



# **EDENVILLE TOWNSHIP ZONING ORDINANCE Ordinance No. 182**

**Adopted August 8, 2017**

**EDENVILLE TOWNSHIP, MIDLAND COUNTY, MICHIGAN**

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# **EDENVILLE TOWNSHIP ZONING ORDINANCE**

## **EDENVILLE TOWNSHIP ORDINANCE NUMBER 182**

Effective November 5, 2013

The Township Board of Edenville Township, Midland County, Michigan, pursuant to the authority vested in it by Act 110 of Public Acts of the State of Michigan of 2006, as amended, hereby adopts the following Edenville Township Ordinance No. 182, to be known as the “Edenville Township Zoning Ordinance,” applicable throughout Edenville Township, and which Ordinance amends, repeals and supersedes in its entirety Edenville Township Ordinance No. 182 Adopted on March 8, 2017.

### **THE TOWNSHIP OF EDENVILLE, MIDLAND COUNTY, MICHIGAN, ORDAINS:**

#### **Preamble**

*An ordinance to establish zoning districts and regulations governing the development and use of land within the zoning jurisdiction of the Township of Edenville, Midland County, Michigan, in accordance with Act 110 of Public Acts of the State of Michigan of 2006, as amended; to provide for the establishment of Zoning Districts to encourage and regulate the use of land and location of buildings and structures for residence, trade, industry, or other purposes; to regulate dimensions of yards, and other spaces; to provide for the administration, enforcement, remedies for violation, and amendment of this Ordinance; to further the goals and objectives set forth in the Edenville Township Master Plan; to provide regulations regarding conflicts with other ordinances or regulations; and to provide for the repeal and replacement of the prior zoning ordinance.*

## **ARTICLE 1. TITLE AND PURPOSE**

**Section 1.01 — Title:** This Ordinance shall be known, cited and referred to as the “Edenville Township Zoning Ordinance.”

**Section 1.02 — Purpose:** The provisions of this Ordinance shall be the minimum requirements, adopted for the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare.

**Section 1.03 — Conflicts:** Where this Ordinance imposes greater restrictions upon the use of land, buildings or other structures, or requires larger yards or other open spaces than are imposed or required by other provisions of law or ordinance, the provisions of this Ordinance shall prevail. Any activity, structure, practice or use that is unlawful under state or federal law is unlawful in Edenville Township.

## ARTICLE 2. DEFINITIONS

**Section 2.01 — Rules Applying to the Text:** The following rules of construction shall apply to the text of this Ordinance:

1. Except with respect to the headings contained in Section 2.02, the headings that title a chapter, article, section, or subsection of this Ordinance are for the purposes of organization and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting any of its terms or provisions in any respect.
2. When inconsistent with the context, words used in the present tense shall include the future tense, words in the singular shall include the plural, and words in the plural shall include the singular.
3. The words “shall,” “must,” and “will” are always mandatory and not discretionary. The word “may” is permissive and discretionary.
4. A “building” or “structure” includes any part thereof unless specifically excluded. The word “building” includes the word “structure,” and “dwelling” includes “residence.”
5. The terms “person” or “entity” shall include a firm, association, partnership, joint venture, corporation, trust, municipal, or public entity, or equivalent entity or any combination of them as well as a natural person.
6. The words “used” and “occupied,” as applied to any land, building, or structure, shall be construed to include the phrases “intended to be,” “arranged to be,” or “designed to be” used or occupied.
7. The words “erected” or “erection” as applied to any building or structure, shall be construed to include the words “built,” “constructed,” “reconstructed,” “moved upon,” or any physical operation or work on the land on which the building or structure is to be erected, built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
8. The particular shall control over the general.
9. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms “and,” “or,” and “either or” shall be interpreted as follows:
  - A. “And” denotes that all the connected items, conditions, provisions, or events apply in combination.
  - B. “Or” and “either or,” indicates that the connected items, conditions, provisions, or events may apply singly or in combination.
10. Terms not herein defined shall have common, customary meanings.
11. The word “Township” shall refer to Edenville Township.
12. The word “Ordinance” shall refer to the Edenville Township Zoning Ordinance, unless the context clearly indicates otherwise.
13. The Edenville Township Zoning Board of Appeals shall have the jurisdiction to provide any necessary interpretation of this Ordinance.

**Section 2.02 — Definitions:** For the purposes of this Ordinance, the following words have the definitions indicated:

**ACCESS PROPERTY:** A property, parcel or lot abutting a lake or waterway connected to Sanford Lake, the Tittabawassee River, Old Tobacco River, or Verity Creek, and used or intended to be used for providing access to the lake by pedestrian or vehicular traffic to and from off shore land regardless of whether said access to the water is gained by easement, common fee ownership, lease, license, gift, business invitation, or any other form or dedication or conveyance.

**ACCESSORY BUILDING or STRUCTURE:** A subordinate building or structure on the same lot or parcel of land as the principal building or structure that is devoted exclusively to an accessory use as defined in this Ordinance. Tents, trailers, mobile homes, tractor trailers, or similar structures or vehicles shall not be considered accessory structures.

**ACCESSORY USE:** A use specified in a zoning district that is clearly incidental to, customarily found in conjunction with, subordinate to, on, and located in the same zoning lot as the principal use. Accessory use may be carried on any lot or parcel of land, in accordance with Zoning Ordinance and in accordance with Section 15.03 – Corner Lots and 15.10 – Accessory Buildings and Structures.

**ADJACENT LOT:** A lot that shares all or part of a common lot line with another lot.

**AGRICULTURE:** The use of land for tilling of the soil, the raising of tree and field crops, animal husbandry, and other agriculturally related uses.

**AIRPORT:** That term as defined in Section 102 of the Michigan Zoning Enabling Act, MCL 125.3102, as amended.

**ALTERED:** Any change in previous conditions, including but not limited to changes in usage, location, square footage, or height of a building.

**BASEMENT:** That portion of a building that is partly or wholly below grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story unless over fifty (50) percent of its height is above the level from which the building is measured.

**BUILDING:** An independent structure having a roof supported by columns or walls resting on its own foundation.

**BUILDING LINE, MINIMUM SETBACK:** The minimum distance that any building must be located from a right-of-way, property line, or high water line.

**BUILDING LINE, FRONT:** The line that coincides with the face of the building nearest the front line of the lot. This face includes decks and porches, but does not include steps or the eave of the roof. Said line shall be parallel to the front lot line and measured as a straight line between the intersecting points with the side yard.

**BUILDING LINE, REAR:** The line that coincides with the face of the building nearest the rear line of the lot. This face includes decks and porches, but does not include steps or the eave of the roof. Said line shall be parallel to the rear lot line and measured as a straight line between the intersecting points with the side yard.

**BUILDING LINE, SIDE:** The line that coincides with the face of the building nearest either side yard line. This face includes decks and porches, but does not include steps or the eave of the roof.

**CAMPGROUND:** Any parcel or tract of land, under the control of any person where sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units.

**CANOPY:** A movable structure, constructed of tubular steel and canvas, plastic tarp, or sheet metal covers, or similar materials, typically used to cover vehicles or boats. Canopies shall be considered accessory structures.

**CHILD CARE CENTER OR DAY CARE CENTER:** A facility, other than a private residence, that provides care for seven (7) or more preschool or school age children, as defined by Michigan Public Act 116 of the Public Acts of 1973, as amended, that pertains to the regulation of Child Care Organizations, and as regulated by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**CHURCH:** See **PLACE OF WORSHIP**.

**COMMERCIAL BUSINESS:** A purposeful business that is engaged in the exchange of or buying and selling of goods and/or services as a means of livelihood.

**COMMERCIAL VEHICLE:** Any vehicle the manufacturer rates as having more than a 3/4 ton load capacity, excluding recreational or farm vehicles.

**DWELLING OR DWELLING UNIT:** Any structure erected on site, a mobile home, or a pre-manufactured or pre-cut structure, designed or used exclusively for residential purposes that has sleeping, living, cooking and sanitary facilities and can accommodate one (1) family, either permanently or transiently, and complying with the standards set forth in this ordinance:

- A. It contains a minimum area of 1,000 square feet of habitable floor area or such greater area as may be required in the district where it is located.
- B. It complies in all respects with the Michigan Construction Code, as amended, including minimum height for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Construction Code, then applicable Federal or State standards or regulations shall govern.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan Construction Code and shall have a foundation wall of the same perimeter

dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings.

- D. In the event that the dwelling is a mobile home in a mobile home park or is an existing nonconforming structure, as defined herein, such dwelling shall be installed pursuant to the manufacturer's set up instructions; shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission; shall be installed with the wheels, axle, and towing mechanism removed; shall have no exposed undercarriage or chassis; and shall have a perimeter wall as required above.
- E. It is connected to a public or private sewer and water supply, provided that private systems or facilities are approved by the local Health Department.
- F. It has not less than two (2) exterior doors with the second one being in either the rear or side of the dwelling; and contains permanently attached steps connected to said door areas where a difference in elevation requires the same.
- G. It contains no additions or rooms or other areas that are not constructed with similar quality workmanship as the original structure and in compliance with the Michigan Construction Code, including permanent attachment to the principal structure and construction of a perimeter foundation as required herein.
- H. It complies with all pertinent building and fire codes. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. It shall have a minimum width and length along its front, sides and rear of twenty (20) feet.
- J. It contains storage area(s) either in a basement located under said dwelling, in an attic area, in a closet area or in a separate fully enclosed structure on the site equal to not less than fifteen (15%) percent of the interior living area of the dwelling.
- K. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required herein.
- L. All construction required herein shall be commenced only after a zoning compliance land use permit and a building permit has been obtained in accordance with the applicable provisions and requirements of the Township. Non-conforming mobile home units as described in Section 16.05 are to be inspected and approved off-site by the Code Authority of Midland County prior to delivery on-site.
- M. In no case shall travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling or dwelling unit.
- N. Only one (1) dwelling shall be permitted per parcel and the joining of two (2) or more separate mobile homes to form one (1) dwelling unit shall not be permitted.

In the case of buildings that are occupied for residential purposes in part, the portion occupied shall be considered a dwelling or dwelling unit, provided it is in conformance with the criteria for dwellings.

**DWELLING, SINGLE-FAMILY:** A detached building containing not more than one (1) dwelling unit designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.



**DWELLING, TWO-FAMILY:** A building containing not more than two (2) separate dwelling units designed for residential use and conforming in all respects to the standards set forth in Dwelling Unit.

**DWELLING, MULTIPLE-FAMILY:** A building containing three (3) or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in Dwelling Unit.

**EASEMENT:** The right, privilege, or interest that one (1) party has in the land of another. For the purpose of front, side, and rear yard setbacks, an easement will be considered the same as right-of-way.

**EFFICIENCY UNIT:** A dwelling unit for one (1) individual or small family consisting of one (1) room exclusive of bathroom, hallway, closets, and the like.

**ESSENTIAL SERVICES:** The term “Essential Services” shall include gas, electric, steam, or water transmission or distribution systems, collection, and communication, supply, or disposal systems reasonably necessary for the public health, safety, or general welfare.

**FAMILY:** A group of two or more persons related by blood, marriage or adoption, including foster children, and not more than one additional person not so related, living together as or single housekeeping unit in a dwelling unit.

**FAMILY CHILD CARE HOME OR FAMILY DAY CARE HOME:** A private home in which one (1) to six (6) minor children receive care and supervision, as defined by Michigan Public Act 116 of 1973, as amended, that pertains to the regulation of Child Care Organizations, and as regulated by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**FARM:** Any parcel of land that is used for gain in the production of field and tree crops, livestock, poultry, and dairy products. Includes both general and specialized farming and similar agricultural enterprises, such as nurseries and greenhouses and secondary agricultural uses such as fruit orchards, tree farms, and pastures.

**FARM ANIMAL:** Non-domesticated animals, including but not limited to, cows, pigs, sheep, goats, horses, llamas, alpacas, buffalo, and poultry. Domestic animals, including but not limited to dogs, cats and fish, are not considered farm animals.

**FENCING:** A permanent or temporary partition, structure, or gate erected as a dividing marker and not part of a structure.

**FLOOR AREA:** Area of all living space determined by outside wall dimensions of a dwelling. Garage and unfinished basement areas are excluded.

**FRATERNAL LODGES OR CLUBS:** A private group organized for some mutual aim or pursuit that meets regularly and whose activities are mainly confined within a meeting.

**GARAGE, PRIVATE:** A private garage is a building or structure that is typically used for the parking or storage of vehicles by the property owner(s). A private garage may be attached or unattached to a principal structure. This shall also include a carport.

**GREENBELT:** A greenbelt shall be a buffer area consisting of space that shall be level or a berm and landscaped with trees, shrubs, vines, and ground covers that will provide a continuous year round obscuring screen.

**GROUP DAY CARE HOME:** A private home in which seven (7) to twelve (12) minor children receive care and supervision, as defined by Michigan Act 116 of the Public Acts of 1973, as amended, that pertains to the regulation of Child Care Organizations, and as regulated by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

**HOME OCCUPATION:** An occupation for gain or support conducted by members of a family residing on the premises and conducted entirely on the premises in the dwelling and/or garage. Home occupations shall not be conducted or maintained in any accessory building.

**JUNK YARD:** A place, structure, or parcel of land where junk, discarded waste, salvaged or similar materials, such as scrap iron or other metal, wood, lumber, glass, paper, rags, cloth, bagging, motor vehicle parts, machine parts, cordage, barrels, containers, etc., are bought, sold, exchanged, maintained, baled, packed, disassembled, stored, including but not limited to, auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment.

**KENNEL:** A parcel upon which the building(s) or lands are designed or arranged to house three (3) or more dogs, cats, fowl or other domestic animals four (4) months or older, used for the sale, breeding, grooming, training, or care of animals for profit, but shall not include farm animals.

**LOT:** A parcel of land, separate from other parcels, that is part of a recorded subdivision, plat, or described by metes and bounds in any survey, conveyance or deed, whether or not recorded.

**LOT, AREA:** The total horizontal area within the lot lines of the lot.

**LOT, CORNER:** A lot located at the intersection of two (2) or more streets where the corner interior angle formed by the intersection of (2) two streets is 135 degrees or less; a lot abutting on a curved street or streets is tangent to the curve at the two points where the lot lines meet the curve forming an interior angle of less than 135 degrees.

**LOT, INTERIOR:** An interior lot is a lot other than a corner lot.

**LOT LINE, FRONT:** The front lot line is a line dividing the lot from the road right-of-way, or a line designated on a plat as the front lot line. On a corner lot, the shorter lot line shall be considered the front lot line unless otherwise designated in the plat (see Figure 1).

**LOT LINE, SIDE:** Any lot line not a front or rear lot line (see Figure 1).

**LOT LINE, REAR:** The rear lot line is the lot line opposite the front lot line (see Figure 1).

**LOT, RECORDED:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by county and community officials and that actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

**LOT, WIDTH OF:** Width of the lot at particular points as designated in this Ordinance.

**MANUFACTURED HOME:** Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., §§ 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974) as amended; is transportable in more than one section, is built on a permanent chassis; and does not have hitch, axles, or wheels permanently attached to the body frame. This term shall include those structures commonly referred to as “double-wide.”

**MINING SITE:** Premises from which any rock, gravel, sand, topsoil, or earth in excess of one-thousand (1,000) cubic yards in any one calendar year is excavated or removed for the purpose of disposition away from the premises, except excavation in connection with the construction of a building on the mining site or construction within public highway right-of-way together with necessary buildings, apparatus, or appurtenances incidental thereto.

**MOBILE HOME:** Factory-built single-family structure that is manufactured under the authority of 42 U.S.C., §§ 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act of 1974), as amended; is transportable in one section; is built on a permanent chassis; and does not have hitch, axles, or wheels permanently attached to the body frame. This term shall include those structures commonly referred to as “single-wide.”

**MOBILE HOME PARK:** A parcel of land that has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use, as defined by Act 419 of Public Acts of the State of Michigan of 1976, as amended

**MOTEL:** A series of attached, semi-attached, or detached rental units providing overnight lodging for transients that is open to the traveling public for compensation. The term “motel” shall include tourist cabins and motor cabins or courts. A motel shall not be considered or construed to be a dwelling unit or multiple dwellings.

**NONCONFORMING:** A use, building or structure, or parcel or tract of land lawfully existing at the time of adoption of this Ordinance or subsequent amendment thereto, that does not conform to the regulations of the zoning district in which it is situated. Non-conformity may also be defined as provided by relevant statute and/or other law.

**OPEN SPACE:** Open fields and open areas in natural undeveloped states.

**OUTBUILDING:** A secondary building or structure on a parcel, which may include a garage or an accessory building or structure.

**PARKING SPACE:** A minimum of 200 contiguous square feet exclusive of drives, entrances, and exits shall comprise one (1) automobile parking space.

**PLACE OF WORSHIP:** A building wherein people regularly assemble for religious worship and that is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

**PLANNED UNIT DEVELOPMENT (PUD):** A form of land development comprehensively planned under a unitary site plan that permits flexibility in building, siting, usable open spaces, and the preservation of significant natural features. Such a development may contain a mix of housing types and nonresidential uses. PUDs are regulated and governed principally under Article 12 of this Ordinance.

**POLLUTION:** Unnatural additions to land, air, or water rendering undesirable the uses for which they are intended.

**PRINCIPAL USE:** The principal purpose for which land, building or structure is arranged, designed, or intended, or for which land or a building or structure is or may be occupied.

**PRIVATE DRIVEWAY:** The route, way, ingress, egress, etc., that is used to provide vehicular access from a public or private street, road, highway, boulevard, or avenue to a structure. A private driveway is not generally open to the public.

**PUBLIC PARK:** Parks for public use that may have such improvements as ball fields, swings, picnic facilities, tennis courts, and camping sites.

**PUBLIC UTILITIES:** Any person, firm or corporation, municipal department, board or commission duly authorized under federal, state, or municipal regulations to furnish the public with gas, steam, electricity, sewage, disposal, communication, telegraph, television, transportation or water.

**RIGHT-OF-WAY LINE:** Shall be the established deeded or platted right-of-way line that separates the public right-of-way from an adjacent lot, or in the event there is no established right-of-way line for a road, the said right-of-way line shall be deemed to be 33 feet from the center of the road.

**ROAD OR STREET:** A public or private thoroughfare that affords the principal means of vehicle access to abutting property and that has a right-of-way of not less than 66 feet in width for any road created hereafter. A "Hard Surface Road" is a road consisting of concrete or bituminous asphalt. A "Primary Road" is a county hard surfaced road. A "Private Road" is a road built and

maintained by private organizations or individuals. A “Secondary Road” is county hard surface, dirt, or gravel road that is not a Primary Road.

**ROOMING OR BOARDING HOUSE:** A building other than a motel where for more than twenty (20) days a year lodging, meals, or both are offered to more than three (3) but less than twenty-one (21) persons at a time for compensation.

**SERVICE STATIONS:** A building or structure designed or used for the retail sale or supply of fuel, lubricants, air, water, tires, and other operating commodities for motor vehicles, including the customary space and facilities for the installation of such commodities on or in such vehicles, including repairs.

**SKIRTING:** A colored aluminum, vinyl, fiberglass, decorative wood or metal material designed specifically for siding, soffit, or skirting, extending from the ground to dwelling floor, encompassing the entire perimeter of the dwelling.

**SPECIAL USE:** A use specified in a zoning district only allowed under this Ordinance following issuance of a special use permit.

**STORY:** That portion of a building included between the surface of any floor and the ceiling next above it.

**STORY, ONE-HALF:** A story under the gable, hip, or gambrel roof, the wall top plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story.

**STRUCTURE:** Anything attached to or upon the ground, the use of which requires more or less permanent location on the ground or attachment to something having more or less permanent location on the ground.

**TEMPORARY BUILDING OR STRUCTURE:** A building or structure permitted to exist during periods of construction of the main building or structure or for special events, for six (6) months or less. A temporary dwelling shall comply with all required setbacks for the district in which it is located.

**TOURIST HOME (INCLUDING BED AND BREAKFAST):** A dwelling in which overnight accommodations for compensation are provided or offered for transient guests.

**VARIANCE:** A modification of the specific regulations of this Ordinance granted by the Zoning Board of Appeals in accordance with the terms of this Ordinance and Act 110 of the State Public Act of 2006, as amended.

**WELL HOUSE:** An enclosure for covering a well. A well house shall be no greater than 48 square feet in area and 6 feet in height.

**WIRELESS COMMUNICATION FACILITY:** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers, cellular phone and paging devices, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings, and commercial radio-service facilities.

