**

The purpose of this zoning district is to provide a stable and sound environment for single-family detached dwellings, in a lake environment on lots whose area size would result in approximately two dwellings per acre; to restrict uses and activities which are not appropriate in such an area; to accommodate individual private sewer or septic systems; and to protect the ecological balance of the lake system.

### **SECTION 19.1 PERMITTED USES IN THE RL ZONE**

Land and/or buildings in the RL Zone shall be used for the following purposes only:

- A. Day care, family home
- B. Dwelling, single-family
- C. Home occupation, minor
- D. Park

### **SECTION 19.2 SPECIAL EXCEPTION USES IN THE RL ZONE**

Special Exception Uses in the RL zone that may be authorized in accordance with Article IV are:

- A. Accessory dwelling
- B. Bed and breakfast
- C. Church
- D. Day care, group home
- E. Dwelling, multiple-family
- F. Dwelling, two-family
- G. Home occupation, major
- H. Private boat launch, subject to Section 10.14
- I. Private wind energy facility
- J. Riparian access lot

### **SECTION 19.3 AREA REGULATIONS FOR THE RL ZONE**

Except as provided elsewhere in this Ordinance, no building or structure shall hereafter be erected, altered, or enlarged unless the following yards and lot area requirements are provided and maintained in connection with such building, erection, or enlargement:

- A. front yard of not less than 50 feet for a lakefront lot and not less than 35 feet for a non-lakefront lot, except as regulated in Section 8.5 for Non-conforming Lots and Article XI for Flood Hazard Areas.
- B. side yard of not less than 20 feet on each side of any dwelling or accessory building, except on the street side of a corner lot where a 25 foot side yard shall be provided and maintained, except as regulated by Section 8.5;
- C. rear yard of not less than 20 feet, except as regulated in Section 8.5;
- D. the minimum lot area for use in this zone shall be 19,500 square feet with a minimum lot width of 130 feet;
- E. floor area for dwellings hereafter erected in this district shall be a minimum of 720 square feet.

## **ARTICLE XX MHC ZONING DISTRICT: MANUFACTURED HOUSING COMMUNITY**

### **SECTION 20.0 PURPOSE**

This district is designed solely for mobile home parks and accessory structures and uses normally associated therewith, in accordance with the regulations specified by the State of Michigan Mobile Home Commission Act, P.A. 96 of 1987, as amended.

### **SECTION 20.1 PERMITTED USES IN THE MHC ZONE**

- A. Day care, family home
- B. Dwelling, single-family
- C. Home occupation, minor
- D. Manufactured housing community
- E. Park

### **SECTION 20.2 SPECIAL EXCEPTION USES IN THE MHC ZONE**

Special Exception Uses in the MHP zone that may be authorized in accordance with Article IV are:

- A. Day care, group home
- B. Private wind energy facility

### **SECTION 20.3 MANUFACTURED HOUSING COMMUNITY USE REGULATIONS**

Manufactured housing communities shall be allowed as a permitted use, subject to the following terms and conditions:

- A. all manufactured housing communities shall comply with the requirements imposed by Michigan Public Act 96 of 1987 and any and all amendments thereto and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said Act and regulations may be modified by the provisions herein;
- B. all manufactured housing communities shall have a minimum of ten (10) acres;
- C. setbacks from property lines;
  - 1. mobile homes, permanent buildings and facilities, and other structures shall not be located closer than ten (10) feet from the property boundary line of the manufactured housing community or mobile home condominium;

2. if mobile homes, permanent buildings and facilities, and other structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way line; this rule does not apply to internal roads if dedicated for public use if the roads do not present a nuisance or safety hazard to the park tenants or condominium owners;
- D. the manufactured housing community shall be developed with sites of 5,500 square feet per mobile home unit; this 5,500 square feet for any one site may be reduced up to 20% provided that the minimum individual site is not less than 4,400 square feet; for each square foot of land gained through the reduction of a site below 5,500 square feet, at least 75% of the land saved shall be dedicated as open space, but in no case shall the open space requirement be less than that required under Rule 125.1946 of the Michigan Administrative Code;
  - E. the minimum floor area for a mobile home in a manufactured housing community shall be 720 square feet;
  - F. buildings housing laundry facilities, offices, restroom or shower facilities, a pool, or the sale of retail goods for the exclusive use of the residents of the manufactured housing community may be permitted as an accessory use;
  - G. sites for recreational vehicle or camping accommodations may be provided within a manufactured housing community for temporary stays not to exceed fourteen (14) days; these sites shall be provided with at least common restrooms, showers, laundry facilities, and water supply; sites for such use shall be separated from the main manufactured housing community area and adequate greenbelts shall be required to separate such uses;
  - H. internal roads, alignment, gradient and construction materials shall meet the following requirements:
    1. the alignment and gradient of an internal road shall be adapted to the topography and shall be graded for its full width to drain surface water; when grading roads in length, the finish grade of the street shall not be greater than 8% and not less than 0.4% of the length; short lengths with a maximum grade of 12% may be permitted, provided traffic safety is assured;
    2. an internal road shall be constructed of materials suitable for subgrades and hard surface in compliance with standards of the American Association of State Highway and Transportation Officials (AASHTO), (1974 edition), adopted herein by reference. Copies are available from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001 or from the Department of Commerce, Corporations and Securities Bureau, Mobile Home Section, P.O. Box 30222, Lansing, Michigan 48909;
    3. the park developer may use other suitable materials of equal quality, if approved by the Planning Commission;
  - I. preliminary plans for all new manufactured housing communities or expansions to existing manufactured housing communities must be submitted to and approved by the Township



Planning Commission as being in compliance with the terms of this Ordinance and all applicable state statutes and regulations promulgated thereunder before construction may commence; application for preliminary plan approval shall be made by:

1. filing six (6) copies of the preliminary plan approval with the Township Clerk; and
  2. paying a preliminary plan review fee as determined by resolution of the Township Board based upon the cost of processing the review and as shall be on file with the Township Clerk for public information;
  3. the preliminary plan must include, but shall not be limited to the following:
    - a. the name and address of the applicant;
    - b. the legal description of the subject parcel of land;
    - c. the area of the subject parcel of land;
    - d. the present zoning classification of the subject parcel of land;
    - e. the number and size of individual mobile home sites and the location of the streets;
    - f. the proposed location and method of sewage treatment and disposal;
    - g. the source and location of the water supply and fire hydrants;
    - h. the location of access to public roads;
    - i. drainage provisions;
    - j. site features including all structures, outdoor recreational facilities, walkway, parking, and street frontage;
    - k. the location, size, and design of all signs to be placed upon the site;
    - l. the location and general description of all screening to be retained or established on the site;
    - m. the preliminary plan shall show the location of the site in relation to the surrounding street system, and shall identify the existing uses and zoning of adjacent properties;
    - n. the preliminary plan shall be of a scale not greater than one inch equals twenty feet, not less than one inch equals two hundred feet; however, of such size and accuracy that the Planning Commission can readily interpret the plan;
    - o. the preliminary plan shall show an appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual or firm preparing the plan;
- J. property which is subject to preliminary plan approval must be developed in strict compliance with the approved preliminary plan and any amendments thereto which have received the approval of the Planning Commission;
- K. the Township Planning Commission shall have the right and authority to require the manufactured housing community's developer to file with the Township Clerk at the time of Township approval of a preliminary plan for a new manufactured housing community or for expansion of an existing manufactured housing community, a performance bond or bank letter

of credit in such amounts as may be determined by the Planning Commission to be necessary to insure the development of the site in accordance with the approved preliminary plans thereto, conditioned upon such proper construction and development; such bonds, if required, shall continue for the duration of the construction and development of the site and shall be in a face amount which is a reasonable percentage of the estimated total cost of construction and site development; the bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources or the health, safety, and welfare of the residents of the Township and adjacent residents and property owners; the Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

## **ARTICLE XXI CL ZONING DISTRICT: COMMERCIAL LAKE**

### **SECTION 21.0 PURPOSE**

This zoning district is designed to permit certain commercial activities congruent with a lake setting.

### **SECTION 21.1 PERMITTED USES**

Land and/or buildings in the "CL" zone may be used for the following uses only:

- A. Day care, family home
- B. Dwelling, single-family
- C. Home occupation, minor
- D. Park
- E. Professional office
- F. Restaurant
- G. Retail establishment

### **SECTION 21.2 SPECIAL EXCEPTION USES IN THE CL ZONE**

Special Exception Uses in the CL zone that may be authorized in accordance with Article IV are:

- A. Bed and breakfast
- B. Church
- C. Day care, group home
- D. Dwelling, multiple-family
- E. Dwelling, two-family
- F. Home occupation, major
- G. Library
- H. Marina
- I. Museum
- J. Private club or organization
- K. Private wind energy facility
- L. Tavern

**SECTION 21.3 AREA REGULATIONS FOR CL ZONE**

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

- A. lot area or coverage: any lot or parcel of land upon which a building or structure is to be erected shall be of such size that such building or structure will occupy no more than 25% of the lot area;
- B. structures shall be at least 75 feet from a public right-of-way and at least 50 feet from an AR,RL, RR and MHC Zoning District boundary and there shall be a side yard of not less than 10' in width.

**SECTION 21.4 OTHER DEVELOPMENT REGULATIONS FOR CL DISTRICT**

- A. A greenbelt or screening fence between the CL zone and residential areas may be required under Site Plan Review.
- B. A site plan shall be submitted for review for uses in the CL zone as per Article V Site Plan Review.
- C. Buildings and structures shall not occupy more than 25% of the area of a lot.

## **ARTICLE XXII C-1 ZONING DISTRICT: GENERAL COMMERCIAL**

### **SECTION 22.0 PURPOSE**

This zoning district is designed to permit indoor retail sales and commercial service uses catering to the general public as distinguished from industry or general business customers.

### **SECTION 22.1 PERMITTED USES**

Land and/or buildings in the "C-1" zone may be used for the following uses only:

- A. Day care center
- B. Day care, family home
- C. Dwelling, single-family
- D. Financial institution
- E. Home occupation, minor
- F. Hotel / motel
- G. Medical clinic
- H. Nursery and greenhouse
- I. Park
- J. Personal service establishment
- K. Professional office
- L. Restaurant
- M. Retail establishment
- N. Self-storage facility

### **SECTION 22.2 SPECIAL EXCEPTION USES IN THE C-1 ZONE**

Special Exception Uses in the C-1 zone that may be authorized in accordance with Article IV are:

- A. Car repair facility
- B. Car wash facility
- C. Church
- D. Commercial grain elevator
- E. Contractor's yard
- F. Day care, group home
- G. Drive-through facility
- H. Dwelling, multiple-family
- I. Dwelling, two-family

- J. Educational institution
- K. Equipment repair
- L. Funeral home / mortuary
- M. Home occupation, major
- N. Library
- O. Machine shop
- P. Museum
- Q. Nursing home
- R. Open air business
- S. Private club or organization
- T. Private wind energy facility
- U. Recreation facility
- V. Tavern
- W. Theater
- X. Veterinary clinic

### **SECTION 22.3 AREA REGULATIONS FOR C-1 ZONE**

Regulations in Section 21.3 shall apply.

### **SECTION 22.4 OTHER DEVELOPMENT REGULATIONS FOR C-1 DISTRICT**

Regulations in Section 21.4 shall apply.

## **ARTICLE XXIII C-2 ZONING DISTRICT: MEDIUM COMMERCIAL**

### **SECTION 23.0 PURPOSE**

This zoning district is designed to permit an intermediate range of commercial activities encompassing the uses specified in the "C-1" General Commercial District as well as additional commercial uses.

### **SECTION 23.1 PERMITTED USES**

Land and/or buildings in the "C-2" zone may be used for the following uses only:

- A. Day care center
- B. Day care, family home
- C. Dwelling, single-family
- D. Financial institution
- E. Gas station
- F. Home occupation, minor
- G. Hotel / motel
- H. Medical clinic
- I. Nursery and greenhouse
- J. Park
- K. Personal service establishment
- L. Professional office
- M. Restaurant
- N. Retail establishment
- O. Self-storage facility

### **SECTION 23.2 SPECIAL EXCEPTION USES IN THE C-2 ZONE**

Special Exception Uses in the C-2 zone that may be authorized in accordance with Article IV are:

- A. Adult Business
- B. Car repair facility
- C. Car wash facility
- D. Church
- E. Commercial grain elevator
- F. Contractor's yard

- G. Day care, group home
- H. Drive-through facility
- I. Dwelling, multiple-family
- J. Educational institution
- K. Equipment repair
- L. Farm supply store
- M. Funeral home / mortuary
- N. Home occupation, major
- O. Hospital
- P. Library
- Q. Lumberyard
- R. Machine shop
- S. Museum
- T. Nursing home
- U. Open air business
- V. Private club or organization
- W. Private wind energy facility
- X. Recreation facility
- Y. Tavern
- Z. Theater
- AA. Veterinary clinic

**SECTION 23.3 AREA REGULATIONS FOR C-2 ZONE**

Regulations in Section 21.3 shall apply.