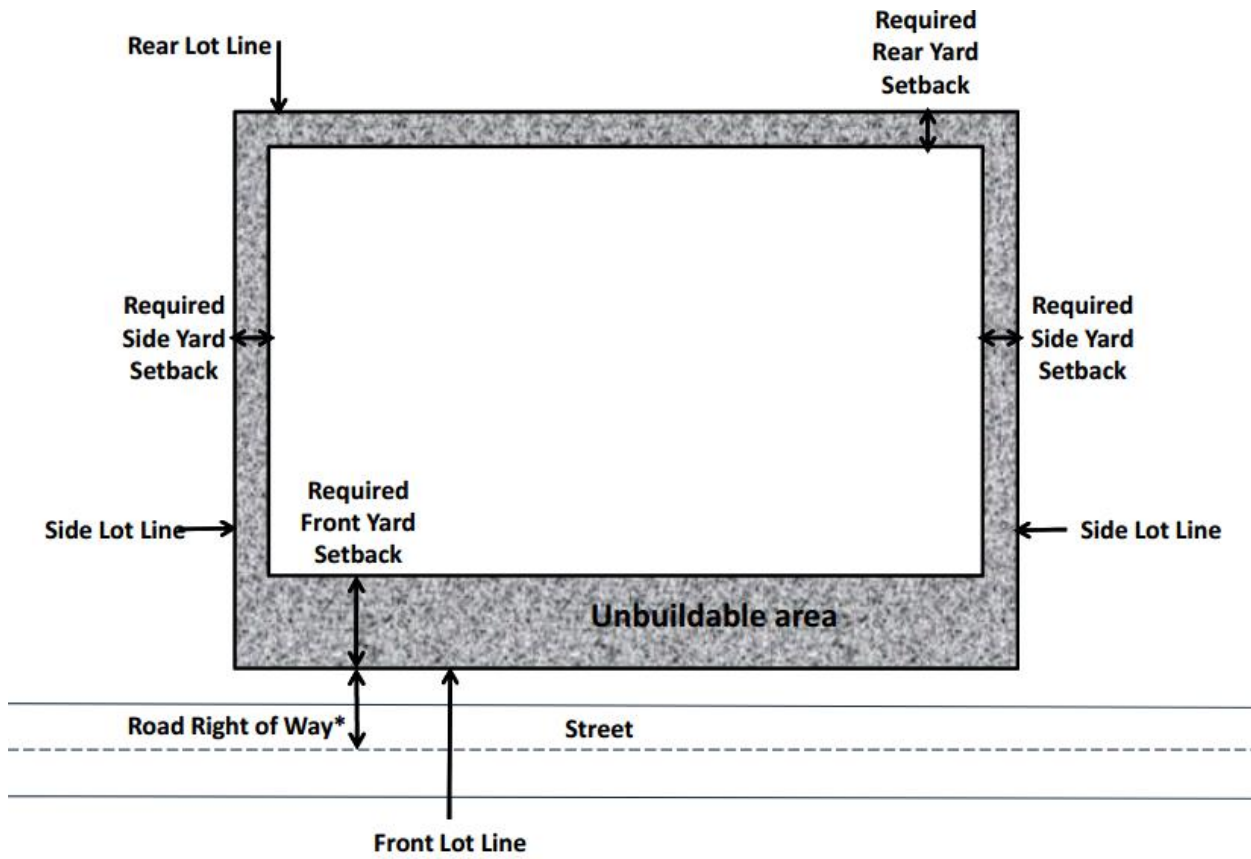
**WIRELESS COMMUNICATION SUPPORT STRUCTURE:** Any structure used to support attached wireless communication facilities or other antenna or facilities, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof mounted pole, monopole, or other similar structures that support wireless communication facilities.

**YARD, FRONT:** An open, unoccupied space on the same lot with the main building, extending the full width between the side lot lines and situated between the public or private road right-of-way and the front building line. (See Figure 1)

**YARD, REAR:** An open, unoccupied space on the same lot with the main building, extending the full width between the side lot lines and situated between the rear line of the lot and the rear building line and shall be measured between the rear line of the lot or the center line of the alley, if there is an alley, and the rear building line. (See Figure 1)

**YARD, SIDE:** An open, unoccupied space on the same lot with the main building, situated between the side building line and the adjacent sideline of the lot, extending from the front lot line to the rear lot lines. If no front yard, the front boundary of the side yard shall be the front of the lot and if no rear yard is required, the rear boundary of the side yard shall be the rear lot line. (See Figure 1)

**Figure 1. LOT LINES AND REQUIRED YARDS**



**\*The front yard setback begins at the edge of the right of way nearest the dwelling or structure.**

### ARTICLE 3. ESTABLISHMENT OF DISTRICTS AND ZONING MAP

**Section 3.01 — Districts:** For the purpose of this Ordinance, all of the unincorporated areas in the Township of Edenville are hereby divided into the following types of districts, to be known as, and having the following symbols:

DISTRICT R-1	RESIDENTIAL
DISTRICT R-2	MIXED RESIDENTIAL
DISTRICT A	AGRICULTURAL
DISTRICT C	COMMERCIAL AND LIGHT INDUSTRIAL
DISTRICT I	HEAVY INDUSTRIAL
DISTRICT R-3	RECREATIONAL
DISTRICT R-4	PASSIVE RECREATIONAL

**Section 3.02 — Zoning Map:** Said districts as shown on a map entitled “Edenville Township, Midland County, Michigan District Zoning Map” is hereby made a part of this Ordinance.

**Section 3.03 — Location of District Boundaries:** The first priority in determining District Boundaries shall be as identified by the written descriptions of District Boundaries. Where the boundaries of districts are so indicated that they appear parallel to the right-of-way lines of the roads, such boundaries shall be construed as parallel thereto and at such distance there from as indicated on the Zoning Map. If no distance is indicated, such dimensions shall be determined by use of the scale on said zoning map.

**Section 3.04 – Site Development Requirements (See Table 1):** All uses shall comply with the site development requirements in Table 1, unless specifically authorized otherwise, and shall also comply with all other applicable provisions of this Ordinance. In addition:

1. The depth of a lot shall not exceed four times its width; with the allowable exclusion of flood plain land, as stated in the Land Division Ordinance.
2. For a corner lot, the minimum side yard setback of the side yard along the road shall equal the minimum front yard setback for the lot.
3. The minimum setback for Agricultural (District A), Commercial (District C), Heavy Industrial (District I) shall be increased to 50 feet where the parcel abuts a Residential District (Residential District R-1 and Mixed Residential District R-2).
4. No side yard setback is required in the District C Commercial and Light Industrial on the side of a lot characterized by shared-wall construction with a building on an abutting lot.
5. Irrespective of any other requirements of this Ordinance pertaining to setbacks, under no conditions shall buildings housing animals, feed or manure be closer than one hundred (100) feet to any lot line.
6. Waterfront lots are subject to Article 17.



Section 3.04 –Table 1. Site Development Requirements

	<b>District R-1 Residential</b>	<b>District R-2 Mixed Residential</b>	<b>District A Agricultural</b>	<b>District C Commercial and Light Industrial</b>	<b>District I Heavy Industrial</b>	<b>District R-3 Recreational</b>	<b>District R-4 Passive Recreational</b>
<b>Minimum Lot Area (acres or sq. ft.)</b>	15,000 sq. ft.	15,000 sq. ft.	<i>none</i>	<i>none</i>	5 acres	<i>none</i>	<i>none</i>
<b>Minimum Lot Width (feet)</b>	60 ft.	60 ft.	150 ft.	150 ft.	150 ft.	<i>none</i>	<i>none</i>
<b>Minimum Building Width Throughout (feet)</b>	24 ft. for dwellings	Single-Family Dwelling: 20 ft. Two-Family Dwelling: 24 ft.	20 ft. for dwellings	<i>none</i>	<i>none</i>	<i>none</i>	<i>none</i>
<b>Minimum Front Yard Setback (feet)</b>	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.	50 ft.
<b>Minimum Back Yard Setback (feet)</b>	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
<b>Minimum Side Yard Setback (feet)</b>	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.

**\*The front yard setback begins at the edge of the right of way nearest the dwelling or structure.**

## ARTICLE 4. DISTRICT R-1 RESIDENTIAL

**Section 4.01 — Intent and Purpose:** The purpose of this district is to reserve areas principally for single-family and two-family residential uses and to maintain safe and desirable conditions for year-round family living.

**Section 4.02 — Permitted Uses and Structures:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures
  - a. Single-family dwelling.
  - b. Two-family dwelling.
  - c. Family Day Care Home.
  - d. Home Occupations.
2. Uses Permitted by Special Use Permit
  - a. Public and private schools and other educational institutions.
  - b. Community and publicly owned and operated buildings and facilities.
  - c. Places of worship.
  - d. Pond.
  - e. Child Care Center.
  - f. Planned Unit Development (PUD).
  - g. Public utility substations and buildings.

**Section 4.03 — Accessory Uses, Buildings, and Structures:** Accessory uses, buildings, and structures customarily incidental to the principal use or special permit use are permitted but not allowed as primary structures. Accessory Use, Building and Structures may be used during the building period of the primary structure. No accessory buildings without a dwelling will be allowed in R-1 Residential. Housing of horses is as follows: 1.5 acres for one horse, 1 additional acre for each additional horse is required. For lots 60 ft. wide and less, the following setbacks are allowed: 8 ft. side setbacks, 50 ft. front setback, 10 ft. back setback. For corner lots 60 ft. wide or less, the side setback nearest the road shall be 20 ft., provided it does not impede any view from existing houses.

**Section 4.04 — Dwelling Area and Dimensional Requirements:**

1. Single-Family - No single-family dwelling in this district shall be erected or altered that provides less than 1200 square feet of floor area, with a minimum dwelling width of 24 feet.
2. Two-Family - No two-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area per unit, with a minimum dwelling width, throughout its length of 24 feet.

**Section 4.05 — Size of Parcel:** Every parcel of land upon which a dwelling is hereafter erected or altered shall not be less than 15,000 square feet in area nor less than 100 feet in width at the building line. Every parcel of land shall have a minimum 60 feet of frontage upon a road or street as defined herein. The 15,000 square foot minimum lot area and 100 foot lot width at the building site shall exclude any public, private road or street right-of-ways. No segment of any property line shall be less than 30 feet in length.

## ARTICLE 5. DISTRICT R-2 MIXED RESIDENTIAL

**Section 5.01 — Intent and Purpose:** The purpose of this district is to offer a wide variety of housing choices in a single district providing a mixture of single-family, two-family, and multiple-family dwellings.

**Section 5.02 — Permitted Uses and Structures:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures:
  - a. Single-family dwelling.
  - b. Two-family dwelling.
  - c. Family Day Care Home.
  - d. Home Occupation.
  - e. Accessory buildings and structures are allowed as a primary use.
  
2. Uses Permitted by Special Use Permit:
  - a. Public and private schools and other educational institutions.
  - b. Community and publicly owned and operated buildings and facilities.
  - c. Multiple-family dwelling.
  - d. Places of worship.
  - e. Pond.
  - f. Child Care Center.
  - g. Group Day Care Home.
  - h. Planned Unit Development (PUD).
  - i. Public utility substations and buildings.
  - j. Cemetery.
  - k. Fraternal lodges, private clubs, and similar civic or social organizations.
  - l. Mobile Home Park.

**Section 5.03 — Accessory Uses, Buildings, and Structures:** Accessory uses, buildings and structures customarily incidental to the principal use or special permit use are permitted. Housing of horses is as follows: 1.5 acres for one horse, 1 additional acre for each additional horse is required. For lots 60 ft. wide and less, the following setbacks are allowed: 8 ft. side setbacks, 50 ft. front setback, 10 ft. back setback. For corner lots 60 ft. wide or less, the side setback nearest the road shall be 20 ft., provided it does not impede any view from existing houses.

**Section 5.04 — Dwelling Area and Dimensional Requirements:**

1. Single-Family - No single-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area, with a minimum dwelling width of 20 feet.

2. Two-Family - No two-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area per unit, with a minimum dwelling width, throughout its length of 20 feet.
3. Multiple Family Dwelling – No multi-family dwelling in this district shall be erected or altered that provides less than the minimum square footage of floor area as follows:
  - A. 600 square feet per unit for an efficiency unit.
  - B. 750 square feet per unit for a 1-bedroom unit.
  - C. 850 square feet per unit for a 2-bedroom unit.
  - D. 1,150 square feet per unit for a 3-bedroom unit.

**Section 5.05 — Size of Parcel:** Every parcel of land upon which a dwelling is hereafter erected or altered shall not be less than 15,000 square feet in area nor less than 100 feet in width at the building line. Every parcel of land shall have a minimum 60 feet of frontage upon a road or street as defined herein. The 15,000 square foot minimum lot area and 100 foot lot width at the building site shall exclude any public, private road or street right-of-ways. No segment of any property line shall be less than 30 feet in length.

## ARTICLE 6. DISTRICT A AGRICULTURAL

**Section 6.01 — Intent and Purpose:** The predominant land use in this district is agricultural. It is the intent and purpose of this district to conserve and promote the general continuation of agricultural use, while recognizing the gradual extension of residential and other compatible uses into the district.

**Section 6.02 — Permitted Uses and Structures:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures
  - a. Single-family dwelling.
  - b. Two-family dwelling.
  - c. Farms.
  - d. Community and publicly owned and operated buildings and facilities.
  - e. Home Occupation
  - f. Accessory buildings and structures are allowed as a primary use.
  
2. Uses Permitted by Special Use Permit:
  - a. Mining.
  - b. Transient and amusement enterprises.
  - c. Public utility substations and buildings.
  - d. Wireless communication facilities and support structures
  - e. Airport.
  - f. Kennel.
  - g. Ponds.
  - h. Wind energy conversion systems.
  - i. Additional one story family dwelling for use by temporary farm help.
  - j. Planned Unit Development (PUD).
  - k. Multi-family dwelling.
  - l. Family Day Care Home.
  - m. Child Care Center.
  - n. Group Day Care Home.
  - o. Campground.
  - p. Tourist homes and rooming houses.
  - q. Fraternal lodges, private clubs, and similar civic or social organizations.
  - r. Nonprofit fundraisers.

**Section 6.03 — Accessory Uses, Buildings, and Structures:** Accessory uses, buildings, and structures customarily incidental to the principal use or special permit use are permitted. Housing of horses is as follows: 1.5 acres for one horse, 1 additional acre for each additional horse is required.

**Section 6.04 — Dwelling Area and Dimensional Requirements:**

1. Single-Family - No single-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area, with a minimum dwelling width of 20 feet.
2. Two-Family - No two-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area per unit, with a minimum dwelling width, throughout its length of 20 feet.
3. Multiple Family Dwelling – No multi-family dwelling in this district shall be erected or altered that provides less than the minimum square footage of floor area as follows:
  - E. 600 square feet per unit for an efficiency unit.
  - F. 750 square feet per unit for a 1-bedroom unit.
  - G. 850 square feet per unit for a 2-bedroom unit.
  - H. 1,150 square feet per unit for a 3-bedroom unit.

**Section 6.05 — Size of Parcel:** Every parcel of land upon which a dwelling is hereafter erected or altered shall not be less than 15,000 square feet in area nor less than 150 feet in width at the building line. Every parcel of land shall have a minimum 150 feet of frontage upon a road or street as defined herein. The 15,000 square foot minimum lot area and 150 foot lot width at the building site shall exclude any public, private road or street right-of-ways. No segment of any property line shall be less than 30 feet in length.

**Section 6.06 — Farms and Keeping of Animals; GAAMPs:** Farms and keeping of animals must be operated and maintained in accordance with the recommendations set forth in the applicable Generally Accepted Agricultural and Management Practices (GAAMPs) as adopted by the Michigan Agricultural Commission, as may be amended from time-to-time and in accordance with such additional rules, regulations, and guidelines, as from time-to-time be may established by the Michigan Agricultural Commission or other appropriate state agency pursuant to the Michigan Zoning Enabling Act as amended, the Right to Farm Act, Public Act 93 of 1981, as amended, and Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.

## ARTICLE 7. DISTRICT C COMMERCIAL AND LIGHT INDUSTRIAL

**Section 7.01 — Intent and Purpose:** The purpose of this district is to provide for neighborhood shopping, personal services and professional office areas, that are primarily compatible and of service to residential uses in the Township and to accommodate operations conducted wholly within a building whose external, physical effects are restricted to the area of the district and in no manner impact any of the surrounding districts in a detrimental way.

**Section 7.02 — Permitted Uses and Structures:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures:
  - a. Single-family dwelling.
  - b. Two-family dwelling.
  - c. Multiple-family dwelling.
  - d. Retail sales and wholesale establishments. If such establishment contains a residence, the entire structure shall be at least 1500 square feet in area.
  - e. Motels and tourist homes.
  - f. Business, professional and philanthropic facilities or offices.
  - g. Personal service establishments, such as beauty and barber shops, financial institutions, laundry and dry cleaning shops; exclusive of drive-up windows or drive-through services.
  - h. Building and landscaping contractor offices with garages for maintenance and storage of equipment.
  - i. Nurseries and greenhouses.
  - j. Restaurants.
  - k. Community and publicly owned and operated buildings and facilities.
  - l. Lawn care and landscaping.
  - m. Accessory buildings and structures are allowed as a primary use.
2. Uses Permitted by Special Use Permit:
  - a. Transient and amusement enterprises.
  - b. The production, processing, assembly, manufacturing, or packaging, testing, repair, storage distribution and sale of goods, or materials, including but not limited to recreational supplies, toys, pharmaceuticals, tools, toiletries, hardware and cutlery, tool die, gauge and machine shops, molded products, musical instruments, electrical appliances, electronic devices, signs, heating and venting equipment, and eaves.
  - c. The manufacture, compounding, assembling, or improvement of articles or merchandise from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, soil, shell, textiles, tobacco, wax, wire, wood, yarns and such other similar materials.
  - d. Public utility substations and buildings.
  - g. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or natural gas.

- h. The production, processing, assembly, manufacturing or packaging, testing, repair, storage, distribution, and sale of goods or material including but not limited to tanneries, rendering works, refineries, rubber processing, and packing houses.
- i. Storage Units and/or facilities for non-hazardous materials.
- j. Gasoline service stations, including auto repair.
- k. Drive-up windows or drive-in or drive-through facilities.
- l. New or Expanded Commercial Developments.
- m. Wireless communication facilities and support structures
- n. Planned Unit Development (PUD).

**Section 7.03 — Accessory Uses, Buildings, and Structures:** Accessory uses, buildings, and structures customarily incidental to the principal use or special permit use are permitted. Housing of horses is as follows: 1.5 acres for one horse, 1 additional acre for each additional horse is required. For lots 60 ft. wide and less, the following setbacks are allowed: 8 ft. side setbacks, 50 ft. front setback, 10 ft. back setback. For corner lots 60 ft. wide or less, the side setback nearest the road shall be 20 ft., provided it does not impede any view from existing houses.

**Section 7.04 — Dwelling Area and Dimensional Requirements:**

- 1. Single-Family - No single-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area, with a minimum dwelling width of 20 feet.
- 2. Two-Family - No two-family dwelling in this district shall be erected or altered that provides less than 1000 square feet of floor area per unit, with a minimum dwelling width, throughout its length of 20 feet.
- 3. Multiple Family Dwelling – No multi-family dwelling in this district shall be erected or altered that provides less than the minimum square footage of floor area as follows:
  - I. 600 square feet per unit for an efficiency unit.
  - J. 750 square feet per unit for a 1-bedroom unit.
  - K. 850 square feet per unit for a 2-bedroom unit.
  - L. 1,150 square feet per unit for a 3-bedroom unit.

**Section 7.05 — Size of Parcel:** Every parcel of land upon which a dwelling is hereafter erected or altered shall not be less than 15,000 square feet in area nor less than 100 feet in width at the building line. Every parcel of land shall have a minimum 60 feet of frontage upon a road or street as defined herein. The 15,000 square foot minimum lot area and 100 foot lot width at the building site shall exclude any public, private road or street right-of-ways. No segment of any property line shall be less than 30 feet in length.

**Section 7.06 — New or Expanded Commercial Developments:** All new or expanded commercial development applications for special use shall be reviewed and approved by the Planning Commission and will not tend to further:

- 1. Impair the adequate supply of light and air to adjacent property.
- 2. Increase the hazard from fire, flood, and other dangers.
- 3. Diminish the market value of adjacent land and buildings.
- 4. Otherwise impair the public health, safety, comfort, and general welfare.



## ARTICLE 8. DISTRICT I HEAVY INDUSTRIAL

**Section 8.01 — Intent and Purpose:** This district is established primarily for manufacturing, assembling and fabrication activities, including large scale or specialized industrial operations, or other uses whose customary external physical effects will be felt to some degree by surrounding uses.

**Section 8.02 — Permitted Uses and Structures:** No building, structure or land or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures:
  - a. Commercial storage.
  - b. The production, processing, assembly, manufacturing, or packaging, testing, repair, storage distribution and sale of goods, or materials, including but not limited to recreational supplies, toys, pharmaceuticals, tools, toiletries, hardware and cutlery, tool die, gauge and machine shops, molded products, musical instruments, electrical appliances, electronic devices, signs, heating and venting equipment, and eaves.
  - c. The manufacture, compounding, assembling, or improvement of articles or merchandise from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semi-precious metals or stones, soil, shell, textiles, tobacco, wax, wire, wood and yarns or such other similar materials as approved by the Planning Commission through a Special Use Permit.
  - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or natural gas.
  - e. Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves, and the like.
  - f. Principal Permitted Uses and Structures in District C.
  - g. Accessory buildings and structures are allowed as a primary use.
2. Uses Permitted by Special Use Permit:
  - a. Mining.
  - b. Paving and underground construction contractors.
  - c. Race track.
  - d. Incinerators and transfer stations.
  - e. Shooting ranges.
  - f. Slaughterhouses.
  - g. Auditoriums, stadiums and outdoor theaters.
  - h. Junk yards and used auto parts dealers.
  - i. Uses Permitted Subject to Approval of Special Use Permit in District C.
  - j. Wireless communication facilities and support structures

**Section 8.03 — Accessory Uses, Buildings, and Structures:** Accessory uses, buildings, and structures customarily incidental to the principal use or special permit use are permitted. For lots 60 ft. wide and less, the following setbacks are allowed: 8 ft. side setbacks, 50 ft. front setback, 10 ft. back setback. For corner lots 60 ft. wide or less, the side setback nearest the road shall be 20 ft., provided it does not impede any view from existing houses.

**Section 8.04 — Area and Dimensional Requirements:** No lot in this district shall be less than five (5) acres in area, exclusive of the road right-of-way. Every parcel of land shall have a minimum 150 feet of frontage upon a road or street as defined herein. No segment of any property line shall be less than 30 feet in length.

## ARTICLE 9. DISTRICT R-3 RECREATIONAL

**Section 9.01 — Intent and Purpose:** It is the intent of this district is to encourage public and private recreational use and protect and preserve natural, scenic areas of and in Township.

**Section 9.02 — Permitted Uses:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

1. Principal Permitted Uses and Structures:
  - a. Public outdoor recreational uses such as beaches.
  - b. Bathhouses.
  - c. Picnic grounds.
  - d. Recreational camps.
  - e. Parks.
  - f. Golf courses, ballparks, or similar facilities for outdoor exercise and recreation.
  - g. Community and Edenville Township buildings.
  
2. Uses Permitted Subject to Approval of Special Use Permit:
  - a. Public utility substations and buildings.
  - b. Transient and amusement enterprises.
  - c. Campgrounds.

**Section 9.03 — Unimproved Land Exempt from Site Plan Review:** Unimproved land in its natural state shall be exempt from the requirements of submitting a site plan.

## ARTICLE 10. DISTRICT R-4 PASSIVE RECREATIONAL

**Section 10.01 — Intent and Purpose:** It is the intent of this district to encourage public and private use of natural, unimproved land, protect, and preserve natural, scenic areas of and in Township.

**Section 10.02 — Uses Permitted:** Within this district, no building or structure, or any part thereof, shall be erected, altered, or used, or land or premises used, in whole or in part, for other than one or more of the following specified uses:

- a. Picnic grounds.
- b. Hiking trails with or without interpretive displays.
- c. Non-motorized bicycle trails.
- d. Restrooms.
- e. Fishing.
- f. Canoeing and non-motorized boating.  
Pavilions located within 300 feet of the parking areas.
- g. Horseback riding is allowed on non-motorized trails.

**Section 10.03 — Unimproved Land Exempt from Site Plan Review:** Unimproved land in its natural state shall be exempt from the requirements of submitting a site plan.

## ARTICLE 11. RESIDENTIAL OPEN SPACE

**Section 11.01 — Intent and Purpose:** It is the intent of this Article to offer an alternative to traditional subdivisions through the use of cluster zoning as authorized by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, for the purpose of:

1. Encouraging the use of land in accordance with its character and adaptability.
2. Assuring the permanent preservation of open space and other natural resources.
3. Providing recreational facilities within a reasonable distance of all residents of the Residential Open Space development.
4. Encouraging the provision of open space of a reasonable size.
5. Allowing innovation and greater flexibility in the design of residential developments.
6. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner.
7. Ensuring compatibility of design and use between neighboring properties and a consistent density with that permitted in the current zoning district.
8. Encouraging a less sprawling form of development, thus preserving open spaces as undeveloped land.

These regulations are intended to preserve the character of Edenville Township through the creation of small residential nodes with complementary open space, and to allow for modifications from the general standards to meet the intent of this Ordinance.

**Section 11.02 — Review and Approval Process:** If the Residential Open Space option is selected, the residential zoned property shall be developed under the conditions and requirements in this Article, applicable requirements for the district in which the development is located, and other applicable zoning regulations and ordinances. Proposals for Residential Open Space developments shall be reviewed following the same procedures used for Planned Unit Development (PUD), except that the applicant shall complete a site features inventory prior to development. The inventory shall consist of maps and written analysis that shall identify, describe and quantify the following features, at minimum: existing vegetation, topography at two-foot contour intervals, water coursed, drainage patterns, roads and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings), MDEQ-regulated wetlands, floodplains, woodlands and tree lines, and any additional features uniquely affecting the site.

**Section 11.03 — Density:** The permitted density of the residential uses:

- a. Shall not exceed the density that would be permitted if the site was developed as a conventional single family subdivision.
- b. Shall be based on the net buildable area of the site that consist of the portions of the site that are not encumbered, by the regulated wetlands (except that one-quarter of the total wetlands may be counted as buildable), steep slopes, existing and proposed road rights-of-way, easements, existing structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for residential purposes.

Modifications permitted under the Residential Open Space option that result in reduction in land area dedicated to individual dwelling units shall be compensated for by an equivalent amount of open space that shall be maintained and preserved in accordance with the standards specified in this subsection.

#### **Section 11.04 — Dimensional Standards**

1. Variations from the setback and lot size requirements for the underlying zoning district may be permitted where the Township finds that a smaller lot size is required to achieve the density permitted under Section 11.03 of this Article.
2. Any detached single-family dwelling (or accessory structure thereto) shall be located at least ten (10) feet from any other detached single-family dwelling or accessory structure.

**Section 11.05 — Open Space Requirements:** Residential Open Space developments shall provide and maintain open space in an undeveloped state that shall comply with the following requirements:

1. Reserve at least 20% of the entire parcel in an undeveloped state.
2. Open space shall be located on the parcel as necessary to meet the following objectives:
  - a. To preserve distinctive natural features, scenic or weeded conditions, and other open space.
  - b. To preserve farmlands.
  - c. To minimize impact from development on wetlands, streams, and other sensitive environmental areas.
  - d. To provide additional buffering from traffic and enhance views from the roadway.
  - e. Maintain or creates an upland buffer or natural native species vegetation on at least 100 feet in depth from the residential property line adjacent to wetlands and surface waters.
  - f. Minimize impact on large woodlands (greater than 5 acres) especially those located on upland soils considered prime for timber production.
  - g. Leave scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads and surface water.
  - h. Avoid sitting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features or by sitting in forested areas.
  - i. Design around and preserve sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.
  - j. Protect rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establish buffer zones along the scenic corridor of rural roads. Establish buffer zones along the scenic corridor of rural roads with historic buildings, stonewalls, hedgerows, etc.
3. The open space may be left natural undeveloped, or developed with children's play facilities, picnic facilities, trails and similar passive recreational facilities to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives.

4. Open space shall not include the area of any public or private road, the area of any easement providing access to the site, or the area of any commercial recreation use (such as a golf course).
5. Open space also shall not include the area of any storm water retention or detention pond, with the exception that up to 50% of the surface area of storm water management ponds may qualify as open space if the following conditions are met:
  - a. All storm water management ponds shall be integrated into the overall development and shall serve as a visual and physical amenity to the site. A visual and physical amenity is easily accessible to pedestrians and/or non-motorized vehicles and is visually attractive.
  - b. All storm water management ponds shall have a minimum permanent water depth of 4 feet and a maximum permanent water depth of 9 feet.
  - c. The maximum slope of storm water management ponds in a Planned Unit Development (PUD) shall be 1:6 feet.
  - d. Fences around storm water management ponds are not permitted.
  - e. All storm water management ponds shall have a natural appearance, and shall be round, oval, or kidney in shape with irregular edges.
  - f. Recreation facilities such as walking paths shall be provided near and/or around storm water management ponds to allow users of the site to use and enjoy the ponds as an amenity.
6. Open Space areas shall be protected from soil compaction during construction.
7. Open space shall be set aside by the developer through an irrevocable conveyance, such as a deed restriction, conservation easement, plat dedication, restrictive covenant, or other means that runs with the land assuring that the open space will remain undeveloped. Such conveyance shall:
  - a. Indicate the proposed use(s) of the required open space.
  - b. Provide for the privately-owned open space to be maintained by private property owners having an interest in the open space.
  - c. Provide maintenance standards and a maintenance schedule.
  - d. Provide notice of possible assessment to the private property owners by Edenville Township for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
  - e. After approval from the Township Attorney, the developer shall record the conveyance with the Midland County Register of Deeds to provide record notice of the restrictions to all persons having or seeking an interest in the property contained in the Residential Open Space development. Evidence that the document has been recorded shall be provided to the Township prior to issuance of any permits to commence construction.
  - f. The developer shall create a Master Deed or Deed Restriction establishing an area of open space described. This Master Deed or Deed Restriction will provide for the maintenance and upkeep of the open space.

## **Section 11.06 — Storm Water Management**

1. Existing natural drainage shall be maintained to maximum extent feasible.
2. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material that enhances the wildlife habitat.
3. Best management practices for storm water management are encouraged, such as use of natural habitat to filter storm water (bio-swales, rain gardens and phytoremediation), design to decrease the amount of impervious surfaces (permeable paving, green roofs, and curb less parking areas and roads), and dissemination of storm water in a natural manner (level spreader and multiple, connected ponds).



## ARTICLE 12. PLANNED UNIT DEVELOPMENT (PUD)

**Section 12.01 — Intent and Purpose:** It is the intent of this Article to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; encourage useful open spaces; achieve economy and efficiency in the use of lands, natural resources, energy and the provisions of public services and utilities; and to provide housing, employment, and shopping opportunities that conform to the Township's Master Plan, regulations, or guidelines, while departing from strict application of use, setbacks, height and minimum lot size requirements of zoning districts in order to: permit valuable and beneficial land development; enhance the appearance of the neighborhood through the preservation of natural features, the provision of utilities and the provision of recreational areas and planned open space; and provide for efficient use of land that will be compatible with surrounding land uses and character.

**Section 12.02 — Uses Permitted:** PUD development may be permitted by the Planning Commission in any zoning district in accordance with this Article.

### **Section 12.03 — Application/Processing:**

- A. Application. The owner of the property upon which the PUD is sought, or his/her duly authorized agent, may submit an application for a PUD permit.
- B. Pre-Application Conference. The applicant/property owner must attend a pre-application conference to be coordinated by the Township. This meeting must include at a minimum two of the following individuals: Township Supervisor, Chairperson of the Planning Commission, Zoning Enforcement Officer, Zoning Administrator, consultants hired by the Township or other officials to discuss the project. The Township may require the applicant to make an escrow deposit to cover the Township's anticipated costs incurred for such a meeting and review of materials submitted.
- C. Application. An application for a PUD permit and ten (10) copies shall be filed with the Township Clerk by the owner of the property (or his/her duly authorized agent) upon which the PUD is intended. The Township Clerk shall date stamp all materials received, retain the original documents, and distribute the copies appropriately.
- D. Application Information. The application shall provide the following information:
  1. A legal description of the property, including the street address, tax code number, and zoning district.
  2. The name, address and telephone number of the applicant.
  3. Applicant's interest in the property. If the applicant is not the owner, the name and address of the record and known owner(s), and the owner(s) signed consent to the application.
  4. Identification of the zoning district in which the subject parcel is located and the PUD requested.
  5. Signature(s) of the applicant(s) and owner(s), certifying the accuracy of the information.

6. A description of the business and services provided; hours of operation; number of employees; number of customers; estimate of peak traffic flow; description of equipment and vehicles; description of stored materials; and related information.
  7. Further information as requested by the Township, consultants hired by the Township or Planning Commission that is relevant to the site and standards set forth in this Ordinance.
- E. Site Plan Review. All PUD applications require the submission of a site plan for review in accordance with Article 20.
  - F. Right of Entry. The filing of the application shall constitute permission from the owner for the Township to complete an on-site investigation of the property in question for purposes of this Section.
  - G. Application Fee. The applicant shall submit to the Township Clerk with the application an application fee in an amount established by resolution of the Township Board to cover the fixed costs associated with processing the application.
  - H. Initial Review. The Planning Commission Chair shall review the application(s) for completeness and indicate to the applicant additional information and documents to be provided. The Planning Commission shall schedule all public hearings and the Township Clerk or designee shall coordinate public notices.
  - I. Escrow Deposit. The Planning Commission Chair shall establish an amount to be deposited by the applicant with the Township Clerk to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s).
  - J. Notice. Notice shall be provided in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
  - K. Public Hearing. The Planning Commission shall hold a public hearing on the application(s). The hearing shall proceed as follows: Open public hearing; acknowledge receipt of written comments; receive comments from applicant/owner and other persons attending the hearing; close public hearing.
  - L. Administrative Report. Following the public hearing the Planning Commission may request that the Zoning Enforcement Officer and/or other persons retained by the Township present a report that analyzes the application(s) with respect to the requirements and standards of applicable federal and state statutes, ordinances, rules and regulations.
  - M. Standards and Burden. In deciding a request for a PUD, the Planning Commission shall be governed by the following principles and standards:
    1. The applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.
    2. In considering an application for a PUD the following factors shall be considered:
      - a. Whether all required information has been provided and fees paid.
      - b. Whether the purpose of this Article would be served by the proposed uses.
      - c. Whether the PUD is consistent with the objectives and goals of the Master Plan.
      - d. Whether the proposed PUD will adversely affect neighboring lands.
      - e. Whether the proposed PUD is compatible with and will not adversely affect the natural environment.

- f. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the health, safety and welfare of the Township including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by the PUD.
- N. Conditions. The Planning Commission may impose reasonable conditions including duration and review periods in granting a PUD. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents and landowners immediately adjacent to the proposed PUD and the community as a whole.
  - 2. Ensure that public services and facilities affected by a proposed PUD will be capable of accommodating increased service and facility loads caused by PUD.
  - 3. Promote the use of land in a socially and economically desirable manner.
  - 4. Be related to the valid exercise of the police power and purposes that are affected by the proposed PUD.
  - 5. Be necessary to ensure compliance with the standards set forth in this Article.
  - 6. The conditions shall remain unchanged except upon the mutual consent of the Planning Commission and the titleholder of the subject property.
- O. Planning Commission Decision. The Planning Commission shall approve, approve with conditions, or deny the PUD permit. The decision shall set forth the facts relied upon, provide an analysis of the facts and standards, and state the conclusion and conditions imposed, if applicable. A majority vote of the entire membership of the Planning Commission is required for a decision. The Planning Commission shall issue its decision in an open meeting, either orally or in writing. If submitted orally, the Planning Commission's decision and reasons shall be recorded in its minutes.
- P. Appeals. The Zoning Board of Appeals shall not have authority to hear an appeal taken by an aggrieved person from a decision of the Planning Commission on an application for a PUD.
- Q. Runs With The Land. Unless otherwise specified in the conditions, a PUD runs with the land.
- R. Recording. If a PUD is granted, with or without conditions, the Township, at the expense of the applicant, may cause notice of the PUD to be recorded with the Midland County Register of Deeds.
- S. Reapplication. An application for a PUD that has been denied wholly or in part by the Township Board shall not be resubmitted for a period of 365 days from the date of such denial, except on grounds of new evidence or proof of changed conditions that reasonably could not have been submitted at the time of the initial application.
- T. Revocation of PUD. The Planning Commission, upon notice and hearing to the property owner and occupants of the property and upon a showing of good cause, may revoke a PUD in the case of a false statement or misrepresentation of fact on which the permit was approved, or in case of failure to correct violations of this Ordinance, or in case of lack of compliance with the approved site plan and/or any conditions of the PUD permit.

## ARTICLE 13. WIRELESS COMMUNICATION TOWERS AND FACILITIES

**Section 13.01 — Intent and Purpose:** It is the intent of this Article to set forth the provisions that will regulate the location, design, and operation of wireless communication facilities, including but not limited to communication towers and accessory structures, in order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community. These regulations are necessary in order to:

1. Facilitate the provision of wireless communication services to residents and businesses.
2. Minimize adverse visual effects of towers through careful design and sighting standards.
3. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
4. Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.

Towers supporting private, not-for-profit communication antennas and personal communication devices shall be exempt from this Ordinance if less than 85 feet.

### **Section 13.02 — Location Requirements:**

1. Wireless communication towers or antennas shall preferably be located on public land within the Township where the construction, erection or placement of the tower or antenna can be accomplished thereon in accordance with this Ordinance.
2. All wireless communication towers erected, constructed, or located within the Township shall comply with the following requirements:
  - a. A proposal for a new commercial wireless communication service tower shall be considered for approval only if the communication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:
    1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
    3. Existing or approved towers and buildings within the Township cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified a licensed professional engineer.

4. Other unforeseen reasons that make it not feasible to locate the planned communications equipment upon an existing or approved tower or building.
- b. Any proposed commercial wireless communication service tower shall be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is 60 to 100 feet in heights. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. Tower owners are required to allow additional antennas on their towers for competitors and tenants as outlined above.
- c. The owner of any existing and/or Township approved and constructed commercial wireless communication tower, shall be required to make said tower available, at a reasonable and pro rata cost relative to construction and maintenance, to any other wireless communications company and/or competitor seeking the approval or use of a similar tower in the Township, provided said tower still has the capacity to accommodate the needs of the wireless communications company and/or competitor seeking tower approval in the Township.

**Section 13.03 — Towers and Antenna Design Requirements:** Proposed or modified towers and antennas shall meet the following design requirements:

1. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by the federal or state authorities such as the Federal Aviation Administration.
2. Commercial wireless communication service towers shall be of monopole design, unless it is determined that an alternative design would better blend in with the surrounding environment.

**Section 13.04 — Tower Height:** The height of the tower shall be determined by measuring vertically down from the tower's highest point to the ground. When a tower is attached to a structure or dwelling, the height of the tower shall be determined by measuring vertically down from the tower's highest point to the ground upon which the structure or dwelling stands.

**Section 13.05 — Tower Setbacks:** Towers shall conform to each of the following minimum setback requirements:

1. Towers may encroach into the rear setback area, provided that the rear property line abuts an industrially zoned property and the tower does not encroach upon any easements.
2. Towers shall not be located between a principal structure and a public street, except that on sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

3. A tower's setback may be reduced or its location to a public street varied to allow the integration of a tower into an existing or proposed structure such as places of worship, light standard, power line support device, or similar structure.
4. Towers shall be set back from all adjacent property lines at least a distance equal to the height of the tower unless the design of the tower is such that it collapses upon itself in which case the setback from all adjacent property lines must be at least a distance equal to half the height of the tower.
5. Towers of 60 to 200 feet in height shall be set back a minimum of one-quarter mile west of North Lake Sanford Road South of Curtis Road, a minimum of one-quarter mile east of Water Road South of Curtis Road, and a minimum of 250 feet from any lake or river in the Township.

**Section 13.06 — Accessory Utility Buildings:**

1. Only buildings accessory to the communication towers shall be allowed on site.
2. All utility buildings and structure accessories to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.
3. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and compliments the architectural character of the surrounding neighborhood. Isolated towers shall be fenced against easy access.

**Section 13.07 — Lighting:** Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower. Such lighting shall be designed and arranged so that it does not glare onto adjacent property or roadways.

**Section 13.08 — Signs and Advertising:** The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

**Section 13.09 — Abandonment of Unused Towers or Portions of Towers:** Abandoned or unused towers or portions of towers shall be removed as follows:

1. All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Commission.
2. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the Township and the costs of removal assessed against the property.
3. The applicant will submit (in accordance with Section 13.13 of this Ordinance) a copy of the relevant portions of a signed lease that requires the applicant to remove the tower and associated facilities upon cessation of operations at the site a letter of credit, performance

bond, and/or other security acceptable to the Township to cover the costs of the antenna or tower's removal.

**Section 13.10 — Antennas and Wireless Communication Facilities Mounted on Existing Roofs, Walls, and Towers:** The placement of antennas and wireless communication facilities on roofs, walls, and towers requires approval by the Planning Commission, provided the antennas and wireless communication facilities meet the requirements of this Ordinance, and the following are submitted:

1. A site plan.
2. A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna.

**Section 13.11 — Interference with Public Safety Communications:** No new or existing wireless communications service shall interfere with public safety communications. All applications for new wireless communication service shall be accompanied by an inter-modulation study that provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

**Section 13.12 — Inspections:** All towers shall be inspected at regular intervals by the owner and serviced as frequently as may be necessary, to maintain the tower in a safe and weather-withstanding condition.