**SECTION 23.4 OTHER DEVELOPMENT REGULATIONS FOR C-2 DISTRICT**

Regulations in Section 21.4 shall apply.



## **ARTICLE XXIV C-3 ZONING DISTRICT: HEAVY COMMERCIAL**

### **SECTION 24.0 PURPOSE**

This zoning district is designed to permit the uses specified in the "C-1" and "C-2" Zoning Districts as well as certain more extensive commercial uses occupying greater land areas, and conducted outdoors in substantial part and/or catering to business and industrial customers as well as the general public.

### **SECTION 24.1 PERMITTED USES**

Land and/or buildings in the "C-3" zoning district may be used for the following purposes only: *(amended May 2017)*

- A. Day care center
- B. Day care, family home
- C. Dwelling, single-family
- D. Financial institution
- E. Gas station
- F. Home occupation, minor
- G. Hotel/Motel
- H. Medical clinic
- I. Nursery and greenhouse
- J. Park
- K. Personal service establishment
- L. Professional office
- M. Restaurant
- N. Retail establishment
- O. Self-storage facility

### **SECTION 24.2 SPECIAL EXCEPTION USES IN THE C-3 ZONE**

Special Exception Uses in the C-3 zone that may be authorized in accordance with Article IV are:

- A. Car repair facility
- B. Car wash facility
- C. Church
- D. Commercial grain elevator
- E. Contractor's yard

- F. Day care, group home
- G. Drive-through facility
- H. Dwelling, multiple-family
- I. Educational institution
- J. Equipment repair
- K. Farm supply store
- L. Funeral home / mortuary
- M. Home occupation, major
- N. Hospital
- O. Library
- P. Lumberyard
- Q. Machine shop
- R. Open air business
- S. Private club or organization
- T. Private wind energy facility
- U. Recreation facility
- V. Sawmill operation, permanent
- W. Tavern
- X. Telecommunication facility
- Y. Theater
- Z. Veterinary clinic

**SECTION 24.3 AREA REGULATIONS FOR C-2 ZONE**

Regulations in Section 21.3 shall apply.

**SECTION 24.4 OTHER DEVELOPMENT REGULATIONS FOR C-2 DISTRICT**

Regulations in Section 21.4 shall apply.

## **ARTICLE XXV S ZONING DISTRICT: STATE LAND**

### **SECTION 25.0 PURPOSE**

The purpose of this zoning district is to delineate land areas owned by the State of Michigan and provide for zoning regulations on lands which may revert to private ownership.

### **SECTION 25.1 TRANSFER OF OWNERSHIP**

Land areas which are transferred from state to private owners or to Barry County or to any other governmental unit or agency other than the State of Michigan or the United States Government shall immediately become included within the adjacent contiguous zoning district with the greatest linear amount of common boundary. If a common boundary does not exist, the land shall become included within the zoning district which is the nearest in terms of linear distance.

## **ARTICLE XXVI NR ZONING DISTRICT: NATURAL RIVERS**

### **SECTION 26.0 PURPOSE**

The purpose of this district is to provide for the preservation of Natural River Areas in the Township. Within the district, certain types of future development and use will be controlled so as to benefit most of the existing private development and to maintain or improve the river environment and water quality for its scenic and recreational values. This Zone shall extend fifty (50) feet from each shore of the designated "Natural River Tributary".

### **SECTION 26.1 PERMITTED USES IN THE NR ZONE**

Land, water, and/or buildings and structures in the NR Zone may be used for the following purposes only (dwelling units and structures, other than those provided herein, are specifically excluded):

- A. the following uses are permitted only if approved by the Michigan Department of Natural Resources. In certain instances, approval by the Michigan Department of Environmental Quality may also be required.
  - 1. damming, dredging, filling, or channelization;
  - 2. stream improvements for fish habitat, bank stabilization, and other natural resource management practices which might alter the natural character of the stream;
  - 3. gas or oil pipelines or electric transmission lines;
  - 4. grazing;
  - 5. private docks and/or bulkheads provided that natural materials such as rocks and logs are used in the construction of such facilities;
- B. water withdrawal for irrigation only if in accordance with the Riparian Doctrine of reasonable use;
- C. signs only if necessary for identification, direction, resource information, or regulation of use;
- D. a natural vegetation strip twenty-five (25) feet wide bordering each side of the stream shall be maintained in trees, shrubs, and other vegetation native to the area, subject to the following provisions:
  - 1. dead, diseased, unsafe, or fallen trees and noxious weeds and shrubs may be removed;
  - 2. lawns may be maintained to within ten (10) feet of the break of the river bank, and normal residential lawn activities are allowed thereon;
  - 3. trees and shrubs may be pruned to afford a view of the river;
  - 4. selective removal of trees for commercial timber harvest or landscaping shall be permitted upon written approval of the DNR area forester and the Building Inspector or Zoning Administrator.

- E. groundwater wells;
- F. boating and canoeing provided that speeds shall be limited to a slow, no-wake speed;
- G. grills and picnic equipment for the use of individual property owners within the district;
- H. fishing and hunting;
- I. licensed motor vehicles only when operated on existing public roads or designated trails on public land.

## **SECTION 26.2 AREA REGULATIONS**

Since dwelling units and structures are excluded from this zone, there shall be no yard, lot area, or floor area regulations necessary.

## **SECTION 26.3 SPECIAL REGULATIONS**

To protect the Natural River from air and/or water pollution and to protect the beauty of the Natural River, the following activities shall be excluded from locating and/or operating within 400 feet of the shoreline of a Natural River:

- A. oil, gas, or mineral exploration and extraction;
- B. temporary and/or permanent blacktop plants and permanent sawmill activity;
- C. radio, television, and microwave towers, transmitting antennas, stations, and facilities; and
- D. sanitary landfills, dumps, and junkyards.

## **ARTICLE XXVII | ZONING DISTRICT: LIGHT INDUSTRIAL**

### **SECTION 27.0 PURPOSE**

This zoning district permits most primary industrial uses. By providing a separate area for such uses, these essential facilities are kept from encroaching in areas or districts where they would be incompatible.

### **SECTION 27.1 PERMITTED USES**

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

(Note: the following uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided that no goods, materials, or objects within five (5) feet of the fence or wall shall be stacked higher than the fence or wall. All business will be conducted in such a manner that no unreasonable noise, smoke, dust, vibration, or any other like nuisance shall exist to affect adjoining residential properties adversely.)