**Section 13.13 — Application Requirements:** In addition to Site Plan Review and the general or requirements of this Ordinance, applications for towers shall include the following supplemental information from a qualified and licensed professional engineer that:

1. Describes the tower height and design including the cross section and elevation.
2. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distance between antennas.
3. Describes the tower's capacity, including the number and type of antennas that it can accommodate and the number of spaces that are to be utilized by the tower owner.
4. Provides documentation stating that the equipment shall not interfere with the established public safety communications.
5. Includes a qualified and licensed professional engineer's stamp and registration number.
6. Includes a tower removal agreement, letter of credit, performance bond and/or other security with the application.
7. Includes other information necessary to evaluate the application as may be requested by the Township.

**Section 13.14 — Priority of Users:** Priority for wireless communication antennas, facilities, and towers shall be given to the following entities in descending order:

1. Tower owner.
2. Midland County Emergency Services Director.
3. Other governmental agencies, for uses unrelated to public safety.
4. Entities providing licensed commercial wireless communication services including cellular, personal communication services, specialized mobilized radio, enhanced specialized mobilized radio, paging and similar services that are marketed to the general public.

**Section 13.15 — Antennas and Wireless Communication on Township Property:** The placement of wireless communication antennas or towers on Township property must comply with the following requirements:

1. The antennas or towers will not interfere with the purpose for which Edenville Township property is intended.
2. The antennas or towers will not have an adverse impact on surrounding private property.
3. The applicant must obtain adequate liability insurance and commit to a lease agreement that includes equitable compensation for the use of the land, other necessary provisions and safeguards and requires the applicant to hold harmless and indemnify Edenville Township and Water District No. 1 of Midland County for any and all liability claims arising out of the construction, operation, use or maintenance of the wireless communications tower or facility.
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to Edenville Township to cover the costs of the antenna or tower's removal.
5. The antennas or towers will not interfere with other users who have a higher priority as defined in this Article at the time of installation.
6. Upon reasonable notice, the antennas or towers may be required to be removed at the users' expense.
7. The applicant must reimburse Township for any costs that it incurs because of the presence of the applicant's antennas or towers.
8. The applicant must obtain all necessary land use approvals and construction permits.

Notwithstanding the above, Edenville Township reserves the right to deny, for any reason, the use of any or all Township owned property by any or all applicants for antennas or towers under this Article.



## ARTICLE 14. WIND ENERGY CONVERSION SYSTEMS (WECS)

**Section 14.01 — Intent and Purpose:** It is the intent of this Article to set forth the provisions that will regulate wind energy conversion systems for both residential and commercial use. It will also define height, setback requirements, nomenclature, and requirements for public safety and special use.

**Section 14.02 — Definitions:** For purposes of this Article, the following words are defined as indicated below:

**AMBIENT:** The sound pressure level exceeded 90% of the time.

**ANEMOMETER:** A device used to measure wind speed.

**ANSI:** American National Standards Institute.

**dB(A):** The sound pressure levels in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

**dB(C):** The sound pressure levels in decibels. Refers to the “c” weighted scale defined by ANSI. A method for weighting noises in the lower frequency spectrum.

**DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.

**HUB HEIGHT:** The distance measured from the ground level to the center of the turbine hub.

**METEOROLOGICAL TOWER (MET TOWER):** A tower used to measure wind characteristics, to which anemometers, wind direction vanes, temperature and pressure sensors, and other measurement devices attached to it at various levels above the ground.

**SMALL ON-SITE WECS:** A wind energy conversion system consisting of a wind turbine (generator), a tower and associated control or conversion electronics that does not exceed 100 feet in height, has a rated capacity of not more than 100 kW, is intended to primarily reduce on-site consumption of utility power, and that shall be considered an accessory structure for the purpose of a building permit.

**SHADOW FLICKER:** Alternating changes in light intensity caused by the moving blade of a wind turbine casting shadows on the ground and stationary objects, such as window of a dwelling.

**SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

**SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

**WIND ENERGY FACILITY:** One or more wind energy conversion systems under common ownership or operating control placed upon one or more contiguous lots or parcels with the intent to sell or provide electricity to a utility or transmission company. Although the wind energy conversion system within a wind energy facility may or may not be owned by the owner of the property or properties within the wind energy facility, the wind energy facility shall consist of all the contiguous lots and parcels located within the Township that are in whole or in part within a radius of 2,640 feet from each of the bases of any and all wind energy conversion systems in the wind energy facility, unless the Planning Commission expressly provides in the special use permit that the applicant may use a smaller radius or that any properties may be excluded from the wind energy facility. If the Planning Commission permits any properties within the approved radius to be excluded from the wind energy facility, then such properties shall be treated for all purposes as outside the wind energy facility under this Ordinance. The definition of wind energy facility includes substations, MET towers, cables/wires, and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

**WIND ENERGY CONVERSION SYSTEM (WECS):** Commonly referred to as a wind generating tower, windmill, or wind-powered generator that converts wind energy into power, consisting of:

- a. A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:
- b. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
- c. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing energy.
- d. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.
- e. Other components not listed above but associated with the normal construction, operation, and maintenance of a wind energy conversion system.

**WECS HEIGHT:** The distance between the ground (at normal grade) and the highest point of the WECS, as measured from the ground (at normal grade), plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure that supports the rotor and blades (normally, the tower). Or put another way, the distance between the ground (at normal grade) and the highest point of the WECS (being the tip of the blade, when the blade is in the full vertical position).

- a. *Horizontal Axis Wind Turbine Rotors:* The distance between the ground and the highest point of the WECS, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the WECS.
- b. *Vertical Axis Wind Turbine:* The distance between the ground and the highest point of the WECS including the top of the blade in its vertical position.

**Section 14.03 — Wind Energy Facility Application; Signatures:**

- A. The application for the special use permit for a wind energy facility shall be submitted on a form prepared for that purpose by the Township, and shall demonstrate the support in writing of each and every legal and equitable owner of each lot or parcel within the Township that is located in whole or in part within the wind energy facility.
- B. If any owners of property within the Township that is proposed to be within the wind energy facility do not support the application, the application shall identify those owners by name, address and telephone number, and a copy of the last offer the applicant made to that owner, or if applicant made no offer to the owner, then a copy of any written communications between the applicant and the owner.
- C. The Planning Commission shall investigate the basis for each such owner's objections. The record of the investigation shall be made a part of the record in the consideration of the special use permit proceedings, and the Planning Commission shall give due consideration to the basis for the objections in determining whether to permit any properties to be excluded from the wind energy facility.

The applicant shall submit eight (8) copies of the application and all supporting materials to the Township Clerk. The Township Clerk will cause the application to be placed on the Planning Commission's next regular meeting agenda.

**Section 14.04 — Wind Energy Facility Site Plan Drawing and Supporting Materials:** All applications for a wind energy facility special use permit shall be accompanied by a detailed site plan, drawn to scale and dimensioned, and certified by a registered engineer licensed in the State of Michigan, displaying the following information:

- A. All requirements for a site plan contained in Article 20 of this Ordinance.
- B. All lot lines and dimensions, including a legal description of each lot or parcel within the wind energy facility.
- C. Names of the owners of each lot or parcel within the Township that is proposed to be within the wind energy facility.
- D. Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and all above ground structures associated with each WECS.
- E. Location and height of all buildings, structures, and above ground utilities located or proposed within the wind energy facility. Specific distances to other on-site buildings, structures, and utilities shall also be provided.
- F. Location of all existing and proposed overhead and underground electrical transmission or distribution lines within the wind energy facility, as well as within 1,000 feet of the outside perimeter of the wind energy facility.
- G. Proposed setbacks between each WECS and from each WECS to all existing and proposed structures within the wind energy facility.
- H. Land elevations at each proposed WECS location and its relationship to the land elevations of all existing and proposed structures within the wind energy facility.
- I. Access driveways to each WECS, together with a detailed narrative regarding dimensions, composition, and maintenance of each proposed driveway. All access driveways shall be

subject to County Road Commission approval, and the use of drives shall be planned so as to minimize the use of lands for that purpose and otherwise meet the requirements of this Ordinance.

- J. The location of all farmland within the wind energy facility that is designated for preservation, a written description of the plan for preservation of farmland within the wind energy facility, and copies of all easements, restrictive covenants, or other documents proposed to be used to achieve that plan.
- K. Planned security measures to prevent unauthorized trespass and access and to warn of potential dangers, during both the construction and operation of the WECS.
- L. A written description of the maintenance program to be used to maintain each WECS, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the WECS become obsolete or abandoned.
- M. A copy of the manufacturer's safety measures to prevent uncontrolled rotation or over speeding.
- N. Planned lighting protection measures.
- O. Additional detail(s) and information as required by the special use permit requirements of this Ordinance, or as requested by the Planning Commission.
- P. A hazard prevention plan that shall contain:
  - 1. Certification that the electrical WECS and between WECS and the utility right-of-way does not pose a fire hazard.
  - 2. Location of landscaping to be designed to avoid spread of fire from any source on a WECS; such preventative measures may address the types and locations of vegetation below the turbine and on the site.
  - 3. A listing of any hazardous fluids that may be used on site shall be provided, including Material Data Safety Sheets (MDSS).
  - 4. Certification that the WECS has been designed to contain any hazardous fluids shall be provided.
  - 5. A statement certifying that the WECS shall be routinely inspected to ensure that no fluids are released from the WECS.
- Q. Description of required approvals from other local, regional, state, or federal agencies that must be obtained evidence of such or progress toward obtaining approval shall be submitted with the site plan.
- R. A decommissioning plan that shall include:
  - 1. The anticipated life of the project.
  - 2. Credit for salvageable value of any materials.
  - 3. The method of ensuring that funds will be available for decommissioning and restoration.
  - 4. The anticipated manner in which the project will be decommissioned and the site restored.

**Section 14.05 — Building, Construction, and Electrical Codes; Towers; and Interconnection Standard:** Each WECS or anemometer tower shall comply with all applicable state and local building construction and electrical codes, as well as Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act, the Michigan Tall Structures Act, (Public Act 259

of 1959, as amended) local jurisdiction airport overlay zone regulations, and the National Electric Safety Code. The tower shaft shall not be illuminated unless required by the FAA. Each WECS shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.

**Section 14.06 -- Preservation of Agricultural Uses:** Property located within a wind energy facility that is not designated as an immediate location of any WECS and accessory structures is encouraged to be preserved for agricultural uses and purposes through the execution and recording of appropriate easements, restrictive covenants, or other documents approved by the Planning Commission. Although such preservation measures are not required, they will be favorably considered by the Planning Commission in the review of a special use permit application.

**Section 14.07 — Design Standards:**

A. Height:

1. The permitted maximum total height of each WECS shall be 430 feet, except where a WECS is located on waterfront lots, where the permitted maximum total height shall be fifty (50) feet; where state and federal regulations may require a lesser height; or where, as a condition of approval, the Township requires a lesser height.
2. The Planning Commission may approve a WECS height of greater than 430 feet if the applicant clearly demonstrates that such greater height would be in the interest of persons and properties surrounding the WECS or wind energy facility.

B. Setbacks: No part of a WECS (including guy wire anchors) or anemometer shall be located closer than 150% of the WECS height to any habitable structure and the nearest electric power or telephone line, or road or right-of-way. No part of a WECS, including guy wire anchors, may extend closer to the property line or waterfront than the required setback for the district in which the unit is located.

C. Isolation: No WECS shall be located closer than 2,640 feet from the base of the WECS to any residences, businesses, schools, churches or other places of human habitation within the Township, unless the Planning Commission otherwise expressly provides in the special use permit. If the applicant seeks approval of an isolation distance less than 2,640 feet as required by this section, the applicant shall be required to demonstrate to the Planning Commission with clear and convincing evidence and state-of-the-art modeling, monitoring and measurement techniques that the proposed WECS will have no material adverse effects on any residences, businesses, schools, churches or other places of human habitation within the requested isolation distance from the WECS, as determined by a licensed qualified professional. Such evidence shall include, at a minimum, baseline readings, using state-of-the-art techniques, of the existing noise levels measured at least at ten (10) representative residences outside the wind energy facility or away from the WECS and state-of-the-art noise modeling data demonstrating that the anticipated noise generated by WECS will not increase the existing noise levels above a maximum of forty-five (45) decibels on the DBA scale at any of those representative residences, as determined in the special use permit. As a condition of approval for any such lesser isolation distance, the applicant shall also post

a performance guarantee in an amount fixed by the Planning Commission to assure that the WECS when installed will not have any material adverse effects on any residences, businesses, schools, churches or other places of human habitation within the requested isolation distance from the WECS, as determined by a licensed qualified professional.

- D. Rotor or Blade Clearance: Blade arcs shall have a minimum clearance over and from ground level and any structure, adjoining property, or tree of twenty (20) feet for small on-site WECS and seventy-five (75) feet for all other WECS.
- E. Rotor or Blade Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the braking system.
- F. Tower Access: To prevent unauthorized climbing, WECS must comply with at least one of the following provisions:
  - 1. External tower climbing apparatus shall not be located within twelve (12) feet of the ground.
  - 2. A locked anti-climb device shall be installed and maintained.
  - 3. A tower capable of being climbed externally shall be enclosed by a locked, protective fence at least ten (10) feet high with barbed wire fence.
- G. Signs: Each WECS shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
  - 1. Warning high voltage.
  - 2. Warning falling ice.
  - 3. Manufacturer's name.
  - 4. Emergency numbers (list more than one number).
  - 5. FAA regulated sign with precise description with latitude and longitude, the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over Edenville Township.
  - 6. If fenced, place signs on the fence.
- H. Visual Impact:
  - 1. WECS shall be mounted on tubular towers, painted a non-reflective, non-obtrusive neutral color.
  - 2. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy facility pursuant to industry standards (i.e. condition of exterior paint, signs, landscaping).
  - 3. A certified registered engineer and authorized factory representative shall certify that the construction and installation of the WECS meets or exceeds the manufacturer's construction and installation standards.
  - 4. The design of the wind energy facility's buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, screening, and landscaping that will blend facility components with the natural setting and the environment existing at the time of installation.

- I. Shadow Flicker:
  - 1. The WECS shall be designed in such a manner as to minimize shadow flicker on a roadway and prevent shadow flicker on any existing structures located off the property on which the WECS is located.
  - 2. If necessary to prevent shadow flicker from crossing occupied structures, the WECS may be programmed to stop rotating during times when the WECS shadow crosses these structures.
  - 3. The Planning Commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.
  - 4. The WECS operator may obtain written agreements that allow shadow flicker to cross an occupied structure.
  
- J. Lighting: A lighting plan for each WECS shall be approved by the Planning Commission. Such plan must describe all lighting that will be utilized, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. All tower lighting will comply with FAA regulations and guidance and shall be consistent with USFWS/MDNR guidelines. Lighting shall be shielded to the extent possible to reduce glare and visibility from the ground.
  
- K. Electromagnetic Interference: Each WECS shall be designed, constructed and operated so far as possible so as not to cause radio, television and navigation or other wireless microwave or signal interference. In the event that electromagnetic interference is experienced by properties outside the wind energy facility, and the WECS is determined to cause radio, television or other wireless signal reception to be degraded from the conditions prior to the installation of the wind energy facility through the proper utilization by an expert of relevant facts, data and reliable scientific principles and methods, the WECS owner shall provide alternate service to each individual resident or property owner affected. If a property owner or resident is successful in demonstrating degradation of their radio, television or other wireless signal reception caused by a WECS, then the WECS owner shall also reimburse the property owner or resident for their reasonable costs and fees incurred to prove the existence and cause of the degradation.
  
- L. Noise Emissions:
  - 1. All WECS shall be manufactured and constructed with the best available noise reduction technology available at the time of their construction.
  - 2. Noise emissions from the operation of one or more WECS operating within a wind energy facility shall not in any case exceed fifty (50) decibels on the DBA scale as measured at any point on the boundary between land within the wind energy facility

and land outside the wind energy facility, and not more than forty-five (45) decibels on the dB(A) scale as measured at residences outside the wind energy facility.

3. In addition, noise emissions shall not exceed fifty (50) decibels on the dB(C) scale between 7 p.m. and 7 a.m. as measured at any point on the boundary between land within the wind energy facility and land outside the wind energy facility, and not more than forty-five (45) decibels on the dB((C)A scale as measured at residences outside the wind energy facility.
4. A state-of-the-art baseline noise emission study of the proposed site and impact of estimated operating noise levels upon all areas within a one (1) mile radius of each proposed WECS location shall be performed (at the applicant's cost) and submitted to the Township with the application for special use.

M. Distribution, Transmission and Interconnection: All collection lines and interconnections from the WECS to the electrical substation shall be located and maintained underground inside of the wind energy facility. The Planning Commission may waive the requirement that collection lines and interconnections be located and maintained underground if the Planning Commission determines that it would be impractical or unreasonably expensive to install, place, or maintain such collection lines and interconnections underground.

N. Guy Wires: If supported by guy wires, such wires shall be covered with a height visibility material so as to make it visible to a height of at least six (6) feet above the ground.

O. Potential Ice Throw: The potential ice throw or ice shedding for the WECS shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.

**Section 14.08 — Safety: These requirements shall apply to all WECS:**

1. All collection system wiring shall comply with all applicable safety and stray voltage standards.
2. WECS shall not be climbable on the exterior.
3. All access doors to WECS and electrical equipment shall be lockable.
4. Appropriate warning signs shall be placed on WECS, electrical equipment, and facility entrances.
5. All WECS shall be equipped with controls to control the rotational speed of the blades within design limits for the specific WECS.

**Section 14.09 — Vibrations or Wind Currents:** Under no circumstances shall a WECS produce vibrations or wind currents humanly perceptible beyond the perimeter of the wind energy facility.

**Section 14.10 — Stray Voltage:** The applicant shall be responsible for compensation for damages due to any stray voltage caused by a WECS in accordance with the rules of the Michigan Public Service Commission.

**Section 14.11 — Conditions and Modifications:** Any conditions or modifications approved by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission



meeting. The Planning Commission may in addition to other reasonable conditions, require landscaping, walls, fences, and other improvements that are reasonable in relation to and consistent with the nature of the district in which the proposed special use would be located. After approval, at least two (2) copies of the final approved Site Plan shall be signed and dated by the Chairman of the Planning Commission and the authorized representative of the Applicant. One copy shall be kept on file by the Township Clerk, and one copy shall be returned to the applicant's authorized representative.

**Section 14.12 — Completion; Testing:** The applicant shall complete the wind energy facility construction within twelve (12) months after commencement of construction. Within twelve (12) months of completion and commencement of operation, the applicant shall be required to present a report prepared by a third party, qualified professional, demonstrating that the wind energy facility while in operation meets the requirements of this Ordinance and the permit for special use permit with respect to noise emissions and electromagnetic interference, and shadow flicker effect.

**Section 14.13 — Inspection:** The Township shall have the right upon issuing any wind energy facility special use permit to inspect the premises on which each WECS is located at any reasonable time. The Township may hire a consultant to assist with any such inspections at the applicant's reasonable cost.

**Section 14.14 — Maintenance and Repair:** Each WECS must be kept and maintained in good repair and condition at all times. If the Township Zoning Enforcement Officer determines that a WECS fails at any time to meet the requirements of this Ordinance and the permit for special use with respect to noise emissions, electromagnetic interference, or shadow flicker effect, or that it poses a potential safety hazard, the applicant shall shut down the WECS within 48 hours after notice by the Township Zoning Enforcement Officer and not restart the WECS until the condition has been corrected. The applicant shall keep a maintenance log on each WECS that shall be available for the Township's review on a monthly basis. The applicant shall keep all sites within the wind energy facility neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions.

**Section 14.15 — Complaint Resolution:** The applicant shall develop a process to resolve complaints from nearby residents and property owners concerning the construction and operation of the wind energy facility. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the Township from acting on a complaint. During construction and operation, the applicant shall maintain a telephone number during business hours where nearby residents and landowners can reach a project representative.

**Section 14.16 — Abandonment:** Any WECS that is not used for the production of energy for a period of six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property, unless the applicant receives a written extension of that period from the Township Zoning Enforcement Officer in a case involving an extended repair schedule for good cause. All above and below ground materials (down to five (5)

feet below the ground) must be removed. The ground must be restored to its original condition within 180 days of abandonment.

**Section 14.17 — Continuing Security and Escrow:** If any WECS is approved for construction under this Ordinance, the applicant shall be required to post continuing security and a continuing escrow deposit prior to commencement of construction, that shall remain in effect until the WECS has been finally removed, as provided below:

- A. **Continuing Security:** If a special use permit is approved, the Planning Commission shall require security in the form of a cash deposit, irrevocable letter of credit, corporate bond or surety bond in a form, amount, time and duration acceptable to the Township, that will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval. When determining the amount of such required security, the Township may also require an annual escalator or increase based on the Consumer Price Index (or the equivalent or its successor) (CPI). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences upon a WECS within the wind energy facility. At a minimum, the financial security shall be in an amount determined by the Township to be reasonably sufficient to have each WECS fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous or obsolete, or not in compliance with this Ordinance or the special use permit. Such financial security shall be kept in full force and effect during the entire time while a WECS exists or is in place, and such financial security shall be irrevocable and non-cancelable, except by the written consent of both the Township and the then-owner of the WECS.
- B. **Continuing Escrow Deposit:** A continuing escrow deposit to be held by the Township shall be funded in cash by the applicant prior to the commencement of construction of any WECS shall be maintained by the WECS owner until the WECS has been permanently removed. The monetary amount placed by the applicant in escrow with the Township shall be estimated by the Township to cover all reasonable costs and expenses associated with continuing enforcement of this Ordinance and the terms of the special use permit, which costs can include, but are not limited to, reasonable fees of the Township Attorney, Township Planner and Township Engineer, as well as costs for any reports or studies that the Township anticipates it may have done that are reasonably related to enforcement of the Ordinance and the special use permit. If the Township is required to expend any portion of the escrow deposit, or if the existing escrow amount paid by the applicant proves to be insufficient to cover the Township's enforcement costs, the Township may require that the WECS owner place additional monies into escrow with the Township.
- C. **Continuing Obligations:** Failure to keep such financial security and escrow deposit in full force and effect at all times while a WECS exists or is in place shall constitute a material and significant violation of a special use and this Ordinance, and will subject the WECS owner to all remedies available to the Township, including possible enforcement action and revocation of the special use.

**Section 14.18 — Liability:** The applicant shall insure each WECS at all times, and shall maintain such insurance on its own behalf and on behalf of the Township as a co-insured, with limits of liability not less than \$2,000,000 per occurrence for damages to persons and property (to be adjusted annually to an amount equivalent to 2010 dollars based on the CPI).

**Section 14.19 — Environmental Impact Assessment:** At the Township’s request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review by the Township regarding the WECS and surrounding areas. Each such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the special use.

**Section 14.20 — Reasonable Conditions:** In addition to the requirements of this section, the Planning Commission may impose additional reasonable conditions on the approval of a wind energy facility as a special use.

**Section 14.21 — Other Requirements:** Each wind energy facility and WECS shall also comply with all applicable federal, state, and county requirements, in addition to other Township Ordinances.

## ARTICLE 15. SUPPLEMENTARY REGULATIONS

The provisions of this Ordinance shall be subject to such modifications, additions, exceptions, or limitations as herein provided by the following regulations:

**Section 15.01 — Intent and Purpose:** The intent and purpose of this Article is to identify modifications, additions, exceptions and/or limitations to the requirements set forth in the other sections of this Ordinance.

**Section 15.02 — Height Limitations; Exemptions:** Maximum height will be measured from the natural grade to the highest point of the structure.

1. No building or structure shall be erected or altered to a height exceeding 2 1/2 stories or 35 feet.
2. Exemptions: Height limitations of this Ordinance shall not apply to the following uses or features that shall be erected only to such height as is necessary to accomplish the purpose they are to serve and then only in accordance with any other governmental regulations and approval of the Planning Commission.
  - a. Buildings used for agricultural purposes.
  - b. Places of worship.
  - c. Belfries.
  - d. Cupolas.
  - e. Penthouses and domes not used for human occupancy.
  - f. Chimneys.
  - g. Ventilators.
  - h. Skylights.
  - i. Water tanks.
  - j. Bulkheads, similar features, and necessary mechanical appurtenances usually carried above roof level.

**Section 15.03 — Corner Lots:**

1. For lots greater than 60ft. wide, structures on corner lots shall comply with front yard setback requirements along both abutting rights-of-way.
2. For lots 60 ft. wide and less, the following setbacks are allowed: 8 ft. side setbacks, 50 ft. front setback, 10 ft. back setback. For corner lots 60 ft. wide or less, the side setback nearest the road shall be 20 ft., provided it does not impede any view from existing houses.

**Section 15.04 — Yard Requirements:** Every lot on which a building or structure is erected shall have a front yard not less than fifty (50) feet in depth from the right-of-way and side yards of not less than ten (10) feet in width and a rear yard of no less than ten (10) feet. Side yards of lots of record created before October 1968 may be reduced to eight (8) feet, provided the lots are less than sixty-five (65) feet in width.

When a parcel fronts on a body of water, the dwelling shall be not less than fifty (50) feet from the normal high-water mark at the point where the water line is nearest to the dwelling or structure.

**Section 15.05 — Skirting:** All structures without a continuous perimeter foundation shall be skirted with a suitable building material before an occupancy permit is approved.

**Section 15.06 — Compliance with Land Division Ordinance:** No building permit will be issued if the parcel involved is in violation of the Land Division Ordinance. If compliance with the Land Division Ordinance is questioned, the landowner must supply proof to the Township Zoning Enforcement Officer that his/her property is in compliance.

**Section 15.07 — Roads and Streets:** Public and private streets and roads shall comply with all the following:

1. A road or street shall have at least sixty-six (66) feet of right-of-way width.
2. Each road or street shall be provided with one (1) safe exit and one (1) safe entrance from a public thoroughfare. Such exit and entrance may be combined or provided separately. Approval for location of such exit and entrance shall be obtained from the County Road Commission or MDOT, which shall also approve the design and construction thereof in the interest of safety, adequate drainage, and other public requirements.
3. A road or street shall be centered in the rights-of-way.
4. The travelled portion of a road or street shall be a minimum twenty (20) feet in width, with a minimum twelve (12) feet overhead clearance to allow access for emergency vehicles.
5. All public and private roads and streets must be reviewed by the Township Fire and Rescue Department to ensure that the Township's equipment can readily traverse the road and or street at least to a point within 100 feet of the structure served by the roadway.

**Section 15.08 — Private Driveways:** All Private Driveways shall be subject to the following standards and requirements:

1. Minimum width and height:
  - a. The driveway shall have a minimum clear and passable area at least fourteen (14) feet in width for the entire length of the driveway. "Clear and passable" shall mean that the area is free of roots, brush shrubs, trees, obstructions or any other debris.
  - b. The driveway shall have a minimum clear and passable area of at least thirteen (13) feet in height for the entire length of the driveway.
2. The driveway shall have an aggregate base course of compacted gravel, crushed concrete, slag, or similar material that is at least six (6) inches in depth and at least ten (10) feet in width for the entire length of the driveway.
3. Driveways that exceed 100 feet in length or have turns must be reviewed by the Township Fire and Rescue Department to ensure that the Township's public safety equipment can readily traverse the driveway at least to a point within 100 feet of the structure served by the driveway. The Township Fire Chief shall have the discretion to deny approval of any proposed driveway that cannot be readily traversed by the equipment of the Township Fire and Rescue Department due to severity of turns or inadequate radius of the turns in the proposed driveway.

4. An approved driveway permit must be obtained from the Midland County Road Commission (MCRC) for driveways accessing all county roads and from the Michigan Department of Transportation (MDOT) for driveways accessing M-30 (Meridian Road) and M-18.
5. Site plans must depict driveways and specify dimensions of the driveways.

**Section 15.09 — Required Off-Street Parking:** For each dwelling, business, commercial, industrial, or other similar building hereafter erected or altered and located with access to public right-of-way in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the right-of-way that is adequate for the parking or loading of vehicles in proportions shown in the following table:

<b>Use or Building Type</b>	<b>Number of Spaces</b>
Dwellings.	Minimum 2 per dwelling unit.
Motels.	Minimum 1 per individual unit.
Private clubs.	Minimum 1 for every 4 active members.
Hospitals.	Minimum 1 for each 4 patient beds, excluding bassinets.
Sanitariums, convalescent homes, and rest homes.	Minimum 1 for each 4 patient beds.
Medical or dental clinics.	Minimum 1 for each employee.
Places of worship, theaters, auditoriums, and other places of public assembly.	Minimum 1 for each 4 seats.
Retail stores, personal service shops, business and professional offices.	Minimum 1 for every 200 square feet of gross floor area in said establishment.
Industrial and manufacturing establishments.	Sufficient in number to accommodate the parking of automobiles and other motor vehicles used by the firm, employees, or other people doing business there.
Taverns and restaurants.	Minimum 1 for every 75 square feet of floor area of said establishment.
Home occupation.	Maximum two per Home Occupation.

**Section 15.10 — Accessory Buildings and Structures:**

1. No building or structure of any kind, shall be hereafter constructed, erected, or moved into space within the required front yard setback.
2. Pole barns or similar structures shall be set back a minimum of 50 feet from the front lot line, or not closer to the front lot line than the primary dwelling.
3. Structures alone or in combination greater than 200 square feet require a building permit.
4. Accessory structures shall be constructed with commercially available building materials and the exterior finished with building materials made for that purpose. Plastic sheets, tarps, pallets, and similar materials do not satisfy this requirement.

5. If a lot is not large enough to accommodate a dwelling with a septic system, an accessory use building will be allowed. All lot setbacks must be adhered to. No accessory building without a dwelling will be allowed in R-1 residential waterfront lots.

**Section 15.11 — Canopies:** Canopies or canopied structures shall be manufactured and purchased through a retail/wholesale outlet or shall be constructed of NFPA flame certified materials.

**Section 15.12 — Temporary Building or Structure:** A temporary building or structure is allowed for the sole purpose of allowing the property owner to live on site while rebuilding a permanent building or structure rendered uninhabitable or unusable due to damage by fire, collapse, explosion, weather, or vandalism. A building permit is required to use a temporary building or structure. The permit shall expire after six (6) months, and the temporary building or structure shall be removed, unless a maximum of one (1) six-month permit extension is granted. An extension may be granted only if, at the time of application, the primary building or structure is at least 75% complete.

**Section 15.13 — Fences:**

1. Fences may be constructed of wood, masonry, woven wire, and/or chain link.
2. Fence composition shall be of uniform design and material. No fence shall be constructed of material that impairs the character of the neighborhood.
3. Fences constructed within 25 feet of the road right of way must be open fencing that provides a clear view and shall not exceed four (4) feet in height.
4. On lots adjacent to waterways, fences constructed in the space between the water's edge and the dwelling must be open fencing that provides a clear view and shall not exceed four (4) feet in height.

**Section 15.14 — Kennel:**

1. All kennels must be operated in accordance with County and State laws and regulations.
2. Structures or pens/runs shall be located not less than 100 feet from a road right-of-way, easement line or interior, side, or rear property line.
3. Outdoor runs and breeding areas shall have paved surfaces suitable for cleaning by high-pressure hose water or steam and shall be provided with a drainage and septic system that prevents pollution of adjacent and neighboring properties or water courses or bodies of water.
4. Outdoor runs and breeding areas shall be enclosed on all sides by a wall or fence not less than five (5) feet high.
5. Sight and sound barriers shall be provided around all outdoor facilities and use areas.

**Section 15.15 — Commercial Structures:** All commercial structures shall comply with the current building code approved for use in the Township and shall be a minimum width of 24 feet.

**Section 15.16 — Airports, Changes to Plans:** All airport layout plans or approach plans shall be filed with the Township Clerk. Amendment or modification of an existing airport layout or

approach plan or new airport may only be established by approval of a site plan and grant of a Special Use Permit under this Ordinance.

**Section 15.17 — Garage or Yard Sales:** Not more than three (3) garages or yard sales shall be conducted at any dwelling during a calendar year. Each such garage or yard sale shall not exceed three (3) continuous days duration. Temporary signs for each sale shall be removed at the end of each sale. Temporary signs for each sale must include the name, address and phone number of the responsible party.

**Section 15.18 — Storage:**

1. Vehicles. No vehicles shall be parked on public right-of-way or public property for more than three consecutive days in any calendar year. No vehicle parts shall be placed on public right-of-way or public property. Permitted vehicles, trailers, travel trailers and motor homes that are parked on private property shall be duly licensed vehicles and/or registered and operable with substantially all main component parts attached. Duly licensed vehicles that are temporarily inoperable because of minor mechanical failure can be placed outside of a fully enclosed building for a period not exceeding 30 days in any calendar year. No limit is placed on vehicles or parts stored inside a completely enclosed building.
2. Public Right-of-Way. Private property shall not be stored on public rights-of-way.
3. Boat. No boats shall be parked on a public right-of-way or public property for more than three consecutive days in any calendar year. No boat parts shall be stored on public right-of-way or public property. Boats maintained on their owners' private property shall be duly licensed and/or registered boats and operable with substantially all main component parts attached. Duly licensed and/or registered boats that are temporarily inoperable because of minor mechanical failure may be placed outside of a fully enclosed building for no more than 30 days during any calendar year. No limit is placed on boats or parts stored inside a completely enclosed building.
4. Manufactured Home (mobile home). The storage of mobile homes is not allowed.
5. Outdoors. No outdoor storage shall be permitted unless it is part of an approved site plan.

**Section 15.19 — Fertilizer Use:** No fertilizer containing phosphorous is permitted for use on any lots on Sanford Lake, Tittabawassee River, Old Tobacco River, or Verity Creek.

**Section 15.20 — Lighting:** The purpose of this section is to reduce unwanted light pollution.

1. Unnatural lighting sources shall be installed so as to contain the light on the property upon which it is installed, except that waterfront dwelling units are allowed to spill lighting onto the water in front of the owner's property only.
2. Spill lighting onto adjacent properties shall not exceed 0.2-foot candles at the property line of adjacent properties.
3. No lighting sources shall shine upon or illuminate the windows or doors of adjacent dwellings.

**Section 15.21 — Water Supply and Sanitary Sewage Facilities:** Required water supply and sanitary sewage facilities shall conform to the standards, regulations and requirements of the Midland County Health Department.



**Section 15.22 — Impact of New Structure on Solar Energy Devices:** No new structure shall cast its shadow on an existing solar energy device on an adjoining parcel between the hours of 9:00 A.M. and 4:00 P.M.

**Section 15.23 — Unsafe Structures:** Buildings and structures shall not be allowed to degenerate to the point where they constitute a public nuisance or endanger the public health, safety, or welfare.

**Section 15.24 — Screening:** Dust collectors, trash receptacles, and similar equipment shall be screened from view from any abutting residential zoning district.

**Section 15.25 — Home Occupations:** A home occupation may be permitted in a single-family dwelling within any zoning district where such dwelling is permitted, subject to the following conditions:

- A. At least one member of the family residing on the premises shall be engaged in such home occupation. A maximum of two non-family members are allowed to work there.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The total floor area used by the home occupation shall not exceed twenty (20) percent of the floor area of the dwelling unit.
- C. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation and there shall be no external or internal alterations not customary in residential areas.
- D. No article shall be sold on the premises except that which is prepared within the dwelling or is provided as incidental to the service or profession conducted therein.
- E. Traffic generated by a home occupation shall not be greater in volume than that normally generated by a residence.
- F. Required off-street parking spaces shall not be located in the required front yard.
- G. Exterior storage of material, equipment, or refuse associated with or resulting from a home occupation is prohibited.
- H. No equipment or process shall be used in such home occupation that creates noise, vibration, glare, fumes, odor, or electrical interference that are nuisances to adjacent or neighboring properties. Any electrical equipment or processes that create visual or audible interference with radio or television receivers off the premises or that cause fluctuations in line voltages off the premises shall be prohibited.
- I. Hazard of fire, explosion, or radioactivity shall not be significantly greater than similar structures in the Township.

**Section 15.26 — Transient and Amusement Enterprises:** Circuses, carnivals, other transient amusements, music festivals and similar temporary activities not exceeding seven (7) days in a calendar year, may be permitted in certain zoning districts as provided in this Ordinance with approval of a Special Use Permit. Such enterprises may be permitted only on the finding by the Planning Commission that the location of such activities will not adversely affect adjoining properties or adversely affect public health, safety, or general welfare. The Planning Commission

may require a bond or other acceptable security payable to the Planning Commission in an amount sufficient to hold the Township free of all liabilities incidental to the operation of such activity and to indemnify and adjoining land owners for any damage resulting from such activities. The Planning Commission may impose conditions to protect the public health, safety, and welfare.

## ARTICLE 16. NONCONFORMING USES

### Section 16.01 — Nonconforming Lots of Record:

- A. In any district, principal structures and accessory buildings may be erected on any nonconforming lot that was a lot of record at the time of adoption of this Ordinance, provided that permits for construction of a well and septic system are granted by the Midland County Health Department, other applicable regulations met, and any variances to yard requirements are obtained through approval of the Zoning Board of Appeals.
- B. If any nonconforming lot or lots are of continuous frontage with other lots under the same ownership, the owner shall be required to combine such lots to provide parcels that shall meet at least the minimum requirements for the district in which they are located.
- C. All lot setbacks must be adhered to. Lots 60 feet or less in width shall have side setbacks of 8 feet, back setback of 10 feet, and front setback of 50 feet. Corner lots 60 feet or less in width shall have one side setback of 20 feet, provided it does not interfere with any vision on the corner.

### Section 16.02 — Nonconforming Building:

- 1. Whenever the use of a building shall become nonconforming through a change in the zoning regulations or in the district boundaries, such use may be continued and if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification; provided that no such nonconforming building shall be enlarged or extended.
- 2. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.
- 3. Whenever a nonconforming use of a building or portion thereof is discontinued for a continuous period of 365 days, such nonconforming use shall be deemed to be abandoned, and any future use of such building or portion thereof, shall be in conformity with the regulations of the district in which such building is located.

**Section 16.03 — Nonconforming Uses of Land:** A nonconforming use of land existing at the effective date of this Ordinance may be continued; provided, however, that no such nonconforming use of land shall be in any way expanded or extended, either on the same or adjoining property. If such nonconforming use of land or any portion thereof is discontinued for a continuous period of 180 days, such discontinuation shall be presumed to be an abandonment of the nonconforming use, and any future use of such land shall be in conformity with the provisions of this Ordinance.

### Section 16.04 — Alterations, Changes, and Extensions:

- A. A nonconforming use shall not be enlarged or extended except by specific approval of the Zoning Board of Appeals.
- B. Where the nonconforming use is a residential structure, and nonconforming due to setbacks only, the Zoning Enforcement Officer can approve enlargement of the structure, providing the enlargement meets all requirements of the zone in which the structure is located.

- C. Nonconforming use of any parcel of land, building, or structure shall not be changed to any other nonconforming use after such use has been changed to a conforming use.

**Section 16.05 — Repair, Alteration, and Rehabilitation of Damaged Nonconforming Buildings and Structures:** A nonconforming building that has been damaged to the extent of up to 100 percent of its assessed value at the time of damage may be repaired or reconstructed and used as before the time of damages provided such repairs or reconstruction are completed within one (1) year from the date of such damage.

**Section 16.06 — Abandonment and Discontinuance:** If the nonconforming use of any building, structure, land, or premises or part thereof is discontinued or abandoned through vacancy, lack of operation, destruction by fire, wind, collapse, explosion, act of God, public enemy, or otherwise damaged to an extent of up to 100% its assessed valuation for a continuous period of 365 days, then any further use of said building, structure, land, or premises shall conform in its entirety to the provisions of this Ordinance; provided, however, the Zoning Board of Appeals may, upon application within thirty (30) days of termination of said period, permit the resumption of such nonconforming use; provided that, (a) such rebuilding or restoration will not substantially extend the probable duration of such nonconforming use or; (b) that circumstances are such that the land previously occupied by such nonconforming use cannot then be advantageously used for a use permitted in the zone.

**Section 16.07 — Questionable Cases:** Any questionable case involving whether certain buildings, accessories, or structures do or do not conform to the provisions of this Ordinance shall be determined by the Township Zoning Enforcement Officer and, if necessary, appealed to the Zoning Board of Appeals.

## ARTICLE 17. WATERFRONT LOTS

**Section 17.01 — Intent and Purpose:** The intent and purpose of this Article is to limit overcrowding by boats and other watercraft and promote the safety in boating and recreational use on Sanford Lake, the Tittabawassee River, Tobacco River, and Verity Creek. Nothing in this Ordinance shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.

**Section 17.02 — Regulations:** In any zoning district where a parcel of land is contiguous to a lake, or body of water connected to the lake, such parcel of land may be used as access property or as common open space held in common by a subdivision contiguous to the access property or common open space, association or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront, only if the following conditions are met:

1. Those parcels granted usage of the access lot by any one of the means identified above, must be a minimum 1 acre in size.
2. In order to maintain views of water from adjacent or rear parcels, as well as nearby rights-of-way, all buildings or structures, with the exception of gazebos, pergolas, or similar open type structures that are within fifty (50) feet of the water's edge, shall have a height that does not exceed four (4) feet in height above the natural grade. For waterfront yards with a steep slope of more than two a (2) foot drop in a ten (10) foot run, no more than four (4) feet in height above the natural grade, which shall be measured from the highest point within twenty (20) feet horizontally from the proposed structure.
3. The access parcel of land contains a minimum of 7,000 square feet, 50 lineal feet of water frontage and 140 feet minimum depth.
4. In no event shall water frontage of such parcel of land consist of swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps or the Michigan Department of Natural Resources MIRIS map or have otherwise been determined to be wetland by the Michigan Department of Natural Resources. No swamp, marsh, bog or wetland shall be altered by dredging, the addition of earth or fill material, or by the drainage of water for the purpose of increasing water frontage.
5. In no event shall such access parcel of land abut a manmade canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage.
6. That access property, as provided for in and meeting the conditions of this Ordinance, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structures, or for any commercial or business use.
7. Piers and docks shall not be closer than 25 feet from the property lines of the access property.