- A. Distribution facility
- B. Manufacturing facility
- C. Self-storage facility
- D. Warehouse
- E. Wholesale establishment

### **SECTION 27.2 SPECIAL EXCEPTION USES IN THE I ZONE**

Special Exception Uses in the I zone that may be authorized in accordance with Article IV are:

(Note: the following uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height, provided that no goods, materials, or objects within five (5) feet of the fence or wall shall be stacked higher than the fence or wall. All business will be conducted in such a manner that no unreasonable noise, smoke, dust, vibration, or any other like nuisance shall exist to affect adjoining residential properties adversely.)

- A. Contractor's yard
- B. Equipment repair
- C. Lumberyard
- D. Machine shop
- E. Manufacturing facility, heavy
- F. Private wind energy facility
- G. Sawmill operation, permanent
- H. Telecommunication facility
- I. Utility Scale Solar Energy Systems (*amended September 2019*)

J. Veterinary clinic

## **ARTICLE XXVIII OPEN SPACE PRESERVATION DEVELOPMENTS**

### **SECTION 28.0 INTENT**

The specific requirements as set forth in these sections of the Ordinance assure compliance with objectives deemed essential to the public health, safety, and general welfare of the community, while allowing greater flexibility in the density of residences in a specific zone(s). This needs to be accomplished without sacrificing established values and rights to adequate light, air, and privacy. These sections are further intended to foster efficient and economical use of land, resources, public services or utilities, and energy; encourage useful open space; and promote variety in housing, both in cost and lifestyle, by allowing the dwelling type, density, and open space to vary, yet maintaining those general policies and objectives of the Township Land Use Plan.

### **SECTION 28.1 MINIMUM PERFORMANCE OBJECTIVES**

The particular facts and circumstances of each Open Space Preservation development proposal shall be reviewed in terms of principles established in Section 28.0 as well as those objectives listed below. All proposals:

- A. Shall minimize the cost of utility and street construction and associated maintenance cost, while adhering to accepted construction standards:
- B. Shall provide a safe, well-designed circulation system with both internal and external connections for pedestrians, as well as vehicles. Points of conflict within the system shall be minimized and special provisions for pedestrian safety, such as overpasses are to be encouraged.
- C. Shall utilize natural characteristics, such as vegetation or topographical characteristics, to protect homes from prevailing winds, provide visual variety, encourage on-site storm drainage retention, and promote solar use awareness and other similar benefits.
- D. Shall enhance and preserve any wildlife habitat areas or identifiable natural features, such as wetlands, swales, woodlots or orchards.
- E. Shall retain on-site for storage and infiltration all storm water runoff attributed to the proposed development.
- F. Shall provide for active and/or passive recreation activities in keeping with the character of the development and its open space.
- G. Shall provide for buffering by the use of plantings, earth berms, or distance between and internal conflicting elements or between adjoining residential uses and on-site features.



## SECTION 28.2 GENERAL RESTRICTIONS AND STANDARDS

- A. Location.** Open space preservation developments are permitted in the AR and RR zoning districts. Open space preservation developments are also permitted in the RL districts, provided that all dwellings in the development are served by a public sanitary sewer system.
- B. Riparian Park (Not Access) Requirement.** Should there be a lake, stream or pond in a portion of the Open Space Preservation development, there shall be an area made accessible for the gathering(s) of the inhabitants of the development as a picnic, park area or similar recreational use. Any riparian access or use of the subject waterways without first applying for and obtaining a Special Exception Use permit for a riparian access lot pursuant to Section 10.12 is prohibited. Shoreline vegetation within a riparian park must remain except for that portion which is necessary to be removed for park purposes. In no event shall the removal of native shoreline vegetation within a riparian park exceed seventy five (75) lineal feet of the subject shoreline(s). No park or playground equipment or similar equipment accessories within a riparian park may be placed closer than fifty (50) feet to the normal high water mark of any waterway abutting the park.
- C. Open Space Preservation Requirement.**

Not less than 50% of the land area within an Open Space Preservation development (excluding (1) all wetlands as defined by the State of Michigan; and (2) 50% of any land area within a recognized buildable flood plain area shall be preserved in a permanent natural state preserving natural resources, natural features or scenic or wooded conditions; agricultural uses; open space; or a similar use of condition. No part of the individual parcels, lots or site condominium units shall be counted toward open space, nor any lands devoted to roadways or impervious surfaces other than those of a recreational nature.

The applicant shall provide documentation of the means to preserve the open space in perpetuity, whether in the form of a conservation easement, deed restriction or similar method approved by the Planning Commission. If proposed for dedication to the public, a letter of support from the public entity, indicating acceptance, shall be included with the application.

### D. Area Requirements

1. (Lot) Width. The individual parcels, lots or site condominium units within an Open Space Preservation development shall have a minimum width of 50% of the minimum lot width requirement within the underlying zone or 100 feet, whichever is greater.
2. (Lot) Area. The individual parcels, lots or site condominium units within an Open Space Preservation development shall have a minimum lot area of 25% of the minimum lot area requirement within the underlying zone.
3. (Lot) Coverage. The individual parcels, lots or site condominium units within an Open Space Preservation development shall have a maximum lot coverage of 40%.
4. Yard/Setback. Dwellings within an Open Space Preservation development shall meet the following minimum setback provisions:

Front: 50% of the underlying zone but no less than 25 feet.

Side: 90% of the underlying zone but no less than 15 feet.

Rear: 90% of the underlying zone but no less than 15 feet.

5. Height. The building height shall not exceed the maximum building height requirement within the underlying zone.

**E. Special Exception Uses.** No Special Exception Use within the underlying zoning district shall be allowed unless such use is processed separately under the Special Exception Use process for review and approval.

## **SECTION 28.3 REQUIRED APPROVALS**

### **A. Preliminary Plan Approval.**

1. An applicant for an Open Space Preservation development shall submit an application for site plan review containing the information required under Section 5.1 of this Ordinance.
2. The applicant shall file with the application a comparison plan that adheres to site development requirements for the underlying zoning district. This shall be in the form of a plat meeting all Zoning Ordinance requirements. This comparison plan shall be used to determine the maximum number of dwelling units that may be developed within the proposed Open Space Preservation development. The comparison plan shall be reviewed initially by the Zoning Administrator for accuracy and shall be subject to final review and approval by the Planning Commission.
3. The review process for preliminary plan approval shall be in accordance with Article V of this Ordinance.
4. The Planning Commission shall review the preliminary plan and determine compliance with the Ordinance standards for:
  - a. Site plan review;
  - b. Requirements within the underlying zoning district; and
  - c. The requirements within this overlay district.

The Planning Commission may approve the preliminary plan as presented, approve, subject to conditions or changes reflected in the motion to approve, table pending the submission of additional information, or deny the request based upon noncompliance with the Ordinance standards. Approval of the preliminary plan shall not constitute approval of the final plan or a phase thereof, but shall only indicate an expression of approval of the preliminary plan as a guide to preparation of the detailed final plan.