**Section 17.03 — Non-conformance and Lots of Record for Waterfront Lots:** In any district in which access lots have been established before the effective date of this Ordinance or subsequent amendments thereto or subsequent Ordinances, the historic uses of such access lots shall not be increased to any extent. It is the intent of this Ordinance to permit such lawful non-conforming uses to continue without expansion.

Lots created after the effective date of this Ordinance that have been created from a parent parcel that does not front on the water, but that has water access rights by virtue of the terms of a plat of record or deed restrictions of record, are not granted the same access rights and have no right to water access through access property or common open space, unless the conditions in this Ordinance are met.

## ARTICLE 18. SIGNS

### Section 18.01 — General Provisions:

1. Flashing, rotating, animated, intermittent, glaring, and oscillating signs, and the location of any sign hazardous to traffic are prohibited.
2. The placement of signs within one hundred and fifty (150) feet of each other is prohibited. In special instances, where small parcels are involved, the Zoning Enforcement Officer has the discretion to waive this requirement.
3. Prohibited signs include signs that are in need of repair, other than normal maintenance; not securely affixed to a substantial structure; obsolete; affixed to trees, rocks, or other natural features; resemble official traffic signs; or obstruct official signs.
4. No sign existing prior to the adoption of this Ordinance that does not conform to the provisions of this section shall hereafter be altered or replaced, other than normal maintenance, except in conformance with the provisions of this Ordinance.
5. No sign other than traffic or regulatory signs shall be erected in a street or road right-of-way.
6. No sign or outdoor advertising structure shall be erected in such a manner that the position, size, movement, shape, or color may interfere with the view of, or be confused with any public traffic sign or device.
7. Sign illumination shall not cause a reflection or glare on any portion of a public highway, in the path of oncoming vehicles, or on adjacent premises.
8. Signs attached to a building shall project not more than ten (10) feet from the wall of the building, nor exceed the height limitation of buildings in that district.
9. Temporary political signs shall be removed within thirty (30) days following the election date.
10. Off-premises signs and billboards regulated by the Michigan Department of Transportation under the Highway Advertising Act, P.A. 106 of 1972, and amendments shall not be subject to these general provisions, but all other off-premise signs shall be subject to the provisions as well as the size limitations of the zoning district in which the sign is located.

**Section 18.02 — Definitions:** For the purpose of this Ordinance, the following sign or sign-related terms are defined:

**ANIMATED SIGN:** Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

**AREA OF SIGN:** The entire area within a circle, triangle, parallelogram; or other geometric configuration enclosing the extreme limits; or writing representation emblem or any figure; or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed and any numbers displaying the address of the use.

**ELECTRIC SIGN:** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.

**ELECTRONIC MESSAGE BOARD:** Changeable copy signs in which the copy consists of an array of lights activated and deactivated simultaneously with a frequency of message change of not less than 20 seconds. Signs displaying time and temperature only may change messages with a frequency of no less than 5 seconds.

**FREE-STANDING SIGN:** A sign that is affixed to a permanent foundation, but not attached to the building properly. (Also referred to as a “Ground Mounted” sign.)

**GROUND LEVEL:** The elevation to be used for computing the height of signs. Defined as the roadway centerline grade elevation at its intersection with the centerline of the driveway serving the parcel that is located nearest to the sign location.

**ILLUMINATED SIGN:** A sign that provides artificial light directly, or through any transparent or translucent material.

**INTEGRAL SIGN:** Names of buildings or farm date of erection, monumental citations, commemorative tablets and the like, that are made an integral part of the walls of the structure (or roof for farm buildings)

**JOINT SIGN:** A sign that gives direction and identification to a group of adjacent businesses, whether or not under single management.

**LOCATION:** A lot, premise, building, wall, or any place whatsoever upon which a sign is located.

**MARQUEE SIGN:** An identification sign attached to or made a part of a marquee, canopy, or awning projecting from and supported by the building.

**PROJECTING SIGN:** A sign, other than a wall sign, that projects 18” or more from and is supported by a wall of a building or structure.

**ROOF LINE:** This shall mean the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels; this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

**ROOF SIGN:** Any sign erected, constructed, and maintained wholly upon or over the roof of any building.

**SETBACK:** A distance measured from the outer boundary of a parcel in which erection of a sign is not permitted. A Front Setback is measured from the edge of the right-of-way of any abutting roadway. A Rear Setback is measured from the property line opposite the roadway. A Side



Setback is measured from any other abutting property line. Corner lots shall require two front setbacks, but only one rear setback.

**SIGN:** A name identification, description, display or illustration that is affixed to or represented directly or indirectly upon a building, structure or piece of land and that is intended to direct attention to an object, product, place, activity, person, institution, organization or business. However, a “sign” shall not include a sign located completely within an enclosed building.

**SIZE OF SIGN:** The size of a sign is computed as the product of its height and its width expressed in square feet. A sign shall be considered to have not more than two (2) sides, i.e., a three-sided sign equals two (2) signs.

**PORTABLE SIGN:** A display, information sign, banner, or other advertising device intended for a limited period of display, including any sign that can be physically lifted, pulled, carried, or wheeled from one location to another.

**WALL SIGN, FLAT:** One affixed directly to or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and that projects from that surface less than eighteen (18”) inches at all points.

**Section 18.03 — Limitations by Districts:** The use of signs shall be limited in the respective districts to the following, subject to the requirements of this Article.

1. Districts R-1 and R-2
  - a. Traffic and regulatory signs.
  - b. One on premise advertising sign for each principal or special use, other than dwellings, which sign shall not exceed eighteen (18) square feet in area and shall be set back at least twenty-five (25) feet from the front lot line.
  - c. One (1) residential identification sign not exceeding four (4) square feet in area per dwelling unit.
  - d. One (1) real estate sign per premises or building and located only while said real estate is actually on the market for sale, rent or lease not exceeding four (4) square feet and set back at least fifteen (15) feet from the front lot line. Two (2) real estate signs may be permitted if said property fronts two (2) roads or streets.
  - e. Directional signs not exceeding thirty-two (32) square feet that supply information about public places operated by federal state or local government, including natural phenomena, historic sites, area of natural scenic beauty, or naturally suited for outdoor recreation, and places for camping.
2. District A
  - a. Traffic and regulatory signs.
  - b. One on premise advertising sign for each principal or special use, other than dwellings, which sign shall not exceed eighteen (18) square feet in area and shall be set back at least twenty-five (25) feet from the front lot line.
  - c. One residential (1) identification sign not exceeding four (4) square feet in area per dwelling unit.

- d. One (1) real estate sign per premises or building and located only while said real estate is actually on the market for sale, rent or lease not exceeding sixteen (16) square feet and set back at least fifteen (15) feet from the front lot line. Two (2) real estate signs may be permitted if said property fronts two (2) roads or streets.
  - e. Directional signs not exceeding thirty-two (32) square feet that supply information about public places operated by federal state or local government, including natural phenomena, historic sites, area of natural scenic beauty, or naturally suited for outdoor recreation, and places for camping.
3. Districts C and I
- a. Traffic and regulatory signs.
  - b. Not more than two (2) on premise identification signs shall be permitted per principal business or commercial use. The total square footage of both signs shall not exceed one hundred twenty-eight (128) square feet. The following table and provisions describes the restrictions for each available sign type that is allowed in these districts.

Type of Sign	Maximum Size	Placement	Maximum Height	Notes
<b>Wall</b>	64 square-feet	anywhere on building	height of wall	see note #5 below
<b>Monument &amp; Freestanding</b>	64 square-feet	at least 10 feet away from road right-of-way	12 feet	for shopping centers, see note #3 and #4 below
<b>Marquee &amp; Canopy</b>	64 square-feet	on structure	height of highest eave	
<b>Roof</b>	64 square-feet	on structure	roof line	
<b>Pole</b>	64 square-feet	at least 10 feet away from road right-of-way	12 feet at grade of lot line	
<b>Electronic Message Board</b>	64 square-feet	at least 10 feet away from road right-of-way	12 feet	see note #9 below

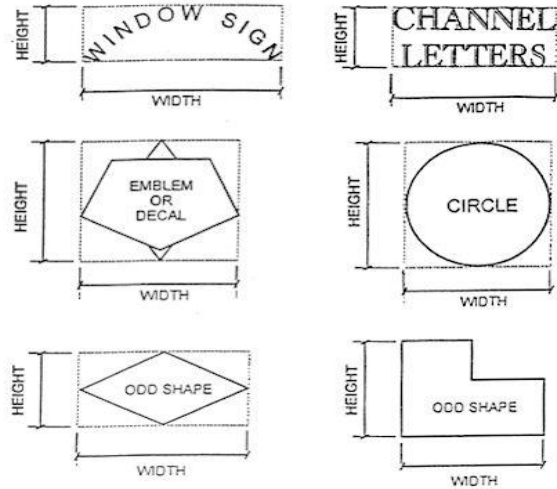
1. Through lot. In the case of through lots (a lot or lots held under one ownership fronting on two streets), on a street, one sign may be allowed per access drive.
2. Corner lot. In the case of a corner lot, situated on two or more streets, signs may be permitted on each street.
3. Monument Sign. Only one (1) monument sign shall be permitted on each lot, except that a shopping center shall be permitted one (1) monument sign for each major street frontage.
4. Shopping Center. A shopping center shall be allowed one (1) sign not exceeding two (2') foot by eight (8') feet for each business within the shopping center. The entire sign shall not exceed twelve (12') feet in height. If more than, five (5) businesses are located in one shopping center, additional monument signs will be allowed using the same two (2') foot by eight (8') foot signs. One (1) wall is allowed per individual business of sixty-four (64) square feet in a shopping center.
5. Height. The height of wall signs may be up to the height of the wall.
6. Businesses. Each business occupancy other than the ground floor shall be entitled to one (1) additional sign of the wall or flat type on the structure or incorporated

within a permitted projecting sign. These wall signs shall not be larger than two-thirds (66%) of the permitted wall sign for the first floor business.

7. Building Entrance. One (1) sign not exceeding twelve (12) square feet may be permitted per additional building entrance, exit, or service window.
  8. Parcels. Parcels with greater than four hundred (400') lineal feet of frontage may be granted additional signage at the site plan review phase.
  9. Electronic message boards. The message/symbol/picture change cycle of a changeable message sign shall be not less than twenty (20) seconds per message/symbol/picture, except for time and temperature messages, which may change with a frequency of no less than five (5) seconds.
  10. Portable signs. One (1) portable sign is permitted on each lot for a period that does not exceed twenty-four (24) total days during a calendar year. Temporary political signs and real estate signs are excluded from this provision.
    - c. One (1) real estate sign per premises or building and located only while said real estate is actually on the market for sale, rent or lease not exceeding sixteen (16) square feet and set back at least fifteen (15) feet from the front lot line. Two (2) real estate signs may be permitted if said property fronts two (2) roads or streets.
    - d. One (1) off-premise advertising sign not exceeding thirty-two (32) square feet may be allowed by special approval of the Planning Commission.
4. District R-3 and R-4
- a. Traffic and regulatory signs.
  - b. One identification sign for each principal or special use, other than dwellings, which sign shall not exceed thirty-two (32) square feet in area and shall be set back at least twenty-five (25) feet from the front lot line.
  - c. One (1) real estate sign per premises or building and located only while said real estate is actually on the market for sale, rent or lease not exceeding sixteen (16) square feet and set back at least fifteen (15) feet from the front lot line. Two (2) real estate signs may be permitted if said property fronts two (2) roads or streets.
  - d. Directional signs not exceeding thirty-two (32) square feet that supply information about public places operated by federal state or local government, including natural phenomena, historic sites, area of natural scenic beauty, or naturally suited for outdoor recreation, and places for camping.

**Section 18.04 — Methods to Measure the Area of a Sign:**

- a. Measurement. Measurement of a sign includes the entire area within a circle, triangle, parallelogram, or other geometric configuration enclosing the extreme limits of any writing, representation, emblem or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed and any numbers displaying the address of the use.



- b. Sign has two or more faces. The area of all faces shall be included in determining the total area of the sign, EXCEPT where two such faces are placed back-to-back and are at no point more than two feet from one another, the total area of the sign shall be taken as the area of one face. If the two back-to-back faces are of an unequal area, and are no more than two feet from one another, the area of the larger face shall be considered the total area of the sign.
- c. Sphere. The total area of the sphere shall be divided by two (2) to determine the maximum permitted sign area.
- d. Height. The height of a sign shall be measured from the average grade of the lot at the setback line.
- e. Numeric Address. If a sign includes a numeric address, the portion of the sign containing the address numbers shall not be counted toward the total square footage of the sign.

## ARTICLE 19. SPECIAL USE PERMITS

**Section 19.01 — Authority:** The Planning Commission, as hereinafter provided, shall have the authority to grant Special Use Permits subject to such conditions of design and operation, safeguards and time limitations as it may determine for special uses in any district. Application for any Special Use Permit permissible under the provisions of this Ordinance shall be subject to fee as may be set by the Township Board from time-to-time.

**Section 19.02 — Purpose:** Uses requiring Special Use Permits are those that are essentially incompatible with the uses permitted in a zoning district, but possess characteristics or location qualities that require individual review and the placement of restrictions, in order to avoid incompatibility with the character of the surrounding area and adjacent land uses. The purpose of this Article is to establish equitable procedures and criteria that shall be applied in the determination of requests to establish special land uses.

Special uses may be permitted only in those districts where they are designated by this Ordinance and are permitted only when specifically approved by the Planning Commission in accordance with the provisions of this Ordinance.

Prior to approval of a Special Use Permit, the Planning Commission shall ensure that all standards specified in this Article, as well as all standards established elsewhere in this Ordinance, shall be satisfied.

**Section 19.03 — Application:** An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

1. An application and site plan, filled out in triplicate, shall be submitted to the Planning Commission. Each application shall be accompanied by a fee in accordance with the township schedule of fees established by the Township Board.
2. In addition to any established application fee, the Planning Commission Chair shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit. The escrow deposit shall defray anticipated costs to be incurred by the Township for attorneys, planners, engineers, or other experts in the review of the application. The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application(s) shall be returned to the applicant(s).
3. The Planning Commission may impose conditions with permit approval that it deems necessary to ensure compliance with the standards contained in this Ordinance. Said conditions shall be considered an integral part of the Special Use Permit and shall be enforced by the Zoning Enforcement Officer.
4. Any additions to or expansions of an existing establishment or land use listed under Special Uses, shall also require a Special Use Permit issued by the Planning Commission.

**Section 19.04 — Public Hearing:** If properly requested by the applicant, the Planning Commission shall hold a public hearing, or hearings, within 90 days of the receipt of the application for a Special Use Permit. Such hearing(s) and the notice(s) of hearing shall comply with the Michigan Zoning Enabling Act (Act 110 of 2006).

**Section 19.05 — Standards:** In deciding a request for a Special Use Permit, the Planning Commission shall be governed by the following principles and standards:

1. The applicant(s) shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.
2. In considering an application for a Special Use Permit, the following shall be considered:
  - a. Whether all required information has been provided and fees paid.
  - b. Whether the proposed use is specifically provided as a use by special permit in the district in which the property is zoned.
  - c. Whether the proposed use at the location is consistent with the objectives and goals of the Master Plan and this Ordinance.
  - d. Whether the proposed use will adversely affect neighboring lands, including whether the proposed use will produce, create, or result in more traffic, noise, vibrations, dust, fumes, odor, smoke, glare, lights, or disposal of waste than permitted uses in the district or increase hazards to the subject property or neighboring lands.
  - e. Whether the proposed use will change the essential character of the surrounding area, disrupt the orderly and proper development of the District as a whole, or conflict with or discourage the permitted uses of the adjacent lands or buildings.
  - f. Whether the proposed use is compatible with and will not adversely affect the natural environment.
  - g. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the health, safety, and welfare of the Township including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
  - h. The special use shall comply with soil erosion and sedimentation control requirements and groundwater protection management provisions of local, state, and federal laws.
  - i. The proposed use shall comply with all relevant provisions of this Ordinance, including supplementary provisions for buildings, structures, uses, lots, yards, and premises, as well as those specific requirements in the district in which the property is zoned.

**Section 19.06 — Conditions:** The Planning Commission may impose reasonable conditions including duration and review periods in granting a special permit. The Planning Commission may enter into a development agreement to meet the purposes of this Article. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
2. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;
3. Promote the use of land in a socially and economically desirable manner;
4. Be related to the valid exercise of the police power and purposes that are affected by the proposed use or activity;
5. Be necessary to ensure compliance with the standards set forth in this Article.
6. The conditions shall remain unchanged except upon the mutual consent of the Planning Commission and the titleholder of the subject property.

**Section 19.07 — Decision:** After the hearing, the Planning Commission shall:

- a. Approve the special use permit application and direct the Zoning Enforcement Officer to issue the special use permit; or
- b. Grant the special use permit application subject to conditions that are imposed in order to ensure the special land use complies with standards stated in this Ordinance; or
- c. Deny the special use permit application.

All decisions shall be accompanied with a concluding statement citing the reasons for decision under Section 19.05 or other applicable requirements and any condition imposed under Section 19.06. The written decision of the Planning Commission shall be sent to the applicant signed by the chairperson or secretary of the Planning Commission with a copy to the Township Board.

**Section 19.08 — Issuance; Compliance and Violation:** Upon approval, the Planning Commission shall issue a Special Use Permit to the applicant. It shall be the responsibility of the Zoning Enforcement Officer to monitor compliance with the terms, conditions, and restrictions of any Special Use Permit and take any enforcement action necessary in the event of violation of the Special Use Permit.

Special Use Permits shall be reviewed annually by the Zoning Enforcement Officer to ensure compliance with this Ordinance. Any violation of the Special Use Permit or the conditions placed upon the Special Use Permit shall automatically void the entire permit. Violation of the Special Use Permit or conditions placed thereon is a violation of this Ordinance.

**Section 19.09 — Appeals:** The decision of the Planning Commission may be appealed to the Midland County Circuit Court as permitted by law.

## ARTICLE 20. SITE PLAN REVIEW

**Section 20.01 — Intent:** It is the intent of this chapter to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development.

**Section 20.02 — Uses Subject to Site Plan Review:**

- A. Either the Planning Commission, Zoning Administrator or the Zoning Enforcement Officer shall conduct site plan reviews for the following:
  - 1. Uses permitted by right in all districts.
  - 2. Special uses in all districts.
  - 3. Subdivisions of land and site condominium developments in all districts.
  - 4. Any change in a use subject to site plan review.  
EXCEPTION: For existing strip malls, plazas, or multiple office buildings, a site plan review is not required for a change of use if the Zoning Enforcement Officer or Zoning Administrator determines that the new use is permitted by right in the zoning district, is in keeping with the nature of the building, and meets the specified parking requirements. Any questionable case may be referred to the Planning Commission.
- B. Site plans not required to be reviewed by the Planning Commission shall be reviewed by the Zoning Enforcement Officer or Zoning Administrator as part of the Zoning Compliance land use permit (see Sections 24.01 and 24.02). These site plans will be reviewed in accordance with the same procedures, requirements, and standards used by the Planning Commission.

**Section 20.03 — Site Plan:**

- A. Applications for site plan approval shall consist of the following:  
An application form supplied by the Township.
  - 1. A review fee as determined by resolution of the Township Board based upon the cost of processing the review. Such resolution shall be on file with the Township Clerk for public information.
  - 2. Ten copies of a site plan at a scale of not less than one (1) inch equals one hundred (100) feet with the following minimum information:
    - a. Dimensions of property, of the total site area, locations of all buildings, driveways, parking areas or other structures on adjacent properties within one hundred (100) feet of the property, including those located across the street from the property.
    - b. Required and proposed building setbacks.
    - c. Location of abutting streets and proposed alignment of streets, drives, and easements serving the development, including existing right-of-way and pavement widths.
    - d. Location, screening, dimensions, and heights of proposed buildings, structures, such as trash receptacles, utility pads, etc., including accessory buildings and uses, and the intended uses thereof. Rooftop or outdoor appurtenances should also be indicated, including proposed methods of screening such equipment, where appropriate.
    - e. Location and dimensions of parking areas, including computations of parking requirements, typical parking space dimensions, including handicapped spaces, and aisle widths.
    - f. Proposed water supply and wastewater systems locations and sizes.



- g. Proposed grades and site drainage patterns, including necessary drainage structures. Where applicable, indicate the location and elevation(s) of 100-year flood plain.
- h. Proposed common open spaces and recreational facilities, if applicable.
- i. Proposed landscaping, including quantity, size at planting, botanical, and common names of plant materials.
- j. Signs, including location, height, and sizes.
- k. Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic control signs, or devices, and service drives.
- l. Exterior lighting showing area of illumination and indicating the type of fixture to be used.
- m. The Planning Commission may request elevation sketches of proposed buildings, along with a general description of materials and colors to be used.
- m. Development plans for residential projects, such as multiple family developments, mobile home subdivisions, and mobile home parks. The plans shall include the following additional information:
  - 1. Minimum floor area of the dwelling units.
  - 2. Total number of units proposed.
  - 3. Number of bedrooms per unit in multiple-family developments.
  - 4. Areas to be used for open space and recreation.
  - 5. Space allowance for accessory buildings in mobile home subdivisions and mobile home parks.
- 3. The name and address of the person and firm who drafted the plan, the seal of the professional responsible for the accuracy of the plan (licensed in the state of Michigan) and the date on which the plan was prepared.
- B. Planning Commission Review: The Planning Commission shall review the application and site plan and shall approve, approve with conditions, or deny the submitted site plan. If denied, the Planning Commission shall cite reason for denial. If approved, the applicant may submit the necessary plans and documents for necessary permits.