### **B. Final Plan Approval.**

1. Prior to final approval of the proposed Open Space Preservation development or any phase thereof, the applicant shall submit to the Planning Commission eight (8) copies of the final development plan containing the information required under Section 5.2 of this Ordinance.

2. The Planning Commission shall hold a public hearing on the proposed final plan. Notice of the public hearing shall be given in accordance with the provisions of Section 30.6 of this Ordinance.
3. The Planning Commission shall review the final plan and determine compliance with the Ordinance standards for:
  - a. Site plan review;
  - b. Requirements within the underlying zoning district; and
  - c. The requirements within this overlay district.

The Planning Commission may approve the final plan as presented, approve subject to conditions or changes reflected in the motion to approve, table pending the submission of additional information, or deny the request based upon noncompliance with the Ordinance standards.

Final plan approval may be granted for individual phases of a project. In the case of phased project approval, time lines for completion of the phases must be submitted by the applicant and approved by the Planning Commission. Each phase of the development shall contain not less than 50% of the land area within open space as required by this Ordinance.

4. The Open Space Preservation development shall be developed in strict compliance with the final plan as approved by the Planning Commission. Modifications to an approved final plan, including any requested extension of a phasing time line, may be approved by the Planning Commission only after a public hearing noticed in accordance with the provisions of Section 30.6 of this Ordinance.

## ARTICLE XXIX PRIVATE ROADS

### SECTION 29.0 PURPOSE

The Township determines it is in the best interest of the public health, safety and welfare to regulate the construction, improvement, extension, relocation and use of private roads to assure:

That private roads are designed with width, surface and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance and other safety vehicles.

That said roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

That private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands and the natural environment of the Township.

That appropriate arrangements are made for adequate maintenance of private roads.

### SECTION 29.1 DEFINITIONS

For purposes of this Article, the following terms are defined as set forth below:

- A. A “private road” is a street, road, easement or right-of-way for vehicular ingress and egress which is non-public and serves more than three (3) lots or single family dwellings.
- B. An “existing private road” is a private road which is used to provide vehicular access to four or more existing lots or existing dwelling units as of the effective date of this Ordinance. An existing private road must physically exist at the effective date of this Article.
- C. An “existing lot” is a lot which, as of the effective date of this Article, meets at least one of the following:
  1. The lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Barry County Register of Deeds or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Barry County Register of Deeds.
  2. The lot has been assigned its own permanent parcel number by the Township Assessor and is individually assessed and taxed on that basis.
  3. The lot is a “condominium unit” (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a “site condominium” development for which a condominium master deed has been recorded with the Barry County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA 59 of 1978, as amended, MCLA 559.101 et seq.) and other applicable laws and ordinances

4. The lot is a platted lot recorded with the Barry County Register of Deeds.

D. An “existing dwelling unit” is a single family home for which a zoning compliance/building permit has been issued by the Township as of the effective date of this Article.

## **SECTION 29.2 ESTABLISHMENT OF PRIVATE ROADS**

A. After the effective date of this Article, a private road shall not be constructed, extended or relocated, except in accordance with the minimum standards and requirements of this Ordinance.

B. Private roads shall be permissible as a Special Exception Use in all zoning districts except the “C-L”, “C-1”, “C-2”, “C-3” and “I” zoning districts, where they shall be prohibited.

C. The provisions of this Article shall not apply to access roads internal to any individual lot or parcel of land which has direct public street frontage access and is under the control of one person, firm, corporation, or association, provided that the access road does not provide access to any abutting lot or parcel of land. Access roads that are subject to site plan review may be exempted from the provisions of this Article. Examples include those serving multi-family dwellings, nursing homes, hospitals, factories, schools, mobile home parks, and shopping centers which are otherwise subject to site plan review and approval under the provisions of this Ordinance.

D. Existing private roads.

1. Existing private roads shall be permitted to serve additional dwellings or lots without Special Exception Use approval provided:

- a. The lots meet all dimensional and road frontage requirements.
- b. There is no physical extension of the road.

2. An existing private road shall not be physically extended unless:

- a. A Special Exception Use permit is granted for such extension in accordance with the procedures and standards set forth in this Article for establishment of a new private road; and
- b. The entire private road, not just the extension, complies or is made to comply with the design and construction standards set forth in Section 29.4 of this Ordinance.

3. If a new private road is proposed from an existing private road creating an intersection of the two roads, the new private road shall only be allowed if:

- a. A Special Exception Use permit is granted for the new private road in accordance with the procedures and standards set forth in this Article for establishment of a new private road; and
- b. The existing private road with which it intersects complies or is made to comply with the design and construction standards set forth in Section 29.4 of this Ordinance.

## SECTION 29.3 DESIGN AND CONSTRUCTION REQUIREMENTS

- A. All private roads shall be designed and constructed to accommodate vehicle speeds of not less than 25 mph.
- B. All private roads shall intersect and connect with a public road or with a system of private roads that is connected with a public road.
- C. A lot shall have frontage on the private road easement and shall meet the minimum lot dimension requirements of the respective zoning district in which it is located.
- D. All private roads shall be centered upon a 66' wide easement or right-of-way.
- E. All private roads shall be constructed with sufficient slopes and grades as to provide adequate storm water and road drainage and shall provide adequate culverts and ditches at all drainage courses and waterways. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer so that it complies with any applicable Barry County Drain Commissioner and State of Michigan structural requirements.
- F. All private roads shall have a surface layer of not less than 6" of 22A aggregate base gravel to be considered finished.
- G. All private roads serving six (6) or fewer dwelling units shall have a finished road surface of at least eighteen (18) feet in width. All private roads serving more than six (6) dwelling units shall have a paved road surface of at least twenty two (22) feet in width consisting of twelve (12) inches of subbase or sand or pit run, 6 inches of 22A Aggregate base gravel, two (2) inches of 220 lbs per square yard of 20A bituminous base and 1.5 inches of 165 lbs per square yard of MDOT-approved bituminous surface. All bituminous surfacing must be placed within one year of commencement of road construction and no bituminous surfacing shall be applied before May 5 or after November 1 without written permission from the Township Engineer. All paved road specifications shall be provided and certified by a licensed engineer and approved by the Township Engineer.
- H. Maximum street grades will be six percent (6%) of the finished road surface unless the Township Engineer approves a greater percent, but in no case shall the street grade exceed ten percent (10%)
- I. Cul-de-sacs shall have a minimum radius of thirty five (35) feet.
- J. Intersections shall meet Barry County Road Commission standards.
- K. Horizontal and vertical clear zones shall be sufficient to accommodate local delivery and emergency vehicles as determined by the Hope Township Zoning Administrator and local Fire Chief.

- L. Inspections shall be performed at each phase of construction by a certified professional engineer with compensation for such services to be the responsibility of the developer. At his or her discretion, the certified professional engineer may require additional inspections in writing at any time during construction.

## **SECTION 29.4 MAINTENANCE AND ACCESS AGREEMENTS**

- A. The applicant(s) and/or owner(s) of the private road shall provide to the Township a proposed road maintenance agreement, access easement agreement and deed restrictions (all in recordable form) which shall provide for the perpetual private (non-public) maintenance of such road to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall contain the following provisions:
  - 1. A method of initiating and financing the maintenance of such road in order to keep the road in a reasonably good and usable condition.
  - 2. A workable method of apportioning the costs of maintenance and improvements.
  - 3. A notice that if needed repairs and maintenance are not made, the Township Board may establish a special assessment district without further petition to gain funding to improve the private road, bring the road up to the design standards specified in this Article and assess owners of parcels on the private road for the improvements and maintenance, plus an administrative fee in the amount of 5% of the total cost of the improvements.
  - 4. A notice that no public funds of Hope Township shall be used to build, repair or maintain the private road.
  - 5. Easements to the public for purposes of utilities and emergency vehicle access.
  - 6. A provision that the owners of any and all of the properties using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use of the private road by any of the other owners. Normal ingress, egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road.
- B. Within thirty (30) days of any Special Exception Use permit granted hereunder and prior to commencement of construction of the private road, the applicant shall provide the Zoning Administrator with documentation that a fully signed copy of the agreements and deed restrictions required hereunder has been recorded with the Barry County Register of Deeds.

## **SECTION 29.5 PRIVATE ROAD APPLICATIONS AND REVIEW**

- A. Permit Application and Fee. A Special Exception Use application to establish, extend or relocate a private road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. In addition to the information required by Article IV, the application shall contain or be accompanied by the following information:
  - 1. The name(s) of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed.

2. Permanent parcel number(s) or legal description of the property(ies) over which the private road is to be constructed.
  3. A site location map, which shows the location of the parcel containing the road and all surrounding properties and roadways within one-half mile of the site.
  4. A scaled drawing showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect, in compliance with this Ordinance.
  5. A scaled drawing showing the proposed lot divisions.
  6. Copies of the proposed road maintenance agreement, access easement agreement and deed restrictions as described in Section 29.5.
  7. A letter of compliance from Barry County indicating there is no known duplication of the proposed private road name.
  8. An approved soil erosion permit from Barry County, if applicable.
  9. A non-revocable petition, in a form satisfactory to the Township Planning Commission, signed by all record owners of lands to be served by the proposed private road requesting and authorizing the Hope Township Board to establish without further petition, a special assessment district under PA 188 of 1954, as amended (MCL 41.721 et seq.) for such improvement and/or maintenance of the private road as the Township Board deems necessary to maintain the road in compliance with the standards in this Article. The petition shall include authorization for the Township to cause such improvements and/or maintenance to be performed on the private road and to specially assess the properties served by the private road for the cost of such maintenance and improvements plus an administrative fee in the amount of 5% of the maintenance and/or improvements.
- B. Planning Commission Consideration of Application. Copies of the application and supporting documents should be forwarded to the Planning Commission for hearing and consideration in accordance with the provisions of Article IV of this Ordinance. In determining whether to grant a Special Exception Use permit for the proposed private road, the Planning Commission shall consider not only the requirements set forth in this Article but also the general standards for Special Exception Use permit approval set forth in Section 4.0 of this Ordinance.
- C. Planning Commission Approval of Special Exception Use Permit. If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall grant Special Exception Use permit approval and direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plan shall be stamped for approval; one copy shall be kept by the applicant and one by the Township. This construction permit is not a private road permit and does not authorize the construction of any dwelling units or any other buildings on the private road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new permit



shall be required before construction can begin. The private road must be completed within one (1) year of beginning construction.

- D. Final Compliance Requirements. Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
1. A letter from a registered professional engineer that the road has been constructed in compliance with Township standards and the approved private road plans.
  2. A driveway permit for the private road from the Barry County Road Commission or Michigan Department of Transportation.
- E. Private Road Permit Issuance. Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- F. Permits for Buildings on Private Roads. A building permit/zoning compliance permit shall not be issued for any principal building which derives its primary access from a new private road unless a private road permit has been issued by the Township and the road has either been completed in accordance with the approved permit or the applicant for the building permit or owner(s) of the private road has provided the Township with cash, bond or irrevocable letter of credit in an amount determined by the Township Zoning Administrator in consultation with the Township Engineer to be sufficient to ensure construction of the private road in accordance with the private road construction permit within one (1) year from the issuance of the building permit. The letter of credit shall contain a provision that the Township shall have the right to access the letter of credit or bond if such letter is not renewed 30 days before the expiration date of the letter.

## **SECTION 29.6 TOWNSHIP LIABILITY**

The owner(s) of the private road shall agree in writing as a condition of applying for and receiving a private road Special Exception Use permit to indemnify and save and hold the Township and its Township Board, officers and employees harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road and all expenses incurred in defending such claims. The substance of this subsection shall appear on the application for the Special Exception Use permit and be signed by the owner(s) of the land on which the private road is located.

## **SECTION 29.7 PRIOR NON-CONFORMING PRIVATE ROADS**

All existing private roads which were lawful on the effective date of this Article shall continue to be lawful. It is the intent of this Ordinance that such existing private roads shall not be extended except as set forth in Section 29.2 of this Ordinance.

## **ARTICLE XXX ENFORCEMENT AND ADMINISTRATION**

### **SECTION 30.0 ENFORCEMENT AND PENALTY PROVISIONS**

- A. The provisions of this Ordinance shall be enforced by a Building Inspector and/or Zoning Administrator and/or by such Township official as may from time to time be designated by a resolution of the Township Board of Trustees. All such persons are hereby further authorized to issue and serve municipal civil infraction citations and municipal ordinance violation notices as authorized under Public Act 12 of 1994.
- B. Any violation of this Ordinance shall be deemed to be a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with Ordinance No. 21 and Ordinance No. 60 of the Hope Township Code of Ordinances.

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Hope Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9 nor more than \$500 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with the Ordinance. Each week that a violation exists shall constitute a separate offense.