**Section 20.04 — Validity of Site Plans:**

- A. Approval of the site plan is valid for a period of one (1) year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during the period, the approval of the site plan shall be null and void.
- B. Upon written application that must be filed prior to the termination of the one (1) year review period, the Zoning Administrator may authorize a single extension of the time limit for approval of a site plan for a further period of not more than one (1) year. Such extension shall only be granted based on evidence from the applicant that the development has a likelihood of commencing construction within the one (1) year extension.

**Section 20.05 — Standards for Site Plan Approval:** In addition to the other requirements in this Ordinance, the Planning Commission shall require that the following standards be satisfied before approving the site plan:

- A. Adequate ingress and egress to public right of ways.

- B. Landscaping, landscape buffers and green belts shall be provided and designed in accordance with the provisions of the Zoning Ordinance.
- C. All elements of the site plan shall be designed to take into account the sites topography, the size and type of plot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in the Zoning Ordinance.
- D. The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography that are reasonably necessary to develop the site in accordance with the requirements of the Zoning Ordinance. Tree stumps and miscellaneous debris from clearing of the property shall not be buried in right-of-ways, possible future rights-of-way, or potential building sites.
- E. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, to accomplish these purposes.
- F. All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the Fire Department.
- G. The proposed use shall not increase traffic hazards or cause congestion on the public thoroughfares of the area. To demonstrate compliance with this standard, applicant shall obtain approval from Michigan Department of Transportation or the Midland County Road Commission.
- H. There shall be provided a pedestrian circulation system that is separated from the vehicular circulation system. In order to ensure public safety, special pedestrian measures, such as crosswalks, crossing signals and other such facilities may be required in the vicinity of schools, playgrounds, local shopping areas and other uses that generate a considerable amount of pedestrian traffic.
- I. The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives that are part of an existing or planned street pattern serving adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that required by the Midland County Road Commission.
- J. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. The proposed shall comply with soil erosion and sedimentation control requirements and groundwater management provisions of local, state, and federal laws.
- K. All loading and unloading areas and outside storage areas, including areas for the storage of trash that face or are visible from residential districts or public thoroughfares, shall be screened by an opaque wall or landscaped screen not less than six (6) feet in height.
- L. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

- M. For proposed uses in recreational districts, no building or structure shall be constructed within 100 feet of road rights-of-way or property lines.
- N. Landscaping landscape buffers and greenbelts shall be required where a non-residential use is adjacent to residential use.
- O. Waiver from Landscaping and Screening Requirements: The Planning Commission during Site Plan review may determine that existing landscaping or screening intended to be preserved would provide adequate landscaping and screening. The Planning Commission may also determine dimensional conditions unique to the parcel would prevent development of required buffer zones, off-street parking area landscaping, greenbelts or required buffer zones. If such determination is made, the Planning Commission may waive, in whole or in part, the landscaping provisions of this section. Criteria that shall be used when considering a waiver shall include, but shall not be limited to:
  - 1. Existing natural vegetation;
  - 2. Topography;
  - 3. Existing wetland, floodplain, and poor soil areas;
  - 4. Existing and proposed building placement;
  - 5. Building heights;
  - 6. adjacent land uses;
  - 7. Distance between land uses
  - 8. Dimensional conditions unique to the parcel;
  - 9. Traffic sight distances
  - 10. Traffic operational characteristics on and off site
  - 11. Visual, noise and air pollution levels
  - 12. Health, safety and welfare of the township
- P. All provisions of the Township Zoning Ordinance must be complied with unless an appropriate variance has been previously granted by the Zoning Board of Appeals.

**Section 20.06 — Conditions of Approval:**

- A. As part of an approval to any site plan, the Planning Commission may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public interest.
- B. Such conditions shall be related to and ensure that the review standards of this Article are met.
- C. Approval of a site plan, including conditions made as part of the approval, is attached to the property described as part of the application and not to the owner of such property.
- D. A record of conditions imposed shall be maintained. The conditions shall remain unchanged, unless an amendment to the site plan is approved.
- E. Additional Fees. If the Planning Commission determines the need for a professional opinion, monies for the services requested shall be provided by the applicant.

**Section 20.07 — Decision:** The Planning Commission shall:

- a. Approve the site plan; or
- b. Approve the site plan subject to conditions; or
- c. Deny the site plan.

A record of the decision of the Planning Commission, the reason for the decision reached and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission.

**Section 20.08 — Amendments to Approved Site Plans:**

- A. Any person who has been granted site plan approval shall notify the Zoning Enforcement Officer of any proposed amendment to such approved plan.
- B. The Zoning Enforcement Officer shall determine whether the proposed amendment constitutes a minor or major amendment based on, but not necessarily limited to, the following:
  - 1. The addition of land to the legal description of the original site plan approval;
  - 2. The establishment of another use or uses;
  - 3. The addition of more sales or service area, or the addition of dwelling units;
  - 4. An expansion or increase of intensity of use;
  - 5. The relocation of proposed buildings in regard to the approved site plan;
- C. A major amendment to an approved site plan shall comply with the same filing and review procedures of the original approval. A minor amendment may be approved by the Zoning Enforcement Officer.

**Section 20.09 — Appeals:** Any person aggrieved by the decision of the Planning Commission in granting or denying of a site plan or with conditions required, shall have the right to appeal the decision to the Zoning Board of Appeals. Special Uses and Planned Unit Developments, including the site plans for such discretionary uses, are not appealable to the Zoning Board of Appeals, and can only be appealed to the Circuit Court of Midland County.

**Section 20.10 — Conformity and Compliance:** The Zoning Enforcement Officer may make periodic investigations of developments for which site plans have been approved. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Planning Commission to terminate said approval following a public hearing. The change of use for an existing building shall be first approved by the building department.

Property that is the subject of site plan approval must be developed in the strict compliance with the approved site plan and any amendments thereto that have received the appropriate approval. If construction and development does not conform to the approved plan, the approval thereof shall be forthwith revoked by the township Zoning Enforcement Officer, by written notice of such revocation posted upon the premises involved and shall be mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than activities related to purpose of correcting the violation. However, the Planning Commission may, upon proposed application of the developer and after a hearing, approve a modification in the site plan to coincide with the developers construction provided such construction complies with the criteria contained in the site plan approval provisions and the spirit, purpose, and intent of this Ordinance.

## ARTICLE 21. SITE CONDOMINIUM REVIEW

**Section 21.01 — Approval Required:** Condominium projects established pursuant to the Condominium Act require both a special use permit and site plan review pursuant to Articles 19 and 20 of this Ordinance.

**Section 21.02 — Standards and Improvements:** Site plans submitted for a condominium project shall comply with all design standards set forth in applicable federal and state statutes, local ordinances, rules, and regulations.

**Section 21.03 — General Regulations:**

1. The Planning Commission shall have the authority to review and to approve, approve with conditions, or deny final site plans.
2. No permits for erosion control, building construction, grading, or installation of water or sanitary sewerage facilities shall be issued for property in a proposed condominium project until a final site plan has been reviewed and approved, or approved with conditions by the Planning Commission.
3. The final site plan shall be submitted in conjunction with an application for a certificate of zoning compliance seeking authorization to commence construction of the improvements depicted on the site plan.
4. The dedicated open space, primary conservation areas, other undivided common areas, and associated facilities shall be held in common ownership by the condominium association. The condominium association shall be formed and operated under principles approved by the Planning Commission, including the following:
  - a. The developer shall provide a description of the association, including its Articles of Incorporation and Bylaws and a Dedicated Open Space maintenance plan documenting methods for maintaining the open space and improvements (including any private roads) depicted on the site plan and ensuring the integrity of the dominant natural features.
  - b. The condominium association shall be organized by the developer or owner and shall be operated with a financial subsidy from the developer, or owner, before the sale of any lots within the development.
  - c. Membership in the condominium association shall be automatic and mandatory for all purchasers of building sites in the project and their successors. The conditions and timing of transferring control of the association from developer to the property owners shall be identified.
  - d. The members of the condominium association shall share equitably in the costs of maintaining undivided open space and improvements (including private roads) depicted on the site plan. Shares shall be defined within the condominium association bylaws and assessments for maintenance shall be a lien on the land.
  - e. The condominium association shall be responsible for maintenance of all common open space areas and facilities under its control (including private roads) and maintenance of liability insurance and similar duties of ownership.

- f. The condominium association may lease open space lands to any other qualified person, or entity, for operation and maintenance of farmlands in accordance with the approved site plan, but such a lease agreement shall provide:
  - i. That the residents of the development shall at all times have access to the open space lands contained therein (except croplands during growing season).
  - ii. That the undivided open space to be leased shall be maintained for the purposes set forth in this Ordinance.
  - iii. That the operation of open space facilities may be for the benefit of the property owners only, or may be open to the public, at the election of the developer and/or condominium association, as the case may be.
- g. To assure that improvements are maintained in perpetuity at the expense of those lands benefited by the improvement, the Planning Commission may require the establishment of a district under the jurisdiction of the County Drain Commissioner or the establishment of a special assessment district under the jurisdiction of the Township or other authorized governmental body at the time of site plan approval.

**Section 21.04 — Site Plan Requirements:**

1. A site plan shall be filed and processed in accordance with this Ordinance, particularly Articles 20 and 21.
2. A final site plan shall provide the information required under this Ordinance and Section 66 of the Condominium Act (MCL 559.166).
3. Each condominium unit shall be located within a zoning district that permits the proposed use.
4. For the purposes of this Ordinance, each condominium unit shall be considered equivalent to a single lot and shall comply with all regulations for a lot within the zoning district in which located. In the case of a condominium project containing single-family detached dwelling units, not more than one dwelling unit shall be located on a condominium unit with any other principal structure or use. Required yards shall be measured from the boundaries of a condominium unit. Lot coverage and floor area ratio shall be calculated using the land area of the condominium unit.
5. Each condominium unit shall be connected to public water and sanitary sewer facilities, where such facilities are available, or a well, septic tank, and drain field approved by the County Health Department, where public water and sanitary sewer services are not available. A well, septic tank, and drain field serving a condominium unit shall be located within that unit, as described in the master deed.
6. Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act (MCL 559.148), shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Enforcement Officer as required. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
7. Each condominium unit that results from a division of another condominium unit, if such division is permitted by the condominium documents, as provided in Section 49 of the Condominium Act (MCL 559.149), shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Enforcement Officer.

8. The above requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
9. All information required by this Ordinance shall be a portion of the final site plan that is subject to its jurisdiction.

**Section 21.05 — Revision of Site Condominium Plan:** If the site condominium plan is revised, the final site plan shall be revised accordingly, submitted for review, and acted upon by the Planning Commission, before any building permit may be issued, where such permit is required.

**Section 21.06 — Amendment of Master Deed or Bylaws:** Any amendment to a master deed or bylaws that affects the approved final site plan, or any conditions of approval of the final site plan, shall be reviewed by and acted upon the Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

**Section 21.07 — Development Agreement and Performance Guarantee:** The Planning Commission may require, as a condition of site plan approval, that the applicant enter into a development agreement and post a performance guarantee.

**Section 21.08 — Land Use Permits; Interference with Improvements:** Any application for a building permit for construction to be located in a general common element or an integral part of a storm water management plan or other site improvement shall require an amendment to the approved site plan.

**Section 21.09 — Monuments:** Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corners and deflection points of lot lines. The Zoning Enforcement Officer may grant a delay of required monuments or irons for a reasonable time, but not to exceed 1 year, on condition that the developer deposit with the Township Clerk, a certified check, or an irrevocable letter of credit running to Edenville Township, whichever the developer selects, in an amount as determined from time-to-time by resolution of the Planning Commission. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments specified have been set in accordance with the approved final site plan. If the developer defaults, the Planning Commission shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

**Section 21.10 — Rights-of-Way:** Road rights-of-way shall be described separately from individual condominium units, and shall be accurately delineated by bearings and distances on the site condominium plan and the final site plan. The right-of-way shall be for roadway purposes and for the purposes of locating, installing, maintaining, and replacing public utilities. Whenever public water and sanitary sewer services are present, the developer shall dedicate easements for the public water and sanitary sewer lines and appurtenances to the agency having jurisdiction.

**Section 21.11 — As Built Drawings:** The applicant shall submit as-built drawings as a condition of a final certificate of zoning compliance.

## ARTICLE 22. ZONING BOARD OF APPEALS

**Section 22.01 — Intent and Purpose:** The intent and purpose of this section is to create a Zoning Board of Appeals and identify the duties of this body, and the appeals process for challenges to zoning decisions.

**Section 22.02 — Authority:** A Zoning Board of Appeals is hereby created in conformance with and shall perform its duties and exercise its powers and jurisdiction as provided by, the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. The Zoning Board of Appeals powers and duties are those authorized by the Michigan Zoning Enabling Act and as follows:

1. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination, made by Edenville Township and/or its officers, representatives or agents in the administration or enforcement of this Ordinance, except in the decision on any Special Use Permit or Planned Unit Development.
2. To hear and decide appeals from the action of the Zoning Enforcement Officer when a Zoning Compliance Permit has been refused or the construction or use of a building or premises stopped because of the failure of such building, or use, to comply with the provisions of this Ordinance, where such appeal is based on unusual conditions that cause practical difficulties or unnecessary or unintended hardship in the application of the strict letter of this Ordinance to the case under appeal.
3. To authorize variances only if the Zoning Board of Appeals finds from reasonable evidence that all the following facts and conditions exist:
  - a. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district and are not the result of self-induced hardship.
  - b. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not itself be deemed sufficient to warrant a variance.
  - c. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or the public interest.
  - d. That the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought is not of so general or recurrent a nature as to require the formulation of a general regulation for such condition or situation.
4. The Zoning Board of Appeals shall not have the authority to grant a variance to allow a use not permitted by this Ordinance in the zoning district in which the property is located.
5. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the application of any dimensional provisions of this Ordinance pertaining to parcels of land, such as lot dimensions or setbacks. The Zoning Board of Appeals shall make such order, requirement, decision or determination as in its opinion ought to be made on the property. The Zoning Board of Appeals shall notify the Township and/or its officers, representatives or agents in writing of any such action taken and such action shall not be valid until such



notice shall have been delivered to the office of the Zoning Enforcement Officer within 14 days after the Zoning Board of Appeals decision is made.

6. The Zoning Board of Appeals may require the posting of a performance bond to ensure compliance of all conditions associated with the issuance of a variance. The bond must be deposited with the township clerk before a variance is issued. Bond may be by cash, certified check, irrevocable letter of credit, or a surety bond, acceptable to the township board.

**Section 22.03 — Membership:**

- A. The Zoning Board of Appeals shall have five (5) regular members. A member of the Planning Commission shall serve on the Zoning Board of Appeals. The Township Board shall always have one of its members serve as the second member of the Zoning Board of Appeals, but such Township Board member shall not serve as chairperson of the Zoning Board of Appeals. The remaining regular members and any alternate members of the Zoning Board of Appeals shall be appointed by the Township Board. The members appointed shall be selected from and be representative of the population distribution and the various interests in the Township.
- B. The Township Board also may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member may not serve for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.
- C. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
- D. The terms of office for members appointed to the Zoning Board of Appeals shall be for three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of those bodies. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) calendar month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- E. Any vacancy shall be filled for any unexpired term in the same manner as provided for in the initial appointment and each member shall serve until his successor has been appointed.
- F. The members of the Zoning Board of Appeals shall elect one member to serve as Chairperson and another to serve as Secretary. The Secretary can be a non-voting member of the Zoning Board of Appeals.

- G. The members of the Zoning Board of Appeals shall be paid per diem as established by the Township Board plus expenses actually incurred in the discharge of their duties.

**Section 22.04 — Rules of Procedure:**

- A. The Zoning Board of Appeals shall fix the rules and regulations to govern its procedure when acting upon appeals. It shall hear and decide appeals and review any order, requirements, decision or determination made by the Zoning Enforcement Officer.
- B. All meetings of the Zoning Board of Appeals shall be open to the public.
- C. A record of the proceedings shall be maintained and a copy of each proceeding shall be filed in the office of the Township Clerk for public record.

**Section 22.05 — Jurisdiction:**

- A. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order requirements, decision, or determination appealed from, excepting here from any denials, requirements, decision, or determination as in its opinion ought to be made to the premises. To that end, the Zoning Board of Appeals shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance; including but not limited to matters, where it is alleged by an appellant that there is error or misinterpretation in the Zoning Enforcement Officer or other administrative officer's order, requirement, decisions, grant, or refusal, except as relate to special use permits.
- B. The Zoning Board of Appeals may also classify a use that is not specifically mentioned within the use regulations of any zoning district based on a comparable permitted or special use, in accordance with the purpose and intent of each district. If no comparable use is found, the Zoning Board of Appeals shall so declare, the effect being that the use is not permitted until or unless the text of this Ordinance is amended to permit it.

**Section 22.06 — Appeal Requirements:**

- A. Appeals shall be taken within such time as shall be prescribed by the Zoning Board of Appeals by general rule, by filing with the Township Clerk within such time as the Zoning Board of Appeals provides from when the appeal is taken and with the Board of Appeals, a notice of appeal, specifying the grounds thereof. The Township Clerk shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action for appeal was taken.
- B. The appellant must supply the following written information to the Zoning Board of Appeals chairperson before the case will be heard:
  - 1. Appellant's name, address, phone number, and legal property description.
  - 2. A copy of written Zoning Compliance Permit application denial from the Zoning Enforcement Officer. The denial should state the reason for denial.
  - 3. Written request for an appeal hearing.
  - 4. An accurate plan of property showing location, size, and use of all existing and proposed structures, street right-of-way, structures on adjoining property, surface drainage patterns, lot dimensions, yard setbacks, and other pertinent data.

5. Names and addresses of all adjoining property owners.
- C. A notice of the Public Hearing shall be mailed to the chairperson of the Planning Commission.
- D. The Zoning Board of Appeals may waive portions of the data required.

**Section 22.07 — Hearings and Decisions upon Appeals:**

- A. Upon receipt of a complete appeal, the Zoning Board of Appeals shall fix a time for the hearing of the appeal, which shall occur no later than ninety (90) calendar days following the date of the appeal, and provide due notice thereof, in accordance with the Michigan Zoning Enabling Act.
- B. The hearing shall be conducted in accordance with the Michigan Zoning Enabling Act. Any person may appear in person or by agent or his attorney at the hearing.
- C. A majority vote of the members of the Zoning Board of Appeals shall be necessary to reverse the order, decision, or determination of the Zoning Enforcement Officer, or to decide in favor of the applicant in the matter on which the Zoning Board of Appeals is required to pass under this Ordinance. A tie vote is considered a “non-vote” and the issue will be placed on the agenda for the next meeting. In the event of a tie vote, a meeting will be arranged in a timely fashion.

**Section 22.08 — Stay:** An appeal to the Zoning Board of Appeals *from any action by another official or body appealable to the Zoning Board of Appeals under this Ordinance* stays all proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Zoning Board of Appeals after the notice of appeal has been filed that by reason of the facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In the latter case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Zoning Board of Appeals or by the Circuit Court, on notice to the Zoning Enforcement Officer and on due cause shown. *The provisions of this section shall not prevent the Township from enforcing this Ordinance with respect to any existing violation of this Ordinance, even if that violation may be the subject of a pending request for a variance from the Zoning Board of Appeals.*

**Section 22.09 — Appeals from Zoning Board of Appeals:** Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Midland County Circuit Court. An appeal shall be filed within the time provided for by law.

## **ARTICLE 23. ORDINANCE AMENDMENTS**

**Section 23.01 – Authority:** The Township Board, after review and recommendation by the Planning Commission, has authority to adopt amendments to the text of this Ordinance and the official zoning map.