- C. The Zoning Enforcement Officer shall take the following steps, as necessary:
1. Identify, observe, and describe land use activity;
  2. Take photographs, if possible, noting time and date taken;
  3. Determine what section(s) of the zoning ordinance is (are) being violated;
  4. Attempt to discuss, explain, or describe the violation with the party maintaining the land use or activity and note time, date, and place of each contact. In addition to any attempted verbal contact, the Zoning Enforcement Officer will send a letter listing the sections of the Zoning Ordinance that are being violated. This letter shall be called the Notice of Violation.
  5. If the violation is not corrected within ten (10) days of the written notice or such additional time period as the Zoning Administrator shall deem appropriate given the nature of the violation and the violator's efforts to cure the same, the Zoning Enforcement Officer, after consulting with the Township Supervisor and, if necessary, the Township Attorney, shall have authority to institute judicial proceedings for enforcement of the Zoning Ordinance. A failure by the Zoning Administrator to act in accordance with the above-outlined procedure shall not be grounds for invalidating any judicial enforcement proceeding commenced under this Ordinance.
- D. The Zoning Enforcement Officer shall have authority to, upon approval by the Township Supervisor, deviate from the above enforcement procedure and initiate more immediate enforcement action to stop an existing zoning violation if the Zoning Enforcement Officer and the Township Supervisor determine that special circumstances exist making such action

advisable in order to (1) prevent or alleviate substantial or irreparable injury to persons or property or (2) prevent a significant expansion in the scope of the zoning violation.

## **SECTION 30.1 RESERVED (SEE 30.9 BELOW)**

## **SECTION 30.2 ZONING ADMINISTRATOR**

- A. The Hope Township Board shall designate an individual to serve as the Zoning Administrator to administer and enforce this Ordinance. The Zoning Administrator may delegate duties to such other persons as may be assigned to assist.
- B. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing, the person responsible for such violation, indicating the nature or the violation and ordering the action necessary for correction. He/she shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.
- C. All Township personnel responsible for carrying out their responsibilities under the terms of this Ordinance shall show proper credentials before entering private property for the purposes of carrying out such responsibilities.

## **SECTION 30.3 DUTIES AND LIMITATIONS OF THE ZONING ADMINISTRATOR**

- A. The Zoning Administrator shall have the authority to grant zoning compliance permits and to make inspection of buildings or premises necessary to carry out his/her duties in the enforcement of this Ordinance.
- B. It shall be unlawful for the Zoning Administrator to approve any plans or issue a zoning compliance permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this Ordinance. To this end, the Zoning Administrator shall require that an application for a zoning compliance permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this Ordinance, be accompanied by a site plan, in accordance with Article V of this Ordinance.
- C. If the proposed excavation, construction, moving or alteration, or use of land as set forth in the application, and site plan, when required, is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a zoning compliance permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.
- D. Issuance of a zoning compliance permit shall in no case be construed as waiving any provisions of this Ordinance. The Zoning Administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance to any person

making application to excavate, construct, move, alter, or use buildings, structures, or land, except as such authority may be explicitly provided for in this Ordinance. The Zoning Administrator shall have no authority to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out his/her duties.

- E. The Zoning Administrator shall not refuse to issue a zoning compliance permit when the applicant has complied with all applicable conditions required by this Ordinance. Violations of contracts such as covenants, deed or plat restrictions, or private agreements which may result upon the granting of said permit are not cause for refusal to issue a permit.

## **SECTION 30.4 ZONING COMPLIANCE PERMIT**

- A. Except as otherwise provided in this Ordinance, it shall be unlawful for any person to commence the erection, addition, alterations or repair of any building, structure or parking area, or repair or move any building or structure, or commence a land use until a zoning compliance permit has been issued by the Zoning Administrator. The zoning compliance permit shall be on such form as is approved by the Township Board.
- B. Each zoning compliance permit shall become null and void within one (1) year following the issuance of the permit unless the provisions of the permit have been utilized or unless reapplication is made and approved by the Zoning Administrator.
- C. Exempted from the zoning compliance permit requirements are alterations and ordinary maintenance repairs made on any building or structure that does not affect the external dimension of the building or structure.

## **SECTION 30.5 STOP USE OR STOP WORK ORDER**

In addition to any other rights or remedies the Township may have pursuant to this Ordinance or other applicable law, upon finding the existence of any one of the conditions listed in paragraph A of this section, the Zoning Administrator shall be empowered to issue stop work or stop use orders as defined herein and in accord with the terms of this section and may order a stoppage of work or a cessation of a land use.

- A. A stop work or stop use order may be issued when:
  - 1. An imminent threat to the public health, safety or welfare exists.
  - 2. Work is being done or has been done without a permit.
  - 3. Work is being done beyond the scope of the issued permit.
  - 4. Work being done does not match approved plans.
  - 5. The Zoning Administrator finds evidence of a violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.
  - 6. The Zoning Administrator finds evidence of a permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.

7. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
  8. A permittee fails to pay any fees required by this article and/or any other applicable ordinances, codes, statutes or laws.
  9. The Zoning Administrator finds evidence a permittee is causing, allowing and/or maintaining a nuisance as determined by the Township.
- B. Procedure. In the event a stop work or stop use order is issued, the Zoning Administrator shall do the following:
1. Mail or deliver a written notice of the stop work order to the permittee at the last address furnished to the Township by permittee, as well as the location of the site which is in violation. Notice shall include:
    - a. Detailed description of the nature of the violation and required actions to remedy the violation.
    - b. Date and time of recorded violation.
    - c. A statement informing the permittee that an appeal to the stop work order may be filed with the Zoning Board of Appeals and a public hearing on the matter may be requested, at which time the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.
  2. The public hearing shall be scheduled no sooner than ten (10) days after a request is received by the Township from the permittee.
  3. At the public hearing, the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.
  4. Following the hearing, the Zoning Board of Appeals shall make a decision to continue, modify or dissolve a stop work order and/or revoke a permit, as applicable. In the event the Zoning Board of Appeals decides to revoke a permit or to continue or modify a stop work use order, the Zoning Board of Appeals Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

## **SECTION 30.6 HEARING AND NOTICE REQUIREMENTS**

Where this Ordinance requires the Township to provide notice of a public hearing for any decision or action permitted, authorized or required by this ordinance or under Act 110 of the Public Acts of 2006 as amended, notice of the public hearing shall be given as follows:

- A. The notice shall be published once, not less than 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.