**Section 23.02 – Procedure for Amendment of Zoning Ordinance:**

1. Applicants. Amendments may be initiated by the Township Board, the Planning Commission, or by petition of one or more residents of Edenville Township, or by one or more persons acting on behalf of a resident of Edenville Township.
2. Pre-Application Conference. The applicant/property owner must attend a pre-application conference to be coordinated by the Township. This meeting may include the Township Supervisor, Chairperson of the Planning Commission, Zoning Enforcement Officer, Zoning Administrator and consultants hired by the Township or other officials to discuss the project. The Township may require the applicant to make an escrow deposit to cover the Township’s actual costs incurred for such a meeting.
3. Application. An application and ten (10) copies seeking an amendment to the text or map shall be filed with the Township Clerk. The Township Clerk shall date stamp all materials received, retain the original documents, and distribute the copies appropriately.
  - a. The application shall provide the following information if an application involves an amendment to the official zoning map:
    1. A legal description of the property, including the street address and tax code number(s).
    2. The name, address, and telephone number of the applicant.
    3. The applicant’s interest in the property. If the applicant is not the owner, the name and address of the record and known owner(s), and the owner(s) signed consent to the application.
    4. Identification of the zoning district requested and the existing zoning of the property.
    5. Signature(s) of the applicant(s) and owner(s), certifying the accuracy of the information.
    6. Further information as requested by the Zoning Enforcement Officer, Zoning Administrator, consultants hired by the Township, Planning Commission, or Township Board that is relevant to the site and standards set forth in this Ordinance.
  - b. The application shall provide the following information if an application involves an amendment the text of this Ordinance:
    1. Name and address of the applicant.
    2. A detailed statement clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
    3. Reasons for the proposed amendment.
    4. Further information as requested by the Zoning Enforcement Officer, consultants hired by the Township, Planning Commission, or Township Board, that is relevant to the proposed text amendment.

4. Right of Entry. The filing of an application to rezone shall constitute permission from the owner for the Township to complete an on-site investigation of the property in question for purposes of this Article.
5. Application Fee. The applicant shall submit to the Township Clerk with the application an application fee in an amount established by resolution of the Township Board to cover the fixed costs associated with processing the application.
6. Escrow deposit. The Township Supervisor, after review of the application, shall establish an amount to be deposited by the applicant with the Township Clerk as an escrow deposit to defray the anticipated costs incurred by the Township to review and process the application(s). The Planning Commission shall not commence consideration of the merits of the application(s) until the escrow deposit is received by the Township Clerk. Any unused portions of the escrow deposit remaining after consideration and processing of the application shall be returned to the applicant(s).
7. Initial Review. The Planning Commission Chair shall review the application(s) for completeness, and indicate to the applicant additional information and documents to be provided. The Planning Commission shall schedule all public hearings and the Township Clerk or his/her designee shall coordinate public notices.
8. Notice.
  - a. Upon receipt of an application and petition for amendment, Planning Commission shall provide notice pursuant to the requirements of the Michigan Zoning Enabling Act.
  - b. Upon receipt of a rezoning petition, the Planning Commission shall provide notice pursuant to the requirements of the Michigan Zoning Enabling Act.
9. Public Hearing-Planning Commission. Within sixty (60) days of receipt of the application and petition, the Planning Commission shall conduct a public hearing on the proposed text amendment or rezoning pursuant to the requirements of the Michigan Zoning Enabling Act. The hearing shall proceed as follows: open public hearing; acknowledge receipt of written comments; receive comments from applicant/owner and other persons attending the hearing; close public hearing
10. Administrative Report. Following the public hearing, the Planning Commission may request that the Zoning Enforcement Officer and/or other persons retained by the Township present a report that analyzes the application(s) with respect to the requirements and standards of applicable federal and state statutes, ordinances, rules, and regulations.
11. Submission to the Township Board. The petition and all Planning Commission materials minutes, and the like shall be submitted to the Township Board by the Planning Commission and acted upon in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.
12. Standards and Burden. In deciding a request for a zoning text amendment or rezoning, the Planning Commission and Township Board shall be governed by the following principles and standards:
  - a. The applicant shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact.
  - b. Decisions to amend the Ordinance text or official zoning map are legislative in nature, and the Township Board ultimately has discretion to act in the interest of the public health, safety and general welfare.

- c. In considering an application for rezoning, the following factors may be considered, among others:
  - i. Whether all required information has been provided and fees paid.
  - ii. Consistency with the goals, policies and future land use map of the Master Plan. If conditions have changed since the master plan was adopted, the rezoning may be found to be consistent with recent development trends in the area.
  - iii. The compatibility of all uses permitted in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values compared to uses permitted under current zoning;
  - iv. The capacity of local utilities and public services sufficient to accommodate all the uses permitted in the requested district without compromising the “health, safety and welfare” of the township including the capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
  - v. The precedent, and the possible effects of such precedent, that might result from approval or denial of the petition; and
  - vi. Whether the requested rezoning will create an isolated and unplanned spot zone.
13. Payment of Costs. Prior to any decision on an application for rezoning or concurrent application, the applicant shall pay all costs and expenses incurred by the Township to review and process the application(s). If sums due and owing the Township are not paid, the Township Board may delay making its decision(s) until such time as the sums are fully paid, dismiss the application(s), or take such other action as provided by law.

**Section 23.03 — Re-Application:** An application for an amendment that has been denied wholly or in part by the Township Board shall not be resubmitted for a period of 365 days from the date of such denial, except on grounds of new evidence or proof of changed conditions that reasonably could not have been submitted at the time of the initial application.

## ARTICLE 24. ADMINISTRATION

**Section 24.01 — Zoning Enforcement Officer; Zoning Administrator:** The provisions of this Ordinance shall be administered by the Zoning Enforcement Officer and/or the Zoning Administrator, who shall be appointed by the Township Board for such term and subject to such conditions and employed at such rate of compensation, as said board shall determine. The rights, duties, and obligations of Zoning Enforcement Officer and/or the Zoning Administrator shall be those defined by the Township Board. A zoning compliance land use permit is required for all new construction or new uses.

**Section 24.02 — Building Permit, Duration, and Extension:**

- a. Except as otherwise provided, any building or structure over 200 square feet hereafter erected, or altered shall require a zoning compliance land use permit and a building permit.
- b. Building permits shall be issued for one-year duration.
- c. Extensions for up to one year may be obtained from the building inspector. To qualify for an extension, the exterior of the building under construction must be completed, including roofing and siding, and the yard shall be free from waste materials.

**Section 24.03 — Zoning Ordinance Review:** This Zoning Ordinance, including the Zoning Map, shall be reviewed by the Township Planning Commission at least once every five years.

**Section 24.04 — Fees:** All fees for administration or implementation of any section of this Ordinance, including permit fees and escrow fees, shall be authorized from time-to-time as needed by resolution of the Township Board. Permit and application fees shall be fixed, non-refundable amounts. Escrow fees will vary, are set on a case-by-case basis, and unused portions of an escrow fee shall be refunded.

**Section 24.05 — Development Agreements:**

- A. The Zoning Enforcement Officer, in conjunction with the Planning Commission, shall draft development agreements when necessary to ensure that the provisions of applicable federal and state statutes, local ordinances, rules, regulations, and conditions are adhered to by the owner of the land and/or developer of the project. Such agreements shall be reviewed by the Planning Commission and approved, approved with revisions or disapproved.
- B. As a condition to the grant of authority under this Ordinance, the owner and developer may be required to enter into a development agreement. The development agreement shall embody the parties' intent with respect to the project. The agreement may include the following provisions:
  1. Posting of funds with the Township to ensure that the costs incurred by the Township with respect to the subject property are borne by the owner and/or developer and not the Township.
  2. Installation of specified improvements at the expense of the developer in accordance with federal, state and local requirements and standards and, if applicable, to provide

- for the conveyance of such improvements to the Township by deed, easement, bill of sale or other means.
3. Depiction of all dedicated open spaces, common areas, conservation easements and improvements on the site plan, together with a statement that specifies the use(s) that may be made of such areas.
  4. Set forth conditions to a site plan review; to a special use; or to a planned unit development.
  5. Specify the authorized use(s) on the subject property.
  6. Posting financial guarantees to ensure faithful completion of improvements and compliance with conditions.
  7. Posting certificates of insurance and hold harmless provisions.
  8. Provisions to ensure maintaining improvements in perpetuity.
  9. Construction completion date(s).
  10. Such other and further provisions as come within the scope of authority granted to the Township that have a reasonable relationship to the subject property.
- C. The Development Agreement, among other things, is intended to assure that the improvements depicted on the site plan are properly installed and that the costs associated with the project are borne by the owner and/or developer (not the Township) of the project. The site plan shall become part of any subsequent permit issued by the Township, such as (but not limited to) certificates of zoning compliance and certificates of occupancy. The Development Agreement may be amended with the mutual consent of the parties to the Agreement or their successors in interest.
- D. The Development Agreement, at the expense of the owner/developer, shall be recorded with the Midland County Register of Deeds and bind successors in interest. Any transfer of responsibility under the agreement from one developer to another shall require the approval of the Township Board that shall not be unreasonably withheld, but may require the posting of additional financial assurances.

**Section 24.06 — Performance Guarantees:**

- A. To ensure compliance with this Ordinance and any conditions imposed under the Ordinance, the Township may require that a cash deposit, certified check, or irrevocable letter of credit acceptable to the Township covering the estimated cost of improvements be deposited with the Township Clerk to insure faithful completion of the improvements and fulfillment of conditions. The form of the performance guarantee shall be approved by the Township Treasurer and Township Attorney.
- B. As used in this Section, “improvements” means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of a Township and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities such as water and sewage, sidewalks, bike and walking paths, screening, grading, landscaping and drainage. Improvements do not include principal buildings, but may include accessory buildings or common elements.



- C. The Township Board, Planning Commission, Zoning Board of Appeals and Zoning Enforcement Officer are authorized to require the posting of a performance guarantee by an applicant seeking authorization under this Ordinance.
- D. The performance guarantee shall be deposited at the time of issuance of the document that authorizes the activity or project. The Township may not require the deposit of the performance guarantee until it is prepared to authorize the activity or project.
- E. The letter of credit or other acceptable security shall provide that any documents required by the Township to obtain the funds may be hand delivered to a financial institution within not more than 50 miles of the Township or transmitted by facsimile or email.
- F. The performance guarantee shall insure that the improvements comply with the standards set forth in applicable statutes, ordinances, rules and regulations at the time the project is completed; that conditions are met; that all materials, debris and equipment are removed from the site; and that actual costs incurred by the Township related to the project, including (but not limited to) inspection costs, are paid by the applicant (and not by the Township).
- G. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements depicted on the approved site plan, under the jurisdiction of the Township. The applicant shall provide an itemized schedule of estimated costs for materials and installation to be covered by the performance guarantee, such estimate shall be verified as to the amount by the Township Engineer. The exact amount shall be determined by the Township Engineer.
- H. If development is staged or phased over time, a separate guarantee for each stage or phase shall be submitted at the beginning of each stage or phase as a prerequisite, provided that each phase of the development must be able to stand on its own without regard for improvements in other phases, or otherwise all improvements necessary to sustain that phase must be covered by financial guarantees.
- I. If at any time it appears the amount of the performance guarantee is inadequate to cover the purposes for which the performance guarantee was posted, and the applicant declines to provide requested additional or further performance guarantees, then the Zoning Enforcement Officer may issue a stop work order and/or decline to issue further certificates of zoning compliance or certificates of occupancy for buildings or other structures for which the improvements are intended to benefit, or take such other action as provided by law.
- J. As the contingencies covered by the performance guarantee diminish, the Zoning Enforcement Officer, upon direction of the Township Board, may decrease the amount.
- K. The amount of a performance guarantee may be reduced to an amount not less than ten (10%) percent when all the improvements depicted on the approved site plan appear satisfactorily completed. The amount is intended to cover damages that may occur to the improvement during the construction of houses or other non-improvement structures, ensure against defects in workmanship and materials; replace dead or dying landscape materials; ensure proper grading; and that actual costs incurred by the Township related to the project are fully paid by the owner/developer.
- L. For improvements under the zoning jurisdiction of the Township, “satisfactorily completed” means the Zoning Enforcement Officer or Township Engineer has conducted a final inspection and determined the improvements appear to meet or exceed applicable

standards. For improvements under the jurisdiction of another governmental body, “satisfactorily completed” means the receipt by the Township of a certificate of completion by the governmental body indicating the improvement appears to meet or exceed applicable standards.

- M. The performance guarantee shall fully terminate one (1) year after ninety (90%) percent of the buildings or other structures in the project have been completed, or such earlier time as reasonably determined by the Township Board.
- N. The performance guarantee shall provide that it shall not terminate without providing the Township at least sixty (60) days written notice prior to the date of termination. If a substitute performance guarantee in a form acceptable to the Township is not filed with the Township Clerk within thirty (30) days prior to the date of termination, then the Township may call the existing performance guarantee due and payable.
- O. Upon failure to comply with a requirement of this Ordinance, approved site plan, or condition of approval, the performance guarantee, or portion thereof, shall be forfeited by the applicant. The Township Board shall determine the amount to be forfeited, including administrative costs and attorney fees, and have the authority to correct the violation. Whenever required improvements are not completed, properly installed, or are damaged within the specified time, the Township may complete, correct or repair the improvements and charge the costs, including administrative costs and attorney fees, against the performance guarantee.

**Section 24.07 — Right of Entry:** The filing of an application for a certificate of zoning compliance, temporary certificate of occupancy, certificate of occupancy or any other application signed by the owner or the applicant’s agent shall constitute permission from the owner for the Township to complete an on-site investigation of the property in question for purposes of this Ordinance.

**Section 24.08 — Compliance with Plan and Application:** Certificates of zoning compliance issued on the basis of plans and applications approved by the Planning Commission, Zoning Enforcement Officer, Zoning Administrator or Township Board authorize only the use, design and construction set forth in such approved plans and applications, and no other use, design, or construction. Use, design, or construction different from that authorized shall be deemed a violation of this Ordinance.

## ARTICLE 25. VIOLATIONS

**Section 25.01 — Violation Declared a Nuisance Per Se:** Any building or structure that is erected, constructed, reconstructed, altered, converted, maintained or used, or any use of, and or premises that is begun, maintained or changed in violation of any provision of this Ordinance, is hereby declared to be a nuisance per se.

**Section 25.02 — Sanctions for Violation:**

- A. Any person or other entity that violates any of the provisions of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, plus costs, which may include all direct and indirect expenses, including attorney fees, to which the Township has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law.
- B. Each violation of a specific provision of this Ordinance shall be considered a separate municipal civil infraction.
- C. Each act of violation and every day that any such violation occurs, continues or remains shall constitute a separate offense and civil infraction.

**ARTICLE 26. EFFECTIVE DATE**

**Section 26.01 — Repealing Clause:** The Zoning Ordinance of Edenville Township presently in effect and all amendments thereto are hereby repealed; provided, however, if this Zoning Ordinance shall subsequently not be approved by public referendum or be judicially determined to have been unlawfully adopted, such public referendum or judicial determination shall then automatically reinstate the present Township Zoning Ordinance and all of its amendments to their full effect.

**Section 26.02 — Severability:** Sections of this Ordinance shall be deemed to be severable and should any section, paragraph or provisions hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or in part hereof, other than the part so declared to be unconstitutional or invalid.

**Section 26.03 — Effective Date:** This Ordinance shall be in effect following adoption by majority vote of the Township Board and seven (7) days after publication of the notice of Zoning Ordinance adoption in a newspaper of general circulation within Township, provided no referendum petition is successfully filed. If a successful referendum petition is filed, the Township Board shall publish the effective date of the Zoning Ordinance after completion of the referendum.

Date: \_\_\_\_\_, 2017

\_\_\_\_\_  
Craig Gosen, Supervisor  
Edenville Township

Date: \_\_\_\_\_, 2017

\_\_\_\_\_  
Lydia Draves, Clerk  
Edenville Township

**CERTIFICATION**

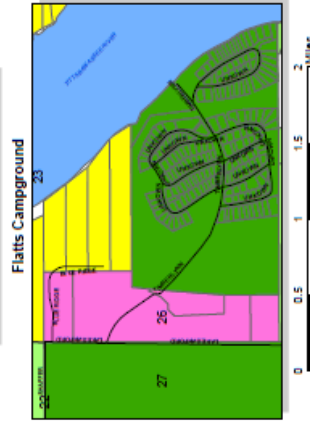
The foregoing Edenville Township Zoning Ordinance, including and incorporating the attached copy of Official Zoning Map was adopted by the Edenville Township Board on the 8th day of August, 2017, at a regular meeting of the Edenville Township Board, and notice of its adoption was published as required by law on Monday, August 24, 2017.

\_\_\_\_\_  
Lydia Draves, Clerk  
Edenville Township

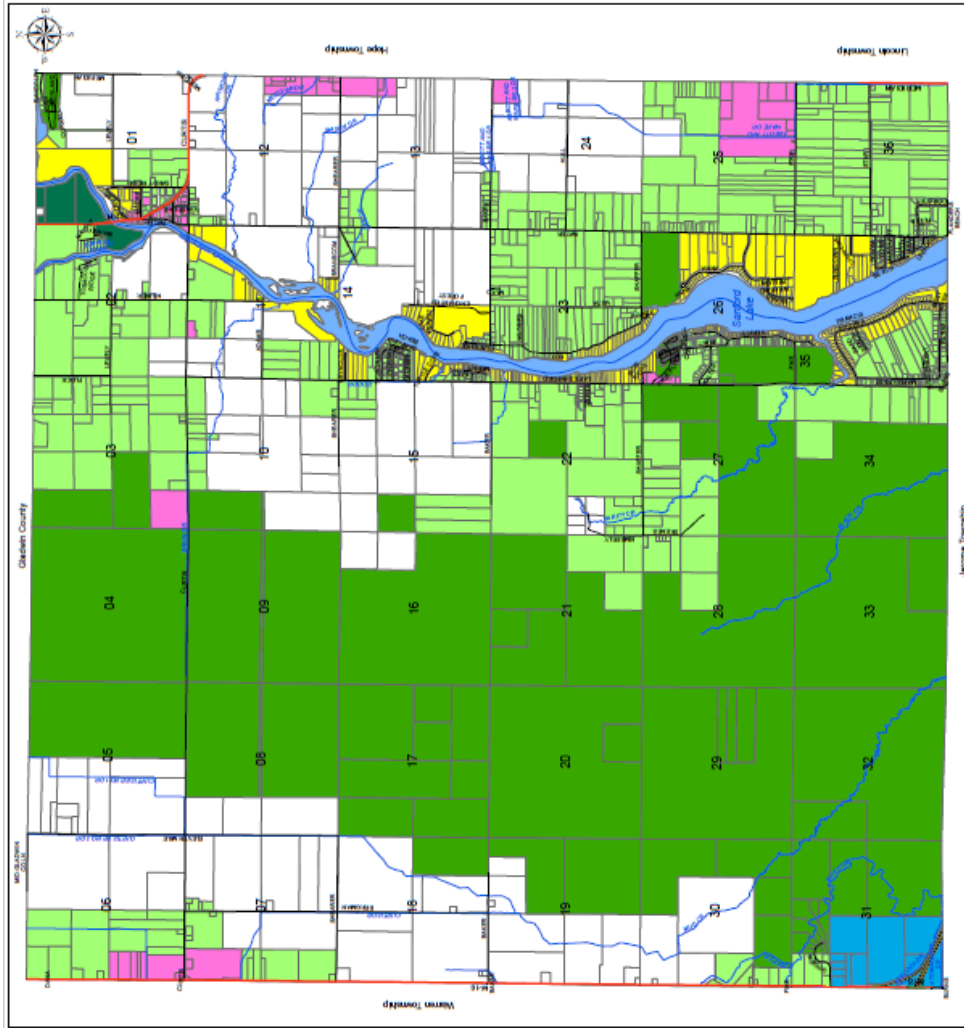
**COPY OF OFFICIAL ZONING MAP**

**ZONING MAP**  
**EDENVILLE TOWNSHIP**  
**MIDLAND COUNTY, MICHIGAN**

Map Features	
<b>Roads</b>	
	Federal
	State
	County
	Local
	Water Body
<b>Zoning</b>	
	Residential (R - 1)
	Mixed Residential (R - 2)
	Agricultural (A)
	Commercial/Light Industrial (C)
	Heavy Industrial (I)
	Recreational (R - 3)
	Passive Recreational (R - 4)



Approved by the Township Planning Commission on June 15, 2016.  
 Map Created and Maintained by Midland County GIS  
 For more information about GIS or this map - (989) 837-7477



## **APPENDIX A - ZONING ORDINANCE HISTORY**

Original Edenville Township Zoning Ordinance — October 1968  
First Amended Zoning Ordinance — May 1, 1972  
Amended Zoning Ordinance 124 — December 7, 1982  
Amended Zoning Ordinance 141 — July 16, 1995  
Amended Zoning Ordinance 147 — July 8, 1997  
Amended Zoning Ordinance 152 — January 1, 1998  
Amended Zoning Ordinance 160 — March 4, 2003  
Amended Zoning Ordinance 162 — October 18, 2004  
Amended Zoning Ordinance 164 — August 6, 2005  
Amended Zoning Ordinance 165 — April 18, 2008  
Amended Zoning Ordinance 166 — October 5, 2010  
Amended Zoning Ordinance 176 — November 5, 2013  
Amended Zoning Ordinance 179 — March 4, 2015  
Amended Zoning Ordinance 182 — September 13, 2016  
Amended Zoning Ordinance 182 — March 8, 2017  
Amended Zoning Ordinance 182 — August 8, 2017