- B. Except as provided in Subsection D of this Section, a notice of public hearing shall also be mailed or personally delivered to the following persons, at least 15 days prior to the date of the public hearing:
1. The applicant;
  2. The owner or owners of the subject property;
  3. All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request, even if the 300 feet extends outside of the Township's boundaries; and
  4. The occupants of all structures within 300 feet of the property that is the subject of the application or request, even if the 300 feet extends outside of the Township's boundaries. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
- C. The notice of public hearing shall include the following information:
1. A description of the nature of the proposed amendment, application or request.
  2. An identification of the property that is the subject of the application or request, if applicable. Except as provided in Subsection D of this Section, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
  3. A statement of when and where the application or request will be considered.
  4. A statement of when and where written comments will be received concerning the application or request.
  5. In the case of an amendment to the Ordinance or to the Zoning Map, the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
- D. When a proposed rezoning involves the text of the Zoning Ordinance or 11 or more adjacent properties, or when a petition to the Zoning Board of Appeals involves an interpretation of the zoning ordinance or an appeal of an administrative decision that does not involve a specific parcel, the mailing or delivery requirements of Subsections B 2, B 3, and B 4, of this Ordinance are not required, and the listing of individual property addresses under Subsection C 2, is not required.
- E. For a zoning ordinance amendment, including rezoning of property, the notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township for the purpose of receiving the notice of public hearing.

- F. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the body holding the public hearing may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

## **SECTION 30.7 AMENDMENTS**

- A. Any interested person may request, and the Township may approve or disapprove, an amendment to this Ordinance and/or zoning map. Such requests must be submitted at least twenty-one (21) days prior to the next regularly scheduled Planning Commission meeting.
- B. Application Procedure.
1. An amendment to the text of the ordinance shall be submitted for consideration by the Planning Commission in accordance with the Zoning Enabling Act, Act 110 of 2006, as amended. A description of the request, reference to the text proposed for amendment, proposed new text, as well as justification for the request shall be included in the petition. For an amendment to the Zoning Map, a description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request shall be included in the petition.
  2. When a proposed amendment is received the Planning Commission, the Planning Commission shall schedule a public hearing in accordance with Section 30.6 of this Ordinance.
  3. The Planning Commission shall hold the public hearing, noting all comments and reports requested, or noting the absence of such.
  4. The Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct technical errors without further hearing. If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
  5. The proposed amendment shall be forwarded to the Barry County Planning Commission for review. The county shall be provided at minimum of thirty (30) days to review the proposed amendment unless the county has, by resolution, waived its right to review Township Ordinances and amendments as permitted by the Michigan Zoning Enabling Act, as amended.
  6. After receiving comments by the Barry County Planning Commission, if provided, the request shall be forwarded to the Township Board for consideration.
  7. If the Township Board determines that the proposed amendment should be modified or rejected, it may refer the proposed amendment back to the Planning Commission for further consideration and for comments within a time specified by the Township Board. After receiving the report of the Planning Commission, the Township Board shall grant a hearing on the proposed amendment to a property owner who requests a hearing by certified mail, addressed to the Clerk. Additionally, the Township Board may hold a public hearing on the proposed amendment if considers it necessary. Notice of any such hearing shall be given in

accordance with the Section 30.6 of this Ordinance.

8. The Township Board shall either approve or deny the proposed amendment. If approved, Township Board shall publish the Ordinance amendment in its entirety or a summary of the regulatory effect of the Ordinance amendment in a newspaper having general circulation in the Township within fifteen (15) days of adoption, pursuant to the Michigan Zoning Enabling Act. The proposed amendment becomes effective eight (8) days after publication.
- C. Applicable Factors. When reviewing an amendment request, the Township may consider, but shall not be limited to the following:
1. Whether the proposed change is in accordance with the Township's Master Plan.
  2. Whether the proposed change represents a form of spot zoning.
  3. Whether the proposed use would be incompatible with existing (and/or future) uses in the area.
  4. Whether the proposed change would negatively affect the Township's ability to implement or follow the Master Plan for the area.
  5. Other factors set forth in the Zoning Enabling Act, Act 110 of 2006, as amended.

## **SECTION 30.8 PERFORMANCE GUARANTEES**

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Hope Township, and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Board of Appeals may require the applicant to deposit a performance guarantee as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, and landscaping.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. When a performance guarantee is required, said performance guarantee shall be deposited with the Township Treasurer prior to the issuance of a zoning compliance permit by the Zoning Administrator for the development and use of the land. Upon the deposit of the performance guarantee, when in the form of a cash deposit or certified check, the Township shall deposit it in an interest-bearing account.
- C. In the event a performance guarantee is required, the applicant shall also furnish such authorization as is required by the Township to permit the Township to enter upon the subject property to complete the improvements in the event of default by the applicant.
- D. An approved site plan or project shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the zoning compliance permit.



- E. In the event the performance guarantee deposited is a cash deposit or certified check, the Township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one-hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the performance guarantee herein required may be applied by said applicant to assure compliance with the Zoning Ordinance standards and the specifications of the approved site plan.
- F. Upon the satisfactory completion of the improvement for which the performance guarantee was required, as determined by the Zoning Administrator, the Township Treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- G. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the Township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. At the time the performance guarantee is deposited with the Township and prior to the issuance of a zoning compliance permit, the applicant shall enter an agreement incorporating the provisions hereof with the Township regarding the performance guarantee.

## **SECTION 30.9 FEES AND APPLICANT ESCROW ACCOUNTS**

- A. The Hope Township Board may establish by resolution, fees for appeals, application for amendments, Special Exception Uses, site plan reviews, zoning compliance permits, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township Hall and may be altered only by resolution of the Township Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.
- B. If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under Section 31.2(A) will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit with the Township Treasurer such additional fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs.

These additional fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Zoning Administrator may require the applicant to deposit additional fees into escrow in an amount determined by the Zoning Administrator to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

## **ARTICLE XXXI SEVERABILITY, REPEALER AND EFFECTIVE DATE**

### **SECTION 31.0 SEVERABILITY**

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

### **SECTION 31.1 REPEALER AND SAVINGS**

- A. Repeal of Former Ordinance. The Hope Township Zoning Ordinance, adopted in 1995, including amendments and additions thereto, is hereby repealed as of the effective date of this Ordinance.
  
- B. Savings Clause. The repeal of the Hope Township Zoning Ordinance, adopted in 1995, shall not release any penalty or liability incurred under said Ordinance, and such Ordinance shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty or liability.

### **SECTION 31.2 EFFECTIVE DATE**

This Ordinance shall become effective eight (8) days following publication of a notice of adoption in a newspaper of general circulation in the Township, as required by the Michigan Zoning Enabling Act, as amended.

### **SECTION 31.3 ADOPTION**

Adopted by the Hope Township Board at a regularly scheduled Board meeting held March 21, 2016.

Moved by \_\_\_\_\_, support by \_\_\_\_\_ to adopt the Hope Township Zoning Ordinance as recommended and approved by the Hope Township Planning Commission.

Ayes:

Nays:

Abstained:

