# ONTWA TOWNSHIP
## Cass County, Michigan

# ORDINANCES AND RULES REGULATING LAND

*as amended through*

***June 13, 2016***

**ONTWA TOWNSHIP, Cass County, Michigan**

# ORDINANCES AND RULES REGULATING LAND

*(Amended through June 2016)*

## TABLE OF CONTENTS


ARTICLE I - TITLE, PURPOSE, SCOPE AND LEGAL BASIS

1.01, 02 ,03, 04 - Title, Purpose, Scope, Legal basis ..... I-1

ARTICLE II DEFINITIONS

2.01 - 2.61 ..... II-1

ARTICLE III GENERAL PROVISIONS

3.01 - Effect of Zoning ..... III-1
3.02 - Effect on Unlawful Structures and Uses ..... III-1
3.03 - Continuation of Existing Uses ..... III-1
3.04 - Restoration of Unsafe Buildings ..... III-1
3.05 - Outstanding Applications for Building Permits ..... III-1
3.06 - Area, Frontage and Use Conditions ..... III-1
3.07 - Height Exceptions ..... III-1
3.08 - Essential Services ..... III-2
3.09 - Powerlines and Pipelines ..... III-2
3.10 - Principal Use ..... III-2
3.11 - Lots Having Frontage on Two Streets ..... III-2
3.12 - Clear Vision Corners ..... III-3
3.13 - Fences and Walls ..... III-3
3.14 - Drainage ..... III-3
3.15 - Sewage Disposal and Water Supply ..... III-4
3.16 - Basement Dwellings ..... III-4
3.17 - Keeping of Animals ..... III-4
3.18 - Trailers or Manufactured homes ..... III-5
3.19 - Home Occupations ..... III-6
3.20 - Control of Heat, Glare, Fumes, Dust, Noise (see Ord. 70-3) Vibration, and Odors ..... III-8
3.21 - Accessory Buildings and Structures ..... III-8
3.22 - Private Swimming Pools ..... III-10
3.23 - RV, Truck Parking and Storage ..... III-10
3.24 - Yard Requirements ..... III-11
3.25 - Garage and Yard Sales ..... III-12
3.26 - Residential Dwellings, Generally ..... III-12
3.27 - Private Communication Antennas ..... III-14
3.28 - Unclassified Uses ..... III-16
3.29 - Lot Dimensions ..... III-17
3.30 - Land Divisions-Land Division Ordinance ..... III-17
3.31 - Wireless Communication Facilities ..... III-17
3.32 - Anti-Funnel/Anti-Keyholing ..... III-25
3.33 - Use & Development of land as Condition to rezoning ..... III-27
3.34 - Zoning Enabling Act ..... III-31
3.35 - Wind Energy Systems (WES) ..... III-32

ARTICLE IV- MAPPED DISTRICTS
4.01, 02, 03 - Zone Districts, Zoning Map, Areas not included in a district ..... IV-1

ARTICLE V - AGRICULTURAL/RESIDENTIAL DISTRICT "AR"
5.01 - 5.05 ..... V-1

ARTICLE VI - RESIDENTIAL DISTRICT "R-1A"
6.01 - 6.05 ..... VI-1

ARTICLE VII - RESIDENTIAL DISTRICT "R-1"
7.01 - 7.05 ..... VII-1

ARTICLE VIII - LAKE RESIDENTIAL DISTRICT "L-R"
8.01 - 8.05 ..... VIII-1

ARTICLE IX - RESIDENTIAL DISTRICT "R-2"
9.01 - 9.05 ..... IX-1

ARTICLE X - MANUFACTURED HOME PARK DISTRICT "M-H"
10.01 - 10.02 ..... X-1

ARTICLE XA - MULTI FAMILY RESIDENTIAL DISTRICT "MFR"
10A.01 - 10A.06 ..... XA-1

ARTICLE XI - COMMERCIAL/SERVICE DISTRICT "C-1"
11.01 - 11.06 ..... XI-1

ARTICLE XIA - GENERAL COMMERCIAL DISTRICT "C-2"
11A.01 - 11A.06 ..... XIA-1

ARTICLE XII - LIGHT INDUSTRIAL DISTRICT "I-1"
12.01 - 12.08 ..... XII-1

ARTICLE XIII - HEAVY INDUSTRIAL DISTRICT "I-2"
13.01 - 13.08 ..... XIII-1

ARTICLE XIV - SPECIAL LAND USES
14.01 - 14.05 ..... XIV-1

ARTICLE XV - PLANNED UNIT DEVELOPMENT "PUD"
15.01 - 15.13 ..... XV-1

ARTICLE XVI - SITE PLAN REVIEW
16.01 - 16.07 ..... XVI-1

ARTICLE XVII - PARKING AND LOADING SPACES
17.01 – 17.04 ..... XVII-1

ARTICLE XVIII - NONCONFORMING USES, BUILDINGS OR STRUCTURES
18.01 – Continuance of Nonconforming Uses ..... XVIII-1
18.02 – Enlargement, Moving, Extensions ..... XVIII-1
18.03 – Unlawful Use Not Authorized ..... XVIII-1
18.04 – Change of Use ..... XVIII-1
18.05 – Restoration and Repair ..... XVIII-1
18.06 – Nonconforming Due to Reclassification ..... XVIII-1
18.07 – Nonconforming Use Discontinued ..... XVIII-1

ARTICLE XIX - SIGNS
19.01 – Definitions ..... XIX-1
19.02 – General Provisions ..... XIX-2
19.03 – Signs in Residential Districts ..... XIX-6
19.04 – Signs in the Commercial Districts ..... XIX-7
19.05 – Signs in the Industrial Districts ..... XIX-8
19.06 – Regulations of Billboards ..... XIX-8

ARTICLE XX - ADMINISTRATION AND ENFORCEMENT
20.01 – Zoning Administration ..... XX-1
20.02 – Certificate of Zoning Compliance ..... XX-1
20.03 – Fees and Applicant Escrows ..... XX-3

ARTICLE XXI - BOARD OF APPEALS (ZONING)
21.01 – Creation ..... XXI-1
21.02 – Membership ..... XXI-1
21.03 – Terms ..... XXI-1
21.04 – Vacancies ..... XXI-1
21.05 – Absence and Removal ..... XXI-2
21.06 – Appeals ..... XXI-2
21.07 – Variances ..... XXI-3
21.08 – Variances Prohibited ..... XXI-3
21.09 – Conditions of Approval ..... XXI-3
21.10 – Public Hearings ..... XXI-4
21.11 – Decisions ..... XXI-4
21.12 – Fees ..... XXI-5
21.13 – Time Limit ..... XXI-5
21.14 – Vote ..... XXI-5
21.15 – Minutes ..... XXI-5
21.16 – Limitation of Board ..... XXI-6
21.17 – Posting of Financial Guarantee ..... XXI-6
21.18 – Appeals of Decisions ..... XXI-6

ARTICLE XXII - ORDINANCE AMENDMENT
22.01 – 22.02 ..... XXII-1

ARTICLE XXII-A - PLANNING COMMISSION ..... XXII-A-1

ARTICLE XXIII - PENALTIES ..... XXIII-1

ARTICLE XXIV - MISCELLANEOUS PROVISIONS, Liability, Severability, Repeal..... XXIV-1

SEPARATE ORDINANCES AND BY-LAWS

PRIVATE ROAD ORDINANCE NO. 11-96-3 ..... 1

SUBDIVISION ORDINANCE NO. 11-96-1..... 12

SITE CONDOMINIUM ORDINANCE NO. 11-96-2..... 37

LAND DIVISION ORDINANCE NO. 10-97 ..... 62

REZONING CHECKLIST..... 68

PLANNING COMMISSION BY-LAWS..... 74

ZONING BOARD OF APPEALS BY-LAWS..... 85

*For other ordinances regarding: Blight, Burning, Dangerous Buildings, Junk or Inoperable Vehicles, and Noxious Weeds; contact the Ontwa Township Zoning Administrator.*

Ordinance 80-2

# ZONING ORDINANCE

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***December 8, 1980***

*as amended through*

***June 13, 2016***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

# ONTWA TOWNSHIP ZONING ORDINANCE

An ordinance to establish zoning regulations for the Township of Ontwa, Cass County, Michigan, including regulations governing nonconforming uses, structures and buildings to provide for the administration, enforcement and amendment of such regulations, to prescribe penalties for the violation of such regulations, and to provide for conflicts with other ordinances or regulations, all in accordance with the provisions of Michigan Act 184 of 1943, as amended.

The Township of Ontwa, Cass County, Michigan, ordains:

# ARTICLE I

## TITLE, PURPOSE, SCOPE AND LEGAL BASIS

SECTION 1.01. TITLE. This Ordinance shall be known as the Zoning Ordinance of Ontwa Township.

SECTION 1.02. PURPOSE. This Ordinance is based upon the Ontwa Township Master Plan and is designed (l) to promote the public health, safety and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to conserve natural resources and energy to meet the needs of the State's citizens for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; (4) to insure that uses of land shall be situated in appropriate locations and relationships; (5) to avoid the overcrowding of population; (6) to provide adequate light and air; (7) to lessen congestion on the public roads and streets; (8) to reduce hazards to life and property; (9) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and (10) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 1.03. SCOPE AND INTERPRETATION. This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Township is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (l) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

SECTION 1.04. LEGAL BASIS. This Ordinance is enacted pursuant to Michigan Act 184 of 1943, as amended.

# ARTICLE II

# DEFINITIONS

SECTION 2.01. RULES APPLYING TO TEXT. The following listed rules of construction apply to the text of this Ordinance:

(a) The particular shall control the general.

(b) With the exception of this Article, the headings which title an article, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.

(e) A "building" or "structure" includes any part thereof.

(f) The word "person" includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.

(g) The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be used", or "occupied".

(h) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

SECTION 2.02. ACCESSORY USE OR STRUCTURE. A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure, including a garage.

SECTION 2.02A. ADULT CARE FACILITY. An establishment having as its principal function the receiving of one (1) or more persons 18 years of age or older for the provision of supervision, personal care, and protection for periods of less than twenty-four (24) hours a day, four (4) or more days a week, for two (2) or more consecutive weeks excluding adults related by blood, marriage, or adoption.

SECTION 2.02B. ADULT FOSTER CARE FACILITY. An establishment having as its principal function the receiving of persons eighteen (18) years of age or older for the provision of

supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation, as licensed and regulated by the State under Act No. 218 of the Public Acts of 1979 and the associated rules promulgated by the State Department of Social Services.

SECTION 2.03. AGRI-TOURISM ESTABLISHMENT. A commercial enterprise related to farming operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products; and which may include farm product retailing and sampling, educational and/or outdoor recreational programs, farm tours, horseback riding, corn mazes, ancillary food service facilities and similar activities.

SECTION 2.04. ALTERATIONS, STRUCTURAL. Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.

SECTION 2.05. ANIMAL. The following definitions shall apply so as to distinguish different categories of animals as they apply to land use:

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

A. Domestic animals have been specifically bred for characteristics that make them compatible with people.

B. Most domestic animals started out as social animals (usually living in social groups) where the herd social organization tends to provide the correct basic characteristics that are selected for compatibility with people.

C. Because they have lived in close contact with people for thousands of years, the care requirements of domestic animals in captivity is documented and well known.

D. Because they have lived in close contact with humans for thousands of years, the risks which the animals pose to their keepers is documented and well known.

E. There is an established infrastructure available to care for domestic animals (training and care procedures, ample supply of food and medical products customized for the diet and health of domestic animals, and a well-trained and accessible corps of veterinary professionals).

Domestic animals shall be classified by the following specific categories:

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

Household Animals. Any domestic animal normally and customarily allowed within, and generally allowed to run freely throughout, the same dwelling unit as the human occupants for pleasure and companionship such as dogs, cats, ferrets, rabbis, pot belly pigs or designer/jewel pigs. *(amended 6/16/16)*

Non-Household Animal.

1. Any domestic animal, generally and customarily kept outdoors, other than those defined as household animals or container animals; such as horses; and

2. Any domestic animal generally and customarily kept outdoors for the purpose of creating food for human consumption and/or other products used by humans, but which may from time to time also be raised and maintained as pets, such as poultry, cattle, hogs, sheep, goats and the like.

SECTION 2.06. AUTOMOBILE REPAIR - MAJOR. General repair, rebuilding, or reconditioning of engines, or vehicles, collision service (including body repair and frame straightening), painting or upholstering; or vehicle steam cleaning and undercoating.

SECTION 2.07. AUTOMOBILE REPAIR - MINOR. Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity; provided, however, there is excluded any repair or work included in the definition of "Automobile Repair - Major".

SECTION 2.08. BASEMENT. A portion of a building partly below grade, but so located that the vertical distance from grade to the floor is greater than the vertical distance from the grade to the ceiling; provided, however, that if the vertical distance from the grade to the ceiling is four (4) feet or more, such basement shall be counted as a story.

SECTION 2.09. BILLBOARDS AND SIGNS.

(a) Billboard - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.

(b) Business Sign - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located, or products primarily sold, manufactured, processed, or fabricated on such land.

(c) Real Estate Sign - Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.

(d) Identifying Sign - Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) to tell the name or address of an apartment house, hotel, or motels; or (3) to inform the public as to the use of a parking lot.

(e) Nameplate - A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

SECTION 2.10. BOAT DOCK OR DOCK. Any structure or device other than a building, including wharfs, piers, shore stations, permanent piers, boat lifts, canopies, or floats, erected or placed along the shoreline of a body of water which may or may not extend into or over the body of water on which human activity is carried out and alongside which watercraft may be secured for the purpose of loading and unloading passengers and cargo. *(amended 6/13/16)*

SECTION 2.11. BOATHOUSE. An accessory building or structure erected at or near the waters edge or partially on shore and partially within the water which is used primarily for the purpose of storing, housing, or enclosing from the elements, watercraft and other personal property. (Note: Ref. Section 2.51, 3.21 and 8.04 regarding the Definition of front yard and the placement of accessory buildings.)

SECTION 2.11A. BOAT LAUNCH. A facility to launch and retrieve watercraft, including motorized boats, canoes, kayaks, personal watercraft, to and from a body of water. Most boat launches also consist of breakwater protection from large waves, parking lots, a dock to assist in launching, toilets, refuse containers and similar amenities. *(amended 6/13/16)*

SECTION 2.12. BUILDING. Anything which is constructed or erected, having a roof supported by columns, walls, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property, or carrying on business activities or other similar uses. Truck trailers, truck bodies, or bus bodies are not considered to be a building.

SECTION 2.13. BUILDING HEIGHT. The vertical distance measured from the established grade at the principal entrance to the average height of the highest roof surface. Average height shall be determined using the lowest point of the eave to the highest point of the roof. Where a building is located on a terrace, the height may be measured from the average ground level of the terrace at the building wall.

SECTION 2.14. BUILDING SETBACK. The minimal horizontal distance a building or structure, or any portion thereof, is required to be located from the boundaries of the lot or parcel of land upon which the same is situated.

SECTION 2.15. CHILD DAY CARE FACILITY. A facility for the care of persons under 18 years of age, as licensed and regulated by the State under Act No. 166 of the Public Acts of 1973 and the associated rules promulgated by the State Department of Social Services.

SECTION 2.16. COMMUNITY CENTER. A building used as a place of meeting, recreation, or social activity and not operated for profit. Occasional and special event gatherings may from time to time include consumption of alcoholic beverages and meals upon securing any required permits or licensing for such activities from applicable local, County or State agencies. *(amended 6/13/16)*

SECTION 2.17. DWELLING. Any building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily, by one or more families, but not including motels, hotels, tourist rooms or cabins.

(a) Dwelling, Single Family - A building designed for use and occupancy by one (1) family only.

(b) Dwelling, Two Family - A building designed for use and occupancy by two (2) families only.

(c) Dwelling, Multi Family - A building designed for use and occupancy by three (3) or more families.

SECTION 2.18. DWELLING UNIT. One (1) room or suite of two (2) or more rooms designed for use or occupancy by one (1) family for living and sleeping purposes with housekeeping facilities.

SECTION 2.19. ESSENTIAL SERVICES. Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, piping conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, but not including buildings, except those necessary to house the foregoing, reasonably necessary for the furnishing of utility service by such public utilities or municipal department or commission or for the public health, safety or general welfare.

SECTION 2.20. FAMILY.

(a) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated persons who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit or;

(b) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or other similar determinable period.

SECTION 2.21. FARM - GENERAL. Any tract of land, regardless of size or area, devoted to general agricultural activities, such as field crops, truck farming, orchards and nurseries. Such farms may include related dwelling units, customary barns, and similar buildings. (As Amended 8/12/02)

(a) Buildings must meet setbacks as required in Section 3.21 – Accessory Buildings and Structures

(b) For property to be declared a farm the following documentation is required:

1. A Schedule F tax form that shows revenue from farming activity and filed with the Internal Revenue Service or a form filed with Michigan Department of Treasury

PTD3676, "Affidavit Attesting That Qualified Agricultural Property Shall Remain Qualified Agricultural Property"

SECTION 2.22. FARM - SPECIALIZED. Any tract of land used for specialized animal operations, such as apiaries, chicken hatcheries, poultry farms, dairying, beef farms, animal husbandry, stockyards, livestock feed lots, swine farms or establishments keeping fur-bearing animals or game, or operating fish hatcheries. Such farms may include related dwelling units, customary barns, and similar buildings. (As Amended 8/12/02)

(a) Buildings must meet setbacks as required in Section 3. 21 – Accessory Buildings and Structures

(b) For property to be declared a farm the following documentation is required:

1. A Schedule F tax form that shows revenue from farming activity and filed with the Internal Revenue Service or a form filed with Michigan Department of Treasury PTD3676, "Affidavit Attesting That Qualified Agricultural Property Shall Remain Qualified Agricultural Property"

SECTION 2.23. FENCE. An enclosure or barrier, typically constructed of wood, wire, iron or plastic, used as a boundary, means of protection or privacy screen.

SECTION 2.24. FLOOR AREA. The gross floor area of all floors of a building or an addition to an existing building. For all office buildings and for any other building, except dwelling units where the principal use thereof shall include the basement, the basement floor area shall be included except that part thereof which contains heating and cooling equipment and other basic utilities.

SECTION 2.25. GOVERNMENTAL, ADMINISTRATION OR SERVICE BUILDING. A building or structure owned, operated, or occupied by a governmental agency to provide a governmental service to the public.

SECTION 2.26. HOME OCCUPATION OR HOME BASED BUSINESS *(amended 6/13/16)*

HOME OCCUPATION. An occupation conducted entirely within a primary residential dwelling by its occupants as an accessory use.

HOME BASED BUSINESS. An occupation customarily conducted primarily within an accessory building by the dwelling's occupants as an accessory use.

SECTION 2.27. IMPROVEMENTS. Those features and actions associated with a project which 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 area, including roadways, lighting, utilities, sidewalks, screening, drainage, parking areas and landscaping.

SECTION 2.28. JUNKYARD. A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles, used building materials, structural steel materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

SECTION 2.29. KENNEL, PRIVATE. A type of home based business on which more than five (5) more dogs, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding; sale; or adoption. *(amended 6/13/16)*

SECTION 2.30. KENNEL, PUBLIC. Any lot, on which more than five (5) more dogs, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding; sale; or adoption, except for a private kennel. By way of example, animal rescue centers, animal shelters, humane society facilities, and animal control centers are considered public kennels. *(amended 6/13/16)*

SECTION 2.30A. LANDSCAPING. The installation and maintenance of areas permanently devoted and maintained to the growing of trees, shrubbery, grass, and other plant material or by the use of such materials as crushed stone, rock, natural vegetation, or similar materials. *(amended 6/13/16)*

SECTION 2.31. LOT AND LOT WIDTH. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory structures, or utilized for a principal use and accessory uses, together with such open spaces as are required by this Ordinance.

(a) Area, Lot - The total area encompassed within the lines of a parcel or piece of property, excluding street or road rights-of-ways.

(b) Corner Lot - A lot located at the intersection of two (2) or more streets where the corner interior angle, formed by the intersection of the center lines of the streets, is one hundred thirty-five (135) degrees or less, or a lot abutting upon a curved street or streets if tangents to the curve at the two (2) points where the lot lines meet the centerline curve form an interior angle of one hundred thirty-five (135) degrees or less.

(c) Depth, Lot - The distance between the front and the rear lot lines, measured along the median between the side lot lines.

(d) Double Frontage Lot - Any lot, excluding a corner lot, which fronts on two (2) streets which do not intersect.

(e) Width, Lot - The continuous distance between the side lot lines, measured at the minimum building setback line and at right angles to the lot depth.

SECTION 2.32. MANUFACTURED HOME. A dwelling which is transportable in one (1) or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a

Michigan Licensed Manufactured home dealer or Michigan Licensed Manufactured home installer as required by Michigan statute, and administrative rules promulgated thereunder.

SECTION 2.33. MANUFACTURED HOUSING COMMUNITY. A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

SECTION 2.34. MOTEL. A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

SECTION 2.35. MOTORIZED VEHICLE. Every vehicle which is self-propelled that does not run on rails. By way example, a car, truck and motorcycle are all considered motorized vehicles. *(amended 6/13/16)*

SECTION 2.36. PARK. *(amended 6/13/16)* A noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space for passive or active use. A park may be either improved, which typically includes ancillary constructed or installed facilities, such as playground equipment, restrooms or picnic shelters; or unimproved, which may include interpretive programs and trail systems that take advantage of geological, biological or scenic resources. A boat launch as defined by this Ordinance may be located in a park as a park amenity, but shall not be the sole amenity in a park. In order to be considered a park, the following additional criteria must be met:

1. A park shall not include a for-profit commercial establishment or for-profit business, whether or not recreation-oriented.
2. Commercial amusement facilities, such as water slides, go-cart tracks, and miniature golf courses shall not be considered parks.
3. If the park contains a restroom, such restroom shall be connected to a public sewer system at the park owner's expense if such a system is available within 300 feet.
4. Public parks must be open to all persons without restriction.
5. Owners of public parks shall be financially responsible for all costs incurred for regularly scheduled maintenance, trash cleanup and all policing requirements as a result of the parks operation requiring township or county services.

SECTION 2.37. PARKING AREA, SPACE OR LOT. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation

to clients, customers, visitors, or employees. Parking area shall include access drives within the actual parking area.

SECTION 2.38. PARKING BAY. A hard surface area adjacent and connected to, but distinct from, a street intended for parking motor vehicles.

SECTION 2.39. RESERVED

SECTION 2.40. PLANNING COMMISSION. The Ontwa Township Planning Commission, created pursuant to the Michigan Planning Enabling Act, PA 33 of 2008, as amended. *(amended 6/13/16)*

SECTION 2.41. PRINCIPAL OR MAIN USE. The primary or predominant use of a lot.

SECTION 2.42. PRIVATE COMMUNICATION ANTENNAS. Private communication antennas shall mean an apparatus installed out-of-doors which is capable of receiving or transmitting communications for radio and/or television, including satellite dish reception antennas, amateur radio transmitting and receiving antennas but excluding such antennas as commercial radio and television and microwave communication towers. Excluded are such other facilities as have been preempted from Township regulation by applicable State or Federal laws and regulations.

SECTION 2.43. ROADSIDE MARKET STAND. A temporary building or structure designed or used for the display and/or sale of agricultural products produced on the premises upon which the stand is located.

SECTION 2.44. COMMERCIAL ROADSIDE MARKET STAND. A temporary building or structure designed or used for the display and/or sale of agricultural products not produced on the premises upon which the stand is located. (As Amended 8/12/02)

SECTION 2.45. SECTIONAL HOME. A dwelling made of two or more modular units factory fabricated and transported to the home site where they are put on a foundation and joined to make a single home and that complies with the standards for dwellings in Section 3.26 of this Ordinance. *(amended 6/13/16)*

SECTION 2.45A. SETBACK. The minimum horizontal distance necessary between a building or structure, or any portion thereof, the boundaries of the lot or parcel, or street right-of way, to meet the minimum front, side and rear yard requirements of this Ordinance. *(amended 6/13/16)*

SECTION 2.46. SIGN. Any object, device, or structure or part thereof situated outdoors or indoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.

SECTION 2.47. STREET. A right-of-way which affords traffic circulation and principal means of access to abutting property with a minimum width of sixty-six (66) feet, except an alley.

SECTION 2.48. STRUCTURE. Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. For the purposes of this Ordinance, parking lots, driveways and septic tanks are not considered "structures."

SECTION 2.49. SWIMMING POOL. A constructed basin or structure for the holding of water for swimming and aquatic recreation. This definition shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred fifty (250) square feet, except when such pools are permanently equipped with a water recirculation system or involve structural materials.

SECTION 2.50. TOWNSHIP BOARD. Ontwa Township Board of Trustees. *(amended 6/13/16)*

SECTION 2.51. TOWNSHIP. Ontwa Township, Cass County, Michigan.

SECTION 2.52. TRAVEL TRAILER, MOTOR HOME. A vehicular portable structure which can be drawn by automobile or a self-propelled motor vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use. This shall include trailer caps and campers.

SECTION 2.53. USABLE FLOOR AREA. The floor area of a dwelling, exclusive of garages, porches, basement or exterior utility area.

SECTION 2.54. VEHICLE. Every device in, upon, or by which any person or property is, or may be, transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

SECTION 2.55. YARD. A required open space, other than a court, unoccupied and unobstructed by any building or structure or portion thereof from thirty (30) inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

SECTION 2.56. YARD - FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the main wall of the building or structure. In the case of waterfront lots, the yard fronting on the street shall be considered the rear yard.

SECTION 2.57. YARD - REAR. A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.

SECTION 2.58. YARD - SIDE. A yard between a building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the building.

SECTION 2.59. ZONING ACT. Michigan Act 110 of 2006, as amended. (As amended June 11, 2007)

SECTION 2.60. ZONING ADMINISTRATOR. The Ontwa Township Zoning Administrator.

SECTION 2.61. ZONING BOARD OF APPEALS. The Township of Ontwa Zoning Board of Appeals created pursuant to the Michigan Zoning Enabling Act, Act 110 of 2006, as amended. *(amended 6/13/16)*

# ARTICLE III

## GENERAL PROVISIONS

These general provisions shall apply to all Zoning Districts except as otherwise noted.

SECTION 3.01. EFFECT OF ZONING. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected or altered, except in conformity with this Ordinance.

SECTION 3.02. EFFECT ON UNLAWFUL STRUCTURES AND USES. Structures or uses which were unlawfully existing at the time of the effective date of this Ordinance shall not become or be made lawful solely by reason of adoption of this Ordinance.

SECTION 3.03. CONTINUATION OF EXISTING USES. Any building, structure or use lawfully existing at the time of the effective date of this Ordinance may be continued, except as hereinafter provided in Article XVIII; and provided further that nonconforming uses under the Zoning Ordinance being repealed by this Ordinance shall be treated or considered as nonconforming uses under this Ordinance and shall not have the status of a conforming use.

SECTION 3.04. RESTORATION OF UNSAFE BUILDINGS. Subject to the provisions of the Nonconforming Uses Article, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of an original building or structure which is unsafe, on its existing footprint. However, if a structure is destroyed by any means, to the extent that it is twenty-five (25) percent or less than its state equalized value (SEV), it shall not be reconstructed on its existing footprint. *(amended 6/13/16)*

SECTION 3.05. OUTSTANDING APPLICATIONS FOR BUILDING PERMITS. Any building permit issued prior to the effective date of this Ordinance shall be valid.

SECTION 3.06. AREA, FRONTAGE AND USE CONDITIONS

(a) Required Area or Space - A lot, yard, court, parking area, or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership, or a yard, court, parking area, or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.

(b) Existing Lots of Record - A lot which is platted or otherwise of record as of the effective date of this Ordinance, but does not meet the minimum lot area or width requirements of the district in which it is located, may be used for any permitted or special land use in that zoning district, provided the lot can meet the provisions of Sections 3.14 and 3.15. The structure shall be sized, designed and located on the lot to assure maximum compliance with all yard and setback requirements for the Zoning District in which the lot is located. *(amended 6/13/16)*

SECTION 3.07. HEIGHT EXCEPTIONS. The following buildings and structures shall be exempt from height regulations in all Zoning Districts: parapet walls not exceeding three (3) feet in height, chimneys, cooling towers, elevator bulkheads, belfries, flag poles, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, church spires, penthouses, housing necessary for mechanical appurtenances, electrical transmission towers, and television and radio transmission antennas and towers, so long as they do not exceed seventy-five (75) feet in height.

SECTION 3.08. ESSENTIAL SERVICES. Essential services as defined in Article II are permitted in any Zoning District subject to the following conditions:

(a) Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.

(b) Public utility facilities in any Zoning District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

SECTION 3.09. POWERLINES AND PIPELINES. The installation, use and maintenance of electric powerlines and underground pipelines shall be permitted in any Zoning District. However, all such pipelines shall be buried at least three (3) feet below the surface of the ground and shall pass under all existing drain tile unless the owner of the land and any affected drain tile or untiled land shall consent in writing to the installation of said pipeline above said drain tile or at a depth of less than three (3) feet. In no case shall powerlines or pipelines be installed at a depth of less than two (2) feet below the surface of the ground or within six (6) inches above or below existing drain tiles.

Where a pipeline or powerline is proposed to pass through land not previously so used as a site for powerlines or pipelines, the location, erection and use shall first be approved by the Planning Commission. A public notice shall be given in a newspaper of general circulation in the Township containing a statement of the proposed use and location, and the time for a hearing thereon which shall be not less than seven (7) nor more than fifteen (15) days from the date of publication. If, on such hearing, it shall appear that the proposed location, erection or use be detrimental to the public health, safety or general welfare, then the Planning Commission shall notify the utility company of the comments received at the public hearing.

SECTION 3.10. PRINCIPAL USE. No lot may contain more than one (1) principal building, provided that groups of apartment units or retail business buildings under single ownership shall be deemed a principal use collectively.

SECTION 3.11. LOTS HAVING FRONTAGE ON TWO STREETS. Buildings on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with the yard requirements as stated in the District.

SECTION 3.12. CLEAR VISION CORNERS. On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three and one half (3 1/2) feet and eight (8) feet above the established curb grade within a triangle formed by the two street right-of-way lines and a line connecting them to points twenty-five (25) feet from the intersection of the right-of-way lines.

SECTION 3.13. FENCES AND WALLS.

(a) Construction of a fence shall require issuance of a zoning permit issued by the Zoning Administrator prior to construction or erection of the fence.

(b) In non-residential zoning districts, no fence located in a front yard shall be more than fifty percent (50%) opaque.

(c) In residential zoning districts, fences more than fifty percent (50%) opaque located in a front yard shall not exceed a height of three (3) feet. Fences less than fifty percent (50%) opaque located in a front yard shall not exceed a height of four (4) feet. For a parcel abutting a lake in the LR, Lake Residential District, fences and landscaping located in the front yard (lake side) portion of the lot shall not exceed a height of three (3) feet. The Zoning Administrator, acting upon a written complaint, shall ensure that fences do not unreasonably obstruct views from neighboring properties. *(amended 6/13/16)*

(d) For all other areas, a fence or wall shall not exceed six (6) feet in height.

(e) For corner lots, a six (6) foot privacy fence or wall may be erected within the front setback area parallel to the side of the house which faces the street subject to the restrictions for clear vision corners as contained herein.

(f) The alteration of the natural grade of the land to increase the functional height of a fence shall be prohibited; with the Zoning Administrator having authority in determination of applicable grade. The height shall be measured from the average grade within a twenty-five (25) foot radius of the fence or wall.

(g) All fences shall be erected so that the finished or smooth side of the fence faces toward the adjacent property or rights-of-way. The Zoning Administrator shall determine which is the smooth or finished side of the fence.

(h) All fences and walls shall be maintained in good condition.

(i) Barbed wire, electrified wire or any form of single strand wire fence or barrier shall be prohibited in the R-1A, R-1, L-R, R-2, M-H and MFR districts, as well as in the PUD district when any of these districts is the underlying zone, except for land used for agricultural purposes.

SECTION 3.14. DRAINAGE. No premises shall be filled or graded so as to discharge surface runoff on abutting premises or roads in such a manner as to cause ponding or surface accumulation of such runoff thereon. In reviewing a site plan, the Planning Commission and/or

Zoning Administrator shall have the authority to require a professional engineering drainage plan, soil erosion plan, water velocity study or similar information to be submitted for review prior to any plan approval or permit issuance, and the results of such studies or plans may be used as justification to approve or deny a request for a permit. All building or site improvements or modifications shall be designed and constructed to minimize negative impacts on neighboring properties caused by storm water runoff or erosion. *(amended 6/13/16)*

SECTION 3.15. SEWAGE DISPOSAL AND WATER SUPPLY. There shall be provided for every building or structure hereafter erected, altered or moved upon any premises and used in whole or in part for human habitation or congregation, including dwellings, business, recreational, commercial, industrial or other purposes, a safe and sanitary means of collection and disposal of sewage, and a safe and sanitary water supply system in accordance with the requirements of Cass County, the State of Michigan, and the Federal Government.

SECTION 3.16. BASEMENT AND GARAGE DWELLINGS. The use of the basement or garage of a partially built or planned building as a residence or dwelling unit is prohibited in all Districts. The use of a basement more than four feet below grade in a completed dwelling for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside.

SECTION 3.17. KEEPING OF ANIMALS *(amended 6/13/16)*

(a) It is recognized that the keeping of an unlimited number of domestic animals within residential areas for a considerable period of time detracts from, and in many instances, is detrimental to the healthful and comfortable use of such areas. The keeping of the following domestic animals is permitted, subject to the following regulations and limitations:

1. Container animals, no limitation.

2. Household animals, if there are not more than five (5) such animals, boarded or kept on a single lot, except that a litter of pups or a litter of kittens may be kept for a period not exceeding four (4) months from birth, provided that no more than two (2) such litters shall be permitted on a property within one (1) calendar year.

3. In the A-R district, the keeping of livestock is permitted without restriction, provided that Generally Accepted Agricultural Management Practices are met.

(b) Special Land Uses. The keeping of livestock in the R-1A, R1, LR or R-2 districts is prohibited unless authorized as a Special Land Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following:

1. The land area where the animals are to be kept.

2. The density of land uses in the vicinity of the site.

3. Whether or not noise, odors, and environmental or groundwater may adversely affect the use of adjoining properties or the surrounding neighborhood or the environment.

The Zoning Administrator and the Planning Commission are authorized to require the applicant to conduct any environmental assessment(s) or studies as deemed necessary to determine if adjoining properties may be adversely impacted.

4. Methods by which such animals will be sheltered, fed, and restrained from leaving the premises.

5. The keeping of roosters is prohibited.

6. In addition to initial authorization from the Planning Commission, the keeping of livestock in any zoning district, except the AR District, shall require a nontransferable permit to be issued by the Zoning Administrator for an initial period of three (3) years and renewable for succeeding periods of three (3) years each thereafter.

7. In granting such permit, or renewing same, the Zoning Administrator shall determine whether or not the permit holder or applicant is in compliance with all requirements of this Ordinance and any requirements, conditions, or restrictions established by the Planning Commission when authorization was granted

8. The keeping of livestock shall meet the following requirements.

    i. All such land areas used by said non-household animals shall be properly fenced in such a manner to prevent the animals from leaving the property and all such animals shall be maintained and accommodated in a fashion that prevents them from becoming a nuisance to adjoining property or a hazard to public health, safety and welfare.

    ii. No building or other structure sheltering or housing non-household animals shall be located closer than one hundred and fifty (150) feet to a right-of-way line and one hundred (100) feet from any side or rear property line.

## SECTION 3.18. TRAILERS OR MANUFACTURED HOMES.

(a) No person shall park or cause to be parked, any trailer or manufactured home overnight on any street, alley, highway or other public place except in a licensed trailer park.

(b) Manufactured homes located outside of a licensed manufactured housing community shall comply with the requirements of Section 3.26.

(c) Any person, firm, corporation or other organization that connects or causes to be connected, any trailer or manufactured home with electrical power, water supply or sewage disposal facilities of any kind, except in accordance with this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be subject to penalties established by this Ordinance.

(d) The Planning Commission may permit an individual trailer or manufactured home to be used as temporary living or working quarters for up to six (6) months while a dwelling is

being constructed on the same premises provided all sanitary requirements are first approved by the Building Administrator in accordance with standards established by the Cass County Board of Health.

(e) The Planning Commission may authorize a temporary permit for a dwelling in a new subdivision to be used as a sales and management office for a period of twelve (12) months.

SECTION 3.19. HOME OCCUPATIONS AND HOME BASED BUSINESS. *(amended 6/13/16)*

Home occupations and home-based businesses as defined in this Ordinance are permitted in accordance with the requirements of this Section.

It is the intent of this section to insure the compatibility of home occupations and home based business with other permitted uses in the area and with the character of the neighborhood. To this end, a home occupation or home based business shall be clearly subordinate and incidental to the principal residential use of the property and shall be so located and conducted that neighbors, under normal circumstances, would not be aware of its existence.

It is further the intent of this section to secure flexibility in the application of the requirements of this Ordinance; but such flexibility is not intended to allow the essential residential character of the residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.

Existing home occupations or home based businesses not meeting the requirements of this Section shall be considered nonconforming uses pursuant to Article XVIII.

A home occupation may be permitted in all residential dwelling units in the "AR", "R-1A", "R-1", "L-R", "R-2", and "M-H" zoning districts only upon the review of the Zoning Administrator. Home based businesses may be permitted in the "AR", "R-1", "R-1A", "L-R", and "R-2", and "M-H" zoning districts only upon special land use approval by the Planning Commission in accordance with the provisions of Article XIV.

In addition, a home occupation or a home based business shall comply with all of the following regulations:

(a) Exemptions. Instruction in a fine art or craft is a permitted home occupation in all dwellings in the Township and shall not require approval by the Zoning Administrator or Planning Commission. In addition, family child care, family adult day care or adult foster care family homes or small group homes where for six (6) or fewer persons are received for care are considered residential uses of property and shall not be required to obtain Township approval under this Section.

(b) Permit Required. Except as otherwise provided in this Ordinance, an annual permit is required for all home occupations and home based businesses in the Township. In addition to an annual permit under this Ordinance, the applicant is required to obtain any and all licenses or permits from local, state or federal agencies.

(1) A permit shall be issued if the home occupation or home based business meets all

applicable standards of the Zoning Ordinance and if appropriate special use approval is granted where required.

(2) In considering a request for a home occupation or home based business, the Planning Commission shall consider all applicable factors applying to the request, including, but not limited to, the standards of this Ordinance, past violations or complaints relating to the proposed use, hours of operation, environmental factors, and other applicable local, State or federal regulations.

(3) The Zoning Administrator shall annually inspect home occupations and home based businesses to ensure compliance with the requirements of this Ordinance. Noncompliance with the standards of this Section may be grounds for revocation of a permit authorizing the home occupation or home based businesses in accordance with the processes outlined in this Ordinance. Such revocation may only occur after a public hearing is conducted in accordance with Section 22.03. The applicant shall be provided an opportunity to correct the violation(s).

(c) General Provisions for Home Occupations and Home-Based Businesses. The following standards shall apply to all home occupations and home based businesses:

(1) For purposes of identification, one (1) non-illuminated nameplate or identifying sign not exceeding two (2) square feet in area shall be permitted for a home occupation or home based businesses, and such sign shall not be located in a right of way. No other sign shall be utilized in connection with such home occupation.

(2) There shall be no visible change in the exterior appearance of the premises, or other visible evidence of the conduct of such home occupation or home based businesses.

(3) In no event shall the use of a dwelling for a home occupation or home based businesses alter the residential character of the dwelling.

(4) No merchandise or articles for sale shall be displayed on the lot utilized for the home occupation or a home based business. The majority of all activities must be carried on indoors. No visible outdoor storage or display shall be permitted.

(5) No equipment or process shall be used in such the conduct of a home occupation or home based business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(6) No home occupation or home based business shall entail the use or storage of explosive, flammable, or otherwise hazardous material unless certified to, by the applicant, to be in compliance with all County, State and Federal laws, licenses, the local fire authority, and approved by the Planning Commission or, where applicable, the Zoning Administrator.

(7) No traffic shall be generated by a home occupation or home based business in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of a home based business or home occupation shall not

be located on the street or in a required front yard, although motor vehicles may be parked in an existing driveway if it is of sufficient size.

(d) Home Occupations. Home occupations shall meet the following additional standards:

(1) The home occupation shall be conducted entirely within the dwelling by members of the family residing in such building and one (1) other person. A home occupation shall not be conducted, in whole or in part, in an accessory building.

(2) No home occupation shall occupy more than twenty-five (25) percent of the usable floor area of the dwelling; provided, however, that in no event shall the home occupation occupy more than four hundred (400) square feet.

(e) Home-based Businesses. Home-based businesses shall meet the following additional standards:

(1) Special land use approval by the Planning Commission pursuant to Article XIV shall be required for any home based business.

(2) The home based business shall only be conducted primarily in an accessory building located on the main property that has been permitted by the Zoning Administrator. The home business shall occupy a garage or accessory building; provided, that the Planning Commission may permit such use in an attached garage or a garage or accessory building located twenty (20) feet or more from an adjoining property.

(3) Visits by customers shall be permitted only between the hours of 9:00 a.m. to 8:00 p.m.

SECTION 3.20. CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION, AND ODORS. Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

SECTION 3.21. ACCESSORY BUILDINGS AND STRUCTURES. *(amended 6/13/16)* In any Residential Zoning District an accessory building or structure may be erected, either detached from the permitted principal building or as an integral part of the permitted principal building. Such accessory building or structure shall comply in all respects with the yard requirements of this Ordinance applicable to the permitted principal building and the following requirements:

(a) No accessory buildings may be built or placed on any lot on which there is no principal building.

(b) Adjoining lots in a single ownership shall be considered as one lot.

(c) In the Lake Residential Zone where an owner has acquired a lot directly across a street right-of-way from his principal building lot, an accessory building or accessory use may be erected, provided all yard requirements for a principal building are maintained, and further provided that the applicant provides the Township with a copy of a deed restriction or similar instrument that ensures that the two lots cannot be sold or transferred separately prior to the issuance of any permit or notice to proceed.

(d) Detached garages and other accessory buildings shall not be erected in any required front or side yard except in the "L-R" District. Pump houses may be erected under the provisions of

Section 8.2(d) (Article VIII, Section 2(c)). In all zoning districts, accessory buildings over one hundred forty four (144) square feet shall be at least ten (10) feet from any dwelling and at least ten (10) feet from any other building on the lot. (Ordinance Amendment May 8, 2000)

(e) Accessory buildings one hundred twenty (120) square feet or less, in the rear yard, are permitted not less than ten (10) feet from lot lines. Larger buildings require not less than ten (10) feet in "LR" and "R-2", not less than ten (10) feet in "R-1A", "R-1" and not less than twenty (20) feet in "AR". (As amended June 11, 2007)

(f) Where a corner lot adjoins the side or rear lot line of another corner lot, a detached accessory building one hundred twenty (120) square feet or less may be erected five (5) feet from such common side or rear lot line, provided the side street setback is maintained.

Buildings larger than 120 square feet shall meet the setback requirements for the district in which they are located.

(g) A lot or parcel shall contain no more than one (1) garden shed one hundred twenty (120) square feet or less and one (1) larger detached garage or accessory building. (As amended June 11, 2007)

(h) HEIGHT – For all accessory buildings, except those used for farming:

In "L-R", "R-1A", "R-1" the side walls shall not exceed ten (10) feet from the bottom plate to eve. Roof pitch may match that of the principle building. However, the building should not exceed sixteen (16) feet in height. In "AR" the side walls shall not exceed (12) feet from the bottom plate to eve. Roof pitch may match that of the principle building, however building height should not exceed eighteen (18) feet in height. See page 6, Section 2.11 for definition of building height. (Ordinance Amendment May 8, 2000)

(i) SIZE – Determined by area of lot, except those used for farming:

In "L-R", "R-1A", "R-1" and "AR", the total ground coverage of an accessory building shall not exceed the following:

1. If the area of the lot is less than one (1) acre, the accessory building shall not exceed seven hundred sixty-eight (768) square feet. Example; 24 ft. X 32 ft.

2. If the area of the lot is at least one (1) acre but less than two-and-one-half (2-½) acres, the accessory building shall not exceed a total of eight hundred sixty-four (864) square feet. Example; 24 ft. X 36 ft.

3. If the area of the parcel is two-and-one-half (2-½) acres or more (except "AR"), the accessory building shall not exceed one thousand two hundred (1,200) square feet in size. Example; 30 ft. x 40 ft.

4. In "AR" district only, if the area of the parcel is between two-and-one-half (2 ½) acres and five (5) acres and not used for farming, the accessory building shall not exceed one thousand nine hundred twenty (1,920) square feet. Example; 32 ft. x 60 ft.

   In "AR" districts only, if the area of the parcel is greater than five (5) + acres and not used for farming, the accessory building shall not exceed two thousand four hundred (2,400) square feet. Example: 40 ft. x 60 ft.

For purposes of determining square footage of accessory buildings, the measurement shall be length multiplied by the width of the exterior of the building measured from the outside corners of the building frame. (Ordinance Amendment May 8, 2000)

SECTION 3.22. PRIVATE SWIMMING POOLS. Private swimming pools are permitted in all Districts, provided that a permit shall first be obtained from the Building Administrator. The application for such permit shall be accompanied by plans and specifications for the proposed swimming pool and the same must be approved by the Building Administrator and County Health Officer before issuance of the permit. All private swimming pools shall comply with the following regulations: (As Amended 8/12/02)

(a) The pool shall be maintained in a clean and healthful condition in accordance with County Health Regulations.

(b) No swimming pool shall be emptied in any manner that will cause water to flow upon another lot, or be emptied on any land if a storm drain is readily accessible to the premises.

(c) Every swimming pool, the top of which is less than four (4) feet above ground level shall be completely enclosed with a permanent substantial fence of at least four (4) feet in height with gates of a self-closing and latching type with the latch on the inside of the gate so that access to the pool is prevented except under the supervision of the possessor or by permission. (As Amended 8/12/02)

(d) Swimming pools which are five or more feet above ground level shall be equipped with removable steps or other pool entry device which is capable of preventing entry to the pool by children. (As Amended 8/12/02)

(e) Deleted. (As Amended 8/12/02)

(f) No swimming pool including filtering system shall be closer than ten (10) feet to any side or rear lot line and no part of any pool or its required fencing shall be constructed within the front yard or a required side street yard on a corner lot. (As Amended 8/12/02)

SECTION 3.23. TRUCK PARKING AND STORAGE. The limited convenience storage of materials and goods used by the owner of the premises in his occupation or hobby is permitted in an accessory building or garage; provided that not more than one-half of the floor area of said garage is devoted to such storage, that no activity other than convenience storage shall be carried on therein, and that such use shall not in any way adversely affect or cause a nuisance to an adjoining use of land.

No truck tractor with more than six wheels, no trailer or truck trailer, and no truck with a rated capacity of more than 1 ton may be parked for more than two hours in any residential district except the "AR" District unless completely enclosed in a garage or barn. The storage of inoperable unlicensed vehicles or any hauling equipment is prohibited except in an enclosed garage in all residential zones. (As Amended 8/12/02)

The outside storage of recreational vehicles and recreational units is permitted:

(a) In rear yard spaces.

(b) In one (1) side yard provided it is located between the front yard and the rear yard and provided access from the front yard to the rear yard is not used for such outside storage.

(c) Such storage shall not be permitted in any front yard, except that such recreational vehicle or unit may be stored in a driveway within a front yard for a period of not more that twenty-one (21) consecutive days.

(d) Recreational vehicles and recreational units designed and designated for primary use upon a roadway or waterway, requiring licensing or registration shall be currently licensed or registered at all times. Vehicles or units not requiring registration or licensing so kept, stored, or parked shall be maintained in good repair, and operating condition.

(e) The open storage of disassembled or component parts for such recreational vehicles or units is prohibited at all times.

(f) Said items shall not be used for lodging or housekeeping purposes, except as otherwise authorized by permit for a maximum of 21 consecutive days during the calendar year.

(g) Any recreational vehicle or unit stored out of doors shall be the property of the resident.

(h) No recreational vehicle or recreational unit shall be parked or stored on any roadway or road right-of-way.

SECTION 3.24. YARD REQUIREMENTS.

(a) Front Yards - In any R District, the front yard requirements of a lot may be modified so as to equal the average depth of existing front yards on developed lots within one hundred (100) feet of said lot, provided the front yard shall not be less than twenty (20) feet. Terraces, steps, uncovered porches, decks with a surface no taller than three (3) feet above grade at the site of the structure, and other similar features shall not be closer than five (5) feet from any lot line. Normal chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters, and other similar features may project into a required front yard.

(b) Side Yards - Cornices, eaves, gutters, balconies, fire escapes, and fireplaces shall not project into a required side yard more than one third (1/3) of its required width nor more than three (3) feet, provided that the length of any such projection shall not exceed one third (1/3) of the length of the side yard in which such projection occurs; however, any fire escape so located may be at least ten (10) feet in length. Terraces, steps, uncovered porches, decks with a surface no taller than three (3) feet above grade at the site of the structure, and other similar features shall not be closer than five (5) feet from any lot line. Normal chimneys,

flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters, and other similar features may project into a required side yard.

(c) Rear Yards - Terraces, steps, uncovered porches, decks with a surface no taller than three (3) feet above grade at the site of the structure, or other similar features shall not be located less than ten (10) feet from the rear lot line or less than six (6) feet from an accessory building. Bays, including their cornices and caves, balconies, and fire places, shall not project more than three (3) feet into a required rear yard. A fire escape, fire tower, balcony or outside stairway shall not project more than six (6) feet into a required rear yard. Normal chimneys, flues, elevator shafts, connecting hallways, belt courses, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and other similar features may project into a required rear yard. *(amended 6/13/16)*

SECTION 3.25. GARAGE AND YARD SALES. (As amended June 11, 2007)

(a) The incidental and customary sale of household goods in a garage sale, yard sale or similar types of sale is permitted in any residential zoning district provided a permit is first obtained from the Zoning Administrator; and further provided that such permit shall be for not more than three (3) consecutive days and that not more than two (2) such permits may be issued to any person or location during a twelve (12) month period. Fees for such permits shall be established by the Township Board. Signs which are put up for such sales shall be taken down within twenty-four (24) hours of the termination of the permit authorizing such sale.

(b) A permit is not required to sell a personal vehicle; however, the vehicle must be titled to a person living at the property and have a current and valid license and registration. No more than four (4) automobiles shall be offered for sale per calendar year. *(amended 6/13/16)*

SECTION 3.26. RESIDENTIAL DWELLINGS, GENERALLY.

(a) All dwellings located outside of a manufactured housing community licensed by the Michigan Manufactured Housing Commission shall comply with the requirements of this Section 3.26. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable township building code provisions and requirements.

(b) There shall be a minimum floor area for all dwelling units equal to that specified in the zoning district where the dwelling is located.

(c) There shall be a minimum floor to ceiling height of seven and one half (7-1/2) feet.

(d) There shall be a minimum width throughout the entire length of the dwelling of twenty (20) feet measured between the exterior part of the walls having the greatest length.

(e) There shall be a foundation around the entire exterior perimeter of the dwelling of concrete or block of a minimum height of forty-two (42) inches below grade with a maximum height of sixteen (16) inches of exposed foundation and a minimum of 8 inches exposed foundation above grade of the same design as required by the construction code as adopted by the township for single family residences.

(f) As a minimum, there shall be a crawl space below the entire bottom of the dwelling of four (4) feet in depth with a vapor barrier consisting of two (2) inches of concrete on the floor of the crawl space provided with adequate drains to drain any accumulation of water in the crawl space. If soil conditions do not allow the construction of a crawl space, the Building Administrator may allow an alternative building plan to be utilized if consistent with the approved construction code of the township.

(g) The dwelling shall be firmly attached to the foundation so as to be water tight in such a way as water will not enter and shall be anchored to said foundation by an anchor system designed and constructed in compliance with the construction code enforced by the township and all pertinent federal or state construction regulations, including rules and regulations of the Manufactured Housing Commission, as applicable.

(h) Wheels, pulling mechanisms, tongues, axels, and the undercarriage shall not be visible from outside the dwelling, if applicable. If applicable, wheels shall be removed prior to placement or construction.

(i) The dwelling shall be connected to a public sewer and water supply and/or a well or septic system approved by the County Health Department.

(j) There shall be permanently attached to the foundation, steps and/or porch areas where an elevation differential exists between any door and surrounding grade.

(k) There shall be a minimum of a double pitched roof of not less than four (4) feet of rise for each twelve (12) feet of run.

(l) There shall be no additions to the living space of the dwelling unless it meets all the requirements hereof and is built according to the same minimum standard as the dwelling and approved by the Building Administrator.

(m) There shall be a minimum of two doors to provide means of ingress and egress from the dwelling.

(n) Dwellings shall comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall comply with all County and state regulations. Plans, floor plan layouts, and certification of meeting requirements of the Michigan Manufactured Housing Commission, if applicable, shall be presented along with a site plan showing compliance therewith and with all other requirements of the Zoning Ordinance, including but not limited to the requirements of the district in which it is located, to the Building Administrator prior to issuance of a building permit.

(o) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides or a roof drainage system which concentrates roof drainage at collection points along the sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of residential dwellings located outside of mobile home parks within five hundred (500) feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

SECTION 3.27. PRIVATE COMMUNICATION ANTENNAS. In all zoning districts, the installation and/or use of private communication antennas as an accessory use, is permitted upon the approval of the Building Administrator, provided the provisions of this section are satisfied.

(a) It is the intent of this section to provide reasonable regulations for the mounting of private communication antennas. The objectives of these regulations are:

(1) To promote safety, and prevent dangers to persons and property resulting from accidents involving antenna facilities which become dislodged in whole or in part, and fall from building or structural mountings due to wind load, snow load, and/or other factors and/or conditions which may reasonably be expected to impact upon such facilities when so mounted;

(2) To promote the utilization of ground mounting for antennas where reasonably feasible;

(3) In the interest of maintaining and promoting the esthetic and architectural quality of property improvements and in the interest of preserving property values, to minimize the visibility of antennas through the use of screening and/or locational requirements;

(4) To balance the Township's authority and duty to regulate the placement and manner of antenna installation in relation to the right of the public to construct and use private antennas to receive and/or transmit signals without unreasonable restrictions;

(5) To conditionally exclude from the operation of this Section certain conventional V.H.F. and U.H.F. television antennas meeting the criteria of Subsection (c), based upon the following findings; there is relatively small concern for wind and snow load issues; there has been a long demonstrated safety record; there has been a historical acceptance of such facilities from an architectural and esthetic standpoint; and, the cost of compliance with the procedure for application and review would be great in relation to the cost of purchasing and installing such antennas.

(b) Prior to the issuance of a permit for the erection of a private communication antenna in any zoning district the following provisions must be satisfied.

(1) The applicant shall submit a site plan showing to scale the proposed location and the elevation of the antenna, buildings located on the site, roads, and natural features. In addition the site plan shall also provide foundation and/or mounting detail as appropriate for the Building Administrator to determine safety and building code compliance.

(2) No portion of an antenna shall display any advertising message or other graphic representation other than a manufacturers logo or name plate, provided such logo or name plate is of a size and character that is not legible from adjacent properties.

(3) All antennas located on the same lot or premises as the use for which it is accessory to.

(4) All antennas shall be of a color and texture so as to promote its visual blending into the adjacent background.

(c) Location of Antenna

(1) Ground Mounted Antennas

a) No antenna shall be constructed in any front yard area but shall be constructed to side or rear of the principal structure.

b) No antenna shall be located closer than five (5) feet of its leading edge to a rear or side property line.

c) All antennas not mounted on a principal or accessory building shall be permanently anchored to a foundation located on the ground.

d) All antennas which are visible from adjacent properties and/or by pedestrian and vehicular passerby shall be screened by landscaping around the structure in such a matter that the antenna is reasonably concealed as determined and required by the Building Administrator.

e) Ground mounted satellite dish antennas shall not exceed a height of 18 feet or a diameter of 10 feet. Conventional noncommercial radio and television antennas and amateur radio antennas shall not exceed the building height limitation of the zoning district.

(2) Roof and/or Building Mounted Antennas

a) Antennas mounted on the roof or side of a building shall not exceed the height limitation for the district and further, no satellite dish antenna shall extend higher than five feet above the ridge or peak of the buildings roof.

b) An antenna mounted on the roof or side roof of a building shall be located on that portion of the building located adjacent to the rear of the property unless it is demonstrated that an alternative location is as safe or safer and the visibility of the antenna from the adjacent properties and by pedestrian or vehicular passers-by is reduced or equal in comparison to a rear yard orientation/location.

(d) Conditional Exemption

Conventional V.H.F. and/or U.H.F. television antennas which have width and height dimensions of not more than one hundred and thirty five (135) inches and ten (10) feet, respectively, and satellite dish antenna less than three (3) feet in diameter which are situated on the portion of the roof adjacent to the rear yard on the property, and which do not extend higher than eight feet above the ridge and/or peak of the roof or the maximum height limitation in the zoning district, shall be exempted from the requirement of applying for and receiving approval under this Section.

(e) Interpretation Guidelines

The provisions of this Section will be interpreted to carry out the stated objectives of this Section, and shall not be interpreted so as to impose costs upon the applicant which are excessive in light of the purchase and installation cost of the antenna and accessory equipment.

(f) Waterfront Lots

On lots having water frontage in any zoning district, satellite antenna greater than three (3) feet in diameter is permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XIV and XVI and the following:

(1) The dish antenna requirements of the above shall be applicable.

(2) The location of adjacent dwelling units and their relationship to the dish antenna.

(3) Views that may be affected by the placement of the dish antenna as compared to the placement of an accessory structure.

(4) The color of the dish antenna and the surrounding environment.

(5) Screening proposed by the applicant to buffer the view of the dish antenna.

SECTION 3.28. UNCLASSIFIED USES. Where a proposed use of land or use of a building is not expressly authorized, contemplated or named by this Ordinance in any of the zoning districts, or where the Zoning Administrator has a question as to the appropriateness of a use that involves

other features which are not expressly authorized, contemplated or specified in this Ordinance, the Zoning Administrator may determine that the use is unclassified. In the case of an unclassified use, an amendment to classify, permit and regulate the use may be initiated pursuant to Article XXII. Unclassified uses may not be treated as a special land use. *(amended 6/13/16)*

SECTION 3.29. LOT DIMENSIONS. The width of a lot shall not be less than sixty-five (65) feet at the street lot line. The required minimum lot width shall be achieved at the front setback line. The depth of a lot shall not be less than one hundred (100) feet, and the depth to- width ratio of the lot shall not be greater than four (4) to one (1). (As amended June 11, 2007)

SECTION 3.30. LOT LINE ADJUSTMENTS OR LAND DIVISIONS. *(amended 6/13/16)* Any proposed division of land shall be first reviewed by the Zoning Administrator, who shall refer the application to the Planning Commission for a decision. If approved by the Planning Commission, such application for land division shall be reviewed by the Ontwa Township Assessor and if approved, signed and registered/recorded with the Cass County Clerk Register. The Planning Commission shall review all requests in a timely manner and apply the standards of the Zoning Ordinance and the principals of the Master Plan in reviewing the proposed land division.

Lot Line Adjustments may be approved and decided upon by the Zoning Administrator after a complete application has been submitted. The Zoning Administrator may opt to refer the matter to the Planning Commission for a decision.

Lot line adjustments and land divisions shall be processed consistent with all applicable Township Ordinances and the Michigan Land Division Act (Act 288 of 1967), as amended.

SECTION 3.31. WIRELESS COMMUNICATION FACILITIES (Amended 12/98)

1. In the following circumstances, a proposal to establish a new wireless communication facility shall be deemed a principal permitted use, subject to site plan and the conditions set forth in paragraph three (3) below, and if approved, constructed and maintained in accordance with the standards and conditions of this Section.

    A. Attached wireless communication facilities within all districts, where the existing structure is not, in the determination of the Planning Commission, proposed to be either materially altered or materially changed in appearance. This includes existing farm structures in the Township.

    B. Collocation of an attached wireless communication facility which has been pre-approved for such collocation as part of an earlier approval by the Planning Commission.

    C. Attached wireless communication facilities consisting of a utility pole located within a public right-of-way, where the existing pole is not proposed to be modified in a manner which, in the determination of the Planning Commission, would materially alter the structure and/or result in an impairment of sight lines or other safety interests.

D. Self supporting wireless communication support structures in all C-1, C-2, I-1 and I-2 districts only.

2. If it is demonstrated to the satisfaction of the Planning Commission by an applicant that a wireless communication facility may not reasonably be established as principal permitted use under paragraph one (1) above and is required to be established outside of a district identified in paragraph one (1) in order to operate a wireless communication service, then wireless communication facilities may be permitted elsewhere in the Township by special land use approval only subject to the requirements set forth in paragraph three (3), and subject further to the special approval procedures of Sec. 1403 and if approved, constructed and maintained in accordance with the standards and conditions of this Section, and also subject to the following criteria and standards:

A. At the time of the submittal, the applicant shall demonstrate that a location within an allowable district cannot reasonably meet the coverage and/or capacity needs of the applicant.

B. Wireless communication facilities shall be of a design such as a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood, and general area, as approved by the Planning Commission, and shall comply with the collocation requirements of paragraph three (3) M.

C. In AR, R-1A, R-1, L-R, R-2, and M-H districts, site locations shall be permitted on a priority basis upon the following sites, subject to application of all other standards contained with this Section:

1. Municipally owned sites.
2. Other governmentally owned sites.
3. Religious or other institutional sites.
4. Public parks and other large permanent open space areas when compatible.
5. Public or private school sites.
6. A site with an existing tower.
7. Other sites.

3. General Requirements

All applications for wireless communication facilities shall be reviewed, in accordance with the following standards and conditions, and if approved shall be constructed and maintained in accordance with such standards and conditions. In addition, if a facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission at it discretion.

A. All applications for the required permit to place, construct or modify any part or component of a wireless communication facility shall include the following:

1. A site plan prepared, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of

outdoor equipment, and the location, number, and species of proposed landscaping.

2. A disclosure of what is proposed, demonstrating the need for the proposed wireless communication support structure to be located as proposed based upon the presence of one or more of the following factors:
   a. Proximity to an interstate highway or major thoroughfare.
   b. Areas of population concentration.
   c. Concentration of commercial, industrial and/or other business centers.
   d. Areas where signal interference has occurred due to buildings, masses of trees or other obstructions.
   e. Topography of the proposed facility location in relation to other facilities within which the proposed facility is to operate.
   f. Other specifically identified reason(s) creating need for the facility.
3. The reason or purpose for the placement, construction or modification with specific reference to the provider's coverage, capacity and/or quality needs, goals and objectives.
4. The existing form of technology being used and any changes proposed to that technology.
5. As applicable, the planned or proposed and existing service area of the facility and the attached wireless communication facility, and wireless communication support structure height and type, and signal power expressed in ERP upon which the service area has been planned.
6. The nature and extent of the applicant/provider's ownership or lease interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
7. The identity and address of all owners and other persons with a real property interest in the property, building or structure upon which facilities are proposed for placement, construction or modification.
8. A map showing existing and known proposed wireless communication facilities within Ontwa Township, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. The map shall also show existing buildings and/or other structures of the same approximate height within a one-half (½) mile radius of the proposed site which could accommodate a feasible collocation of the applicant's proposed attached wireless communication facility.

If and to the extent the information in question is on file with the Township, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy. MCL 15.243(l)(g). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the Township.

9. For each location identified in the applicant/provider's survey maps and drawings, the application shall include the following information, if known, with the applicant/provider expected to exercise reasonable due diligence in attempting to obtain information through lawful means prior to application:

   (a) The structural capacity and whether it can accommodate the applicant's facility, as proposed or modified.

   (b) Whether property owner approvals exist or have been requested and obtained.

   (c) Whether the location could be used by the applicant/provider for placement of its attached wireless communication facility, or if not, a disclosure of the technological considerations involved, with specific reference to how use of the location would prohibit the applicant/provider from providing wireless communication services.

10. A certification by a State of Michigan licensed and registered professional engineer regarding the manner in which the proposed structure will fall. The certification will be utilized, along with other criteria such as applicable regulations for the district in question, in determining appropriate setbacks to be required for the structure and other facilities.

11. A description of the security to be posted at the time of receiving a building permit for the wireless telecommunication support structure to ensure removal of the structure when it has been abandoned or is no longer needed as provided in paragraph 3.P. below. The security shall, at the election of the applicant, be in the form of cash, surety bond, letter of credit, or an agreement in a form approved by the Township Attorney and recordable at the office of the Cass County Register of Deeds, a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this Section, with the further provision that the applicant and owner shall be responsible for payment of any costs and attorney's fees incurred by the Township in securing approval.

12. The site plan shall include a landscape plan where the wireless communication support structure is being placed at a location which is not otherwise part of another site plan with landscaping requirements. The purpose of landscaping is to provide screening for the wireless communication support structure base, accessory buildings and enclosures. In all cases there shall be fencing of at least six (6) feet in height, which is required for the protection of the tower.

13. Evidence of zoning approval from the Federal Aviation Administration, if required due to a site's proximity to any local airport, or evidence that such approval is not required.

14. The name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

B. The wireless communication support structure shall not be injurious to the neighborhood or otherwise detrimental to the public safety and welfare. The wireless communication support structure shall be located and designed to be harmonious with the surrounding areas, and to be aesthetically and architecturally compatible with the natural environment, as well as the environment as altered by development.

C. The maximum height of all new or modified attached wireless communication facilities and wireless communication support structures shall be one hundred seventy-five (175) feet, or such lower maximum heights as approved and/or allowed by the Federal Aviation Administration under CFR 14 Part 77, as amended. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.

D. The setback of a monopole wireless communication support structure from any lot line shall be in accordance with the required setbacks for main or principal buildings as provided in the schedule of regulations for the zoning district in which the monopole is located. The setback of all other wireless communication support structures from any lot line shall be no less than the height of the structure, unless it can be demonstrated and certified by a registered professional engineer, to the satisfaction of the Township Engineer, that the wireless communication support structure has a shorter fall-zone distance.

E. Where the wireless communication support structure abuts a parcel of land zoned for other than residential purposes, the minimum setback of the wireless communication support structure and accessory structures shall be in accordance with the required setbacks for the main or principal buildings as provided in the schedule of regulations for the zoning district in which the wireless communication support structure is located. See paragraph three (3) A.10.

F. There shall be an unobstructed access to the wireless communication support structure for operation, maintenance, repair and inspection purposes, which may be provided through an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic circulation within the site; utilities needed to service the wireless communication support structure and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbances to the natural landscape; and the type of equipment which will need to access the site.

G. The division of property for the purposes of locating a wireless communication support structure is prohibited unless all zoning requirements and conditions are met.

H. The Zoning Board of Appeals may grant variances only for (1) the setback requirements of a wireless communication support structure, provided that the proposed location will reduce its visual impact on the surrounding area; (2) the maximum height requirement; and (3) the collocation requirements of subparagraph three (3) N.

I. Where a wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building, provided that an accessory building conforms with all district requirements for accessory buildings, including yard setbacks and building height.

J. The Planning Commission shall, with respect to the color of the wireless communication support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

K. Wireless communication support structures shall be constructed in accordance with all applicable building codes and shall include the submission of a professional soils report from a geotechnical engineer licensed in the State of Michigan. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

L. A maintenance plan, and any applicable maintenance agreement, shall be presented as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.

M. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and

unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of Ontwa Township. The provisions of this subsection are designed by carry out and encourage conformity with the policy of the Township.

Any proposed commercial wireless communication support structures shall be designed, structurally, electrically and in all respects, to accommodate both the applicant's attached wireless communication facility and comparable attached wireless communication facilities for additional users. Wireless communication support structures must be designed to allow for future rearrangement of attached wireless communication facilities upon the wireless communication support structure and to accept attached wireless communication facilities mounted at varying heights.

A proposal for a new wireless communication support structure shall not be approved unless and until it can be documented by the applicant that the communications equipment planned for the proposed wireless communication support structure cannot be feasibly collocated and accommodated on an existing or approved wireless communication support structure or other existing structure due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved wireless communication support structure or building, as documented by a qualified and licensed professional engineer, and the existing or approved wireless communication support structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment.
2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the wireless communication support structure or other existing structure as documented by a qualified and licensed professional engineer and the interference cannot be prevented by any other means.
3. Existing or approved wireless communication support structures and buildings within the search radius cannot accommodate the planned equipment at a height necessary for the coverage area and capacity needs to reasonably function as documented by a qualified and licensed professional engineer.
4. Other unforeseen reasons that make it infeasible to locate the planned communications equipment upon an existing wireless communication support structure or building.

Collocation shall be deemed to be "feasible" for the purposes of this Section where all of the following are met:

5. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.

6. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.

7. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennae, and the like.

8. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained within this subsection.

N. If a party who owns or otherwise controls a wireless telecommunication support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

If a party who owns or otherwise controls a wireless telecommunication facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of this Section of the Zoning Ordinance and, consequently, such party shall take responsibility for the violation and be subject to any and all penalties applicable to a violation of the Zoning Ordinance, and shall also be prohibited from receiving approval for a new wireless communication support structure with Ontwa Township for a period of five (5) years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five (5) year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication service.

O. Review of applications for wireless communication antenna.

1. An application for collocation, and review of an application for a permit for use of a facility permitted under subparagraph one (1) B., above, shall be completed and a decision shall be made within 60 days of receipt of the application, or else the application shall be deemed approved and the reviewing body shall have made any determination or findings necessary for such approval. *(amended 6/13/16)*

2. For new towers, review shall be completed within 90 days from receipt of the application, or else the application shall be deemed approved and the reviewing body shall have made any determination or findings necessary for such approval.

P. When a wireless communications facility has not been used for one hundred eighty (180) days or more, or six (6) months after new technology is available which permits the operation of a wireless communication facility without the requirement of a wireless communication support structure, the entire wireless communications facility, or that portion of the wireless communications facility made obsolete by the new technology, shall be removed by the users and/or owners of the wireless communications facility. For the purposes of this Section, the removal of antennae or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use. The situation(s) in which removal of a wireless communications facility is required may be applied and limited to a portion of the facility.

a. Upon the occurrence of one or more of the events requiring removal, the property owner or persons who had used the wireless communications facility shall immediately apply for and secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the condition which existed prior to the construction of the wireless communications facility.

b. If the required removal of the wireless communications facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days' written notice, the Township may remove or secure the removal of the facility, or required portions thereof, with its actual costs and reasonable administrative charges to be drawn or collected and/or enforced from or under the security posted at the time application was made for establishing the wireless communications facility.

Q. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.

SECTION 3.32. ANTI-FUNNELING/ANTI-KEYHOLING (As amended 11/10/09)

PURPOSE: TO PROTECT WATER QUALITY, CONTROLLING NON-RIPARIAN USE OF WATERWAYS AND TO PROTECT THE HEALTH, SAFETY AND WELFARE OF TOWNSHIP RESIDENTS AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

(a) Intent – It is the intent of this section to promote the integrity of the lakes within Ontwa Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by limiting excess use; to promote the ecological balance of the water by

limiting incompatible land use of the wetlands associated with the lakes; and maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this ordinance shall be construed to limit lake or waterway access to 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.

(b) Regulations – In any zoning district where a parcel or parcels of land having frontage to a lake, channel, or stream, such parcel or parcels of land may be used as:

i. access property; or

ii. as common open space held in common by a subdivision, condominium association, planned unit development or associations or similar agencies; or

iii. held in common by virtue of the terms of a plat of record; or

iv. common use under deed restrictions of record; or

v. owners of those residing in two or more dwelling units located away from the waterfront; or

vi. as a residential development for one or more dwelling units as permitted in the Township zoning ordinance; or

vii. by easement, park, common fee ownership, single-fee ownership, condominium arrangement, license, or lease; or

viii. combination of the above.

Such parcel or parcels shall only be used as stated above if the following conditions are met.

(1) That said parcel of land contain a minimum of five thousand (5,000) square feet; fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such privileges are extended or dedicated. The minimum depth for such a parcel shall be one hundred (100) feet. Frontage shall be measured by straight line which intersects each side lot line at the water's edge.

(2) In the event the water frontage is proposed to be used by more than one dwelling unit, the water frontage shall not consist of a 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 DNR; and that in no event shall a swamp, marsh, or bog be altered by dredging, the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.

(3) In no event shall such a parcel or parcels of land abut a man-made canal or channel for purposes of funneling non-riparian owners onto a lake. Where said parcel or parcels contain dwelling units, then the fifty (50) linear feet of water frontage shall apply for

each individual dwelling unit. In no case shall such canal or channel be excavated for the purpose of increasing the water frontage required by this regulation.

(4) Where a park, common area, access property or similar use area is utilized as frontage, it shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.

(5) The piers or docks on such parcel or parcels of land shall not be closer than fifty (50) feet from another pier or dock, nor longer than 120% of the average of the four (4) adjacent residential lot piers or docks on either side of the access property to a maximum length of fifty (50) feet of lot frontage.

(c) Non-conforming uses – In any district in which accesses have been established before the effective date of this ordinance or subsequent amendment thereto, such accesses shall retain historic uses. It is the intent of this ordinance to permit such lawful non-conformance to continue, but not to encourage additional uses and sites.

(d) Definition – "Access Property" shall mean a property, parcel or lot abutting a lake, and used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease license, gift, business invitation or any other form or dedication or conveyance.

(e) In those situations in which the frontage is occupied by multiple unit residential developments such as a PUD, condominium association, site condo development and the like, then the lake front area or lake frontage shall only be used in the same proportion, that is, at least fifty (50) feet of lake frontage for any one single-family home, one dwelling unit, one cottage, one condominium unit, one site condominium unit, one mobile or modular home unit or one apartment unit with right to use the frontage.

SECTION 3.33 USE AND DEVELOPMENT OF LAND AS CONDITION TO REZONING. (As amended June 11, 2007)

(a) Intent. It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(b) Application and Offer of Conditions.

(1) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

(2) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

(3) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.

(4) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

(5) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development has been previously granted in accordance with the provisions of this Ordinance.

(6) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development has been previously granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

(7) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development has been previously granted in accordance with the provisions of this Ordinance.

(8) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

(c) Planning Commission Review.

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 22.04 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however,

that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

(d) Township Board Review.

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 22.04 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

(e) Approval.

(1) If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

a) The Statement of Conditions shall:

(1) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.

(2) Contain a legal description of the land to which it pertains.

(3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

(4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

(5) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.

(6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

(7) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

(8) The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located

(9) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

(f) Compliance with Conditions.

(1) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(2) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

(g) Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

(h) Reversion of Zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection (g) above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405.

(i) Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection (h) above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

(j) Amendment of Conditions.

(1) During the time period for commencement of an approved development or use specified pursuant to Subsection (g) above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.

(2) The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

(k) Township Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

(l) Failure to Offer Conditions.

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

SECTION 3.34. ZONING ENABLING ACT. Where in this Ordinance reference is made to the Township Zoning Act and has not been changed by official amendment to this Ordinance, the reference shall be to the Zoning Enabling Act, PA 110 of 2006, as amended. Where, in this Ordinance reference is made to the "TZA" meaning the "Township Zoning Act" (PA 184 of 1943 repealed effective July 1, 2006), that reference shall be to the Michigan Zoning Enabling Act. The acronym "ZEA" as it may be utilized throughout this Ordinance shall mean the Zoning Enabling Act, PA 110 of 2006, as amended. (As amended June 11, 2007)

## SECTION 3.35 WIND ENERGY SYSTEMS (WES) (Adopted 10/12/09)

The purpose of this section is to establish standards and procedures by which the installation and operation of a Wind Energy System (WES) shall be regulated within the Township, in order to promote the safe, effective, and efficient use of wind energy.

**WIND ENERGY SYSTEMS (WES) definitions:**

1) Wind Energy System (WES) - shall mean a combination of:
   a) A surface area, either variable or fixed, for utilizing the wind for electrical powers; and
   b) A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
   c) The generator, alternator, or other device used to convert the mechanical energy of the surface area into electrical energy; and
   d) The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and
   e) Building or equipment accessory thereto.
2) Noncommercial WES: A WES placed upon land with the intent to provide electricity primarily for the owner of the property.
3) Commercial WES: One or more WES placed upon land with the intent to sell or provide electricity to others. The WES may or may not be owned by the owner of the property upon which the WES is placed.
4) Wind Farm: A grouping of commercial WES (3 or more).
5) WES Height: The distance as measured from the ground to the highest point of the WES, the highest point could either be the tip of the blade at its highest vertical point or the highest point of the WES structure.

**Noncommercial wind energy systems (NWES) are permitted in any zoning district, provided:**

1) NWES facilities may be a principal use or an accessory use on a parcel.
2) Minimum parcel size upon which the NWES is to be located shall be one and one-half (1 ½) acres.
3) Minimum clearance between the ground and the tip of the blade at its lowest vertical point of a NWES shall be fifteen (15) feet. Maximum height of a NWES shall be sixty (60) feet. Any NWES of over sixty (60) feet in height can only be located in the "Agricultural/Residential District" or the "Industrial Districts" and is subject to a special land use permit.
4) Minimum setback of a NWES shall be equal to the height of the NWES structure.
5) For every additional NWES on a parcel, an additional one and one-half (1 ½) acres shall be provided; however, the wind turbines may be clustered on site. Properties with three (3) or more NWES per parcel are subject to the site plan review and shall include the following

information:

a) Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the NWES.

b) Existing and proposed setbacks of all structures located on the property in question.

c) Plan view and elevation view of the premises accurately depicting the proposed NWES and its relationship to all structures within three hundred (300) feet.

d) A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Michigan Building Code as adopted by the Township; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.

e) NWES electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the Township.

f) NWES shall be equipped with both a manual and automatic braking device capable of stopping the NWES operation in high winds, as established by the manufacturer.

g) NWES shall have one sign, not to exceed two (2) square feet in area posted at the base of the tower containing the following information:

a) Emergency phone number.

b) Emergency shutdown procedures.

c) "Warning, High Voltage"

h) NWES shall not have affixed or attached any other signs, lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.

i) Noise emanating from the operation of NWES shall not exceed fifty (50) decibels, as measured on the DBA scale, measured at the nearest property line.

j) The Township hereby reserves the right upon issuing any NWES special land use permit to inspect the premises on which it is located. If a NWES is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation. Penalties can be assessed based on Article XXIII.

k) Any NWES that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The twelve (12) month period may be extended if applied for by the proprietor and granted by the Township Board in writing.

<u>Commercial Wind Energy Systems (CWES)</u>

1) CWES facilities may be a principal use or an accessory use on a parcel.

2) All CWES facilities are only allowed in the “Agricultural/Residential District” and the

"Industrial Districts" and must apply for a Special Land Use.

3) Minimum lot size for a CWES shall be twenty (20) acres, and a minimum of three (3) acres of site area is required for each CWES proposed within an eligible property; however, the wind turbines may be clustered on site.

4) In addition to the requirements for site plan application and review outlined in Section 16.01, the following information shall be included with any application of a Special Land Use for a CWES:

a) Location of overhead electrical transmission or distribution lines.

b) Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the CWES.

c) Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the subject property including the distance of each from the exterior boundary.

d) A Plan view and Elevation view of the premises accurately depicting the proposed CWES and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.

e) Access road to the CWES facility with detail on dimensions, composition, and maintenance.

f) Planned security measures to prevent unauthorized trespass and access. To prevent unauthorized climbing, CWES towers must comply with one of the following provisions:

   i) Tower climbing apparatus shall not be located within twelve (12) feet of the ground.

   ii) A locked anti-climb device shall be installed on the tower.

   iii) Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.

g) CWES maintenance programs shall be provided that describes the maintenance program used to maintain the CWES, including removal when determined to be obsolete.

5) A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.

6) Each CWES shall be grounded to protect against natural lightning strikes and the electrical equipment and connections shall be designed and installed in adherence to the Electrical Code adopted by the Township.

7) CWES towers shall be setback from the closest property line one and one half (1 ½) feet for every one (1) foot of tower height.
8) CWES shall be setback from the above ground utility lines one (1) feet for every one (1) foot of tower height.
9) Maximum height for a CWES shall be one hundred and seventy five (175) feet.
10) Colors and surface treatment of the CWES and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structure shall be used for signs or advertising.
11) Blade-arcs created by the CWES shall have a minimum of thirty (30) feet of clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.
12) Each CWES shall have one (1) sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
    a. "Warning high voltage".
    b. Manufacturer's name.
    c. Emergency phone number.
    d. Emergency shutdown procedures.
13) CWES shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
14) CWES shall be designed and constructed so as not to cause radio and television interference.
15) Noise emanating from the operation of CWES shall not exceed sixty-five (65) decibels, as measured on the DBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for property lines for normal operating conditions.
16) Any proposed CWES shall not produce vibrations humanly perceptible beyond the property on which it is located.
17) The on-site electrical transmission lines connecting the CWES to the public utility electricity distribution system shall be located underground.
18) No CWES shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the CWES with the utility company shall adhere to the Electrical Code as adopted by the Township.
19) The applicant shall demonstrate mitigation plans to minimize impacts to birds and other wildlife that may collide with rotor blades. Bird flyways and migration patterns shall be considered in siting CWESs
20) The Township hereby reserves the right upon issuing any CWES special land use permit to inspect the premises on which the CWES is located. If a CWES poses a potential safety hazard, the owner shall take expeditious action to correct the situation. Penalties can be assessed based on Article XXIII.

21) Any CWES which are not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. The twelve (12) month period may be extended if applied for by the proprietor and granted by the Township Board in writing.

# ARTICLE IV

# MAPPED DISTRICTS

SECTION 4.01. ZONE DISTRICTS. The Township of Ontwa is hereby divided into the following zoning districts:

(a) AR Agricultural/Residential District
(b) R-1A Residential District
(c) R-1 Residential District
(d) L-R Lake Residential District
(e) R-2 Residential District
(f) M-H Manufactured Housing Community District
(g) MFR Multi-Family Residential District
(h) C-1 Commercial/Service District
(i) C-2 General Commercial District
(j) I-1 Light Industrial District
(k) I-2 Heavy Industrial District
(l) WF Waterfront Overlay District *(amended 6/13/16)*

SECTION 4.02. ZONING MAP. The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of Ontwa Township, Cass County, Michigan", which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.

(a) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(c) Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.

(d) Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, or in the event of change in the location of shorelines or lake or stream beds, shall be construed as moving with the shoreline and lake or stream bed.

(e) Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of one hundred sixty-five (165) feet from the front lot line. The zoning standards of the front zoning district apply to the principle dwelling. The location of any other building will be governed by which zone the building is located. (As Amended 8/12/02)

(f) Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or

other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

SECTION 4.03. AREAS NOT INCLUDED WITHIN A DISTRICT. In every case where land has not been included within a district on the zoning map, such land shall be in the "AR" Zoning District.

# ARTICLE V

## AGRICULTURAL/RESIDENTIAL DISTRICT "AR"

SECTION 5.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the Township for a compatible blend of farming, single family dwellings, and other uses that require large parcels of land. Certain complimentary religious, educational and recreational facilities may also be permitted.

SECTION 5.02. USE REGULATIONS. In the "AR" District, no land or buildings shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Single family dwellings, as regulated in Section 3.26.

(b) General farms (See Section 2.18) carrying on customary farming operations; provided that where farm animals or fowl are kept, no structure for the keeping of same shall be closer than one hundred (100) feet to any adjoining property line.

(c) Specialized farms (See Section 2.19) when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XIV, XVI, and the following:

(1) The nature of the farm operation.

(2) The effect of the farm operation on the surrounding neighborhood.

(d) Roadside stands for the display and sale of products grown on the property; provided, however, that off-street parking shall be provided on the property and no hazardous traffic condition shall result from such activity.

(e) Churches, schools, libraries and similar uses, when owned and operated by a governmental agency or non-profit organization, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

(f) Parks, playgrounds, community centers, governmental, administration or service buildings, including fire stations and other public service facilities which are owned and operated by a governmental agency or a non-commercial organization, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

(g) Cemeteries, mausoleums, country clubs, golf courses, hunting clubs, and gun clubs, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

(h) Home occupations and home based businesses in accordance with Section 3.19. *(amended 6/13/16)*

(1) The nature of the home occupation.

(2) The effect of the home occupation on the surrounding neighbor hood.

(3) The environmental effects of the home occupation.

(4) The nature of the surrounding neighborhood.

(5) Potential traffic congestion as a result of the home occupation.

(6) Provisions for parking or clientele, which may result from the operations of the home occupation.

(i) Removal and processing of topsoil, sand, stone, rock, gravel, lime or other soil or mineral resources when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall consider Article XIV and the following: *(amended 6/13/16)*

(1) The size of the property from which such topsoil, sand, gravel or other such materials are to be removed.

(2) The amount of topsoil, sand, gravel or other such minerals, which is to be removed.

(3) The purpose of such removal.

(4) The effect of such removal on adjoining property.

(5) The effect of such removal in causing a safety hazard, creating soil erosion, increased storm water run-off problems, or altering the ground water table.

(6) The potential for such removal to cause the creation of sand blows, stagnant water pools, or swampy areas.

(7) The effect of such removal on the environment and the natural topography, and the potential destruction of any natural resource.

(8) Potential traffic congestion and safety related problems because of trucks or other vehicles or means utilized to haul and transport the materials removed.

Review Criteria. In reviewing an application for removal of mineral resources, the Planning Commission shall apply the review standards for special land uses and the requirements of this section. In addition, the Planning Commission shall determine whether or not the applicant has satisfied his/her burden in demonstrating that no very serious consequences would result from the proposed removal. In making this determination, the Planning Commission shall consider the following factors in accordance with MCL 125.3205:

(1) The relationship of extraction and associated activities with existing land uses.

(2) The impact on existing land uses in the vicinity of the property.

(3) The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.

(4) The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.

(5) The impact on other identifiable health, safety, and welfare interests in the local unit of government.

(6) The overall public interest in the extraction of the specific natural resources on the property.

The Planning Commission may require additional special studies or research, such as traffic impact studies, hydrogeological analyses, noise and vibration studies, and similar studies to determine if a mining operation proposed under this Section is consistent with the review criteria of subsection (b) above and this Ordinance.

Operations granted a special land use permit by the planning commission shall meet the following conditions:

(1) Any change of the natural contour of the land, both during mining operations and at the time of abandonment, shall be maintained as safe to all trespassers and any other persons having reason to be within the area of activity.

(2) No business or industrial buildings or structures of a permanent nature shall be erected, except where such a building is a permitted use within the district in which the extraction activity is located.

(3) No storage or truck parking shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any other adjacent property.

(4) All of the operation shall be screened with a wire fence or uniformly painted wood fence at least six (6) feet in height, with evergreen screen planting on any side adjacent to a residentially zoned property other than the "AR" District.

(5) No part of the operation or removal shall take place closer than one hundred (100) feet from the nearest property lines.

(6) As the natural resources are being removed, the property shall be restored by the replacement of topsoil where feasible; and all excavations shall be sloped to a gradient with not more than thirty (30) degree slope or the angle of repose and the contour be caused to blend as nearly as possible with the natural surroundings. The excavation area shall be planted with a suitable ground cover sufficient to control erosion.

(7) All truck operations shall be directed away from residential streets and utilize county primary roads whenever possible.

(8) The Planning Commission may require such bond as deemed necessary to insure

that requirements are fulfilled and may revoke permission to operate at any time specified conditions are not maintained.

(9) Topsoil or sand may be removed from a lot without authorization from the Planning Commission for the purpose of erecting or constructing a building or structure on the lot, provided there is compliance with all other requirements of this Ordinance. In addition, topsoil or sand may be removed from one part of a lot to another part if such action will not cause, or be likely to cause, sand blows, stagnant water pools, bogs, soil erosion or possible future injury to adjoining property, including water runoff.

(10) The applicant shall secure all necessary permits from the Township, county, state and federal authorities prior to the start of any excavating, mining or construction activities.

(j) Sanitary landfill when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements, Article XIV, and Article XVI are met:

(1) The landfill is located on a parcel of land of not less than twenty (20) acres.

(2) All buildings and structures shall be removed upon completion of the landfill operation.

(3) The parcel is enclosed by a fence six (6) feet high which is of such a construction that it will contain all windblown debris.

(4) No burning of waste material shall be allowed without a permit from the Department of Natural Resources.

(5) If the landfill borders on a public right-of-way or abuts a residential district (other than "AR"), there shall be a twenty (20) foot landscaped buffer consisting of deciduous or evergreen trees which reach a minimum of five (5) feet in height in one (1) growing season.

(6) The landfill shall meet the requirements of Public Act 641 of 1978, as amended, and other state, county and local requirements as are applicable.

(7) Once the landfill operation is completed, the land shall be graded to smooth contours suitable for other uses.

(8) All traffic generated by the operation shall be directed away from residential areas.

(k) Planned unit developments which contain the following uses and as regulated in Article XV:

(1) Golf courses, tennis clubs, athletic clubs, and other recreational uses.

(2) Churches.

(3) Parks and playgrounds.

(l) Signs as regulated in Article XIX.

(m) Adult foster care facilities.

(n) Child and adult day care facilities which care for no more than six (6).

(o) Child and adult day care facilities which care for between seven (7) and twelve (12) children or adults when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements, Article XIV and Article XVI are met:

1. The character of the residential structure is not altered and maintains a residential appearance.

2. None of the following facilities are located within fifteen hundred (1,500) feet of the proposed use:

   a) Another like facility.

   b) An adult foster care small or large group home.

   c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.

   d) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the Department of Corrections.

3. The outdoor play area shall be fenced.

4. A minimum of four (4) parking spaces shall be provided on the property with a suitable area for pick-up and drop-off.

(p) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements are met: *(amended 6/13/16)*

1. A public kennel shall be located on a parcel with at least four hundred (400) feet of frontage and at least five (5) contiguous acres without division by road.

2. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.

3. All kennels shall be operated in conformance with all applicable Cass County, township, state and federal regulations.
4. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
5. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
6. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.
7. Exercise yards must be provided for training or exercising, but shall not be used between the hours of 10:00 p.m. and 7 a.m.
8. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.
9. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
10. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.
11. The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.
12. All animals must be licensed and maintained in a healthful, careful and humane manner and must be provided with annual veterinary care and up to date annually recommended veterinary vaccinations and medications.
13. Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
14. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
15. Kennels may be inspected at any time by the Zoning Administrator.

(q) Commercial roadside market stand provided it meets the following requirements: *(amended 6/13/16)*

1. Any temporary buildings or structures associated with the roadside market must be removed from the site at the end of the temporary use.
2. A suitable off-street parking area shall be established and approved by the Zoning Administrator.

3. Only one (1) temporary sign shall be permitted on the site, not to exceed thirty-two (32) square feet in size.

(r) An agri-tourism establishment may be permitted by the Planning Commission as a special land use in the Agricultural/Residential District. An application for an agri-tourism establishment shall include a site plan in accordance with Article XVI with detail on parking, sanitation, refuse and solid waste management, on-site lighting, fencing, crowd control, on-site vehicular and pedestrian circulation, details on any public address system and equipment, signage and related facilities existing and proposed. In addition, the application shall include a complete written description of the proposed use, the services to be provided, the maximum number of patrons anticipated on site at any time, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed. Such written description shall be considered a part of the special land use application to be relied upon by the Township in granting any approval.

1. The Planning Commission shall evaluate the proposed agri-tourism establishment and the activities proposed to determine whether it will be compatible with neighboring uses and other permitted uses in the vicinity and zoning district.
2. An agri-tourism establishment shall only be permitted on a property with a minimum lot area of ten (10) acres and the agri-tourism establishment use shall comprise only a small part of the property, so that the farm use of the site is predominant and the agri-tourism establishment use is secondary.
3. The Planning Commission may impose requirements on the placement of the facility on the site to protect adjacent properties from its impacts and to maintain rural views from public roads; however, the facility and all of its outdoor ancillary structures and activities such as parking and gathering space, shall be located at least 50 feet from property lines.
4. An agri-tourism establishment intended to include space for public gatherings shall be accessed from an all-season, paved county road. The Planning Commission may require submittal of a traffic impact study, the purpose of which shall be to analyze the effect of traffic generated by the proposed use on the capacity, operations, and safety of the public road system and to propose mitigation measures.
5. Tasting rooms and food service activities shall at all times comply with any and all requirements of the Cass County Health Department and the Michigan Liquor Control Commission and evidence of applicable agency review and approval shall be provided to the Township.
6. Periodic or permanent recreational or entertainment activities or facilities, such as but not limited to, rodeo demonstrations, tractor pull events, hay rides, corn mazes, concerts, haunted houses and similar features or events shall be clearly described in any application for special land use approval and must be authorized in advance pursuant to this Section.

7. The Planning Commission may require landscaping to screen the use from adjacent properties and the Planning Commission may impose limitations on the operation of the facility to protect adjacent properties from its impacts. Such limitations may pertain to hours of operation, outdoor lighting, outdoor activities, noise, and other elements.

8. The applicant shall demonstrate that all vehicular parking will occur on the site. Notwithstanding Section 17.03, the Planning Commission may permit the applicant to provide pervious parking, subject to demonstration by the applicant that dust would be controlled and an ongoing condition addressing the same.

SECTION 5.03. HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet in height; all other buildings and structures shall not exceed their usual and customary heights.

SECTION 5.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and area requirements:

(a) Front Yard - There shall be a front yard of no less than thirty-five (35) feet.

(b) Side Yard – There shall be two side yards. No side yard shall be less than twenty-five (25) feet; provided, however, that when a side lot line adjoins a street, a minimum yard of thirty (30) feet is required. *(amended 6/13/16)*

(c) Rear Yard - There shall be a rear yard of at least thirty (30) feet.

(d) Lot Area - There shall be a lot area of at least sixty thousand (60,000) square feet; provided that where a public sewer service is installed, the lot area may be reduced to forty-eight thousand (48,000) square feet and provided the new or existing home is connected to the sewer. (As Amended 8/12/02)

(e) Lot Width - The minimum width at the front setback line shall be two hundred (200) feet.

(f) Floor Area - There shall be a minimum floor area of one thousand (1,000) square feet. Dwellings having more than one story shall have a ground floor area of at least eight hundred (800) square feet.

SECTION 5.05. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 5.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Animals.

(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 5.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 5.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.23. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE VI

## RESIDENTIAL DISTRICT "R-1A"

SECTION 6.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township exclusively for low density, single family dwellings. Certain complimentary religious, educational and recreational facilities may also be permitted.

SECTION 6.02. USE REGULATIONS. In the "R-1A" District, no land or buildings shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition, other than the following:

(a) Single family dwellings with an attached garage, as regulated in Section 3.26.

(b) Churches, schools, libraries and similar uses when owned and operated by a governmental agency or non-profit organization, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

(c) Parks, playgrounds, community centers, governmental, administration or service buildings, including fire stations and other public service facilities which are owned and operated by a governmental agency or a nonprofit organization, provided the site plan is approved by the Planning Commission in accordance with Article XVI.

(d) Signs as regulated in Article XIX.

(e) Home occupations or Home Based Businesses as regulated by Section 3.19. *(amended 6/13/16)*

SECTION 6.03. HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories.

SECTION 6.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements:

(a) Front Yard - There shall be a front yard of not less than thirty-five (35) feet, except for lots located on a lake, stream or water body, in which case the minimum required front yard setback shall equal the average depth of existing front yards on developed lots within two hundred (200) feet of either side of the subject lot, but in no case shall it be less than thirty-five (35) feet. *(amended 6/13/16)*

(b) Side Yard – There shall be two side yards. No side yard shall be less than twenty (20) feet; provided, however, that when a side lot line adjoins a street, a minimum of twenty-five (25) feet is required. For non-residential principal buildings, minimum side yards of thirty (30) feet on each side are required, unless specified elsewhere in this Ordinance. *(amended 6/13/16)*

(c) Rear Yard - There shall be a rear yard of at least thirty (30) feet.

(d) Lot Area - There shall be a lot area of at least twenty thousand (20,000) square feet. provided that where a public sewer service is installed, the lot area may be reduced to sixteen thousand (16,000) square feet and provided the new or existing home is connected to the sewer. *(As Amended 8/12/02)*

(e) Lot Width - The minimum lot width at the front setback line shall be one hundred twenty-five (125) feet.

(f) Floor Area - For single family dwellings, there shall be a minimum floor area of one thousand five hundred (1,500) square feet. Dwellings having more than one story shall have a ground floor area of at least eight hundred (800) square feet. The required attached garage shall have a minimum floor area of three hundred (300) square feet.

SECTION 6.05. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 6.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27 Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 6.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 6.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.23. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE VII

## RESIDENTIAL DISTRICT "R-1"

SECTION 7.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township for low density single family dwellings. Certain complimentary religious, educational and recreational facilities may also be permitted.

SECTION 7.02. USE REGULATIONS. In the "R-1" District, no land or buildings shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Any use as permitted in the "R-1A" Zoning District, except as provided below.

(b) Home occupations or Home Based Business as regulated by Section 3.19. *(amended 6/13/16)*

(c) Single family dwellings with a garage, as regulated in Section 3.26.

(d) Planned unit developments as per Section 5.02(k) herein.

(e) A private kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall insure that the following requirements are met: *(amended 6/13/16)*

1. A private kennel shall be located on a parcel with at least four hundred (400) feet of frontage and at least five (5) contiguous acres without division by road.
2. Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.
3. All kennels shall be operated in conformance with all applicable Cass County, township, state and federal regulations.
4. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
5. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
6. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.
7. Exercise yards must be provided for training or exercising, but shall not be used between the hours of 10:00 p.m. and 7 a.m.
8. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor

runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.

9. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

10. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.

11. The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.

12. All animals must be licensed and maintained in a healthful and careful manner and humane manner and must be provided with annual veterinary care and up to date annually recommended veterinary vaccinations and medications.

13. Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.

14. A kennel shall comply with all applicable Cass County, township, state or federal regulations.

15. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor. All animals must receive annual and up to date veterinary care.

16. Kennels may be inspected at any time by the Zoning Administrator.

SECTION 7.03. HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories.

SECTION 7.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements:

(a) Front Yard - There shall be a front yard of no less than thirty-five (35) feet.

(b) Side Yard – There shall be two side yards. No side yard shall be less than thirteen (13) feet; provided, however, that when a side lot line adjoins a street, a minimum of twenty (20) feet is required. For non-residential principal buildings, minimum side yards of thirty (30) feet on each side are required, unless specified elsewhere in this Ordinance. *(amended 6/13/16)*

(c) Rear Yard - There shall be a rear yard of at least thirty (30) feet.

(d) Lot Area - There shall be a lot area of at least fifteen thousand (15,000) square feet; provided that where a public sewer service is installed, the lot area may be reduced to

twelve thousand (12,000) square feet and provided the new or existing home is connected to the sewer. (As Amended 8/12/02)

(e) Lot Width - The minimum lot width at the setback line shall be one hundred (100) feet.

(f) Floor Area - For single family residences, there shall be a minimum floor area of one thousand two hundred (1,200) square feet. Dwellings having more than one story shall have a ground floor area of at least seven hundred (700) square feet. The required garage shall have a minimum floor area of three hundred (300) square feet.

SECTION 7.05. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 7.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 7.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 7.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE VIII

## LAKE RESIDENTIAL DISTRICT "L-R"

SECTION 8.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township for single family dwellings. It is further the intent of this ordinance that uses within this area be located to protect the water quality, fish and wildlife resources, scenic and aesthetic qualities, and recreational values.

SECTION 8.02. USE REGULATIONS. In the "L-R" District, no land or buildings shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Single family dwellings with a garage, as regulated in Section 3.26.

(b) Home occupations or Home Based Business, as regulated in Section 3.19. *(amended 6/13/16)*

(c) Signs, as regulated in Article XIX.

(d) Pump houses, provided they shall not exceed sixteen (16) square feet in area and not be of a height exceeding three (3) feet above ground level; and they shall be located not closer than ten (10) feet to any side lot line.

(e) Public parks and community centers, provided the site plan is approved by the Planning Commission in accordance with Article XVI. *(amended 6/13/16)*

(f) Accessory buildings, as regulated in Section 3.21.

SECTION 8.03. HEIGHT REGULATIONS. No building or structure shall exceed thirty- five (35) feet in height or two and one half (2 1/2) stories.

SECTION 8.04.AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements: *(amended 6/13/16)*

(a) Front Yard – For lots located on a lake, stream or water body, the minimum required front yard setback shall equal the average depth of existing front yards on developed lots within two hundred (200) feet of either side of the subject lot. In no case shall the front yard setback be less than thirty-five (35) feet. An accessory building shall not be permitted in the front yard (lake side), except as provided in Section 8.02.

(b) Side Yard – There shall be two side yards. No side yard shall be less than ten (feet); provided, however, that when a side lot line adjoins a street, a minimum yard of fifteen (15) feet is required. For non-residential principal buildings, minimum side yards of twenty-five (25) feet on each side are required, or as specified elsewhere in the ordinance.

(c) Rear Yard - There shall be a rear yard of at least thirty (30) feet. Where the lot is located on a lake, stream or water body, the street frontage is considered to be the rear yard; in such case, accessory buildings are permitted and shall be not less than thirty (30) feet from the street right-of-way.

(d) Lot Area - There shall be a lot area of at least twelve thousand (12,000) square feet; provided that where public or community sewer is installed, the lot area may be reduced to nine thousand, six hundred (9,600) square feet and provided the new or existing home is connected to the sewer.

(e) Lot Width - The minimum lot width at the setback line shall be eighty (80) feet.

(f) Floor Area - There shall be minimum floor area of one thousand (1,000) square feet. Dwellings having more than one story shall have a ground floor area of at least seven hundred (700) square feet.

(g) Storm-related run-off water from roofs, downspouts, and any paved surface shall not discharge directly into a lake or stream or an adjacent property. Development shall comply with Section 3.14 of this Ordinance.

SECTION 8.05. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 8.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 8.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 8.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE IX

## RESIDENTIAL DISTRICT "R-2"

SECTION 9.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township for single family dwellings. Certain complimentary religious, educational and recreational facilities may also be permitted.

SECTION 9.02. USE REGULATIONS. In the "R-2" District, no land or building shall be used, and no building or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Any use as permitted in the "R-1" Zoning District.

(b) One two-family dwelling. (As Amended 8/12/02)

SECTION 9.03. HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories.

SECTION 9.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements:

(a) Front Yard - There shall be a front yard of no less than thirty (30) feet.

(b) Side Yard - There shall be two side yards. No side yard shall be less than (10) feet; provided that where a side lot line adjoins a side street, a minimum side yard of fifteen (15) feet is required. For non-residential principal buildings, minimum side yards of twenty (20) feet on each side are required, or as specified elsewhere in the ordinance. *(amended 6/13/16)*

(c) Rear Yard - There shall be a rear yard of at least thirty (30) feet.

(d) Lot Area - There shall be a lot area of at least twelve thousand (12,000) square feet; provided, however, that where a public sewer service is installed, a single family home is permitted on a lot of nine thousand six hundred (9,600) square feet and provided the new or existing home is connected to the sewer. (As Amended 8/12/02)

(e) Lot Width - The minimum lot width at the setback line shall be eighty (80) feet.

(f) Floor Area - There shall be a minimum floor area of one thousand (1,000) square feet for each dwelling. Dwellings having more than one story shall have a ground floor area of at least eight hundred (800) square feet. Each unit of a two-family dwelling shall provide such minimum floor area.

## SECTION 9.05. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 9.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 9.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 9.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE X

## MANUFACTURED HOME PARK DISTRICT "M-H"

SECTION 10.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township for manufactured home parks.

SECTION 10.02. USE REGULATIONS. In the "M-H" District, no land or buildings shall be used, and no buildings or structure shall be erected or converted, for any use or under any condition other than the following:

(a) Manufactured home parks as regulated by the State of Michigan pursuant to Public Act 419 of 1976.

(b) Home occupations or Home Based Business as regulated in Section 3.19. *(amended 6/13/16)*

# ARTICLE XA

## MULTI-FAMILY RESIDENTIAL DISTRICT "MFR"

SECTION 10A.01 DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the township exclusively for multi-family dwellings which are consistent with the Township Master Plan.

SECTION 10A.02 USE REGULATIONS. In the "MFR" District, no land or buildings shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition, other than the following:

(a) Two-family and multi-family dwelling units.

(b) Office buildings.

(c) Adult and child care facilities providing care and/or supervision for seven or more individuals when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Section 5.02(o).

SECTION 10A.03. HEIGHT REGULATIONS No building or structure shall exceed thirty-five (35) feet in height or two and one half (2 1/2) stories.

SECTION 10A.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard and lot area requirements:

(a) Floor Area: Apartment buildings shall have a floor area of six hundred (600) square feet per dwelling unit.

(b) Density: There shall be at least four thousand three hundred (4,300) square feet of lot area, exclusive of streets dedicated to the public, for each dwelling unit.

(c) Front Yard: No building shall be located closer than thirty-five (35) feet to any street right-of-way.

(d) Side Yard: No building shall be closer to a side lot line than a distance equal to the height of the building wall facing the side lot line. In no case shall a building be closer than twenty (20) feet to the side property lines.

(e) Rear Yard: There shall be a rear yard of at least thirty (30) feet.

(f) Lot Area: There shall be a lot area of at least forty three thousand five hundred and sixty (43,560) square feet; provided that where a public sewer service is installed, the lot area may be reduced to thirty-five thousand (35,000) square feet and provided the new or existing home is connected to the sewer. (As Amended 8/12/02)

(g) Lot Width: No lot shall be less than one hundred twenty-five (125) feet in minimum lot width.

(h) Zone Separation: Where a MFR District abuts another R District, any permitted use shall provide an additional twenty (20) feet of landscaped yard area adjacent to such R District over and above the minimum requirements of the MFR District.

(i) Site Plan: A Site Plan is required.

SECTION 10A.05 SPECIAL CONDITIONS.

The following requirements shall be met:

(a) No apartment building shall contain more than twelve (12) dwelling units.

(b) Every apartment and office building shall be connected to a public sanitary sewer system if it is available. If a public sanitary sewer system is not available, such buildings may be connected to a private septic system certified and approved by the Cass County Health Department. *(amended 6/13/16)*

(c) Access: In order to achieve a development with an orderly internal circulation system that does not impose on surrounding lower density uses and districts, the following access controls shall apply to all MFR permitted uses:

(1) Dwelling entrances shall be located not more than three hundred (300) feet from a public street and/or private street.
(2) Dwelling structures shall be located within one-hundred fifty (150) feet of an off-street parking area.
(3) Dwelling structures shall not front on a one family residentially zoned street nor have its principal means of access through such a residential district.

(d) Group Buildings:

(1) Where there is more than one building located on a lot, no building shall be located in front of the main entrance wall of another unless separated by a common yard of at least fifty (50) feet in which event the front yard required under Section 10.3 shall be maintained.

(2) No building shall be located in back of the rear entrance wall of another unless separated by a common yard of at least one hundred (100) feet.

(3) Every group building shall have a landscaped rear yard of at least thirty (30) feet unobstructed by any accessory building, provided such space may be located across a driveway leading to a garage within the building.

(4) Groups of apartment buildings are required to be in single ownership and shall be located on one parcel of land.

(5) No group building shall be located closer than a distance equal to its total height to any other building.

(e) Refuse: For all group buildings there shall be provided a screened area or a building or a portion thereof for the collection of garbage or waste so that such refuse shall not be visible from any building, adjacent property, or public street.

SECTION 10A.06. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 10A.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Power lines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.
(15) Section 3.32 Anti-Funnel/Anti-Keyholing. (As amended June 11, 2007)

(b) For Section 10A.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 10A.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE XI

## COMMERCIAL/SERVICE DISTRICT "C-1"

SECTION 11.01. DESCRIPTION AND PURPOSE. The intent of the C-1 Commercial/Service District is to provide areas in the Township where local services, offices, and convenience shopping facilities can be clustered together so as to serve the day-to-day needs of Township residents.

These regulations are intended to promote development of a pedestrian-accessible mixed-use district, consisting of a variety of retail, office, and service uses. Because of the variety of uses permitted in the C-1 District, special attention must be focused on site layout, building design, vehicular circulation, and coordination of site features between adjoining sites. Permitted uses should be complementary to each other and should not have an adverse impact on street capacity, public utilities and services, or the overall image and function of the district. It is the further intent of this district to prohibit automotive related services and other intensive uses which tend to interfere with the continuity and character of the district.

SECTION 11.02. USE REGULATIONS. In C-1 Districts, no uses shall be permitted except the following:

(a) Retail businesses which supply commodities on the premises for persons residing in adjacent residential areas such as: groceries, meats, dairy products, alcoholic beverages, baked goods or other foods, ice cream, drugs, dry goods, notions, hardware, paint and wallpaper, books, stationery and school supplies, records and video cassette sales, flowers, periodicals, shoes, sporting goods, small household articles, and tobacco products.

(b) Retail or service establishments which offer comparison goods for residents such as: bicycle sales, jewelry stores, hobby shops, music stores, clothing and shoe stores, notions, bookstores, sporting goods stores, office supply stores, carpet stores, furniture stores, building material sales (including hardware, glass and paint), household appliance stores, paint and wallpaper stores, auto equipment sales stores, and similar specialty retail stores.

(c) Specialty shops, "five and ten" stores, and other variety stores including notions.

(d) Establishments which perform services within a completely enclosed building such as: beauty and barber shops; watch, radio, television, clothing and shoe repair; locksmiths; pet groomers, photo processing outlets; and similar establishments. *(amended 6/13/16)*

(e) Office buildings and uses, including offices for administrative services, accounting, clerical, drafting, education, executive, insurance, professional, real estate, research, sales agent, stock broker, technical training, stenographic, writing, and medical and dental practices.

(f) Restaurants and cafes, including carry-out restaurants. (As Amended 8/12/02)

(g) Financial institutions, including banks, credit unions, and savings and loan associations.

(h) Municipal, county, or state service buildings without storage yards; and community buildings such as libraries, museums, post offices, and recreational, educational, and human service centers.

(i) Newspaper offices and printing shops.

(j) Photographers.

(k) Video rental establishments.

(l) Laundromats and dry cleaning outlets, provided that all services performed on the premises shall be sold at retail on the premises where performed.

(m) Commercial roadside market stand provided it meets the following requirement: (As Amended 8/12/02)

1. It shall not be permitted for more than four (4) months in a calendar year.

2. A site plan is reviewed and approved by the Zoning Administrator or the Planning Commission at the discretion of the Zoning Administrator.

3. The temporary building or structure shall be removed from the site at the end of the temporary use.

4. A gravel parking area shall be established with a minimum of ten (10)-parking spaces.

5. The Cass County Road Commission shall approve the curb cut from the public road.

6. All temporary signage shall not impede traffic visibility.

7. Only one (1) temporary sign shall be permitted on the site not to exceed thirty-two (32) square feet in size.

SECTION 11.03. USES PERMITTED AFTER SPECIAL APPROVAL. The following uses may be permitted by the Planning Commission, subject to the conditions specified for each use below, and further subject to the provisions of Article XIV and XVI.

(a) Churches and other religious buildings and facilities customarily incidental thereto, provided all primary ingress and egress from said sites shall be directly onto a major thoroughfare.

(b) Outdoor cafe's or eating areas where patrons are served while seated in the open air, subject to the following conditions:

1. The outdoor eating area shall not exceed fifteen (15) percent of the gross floor area of the principal building; and shall not be located in any required front, side or rear setback area.

2. The outdoor eating area shall be located no closer than fifteen (15) feet from any vehicular parking or maneuvering areas. Such eating areas shall be separated from all vehicular parking and maneuvering areas by means of a greenbelt, wall, or architectural feature.

3. The outdoor eating area shall not be located within fifty (50) feet of any properties used or zoned for residential purposes. The area shall be completely screened from view from all residential properties by an obscuring fence or greenbelt.

4. The outdoor eating area shall be kept clean and void of litter at all times.

5. All vending machines shall be located within a completely enclosed structure. *(amended 6/13/16)*

(c) Other uses similar to the above and consistent with the intent and general character of the district.

SECTION 11.04. AREA REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following area regulations:

(a) Lot Area and Width. The minimum lot area shall be determined by the use and the required off-street parking, loading, screening or greenbelts, and yard setbacks, in accordance with this Ordinance.

Every lot or parcel hereafter divided, subdivided, or otherwise created within this district shall have a width of not less than eighty (80) feet.

(b) Front Yard**.** There shall be a front yard of not less than seventy-five (75) feet. No accessory building or uses other than parking or authorized signs shall be permitted in the front yard; provided that no parking areas are located closer than ten (10) feet of any road right-of-way line. Landscaping is required in this area. (Ord. Amendment May 8, 2000)

(c) Side Yards.

1. There shall be a side yard of not less than twenty-five (25) feet on each side of the building.

2. Whenever a lot is a corner lot, there shall be a side yard along the street of not less than seventy-five (75) feet.

(d) Rear Yard**.** Where a rear yard abuts a commercial or industrial zoning district, the rear yard shall be not less than twenty (20) feet in depth. In all other cases, a rear yard of fifty (50) feet shall be provided.

(e) Obscuring Greenbelt or Fence. Wherever a commercial use abuts an any residential zoning district, an obscuring greenbelt or fence shall be provided and maintained.

(f) Lot Coverage**.** No more than thirty-five percent (35%) of the total land area of a lot or parcel of land shall be covered with buildings or structures.

SECTION 11.05. HEIGHT REGULATIONS. No building or structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, whichever is less.

SECTION 11.06. DEVELOPMENT STANDARDS.

(a) Required Conditions. Except as otherwise noted for specific uses, buildings and uses in the C-1 District shall comply with the following required conditions:

1. Seventy-five (75) percent of all goods produced and services performed on the premises shall be sold at retail on the premises where produced.

2. The facade of all buildings shall be finished with face brick, wood, glass, stone, fluted cement, or stucco-like material. Cement or cinder block facades shall not be permitted. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic, and safety concerns.

3. Exterior walls facing all public rights-of-way, customer parking areas, and adjoining property that is zoned or used for residential purposes shall have a finished appearance, using the same materials as used on the front of the building. Wherever possible, meter boxes, dumpsters, and mechanical equipment should not be located on a side of the building that faces residentially-zoned or used property, or public street rights-of-ways.

4. There shall be no outside storage or processing of any goods.

(b) Site Plan Review. Site plan review and approval is required for all uses in the C-1 District in accordance with Article XI.

# ARTICLE XIA

## GENERAL COMMERCIAL DISTRICT "C-2"

SECTION 11A.01. DESCRIPTION AND PURPOSE. The intent of the C-2 General Commercial District is to provide suitable locations for a variety of retail, service, and office uses, including more intensive commercial uses not permitted in the C-1 District and which may be incompatible with pedestrian movement. The district is intended to permit commercial establishments that cater to the convenience and comparison shopping needs of the entire Township as well as areas beyond the Township limits.

It is the intent of this district to encourage the consolidation of permitted uses so as to avoid strip commercial development and lessen traffic congestion by reducing the number of commercial driveways opening onto major streets. Because of the variety of business types permitted in this district, attention must be focused on site layout, vehicular circulation, and coordination of site features between adjoining sites. The design of commercial facilities should be compatible with surrounding development. This district should be so located as not to encroach upon any residential, agricultural, or rural preserve areas.

SECTION 11A.02. USE REGULATIONS. In C-2 Districts, no uses shall be permitted except the following:

(a) All permitted uses in the C-1 District, subject to the same condition, as permitted under Section 11.02.

(b) Offices and showrooms of a plumber, electrician, building contractor, upholsterer, caterer, decorator, taxidermist, exterminator, or similar trade subject to the following conditions:

- All services performed on the premises, including fabrication, repair, cleaning or other processing of goods, shall be sold at retail on the premises where produced.

- The ground floor premises facing upon and visible from any abutting streets shall be used only for entrances, offices, sales, or display.

- There shall be no outside storage and/or display of materials or goods of any kind.

(c) Schools for occupations, professional, or technical training, such as dance schools, music and voice schools, art studios, secretarial training, and similar schools.

(d) Hotels and motels.

(e) Funeral homes, provided there is adequate assembly area for vehicles to be used in funeral processions and such assembly area shall be provided in addition to any required off-street

parking area. A caretaker's residence may be provided within the main building of the funeral home.

(f) Private service clubs, fraternal organizations, banquet and dance halls, meeting halls, and similar places of assembly.

(g) Indoor theaters.

(h) Private indoor recreation uses, such as bowling alleys, billiard halls, gymnasium or court sports facilities, tennis clubs, roller or ice skating rinks, personal fitness centers, and similar recreation uses, subject to the following:

1. Indoor recreation uses shall be set back a minimum of one hundred (100) feet from any residentially zoned property.

2. Indoor recreation uses shall have direct access to a major thoroughfare.

(i) Banks with drive-thru windows, provided adequate stacking spaces are provided.

(j) Office supplies and office machine service stores.

(k) Professional studios.

(l) Self-service storage facilities (Ordinance Amendment May 8, 2000)

(m) Other uses similar to the above and consistent with the intent and general character of the district.

(n) Commercial roadside market stand provided it meets the following requirement: (As Amended 8/12/02)

1. It shall not be permitted for more than four (4) months in a calendar year.

2. A site plan is reviewed and approved by the Zoning Administrator or the Planning Commission at the discretion of the Zoning Administrator.

3. The temporary building or structure shall be removed from the site at the end of the temporary use.

4. A gravel parking area shall be established with a minimum of ten (10)-parking spaces.

5. The Cass County Road Commission shall approve the curb cut from the public road.

6. All temporary signage shall not impede traffic visibility.

7. Only one (1) temporary sign shall be permitted on the site not to exceed thirty-two (32) square feet in size.

SECTION 11A.03. USES PERMITTED AFTER SPECIAL APPROVAL. The following uses may be permitted by the Township Board, following the review and recommendation by the Planning Commission, subject to the conditions specified for each use below, and further subject to the provisions of Article XIV and XVI.

(a) All uses permitted after special approval in the C-1 District, subject to the same conditions, as permitted under Section 11.03.

(b) Automobile filling and service stations, including oil changes and minor repairs, subject to the following:

1. The minimum lot area shall be fifteen thousand (15,000) square feet for automobile filling stations and twelve thousand (12,000) square feet for automobile service stations. All such facilities shall not be located within five hundred (500) feet of any place of public assembly.

2. Entrances shall be no less than twenty-five (25) feet from a street intersection (measured along the road right-of-way or from any residentially zoned districts). Drives shall be no less than twenty (20) feet wide nor wider than thirty (30) feet at the right-of-way line. No more than one (1) such drive or curb opening shall be permitted for every fifty (50) feet of frontage along any street.

3. Quick oil change facilities shall provide off-street waiting spaces equal to five (5) times the number of oil change stalls for automobiles awaiting entrance. Each off-street waiting space shall be ten (10) feet wide by twenty (20) feet long.

4. The entire lot, excluding areas occupied by landscaping and buildings, shall be hard-surfaced with concrete or bituminous material. Curbs of at least six (6) inches in height shall be installed around the perimeter of all surfaced areas.

5. All lubrication equipment, automobile wash equipment, hoists, and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line.

6. The storage, sale or rental of new or used cars, trucks, trailers, and any other vehicles on the premises is prohibited. Inoperable, wrecked or partially dismantled vehicles shall not be stored or parked outside for a period exceeding four (4) days.

(c) New and used automobile, truck and tractor, boat, manufactured home, recreation vehicle and trailer sales, subject to the following:

1. Outdoor sales lots, parking areas, and other vehicle maneuvering areas shall be hard-surfaced with concrete or bituminous material, and shall be graded and drained so as to dispose of all surface water accumulated within the area. The nearest edge of any driveway serving an outdoor vehicle sales area shall be located at least sixty (60) feet from any street or road intersection (as measured along the road right-of-way line).

2. Any servicing of vehicles shall be subject to the following requirements:

   - Service activities shall be clearly incidental to the vehicle sales operation.
   - All vehicle service activities, partially dismantled vehicles, and new and discarded parts shall be completely enclosed within a building.
   - The building containing service operations shall be located a minimum of fifty (50) feet from any property line.

3. Devices for the transmission or broadcasting of voice or music shall be prohibited outside of any building.

(d) Automobile or car wash establishments, subject to the following:

1. All washing activities shall be carried out within a building. Vacuuming activities shall be permitted in the rear yard only, provided such activities are located at least fifty (50) feet from adjacent residentially zoned or used property.

2. Sufficient space shall be provided on the lot so that vehicles do not enter or exit the wash building directly from an adjacent street or alley. Off-street waiting spaces shall be provided. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.

3. Buildings should be oriented so that open bays, particularly for self-serve automobile washes, do not face onto adjacent thoroughfares unless screened by an adjoining lot or building.

(e) Drive-in or drive-through restaurants, subject to the following:

1. Drive-through windows, drive-in spaces, and waiting lanes shall not be located closer than one hundred (100) feet to any Residential District.

2. Ingress and egress to the site shall be located at least sixty (60) feet from the intersection of any two (2) streets (measured along the road right-of-way line).

3. Off-street waiting spaces shall be provided.

4. Devices for the transmission of voices shall not be audible beyond the boundaries of the site.

(f) Open-air businesses such as sales of plant materials not grown on the site, nurseries, lumber yards, outdoor display areas, playground equipment, and home garden supplies subject to the following:

1. The minimum lot width for these uses shall be one hundred (100) feet, except for temporary roadside stands. All display and loading areas shall meet the setback requirements of this district.

2. The nearest edge of any entrance or exit drive shall be located no closer than sixty (60) feet from any street or road intersection as measured along the road intersection right-of-way line.

3. All loading and parking areas for these uses shall be confined within the boundaries of the site and shall not be permitted to spill over onto adjacent roads.

4. The storage of soil, fertilizer, and similar loosely packaged materials shall be contained or covered to prevent it from blowing onto adjacent properties.

5. Unless Christmas tree sales are accessory to the principal use of the site, a permit shall be obtained from the Zoning Administrator to allow temporary use of the site for such sales.

6. All fenced in areas are subject to the provisions of Section 3.13.

(g) Outdoor amusement or recreation activities, subject to the following:

1. Such activities shall not be located within five hundred 500 feet of any residentially zoned land.

2. All access to such site shall be from a major thoroughfare.

3. All sides of the development not abutting a major thoroughfare shall be provided with a six (6) foot high wall or fence and a twenty (20) foot wide obscuring greenbelt.

4. Such use shall not cause or create unreasonable site pollution, noise, nuisance, traffic or disturbance on adjacent or surrounding properties.

(h) Educational or health related institutions such as schools, colleges, hospitals, and treatment facilities, but not including prisons, subject to the following:

1. All ingress and egress from said site shall be directly onto a major thoroughfare.

2. Buildings which exceed height limitations for this district may be allowed, provided front, side, and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.

3. Ambulance and emergency entrance areas shall be screened from view from adjacent residences by the building design or by a six (6) foot high masonry wall.

(i) Veterinary clinics, provided all treatment and housing of animals are within a wholly enclosed building. Veterinary clinics shall not be located within one hundred (100) feet of any residentially zoned property. The boarding of animals without need of medical treatment shall be prohibited. (As amended June 11, 2007)

(j) Roadside stands not larger than thirty-two (32) square feet in an area which are operated on a seasonal basis and are otherwise removed during the majority of the year, subject to the following provisions:

1. Only fruit, cut flowers and vegetables that have been grown on the premises are sold.

2. No part of the roadside stand, sales or parking area shall be located within a road right-of-way.

3. Only one (1) stand premises shall be permitted.

(k) Adult Entertainment Establishments: In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimatize activities which are prohibited in other sections of this Ordinance.
Uses subject to these controls are as follows:

* Adult book stores
* Adult cabarets
* Adult motion picture theaters
* Massage establishments
* Nude artist and photography studios

(1) Definitions: As used in this section, the following terms shall have the indicated meanings:

a. Adult Motion Picture Theaters. Any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein for observation by patrons therein.

b. Adult Book Store. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

c. Specified Sexual Activities. Specified sexual activities are defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

d. Specified Anatomical Areas. Specified anatomical areas are defined as:

1. Less than completely and opaquely covered:

A. Human genitals, pubic region,
B. Buttock, and
C Female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

e. Cabaret. A cafe, restaurant or bar where patrons are entertained by performers who dance, sing or play musical instruments.

f. Adult Cabaret. A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

g. Massage Establishment. Any establishment having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in

which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.

h. Massage. A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

i. Nude Artist and Photography Studios. Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.

(2) Upon review of each application there shall be a determination as to whether each use on the proposed site will:

a. Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the area in which the use is proposed.

b. Be adequately served by essential facilities and services such as highways, streets, police and fire protection, drainage, refuse disposal, water and sewer facilities, and schools.

c. Not create excessive additional requirements at public cost for public facilities and services.

d. Not cause traffic congestion by utilizing service roads, minimizing the number of new curb cuts, and increasing the distances between proposed and existing curb cut. *(amended 6/13/16)*

e. Not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of noxious or offensive production of noise smoke, fumes, glare, vibration, odor, or traffic.

f. All applicable federal, state, and local licensing regulations shall be complied with. Initial and annual proof of such compliance shall be a condition of special land use approval and the continuance thereof.

1. As a minimum, the dimensional standards and landscape, buffering, and parking regulations otherwise applicable to the use and/or zoning district shall be maintained as outlined within the other various applicable chapters of this Ordinance.

2. Upon finding that any condition, safeguard, or requirement has been breached, the Building Inspector shall revoke an occupancy permit. All operations shall cease fourteen (14) days following notification by the Building Inspector of such violations unless such conditions are corrected. Reinstatement of a revoked permit shall require a new application and approval therefore.

3. The site plan shall meet the requirements of Article XVI and shall be part of the final action by the Planning Commission.

(3) Approval. Any of the regulated uses listed in this section shall be permitted only after a finding has been made by the Planning Commission at a public hearing that the following conditions exist:

a. If the use is an adult entertainment establishment, the use is located within only the C Commercial District.

b. The use is located outside a two hundred (200) foot distance of a residential zone district unless a petition requesting waiver of this requirement is received and certified by the Township Clerk signed by fifty-one percent (51) of those adult persons residing within or owning residential property within a four hundred (400) foot distance of the proposed location, in which the Planning Commission may waive this requirement.

c. The use is not located within a one thousand (1,000) foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:

1. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.

2. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.

3. That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of

neighborhood conservation, nor will it interfere with any program of urban renewal.

4. That all applicable state laws and local ordinances will be observed.

(4) Limit on Reapplication. No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

(m) Other uses similar to the above and consistent with the intent and general character of the district.

SECTION 11A.04. AREA REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following area regulations:

(a) Lot Area and Width. The minimum lot area shall be determined by the use and the required off-street parking, loading, screening or greenbelts, and yard setbacks, in accordance with this Ordinance.

Every lot or parcel hereafter divided, subdivided, or otherwise created within this district shall have a width of not less than eighty (80) feet.

(b) Front Yard. There shall be a front yard of not less than seventy-five (75) feet. No accessory building or uses other than parking or authorized signs shall be permitted in the front yard; provided that no parking areas are located closer than ten (10) feet of any road right-of-way line. Landscaping is required in this area. *(amended 6/13/16)*

(c) Side Yards.

1. Whenever a lot within this district abuts another lot within the C-2 district, no side shall be required, provided building walls are built of fire-retardant construction. If walls of structures facing such interior side lot lines contain windows or other openings, side yards of not less than ten (10) feet shall be required.

2. Whenever a lot within this district lies contiguous to any zoning district, other than a C-2 district, there shall be a side yard along such district of not less than twenty-five (25) feet.

3. Whenever a lot is a corner lot, there shall be a side yard along the street of not less than seventy-five (75) feet.

(d) Rear Yard. Where a rear yard abuts a commercial or industrial zoning district, the rear yard shall be not less than twenty (20) feet in depth. In all other cases, a rear yard of fifty (50) feet shall be provided.

(e) Obscuring Fence or Greenbelt. Wherever a commercial use abuts any R-1A, R-2,L-R, R-3 or M-H zoning district, an obscuring fence or greenbelt shall be provided and maintained according to the following guidelines:

(1) Earthen berms, of a minimum of three (3) feet in height, and not exceeding a 3:1 slope, shall be located within the side or rear yards of any lot used for an industrial use which abuts a lot in a residential zoning district.

(2) For each fifty (50) feet of length or portion thereof of the earthen berm, plantings shall consist of:

(a) One (1) deciduous canopy tree
(b) One (1) deciduous understory tree
(c) Three (3) evergreen trees
(d) Four (4) shrubs

(3) Plant materials required herein shall meet the following minimum size standards:

| Plant Material Type | Size |
|---|---|
| TREE | |
| Canopy tree single stem | 2" caliper |
| Understory Tree | 1-1/2" caliper or clump form |
| Evergreen Tree (well brushed and dense) | 5-6 feet (height) |
| SHRUB | |
| Deciduous | 36 inches (height) |
| Evergreen | 24 inches (height) |

(4) All required plant material shall be placed on the top and side slope facing the exterior of the site.

(5) Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

(6) Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or abstract vision for reasons of safety, ingress or egress.

(7) All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced within a reasonable period of time but no longer than one growing season.

(8) Additional planting requirements: For reasons of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the Planning Commission may increase recommended landscape plantings in any required buffer zone if in its discretion an increase is found to be necessary to reasonably achieve the intent of this Chapter. In making such determination, the following shall be considered:

(a) That such screening, buffering, or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking, or other similar impact on adjoining parcels.

(b) That absent such conditions, the development would adversely affect the reasonable use, enjoyment, and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

i. Reductions and substitutions of plantings: If a physical hardship exists or existing topography and vegetation are determined by the Planning Commission to provide equal or better landscape and buffering effect, the Commission may approve modifications to the planting and berming recommendations of this document. The Planning Commission may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the intent of this document and the criteria listed under (h) above.

(f) Lot Coverage. No more than thirty-five percent (35%) of the total land area of lot or parcel of land shall be covered with buildings or structures.

SECTION 11A.05. HEIGHT REGULATION. No building or structure shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet in height, whichever is less.

SECTION 11A.06. DEVELOPMENT STANDARDS.

(a) Required Conditions. Except as otherwise noted for specific uses, buildings and uses in the C-2 District shall comply with the following required conditions:

1. Seventy-five (75) percent of all goods produced and services performed on the premises shall be sold at retail on the premises where produced.

2. The facade of all buildings shall be finished with face brick, wood, glass, stone, fluted cement, or stucco-like material. Cement or cinder block facades shall not be permitted. In recognition of developing technologies in building materials, the Planning Commission may agree to approve other materials provided they are compatible with surrounding properties, and further provided that such materials meet appropriate architectural, aesthetic, and safety concerns.

3. Exterior walls facing all public rights-of-way, customer parking areas, and adjoining property that is zoned or used for residential purposes shall have a finished appearance, using the same materials as used on the front of the building. Wherever possible, meter boxes, dumpsters, and mechanical equipment should not be located on a side of the building that faces residentially-zoned or used property, or public street rights-of-ways.

4. There shall be no outside storage or processing of any goods.

(b) Site Plan Review. Site plan review and approval is required for all uses in accordance with Article XVI.

# ARTICLE XII

## LIGHT INDUSTRIAL DISTRICT "I-1"

SECTION 12.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the Township primarily to accommodate wholesale activities, warehouses and industrial operations whose external physical effects are restricted to the area of the district and in no manner affect, in a detrimental way, any of the surrounding districts.

SECTION 12.02. USE REGULATIONS. In the "I-1" District, no land or building shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Agricultural implements, including retail sales, servicing and rentals
(b) Awning manufacture
(c) Bottling plants and dairies
(d) Clothing manufacture
(e) Cold storage plants
(f) Egg candling and grading
(g) Electrical appliance or equipment assembly
(h) Greenhouses
(i) Industrial research facilities
(j) Machine shops
(k) Mattress manufacture and renovating
(l) Optical goods manufacture
(m) Photo engraving
(n) Printing shops
(o) Self-storage facilities
(p) Sheet metal shops
(q) Sign painting and manufacture
(r) Taxidermist
(s) Tool and die manufacture
(t) Venetian blinds manufacture
(u) Other similar light industrial uses when authorized as a special land use by the Planning Commission to be of the same general character as the above permitted uses. In considering such authorization, the Planning Commission shall consider Article XIV, Article XVI, and the following:

(1) Ingress and egress to the lot and the proposed buildings and structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

(2) Off-street parking and loading areas, where required, with particular attention to the items in subparagraph (1) above and the economic, noise, glare, dust, or odor effects of the use on adjoining properties and the surrounding neighborhood;

(3) Refuse and service areas, with particular reference to the items in subparagraphs (1) and (2) above;

(4) Utilities, with reference to locations, availability and compatibility;

(5) Screening and buffering, with reference to type, dimensions and character;

(6) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with adjoining and surrounding neighborhood properties;

(7) Required yards and other open spaces; and

(8) General compatibility with adjacent properties and the surrounding neighborhood.

(v) Signs as regulated in Article XIX.

(w) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure that the standards of Section 5.02(p) are met. *(amended 6/13/16)*

(1) A kennel parcel shall include at least four hundred (400) feet of frontage and be at least five (5) acres in size.

(2) Kennels may not be located in a platted subdivision.

(3) Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.

(4) All kennels shall be operated in conformance with all applicable county, state and federal regulations.

(5) Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

(6) The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.

(7) Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.

(8) Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7 a.m.

(9) During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.

(10) Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

(11) The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.

(12) The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.

(13) All animals must be licensed and maintained in a healthful and careful manner.

(14) Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.

(15) The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.

(x) Commercial roadside market stand provided it meets the following requirement: (As Amended 8/12/02)

(1) It shall not be permitted for more than four (4) months in a calendar year.

(2) A site plan is reviewed and approved by the Zoning Administrator or the Planning Commission at the discretion of the Zoning Administrator.

(3) The temporary building or structure shall be removed from the site at the end of the temporary use.

(4) A gravel parking area shall be established with a minimum of ten (10)-parking spaces.

(5) The Cass County Road Commission shall approve the curb cut from the public road.

(6) All temporary signage shall not impede traffic visibility.

(7) Only one (1) temporary sign shall be permitted on the site not to exceed thirty-two (32) square feet in size.

SECTION 12.03. HEIGHT REGULATIONS. No building or structure shall exceed three (3) stories or forty-five (45) feet, whichever is less, except as provided in Section 3.07.

SECTION 12.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected, except in conformance with the following yard and lot area requirements:

(a) Front Yard - There shall be a front yard of no less than thirty-five (35) feet.

(b) Side Yard - In all cases, there shall be two side yards of no less than twenty (20) feet, except when such side yard abuts a residential zone; then each side yard shall be at least fifty (50) feet.

(c) Rear Yard - There shall be a rear yard of no less than twenty-five (25) feet, except when such rear yard abuts a residential zone; then the rear yard shall be at least fifty (50) feet.

(d) Lot Area - There shall be a lot area of at least twenty-one thousand seven hundred eighty (21,780) square feet; provided that where a public sewer service is installed, the lot area may be reduced to eighteen thousand (18,000) square feet and provided the new or existing home is connected to the sewer. (As Amended 8/12/02)

(e) Lot Width - The minimum lot width at the setback line shall be one hundred fifty (150) feet.

SECTION 12.05. GENERAL PERFORMANCE STANDARDS. The following shall be considered to be the minimum performance standards, subject to county, state or federal standards and requirements which may be more restrictive:

(a) Fire and Explosive Hazards - All activities shall be carried on only in a building conforming to the building code, and the operation shall be carried on in such a manner and with such precaution against fire and explosive hazards as to produce no explosion hazards as determined by the Michigan Department of Labor to a use on an adjacent property. Every factory or manufacturing building shall be equipped with automatic fire extinguishers approved by the fire chief as being sufficient in view of the nature and extent of the fire risk.

(b) Atmospheric Pollution - There shall be no emission of smoke, atomic radiation, fumes, gas, dust, odors, or other atmospheric pollutant which will disseminate beyond the lot in such a manner as to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of humans or animals.

(c) Liquid or Solid Waste - No industrial operation shall directly discharge untreated industrial waste of any kind into any river, stream or reservoir, pond or lake. All methods of sewage and waste disposal shall conform to county and state health department regulations or other applicable statutes.

(d) Vibration - There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

(e) Noise - There shall be no noise emanating from the operation which will create a public nuisance or adversely affect the surrounding areas.

(f) Glare - There shall be no direct or sky reflected glare which would be damaging to the human eyes or cause a hazardous condition on a public street.

(g) Outdoor Storage - Any outdoor storage of materials must be screened from the view of neighboring properties or from the street through the use of a landscaped screen, wall or solid fence at lest six (6) feet high but in any event such screen wall or fence shall be high enough to completely screen the stored materials.

In addition, such outdoor storage areas shall be kept neat and clean, with vegetation, insects, and animals controlled to minimize the hazards of fire and other threats to public health and safety.

SECTION 12.06. ENVIRONMENTAL PERFORMANCE REGULATIONS.

(a) Intent - The intent of these regulations is to protect the groundwater and surface water quality in Ontwa Township by establishing regulations for the storage of hazardous substances requiring groundwater protection measures and requiring the disclosure of the location of storage, use, and disposal areas of hazardous substances as a condition of site plan review.

(b) Applicability - These regulations apply to all businesses or facilities which generate, store, or handle hazardous substances. For the purpose of this section, hazardous substances include hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan Department of State Police, Fire Marshall Division; hazardous materials as defined by U.S. Department of Transportation; and critical materials, polluting materials, and hazardous waste as defined by Michigan Department of Natural Resources. Petroleum products and waste oil are also considered hazardous substances.

(c) Pollution Prevention Plan - Any use generating, handling, or storing hazardous substances shall have a Pollution Incident Prevention Plan approved by the Michigan Department of Natural Resources. This approved plan shall be submitted to the Planning Commission before the site plan will be approved.

(d) Any use generating, handling, or storing hazardous substances shall provide a list of these substances to the Zoning Administrator at the time of site plan review application.

(e) Above Ground Storage -

(1) Hazardous substances stored drums or other containers shall be product-tight.

(2) Secondary containment of hazardous substances shall be provided by all uses which are subject to the site plan review procedures as contained herein. Secondary containment shall be designed to trap leaks and spills before they reach the ground and such containment measures shall be sufficient to store the hazardous substances for the maximum anticipated period of time necessary for the recovery of any released substance.

Such secondary containment facilities shall include but are not limited to: a concrete structure with concrete floor, concrete dike, an enclosed storage building with concrete floor provided no floor drains are installed, drip pans under spigots, and chemical storage cabinets.

(3) Outdoor storage of hazardous substances is prohibited except in product-tight containers which are protected from damage by weather or vandalism. Secondary containment shall be provided and shall be sufficient to store any released substance for the maximum anticipated period of time necessary for its recovery including an allowance for an expected accumulation of precipitation.

(4) At a minimum, state and federal agency requirements for storage, leak detection, recordkeeping, spill prevention, emergency response, transport and disposal of hazardous substance shall be met.

(5) The location of the above ground storage of hazardous substances and methods of primary and secondary containment shall be clearly illustrated on the site plan.

(f) Below Ground Storage -

(1) Any hazardous substance stored underground shall comply with the requirements of the Michigan Department of Natural Resources and the Michigan Fire Marshal.

(2) All underground storage tanks which have been out of service for nine (9) months shall be removed from the site.

SECTION 12.07. BUFFER ZONES AND BERMS.

Side yards and rear yards of any I-1 Zone which abut any lot in an AR, R-1A, R-2, L-R, R-2, or M-H district shall be screened according to the following guidelines:

(a) Earthen berms, of a minimum of three (3) feet in height, and not exceeding a 3:1 slope, shall be located within the side or rear yards of any lot used for an industrial use which abuts a lot in a residential zoning district.

(b) For each fifty (50) feet of length or portion thereof of the earthen berm, plantings shall consist of:

(1) One (1) deciduous canopy tree
(2) One (1) deciduous understory tree

(3) Three (3) evergreen trees
(4) Four (4) shrubs

(c) Plant materials required herein shall meet the following minimum size standards:

| Plant Material Type | Size |
|---|---|
| TREE | |
| Canopy tree single stem | 2" caliper |
| Understory Tree | 1-1/2" caliper or clump form |
| Evergreen Tree (well brushed and dense) | 5-6 feet (height) |
| SHRUB | |
| Deciduous | 36 inches (height) |
| Evergreen | 24 inches (height) |

(d) All required plant material shall be placed on the top and side slope facing the exterior of the site.

(e) Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

(f) Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or abstract vision for reasons of safety, ingress or egress.

(g) All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced within a reasonable period of time but no longer than one growing season.

(h) Additional planting requirements: For reasons of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the Planning Commission may increase recommended landscape plantings in any required buffer zone if in its discretion an increase is found to be necessary to reasonably achieve the intent of this Chapter. In making such determination, the following shall be considered:

(1) That such screening, buffering, or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking, or other similar impact on adjoining parcels.

(2) That absent such conditions, the development would adversely affect the reasonable use, enjoyment, and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

a. Reductions and substitutions of plantings: If a physical hardship exists or existing topography and vegetation are determined by the Planning Commission to provide equal or better landscape and buffering effect, the Commission may approve modifications to the planting and berming recommendations of this document. The Planning Commission may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the intent of this document and the criteria listed under (h) above.

SECTION 12.08. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 12.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.

(b) For Section 12.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 12.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

# ARTICLE XIII

## HEAVY INDUSTRIAL DISTRICT "I-2"

SECTION 13.01. DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to designate certain portions of the Township for manufacturing, assembling and fabrication activities, including large scale and specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts.

SECTION 13.02. USE REGULATIONS. In the "I-2" District, no land or building shall be used, and no buildings or structures shall be erected or converted, for any use or under any condition other than the following:

(a) Any use permitted in the "I-1" District
(b) Boiler shops
(c) Box crate manufacture
(d) Concrete products manufacture
(e) Crating and packing service
(f) Electroplating operations
(g) Fertilizer blending plants
(h) Junk, scrap iron or wrecking operations, provided such are entirely enclosed within an eight-foot obscuring wall
(i) Machine manufacture
(j) Metal and metal ore smelting
(k) Rolling mills
(l) Steam power plants
(m) Sand and gravel storage
(n) Storage yards
(o) Textile manufacture
(p) Welding shops
(q) Wholesale sales and distributing
(r) Other similar heavy industrial users when authorized as a special land use by the Planning Commission to be of the same general character as the above permitted uses. In considering such authorization, the Planning Commission shall consider Article XIV, Article XVI, and the criteria in Section 12.02(u).
(s) Signs as regulated in Article XIX.
(t) A public kennel may be permitted when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure that the standards of Section 5.02(p) are met. *(amended 6/13/16)*

    (1) A kennel parcel shall include at least four hundred (400) feet of frontage and be at least five (5) acres in size.

(2) Kennels may not be located in a platted subdivision.

(3) Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent lot line or any adjacent building used by the general public. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.

(4) All kennels shall be operated in conformance with all applicable county, state and federal regulations.

(5) Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.

(6) The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.

(7) Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited.

(8) Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7 a.m.

(9) During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property except as part of supervised training.

(10) Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

(11) The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Article XVI.

(12) The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of animals.

(13) All animals must be licensed and maintained in a healthful and careful manner.

(14) Breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.

(15) The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.

(u) Commercial roadside market stand provided it meets the following requirement: (As Amended 8/12/02)

(1) It shall not be permitted for more than four (4) months in a calendar year.

(2) A site plan is reviewed and approved by the Zoning Administrator or the Planning Commission at the discretion of the Zoning Administrator.

(3) The temporary building or structure shall be removed from the site at the end of the temporary use.

(4) A gravel parking area shall be established with a minimum of ten (10)-parking spaces.

(5) The Cass County Road Commission shall approve the curb cut from the public road.

(6) All temporary signage shall not impede traffic visibility.

(7) Only one (1) temporary sign shall be permitted on the site not to exceed thirty-two (32) square feet in size.

SECTION 13.03. HEIGHT REGULATIONS. No building or structure shall exceed three (3) stories or forty-five (45) feet, whichever is less, except as provided in Section 3.07.

SECTION 13.04. AREA REGULATIONS. No building or structure, nor any enlargement thereof, shall be hereafter erected, except in conformance with the following yard and lot area requirements:

(a) Front Yard - There shall be a front yard of no less than thirty-five (35) feet.

(b) Side Yard – There shall be two side yards. No side yard shall be less than twenty (20) feet. However, when a side yard abuts a residential zone; the side yard shall be at least fifty (50) feet per side. *(amended 6/13/16)*

(c) Rear Yard - There shall be a rear yard of no less than twenty-five (25) feet, except when such rear yard abuts a residential zone; then the rear yard shall be at least fifty (50) feet.

(d) Lot Area - There shall be a lot area of not less than twenty-one thousand seven hundred eighty (21,780) square feet; provided that where a public sewer service is installed, the lot area may be reduced to eighteen thousand (18,000) square feet and provided the new or existing use is connected to the sewer. *(amended 6/13/16)*

(e) Lot Width - The minimum lot width at the setback line shall be one hundred fifty (150) feet.

SECTION 13.05. GENERAL PERFORMANCE STANDARDS. The following shall be considered to be the minimum performance standards, subject to county, state or federal standards and requirements which may be more restrictive:

(a) Fire and Explosive Hazards - All activities shall be carried on only in a building conforming to the building code, and the operation shall be carried on in such a manner and with such precaution against fire and explosive hazards as to produce no explosion hazards as determined by the Michigan Department of Labor to a use on an adjacent property. Every factory or manufacturing building shall be equipped with automatic fire extinguishers approved by the fire chief as being sufficient in view of the nature and extent of the fire risk.

(b) Atmospheric Pollution - There shall be no emission of smoke, atomic radiation, fumes, gas, dust, odors, or other atmospheric pollutant which will disseminate beyond the lot in such a manner as to create a public nuisance, cause damage or inconvenience to other buildings or properties, or imperil the health of humans or animals.

(c) Liquid or Solid Waste - No industrial operation shall directly discharge untreated industrial waste of any kind into any river, stream or reservoir, pond or lake. All methods of sewage and waste disposal shall conform to county and state health department regulations or other applicable statutes.

(d) Vibration - There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.

(e) Noise - There shall be no noise emanating from the operation which will create a public nuisance or adversely affect the surrounding areas.

(f) Glare - There shall be no direct or sky reflected glare which would be damaging to the human eyes or cause a hazardous condition on a public street.

(g) Outdoor Storage - Any outdoor storage of materials must be screened from the view of neighboring properties or from the street through the use of a landscaped screen, wall or solid fence at lest six (6) feet high but in any event such screen wall or fence shall be high enough to completely screen the stored materials.

In addition, such outdoor storage areas shall be kept neat and clean, with vegetation, insects, and animals controlled to minimize the hazards of fire and other threats to public health and safety.

SECTION 13.06. ENVIRONMENTAL PERFORMANCE REGULATIONS. As required in Section 12.06 herein.

SECTION 13.07. BUFFER ZONES AND BERMS.

Side yards and rear yards of any I-2 Zone which abut any lot in an AR, R-1A, R-2, L-R, R-2, or M-H district shall be screened according to the following guidelines:

(a) Earthen berms, of a minimum of three (3) feet in height, and not exceeding a 3:1 slope, shall be located within the side or rear yards of any lot used for an industrial use which abuts a lot in a residential zoning district.

(b) For each fifty (50) feet of length or portion thereof of the earthen berm, plantings shall consist of:

(1) One (1) deciduous canopy tree
(2) One (1) deciduous understory tree
(3) Three (3) evergreen trees
(4) Four (4) shrubs

(c) Plant materials required herein shall meet the following minimum size standards:

| Plant Material Type | Size |
|---|---|
| TREE | |
| Canopy tree single stem | 2" caliper |
| Understory Tree | 1-1/2" caliper or clump form |
| Evergreen Tree (well brushed and dense) | 5-6 feet (height) |
| SHRUB | |
| Deciduous | 36 inches (height) |
| Evergreen | 24 inches (height) |

(d) All required plant material shall be placed on the top and side slope facing the exterior of the site.

(e) Berm areas not containing planting beds shall be covered with grass or living ground cover maintained in a healthy growing condition.

(f) Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or abstract vision for reasons of safety, ingress or egress.

(g) All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced within a reasonable period of time but no longer than one growing season.

(h) Additional planting requirements: For reasons of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the Planning Commission may increase recommended landscape plantings in any required buffer zone if in its discretion an increase is found to be necessary to reasonably achieve the intent of this Chapter. In making such determination, the following shall be considered:

(1) That such screening, buffering, or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking, or other similar impact on adjoining parcels.

(2) That absent such conditions, the development would adversely affect the reasonable use, enjoyment, and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

a. Reductions and substitutions of plantings: If a physical hardship exists or existing topography and vegetation are determined by the Planning Commission to provide equal or better landscape and buffering effect, the Commission may approve modifications to the planting and berming recommendations of this document. The Planning Commission may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the intent of this document and the criteria listed under (h) above.

SECTION 13.08. CROSS REFERENCES, ADDITIONAL PROVISIONS.

(a) For Section 13.02. Use Regulations, see also:

(1) Section 3.03. Continuation of Existing Uses.
(2) Section 3.08. Essential Services.
(3) Section 3.09. Powerlines and Pipelines.
(4) Section 3.10. Principal Use.
(5) Section 3.16. Basement Dwellings.
(6) Section 3.17. Keeping of Pets and Livestock.
(7) Section 3.18. Trailers or Manufactured homes.
(8) Section 3.19. Home Occupations.
(9) Section 3.20. Control of Heat, Glare, Fumes, Dust, Noise, Vibration, and Odors.
(10) Section 3.21. Accessory Buildings and Structures.
(11) Section 3.22. Private Swimming Pools.
(12) Section 3.23. Truck Parking and Storage.
(13) Section 3.25. Garage and Yard Sales.
(14) Section 3.27. Private Communication Antennas.

(b) For Section 13.03. Height Regulations, see also:

(1) Section 3.07. Height Exceptions.
(2) Section 3.13. Fences and Walls.
(3) Section 3.21. Accessory Buildings and Structures.
(4) Section 3.27. Private Communication Antennas.

(c) For Section 13.04. Area Regulations, see also:

(1) Section 3.06. Area, Frontage, and Use Conditions.
(2) Section 3.11. Lots Having Frontage on Two Streets.
(3) Section 3.21. Accessory Buildings and Structures.

(4) Section 3.22. Private Swimming Pools.
(5) Section 3.24. Yard Requirements.
(6) Section 3.26. Residential Dwellings, Generally.
(7) Section 3.27. Private Communication Antennas.

(d) See also Article XVII. Parking and Loading Space.

(e) See also Article XVIII. Nonconforming Uses, Buildings and Structures.

(f) See also Article XIX. Signs.

## ARTICLE XIII-A

## WATERFRONT OVERLAY DISTRICT

*(amended 6/13/16)*

SECTION 13A.01 PURPOSE AND INTENT. The purpose and intent of the Waterfront Overlay District is to preserve and protect the safe and healthful conditions on all lands near the edge of all lakes, rivers, tributary streams and wetlands as set forth below. It is further the purpose and intent of this district to ensure that the Township is provided with sufficient information to properly evaluate the impact of proposed developments and land uses on the Township's lakes, rivers, tributary streams and wetlands. These regulations seek to balance the protection of the ecosystem while enabling low-intensity development where appropriate.

SECTION 13A.02 APPLICABILITY. The requirements of this overlay district are in addition to and shall supplement those imposed on the same lands by the provisions of the underlying zoning district. All uses requiring site plan review, special land uses, subdivisons and site condominiums shall be subject to the requirements of this Section. The provisions of this Article do not apply to single-family residential uses and accessory uses ordinarily associated with single-family residences such as accessory buildings and home occupations.

(a) The Waterfront Overlay District shall consist of all properties within 500 feet of the following bodies of water in Ontwa Township, as illustrated on the Township Zoning Map:

1) Pleasant Lake
2) Spring Lake
3) Cobert Lake
4) Eagle Lake
5) Christiana Lake
6) Juno Lake
7) Garver Lake
8) Christiana Creek
9) Cobus Creek

SECTION 13A.03 WETLANDS. An applicant planning to make any improvements or changes to a regulated wetland within the district must obtain a permit from the DEQ in accordance with Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act, PA 451 of 1994.

SECTION 13A.04 PERMITTED AND SPECIAL LAND USES. Except for those uses that are prohibited in Section 13A.05(b), all land uses permitted by right or by special land uses in the underlying district shall continue to be permitted by right or by special land use in the Waterfront Overlay District, subject to the additional requirements of this Article.

SECTION 13A.05 ADDITIONAL REGULATIONS. The following regulations shall apply to that part of any property that is within the Waterfront Overlay District:

(a) Lot Coverage. No more than 35% of the area of that part of a lot within the Waterfront Overlay shall be occupied by impervious surfaces. The Zoning Administrator or Planning Commission may permit an applicant to exceed this standard if the applicant demonstrates that uses permitted either by right or special land use would be otherwise unfeasible.

(b) Prohibited Uses. All uses whose main services require the handling, use, production/manufacturing, creating, or disposal of hazardous, toxic or flammable substances including but not limited to: petroleum products, pesticides, herbicides, solvents, radioactive materials, biological wastes, caustic, corrosive or flammable liquids, or similar materials shall be prohibited on parcels that are entirely or partially in the Waterfront Overlay District.

SECTION 13A.06 SITE PLAN REVIEW STANDARDS

(a) Site Plan Requirements

1) Additional Materials Necessary. When site plan review and approval is required for a property that is entirely or partially within the Waterfront Overlay District pursuant to Article XVI of this Ordinance, the site plan shall include the following additional materials, in addition those required by Article XVI:

a. The location of the ordinary high water mark, if applicable;

b. The location of any 100-year floodplain or special flood hazard areas on the subject property;

c. A written narrative describing how the applicant will prevent erosion, manage stormwater runoff and protect wetlands, lakes and streams from erosion and pollution, and generally meet the intent of this Article. If the site plan is approved pursuant to Article XVI of this Ordinance, the written narrative shall become part of and a condition of such site plan approval.

2) Additional Review Criteria/Performance Standards. In addition to the considerations of Section 16.05 of this Ordinance, the Planning Commission shall also consider the following criteria when reviewing a site plan for a property that is entirely or partially within the Waterfront Overlay District:

a. That the proposed use, including all buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon adjacent bodies of water, streams, wetlands or the groundwater supply.

b. That as many natural features of the landscape are retained as possible, particularly, where they furnish a barrier or buffer between the project and adjoining bodies of water, streams and/or wetland areas.

c. That any adverse effect of the proposed development and activities emanating therefrom upon adjacent bodies of water, streams or wetlands is minimized to the greatest extent practicable.

d. That a plan for storm water discharge and soil erosion control has been approved by the appropriate public agency and is designed to minimize adverse effects upon adjacent bodies of water, streams, wetlands or the groundwater supply.

e. The general relationship to shore and river preservation principles where appropriate, and the extent which the site plan is consistent with the intent and purpose of this Article.

f. That all applicable local, regional, State and federal regulations are met. Where feasible, all permits shall be submitted to the Township before any earthwork or construction activities take place.

# ARTICLE XIV

## SPECIAL LAND USES

SECTION 14.01. PURPOSE. Special land uses are those uses of land which are not essentially incompatible with uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The criteria for decisions and requirements provided for under the provisions of this Article shall be in addition to other requirements of this ordinance.

SECTION 14.02. APPLICATION PROCEDURES. An application for permission to establish a special land use shall be submitted and acted upon in accordance with the following procedures:

(a) Application – Applications for a special land use shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs for processing the application. (As amended June 11, 2007)

(b) Required Information - An application for a special land use shall be accompanied by the following documents and information:

(1) A special land use application form supplied by the Zoning Administrator which has been completed in full by the applicant.

(2) A site plan, as required in Article XVI.

(3) A statement with regard to compliance with the criteria required for approval in Section 14.03, and other criteria imposed by this Ordinance affecting the special land use under consideration.

(c) Public Hearing - Upon receipt of an application for a special land use, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the special land use application. The Township shall provide notice of the request as required under Section 22.03, Publication and Delivery of Notice of Public Hearing, of this ordinance. (As amended June 11, 2007)

(d) Review and Approval - Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a special land use, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a determination on the special land use application in accordance with the criteria for approval stated in Section 14.03, and such standards contained in this Ordinance which relate to the special land use under consideration. The Planning Commission may deny, approve, or approve with conditions a request for special land use

approval. The decision on a special land use shall be incorporated in a written statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed. Upon the approval or approval with conditions by the Planning Commission and satisfaction of all conditions for approval, the applicant may apply for a building permit. (As amended June 11, 2007)

SECTION 14.03. BASIS OF DETERMINATION. Prior to approval of a special land use application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration. (As amended June 11, 2007)

(a) General Standards - The Planning Commission shall review the particular circumstances of the special land use application under consideration in terms of the following standards and shall approve a special land use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.

(1) The special land use requested is permitted as a special land use in the zoning district in which the property is located, or the Planning Commission has made a determination as provided in Section 3.28, Unclassified Uses, of this Ordinance.

(2) The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

(3) The special land use shall not change the essential character of the surrounding area.

(4) The special land use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, odors or glare.

(5) The special land use shall not place demands on public services and facilities in excess of current capacity.

(b) Conditions - In approving a request for a special land use permit, the Planning Commission may impose conditions and safeguards. Such conditions may include but are not limited to conditions necessary to: insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and conserve natural resources and energy; insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet 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 use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

(c) The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the applicant. The approving Planning Commission shall maintain a record of the conditions which are changed.

SECTION 14.04. VALIDITY OF PERMIT.

(a) Planning Commission approval of a special land use permit shall be valid regardless of change of ownership, provided that all terms and conditions are complied with by the new owners.

(b) In cases where development authorized by a special land use permit has not commenced within (1) year of issuance, the permit shall automatically become null and void. Upon written application filed before the termination of the one (1) year period, the Township Planning Commission may authorize a single extension for a further period of not more than one (1) year.

(c) The Planning Commission shall have the authority to revoke a special land use permit following a public hearing with notice given as required herein. Such permit may be revoked upon evidence that the applicant, owner, or operator has failed to comply with the requirements of the permit as stipulated by the Planning Commission and any other applicable regulations of this Ordinance.

(d) An application for a special land use permit which has been denied wholly or in part by the Planning Commission shall not be resubmitted for a period of one (1) year from the date of denial unless it can be demonstrated to the Planning Commission that new evidence has been found or conditions have changed such that this may lead to approval upon resubmittal.

SECTION 14.05. AMENDMENT OF A SPECIAL LAND USE PERMIT. Any person or agency which has been granted a special land use permit shall notify the Zoning Administrator of any proposed amendment to a special land use permit Any minor changes such as dimensional changes, building location, parking and drives may be approved by the Zoning Administrator who shall notify the Planning Commission in writing of such amendments. A copy shall be placed in the file of the original permit request.

Any major changes to an approved special land use permit shall comply with the filing procedures contained herein for special land use permits. Major changes shall include but are not limited to increasing the density or number of dwelling units, increasing the number of buildings or land area and the addition of another use or uses not authorized under the original special land use permit. The Zoning Administrator shall determine if other similar changes constitute a major amendment.

# ARTICLE XV

## PLANNED UNIT DEVELOPMENT "PUD"

(As amended July 9, 2007)

SECTION 15.01. DESCRIPTION AND PURPOSE. The use, area, height, bulk, and placement regulations of this Ordinance are primarily applicable to the usual situation of one principle building on a lot. In certain large developments, these requirements might result in a situation less in the interest of the public health, safety, and welfare than if a controlled degree of flexibility were allowed. The Planned Unit Development "PUD" is intended to permit and control the development of preplanned areas for various compatible uses allowed by the Township Zoning Ordinance and for other exceptional uses not so provided.

It is intended that uses in a "PUD" shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a "PUD".

Under this Article, all proceedings shall be conducted with due consideration for maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, fire or explosion hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, glare, traffic congestion, ingress, egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on the public health, safety, and general welfare of the people of the surrounding area.

SECTION 15.02. OBJECTIVES. The objectives of these Planned Unit Development standards shall be:

(a) To permit flexibility in the regulation of land development.

(b) To encourage innovation in land use, the potential for mixed land use, and variety in design, layout, and type of structures constructed.

(c) To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities.

(d) To encourage useful open space, and to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the residents of the State and Township.

(e) To encourage the innovative use, re-use, and improvement of existing sites and buildings.

It is also the intent of the PUD regulations to provide a process for approval of PUD proposals in two steps: Zoning and Preliminary Development Plan approval, and Final Development and Site Plan approval.

Review of Zoning and Preliminary Development Plans shall concentrate on review of the Qualifying Conditions, Regulations and Conditions, Dimensional and Use Standards and Design Considerations specified in the following sections of this Article. The second step of the PUD approval process is review and approval of a Final Development Plan and Site Plan, which shall comply with the requirements for Contents of Final Site Development Plan and the Standards for PUD Final Site Development Plan Approval as required by this Article.

15.03 AUTHORIZATION. The Township Board may, by the adoption of an amendment to this Zoning Ordinance, authorize the establishment of a Planned Unit Development District within the following Zoning Districts: "A-R", "R-1A", "R-1", "R-2", "L-R", "MFR", "C-1", "C-2", "I-1", or "I-2." Uses permitted in these underlying zoning districts are permitted in a Planned Unit Development District.

15.04 QUALIFYING CONDITIONS AND REGULATIONS

In addition to the foregoing provision, the following procedures, standards and conditions shall be observed. Where the Planning Commission determines it is desirable to allow a more flexible and innovative development to occur it may recommend that the terms of the Ontwa Township Zoning Ordinance and Subdivision/Condominium Regulations be adjusted in accordance with the provisions of this Article. Planned Unit Developments shall meet the following general standards:

(a) In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of five (5) acres with 200 feet of road frontage or lot width at the minimum building setback line.

(b) Public water, sanitary sewer, transportation, and drainage facilities is encouraged to serve the proposed development and adequate to service the site.

(c) The proposed use(s) shall be compatible with adjacent land use(s), the natural environment, and the capacities of affected public services and facilities.

(d) The proposed use(s) shall be consistent with the public health, safety and welfare of the residents of Ontwa Township.

(e) Furthermore, the applicant shall establish that the benefits of the proposed development are not achievable under any single zoning classification.

(f) The proposed use shall be consistent with the Ontwa Township Master Plan and the Future Land Use Map.

(g) The use and development shall be warranted by the design and additional amenities made possible with and incorporated by the development proposal.

(h) The development shall consolidate and maximize usable open space. Open space shall be defined as the area in a development dedicated for the common use of all residents by shall not include dedicated setback areas, impervious surfaces, the area within fifteen (15) feet of a dwelling or open water area.

(i) Landscaping shall be provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.

(j) Vehicular and pedestrian circulation, allowing safe, convenient, non-congested and well-defined circulation within and access to the development shall be provided.

## 15.05 DIMENSIONAL AND USE STANDARDS:

In acting upon the application, the Planning Commission may recommend and the Township Board may alter lot size standards, required facilities, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are reasonable and consistent with the intent, objectives, and standards set forth in Section 15.01. Further, the density of the development shall be established with the submission of a yield plan. The yield plan shall demonstrate a practical project for the subject property applying all Township rules and regulations with the existing zoning absent the flexibility of the PUD provisions. Federal and State regulations shall also be considered in the review of the yield plan.

The Planning Commission may recommend and the Township Board may authorize land uses not permitted in the underlying district where the land is located, provided that such uses are consistent with the intent of this section and the standards set forth herein. Generally, mixed land uses shall demonstrate direct relationships, such as being designed to directly serve, or be accessory to, uses permitted within the underlying zoning district.

All Planned Unit Developments shall conform to the following requirements:

(a) Use Restrictions: Land in an approved PUD may be used for any permitted or special land use authorized in the zoning district in which the PUD lies. In addition, the following uses may be approved as a PUD:

(1) Group camps and campgrounds, including recreational vehicle parks.

(2) Country clubs.

(3) Golf courses and outdoor sports facilities.

(4) Hospitals.

(5) Hotels and motels.

(6) Nursing homes and senior citizens housing.

(7) Philanthropic institutions.

(8) Schools, colleges, and institutions of higher learning.

(9) Attached single-family dwellings.

(10) Religious institutions.

(11) Mixed use developments, traditional and village centered neighborhoods where there are direct relationships between the mix of uses and principal uses permitted

within the underlying zoning district. A mixed use development includes the different forms of residential development identified in the Zoning Ordinance. Commercial uses are not permitted in a mixed use development.

(b) Minimum Size: In order to be zoned as a PUD district, the proposed area shall consist of at least five (5) acres and have a minimum of two hundred (200) feet of frontage.

(c) Maximum Densities: For the purposes of this chapter, maximum densities shall be determined on the basis of a yield plan. The yield plan shall demonstrate a practical project for the subject property applying all Township rules and regulations with the existing zoning absent the flexibility of the PUD provisions. Federal and State regulations shall also be considered in the review of the yield plan. This yield plan shall determine the total number of dwelling units permitted in the PUD project.

(d) A variable density credit of up to fifteen percent (15%) may be allowed at the discretion of the Planning Commission and Township Board, based upon a demonstration by the applicant of design excellence in the PUD. Projects qualifying for a density credit shall include no less than two (2) of the following elements:

(1) A high level of clustered development, where at least twenty percent (20%) of the PUD is common usable open space for the residents of the development.

(2) Providing perimeter transition areas or greenbelts around all sides of the development that are at least one hundred (100) feet in depth.

(3) The proposed plan is designed to enhance surface water quality and ground water quality.

(4) Provisions and design that preserve natural features.

(5) Donation or contribution of land or amenities that represent significant community benefit.

(6) Other similar elements as determined by the Planning Commission and Township Board.

(e) Sewer and Water Service: In the event public sewer or water service is not available at the time of the development, PUD may utilize a private sewer or water system, provided such sewer and/or water system is approved by the appropriate federal, state, county or local agencies and the Township Board.

(f) Performance Guarantee: The Township Board is empowered to require a performance guarantee such as a letter of credit, cash, or certified check in an amount up to the estimated cost of improvements associated with the project or for each phase. Such performance guarantee shall be deposited with the treasurer of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan. The Township shall rebate a proportional share of the deposit, biannually as requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. The Zoning Administrator may, at his discretion,

call upon professional assistance from the Township Engineer or the Township Planner. In cases where the provisions of the final development plan, as approved, have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

## 15.06 PUD DESIGN CONSIDERATIONS

In consideration of a proposed Planned Unit Development, the Planning Commission and Township Board shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

(a) Perimeter setbacks.

(b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.

(c) Underground installation of utilities.

(d) Insulation of separate pedestrian ways apart from vehicular streets and ways.

(e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.

(f) Noise reduction and visual screening mechanisms from adjoining residential uses.

(g) Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.

(h) Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.

(i) Screening and buffering with respect to dimensions and character.

(j) Yard areas and other open space.

(k) Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.

(l) The preservation of natural resources and natural features.

## 15.07 APPLICATION AND PROCESSING PROCEDURES

(a) EFFECTS: The granting of a Planned Unit Development rezoning application shall require an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this Ordinance. An approval granted under this Article including all aspects of the Final Site Development Plan and conditions imposed shall constitute an inseparable part of the zoning ordinance.

(b) PREAPPLICATION CONFERENCE: Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Zoning Administrator, and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development, and the following information:

(1) A legal description of the property in question;

(2) The total number of acres to be included in the project;

(3) A yield plan indicating a conventional zoning layout of the subject property demonstrating a practical project applying the existing zoning regulations of the Township and other Township, State and Federal regulations;

(4) A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units;

(5) The approximate number of acres to be occupied and/or devoted to or by each type of use;

(6) The number of acres to be preserved as open space or recreation space; and

(7) All known natural resources and natural features.

(c) PRELIMINARY SITE DEVELOPMENT PLAN - SUBMISSION AND CONTENT: Following the above conference or conferences, copies of a Preliminary Site Development Plan and completed application for a PUD rezoning request shall be submitted. The submission must be complete with all required documents and shall be made to the Zoning Administrator at least thirty (30) days prior to the next scheduled Planning Commission meeting. The Zoning Administrator shall present the preliminary site plan to the Planning Commission for consideration at a regular or special meeting. The plan shall be accompanied by a completed application form and fee as determined by the Township Board. The Preliminary Site Development Plan shall contain the following information: *(amended 6/13/16)*

(1) Date, north arrow, and scale which shall not be more than 1" = 100'.

(2) Locational sketch of site in relation to surrounding area.

(3) Legal description of property including common street address.

(4) Size of parcel.

(5) All lot or property lines with dimensions.

(6) General location of all buildings within one hundred (100) feet of the property lines.

(7) General location and size of all existing structures on the site.

(8) General location and size of all proposed structures on the site. The general size of all buildings shall be within five thousand (5,000) square feet or five percent (5%), whatever is smaller of whatever is submitted on the Final Site Development Plan.

(9) General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.

(10) A preliminary phasing plan indicating boundaries and uses included to be constructed during the phase.

(11) General size and location of all areas devoted to green space.

(12) Location of existing vegetation and general location and size of proposed landscaped areas and buffer strips.

(13) All areas within the 100-year floodplain, wetland areas or bodies of water.

(14) Existing topographical contours at a minimum of five (5) foot intervals.

(15) A narrative describing:

(a) The nature of the project.

(b) The proposed density, number, and types of dwelling units if a residential PUD.

(c) A statement describing how the proposed project meets the objectives of the PUD.

(d) A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.

(e) Proof of ownership or legal interest in property.

(d) PRELIMINARY SITE DEVELOPMENT PLAN - PLANNING COMMISSION REVIEW: The Planning Commission shall review the Preliminary Site Development Plan and shall make reasonable inquiries of the applicant.

The Planning Commission shall review the Preliminary Development Plan according to the provisions of 15.03 through 15.06 herein and transmit its recommendations for changes or modifications of the Preliminary Development Plan to the applicant.

(e) PUBLIC HEARING: The Planning Commission shall hold a public hearing for the purpose of receiving comments relative to the PUD application, notice of which, shall be published and delivered in accordance with Section 22.03 of this Ordinance.

(f) TIME LIMITATIONS ON DEVELOPMENT: An application for Final Site Development Plan approval shall be made within one year of Preliminary Site Development Plan approval. See Section 15.13 (c).

## 15.08 STANDARDS FOR ZONING APPROVAL

Following the public hearing, the Planning Commission shall recommend to the Township Board to either approve, approve with conditions, or deny the PUD rezoning request and Preliminary Site Development Plan.

In making its recommendation, the Planning Commission shall document its findings of fact that the proposed PUD meets (or does not meet) the intent of the PUD district and the following standards:

(a) Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.

(b) The proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.

(c) The proposed development shall be compatible with the Master Plan of the Township and shall be consistent with the intent and spirit of this Article.

(d) The Planned Unit Development shall not change the essential character of the surrounding area when compared to permitted uses in the underlying zoning district.

(e) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Building Inspector.

## 15.09 TOWNSHIP BOARD APPROVAL

After receiving the recommendation of the Planning Commission, the Township Board may hold a public hearing for the purpose of receiving comments relative to the PUD application and shall be published and delivered in accordance with Section 22.03 of this Ordinance. Based on all the information gathered from the public hearing and consideration of the recommendation of the Planning Commission, the Township Board shall either approve, approve with conditions, or deny the PUD application and Preliminary Site Development Plan in accordance with the requirements of Article XV and the standards for approval and conditions for a PUD as contained herein. A building permit shall not be issued until Planning Commission approval of the PUD Final Site Development Plan.

Where provisions of Michigan Public Act 288 of 1967 as amended shall apply, the applicant shall thereafter submit the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to platting approval.

## 15.10 EFFECT OF APPROVAL

The Planned Unit Development amendment including the Preliminary Site Development Plan as approved and narrative and all conditions imposed, if any, shall constitute the land use authorization for the property subject to approval of the Final Site Development Plan. All uses not specifically specified in the Preliminary Site Development Plan are disallowed and not permitted on the property. All improvements and uses shall be in conformity with this amendment, except as permitted by Section 15.15. At its discretion, the Township Board may cause a separate ordinance to be created documenting the elements of the PUD. The applicant shall record an affidavit with the Cass County Register of Deeds that shall contain the following:

(a) Date of approval of the PUD by the Township Board.

(b) Legal description of the property.

(c) Legal description of the required green space along with a plan stating how this green space is to be maintained.

(d) A statement that the property will be developed in accordance with the approved PUD Final Site Development Plan and any conditions imposed by the Township Board or Planning Commission unless an amendment thereto is duly approved by the Township upon the request and/or approval of the applicant or applicant's transferee's and/or assigns.

## 15.11 FINAL SITE DEVELOPMENT PLAN

After receiving the PUD rezoning and Preliminary Site Development Plan approval from the Township Board, the applicant shall submit a complete Final Site Development Plan, which includes complete documentation that all of the preliminary site development plan recommendations or conditions have been met and are ready for final review. Approval by the Planning Commission must be obtained prior to starting any construction. *(amended 6/13/16)*

(a) CONTENTS OF FINAL SITE DEVELOPMENT PLAN: The Final Site Development Plan shall contain the same information required for the Preliminary Site Development Plan and shall also contain the information required under Article XVI, Site Plan Review, of this zoning ordinance. In addition to site plan requirements, the Final Site Development Plan shall contain the following information:

(1) Location and size of all water, sanitary sewer, and storm sewer lines serving the development.

(2) Proposed contour lines at not greater than two (2) foot intervals.

(3) Proposed landscaping including type, number, and size of trees and shrubs.

(4) Location and design of signs and exterior lighting.

(5) Location of sidewalk, footpaths, or other pedestrian walkways.

(6) Distance of all buildings from lot lines, right-of-ways, and other principal buildings.

(7) Exterior architectural drawings noting building materials, height and area of buildings and accessory structures.

(8) Phasing Plan for the project.

(9) Proof of filing the required affidavit as required in Section 15.10.

(b) PUBLIC HEARING: The Planning Commission shall conduct a public hearing prior to approving, approving with conditions, or denying the Final Site Development Plan. Public notice shall be given following the procedures specified in Section 15.07(e).

## 15.12 STANDARDS FOR PUD FINAL SITE DEVELOPMENT PLAN APPROVAL

The Planning Commission shall approve, approve with conditions, or deny the Final Site Development Plan under the procedures outlined in Article XVI, Site Plan Review.

In making its decision, the Planning Commission shall document its findings of fact to support its decision to approve, approve with conditions, or deny the Final Site Development Plan based upon an objective evaluation that the proposed PUD meets or does not meet the intent of the PUD district and the approved Preliminary Site Development Plan.

## 15.13 CONDITIONS

(a) In approving a PUD Final Site Development Plan, the Planning Commission may impose reasonable conditions which include but are not limited to conditions necessary to: 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; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. 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 use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

(2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

(3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(b) The conditions imposed with respect to the approval of a PUD Final Site Development Plan and the Final Site Development Plan shall be recorded in the office of the Cass County Register of Deeds. They shall remain unchanged except upon the mutual consent of the Planning Commission after a properly noticed public hearing and the landowner. The Planning Commission shall maintain a record of conditions that are unchanged. The

Final Site Development Plan, as approved, shall act as a restriction upon the development. The development must conform to the Final Site Development Plan.

(c) Time Limitations on Development: An application for Final Site Development Plan approval shall be made within one year of Preliminary Site Development Plan approval. If the property owner/developer does not fulfill this provision, the Planning Commission may grant an extension up to one (1) year provided the owner/developer presents reasonable evidence to the effect that the PUD has encountered unforeseen difficulties and is not ready to proceed. Following expiration of the time limit and any extension, if the application has not been filed, the Planning Commission may recommend, following a public hearing with notice provided as required by law, to the Township Board rezoning of the property to it's previous zoning district.

The Planning Commission shall take action to approve, approve with conditions, or deny the Final Site Development Plan within one year of filing of a complete application for same.

Each PUD shall be under construction within one (1) year after the date of final approval of the Final Site Development Plan by the Planning Commission. If said development does not fulfill this provision, the Planning Commission may grant a sixty (60) day extension provided the developers present reasonable evidence to the effect that the PUD has encountered unforeseen difficulties and is not ready to proceed. Should the aforementioned provisions not be fulfilled, any building permit issued for said development shall be invalid and void.

## 15.14 MODIFICATION OF A PUD

Minor changes to a PUD Final Site Development Plan may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other Township regulations or state law. Minor changes include all matters that were approved by the Planning Commission in the final development plan that were not part of the preliminary development plan, that the location of structures, roads and other public ways, parking areas, signs, lighting, and driveways may be moved provided that are in the same general location as approved in the Preliminary Site Development Plan as determined by the Planning Commission, and building size that does not exceed five thousand (5,000) square feet or five (5) percent of the gross floor area, whichever is smaller.

A major change to an approved PUD shall comply with the original approval procedures for a PUD. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval.

# ARTICLE XVI

## SITE PLAN REVIEW

SECTION 16.01. PURPOSE. The intent of this Article is to provide for consultation and cooperation between the applicant and the Township Planning Commission in order that the applicant may accomplish his/her objectives in the utilization of his/her land within the regulations of this zoning ordinance and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

SECTION 16.02. SCOPE. A building permit shall not be issued by for any principal use other than a single family home until a site plan has been reviewed and approved in accordance with this Article. *(amended 6/13/16)*

SECTION 16.03. APPLICATION PROCEDURES. A complete application for Site Plan Review, plus either a preliminary or final site plan, shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting to the Zoning Administrator. The Zoning Administrator will review the application and plans for completeness, and if complete, shall transmit the site plan to the Planning Commission. *(amended 6/13/16)*

SECTION 16.04. PRELIMINARY PLAN REVIEW. Preliminary sketches (ten copies) of the proposed site and development plans may be submitted to the Zoning Administrator for review by the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such plans shall include the following, as deemed necessary by the Building Administrator: *(amended 6/13/16)*

(a) Legal description of the property.

(b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area. A professional survey may be required by the Zoning Administrator or Planning Commission.

(c) A generalized map showing any existing or proposed arrangement of:

  (1) Streets

  (2) Lot

  (3) Access points

  (4) Other transportation arrangements

  (5) Buffer strip screenings

  (6) Natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills and similar natural assets

  (7) Signs - location and lighting

(8) Buildings

(9) Parking areas

(d) A narrative describing:

(1) The overall objectives of the proposed development.

(2) Number of acres or square feet allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.

(3) Dwelling unit densities by type.

(4) Proposed method of providing sewer and water service, as well as other public and private utilities.

(5) Proposed method of providing storm drainage and to prevent soil erosion. The Zoning Administrator may require a professional stormwater, drainage or soil erosion prevention plan be completed.

In addition to the above, said applicant shall submit a fee in accordance with the fee schedule established by the Township Board to cover the normal and specially incurred expenses of the Planning Commission. One half (1/2) of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan.

SECTION 16.05. PLANNING COMMISSION REVIEW OF PRELIMINARY SITE PLAN. The Planning Commission shall review the preliminary site plan and make recommendations to the applicant at the regular Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance and, specifically, the following considerations when applicable:

(a) Ingress and egress to property and proposed structures thereon, with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow, and control and access in case of fire, catastrophe or emergency.

(b) Off-street parking and loading areas where required, with particular attention to noise, glare and odor effects of each use in the plan on adjoining properties and properties in the proposed development.

(c) Sewer, water, storm drainage and soil erosion, with reference to location, availability and compatibility. *(amended 6/13/16)*

(d) Screening and buffering, with reference to type, dimensions and character.

(e) Signs, if any, and their proposed lighting, relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.

(f) Required yards.

(g) General compatibility with adjacent properties.

(h) The general purposes and spirit of this Ordinance and the Goal Formulation Plan of the Township.

SECTION 16.06. FINAL SITE PLAN REVIEW. The final site plan shall include the following information and such items as may be required by the Planning Commission from its review of the optional preliminary site plan. Ten (10) copies shall be submitted.

(a) Legal description of the property.

(b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.

(c) A map at a scale not to exceed one inch equals two hundred feet (1" = 200'). The following items shall be shown on the map:

(1) Date site plan was prepared.

(2) Name and address of the preparer.

(3) The topography of the site and its relationship to adjoining land.

(4) Existing man-made features.

(5) Dimensions of setbacks, locations, heights and size of buildings and structures.

(6) Street rights-of-ways, indicating proposed access routes, internal circulation, and relationship to existing right-of- ways.

(7) Proposed grading.

(8) Location and type of drainage, sanitary sewers, storm sewers, detention or retention ponds, and other utilities.

(9) Location and type of fences, landscaping, buffer strips, and screening.

(10) Location and type of signs and on-site lighting.

(11) Proposed parking areas and drives. Parking areas shall be designed by lines showing individual spaces and shall conform with the provisions of this Ordinance.

(12) Easements, if any.

(13) Dimensions and number of proposed lots.

(d) A narrative describing the items indicated in Section 16.04 (d).

SECTION 16.07. PLANNING COMMISSION REVIEW OF FINAL SITE PLAN. The Planning Commission shall review the final site plan and either approve, deny or approve with conditions the final site plan based on the purposes, objectives and requirements of this Ordinance and, specifically, the considerations listed in Section 16.05.

(a) Further, the Planning Commission is empowered to require a performance bond or certified check in an amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond shall be forfeited. The township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Building Administrator. In cases where the provisions of Section 16.07(b) have not been met, the amount of the aforementioned performance guarantee shall be used by the township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

(b) Each development shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the commission may grant a sixty (60) day extension, provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the site development plan shall be null and void.

(c) The Planning Commission shall undertake and complete final site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan, the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Commission's files and one (1) shall be forwarded to the Building Administrator for issuance of a building permit. The third copy shall be returned to the applicant.

# ARTICLE XVII

# PARKING AND LOADING SPACES

SECTION 17.01. GENERAL. In all Zoning Districts, there shall be provided, before any building or structure is occupied, enlarged, increased in capacity, or use changed, off-street parking spaces for motor vehicles.

SECTION 17.02. RESIDENTIAL OFF-STREET PARKING. All single family homes hereinafter erected in the "R-1A" and R-1" Districts shall provide a garage of at least three hundred (300) square feet. Provision shall be made for at least one dustless off-street parking space or one garage space for each new dwelling unit in other residential zones; provided, however, that structures containing two or more dwelling units shall provide at least three dustless off-street parking spaces or garage spaces for each two dwelling units.

Parking for permitted non-residential uses and home occupations shall comply with the provisions of Section 17.03 below.

SECTION 17.03. NON-RESIDENTIAL OFF-STREET PARKING. Provisions shall be made for one (1) square foot of total paved or hard-surfaced, dustless parking area for each square foot of floor area for all new non-residential buildings or additions to such buildings in all districts. The conversion of an existing residence to another use shall be deemed to be a new use which must meet all provisions
of this Article.

(a) Size and Access - Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet, exclusive of access drives or aisles, and shall be a minimum of nine (9) feet in width. There shall be adequate provision for ingress and egress to all parking spaces and all access drives shall be at least twenty (20) feet in width and paved.

(b) Units of Measurement - For the purpose of this Article, "floor area" shall mean the gross floor area of all floors of a building or an addition to an existing building excluding basements and those areas used exclusively for storage of goods or supplies. The total parking area excludes access drives with the parking area.

(c) Parking Area Standards - Every parcel of land hereafter established as a parking area shall be developed and maintained in accordance with the following requirements:

(1) Parking areas shall be effectively screened on any side which adjoins premises situated in a Residential Zone by a screening of evergreen hedge or other natural landscaping. If owners of adjacent residential properties have no objection, this screening may be a solid, uniformly painted fence or wall.

(2) Every parking area shall be graded and provided with adequate drainage facilities to dispose of all surface water satisfactorily. Any lighting shall be arranged to reflect the light away from any adjoining residential building, zone or streets.

(3) All parking areas shall be used solely for the parking of passenger automobiles, and no commercial work, sales or service of any kind shall be conducted thereon. No sign, other than entrance, exit and condition of use signs, shall be maintained; and the aggregate area of all such signs shall not exceed twelve (12) square feet.

(4) Each entrance to, and exit from, a parking area shall be at least twenty-five (25) feet distant from any adjacent property located in a Residential Zone.

(5) No access or exit drive shall be closer than sixty (60) feet to intersecting rights-of-ways of any major or secondary streets. No parking area shall have more than two (2) drives opening onto any major street or highway, and no drive shall be closer than sixty (60) feet to another exit or entrance drive.

(6) No part of a parking area shall extend into the front ten (10) feet of the required front yard in the Commercial or Industrial District. These required yards shall be adequately landscaped.

(7) The parking area, driveways, signs, lighting and landscaping shall be subject to the approval of the Commission to insure its adequacy in relation to traffic safety, protection of adjacent property, and its compliance with the provisions of this Ordinance.

SECTION 17.04. LOADING SPACES. Any building or group of buildings erected or enlarged which requires the receipt or distribution of materials or merchandise in vehicles shall provide adequate space on the same lot for loading and unloading. Such space may occupy any required side or rear yard, but no such space shall be located closer than fifty (50) feet to any lot in a Residential or Agricultural District unless enclosed by a wall or masonry fence not less than six (6) feet in height. Loading spaces shall be sized in relation to floor areas as follows:

(a) Up to twenty thousand (20,000) square feet - one (1) space;

(b) Twenty thousand (20,000) or more, but less than fifty thousand (50,000) square feet - two (2) spaces; and

(c) One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, thirty-five (35) feet in length, and fourteen (14) feet in height.

# ARTICLE XVIII

## NONCONFORMING USES, BUILDINGS OR STRUCTURES

SECTION 18.01. CONTINUANCE OF NONCONFORMING USES. The lawful use of any building or structure and of any land or premises existing prior to the effective date of this Ordinance may be continued, although such use or structure does not conform to the provisions of this Ordinance. A change in the ownership, tenancy or occupancy of a building or structure shall not restrict the continuance of its existing nonconforming uses.

SECTION 18.02. ENLARGEMENTS, MOVING, EXTENSIONS. No nonconforming use of any land or structure shall be enlarged or extended. No nonconforming building or structure shall be moved in whole or in part to another location unless such structure or use conforms to all of the regulations of this Ordinance. No nonconforming building or structure shall be replaced with another nonconforming building or structure. Any replacement of a nonconforming building or structure shall be in conformity with the provisions of this Ordinance. Buildings or uses nonconforming by reason of height, yard area or parking provisions may be extended, altered or modernized, provided that no additional encroachment of the height, area or parking provisions are occasioned thereby.

SECTION 18.03. UNLAWFUL USE NOT AUTHORIZED. Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a structure or premises in violation of regulations in effect immediately prior to the date of this Ordinance.

SECTION 18.04. CHANGE OF USE. The use of a nonconforming building may be changed to another nonconforming use if the Planning Commission finds that such new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to waive the other provisions of this Article.

SECTION 18.05. RESTORATION AND REPAIR. (As Amended 4/11/05) All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made. In the event any nonconforming building or structure is damaged or destroyed by fire, wind, Act of God, or public enemy, it may be rebuilt or restored if the previous use remains the same. Any such restoration must be started within a period of one (1) year of the time of such damage and diligently prosecuted to completion.

SECTION 18.06. NONCONFORMING DUE TO RECLASSIFICATION. The foregoing provisions of this Article shall also apply to buildings, land or uses which hereafter become nonconforming due to any reclassification of districts or any subsequent change in the regulations of this Ordinance.

SECTION 18.07. NONCONFORMING USE DISCONTINUED. Whenever the nonconforming use of any building or structure, lot or parcel of land has been changed to a conforming or more conforming use, the use shall not thereafter be reverted to any less conforming use.

If the nonconforming use of any building, structure, land or premises or part thereof is abandoned or discontinued for a continuous period of one (1) year, then any future use of said building, structure, land or premises shall conform in its entirety to the provisions of this Ordinance.

# ARTICLE XIX

# SIGNS

## SECTION 19.01 DEFINITIONS.

(a) Sign: Any fabricated sign or outdoor display structure consisting of any letter, figure, character, mark, point, marquee sign, design poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever, and displayed in any manner out-of-doors for recognized advertising purposes.

(b) Sign Area: The sign area of a sign shall mean the area expressed in square feet, within a single continuous rectilinear perimeter of straight lines enclosing the extreme limits of writing, representations, emblems or figures of a similar character together with all material or color forming an integral part of the display or used to differentiate the design from the background against which it is placed; provided that (a) in the case of a sign designed with more than one (1) exterior face, the area shall be computed as including only the maximum single displayed surface which is visible from any ground position; (b) the supports and uprights shall not be included in determining the surface display area; (c) the base on which any sign is placed shall be allowed to be one and a half (1 1/2) times the sign area; and (d) the areas of lamps, neon tubing or artificial illumination on walls of any structure shall be counted as part of the total allowable sign area.

(c) Closed Sign: A sign in which more than fifty percent (50%) of the entire area is solid or tightly enclosed or covered.

(d) Freestanding Sign: A sign structurally separated from a building being supported by one or more poles or braces, or attached directly to the ground.

(e) Ground Sign: A sign supported by uprights or braces in or upon the ground surface.

(f) Illuminated Sign: A sign which is lit by the use of internal or external electrical means, electrical devices, and/or wiring. This includes signs with internal lighting, or signs illuminated by the use of attached or unattached external floodlights or light bulbs of any type.

(g) Marquee Sign: A sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the building wall, building line or street lot line.

(h) Open Sign: A sign in which at least fifty percent (50%) of the enclosed area is uncovered, open to the transmission of wind.

(i) Portable Sign: A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure, and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.

(j) Projecting Sign: A display sign which is attached directly to the building wall and which extends more than fifteen (15) inches (381 mm) from the face of the wall.

(k) Roof Sign: A sign which is erected, constructed and maintained above the roof of the building.

(l) Banner Sign: A sign constructed of cloth, fabric or other light temporary material with or without a structural frame, intended for a limited period of display not to exceed forty-five (45) days, including decoration displays for holidays or public demonstrations.

(m) Wall Sign: A sign which is painted on or attached directly to a fence or on the surface of masonry, concrete, frame or other approved building walls, and which extends not more than fifteen (15) inches (381 mm) from the face of the fence or wall.

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

(o) Political Sign: A sign used in connection with a local, state or national election or referendum.

SECTION 19.02 GENERAL PROVISIONS.

(a) It shall be unlawful for any person to erect, place, or maintain a sign in the Township of Ontwa except in accordance with the provisions of this section.

(b) Signs Prohibited: The following types of signs are prohibited in all zoning districts:

(1) Abandoned signs.
(2) Air-filled or gas-filled balloon signs.
(3) Animated signs and/or flashing signs (except traffic control devices).
(4) Roof signs.
(5) Signs imitating or resembling official traffic or government signs or signals.

(c) Permits Required: Unless otherwise provided by this Ordinance, all signs shall require permits and payment of fees as determined by the Township Board. No permit is required

for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs. *(See Section 18.02 Enlargements, Moving, Extensions for existing nonconforming signs).*

(d) Signs Not Requiring Permits

(1) Exterior signs shall not be erected without the issuance of a sign permit except for the following exterior signs which are exempt from the provisions of this Ordinance with respect to permits, heights, area, and location:

a. Signs erected by the City, County, State, or Federal Government for street direction or traffic control.

b. Governmental use signs erected by governmental agencies to designate hours of activity or conditions, or use for parks, parking lots, recreational areas, other public space, or for governmental buildings.

c. Signs designating sites recognized by the State Historical Commission as Centennial Farms or Historic Landmarks.

d. Real estate signs located two (2) feet outside of the street right-of-way, or further, advertising premises for sale, rent, or lease when not more than eight (8) square feet in area for a single dwelling or building or vacant land or when not more than sixteen (16) square feet in area for a commercial or industrially zone parcel.

e. Placards not larger than one (1) square foot in area posted to control and/or prohibit hunting or trespassing within the Township.

f. Essential service signs denoting utility lines, railroad lines, hazards, and precautions including portable flashing signs.

g. Memorial signs or tablets not larger than twelve (12) square feet in area which are either 1) cut into the face of a masonry surface; or 2) constructed of bronze or other incombustible material when located flat on the face of a building.

h. Special decorative displays, signs, pennants, flags or banners used for holidays, public demonstrations for promotion of civic welfare, or charitable purposes wherein the same shall be used for not more than forty-five (45) days.

i. Accessory professional or nameplate signs less than four (4) square feet in area.

j. A garage sale sign placed upon a lot which there is a dwelling or church or other nonprofit institution not to exceed six (6) square feet in area. Such sign shall be placed within the property line of the premises on which said sale is conducted and shall be removed immediately after the completion of the garage sale. Any such garage sale sign shall be erected for not more than three (3) times, for seventy two (72) hour periods within any calendar year. Each such seventy two (72) hour period must be at least thirty (30) days apart.

k. A construction sign not to exceed thirty-two (32) square feet identifying the architects, engineers, contractors or other parties responsible for a project, or identifying the intended purposes or uses of the building. A similar sign may also be permitted if required by a governmental agency providing financing for the project.

l. Political signs not larger than sixteen (16) square feet in area may be placed upon any parcel of property in all districts provided:

1. It is not closer than fifty (50) feet from the point when two different street right-of-way lines intersect.

2. It does not obstruct the vision of vehicular traffic on any street or on any area designated for which traffic or the parcel that is located on or any adjacent parcel thereto.

3. All campaign signs shall be removed within ten (10) day after an election.

(e) Application Procedure: A scale drawing of the outside dimensions of the sign or the total area encompassed by a line around all lettering or symbols shall be presented to the Zoning Administrator so that he may insure that the provisions of this section are met. Evidence shall also be presented to the effect that the sign will be securely attached to the building or supporting structure and will not present a hazard. For freestanding signs, a site development plan of the intended location of the sign and a scale drawing of the total sign structure shall also be presented to the Zoning Administrator.

(f) No exterior sign (whether a permit is required or not) shall be located or erected in such a manner as to interfere with traffic visibility. In determining whether a sign may interfere with traffic visibility, the Zoning Administrator shall consider the following:

(1) Height, area, supporting structure, and distance from ground level of the sign;
(2) Lighting of the sign;
(3) Location of the sign in relation to roads, drives, points of ingress and egress, parking areas, sidewalks, and other vehicular or pedestrian access ways.
(4) Location of the sign in relation to nearby buildings and structures.
(5) Traffic visibility across corner lots.

(g) No sign shall be located closer than two (2) feet to a public street right-of-way nor shall any portion of a sign overhang a public street right-of-way.

(h) No illumination or sign shall be so placed or designed to be confused with, or appear similar to, a highway sign or traffic safety device.

(i) The provisions of this section are not intended to conflict with provisions controlling signs regulated under the authority of MCL 252.301 et seq., the Highway Advertising Act, as amended.

(j) Lighting:

(1) Unless otherwise specified by this Ordinance, all signs may be illuminated. Low pressure sodium lighting is the preferred light source to minimize light emission. No sign regulated by this Ordinance may utilize:

a. An exposed incandescent lamp* with an external reflector and without a sunscreen or comparable diffusion device.
b. Any exposed incandescent lamp* in excess of 160 watts unless a screen or shield is installed so that no light rays are emitted by the installed fixture at angles above the sign's highest horizontal plane.
c. Any revolving beacon light.

* For the purpose of this Ordinance, quartz lamps shall not be considered an incandescent light source.

(2) Metal halide lighting, fluorescent lighting, and quartz lighting may be used for outdoor advertising signs but shall be installed in enclosed luminaries.

(3) Glass tubes filled with neon, argon, or krypton may be used, provided they do not flash intermittently or create a visual effect of movement.

(4) Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure whenever practical or mounted so that no light rays are emitted by the installed fixture to traffic areas or residential areas.

(5) No sign may be illuminated by flashing, oscillating, or intermittent lighting.

(k) Portable Signs: One portable sign without illumination not larger than thirty-five (35) square feet in size, upon obtaining a permit, is permitted on any parcel of property in all districts provided that:

(1) It may not be located within a street right-of-way. *(amended 6/13/16)*

(2) It is not closer than fifty (50) feet from the intersection right-of-way lines of two streets and does not create a vision obstruction to vehicular traffic on any street or on an area designated for vehicular traffic on the same parcel or any adjacent parcel thereto.

(3) It is located on the same parcel for which the sign is intended to serve.

(4) It is located on the parcel for not more than seven (7) consecutive days and not more than three (3) times in any calendar year.

(5) The sign is used by a nonprofit organization, church or governmental entity to publicize nonprofit temporary events. No fee shall be required for a nonprofit organization. *(amended 6/13/16)*

19.03. SIGNS IN RESIDENTIAL DISTRICTS.

In the AR, R-1A, R-1, L-R, R-2 and M-H Districts, only the following exterior signs shall be permitted:

(a) One (1) accessory professional nameplate sign not more than four (4) square feet in area.

(b) One (1) temporary sign pertaining to the lease or sale of the premises upon which it is placed, not exceeding six (6) square feet in total area.

(c) In parking areas, no signs other than directional or regulatory signs shall be permitted. If such signs are shown in connection with a Site Plan, the Planning Commission shall determine whether or not they are the correct size and if they are necessary for the public welfare. In all other cases, such determination shall be made by the Zoning Administrator.

(d) Signs of a combined area of not more than thirty-two (32) square feet in area advertising the name and activities of a permitted nonresidential use or apartment complex. Said sign shall be located on the same parcel as the use or apartment complex it is advertising.

(e) Customary farm and crop signs on active farms.

(f) A sign of not more than sixteen (16) square feet advertising the name and activities of a legal nonconforming use.

(g) A development entry sign not to exceed thirty-two (32) square feet which identifies the name of a residential development and/or the developer and/or the type of residential structures included in the development and/or a graphic layout of the lots, and which is harmonious in appearance with that of the vicinity. Said sign may be erected after the

Township Board has granted final preliminary plat approval and shall be removed when ninety (90) percent of the dwellings have been occupied.

SECTION 19.04 SIGNS IN THE COMMERCIAL DISTRICT.

In the Commercial District, exterior signs as permitted in the residential districts are permitted together with those permitted herein. In all cases, the following requirements shall be met:

(a) The total sign area for an occupied parcel of property in the District shall not exceed one hundred (100) square feet.

(b) Menu boards not larger than sixteen (16) square feet in area advertising the food and price for drive through for fast food restaurants shall not be included in computing the total sign area.

(c) Area of freestanding signs. The area of a permitted freestanding sign shall not exceed one hundred (100) square feet nor forty-five (45) feet in height.

(d) Height of wall signs. No wall sign shall project above the roof line of the building to which it is attached.

(e) Freestanding signs shall not be permitted within two (2) feet of a street right-of-way.

(f) Temporary pennants, flags or banners are permitted for a period of not more than thirty (30) days without a building permit, provided they are kept in a state of good repair.

(g) A multi-use establishment (shopping center) is permitted the following type and size of signs.

(1) One free standing sign for multi-use establishment identification purposes not to exceed one hundred (100) square feet in size. A corner location may have one sign on each street with a maximum area of one hundred (100) square feet each.

(2) Individual establishments within the center are permitted one wall or marquee sign not to exceed fifteen (15) percent of the wall area to be served by the sign. Such sign shall be a minimum of ten (10) feet above finished grade.

(3) An establishment with a major wall surface as part of the center is permitted a wall sign facing a street not to exceed on-half (1/2) percent of the wall area facing the street but not to exceed two-hundred and fifty (250) square feet in area. As used above, a major wall surface shall mean a wall which faces a public street, has a minimum size of two-thousand (2,000) square feet and does not contain a customer entry area. The wall surface may contain multiple surfaces provided they all are part of the same retail user.

SECTION 19.05 SIGNS IN THE I INDUSTRIAL DISTRICTS.

(a) Signs as regulated in the Commercial District.

(b) Directional signs up to twelve (12) square feet in area designating entrances, exits, parking and loading areas, shipping docks or similar traffic control signs may be located within two (2) feet from any property line.

SECTION 19.06 REGULATIONS OF BILLBOARDS.

Billboards may be established in the C -1, C -2, I -1, and I -2 Zoning District on parcels of property that are not occupied by another use.

(a) Not more than three (3) billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the subject street or highway. The linear mile measurement shall not be limited to the boundaries of Ontwa Township where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side-by-side to one another) or stacked billboard faces (i.e., two parallel billboard faces facing the same direction with one face being directly above the other) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection "2" below.

(b) No billboard shall be located within one thousand (1,000) feet of another billboard abutting either side of the highway.

(c) No billboard shall be located within two hundred (200) feet of a residential zone and/or existing residence. If the billboard is illuminated, the required distance shall instead be three hundred (300) feet.

(d) No billboard shall be located closer than seventy-five (75) feet from a property line adjoining a public right-of-way or ten (10) feet from any interior boundary lines of the premises on which the billboard is located.

(e) The surface display area of any side of a billboard may not exceed three hundred (300) square feet.

(f) The height of a billboard shall not exceed 30 feet above (1) the grade of the ground on which the billboard sits or, (2) the grade of the abutting roadway, whichever is higher.

(g) A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.

(h) A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.

(i) A billboard established within a business, commercial, or industrial area, as defined in MCL 252.301 *et. seq.* (Highway Advertising Act) bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended.

# ARTICLE XX

# ADMINISTRATION AND ENFORCEMENT

SECTION 20.01. ZONING ADMINISTRATION.

(a) Zoning Administrator. The Township Board shall appoint a Zoning Administrator who shall enforce and administer this Ordinance. The Zoning Administrator may be provided with the assistance of such other persons as the Township Board may direct. The Township Board shall determine compensation for the Zoning Administrator.

(b) Duties and Responsibilities.

(1) The Zoning Administrator or the appointed agent shall have the power to grant certificates of zoning compliance and to make necessary inspections of premises in the enforcement of this Ordinance.

(2) It shall be unlawful for the Zoning Administrator to approve plans or issue certificates of zoning compliance for any construction or use until he or she has inspected such plans and found them to conform with this Ordinance.

(3) If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuation of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuation of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with, or prevent violations of, its provisions.

(4) The Zoning Administrator or an official appointed by the Zoning Administrator shall be authorized to issue and serve appearance tickets on any person with respect to any violation of the Ontwa Township Zoning Ordinance when there is reasonable cause to believe that the person has committed such an offense. This authority is granted pursuant to Section 9c(2) of Public Act 147 of 1967, as amended.

SECTION 20.02. CERTIFICATE OF ZONING COMPLIANCE. It is the intent and purpose of this Section to establish a process for issuing permits granted pursuant to this Ordinance. A Certificate of Zoning Compliance, issued by the Zoning Administrator pursuant to this Section, shall indicate that the uses and plans for which the Zoning Permit is requested comply with this Ordinance. Upon the issuance of a Certificate of Zoning Compliance, an applicant may erect a building or structure only for which the Certificate of Zoning Compliance has been issued, and only after receiving a Building Permit from the Building Inspector and co-signed by the Zoning Administrator. *(amended 6/13/16)*

(a) Certificate Required. It shall be unlawful to construct, enlarge, alter or permit the use or occupancy of a building or structure or change the use of a building until a Certificate of Zoning Compliance has been issued by the Zoning Administrator. The Certificate shall state that the building, structure, lot and use thereof conform to the requirements of the Ordinance.

Further, no excavation shall be initiated, no construction may begin, no building shall be erected, altered, moved, razed and no structural alterations (including but not limited to porches, deck, patios, terraces) shall be initiated until a Certificate of Zoning Compliance has been issued by the Zoning Administrator and where required, a Building Permit has been issued by the Building Inspector. A building permit shall not be issued until a Zoning Compliance permit has been issued pursuant to this Ordinance.

No Certificate of Zoning Compliance shall be issued for any building or land use where the construction, addition or alteration, or use thereof would be in violation of this Ordinance, except upon written authorization of the Board of Zoning Appeals. An application for a Certificate of Zoning Compliance shall be available from the Zoning Administrator. *(amended 6/13/16)*

(b) An application for a Certificate of Zoning Compliance shall be filed by the Owner or his or her agent and it shall state the intended use of the land, structure, or building. In order to determine whether a proposed use, building, or structure complies with the requirements of this Ordinance, the Zoning Administrator shall require, at a minimum, the following information as applicable be submitted with the application. *(amended 6/13/16)*

(1) Proof of ownership of the lot or premises.

(2) Location, dimensions, and size of the lot or premises.

(3) Either a Site Plan or a Plot Plan according to the provisions of Article XVI of this Ordinance.

(4) For a permit for buildings, a written notice of acceptance or hook up fee receipt is required if public sanitary sewer service is available or required by local or state law. If public sanitary sewer service is not available, a written report from the Cass County Health Department certifying the approval of a private septic system is required.

(5) When a public or private water supply system is required by law or proposed by the applicant, either a written notice of acceptance from the Cass County Health Department or other approval from applicable agencies is required. When use of a public water supply is available or required by local ordinance or state law, a written notice of acceptance or hook-up fee receipt shall be required.

(6) A drawing illustrating the location of the building or structure, the distance from all lot lines, the right-of-way of abutting streets, the location and number of parking spaces, and the location and type of use of buildings on adjacent land.

The Zoning Administrator may require additional materials to aid in determining whether

a proposed use, building or structure complies with this Ordinance.

(c) Issuance of Permit. Within ten (10) days after the receipt of any application, the Zoning Administrator shall either (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or (2) deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case, the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or his agent. A copy of the permit shall also be transmitted to the Township Clerk.

(d) Planning Commission Approval. When the terms and provisions of this Ordinance require authorization by the Planning Commission as a special land use and such authorization is given, then the application shall be marked approved by the Secretary of the Planning Commission and a copy given to the applicant and a copy provided to the Township Clerk.

(e) In cases where development authorized by a Certificate of Zoning Compliance has not commenced within one (1) year of issuance, the certificate shall automatically become void and all rights thereunder shall terminate. A single one (1) year extension may be granted by the Zoning Administrator upon written application. Expiration of this extension shall require resubmittal of all applicable information as was submitted for the initial development proposal, including any required fees.

(f) Fees. Fees shall be charged and collected by the Zoning Administrator in accordance with the fee schedule adopted by the Township Board. Failure to obtain a Certificate of Zoning compliance before commencing construction or alteration or occupying land or a building or other activities for which a Certificate is required shall cause the fee to be doubled.

In the event that a building permit is also required by the Township Building Code, then the fee for the Certificate of Zoning Compliance shall be credited toward the building permit fee.

(g) A building permit for erection, alteration, moving or repair of any building or structure shall not be issued until a Certificate of Zoning compliance has first been issued.

SECTION 20.03 FEES AND APPLICANT ESCROWS *(amended 6/13/16)*

(a) The Ontwa Township Board may establish by resolution, fees for appeals, applications for amendments, special uses, site plan reviews, certificates of zoning compliance, variances, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the Township Hall and may be altered only by resolution of the Township Board. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(b) If the Planning Commission or Zoning Board of Appeals determines that the basic fees provided under subsection (a) above will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that

review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs.

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

# ARTICLE XXI

# BOARD OF APPEALS

SECTION 21.01. CREATION. There is hereby created a Zoning Board of Appeals, which shall perform its duties and exercise its powers and jurisdiction as provided by the Michigan Zoning Enabling Act, Public Act 110 of 2006, together with any amendments thereto, and by certain provisions of this Ordinance to the end that the objectives of this Ordinance are observed, public safety, morals and general welfare secured, and substantial justice done. (As amended June 11, 2007)

SECTION 21.02 MEMBERSHIP The Board of Appeals shall consist of seven (7) members who shall be representative of the Township population and of the major interests present in the Township. All members shall be residents and qualified voters within Ontwa Township. One member shall be a member of the Planning Commission. Also, one regular member may be a member of the Township Board, but shall not serve as chairperson of the Board of Appeals. The Township Board may appoint not more than two (2) alternate members for the same term as regular members of the Board of Appeals. The alternate members may be called on a rotating basis to sit as regular members of the Board in the absence of a regular member.

An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board of Appeals. (As amended June 11, 2007)

SECTION 21.03. TERMS. All members of the Board of Appeals shall be appointed by the Township Board. All Appeals Board members shall be appointed with staggered terms by the Township Board, but members may continue to serve until their successor has been appointed. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Members' terms may be extended if reappointed by the Township Board. Terms shall be for 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 the Planning Commission or Township Board. (As amended June 11, 2007)

SECTION 21.04. VACANCIES. In the event that a member of the Board of Appeals can no longer serve because of health or any other reason, the Township Supervisor may appoint, upon Township Board approval, another person to the Board of Appeals for that unexpired term. Should the unexpired be two (2) years or longer, it shall be considered as a full term.

If a Board of Appeals member moves outside the jurisdictional boundaries of the Township, this shall constitute a resignation from the Board effective upon the date a replacement is appointed by the Township Supervisor and approved by the Township Board.

SECTION 21.05. ABSENCE AND REMOVAL.

(a) Absence. Should a member have three (3) consecutive unexcused absences from regularly scheduled meetings or miss at least fifty (50) percent of the meetings within any twelve (12) month period, it shall constitute a reasonable grounds for removal. To initiate this action, the chairperson shall prepare a memorandum requesting that member to resign. The memorandum shall prepare a memorandum requesting that member to resign. The memorandum of attendance or a letter of resignation shall be forwarded to the Township Supervisor with a request that an appointment be made to fill the vacancy.

(b) Reason for Removal. Members of the Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. Failure of a member to disqualify himself/herself from a vote which he/she has a conflict of interest shall constitute misconduct in office.

(c) Conflict of Interest. A member may be excused from voting on a particular issue by majority vote of the remaining members present for reasons of conflict of interest if:

(1) The member has a direct financial interest in the outcome of the matter at issue; or
(2) The matter at issue involves the member's business or place of employment; or
(3) Participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
(4) The member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

SECTION 21.06 APPEALS.

(a) Appeals to the Board of Appeals may be taken by any party aggrieved by a decision or order to the Zoning Administrator where it is alleged that there is error or misinterpretation in any order, requirement, decision or refusal made by the Zoning Administrator or other administrative agency in the carrying out of the provisions of this Ordinance. (As amended June 11, 2007)

(b) A notice of appeal specifying the grounds thereof shall be filed with the secretary of the Board of Appeals within thirty (30) days after the date of the action appealed from. A copy of the notice shall promptly be served upon the officer from whom the appeal is taken who shall forthwith transmit to the Board of Appeals all records upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings, decisions or orders unless said officer certifies to the Board of Appeals that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except upon a restraining order by the Board of Appeals or by the Circuit Court.

SECTION 21.07 VARIANCES.

Subject to the provisions of Section 21.08 of this Ordinance, and in addition to other duties and powers specified within this Ordinance, the Board of Appeals, after public hearing, shall have the power to decide applications for variances:

(a) Where it is alleged that by reason of the exceptional narrowness, shallowness or shape of a specific parcel of property or by reason of exceptional topographic conditions or other extraordinary situation of the land or structure or of the use of property immediately adjoining the property in question, the literal enforcement of this Ordinance would involve practical difficulties or would cause undue hardship, provided that the Board of Appeals shall not grant a variance on a lot if the owner or members of his family own or owned adjacent land which could, without undue hardship, be included as part of the lot.

(b) Where it is alleged that there is a practical difficulty in carrying out the strict letter of this Ordinance and a request made to vary such regulations so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done. (As amended June 11, 2007)

(c) The Zoning Board of Appeals shall have no authority to hear, consider or grant use variances. (As amended June 11, 2007)

SECTION 21.08. VARIANCES PROHIBITED. *(amended 6/13/16)*

No variance in the provisions or requirements of this Ordinance shall be approved by the Board of Appeals unless it finds from reasonable evidence that such variance meets all of the standards below:

1) That the requested variance is not contrary to the public interest or to the intent and purpose of this Ordinance.
2) That the requested variance is not necessitated by any self-created condition or action taken by the applicant or property owner.
3) That there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
4) That the variance is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district. Increased financial return shall not be deemed sufficient to warrant a variance.

SECTION 21.09 CONDITIONS OF APPROVAL. (Ord. Amendment May 8, 2000)

Reasonable conditions may be required with the approval of a variance by the Zoning Board of Appeals. The conditions may include, but are not limited to, conditions necessary to insure that

public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources, energy and to promote the use of land in a socially and economically desirable manner. To insure compatibility with adjacent uses of land the architectural character of accessory buildings requiring variances shall be considered.

Conditions imposed shall meet all of the following requirements:

(a) It is found that there are exceptional or extraordinary circumstances or conditions applying to the specific property that do not apply generally to other properties in the same zone, and that a variance is necessary for the preservation and enjoyment of a substantial property right similar to the possessed by other properties in the zone.

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

(c) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

The conditions imposed with respect to the approval of a variance shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Board of Appeals shall maintain a record of conditions which are changed.

In the event the Board of Appeals grants a variance, the individual or his successor in interest shall not use the property in question such that it would exceed those rights given by the Zoning Ordinance or the variance or fail to follow any conditions place thereon by the Board of Appeals. In the event the use of the property exceeds those rights given by the Zoning Ordinance or the variance, or fails to follow the conditions placed upon the variance, the variance shall immediately terminate and it shall be deemed a violation of this Ordinance.

SECTION 21.10 PUBLIC HEARINGS. (As amended June 11, 2007)

When an application for hearing or appeal has been filed in proper form supplied by the Township and the fee paid with the required data, the Township shall place said application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. A notice shall be provided in the same manner as provided for in Section 22.03, Publication and Delivery of Notice of Public Hearing, of this ordinance. Any interested party may appear and be heard at such hearing in person or by agent or attorney.

SECTION 21.11 DECISIONS.

(a) The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises

and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

(b) Upon the date for hearing any application or appeal, the Board of Appeals may adjourn the hearing to a specified time and date in order to permit the obtaining of additional information, or to cause such further notices it deems proper to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of said hearing unless the Board of Appeals so decides.

SECTION 21.12 FEES.

The Township Board may establish fees for applications to the Zoning Board of Appeals in accordance with Section 20.03. *(amended 6/13/16)*

SECTION 21.13 TIME LIMIT.

If a variance is granted or other action requested by the applicant is authorized, the necessary building permit shall be secured, and the authorized action begun within three (3) months after the date and the variance is granted and completed within twelve (12) months of said date. The Building Official may, upon good cause shown, extend either the three (3) or the twelve (12) month period; and if the Board of Appeals further finds that conditions have altered or changed in the interval since the action was granted, the Board of Appeals shall revoke or rescind its approval. Should applicant fail to obtain the necessary permit or fail to commence work within such three (3) month period, it shall be conclusively presumed that the applicant has waived, withdrawn and abandoned his appeal; and all permissions, variances and permits shall be deemed automatically rescinded.

SECTION 21.14 VOTE NECESSARY FOR DECISION.

The final disposition of any matter by the Board of Appeals shall receive the concurring vote of a majority of the members of the Board of Appeals. The Board of Appeals shall not conduct business unless a majority of the members are present.

SECTION 21.15 MINUTES AND RECORDS

The Secretary or his/her designee shall keep minutes of the Board of Appeals proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The Secretary shall keep records of the Board of Appeals examinations and official actions, all of which shall be filed with the Township Clerk and be a public record. The grounds for determination made shall be so stated in any motion of approval or denial. A copy of each determination shall be sent to the Zoning Administrator and to the Planning Commission. No building permit shall be issued until such copy has been received by the Zoning Administrator. *(amended 6/13/16)*

## SECTION 21.16 LIMITATION OF BOARD.

The Board of Appeals may not, through any decision, interpretation or action, alter, vary or otherwise negate any provision of this Ordinance except as specified. Where the Board of Appeals finds recurrent requests for relief from specific provisions of this Ordinance, or where the Board of Appeals considers specific provisions are creating unnecessary hardship, the Board of Appeals shall recommend action to amend such provision as provided by law.

## SECTION 21.17 POSTING OF FINANCIAL GUARANTEE.

The Board of Appeals may require a performance bond, irrevocable letter of credit or certified check in an amount equal to the estimated cost of road, lighting, utility, sidewalk, landscaping, and drainage improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to ensure faithful completion of the improvements indicated on the approved plan. If conditions set forth in the approved plan are not faithfully completed, the performance guarantee shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of this Article have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to complete the required improvements and to enforce the Zoning Ordinance; and the balance, if any, shall be returned to the applicant.

## SECTION 21.18 APPEALS OF DECISIONS.

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by, or any person having an interest affected by the decision of the Board of Appeals may appeal said decision to the Circuit Court for the County of Cass as long as said appeal is filed in said court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson.

Re-Applications: In the event a petition to the Board is denied, in whole or in part, a new application (i.e. reapplication) may not be made for the same or substantially similar request within six months of denial. A new application may be submitted if the Zoning Administrator finds that the new plan is substantially different, or there is newly discovered evidence.

# ARTICLE XXII

# ORDINANCE AMENDMENT

SECTION 22.01 AMENDMENT PROCEDURE. The Planning Commission may initiate, or any interested person or public body may make, written request to the Planning Commission for initiating a zoning map change or amendment to this Zoning Ordinance. If such request shows just cause, or if the applicant specifically requests, the following procedure shall be followed:

(a) The applicant shall submit a formal application to the Zoning Administrator, together with a fee as determined by the Township Board. Applications shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting.

(b) The Zoning Administrator shall authorize the preparation of the proposed amendment to be considered.

(c) The Township Clerk shall set a time and place for a public hearing and provide notice of the public hearing subject to Section 22.03, Publication and Delivery of Notice of Public Hearing, of this ordinance. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing. (As amended June 11, 2007)

(d) At said hearing, the Planning Commission shall establish that the applicant has paid to the Township the fee established by the Township Board and that proper notices have been made.

(e) The Planning Commission shall hold said public hearing, noting all comments and reports requested, or noting the absence of such.

(f) The Planning Commission shall forward the amendment to the Township Board, and County Planning Commission pursuant to Section 307 of the Michigan Zoning Enabling Act, together with its recommendation for approval, denial or modification. Said recommendation shall be accompanied by a summary of the comments made at the public hearing and by written findings of fact in support of the Planning Commission's recommendation. (As amended June 11, 2007)

(g) The County Planning Commission shall have thirty (30) days to review and comment upon the amendment prior to the Township Board taking a final action. The County function is merely advisory.

(h) Prior to voted approval, the Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct typographical or grammatical errors. The changed text shall be forwarded as above without further hearing.

(i) If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.

(j) Following said hearing, the Township Board may adopt or deny said amendment with a concurring vote of a majority of its members, with or without any amendments that have been previously considered at a public hearing.

(k) If the Township Board considers amendment changes, additions or departures advisable to the proposed text or Zoning Ordinance, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After review of such report, the Township Board may then proceed to consider the adoption of any such amendment.

(l) An amendment to the zoning ordinance is subject to a petition for referenda under Section 402 of the Michigan Zoning Enabling Act. (As amended June 11, 2007)

(m) An amendment for the purpose of conforming a provision of the zoning ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency. (As amended June 11, 2007)

SECTION 22.02. AMENDMENT PETITION PROCEDURE. All petitions for amendment to this Ordinance shall be in writing, signed, and filed in triplicate with the Township Clerk for presentation to the Planning Commission. Such petitions shall include the following:

(a) The petitioner's name, address, and interest in the petition, as well as the name, address, and interest of every person having a legal or equitable interest in any land which is to be rezoned;

(b) The nature and effect of the proposed amendment;

(c) If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private rights-of-ways and easements bounding and intersecting the land to be rezoned;

(d) The alleged error in the ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same;

(e) The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the pro motion of the public health, safety, and general welfare;

(f) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

SECTION 22.03. PUBLICATION AND DELIVERY OF NOTICE OF PUBLIC HEARING.

Except where expressly stated otherwise in this ordinance, whenever a public hearing on a zoning application is required by this Ordinance or the Michigan Zoning Enabling Act, notice of the public hearing shall be published and delivered in accordance with the requirements of this Section.

(a) Notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.

(b) For applications involving the rezoning of ten or fewer properties; for applications to the Zoning Board of Appeals involving a specific parcel, and for all Planned Unit Development and Special Land Use Applications, a notice of public hearing shall be mailed by way of first class mail or by personal delivery to the following persons, at least 15 days prior to the date of the public hearing:

(1) The owners of property for which approval is being considered.

(2) All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and

(3) The occupants of all structures within three hundred (300) feet regardless of whether the property or occupant is located in the Township.

If the above described 300 foot boundary extends outside of the Township's boundaries, then notice must be provided outside of the Township's boundaries, within the 300 foot radius, to all persons in the above stated categories.

(c) The notice of public hearing shall include the following information.

(1) Description of the nature of the application/request;

(2) Identification/description of the property that is the subject of the application or request. The notice shall include a listing of all street addresses within the property; provided, however, that street addresses do not need to be created and listed if no such addresses currently exist within the property; and provided further that street addresses do not need to be listed if eleven or more adjacent properties are being proposed for rezoning.

(3) State when and where the application will be considered, including the date, time, and location of the public hearing on the application; and,

(4) Identify when and where written comments will be received concerning the application or request.

SECTION 22.04. REZONING REVIEW CRITERIA. In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that shall be considered by the Planning Commission and the Township Board include, but are not limited to, the following:

(a) Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;

(b) Whether the land can be used as currently zoned;

(c) Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;

(d) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and

(e) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.

# ARTICLE XXII-A

# PLANNING COMMISSION

SECTION 22A.01. ESTABLISHMENT OF PLANNING COMMISSION. In accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended, the Planning Commission is hereby established.

SECTION 22A.02. MEMBERSHIP.

(a) The Planning Commission shall consist of nine (9) members, or such other number determined by the Township Board and authorized by law.

(b) The Planning Commission membership shall generally be representative of the Township population and of the major interests present in the Township.

(c) Members of the Planning Commission shall be qualified electors of the Township, except that one Planning Commission member may be an individual who is not a qualified elector of the Township.

(d) One (1) member of the Township Board shall be a member of the Planning Commission.

(e) All members of the Planning Commission shall be nominated by the Township Supervisor and appointed with affirmative majority vote of the members of the Township Board.

(f) The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Before casting a vote on a matter on which a member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. The member is disqualified from voting on the matter if so provided by the bylaws or by a majority vote of the remaining members of the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this subsection constitutes malfeasance in office.

SECTION 22A.03. TERMS. The term of each member shall be 3 years, and until a successor is appointed and qualified, except that a Township Board member appointed as a member of the Planning Commission shall have a term corresponding with that person's term as a member of the Township Board. The duration of the terms of members first appointed to the Commission shall vary, though not exceeding 3 years, so that terms will expire in different years. Vacancies in office shall be filled for the remainder of the unexpired term.

SECTION 22A.04. OFFICERS. The officers of the Commission shall be the chairperson, the vice-chairperson and the secretary. The officers shall be elected by affirmative majority vote of the Commission members present and voting. The Commission may by majority vote establish other officers in its discretion. In addition, the Planning Commission may appoint advisory committees whose members are not members of the Planning Commission.

SECTION 22A.05. BYLAWS AND RECORD-KEEPING. The Planning Commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings, and determinations.

SECTION 22A.06. MEETINGS OF THE PLANNING COMMISSION.

(a) Regular meetings of the Commission shall be held once a month on a day and at a time to be determined by the Commission at its first meeting of the calendar year; provided, however, that a meeting need not be convened if pending matters do not warrant a meeting.

(b) The Commission shall hold at least 4 meetings each year.

(c) All meetings of the Planning Commission shall be public meetings, held in compliance with the provisions of the Open Meetings Act.

(d) A quorum for the conduct of business shall consist of a majority of the total number of current members of the Commission.

SECTION 22A.07. DUTIES AND RESPONSIBILITIES.

(a) Planning Duties. The Planning Commission shall be responsible for the following planning activities, among others:

(1) To prepare, consider and approve or recommend approval of the Township's Master Plan.

(2) Monitor and oversee the effectiveness of the Master Plan; and in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended, to consider, no less frequently than every five years, whether a revision of the Master Plan or updated amendments in the Master Plan are needed and to prepare, consider and approve or recommend approval of any such revisions or amendments.

(3) To consider and recommend the adoption of this Ordinance and amendments to this Ordinance.

(4) To promote understanding of and interest in the Master Plan and this Ordinance.

(5) To consider, recommend and/or approve zoning applications and requests assigned to the Commission under the terms of this Ordinance, including special land uses and other types of land use approval.

(6) To make an annual written report to the Township Board concerning its zoning and planning activities during the previous year and including, if desired, recommendations on zoning and planning changes and amendments.

(7) To review and make recommendations on proposed public improvement projects, and to review and approve a capital improvement plan, as applicable and in accordance with the Planning Enabling Act, Act 33 of 2008, as amended.

(8) To review and make recommendations on proposed platted subdivisions, condominiums and site condominiums.

(9) To carry out other duties and responsibilities provided by law.

SECTION 22A.08. STANDARDS AND CONSIDERATIONS. In all cases where the Planning Commission is required to make a decision under this Ordinance, the Planning Commission shall be guided by the following standards and considerations:

(a) Standards.

(1) Whether a proposed land use change is consistent with the goals, objectives, policies, and intent of the Ontwa Township Master Plan;

(2) Whether a proposed land use change meets or exceeds all performance and locational standards set forth for the proposed use;

(3) Whether a proposed land use change is consistent with the densities and general uses set forth in the Ontwa Township Master Plan;

(4) Whether a proposed land use change will protect, conserve, or preserve environmentally critical areas and natural resources;

(5) Whether a proposed land use change will be compatible with existing or planned uses and not cause damage, hazard, nuisance, or other detriment to persons or property;

(6) Whether the location of a proposed land use change places an undue burden upon existing transportation or other services and facilities and will be served by streets with the capacity to carry traffic generated by the development;

(7) Whether a requested use will be in compliance with all applicable General Provisions and special land use regulations pertaining to the use, as set forth elsewhere in this Ordinance; and

(8) Whether there exists changed or changing conditions which make approval of a proposed Zoning Ordinance amendment or rezoning appropriate;

(9) Whether or not the proposed use is economically feasible for the area.

(b) Considerations. In addition to the above standards, the Planning Commission should also consider the following in making decisions required by this Ordinance:

(1) The testimony of the applicant(s).

(2) The testimony of the public.

(3) The recommendation and/or any information provided by Township staff or other professionals employed by the Township Board or Planning Commission.

SECTION 22A.09. APPEALS OF DECISIONS. Any person, officer or public body aggrieved by a decision of the Township Planning Commission, excluding a decision on a special land use application,

may appeal that decision to the Township Zoning Board of Appeals in accordance with the provisions of Section 21.06 herein. The date of the Planning Commission decision shall be the date of the meeting at which the minutes of the meeting at which the Planning Commission announced its decision(s) are approved. Decisions on special land use applications may be appealed only to the Circuit Court in accordance with the provisions of the Michigan Zoning Enabling Act.

# ARTICLE XXIII

# PENALTIES

SECTION 23.01. PENALTIES. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, or any use of a lot or land which is begun, maintained or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se. (As amended June 11, 2007)

SECTION 23.02. PROCEDURE. Any person, firm, corporation or entity that violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under this Ordinance, or any permit or approval issued under this Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

The owner, if possible, and the occupant of any property upon which a violation has occurred, shall be notified in writing to correct the violation within fourteen (14) days after service of the notice upon such person. Such notice shall be served personally or by certified mail, return receipt requested. Additional time may be granted by the Enforcement Officer where bonafide efforts to correct the violation are in progress. (As amended June 11, 2007)

SECTION 23.03 MUNICIPAL CIVIL INFRACTION. A violation of this Ordinance is a municipal civil infraction as defined by Michigan statute and shall be punishable by a civil fine determined in accordance with the following schedule:

| | **Minimum Fine** | **Maximum Fine** |
|---|---|---|
| **1st Offense** | $75.00 | $500.00 |
| **2nd Offense** | $150.00 | $500.00 |
| **3rd Offense** | $325.00 | $500.00 |
| **4th Offense** | $500.00 | $500.00 |

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Ontwa Township has incurred in connection with the municipal civil infraction. (As amended June 11, 2007)

SECTION 23.04. REMEDIAL ACTION. The Township Board, Township Supervisor or Enforcement Officer appointed by the Township Board may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. (As amended June 11, 2007)

# ARTICLE XXIV

# MISCELLANEOUS PROVISIONS

SECTION 24.01. ADMINISTRATIVE LIABILITY. No officer, agent, employee, or member of the Planning Commission, Township Board, or Board of Appeals shall render himself personally liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

SECTION 24.02. SEVERABILITY. This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 24.03. REPEAL. This ordinance shall constitute a new zoning ordinance for the Township of Ontwa, Cass County, Michigan superseding and replacing in its entirety the previous Township Zoning Ordinance. All other ordinances or parts of ordinances in conflict herewith are hereby repealed. The adoption of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, any existing violation of the previous zoning ordinance of the Township if the violation is also a violation of the provisions of this Ordinance.

# EFFECTIVE DATE

The foregoing Ordinance was approved by the Township Board of Ontwa Township, Cass County, Michigan on the eighth day of December, 1980, and ordered to take effect on the eighth day of December, 1980.

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 80-2, titled, "Zoning Ordinance for Ontwa Township," Cass County, Michigan, adopted by the Ontwa Township Board on the eighth day of December, 1980.

s/Helen Parsons
Ontwa Township Clerk

A Resolution that the aforesaid Ordinance be enacted and given immediate effect was made by Helen Parsons and supported by Nadine Bailey.

The names of the Township Board members and their vote thereon was as follows:

| | |
|---|---|
| Nadine Bailey | Yes |
| John Braniff | Yes |
| Jack Durben | Yes |
| Fred Herreman | Yes |
| Wendell Leist | Yes |
| Helen Parsons | Yes |
| Dean Wilkinson | Yes |

I hereby certify that a notice of Ordinance adoption was published in the Edwardsburg Argus of Edwardsburg, Michigan, on the seventeenth day of December, 1980.

s/Helen Parsons
Ontwa Township Clerk

The August, 1990 amendments were adopted by the Ontwa Township Board. A motion was made by Trustee Durban and supported by Treasurer Michael that the December amendments be approved and became effective in 30 days from the date of adoption of December 9,1996. The effective date is January 7,1997.

| | |
|---|---|
| Wayne Hardin | Yes |
| Helen J. Parsons | Yes |
| Patricia Michael | Yes |
| Jerry Duck | Yes |
| Randolph Szalia | Yes |
| Jack Durban | Yes |
| Wendell Leist | Yes |

I hereby certify that a notice of Ordinance adoption was published in the Edwardsburg Argus of Edwardsburg,Michigan, on the 26th day of December, 1996.

s/Helen Parsons
Ontwa Township Clerk

Ordinance No.11-96-3

# PRIVATE ROAD ORDINANCE

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 11, 1996***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

## PRIVATE ROAD ORDINANCE

An Ordinance to protect the health, safety, and general welfare of the inhabitants of Ontwa Township.

The Township of Ontwa ordains as follows: This Ordinance shall be known as the "Private Road" Ordinance.

SECTION 1.01 PURPOSE. The Township has hereby determined that as large tracts of land are divided, sold, transferred, and developed, private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the Michigan Subdivision Control Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure:

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

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

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

SECTION 1.02 DEFINITIONS. For purposes of this section, the following terms are defined as follows:

A. An "existing private road" is a private road or a private road system which is used to provide access to two or more existing lots, or dwelling units as of the effective date of this Section.

B. An "existing lot" is a lot which, as of the effective date of this Section, meets at least one of the following conditions:
   (1) the lot consists of a parcel described by metes and bounds for which a deed has been recorded with the Cass County Register of Deeds, or of a parcel described by a land contract or memorandum of land contract which has been recorded with the Cass County Register of Deeds;
   (2) the lot has been assigned its own permanent parcel number by the Cass County Property Description and Mapping Department and is individually assessed and taxed on that basis; or
   (3) the lot consists of a "condominium unit" (i.e., a portion of a condominium project designed and intended for separate ownership and use as described in the condominium master deed) located within a "site condominium" development for which a condominium master deed has been recorded with

the Cass County Register of Deeds in accordance with the requirements of the Michigan Condominium Act (PA59 of 1978, as amended, MCLA 559.101 et seq.) and other applicable laws and ordinances.

C. An "existing dwelling unit" is a single family home for which a building permit has been issued by the Township as of the effective date of this Ordinance.

SECTION 1.03 GENERAL REQUIREMENTS AND APPLICATION TO EXISTING PRIVATE ROADS.

A. After the effective date of this Ordinance, a private road shall not be constructed, extended, or relocated, except in accordance with the minimum standards and requirements of this Ordinance. If an additional lot is proposed adjacent to an existing private road, the road shall meet the requirements of Section 1.04E and a private road permit must be obtained as per Section 1.06. If an existing private road is proposed to be extended then the existing portion shall be improved to meet the standards of this Ordinance. The new portion shall also comply with the standards of this Ordinance

B. Private roads are permitted in all zoning districts.

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

D. The provisions of this Ordinance shall not apply to an existing private road which provides access solely to existing lots, or dwelling units except for private roads serving two or more lots, those requirements pertaining to names for private roads, house numbers and minimum lot frontage as contained herein shall apply.

E. Private roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, the Township Board shall consider the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the recommendations contained within the Ontwa Township Master Plan and Major Street Plan, if any and if applicable, the Street and Highway Plans of the Cass County Road Commission and Michigan Department of Transportation.

F. Where private roads in existence prior to the effective date of this ordinance are to be extended and serving five (5) or less lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance except for paving.

G. Where private roads in existence prior to the effective date of this ordinance are to be extended and serving six (6) or more lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance including paving.

H. Where a private road serving five (5) lots or less has been approved and constructed under the terms of this ordinance and is proposed to be extended to serve six (6) or more lots, the existing road may be extended provided that the entire private road is improved to the construction specifications of Section 1.04 (E) of this ordinance including paving.

SECTION 1.04 MINIMUM STANDARDS FOR PRIVATE ROADS.

A. A private road shall be located within a private road easement. Such easement shall not be less than sixty-six (66) feet in width.

At any dead-end of such easement, the easement shall widen such that there is a minimum radius of sixty (60) feet.

B. A lot shall have frontage on the private road easement which is at least equal to the minimum lot width required for the zoning district in which the lot is located. Lots fronting on a cul-de-sac may be reduced to forty (40) feet at the front lot line, as long as the lot meets the minimum width requirement at the minimum front yard setback line.

C. A private road shall intersect and connect to a public road. The private road shall have a minimum of sixty six (66) feet of frontage at its access point to the public road. A private road shall not be approved which accesses a public street or road by another private road.

D. A private road serving two (2) or more lots shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name given the private road meeting Cass County Road Commission standards as to design, location, and maintenance shall be erected and maintained by the applicant where such private road intersects any public road. The provision shall also apply to existing private roads. A street sign shall be erected within one (1) year after the adoption of this Ordinance.

E. A new private road serving six (6) or more lots, regardless of length, or longer than six hundred and sixty (660) feet in length, regardless of number of lots served, is required to be paved with a minimum of two (2) inches of asphalt or equivalent dustless surface

and shall have a minimum width of sixteen (16) feet with a three (3) foot shoulder on each side (see Figure 1). A new private road which serves five (5) or less lots and is less than or equal to six hundred sixty feet in length is not required to be paved but shall have a minimum width of sixteen (16) feet with a three (3) foot shoulder on each side. Shoulder grading shall not exceed a slope of one half of an inch per foot. The road shall have a minimum of two tenths (0.2) foot crown from centerline to the edge of the road. The road base shall consist of at least a six (6) inch gravel base (MDOT 22A) with a twelve (12) inch sand sub-base (MDOT Class 2). The road shall widen at any dead-end so there is at least a forty (40) foot radius turn-around. The top elevation of the roadway shall be a minimum of three (3) feet above the seasonal high water table. (As Amended 8/12/02)

F. A private road shall not exceed a grade of eight (8) percent; provided that within 30 feet of the intersection of a private road with any other private road or with any public right-of-way, a private road shall not exceed a grade of one and one-half (1.5) percent.

G. A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Cass County Drain Commission and State of Michigan requirements.

H. A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three (3) inches in height.

I. In determining the location of a private road, consideration shall be given to safety of traffic entering and exiting the driveway in relationship with the public road.

SECTION 1.05 ROAD MAINTENANCE. The applicant (s) and/or owners(s) of the proposed private road shall provide to the Township Clerk a recorded road maintenance agreement, access easement agreement, and deed restrictions in compliance with Section 1.06(B)(5) which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall contain the following provisions.

A. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.

B. A workable method of apportioning the costs of maintenance and improvements, including the potential of future paving, if the road is extended to serve six (6) or more lots.

C. A notice that if repairs and maintenance are not made, the Township Board may bring the road up to the design standards specified in Section 1.04 and assess owners of

parcels on the private road for the improvements, plus an administrative fee in the amount of 5% of the total cost of the improvements.

D. A notice that no public funds of the Township of Ontwa are to be used to build, repair, or maintain the private road.

E. Easements to the public for purposes of utilities, emergency and other public vehicles for whatever public services are necessary.

F. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

SECTION 1.06 PROCEDURE FOR REVIEW OF PRIVATE ROADS.

A. Permit Application and Fee

An application to establish, extend, or relocate a private road shall be filed with the Township Zoning Administrator at least thirty (30) days prior to the next scheduled Planning Commission meeting along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

(1) The name(s) of the owners and any other parties having any legal interest in the private road and the property across which it is to be constructed.

(2) Permanent parcel number or legal description of the property over which the private road is to be constructed.

(3) A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.

(4) A scaled drawing showing the location, route, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect, in compliance with this Ordinance.

(5) A scaled drawing illustrating the proposed lot divisions.

(6) A road maintenance agreement, access easement agreement and deed restrictions as described in Section 1.05 herein, shall also accompany the application.

(7) A driveway permit application from the Cass County Road Commission.

(8) A letter from the Cass County Road Commission indicating there is no known duplication of the proposed private road name.

B. Review of Permit Application

(1) The permit application, drawings and other required information shall be forwarded to the Planning Commission upon review by the Zoning Administrator to determine compliance with the standards for private roads.

(2) The Planning Commission shall review this information and may consult with the Township Fire Chief, Attorney, Engineer or Planner as deemed necessary. A quorum of the Planning Commission shall be present to review and decide upon the permit application.

(3) If the Planning Commission finds that the application meets the requirements of this Ordinance, it shall then approve by a majority of the membership the application and direct the Zoning Administrator to issue a permit for the construction of the private road. This permit shall consist of a stamp noting approval and containing the signature of the Zoning Administrator and the date of approval. Two copies of the private road plans shall be stamped for approval, one copy shall be kept by the applicant, and one by the Township. This construction permit is not a Private Road Permit and does not authorize the construction of any dwelling units on the private road. The construction permit is valid for a period of one (1) year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new permit shall be required before construction can begin.

(4) If the Planning Commission denies the application, the Planning Commission meeting minutes shall be provided to the applicant within fourteen (14) working days of the date of the Planning Commission meeting.

(5) Final Compliance Requirements - Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator: *a)* a letter from a registered professional engineer or the Cass County Road Commission that the road has been constructed in compliance with the approved private road plans, and *b)* documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Cass County Register of Deeds office, and *c)* a driveway permit for the private road from the Cass County Road Commission.

(6) Private Road Permit Issuance - Upon approval of all items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.

(7) Permits for Dwellings on Private Roads - A building permit shall not be issued for any principal dwelling which derives its primary access from a private road unless a Private Road Permit has been issued by the Township and the road has either been completed in accordance with the approved permit or the applicant for the building permit or owner(s) of the private road right-of-way have provided the Township with cash or irrevocable letter of credit in an amount determined by the Township, to insure construction of the private road in accordance with the approved private road construction permit within one (1) year from the issuance of the building permit.

The letter of credit shall contain a provision that the Township shall have the right to access the letter of credit if such letter is not renewed 30 days before the expiration date of the letter.

(8) Permits for Dwellings on Existing Private Roads and Existing Lots - A Private Road Permit shall not be required for the issuance of a building permit for a principal dwelling on an existing lot which derives its primary access from an existing private road as defined herein except as provided in Section 1.03 herein.

SECTION 1.07 TOWNSHIP LIABILITY. The owner(s) of the private road agree by applying for and securing a permit to construct the private road that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road. Such wording shall appear on the application for the permit and be signed by the applicant.

SECTION 1.08 VARIANCES. Any person affected by a decision regarding this Ordinance shall have the right to appeal the decision to the Township Board within twenty one (21) days. Such appeal shall be filed with the Township Clerk in writing and shall state the reasons for appeal and any documents in support thereof. The Township Board shall establish a time for hearing the appeal which shall be no later than thirty (30) days after filing. Written notice of such hearing by first class mail shall be provided to all adjacent properties which depend or may depend in the future on the private road for access and all properties within 300 feet of such private road and to all Planning Commission members. Such notice shall be given not less than seventy-two hours prior to such hearing. The decision of the Township Board shall be set forth in writing and be delivered to the applicant within ten (10) calendar days following the hearing. The decision of the Township Board shall be final. An appeal may be taken to Circuit Court. The Township Board shall grant variances only upon a finding, from reasonable evidence, that the following facts and conditions exist:

A. 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. The possibility of increased financial return shall not of itself be deemed sufficient to a variance.

B. THAT the condition or situation of the specific piece of property, for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formation of a general regulation for such conditions or situation.

C. THAT by reason of exceptional narrowness in width, breadth, length, or shape of specific piece of property on the effective date of the Ordinance, or by reason of unusual topographic conditions, or other extraordinary situation or condition of the land, building, or structure or of the use of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause undue hardship.

D. WHERE there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance is observed, public safety secured and substantial justice done.

SECTION 1.09 VIOLATION. Violation of any of the provision of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both. In addition to the aforesaid penalty, the Township may take such other legal recourse available to it for the enforcement of this Ordinance.

SECTION 1.10 SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance shall be found to be invalid by any court, such invalidity shall not affect the remaining provisions of the Ordinance which shall be given effect.

SECTION 1.11 EFFECTIVE DATE. This Ordinance shall be effective 30 days after adoption.

A motion was made by Trustee Durban and supported by Trustee Leist that the Private Road Ordinance be approved and become effective in 30 days from the date of adoption of November 11, 1996. The effective date is December 11, 1996.

| | |
|---|---|
| Wayne Hardin | yes |
| Helen J. Parsons | yes |
| Patricia Michael | yes |
| Jerry Duck | yes |
| Randolph Szalai | yes |
| Jack Durban | yes |
| Wendell Leist | yes |

I hereby certify that a notice of Ordinance adoption was published in the Edwardsburg Argus of Edwardsburg, Michigan, on the 26th day of December, 1996.

s/Helen Parsons
Ontwa Township Clerk

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 11-96-3, titled, "Private Road Ordinance for Ontwa Township," Cass County, Michigan, adopted by the Ontwa Township Board on the eleventh day of November, 1996.

s/Helen J. Parson
Ontwa Township Clerk

Figure 1 - Minimum Private Road Specifications

Ordinance No.11-96-1

# SUBDIVISION ORDINANCE

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 11, 1996***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

# SUBDIVISION ORDINANCE

Ontwa Township, Cass County, Michigan, does ordain as follows:

## ARTICLE I

## TITLE AND PURPOSE

1.1 SHORT TITLE. This Ordinance shall be known as the "Land Subdivision Ordinance" of the Township of Ontwa.

1.2 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, convenience and general welfare. It shall be administered to insure orderly growth and development, to protect and conserve land and natural features, and adequately provide for streets, utilities and other land improvements in the Township.

1.3 PURPOSE. This Ordinance is adopted to regulate the subdivision of land to accomplish the following purposes:

(1) To carry out the purpose and intent of the Subdivision Control Act of 1967, PA 1967, No. 288 (MCLA 560.101), as amended.

(2) To further the orderly layout and development of the Township.

(3) To provide for and regulate the economical provision or extension of utility services, streets and other necessary land improvements.

(4) To require that land be suitable and suitably improved for building sites.

(5) To provide for adequate drainage.

(6) To prevent the premature development of land; to provide for proper ingress and egress to lots.

(7) To promote proper surveying, monuments and legal descriptions.

(8) To provide for safe and convenient traffic circulation and traffic movement.

(9) To insure against the creation of unsafe or undesirable conditions.

(10) To conserve the value of property.

(11) To regulate the density of development in relation to utility services for the protection of the public health.

(12) To conserve energy and natural features.

(13) To carry out the purpose and intent of the Township Master Plan and Zoning Ordinance.

(14) To establish rules and procedures for the process of subdivision under said act.

(15) To provide for the adoption of improvement standards.

(16) To provide penalties for the violation of this Ordinance.

(17) To provide for the variation of these rules and requirements.

1.4 APPLICABILITY. This Ordinance shall not apply to land divisions resulting in parcels or lots which are more than ten (10) acres in area.

1.5 METES AND BOUNDS SUBDIVISION. After the effective date of this Ordinance or amendments thereto, no new lot or lots of ten (10) acres or less in area shall be created unless the provisions of this Ordinance are met. All new lots so created shall meet or exceed the requirements of the Zoning District in which it is located.

## ARTICLE II – Subdivision Ordinance

## DEFINITIONS

2.1 DEFINITIONS. For the purposes of this Ordinance, terms shall be defined as set forth in the Subdivision Control Act of 1967 and as defined herein:

(1) Board: The Ontwa Township Board.

(2) Commission: The Ontwa Township Planning Commission.

(3) Lot Split:

(a) The combination of existing lots in a recorded plat into one (1) parcel.

(b) The alteration of an existing lot line in a recorded plat which does not change the number of lots.

(c) The alteration of existing lot lines in a recorded plat which creates an additional lot.

The term "lot split" shall not include the creation of new parcels of more than ten (10) acres, or the creation of parcels defined as a subdivision.

(4) Outlot: A lot in a recorded plat which is set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

(5) Plat: A map or chart of a subdivision of land.

(a) Preliminary Plat: A map showing the salient features of a proposed subdivision to an approving authority for the purposes of preliminary consideration and approval.

(b) Final Plat: A map and accompanying material showing or explaining the salient features of a proposed subdivision to an approving authority for the purposes of final consideration and approval.

(6) Proprietor: A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land whether recorded or not.

(7) Street:

(a) Collector Street: A street designated as such on the Transportation Plan of the Master Plan, as amended, intended to serve high volume traffic movements within the Township.

(b) Major Street: A street designated as such on the Transportation Plan of the Master Plan, as amended, intended to serve high volume traffic movements across the Township.

(c) Minor Street: A local street intended primarily to serve adjacent neighborhood properties.

(d) Secondary Street: A street designated by the Planning Commission to serve moderate volume traffic within a subdivision.

(8) Subdivision or Subdivide: The partitioning or dividing of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale, or lease of more than one year, or of building development, where the act of division creates five (5) or more parcels of land, each of which is ten (10) acres or less in area, or five (5) or more parcels of land, each of which is ten (10) acres or less in area are created by successive divisions within a period of ten (10) years.

(9) Subdivision Control Act: Public Act No. 288, the Subdivision Control Act of 1967, as amended.

(10) Township: Ontwa Township, Cass County, Michigan.

## ARTICLE III – Subdivision Ordinance

## PROCEDURES

3.1 APPROVALS. The following procedure must be completed in order for a subdivision to receive approval by the Township:

(1) Preliminary Plat approval by the Planning Commission.

(2) Preliminary Plat approval by the Township Board - Step I.

(3) Preliminary Plat approval by the Township Board - Step II.

(4) Final Plat approval by the Township Board.

Although not required, a proprietor is encouraged to undertake preplat discussions with the Planning Commission.

3.2 PREPLAT DISCUSSION. Prior to the preparation of a preliminary plat, there should take place a preplat discussion meeting between the proprietor and the Planning Commission. The purpose of this meeting is to inform the Planning Commission of a proprietor's intent to initiate a subdivision. On or before this meeting, the proprietor should submit the following to the Commission:

(1) Several copies of a sketch, to scale, indicating the general location and configuration of the property to be subdivided; the alignment of streets and lots; and the relationship of the proposed plat to adjacent streets and neighboring properties.

(2) A statement indicating how sanitary sewer service and water service will be provided.

During the preplat discussion meeting, it shall be the responsibility of the Planning Commission, insofar as information is available to it, to inform the proprietor about the following:

(1) General requirements of this Ordinance and the Zoning Ordinance.

(2) Planned or anticipated sites of parks and recreation areas and other public uses.

(3) Utility system capabilities, if applicable.

(4) Planned or anticipated public improvements, including streets, utility extensions and the like.

(5) Major street plans and potential problems relative to the natural features of the area including, but not limited to, flood plains, soil conditions, topography, and ground water tables.

(6) Additional information which will assist the proprietor in proceeding in a reasonable and sound manner toward Final Plat approval.

Preplat discussions are intended for information purposes only and do not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any subsequent preliminary plat. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

3.3 PRELIMINARY PLATS. The Preliminary Plat approval procedure is intended to assure the Township that the proprietor is proceeding toward a Final Plat which will conform to all applicable regulations and be acceptable to the Township and other approving agencies. Approval of the Preliminary Plat by the Township shall not relieve the proprietor from obtaining the necessary approvals from other agencies having jurisdiction over other aspects of the plat.

3.4 PRELIMINARY PLAT REQUIREMENTS. Preliminary Plats shall be prepared in accord with Sections 111 through 120 of the Subdivision Control Act, as amended, and Article 5 of this Ordinance. Preliminary Plats prepared for Planning Commission review and Step I approval by the Township Board shall include or be accompanied by items 1 to 11 of Article 4.1. In addition to the review required in Section 4.5, the proprietor or his agent shall submit copies of the Preliminary Plat to the appropriate agencies as required in Sections 113 through 119 of the Subdivision Control Act, as amended.

3.5 SUBMISSION OF PRELIMINARY PLATS.

(1) Preliminary Plats shall be submitted to the Zoning Administrator at least thirty (30) days prior to the next regular meeting of the Planning Commission. The following procedure shall be followed:

(a) Submit fifteen (15) copies of the Preliminary Plat to the Township Clerk.

(b) Submit to the Township Clerk a filing fee as determined by the Township Board.

(c) The Township Clerk shall retain one (l) copy of the Preliminary Plat and, within seven (7) days from submission, forward two (2) copies to the Supervisor, one (l) copy to the Township Planner, one (l) copy to the Township Engineer, and eleven (11) copies to the Secretary of the Planning Commission.

(2) State law requires that within ninety (90) days from the date of submission, the Township Board shall act upon the Preliminary Plat. In order to accomplish the necessary review within this time period, the proprietor or his agent is encouraged

to be present at all meetings of the Planning Commission and the Township Board at which the plat will be reviewed. The plat shall be reviewed by the Supervisor, Planner and Engineers who shall report to the Planning Commission on any suggestions or recommend changes.

3.6 PLANNING COMMISSION REVIEW. The Planning Commission shall review the Preliminary Plat and the comments of the Supervisor, Planner and Engineer. Particular attention shall be given to the requirements of Article V of this Ordinance. If the Preliminary Plat meets the requirements of this Ordinance, the Planning Commission shall give it Preliminary Approval. The Secretary of the Planning Commission shall forward one (l) copy of the Preliminary Plat along with a notation indicating Preliminary Approval and any recommendations to the Township Board for Step I approval.

If the plat does not meet the requirements of this Ordinance, the Planning Commission shall:

(1) Deny Preliminary Plat approval and setting forth its reasons in writing; or

(2) Grant Preliminary Approval contingent upon completion of the revisions as noted.

The Secretary of the Planning Commission shall forward one (l) copy of the Preliminary Plat along with the Planning Commission's recommendations to the applicant and one (l) copy to the Township Board.

3.7 TOWNSHIP BOARD STEP I REVIEW, PRELIMINARY PLAT. After receipt of the Preliminary Plat and recommendations from the Planning Commission, the Township Board shall consider the Preliminary Plat at its next meeting or within 20 days from the date of receipt from the Planning Commission.

(1) The Township Board shall consider the Preliminary Plat along with the recommendations of the Planning Commission, Supervisor, Planner and Engineer. If the plat meets the Preliminary Plat requirements of this Ordinance, the Board shall grant Step I Preliminary Plat approval. The Township Clerk shall sign the plat with the notation that it has received Step I approval and the proprietor shall be so notified. Step I approval shall give the proprietor the following rights for a one (l) year period from the date of approval:

(a) That the general terms and conditions under which Step I approval was granted will not be changed by the Township.

(b) That the lot sizes, lot orientation, and street layout have been approved.

(c) That Step I approval may be extended if applied for by the proprietor prior to the one (l) year expiration date and granted by the Township Board in writing.

(2) If the Preliminary Plat substantially meets the requirements of this Ordinance, the Township Board may grant conditional approval of Step I, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step I. Upon the submission of such changes, revisions or additional material, the Preliminary Plat shall be granted unconditional Step I approval and the proprietor shall be so notified.

(3) If the Preliminary Plat does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step I approval and so notify the proprietor along with the reasons therefore.

3.8 TOWNSHIP BOARD STEP II REVIEW, PRELIMINARY PLAT. After the Township Board has granted Step I approval, the proprietor shall submit two (2) copies of the Preliminary Plat to the Township Board for Step II review. The proprietor shall also submit the following:

(a) A list of all reviewing authorities certifying that the list shows all authorities as required by Sections 112 to 119 of the Subdivision Control Act, as amended.

(b) A copy of each review or subdivision site report by the above noted authorities after their approval has been secured.

(c) A copy of any proposed or required deed restrictions or covenants.

(d) A copy of a preliminary draft of any special agreements which may be required before Final Plat approval is granted.

(1) The Township Board shall consider the Preliminary Plat and the above noted material and, if found to be in compliance with the terms of this Ordinance, shall grant Step II approval. Step II approval shall give the proprietor the following rights for a period of two (2) years from the date of approval:

(a) That the general terms and conditions under which Step II approval was granted will not be changed and the proprietor may proceed with the installation of required improvements.

(b) That the proprietor may submit all or parts of the Step II approved Preliminary Plat as a Final Plat in accordance with the Subdivision Control Act, as amended, and this Ordinance.

The two (2) year period may be extended if applied for by the proprietor and grant by the Township in writing. Written notice of the extension shall be sent by the Township Clerk to the other approving authorities.

(2) If the Preliminary Plat substantially meets the requirements of this Ordinance, the Township Board may grant tentative approval of Step II, such approval being

conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such changes, revisions, or additional material, the Preliminary Plat shall be granted unconditional Step II approval and the proprietor shall be so notified. The Township Board may, at its discretion, delegate final Step II review authority to the Township Planner and/or Engineer who shall be responsible for insuring that the conditions established for Step II approval have, in fact, been met. Once the Step II conditions have been met, the Township Board, shall grant final Step II approval. Final Step II Preliminary Plat approval shall also be noted on the copy of the Preliminary Plat to be returned to the proprietor.

(3) If the Preliminary Plat does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step II approval and so notify the proprietor along with the reasons therefore.

(4) Installation of all plat improvements authorized by Step II approval shall be in accord with the requirement of the appropriate agency or utility having jurisdiction. The following have jurisdiction in Ontwa Township:

Cass County Road Commission - streets, sidewalks, storm sewers
Cass County Drain Commission - drains and drainage from the plat
Cass County Department of Public Works - sanitary sewer and water main
Fruit Belt Electric Coop and American Electric Power - electrical and street lights
General Telephone Company - telephone
Michigan Gas Company - gas

3.9 FINAL PLAT APPROVAL. Within two (2) years from the date of Step II approval of the Preliminary Plat, the proprietor shall prepare and submit a Final Plat containing all the certificates, signatures and specifications required by the Subdivision Control Act.

(1) After the signature of the surveyor, proprietor, County Treasurer, Township Treasurer (if necessary), County Water Resources Manager, and the County Road Commission are obtained, the proprietor shall submit the Final Plat to the Township Clerk at least two (2) weeks prior to the next regular meeting of the Township Board. The proprietor shall also submit the following:

(a) A twenty dollar ($20.00) filing and recording fee as required in Section 241 of the Subdivision Control Act together with a Township fee of one dollar ($ 1.00) for each lot in the Final Plat.

(b) One (l) copy of as-built plans of all completed improvements.

(c) All final agreements and deed restrictions.

(d) Letters of approval from all applicable agencies or utilities listed in Section 3.8 stating that improvements have been properly installed, inspected and

inspection fees paid or that performance bonds or other similar surety have been submitted for uncompleted improvements.

(2) The Clerk shall review the Final Plat and associated material for compliance with all the requirements of 3.8, Township Board Step II Review, Preliminary Plat.

(3) If all submissions are found acceptable, the Clerk shall submit the same to the Township Board at its next regular meeting for approval.

(4) The Board shall approve or reject said Final Plat and associated material and, if approved, shall instruct the Clerk to certify such approval together with the date thereof. When required, the Clerk shall also certify upon the Final Plat the approval and date of Health Department approval on the approved Preliminary Plat.

(5) The Clerk shall thereupon promptly forward all copies of the Final Plat to the Clerk of the County Plat Board together with the twenty dollar ($20.00) filing and recording fee.

(6) When the Final Plat is returned by the State Treasurer with a certification of approval, the Final Plat shall be recorded as a plat of record.

(7) If the Final Plat and associated material are not found acceptable, the Clerk shall so notify the proprietor who shall arrange for correction, modification, or additional guarantees to satisfy the requirements of this Ordinance.

3.10 BUILDINGS AND SALES. Until recorded as a plat of record, a property is unsubdivided. No more than one (l) principle building may be constructed on such parcel, except that where streets and other improvements have been installed in accordance with the Step II approved Preliminary Plat, such streets shall be deemed to have subdivided the plat into blocks; and one principal building may be constructed upon each block so formed. Sale of any lot or portion of said parcel, unless by an entire block, shall not be made until approval of the Final Plat.

(1) Where a proprietor desires to construct additional buildings before improvements are completed and before the Final Plat is approved by the Township, he shall submit proof of Performance Guarantees to the Township Board for approval. Said Performance Guarantees shall cover the entire cost of installing the remaining improvements plus an amount sufficient to pay all inspection costs. The Performance Guarantee shall be in proper form, issued by an approved surety, and have a specific time limit noted.

(2) Regardless of the above stipulations on buildings, the Township Board may restrict building on uncompleted plats if in its opinion premature construction would not be in the best interests of the Township.

(3) The Building Inspector shall not be authorized to issue any Building Permits in an unrecorded plat unless otherwise authorized by the Township Board under these provisions.

3.11 OUTLOTS. Outlots in a recorded plat are prohibited.

3.12 DIVISION OF LOTS IN RECORDED PLATS (Lot Splits). (As amended June 11, 2007)

Pursuant to Michigan Compiled Laws Section 560.263, Section 186 of Act 288, of 1967, as amended, (the "Land Division Act"), every division of a lot in a recorded subdivision shall be subject to the provisions of this ordinance. Every outlot created within a recorded subdivision or plat shall be subject to the provisions of this ordinance.

An owner seeking approval to divide a lot or outlot shall file an application with the township planning commission, which application shall set forth the reasons for the proposed division and shall be accompanied by an illustrative sketch or drawing, showing original and resulting dimensions.

(a) Where the application states that the purpose is to add to adjoining existing building sites, and not to create separate building sites, the planning commission may approve the application when it is satisfied that no separate building sites are created.

(b) Where a separate building site is being created by division of a lot or outlot in a recorded plat, the planning commission may approve the application when it is satisfied that either the suitability of land for safe installation of a septic tank and individual well has been approved by the Cass County Health Department or that the new lots will utilize an existing public sanitary sewer system.

(c) No lot in a recorded plat shall be divided into more than 4 parts and resulting building lots shall not be less in area or lot width than that permitted by the Township Zoning Ordinance. The Planning Commission may approve the application when it is satisfied that the above conditions have been met.

## ARTICLE IV – Subdivision Ordinance

## PLAT DETAILS

4.1 PRELIMINARY PLAT. The Preliminary Plat shall be designed in accordance with the provisions of Articles V, VI and VII, the requirements of the Subdivision Control Act and, where applicable, the requirements of the County Health Department, the Drain Commission, the County Road Commission, the Department of Environmental Quality, the Department of State Highways and Transportation, and the Water Resources Commission. The Preliminary Plat shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include or be accompanied by the following information:

(1) The name of the plat; the name and address of the proprietor; the name, address and seal of the surveyor; and a description of the property to be subdivided.

(2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.

(3) North arrow, scale, contour interval, and legend when appropriate.

(4) Contour elevations adjusted to USGS datum at not more than five (5) foot intervals.

(5) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.

(6) The location of all existing streets, lots, plats, public utilities, drains, streams or bodies of water on/or abutting the property.

(7) The outlines, intended layout, and intended use of the entire property owned or represented by the proprietor. The following shall be included:

(a) Street and stub street right-of-way -- location, width and curve radii.

(b) Proposed street names.

(c) Lot lines, lot line dimensions to the nearest foot, lot and block numbers, and lot areas to the nearest one hundred (100) square feet.

(8) The location and dimensions of all existing or proposed easements or reserve strips, including electrical and telephone easements.

(9) The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.

(10) Statements regarding:

(a) Intent to utilize private or public water and sanitary sewage facilities.

(b) Zoning and lot size requirements.

(c) Zoning requirements for front, side and rear yards.

(d) Size and type of street in accord with Cass County Road Commission standards.

(e) Intent to install gas, sidewalks, street lights, and shade trees.

(f) Use of waterways, rivers, streams, creeks, lakes or ponds.

(11) The location and depth of soil boring tests and/or the location of percolation test holes where public sanitary sewer is not available for use.

(12) Copy of any proposed or required deed restrictions or covenants.

(13) Copies of reviews and approvals and, where necessary, Subdivision Site reports from:

(a) Cass County Road Commission.

(b) Cass County Drain Commission.

(c) Michigan Department of State Highways and Transportation.

(d) Michigan Department of Environmental Quality.

(e) Michigan Water Resources Commission.

(f) Cass County Health Department.

4.2 FINAL PLAT. The Final Plat shall be prepared as required by the Subdivision Control Act, as amended, and submitted to the Township Clerk in accord with Article 3.9.

The Final Plat shall also be accompanied by or show the following additional information:

(1) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Township.

(2) One (1) copy of the final deed restrictions or restrictive covenants.

(3) Deeds to any properties to be dedicated to the Township.

(4) Performance or installation agreements for any improvements not controlled or regulated by other agencies, such as sidewalks, street lights, or shade trees.

(5) One (1) copy of any financing arrangements between the Township and the proprietor for the installation of required improvements.

## ARTICLE V – Subdivision Ordinance

## LOT SIZES

5.1 DENSITY-UTILITY RELATIONSHIPS. To encourage economical and sound extension of utility service, to avoid premature concentrations of population, and for reasons of health and sanitation, the minimum required area of each lot shall increase as the availability of public water service decreases. This Ordinance may impose greater lot sizes than required by the Zoning Ordinance but may not decrease the minimums of the Zoning Ordinance. Lot splits in any zones need only conform to or exceed the minimum requirements of the Zoning Ordinance except when located upon a Major Street wherein the provision of Article VII, General Provisions for all Subdivisions, shall apply.

5.2 ALL SUBDIVISIONS. The minimum lot area and frontage requirements shall be as follows:

(1) Lot areas and widths shall meet or exceed the minimum lot areas and widths specified in the Zoning District in which it is located, except that corner lots shall exceed the minimum lot width by at least ten (10) feet.

## ARTICLE VI

## REQUIRED IMPROVEMENTS IN SUBDIVISIONS

6.1 ALL SUBDIVISIONS. Prior to the granting of Final Plat Approval, the proprietor shall have installed, or have approved plans and agreements for the installation of, the following improvements:

(1) Streets: A paved street of not less than thirty (30) feet in width conforming to Cass County Road Commission Construction Standards. A street designated as a Secondary or Collector street by the Planning Commission shall be constructed to Road Commission standards but shall not be less than thirty (30) feet in width.

(2) Rights-of-Way: All rights-of-way and easements shall be graded across their entire width and length.

(3) Water: A water supply of a size specified by the Township Engineer.

A water system constructed by the proprietor to serve more than one parcel, but not connected to the public system, may be permitted under the following conditions:

(a) Construction requirements shall be the same as for a public system, including individual connections.

(b) The system shall be designed to be connected to the future public system at an easily reached location along its extremity.

(c) Operation and maintenance of the system shall be the responsibility of the proprietor and the property owners.

(d) The system shall be approved and routinely checked by the County Health Department or such other duly appointed agencies.

(4) Sewers and Drainage: Public sanitary sewers or private septic tanks shall be provided for each lot within the subdivision, conforming to the size and specifications of the Township and compatible to the existing system, culverts, catch basins, and storm sewers of a size specified by the Cass County Road Commission and outletting from the subdivision in a method, and to a drainage system, approved by the Cass County Water Resources Manager.

(5) Electric and Telephone Conduits: Underground electrical and telephone conduits together with connection terminals available at each lot.

(6) Street Lights: Street lights of a design and location approved by the Township and the power company.

(7) Gas Service: Where available, gas distribution lines beneath the street prior to the paving and curbing of any street, at locations adequate to serve each lot by connections thereto without the further installation of gas lines beneath such streets.

(8) Sidewalks:

(a) Concrete sidewalks five (5) feet wide and four inches thick are required on both sides of all streets and stub streets without exception including adjacent to all cul-de-sacs.

(b) All sidewalks shall incorporate dub-downs also known as "handicapped sidewalk curb cuts" from the curb to the intersection of the sidewalk.

(c) Permits for construction of sidewalks shall be obtained from the Cass County Road Commission and shall be built to or exceed the requirements of this Ordinance and the standards of the Cass County Road Commission.

(d) All sidewalks shall be constructed by the developer prior to final plat approval. Final plat approval can be given without construction of sidewalks provided not more than three (3) years have elapsed since the Township Board has granted Step II Preliminary Plat approval and provided there is posted by the developer with the township either a cash bond or an irrevocable letter of credit in an amount equal to the total cost of construction of the sidewalks as determined by the township engineer conditioned upon all sidewalks being constructed not later than three (3) years after the Township Board granted Step II Preliminary Plat approval and that the cash bond or irrevocable letter of credit can be used by the township to construct all such sidewalks if the sidewalks are not constructed within said time period and to pay all costs incidental to such construction including but not limited to engineering and attorney fees related thereto. All cash bonds shall be filed with the township clerk and shall be invested by the township treasurer. All interest earned on the cash bond shall be subject to the same terms and conditions and rights as the principal amount of the cash bond. Any funds that remain after using the cash bond to construct the sidewalks and to pay all costs incidental thereto shall be returned to the developer. If the sidewalks are properly constructed prior to the three (3) year time period, the cash bond plus accrued interest earned thereon shall be turned over to the developer, or the letter of credit will be canceled.

(e) After sidewalks have been constructed, the owner of a lot and any person or entity that takes out a building permit for any type of construction on a lot

within the plat shall be responsible for repairing, restoring, or replacing any broken or damaged sidewalks adjacent to the property for which a building permit is issued such that they are in conformance with the standards required for original construction up and until an occupancy permit is issued.

(9) Topsoil: No topsoil shall be removed from the site or used as fill. Topsoil moved during the course of construction shall be redistributed and stabilized by seeding, plantings, or other acceptable erosion control methods.

(10) Monuments: Monuments shall conform to the Subdivision Control Act of 1967, as amended.

(11) Street Signs: Street signs shall be placed at all intersections within or abutting the subdivision. The name, type and location shall be specified or approved by the Cass County Road Commission.

6.2 VARIATIONS IN SUBDIVISIONS. The following provisions may be waived by the Planning Commission upon request of the proprietor during the Preliminary Plat review stage:

(1) Sidewalk provisions may be waived in any subdivision except on Major or Collector streets, unless needed to provide access to schools or to continue a sidewalk on an existing street.

(2) Where an existing metes and bounds parcel is being incorporated into a subdivision, the width, depth and area requirements of this Ordinance may be waived for the specific parcel if the Planning Commission determines it will not have a detrimental effect on the subdivision.

(3) Topsoil provisions may be waived where it is demonstrated there is an excess of topsoil and that such excess will be used as topsoil in another location. In no event shall topsoil be used as fill.

## ARTICLE VII

## GENERAL PROVISIONS FOR ALL SUBDIVISIONS

7.1 MASTER PLAN. All subdivisions shall conform to the provisions and conditions of the Master Plan and Zoning Map for future development of the Township except as may be modified by this Ordinance.

7.2 STREETS. All streets shall conform in direction and alignment with the Master Plan and shall connect with existing streets without jogs or sharp angles. The design and location of streets shall not have the effect of precluding access to undeveloped adjacent property. The following requirements shall be met:

(1) Curves: Curving streets shall have a centerline radius conforming to Cass County Road Commission standards.

(2) Rights-of-Way: Minor and Secondary street rights-of-way shall be at least sixty-six (66) feet in width. Collector street rights-of-way shown on the Master Plan shall be at least eighty-six (86) feet in width or forty-three (43) feet from the centerline. Major street rights-of-way shown on the Master Plan shall be at least one hundred twenty (120) feet in width, or sixty (60) feet from the centerline.

(3) Stub or Outlet Streets: Stub streets or outlets to adjacent undeveloped property are required and shall be fully improved, including drainage and utilities as required for all other streets in the subdivision.

(4) Dead-End Streets: Dead-end streets shall not exceed eight hundred (800) feet in length unless a paved outlet street is provided when required to adjacent property. There shall be a turn-around roadway with a minimum outside right-of-way radius of fifty (50) feet at the closed end, unless the Planning Commission and the Road Commission approve the use of a "T" or "Y" shaped turning area.

(5) Reserve Strips: Reserve strips along Major streets may be required by the Planning Commission to be dedicated to the Township or County to prohibit access upon the major street from a specified lot or lots.

(6) Street Names: All street names shall be subject to the approval of the Township Board and the Road Commission.

(7) Off-sets: Off-setting streets at an intersection are prohibited unless the centerlines thereof are off-set at least one hundred twenty-five (125) feet. Such off-sets shall be subject to Township, County, and Road Commission approval.

(8) Access: Any plat or series of contiguous plats having forty (40) or more lots shall have a minimum of two (2) points of access to a secondary or a major road as designated in the Master Plan, in order to protect the future residents and existing

residents of the Township in the event of an emergency, or in the event of the blockage of an access point and to promote safer traffic flow.

In a plat or a series of contiguous plats containing forty (40) or more lots, the Planning Commission may require more than two (2) points of access to a secondary or a major road as designated in the Master Plan, where needed to protect the health, safety and general welfare of the inhabitants of the Township. In determining whether additional access points are required, the following shall be considered:

(1) The size of the proposed plat, the size of the area within the proposed plat, and the size of the series of adjacent existing, proposed, or potential plats.

(2) The number of lots of the proposed plat, of the area within the proposed plat, and of a series of adjacent existing, proposed, or potential plats.

(3) The number of existing or proposed access points to the proposed plat, to the area within the proposed plat, and to a series of adjacent existing, or potential plats.

(4) The distance of existing access point(s) to the proposed plat, to the area within the proposed plat, and to a series of adjacent existing, proposed, or potential plats.

(5) The number of available potential access points to the proposed plat, to the area within the proposed plat and to a series of adjacent, existing, proposed or potential plats.

(6) The volume of traffic that is placed or may be placed upon any street within a proposed plat or adjacent, existing, proposed, or potential plats.

7.3 LOTS. Every lot shall face upon a dedicated street and shall have at least forty (40) feet of lot width at the right-of-way line. The following requirements shall be met:

(1) Lot Depth: No lot shall be less than one hundred twenty-five (125) feet in depth at any point.

(2) Shape: No lot shall be of such a shape as to require a possible variance from the provisions of the Zoning Ordinance.

(3) Double Frontage: No lot shall be bounded on opposite sides by streets except that on a Major street the Planning Commission may require that abutting lots face upon a Minor street and that a reserve strip be provided to prohibit access upon such major street.

(4) Major Street Frontage: No lot may be platted upon a Major street unless it has a frontage of at least one hundred thirty (130) feet along the major street right-of-way.

(5) Suitability: Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as soil formations, flood conditions, flood plains,

high water table, or similar circumstances, the Planning Commission shall, after adequate investigation, withhold approval of such lots. Such lots shall be combined with other lots in such manner as to prohibit future re-subdivisions.

7.4 BLOCK LENGTHS. Blocks shall generally be between six hundred (600) feet and one thousand (1,000) feet in length. Side streets or outlets or streets to adjoining property may be required at a lesser interval if deemed necessary by the Planning Commission. Twenty (20) foot pedestrian crosswalk easements may be required by the Planning Commission with sidewalks at least five (5) feet in width.

7.5 PUBLIC EASEMENTS. Where a subdivision is traversed by a water course or open drain, there shall be provided a public easement of such width as determined necessary by the County Drain Commission, but in no case less than twenty (20) feet in width. The Planning Commission shall require twenty (20) foot public easements along the lot lines of a block for utility facilities, walkways, access to public land, or similar needs of the community. Easements may be required to be dedicated to the Township or County.

7.6 PUBLIC SITES AND OPEN SPACES. Where a proposed park, playground, school, street or other public use shown in the Master Plan is located in whole or in part in a subdivision, the Planning Commission shall bring the same to the attention of the proprietor and the Township Board so that they may address the question of acquiring such areas by dedication, reservation or payment.

7.7 BUSINESS AND INDUSTRIAL SUBDIVISIONS. Where land is subdivided to be used for business or industrial purposes permitted by the Zoning Ordinance, the services and improvements to be required shall be fixed by the Planning Commission with reference to the use and density of the subdivided area and the type of business or industrial activity to be carried on in the subdivided area in accordance with the provisions of Section 7.1

7.8 PERFORMANCE GUARANTEES. The Township Board may require formal agreements or the posting of a bond or other surety sufficient to guarantee the proper performance of required improvements or materials to meet the provisions and intent of this Ordinance. Where a bond is required, it shall be a corporate surety bond, meeting the approval of the Township.

7.9 LAW. The requirements, procedures, regulations and powers set forth in the Subdivision Control Act of 1967, as amended, shall apply except as provided by this Ordinance.

7.10 INSPECTION AND SPECIFICATIONS. The Township Board may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installations of improvements called for shall be subject to the approval of the Township or its agent, or such other competent person as designated by the Township. All inspection fees shall be paid by the proprietor before the Final Plat is signed by the Township unless adequate sureties or deposits to cover these expenses are given to the Township prior to Final Plat approval.

## ARTICLE VIII – Subdivision Ordinance

## GROUNDS AND PROCEDURE FOR A VARIANCE

8.1 GROUNDS FOR A VARIANCE. If the proprietor can clearly demonstrate that literal enforcement of this Ordinance is impractical or will impose undue hardship in the use of his land because of peculiar conditions pertaining to his land, the Township Board may permit such variances as, in its sound discretion, it believes to be reasonable and within the general purpose and policy of this Ordinance. A financial hardship or gain shall not of itself be sufficient.

In making the findings required below, the Board shall consider the recommendations of the Planning Commission, the location and condition of the proposed subdivision, the nature of the proposed variance as compared with the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivisions and variances on traffic conditions, public health, and safety in the vicinity.

No variance shall be granted unless the Board finds that all of the following conditions exist:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(3) The granting of the variance will not be contrary to State or County regulations or Township Ordinances, detrimental to the public welfare, or injurious to other property in the area in which said property is situated.

8.2 PROCEDURE FOR A VARIANCE. A petition for any such variance shall be submitted in writing by the proprietor at the time when a preplat or the Preliminary Plat is filed for the consideration of the Planning Commission, or thereafter to meet any requirement of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The Planning Commission shall make a recommendation by full majority vote to the Township Board upon any requested variance. Upon recommendation by the Planning Commission that a variance be disapproved, the Township Board may grant such variance upon the concurring vote of three members of the Township Board.

## ARTICLE IX - Subdivision Ordinance

## VALIDITY, ADMINISTRATION AND ENFORCEMENT

9.1 ADMINISTRATION. This Ordinance shall be administered by the Township Board. The rules, regulations and standards imposed by this Ordinance shall be considered to be the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township; and in interpreting and applying them, primary consideration shall be given to these factors.

9.2 VALIDITY. If any article, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

9.3 ENFORCEMENT.

(1) This Ordinance shall be enforced by the Township Board.

(2) Penalty.

(a) Any person who shall sell or agree to sell any lot, piece or parcel of land without first having recorded a plat thereof (as defined in the Subdivision Control Act) when required by this Ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment in the county jail not to exceed one hundred eighty (180) days, or both, for the first offense, and for each subsequent offense, a like fine and imprisonment in the county jail not to exceed one year, or both. The term "agree to sell" shall not include an option to buy extended from the seller for a money consideration to the prospective buyer.

(b) Any person who violates any other provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisonment not more than ninety (90) days, or both such fine and imprisonment in the discretion of the court, together with the costs of prosecution of such offense. Every day such violation is permitted to exist shall constitute a separate offense.

(3) Actions to Restrain or Prevent Violations. The Township Board may bring an action in its own name in the Circuit Court to restrain or prevent any violation of this Ordinance or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

9.4 EFFECTIVE DATE. This Ordinance will be effective 30 days after adoption by the Township Board.

A motion was made by Trustee Durban and supported by Trustee Leist that the Subdivision Ordinance be approved and become effective in 30 days from the date of adoption of November 11, 1996. The effective date is December 11, 1996.

| | |
|---|---|
| Wayne Hardin | yes |
| Helen J. Parsons | yes |
| Patricia Michael | yes |
| Jerry Duck | yes |
| Randolph Szalai | yes |
| Jack Durban | yes |
| Wendell Leist | yes |

I hereby certify that a notice of Ordinance adoption was published in the Edwardsburg Argus of Edwardsburg, Michigan, on the 26th day of December, 1996.

s/Helen Parsons
Ontwa Township Clerk

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 11-96-1, titled, "Subdivision Ordinance for Ontwa Township," Cass County, Michigan, adopted by the Ontwa Township Board on the eleventh day of November, 1996.

s/Helen J. Parsons
Ontwa Township Clerk

Ordinance No.11-96-2

# SITE CONDOMINIUM ORDINANCE

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 11, 1996***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

## SITE CONDOMINIUM SUBDIVISION ORDINANCE

Ontwa Township, Cass County, Michigan, does ordain as follows:

## ARTICLE I

## TITLE AND PURPOSE

1.1 SHORT TITLE. This Ordinance shall be known as the "Site Condominium Subdivision Ordinance" of the Township of Ontwa.

1.2 INTERPRETATION. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, convenience and general welfare. It shall be administered to insure orderly growth and development, to protect and conserve land and natural features, and adequately provide for streets, utilities and other land improvements in the Township.

1.3 PURPOSE. The purpose of this Ordinance is to insure that plans for developments within Ontwa Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, shall be reviewed with the objective and intent of achieving the same characteristics and land use result as if the development and improvements therein were being proposed pursuant to the Subdivision Control. Act, Act 288, of the Public Acts of 1967 as amended, including, without limitation, conformance with all requirements of the Ontwa Township Zoning Ordinance, as amended. Nothing in this Ordinance shall be construed as requiring a Site Con dominium Subdivision to obtain plat approval under the Ontwa Township Subdivision Ordinance. This Ordinance is adopted to also accomplish the following:

(1) To carry out the purpose and intent of the Condominium Act, Act 59 of the Public Acts of 1978, as amended.

(2) To further the orderly layout and development of the Township.

(3) To provide for and regulate the economical provision or extension of utility services, streets and other necessary land improvements.

(4) To require that land be suitable and suitably improved for building sites.

(5) To provide for adequate drainage.

(6) To prevent the premature development of land; to provide for proper ingress and egress to lots.

(7) To promote proper surveying, monuments and legal descriptions.

(8) To provide for safe and convenient traffic circulation and traffic movement.

(9) To insure against the creation of unsafe or undesirable conditions.

(10) To conserve the value of property.

(11) To regulate the density of development in relation to utility services for the protection of the public health.

(12) To conserve energy and natural features.

(13) To carry out the purpose and intent of the Township Master Plan and Zoning Ordinance.

(14) To establish rules and procedures for the process of subdivision under said act.

(15) To provide for the adoption of improvement standards.

(16) To provide penalties for the violation of this Ordinance.

(17) To provide for the variation of these rules and requirements.

## ARTICLE II – Site Condominium Ordinance

## DEFINITIONS

2.1 DEFINITIONS. For the purposes of this Ordinance, terms shall be defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of this Ordinance, the Subdivision Ordinance, the Zoning Ordinance, other OntwaTownship development regulations and the Condominium Act.

(1) Board: The Ontwa Township Board.

(2) Clerk: The clerk of the Township.

(3) Commission: The Ontwa Township Planning Commission.

(4) Condominium Structure or Building or Building Envelop: The principle building or structure intended for or constructed upon a lot or condominium unit, together with any attached accessory structures, e.g., in a residential development, the condominium structure or building envelop would refer to the house and any accessory buildings.

(5) Condominium Unit: That portion of the condominium project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as a time-share unit, or any other type of use.

(6) Lot(s): That portion(s) of a condominium project designed and intended for separate ownership interest and/or exclusive use, as described in the Master Deed, which contains no less than the minimum square footage and road frontage as indicated in the Ontwa Township Zoning Ordinance.

(7) Master Deed: The legal document prepared and recorded pursuant to Act 59 of the Public Acts of 1978, as amended, within which are, or to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

(6) Proprietor: A natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land whether recorded or not.

(7) Site Condominium Project: A condominium project developed under Public Act 59 of 1978, as amended, comprising of more than two (2) condominium units which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.

(8) Street:

(a) Collector Street: A street designated as such on the Transportation Plan of the Master Plan, as amended, intended to serve high volume traffic movements within the Township.

(b) Major Street: A street designated as such in Master Plan, as amended, intended to serve high volume traffic movements across the Township.

(c) Minor Street: A local street intended primarily to serve adjacent neighborhood properties.

(d) Secondary Street: A street designated by the Planning Commission to serve moderate volume traffic within a subdivision.

(9) Setback - Front, Side, and Rear Yard: Front, side and rear yard setbacks shall mean the distance measured from the respective front, side and rear yard lines associated with the "condominium structure" or "building envelop" to the respective front, side and rear of the lot.

(10) Township: Ontwa Township, Cass County, Michigan.

## ARTICLE III – Site Condominium Ordinance

## PROCEDURES

3.1 APPROVALS. The following procedure must be completed in order for a site condominium to receive approval by the Township:

(1) Preliminary Site Condominium approval by the Planning Commission.

(2) Preliminary Site Condominium approval by the Township Board - Step I.

(3) Preliminary Site Condominium approval by the Township Board - Step II.

(4) Final Site Condominium approval by the Township Board.

Although not required, a proprietor is encouraged to undertake pre Site Condominium discussions with the Planning Commission.

3.2 PRE SITE CONDOMINIUM DISCUSSION. Prior to the preparation of a preliminary Site Condominium, there should take place a pre Site Condominium discussion meeting between the proprietor and the Planning Commission. The purpose of this meeting is to inform the Planning Commission of a proprietor's intent to initiate a Site Condominium. On or before this meeting, the proprietor should submit the following to the Commission:

(1) Several copies of a sketch, to scale, indicating the general location and configuration of the property to be divided; the alignment of streets and lots; and the relationship of the proposed site condominium to adjacent streets and neighboring properties.

(2) A statement indicating how sanitary sewer service and water service will be provided.

During the pre site condominium discussion meeting, it shall be the responsibility of the Planning Commission, insofar as information is available to it, to inform the proprietor about the following:

(a) General requirements of this Ordinance and the Zoning Ordinance.

(b) Planned or anticipated sites of parks and recreation areas and other public uses.

(c) Utility system capabilities, if applicable.

(d) Planned or anticipated public improvements, including streets, utility extensions and the like.

(e) Major street plans and potential problems relative to the natural features of the area including, but not limited to, flood plains, soil conditions, topography, and ground water tables.

(f) Additional information which will assist the proprietor in proceeding in a reasonable and sound manner toward Final Site Condominium approval.

Pre site condominium discussions are intended for information purposes only and do not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any subsequent preliminary site condominium. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.

3.3 PRELIMINARY SITE CONDOMINIUM PLANS. The Preliminary Site Condominium plan approval procedure is intended to assure the Township that the proprietor is proceeding toward a Final Plan which will conform to all applicable regulations and be acceptable to the Township and other approving agencies. Approval of the Site Condominium Preliminary Plan by the Township shall not relieve the proprietor from obtaining the necessary approvals from other agencies having jurisdiction over other aspects of the site condominium plan.

3.4 SUBMISSION OF PRELIMINARY SITE CONDOMINIUM PLANS.

(1) Site Condominium Preliminary Plans shall be submitted to the Zoning Administrator at least thirty (30) days prior to the next regular meeting of the Planning Commission. The following procedure shall be followed:

(a) Submit fifteen (15) copies of the Site Condominium Preliminary Plan to the Township Clerk.

(b) Submit to the Township Clerk a filing fee as determined by the Township Board.

(c) The Township Clerk shall retain one (l) copy of the Site Condominium Preliminary Plan and, within seven (7) days from submission, forward one (1) copy to the Supervisor, one (l) copy to the Township Planner, one (l) copy to the Township Engineer, and eleven(11) copies to the Secretary of the Planning Commission.

(2) In order to accomplish the necessary review, the proprietor or his agent is encouraged to be present at all meetings of the Planning Commission and the Township Board at which the Site Condominium Preliminary Plan will be reviewed. The plan shall be reviewed by the Supervisor, Planner and Engineer shall report to the Planning Commission on any suggestions or recommend changes.

3.5 PLANNING COMMISSION REVIEW. The Planning Commission shall review the Site Condominium Preliminary Plan and the comments of the Supervisor, Planner and Engineer. Particular attention shall be given to the requirements of Article IV of this Ordinance. If the Site Condominium Preliminary Plan meets the requirements of this Ordinance, the Planning Commission shall give it Preliminary Approval. The Secretary of the Planning Commission shall forward one (l) copy of the Site Condominium Preliminary Plan along with a notation indicating Preliminary Approval and any recommendations to the Township Board for Step I approval.

If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:

(1) Deny Site Condominium Preliminary Plan approval and setting forth its reasons in writing; or

(2) Grant Preliminary Approval contingent upon completion of the revisions as noted.

The Secretary of the Planning Commission shall forward one (l) copy of the Site Condominium Preliminary Plan along with the Planning Commission's recommendations to the applicant and one (l) copy to the Township Board.

3.6 TOWNSHIP BOARD STEP I REVIEW, SITE CONDOMINIUM PRELIMINARY PLAN. After receipt of the Site Condominium Preliminary Plan and recommendations from the Planning Commission, the Township Board shall consider the Site Condominium Preliminary Plan at its next meeting or within 20 days from the date of receipt from the Planning Commission.

(1) The Township Board shall consider the Site Condominium Preliminary Plan along with the recommendations of the Planning Commission, Supervisor, Planner and Engineer. If the plan meets the Site Condominium Preliminary Plan requirements of this Ordinance, the Board shall grant Step I Site Condominium Preliminary Plan approval. The Township Clerk shall sign the plan with the notation that it has received Step I approval and the proprietor shall be so notified. Step I approval shall give the proprietor the following rights for a one (l) year period from the date of approval:

(a) That the general terms and conditions under which Step I approval was granted will not be changed by the Township.

(b) That the lot sizes, lot orientation, and street layout have been approved.

(c) That Step I approval may be extended if applied for by the proprietor prior to the one (l) year expiration date and granted by the Township Board in writing.

(2) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Township Board may grant conditional approval of Step I, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step I. Upon the

submission of such changes, revisions or additional material, the Site Condominium Preliminary Plan shall be granted unconditional Step I approval and the proprietor shall be so notified.

(3) If the Site Condominium Preliminary Plan does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step I approval and so notify the proprietor along with the reasons therefore.

3.7 TOWNSHIP BOARD STEP II REVIEW, SITE CONDOMINIUM PRELIMINARY PLAN. After the Township Board has granted Step I approval, the proprietor shall submit two (2) copies of the Site Condominium Preliminary Plan to the Township Board for Step II review. The proprietor shall also submit the following:

(a) A list of all reviewing authorities certifying that the list shows all authorities as follows:

County Road Commission
County Drain Commission
Michigan Department of Transportation
Michigan Department of Environmental Quality
Michigan Water Resources Commission
County Health Department
Others as deemed appropriate by the Township Board

(b) A copy of each review or site report by the above noted authorities after their approval has been secured.

(c) A draft copy of the Master Deed.

(1) The Township Board shall consider the Site Condominium Preliminary Plat and the above noted material and, if found to be in compliance with the terms of this Ordinance, shall grant Step II approval. Step II approval shall give the proprietor the following rights for a period of two (2) years from the date of approval:

(a) That the general terms and conditions under which Step II approval was granted will not be changed and the proprietor may proceed with the installation of required improvements.

(b) That the proprietor may submit all or parts of the Step II approved Site Condominium Preliminary Plan as a Site Condominium Final Plan in accordance with the Condominium Act, as amended, and this Ordinance.

The two (2) year period may be extended if applied for by the proprietor and grant by the Township in writing. Written notice of the extension shall be sent by the Township Clerk to the other approving authorities.

(2) If the Site Condominium Preliminary Plan substantially meets the requirements of this Ordinance, the Township Board may grant tentative approval of Step II, such approval being conditioned upon the submission of such changes, revisions or additional material as is determined to be necessary to complete Step II. Upon the submission of such changes, revisions, or additional material, the Site Condominium Preliminary Plan shall be granted unconditional Step II approval and the proprietor shall be so notified. The Township Board may, at its discretion, delegate final Step II review authority to the Township Planner and/or Engineer who shall be responsible for insuring that the conditions established for Step II approval have, in fact, been met. Once the Step II conditions have been met, the Township Board, shall grant final Step II approval. Final Step II Site Condominium Preliminary Plan approval shall also be noted on the copy of the Site Condominium Preliminary Plan to be returned to the proprietor.

(3) If the Site Condominium Preliminary Plan does not substantially meet the requirements of this Ordinance, the Township Board shall deny Step II approval and so notify the proprietor along with the reasons therefore.

(4) Installation of all plat improvements authorized by Step II approval shall be in accord with the requirement of the appropriate agency or utility having jurisdiction. The following have jurisdiction in Ontwa Township:

Cass County Road Commission - streets, sidewalks, storm sewers
Cass County Drain Commission - drains and drainage
Cass County Department of Public Works - sanitary sewer and water main
Fruit Belt Electric Corp. and American Electric Power - electrical and street lights
General Telephone Company - telephone
Michigan Gas Company - gas

3.8 SITE CONDOMINIUM FINAL PLAN APPROVAL. The proprietor shall prepare and submit with the Township Clerk a Site Condominium Final Plan containing the Master Deed as required by State law plus any additional documentation to be recorded with the Register of Deeds as approved by the Township Board as part of the Preliminary Plan.

(1) One (1) copy of as-built plans of all completed improvements shall also be included with this submission.

(2) THE Clerk shall submit the same to the Township Board at its next regular meeting for approval after review by the Township Engineer.

(3) The Board shall approve or reject said Site Condominium Final Plan and associated material.

(4) All provisions of the Site Condominium Final Plan which are approved by the Township Board must be incorporated, as approved, in he Master Deed for the condominium project. A copy of the Master Deed as filed with Cass County

Register of Deeds for recording must be provided to the Township Clerk within ten (10) day after filing with the County.

(5) Any proposed amendment of a Master Deed which would have any direct or indirect effect upon a matter reviewed or approved under this Ordinance shall be reviewed and approved by the Township Board prior to recordation, and subsequently filed with the Clerk.

## ARTICLE IV – Site Condominium Ordinance

## PLAN DETAILS

4.1 PRELIMINARY PLAN. The Preliminary Plan shall be designed in accordance with the provisions of Articles V, VI and VII, the requirements of the County Health Department, the Drain Commission, the County Road Commission, the Department of Environmental Quality, the Department of State Highways and Transportation, and the Water Resources Commission. The Preliminary Plan shall be drawn at a scale of not more than one hundred (100) feet to the inch and shall include or be accompanied by the following information:

(1) The name of the plan; the name and address of the proprietor; the name, address and seal of the surveyor; and a description of the property to be included.

(2) A key map showing the location and position of the property and its relationship to surrounding streets and the surrounding area including existing zoning of abutting areas.

(3) North arrow, scale, contour interval, and legend when appropriate.

(4) Contour elevations adjusted to USGS datum at not more than five (5) foot intervals.

(5) Where appropriate, established flood plain contours and elevations adjusted to USGS datum.

(6) The location of all existing streets, lots, plats, site condominium projects, public utilities, drains, streams or bodies of water on/or abutting the property.

(7) The outlines, intended layout, and intended use of the entire property owned or represented by the proprietor. The following shall be included:

(a) Street and stub street right-of-way – location, width and curve radii.

(b) Proposed street names.

(c) Lot lines, lot line dimensions to the nearest foot, lot and block numbers, and lot areas to the nearest one hundred (100) square feet.

(8) The location and dimensions of all existing or proposed easements or reserve strips, including electrical and telephone easements.

(9) The locations and tentative sizes of proposed sanitary sewers, storm sewers and catch basins, water mains, culverts, bridges, ponding areas, ponds, lagoons, slips, waterways, lakes, bays, and canals.

(10) Statements regarding:

(a) Intent to utilize private or public water and sanitary sewage facilities.

(b) Zoning and lot size requirements.

(c) Zoning requirements for front, side and rear yards.

(d) Size and type of street in accord with Cass County Road Commission standards.

(e) Intent to install gas, sidewalks, street lights, and shade trees.

(f) Use of waterways, rivers, streams, creeks, lakes or ponds.

(11) Copy of the proposed Master Deed.

4.2 FINAL PLAN. The Final Plan shall be prepared and submitted to the Township Clerk in accord with Article 3.9.

The Final Plan shall also be accompanied by or show the following additional information:

(1) One (1) set of approved as-built or final construction plans for all required improvements to be kept on file by the Township.

(2) One (1) copy of the final Master Deed.

(3) Deeds to any properties to be dedicated to the Township.

(4) Performance or installation agreements for any improvements not controlled or regulated by other agencies, such as sidewalks, street lights, or shade trees.

(5) One (1) copy of any financing arrangements between the Township and the proprietor for the installation of required improvements.

## ARTICLE V – Site Condominium Ordinance

## LOT SIZES

5.1 DENSITY-UTILITY RELATIONSHIPS. To encourage economical and sound extension of utility service when available, to avoid premature concentrations of population, and for reasons of health and sanitation, the minimum required area of each lot shall increase as the availability of public water service decreases. This Ordinance may impose greater lot sizes than required by the Zoning Ordinance but may not decrease the minimums of the Zoning Ordinance. Lot splits in any zones need only conform to or exceed the minimum requirements of the Zoning Ordinance except when located upon a Major Street wherein the provision of Article VII, General Provisions for all Site Condominiums shall apply.

5.2 SITE CONDOMINIUM PROJECTS. The minimum lot area and frontage requirements shall be as follows:

(1) Lot areas and widths shall meet or exceed the minimum lot areas and widths specified in the Zoning District in which it is located, except that corner lots shall exceed the minimum lot width by at least ten (10) feet.

## ARTICLE VI – Site Condominium Ordinance

## REQUIRED IMPROVEMENTS IN SITE CONDOMINIUM PROJECTS

6.1 SITE CONDOMINIUM PROJECTS. Prior to the granting of Final Plan Approval for a Site Condominium Project, the proprietor shall have installed, or have approved plans and agreements for the installation of, the following improvements:

(1) Streets: A paved street of not less than thirty (30) feet in width conforming to Cass County Road Commission Construction Standards. A street designated as a Secondary or Collector street by the Planning Commission shall be constructed to Road Commission standards but shall not be less than thirty (30) feet in width.

(2) Rights-of-Way: All rights-of-way and easements shall be graded across their entire width and length.

(3) Water: A water supply of a size specified by the Township Engineer.

A water system constructed by the proprietor to serve more than one parcel, but not connected to the public system, may be permitted under the following conditions:

(a) Construction requirements shall be the same as for a public system, including individual connections.

(b) The system shall be designed to be connected to the future public system at an easily reached location along its extremity.

(c) Operation and maintenance of the system shall be the responsibility of the proprietor and the property owners.

(d) The system shall be approved and routinely checked by the County Health Department or such other duly appointed agencies.

(4) Sewers and Drainage: Sewers and Drainage: Public sanitary sewers or private septic tanks shall be provided for each lot within the site condo, conforming to the size and specifications of the Township and compatible to the existing system, culverts, catch basins, and storm sewers of a size specified by the Cass County Road Commission and outletting from the subdivision in a method, and to a drainage system, approved by the Cass County Water Resources Manager.

(5) Electric and Telephone Conduits: Underground electrical and telephone conduits together with connection terminals available at each lot.

(6) Street Lights: Street lights of a design and location approved by the Township and the electric company.

(7) Gas Service: Where available, gas distribution lines beneath the street prior to the paving and curbing of any street, at locations adequate to serve each lot by connections thereto without the further installation of gas lines beneath such streets.

(8) Sidewalks:

(a) Concrete sidewalks five (5) feet wide and four inches thick are required on both sides of all streets and stub streets without exception including adjacent to all cul-de-sacs.

(b) All sidewalks shall incorporate dub-downs also known as "handicapped sidewalk curb cuts" from the curb to the intersection of the sidewalk.

(c) Permits for construction of sidewalks shall be obtained from the Cass County Road Commission and shall be built to or exceed the requirements of this Ordinance and the standards of the Cass County Road Commission.

(d) All sidewalks shall be constructed by the developer prior to final plan approval. Final plan approval can be given without construction of sidewalks provided not more than three (3) years have elapsed since the Township Board has granted Step II Preliminary Plan approval and provided there is posted by the developer with the township either a cash bond or an irrevocable letter of credit in an amount equal to the total cost of construction of the sidewalks as determined by the township engineer conditioned upon all sidewalks being constructed not later than three (3) years after the Township Board granted Step II Preliminary Plan approval and that the cash bond or irrevocable letter of credit can be used by the township to construct all such sidewalks if the sidewalks are not constructed within said time period and to pay all costs incidental to such construction including but not limited to engineering and attorney fees related thereto. All cash bonds shall be filed with the township clerk and shall be invested by the township treasurer. All interest earned on the cash bond shall be subject to the same terms and conditions and rights as the principal amount of the cash bond. Any funds that remain after using the cash bond to construct the sidewalks and to pay all costs incidental thereto shall be returned to the developer. If the sidewalks are properly constructed prior to the three (3) year time period, the cash bond plus accrued interest earned thereon shall be turned over to the developer, or the letter of credit will be canceled.

(e) After sidewalks have been constructed, the owner of a lot and any person or entity that takes out a building permit for any type of construction on a lot

within the plat shall be responsible for repairing, restoring, or replacing any broken or damaged sidewalks adjacent to the property for which a building permit is issued such that they are in conformance with the standards required for original construction up and until an occupancy permit is issued.

(9) Topsoil: No topsoil shall be removed from the site or used as fill. Topsoil moved during the course of construction shall be redistributed and stabilized by seeding, plantings, or other acceptable erosion control methods.

(10) Monuments Required:

All Condominium projects which consist in whole or in part of condominium units which are building sites, manufactured home sites, or recreational sites shall be marked with minimums as provided in this subsection.

(a) Monuments shall be located in the ground and make according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium project if the angle points can be readily re-established by reference to minimums along the sidelines of the streets.

(b) All monuments used shall be made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty-six inches long and completely encased in concrete at least four (4) inches in diameter.

(c) Monuments shall be located in the ground at all angles in the boundaries of the condominium project; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the condominium project; at all points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets: at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.

(d) If the required location of a monument is an inaccessible place, or where the locating of a minimums would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.

(e) All required monuments shall be placed flush with the ground where practical.

(f) All lot corners shall be monument in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter, or other approved markers.

(g) The Township Board may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash or certified check, or irrevocable bank letter of credit running to the Township of Huron, whichever the proprietor selects, in an amount not less than one hundred dollars ($100) and the total amount shall be figured at the rate of twenty-five dollars ($25) per monument. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

(11) Street Signs: Street signs shall be placed at all intersections within or abutting the site condominium. The name, type and location shall be specified or approved by the Cass County Road Commission.

## ARTICLE VII – Site Condominium Ordinance

## GENERAL PROVISIONS FOR ALL SITE CONDOMINIUMS

7.1 MASTER PLAN. All site condominium projects shall conform to the provisions and conditions of the Master Plan and Zoning Map for future development of the Township except as may be modified by this Ordinance.

7.2 STREETS. All streets shall conform in direction and alignment with the Master Plan and shall connect with existing streets without jogs or sharp angles. The design and location of streets shall not have the effect of precluding access to undeveloped adjacent property. The following requirements shall be met:

(1) Curves: Curving streets shall have a centerline radius conforming to Cass County Road Commission standards.

(2) Rights-of-Way: Minor and Secondary street rights-of-way shall be at least sixty-six (66) feet in width. Collector street rights-of-way shown on the Master Plan shall be at least eighty-six (86) feet in width or forty-three (43) feet from the centerline. Major street rights-of-way shown on the Master Plan shall be at least one hundred twenty (120) feet in width, or sixty (60) feet from the centerline.

(3) Stub or Outlet Streets: Stub streets or outlets to adjacent undeveloped property are required and shall be fully improved, including drainage and utilities as required for all other streets in the site condominium project.

(4) Dead-End Streets: Dead-end streets shall not exceed eight hundred (800) feet in length unless a paved outlet street is provided when required to adjacent property. There shall be a turn-around roadway with a minimum outside right-of-way radius of fifty (50) feet at the closed end, unless the Planning Commission and the Road Commission approve the use of a "T" or "Y" shaped turning area.

(5) Reserve Strips: Reserve strips along Major streets may be required by the Planning Commission to be dedicated to the Township or County to prohibit access upon the major street from a specified lot or lots.

(6) Street Names: All street names shall be subject to the approval of the Township Board and the Road Commission.

(7) Off-sets: Off-setting streets at an intersection are prohibited unless the centerlines thereof are off-set at least one hundred twenty-five (125) feet. Such off-sets shall be subject to Township, County, and Road Commission approval.

(8) Access: Any site condominium project or series of contiguous plans having forty (40) or more lots shall have a minimum of two (2) points of access to a secondary or

a major road as designated in the Master Plan, in order to protect the future residents and existing residents of the Township in the event of an emergency, or in the event of the blockage of an access point and to promote safer traffic flow.

In a site condominium project or a series of contiguous projects or plats containing forty (40) or more lots, the Planning Commission may require more than two (2) points of access to a secondary or a major road as designated in the Master Plan, where needed to protect the health, safety and general welfare of the inhabitants of the Township. In determining whether additional access points are required, the following shall be considered:

(1) The size of the proposed site condominium project, the size of the area within the proposed plan, and the size of the series of adjacent existing, proposed, or potential plans.

(2) The number of lots of the proposed site condominium project, of the area within the proposed plan, and of a series of adjacent existing, proposed, or potential plans.

(3) The number of existing or proposed access points to the proposed plan, to the area within the proposed site condominium project, and to a series of adjacent existing, or potential plans.

(4) The distance of existing access point(s) to the proposed site condominium project, to the area within the proposed plan, and to a series of adjacent existing, proposed, or potential plans.

(5) The number of available potential access points to the proposed site condominium projects to the area within the proposed plan and to a series of adjacent, existing, proposed or potential plans.

(6) The volume of traffic that is placed or may be placed upon any street within a proposed site condominium project or adjacent, existing, proposed, or potential plans.

7.3 LOTS. Every lot shall face upon a dedicated street and shall have at least forty (40) feet of lot width at the right-of-way line. The following requirements shall be met:

(1) Lot Depth: No lot shall be less than one hundred twenty-five (125) feet in depth at any point.

(2) Shape: No lot shall be of such a shape as to require a possible variance from the provisions of the Zoning Ordinance.

(3) Double Frontage: No lot shall be bounded on opposite sides by streets except that on a Major street the Planning Commission may require that abutting lots face upon a Minor street and that a reserve strip be provided to prohibit access upon such major street.

(4) Major Street Frontage: No lot may be platted upon a Major street unless it has a frontage of at least one hundred thirty (130) feet along the major street right-of-way.

(5) Suitability: Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as soil formations, flood conditions, flood plains, high water table, or similar circumstances, the Planning Commission shall, after adequate investigation, withhold approval of such lots. Such lots shall be combined with other lots in such manner as to prohibit future site condominium projects.

7.4 BLOCK LENGTHS. Blocks shall generally be between six hundred (600) feet and one thousand (1,000) feet in length. Side streets or outlets or streets to adjoining property may be required at a lesser interval if deemed necessary by the Planning Commission. Twenty (20) foot pedestrian crosswalk easements may be required by the Planning Commission with sidewalks at least five (5) feet in width.

7.5 PUBLIC EASEMENTS. Where a site condominium project is traversed by a water course or open drain, there shall be provided a public easement of such width as determined necessary by the County Drain Commission, but in no case less than twenty (20) feet in width. The Planning Commission shall require twenty (20) foot public easements along the lot lines of a block for utility facilities, walkways, access to public land, or similar needs of the community. Easements may be required to be dedicated to the Township or County.

7.6 PUBLIC SITES AND OPEN SPACES. Where a proposed park, playground, school, street or other public use shown in the Master Plan is located in whole or in part in a site condominium project, the Planning Commission shall bring the same to the attention of the proprietor and the Township Board so that they may address the question of acquiring such areas by dedication, reservation or payment.

7.7 BUSINESS AND INDUSTRIAL SITE CONDOMINIUM PROJECTS. Where land is to be used for business or industrial purposes permitted by the Zoning Ordinance, the services and improvements to be required shall be fixed by the Planning Commission with reference to the use and density of the site condominium area and the type of business or industrial activity to be carried on in the plan area in accordance with the provisions of Section 7.1

7.8 PERFORMANCE GUARANTEES. The Township Board may require formal agreements or the posting of a bond or other surety sufficient to guarantee the proper performance of required improvements or materials to meet the provisions and intent of this Ordinance. Where a bond is required, it shall be a corporate surety bond, meeting the approval of the Township.

7.9 LAW. The requirements, procedures, regulations and powers set forth in the Condominium Act of 1978, as amended, shall apply except as provided by this Ordinance.

7.10 INSPECTION AND SPECIFICATIONS. The Township Board may establish inspection fees, inspection requirements, specification standards, and administrative procedures as provided by law and such shall be deemed to be requirements of this Ordinance. All plans and installations

of improvements called for shall be subject to the approval of the Township or its agent, or such other competent person as designated by the Township. All inspection fees shall be paid by the proprietor before the Final Plan is signed by the Township unless adequate sureties or deposits to cover these expenses are given to the Township prior to Final Plan approval.

## ARTICLE VIII – Site Condominium Ordinance

## GROUNDS AND PROCEDURE FOR A VARIANCE

8.1 GROUNDS FOR A VARIANCE. If the proprietor can clearly demonstrate that literal enforcement of this Ordinance is impractical or will impose undue hardship in the use of his land because of peculiar conditions pertaining to his land, the Township Board may permit such variances as, in its sound discretion, it believes to be reasonable and within the general purpose and policy of this Ordinance. A financial hardship or gain shall not of itself be sufficient.

In making the findings required below, the Board shall consider the recommendations of the Planning Commission, the location and condition of the proposed site condominium project, the nature of the proposed variance as compared with the existing use of land in the vicinity, the number of persons to reside or work in the proposed site condominium project, and the probable effect of the proposed site condominium project and variances on traffic conditions, public health, and safety in the vicinity.

No variance shall be granted unless the Board finds that all of the following conditions exist:

(1) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of the land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(3) The granting of the variance will not be contrary to State or County regulations or Township Ordinances, detrimental to the public welfare, or injurious to other property in the area in which said property is situated.

8.2 PROCEDURE FOR A VARIANCE. A petition for any such variance shall be submitted in writing by the proprietor at the time when a preplat or the Preliminary Site Condominium Plan is filed for the consideration of the Planning Commission, or thereafter to meet any requirement of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The Planning Commission shall make a recommendation by full majority vote to the Township Board upon any requested variance. Upon recommendation by the Planning Commission that a variance be disapproved, the Township Board may grant such variance upon the concurring vote of three members of the Township Board.

## ARTICLE IX – Site Condominium Ordinance

## VALIDITY, ADMINISTRATION AND ENFORCEMENT

9.1 ADMINISTRATION. This Ordinance shall be administered by the Township Board. The rules, regulations and standards imposed by this Ordinance shall be considered to be the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Township; and in interpreting and applying them, primary consideration shall be given to these factors.

9.2 VALIDITY. If any article, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

9.3 ENFORCEMENT.

(1) This Ordinance shall be enforced by the Township Board.

(2) Penalty.

(a) Any person who shall sell or agree to sell any lot, piece or parcel of land without first having filed a proper document thereof when required by this Ordinance, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars ($500.00) or imprisonment in the county jail not to exceed one hundred eighty (180) days, or both, for the first offense, and for each subsequent offense, a like fine and imprisonment in the county jail not to exceed one year, or both. The term "agree to sell" shall not include an option to buy extended from the seller for a money consideration to the prospective buyer.

(b) Any person who violates any other provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisonment not more than ninety (90) days, or both such fine and imprisonment in the discretion of the court, together with the costs of prosecution of such offense. Every day such violation is permitted to exist shall constitute a separate offense.

(3) Actions to Restrain or Prevent Violations. The Township Board may bring an action in its own name in the Circuit Court to restrain or prevent any violation of this Ordinance or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

9.4 EFFECTIVE DATE. This ordinance shall become effective upon adoption by the Township Board.

A motion was made by Trustee Durban and supported by Treasurer Michael that the Site Condominium Ordinance be approved and become effective in 30 days from the date of adoption of November 11, 1996. The effective date is December 11, 1996.

| | |
|---|---|
| Wayne Hardin | yes |
| Helen J. Parsons | yes |
| Patricia Michael | yes |
| Jerry Duck | yes |
| Randolph Szalai | yes |
| Jack Durban | yes |
| Wendell Leist | yes |

I hereby certify that a notice of Ordinance adoption was published in the Edwardsburg Argus of Edwardsburg, Michigan, on the 26th day of December, 1996.

s/Helen Parsons
Ontwa Township Clerk

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 11-96-2, titled, "Site Condominium Ordinance for Ontwa Township," Cass County, Michigan, adopted by the Ontwa Township Board on the eleventh day of November, 1996.

s/Helen J. Parsons
Ontwa Township Clerk

# ORDINANCE NO. 10-97

# LAND DIVISION ORDINANCE

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

*October 13, 1997*

*Prepared by*

ONTWA TOWNSHIP PLANNING COMMISSION

*Assisted by*

WILLIAMS & WORKS

# LAND DIVISION ORDINANCE

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant, but not limited, to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance Statue to provide a procedure therefor; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

The Township of Ontwa, Cass County, Michigan ordains:

1.1 TITLE - This Ordinance shall be known and cited as the Ontwa Township Land Division Ordinance.

1.2 PURPOSE - The purpose of this Ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

1.3 DEFINITIONS - For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

(1) "Applicant" - a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

(2) "Development site" - any parcel or lot on which exists or which is intended for building development other than the following:

(a) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains; feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.

(b) Forestry Use involving the planting, management, or harvesting of timber.

(3) "Divided" or "Division" – the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than

one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

(4) "Exempt split" or exempt division" – the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.

(5) "Forty acres or the equivalent" – either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

(6) "Parcel" - a continuous area or acreage of land which can be described as provided for in the Land Division Act.

(7) "Parent parcel" or "parent tract" - a parcel or tract, respectively, lawfully in existence on March 31, 1997.

(8) "Planning Commission" - the Planning Commission of Ontwa Township.

(9) "Tract" - two or more parcels that share a common property line and are under the same ownership.

(10) "Township Board" – the Township Board of Ontwa Township.

1.4 PRIOR APPROVAL REQUIREMENT FOR LAND DIVISIONS - Land in the Township shall not be divided without the prior review and approval of the Ontwa Township Assessor, with recommendation by the Planning Commission, in accordance with this Ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

(1) A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.

(2) A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.

(3) An exempt split as defined in this Ordinance.

1.5 APPLICATION FOR LAND DIVISION APPROVAL - An applicant shall file all of the following with the Ontwa Township Assessor for review and approval of a proposed land division

before making any division either by deed, land contract, lease for more than one year, or for building development:

(1) A completed application on such form as may be provided by the Township.

(2) Proof of fee ownership of the land proposed to be divided.

(3) A tentative parcel map drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for vehicular traffic and public utilities.

(4) Proof that all standards of the State Land Division Act and this Ordinance have been met.

(5) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability for the proposed division rights transfer.

(6) The fee as may from time to time be established by resolution of the Township Broad for land division pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

1.6 PROCEDURE FOR REVIEW OF APPLICATIONS FOR LAND DIVISION APPROVAL

(1) The Township Assessor, with recommendation of the Planning Commission, shall approve or disapprove the land division applied for within 45 days after receipt of the application package conforming to the requirements of this Ordinance and the State Land Division Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for the denial.

(2) Any person or entity aggrieved by the decision of the Assessor or designee may, within 30 days of said decision, appeal the decision to the Township Board which shall consider and resolve such appeal by a majority vote of said Board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

(3) The Township Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.

(4) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.

(5) The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently

denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

1.7 STANDARDS FOR APPROVAL OF LAND DIVISIONS - A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division(s) shall fully comply with the applicable lot (parcel), yard and area requirements of the Township Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, and minimum lot (parcel) area.

(2) The proposed land division(s) shall comply with all requirements of the State Land Division Act and this Ordinance.

(3) The ratio of depth to width of any parcel created by the division shall not exceed four to one exclusive of access roads, easements, or non-buildable parcels created under Section 1.8 of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The permissible depth of a parcel created by a land division shall be the distance between the front and rear lot lines, measured along the median between the side lot lines.

The permissible minimum width shall be as defined in the Township Zoning Ordinance.

(4) All parcels created and remaining shall have adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.

1.8 CONSEQUENCES OF NONCOMPLIANCE WITH LAND DIVISION APPROVAL REQUIREMENT - Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this Ordinance.

An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

1.9 SEVERABILITY - The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any Court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part or portion thereof.

1.10 REPEAL - All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Township Building Code.

1.11 EFFECTIVE DATE - This Ordinance shall take effect upon publication following its adoption.

TOWNSHIP OF ONTWA

Helen J. Parsons, Clerk

# RE-ZONING CHECKLIST

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 6, 1996***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

# Re-Zoning Checklist

The Township Master Plan provides overall guidance on how the community desires to grow and develop. The Zoning Ordinance and the procedures the Township uses to administer it form the regulatory framework that brings about that desired development. As time passes, it is appropriate for the community to review its Master Plan to assure that it is still appropriate for current conditions and the desires of the marketplace. In addition, there will certainly be times when property owners desire to use their properties in ways that depart from the Master Plan and/or Zoning Ordinance. In those instances, the Planning Commission may be asked to consider a re-zoning application. The following check list is intended to give the Planning Commission a consistent approach and procedure for reviewing re-zoning applications.

Some re-zoning applications may raise legitimate issues that call for a more comprehensive review of the Ordinance or even the Master Plan. Other requests may relate to unique situations that impact very few properties. And, in other cases, the request may make economic sense for the particular property owner, but would create inappropriate land use conflicts or establish a precedent that will lead to future conflicts. By using a consistent approach for addressing these requests, the Planning Commission will be able to offer relief and flexibility in those instances where it is called for and, at the same time, protect the larger public interest as it is expressed in the Master Plan.

There are seven major issues to consider in reviewing a re-zoning application:

- Land supply
- Effect on surrounding properties
- Effect on municipal services, facilities and costs
- Range of uses that could be authorized
- Precedent
- Justification
- Community Planning

Each of these is inter-related with the others to some extent. In addition, while each of the following items is structured as a "Yes or No" question, it should be understood that the issues related to re-zoning requests are seldom clear cut and this checklist is not intended to be a substitute for a careful weighing of each request. This check list merely provides an approach that will give the appropriate consideration to both the specific issues and the comprehensive needs of the Township.

# Ontwa Township
# Re-Zoning Checklist

**A. Land Supply.**

1. Is there other land in the Township already zoned for the classification being sought by the petitioner?

   ☐ Yes; ☐ No

2. If there is other land in the Township zoned for this classification, has there been a change in conditions that necessitates more land in this classification?

   ☐ Yes; ☐ No

3. If there is insufficient land in the Township zoned for this classification, is the proposed change supported by, or consistent with the Master Plan?

   ☐ Yes; ☐ No

4. Is the proposed change out of scale with the needs of the community?

   ☐ Yes; ☐ No

5. Are the proposed boundaries appropriately drawn?

   ☐ Yes; ☐ No

**B. Effect on surrounding properties.**

1. Is the proposed change contrary to established land use patterns?

   ☐ Yes; ☐ No

2. Will the proposed change create adverse effects on surrounding properties?

   ☐ Yes; ☐ No

3. Will the proposed change create adverse living conditions in the area?

   ☐ Yes; ☐ No

4. Will the proposed change deter the improvement or development of surrounding properties?

   ☐ Yes; ☐ No

**C. Effect on municipal services, facilities and costs.**

1. Will the proposed change severely impact traffic in the area?

   ☐ Yes; ☐ No

2. Will the proposed change severely impact schools, police and fire protection and/or other public services?

   ☐ Yes; ☐ No

3. Are water, sewer, storm drainage and other facilities in the area adequate to meet the potential requirements resulting from the proposed change?

   ☐ Yes; ☐ No

**D. Range of uses that could be authorized**

1. Is the proposed use unique to this site and better handled through a special approval land use?

   ☐ Yes; ☐ No

2. Are there other potential uses permitted in the proposed classification that would be inappropriate at the proposed site?

   ☐ Yes; ☐ No

3. If other undesirable uses could materialize if the proposed re-zoning is approved, would a Planned Unit Development be a more appropriate approach?

   ☐ Yes; ☐ No

4. Could the proposed use be accomplished in a more restrictive zoning classification?

   ☐ Yes; ☐ No

**E. Precedent**

1. If the proposed change is approved, will it likely stimulate similar request?

   ☐ Yes; ☐ No

2. If such similar requests are likely, could they adversely impact other properties, municipal services and facilities and public costs?

   ☐ Yes; ☐ No

3. Are there other ways in which approving the proposed request would establish a precedent for local planning and zoning decisions?

☐ Yes; ☐ No

4. If so, is the precedent one that the Planning Commission desires to establish?

☐ Yes; ☐ No

5. Would granting the proposed request constitute a "spot zoning" granting a special privilege to one property owner which is not available to others?

☐ Yes; ☐ No

**F. Justification**

1. Are there substantial reasons the property cannot be reasonably used as currently zoned?

☐ Yes; ☐ No

2. Is there an objectively demonstrable market for the use proposed?

☐ Yes; ☐ No

3. Is there a market for other uses that may be permitted in the proposed classification?

☐ Yes; ☐ No

4. Is the proposed change reasonable?

☐ Yes; ☐ No

**G. Community Planning**

1. Was there a mistake in the original zoning?

☐ Yes; ☐ No

2. If there was a mistake in the original zoning, does the proposed change constitute the most appropriate correction?

☐ Yes; ☐ No

3. Are there likely to be adverse changes in the characteristics of the Township that will result from the proposed re-zoning?

☐ Yes; ☐ No

4. Will the proposed change weaken the structure of the Zoning Ordinance?

☐ Yes; ☐ No

5. Is the proposed change exclusionary?

☐ Yes; ☐ No

6. Is the proposed change consistent with the Township Zoning Act?

☐ Yes; ☐ No

# PLANNING COMMISSION BY-LAWS

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 6, 1996***

*Prepared by*

ONTWA TOWNSHIP PLANNING COMMISSION

*Assisted by*

WILLIAMS & WORKS

## BY-LAWS AND RULES OF PROCEDURE

I. AUTHORITY.

These By-laws or Rules of Procedure are adopted by the Ontwa Planning Commission (hereinafter referred to as the Commission) pursuant to the Township Planning Act, the Township Rural Zoning Act, the Open Meetings Act, the Freedom of Information Act, and the Ontwa Township Zoning Ordinance.

II. MEMBERSHIP.

A. Members

The Planning Commission shall consist of nine (9) members, who shall be appointed by the Township Supervisor with the approval of the Township Board in accordance with the Township Planning Act and the Ontwa Township Zoning Ordinance and who shall be representative of major interests as they exist in the Township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry.

B. Officers

1. Officers and their selection. At the first meeting of the Commission in the calendar year, the Commission shall select from its membership a Chairperson and Vice-Chairperson, who shall serve for a one (1) year period and who shall be eligible for reelection.

2. Duties. A Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Commission shall select a successor to the office of Vice-Chairperson at the earliest practical time.

3. Tenure. The officers shall take office immediately following their election. The term of each member shall be for three years, except that of the members first appointed, 1/3 shall serve for one year, 1/3 for two years, and 1/3 for three years. A successor shall be appointed not more than one month after the term of the preceding commission member has expired. All vacancies for unexpired terms shall be filled for the remainder of such term.

C. Secretarial Duties

1. Secretary. The Commission may select from its membership a Secretary or it may select a non-member to act as Secretary. The Secretary shall have the responsibility of keeping the minutes or record of all meetings and other pertinent records, conducting all necessary correspondence, and performing such other administrative duties as are designated by the Commission.

2. Zoning Administrator. The Zoning Administrator or other person authorized by the Township Board shall be responsible for preparing and giving all notices of public hearings and meetings, preparing, posting and otherwise serving all Open Meetings Act meeting notices, notifying Commission members of meetings, delivering communications, petitions, reports and related items of business to the Commission, and preparing all written decisions or orders of the Commission.

D. Membership Rules

1. A member of the Commission may be removed from office by the Township Supervisor with the approval of the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing. Consequently, it shall be considered an act of non-performance of duty and grounds for removal if a member has three (3) consecutive unexcused absences from regularly scheduled meetings or if a member misses at least fifty percent (50%) of the meetings, both regular meetings and special meetings, within a twelve (12) month period. As the first step in the removal proceedings, the Secretary shall prepare a memorandum requesting that the member resign. If the member fails to resign, a request shall be made by the Commission to the Township Supervisor to take the next step in the removal process.

2. All members shall be qualified electors of and property owners in the Township. Consequently, if any member is no longer a qualified elector of the Township due to the removal of his/her place of residence from the Township, or if any member is no longer a property owner in the Township, said member's position on the Commission is automatically vacated regardless of whether a written resignation is received from said member; and the Commission shall notify the Supervisor that a vacancy exists and the Supervisor, with the approval of the Township Board, shall fill the vacancy at the earliest possible date.

3. One member of the Township Board shall be a member of the Commission, and his/her service on the Commission shall be concurrent with his/her term of service on the Township Board.

## III. MEETINGS.

### A. Types of Meetings

1. Regular meetings. Regular meetings of the Commission may be held in the Township Hall on a date established by the Board at the first meeting of the Board in the calendar year. The date, time and place shall be posted at the Township Hall no later than ten (10) days after the date of the meeting establishing the regular meeting dates. Any changes in the date, time or place of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Commission may select suitable alternate dates in the same month in accordance with the Open Meetings Act.

2. Special meetings. Special meetings may be held at the call of the Chairperson, or they may scheduled in advance during a regular meeting; and in both instances, at least two (2) days' notice shall be given in advance of the meeting by posting a copy of the notice at the Township and by mailing or delivering a copy of the notice, or by contacting each member of the Commission.

### B. Place of Meetings

Regularly scheduled meetings may be held in the Township Hall. Whenever the regular meeting place of the Commission shall appear inadequate for members of the public to attend, the Chairperson may change the meeting to a larger facility located in the Township. A notice of such change shall be prominently posted on the door of the regular meeting place.

### C. Time of Meetings

Regularly scheduled meetings may begin at 7:00 o'clock in the evening unless the Commission shall by majority vote in session set an earlier or later starting time. The Commission shall not begin considering any matter on the agenda not yet under consideration by the hour of 10:30 o'clock in the evening except by unanimous consent of the Commission members present. Matters on the agenda and not yet acted upon at the time of adjournment will be placed on the agenda of the next regular meeting or special meeting, if one is called. (Amended May 8, 2000)

### D. Change in Schedule of Regular Meetings

Changes in the schedule of regular meetings shall not be made except upon the approval of a majority of the Commission members in attendance.

E. Notice of Meetings

1. Regular meetings. Dates of regular meetings of the Commission shall be established at the Commission's first meeting of the calendar year and notice of the dates, time and place of such meetings shall be posted in a conspicuous place at the Township Hall within ten (10) days of the establishment of said meeting dates and copies of the schedule of regular meetings shall be delivered or mailed to each member of the Commission. Any changes in the date, time or place of a regular meeting shall be posted at the Township Hall within three (3) days after the meeting at which the change is made and at least two (2) days before the rescheduled regular meeting, and notice of the change shall be given to each member of the Commission at least two (2) days before the rescheduled meeting.

2. Special meetings. Notice of special meetings shall be posted in a conspicuous place at the Township Hall and given to each member of the Commission at least two (2) days before the special meeting. Such notice shall be served by the Zoning Administrator upon the members personally, left at the member's usual place of residence, or mailed to them in ordinary first class mail. The notice shall contain the date, time, place and purpose of the meeting.

3. Notification to media and others. The Zoning Administrator shall notify, without charge, any newspaper or radio or television station of such meeting schedule, schedule changes, or special meetings, whenever such newspaper or radio or television station shall have filed with the Commission a written request for such notice. The Zoning Administrator shall also notify other individuals or organizations of regular meeting schedules, changes in the schedule, or special meetings, but only upon their written request. The Zoning Administrator shall mail all such notices by first class mail.

F. Quorum

In order for the Commission to conduct business or take official action, a quorum consisting of at least five (5) of the nine (9) members of the Commission shall be present. When a quorum is not present, no official action, except closing of the meeting, may take place. The members of the Commission may discuss matters of interest, but can take no action until the next regular or special meeting. In the event the Commission shall meet and a quorum is not present, the Commission, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice is given to the members and to the public.

## IV. PUBLIC HEARINGS.

### A. In General

If time for notice allows, meetings at which public hearings are held shall be scheduled for the next regular or special meeting.

### B. Notice of Public Hearings

Public hearings shall be scheduled and due and proper notice shall be given by the Zoning Administrator in compliance with the Township Rural Zoning Act and the Ontwa Township Zoning Ordinance. Notice of hearings involving applications for rezoning or variances to the terms of the Township Zoning Ordinance shall be mailed to all recorded owners of property and all occupants of single and 2-family residences located within three hundred (300) feet of the property that is the subject of the hearing.

### C. Conflict of Interest

1. Disqualification from participation as a member. A member shall be disqualified from participating and voting on any issue in which the member has a conflict of interest.

2. Definition of conflict of interest. A member of the Commission shall be deemed to have a conflict of interest as to any matter or proceeding pending before the Commission if: (1) the member has a direct or indirect pecuniary or financial interest in the outcome of the matter at issue; or (2) the matter at issues involves the member's business or place of employment; or (3) participation in making a decision might violate the letter or spirit of a member's code of professional ethics or responsibility; or (4) the member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

3. Raising issue of conflict of interest. Although the issue of whether or not a member has a conflict of interest should be raised by the member who believes he/she has a conflict of interest, the issue of a conflict of interest may also be raised by another member of the Commission or by the applicant for the relief being sought under the Zoning Ordinance. The issue should be raised prior to the commencement of the public hearing or as soon as the conflict of interest is discovered.

4. Determination of issue of conflict of interest. The determination of a conflict of interest shall be made by the Commission upon motion of the member claiming a conflict of interest or upon motion of another member of the Commission.

5. Grounds for removal. Failure of a member to raise the issue of a possible conflict of interest and to have the Commission rule upon it shall constitute misconduct in office and shall be grounds for removal from office.

D. Format for Conducting a Public Hearing

1. Opening remarks by chairperson. The Chairperson of the Commission shall officially open the hearing and he/she shall announce that the public hearing is being conducted on an application for relief under the Zoning Ordinance and that the purpose of the hearing is to receive input from the applicant and the public regarding the subject of the hearing. The Chairperson should give a brief description of the subject of the hearing and any history or other information which might be relevant to the hearing.

2. Announcement of hearing rules. The Chairperson shall also announce the following hearing rules:

   a. This is a public hearing designed to receive comments on the above subject. Only comments regarding this subject will be accepted, and the Commission and applicant for relief will not be required to answer questions posed by members of the public unless deemed appropriate by the Chairperson.

   b. All persons wishing to comment shall be given an opportunity to do so.

   c. The person addressing the Commission shall state his/her name and address and make comments directly to the Commission.

   d. Each person speaking shall limit his/her comments to three (3) minutes.

   e. Everyone shall have an opportunity to speak before a person is allowed to speak a second time.

   f. If at any time during the hearing, the Chairperson feels no other relevant comments are being stated or the public is out of order, a motion may be requested to close the public hearing. The Chairperson may, at his/her discretion, terminate unreasonably repetitive, irrelevant, or lengthy comments which are non-productive to the issue at hand.

3. Remarks and/or recommendation by Zoning Administrator. The Commission may allow the Zoning Administrator to address the

Commission in regard to the relief being sought by the applicant and to make a recommendation if the Zoning Administrator deems it appropriate.

4. Presentation by Applicant**.** This shall include:

   a. Remarks by applicant or spokesman for applicant, if any;

   b. Reading of correspondence in support of applicant;

   c. People in audience speaking in support of application; and

   d. Questioning by Commission.

5. Presentation by opposition. This shall include:

   a. Remarks by spokesman for opposition, if any;

   b. Reading of correspondence in opposition to application;

   c. People in audience speaking in opposition to application; and

   d. Questioning by Commission.

6. Applicant's rebuttal

   a. The applicant will be allowed to respond only to matters raised in the opposition's presentation - not new matters or a rehash of matters already covered.

   b. Additional questioning by Commission, if any.

7. Deliberations

   a. Upon conclusion of the presentations, the Chairperson shall request a motion to close the public portion of the hearing for Commission deliberations. No further input shall be allowed from the applicant or public after commencement of deliberations unless specifically requested by the Commission.

   b. Deliberations should involve the following:

      (1) A pro and con discussion among the members of the Commission;

(2) Formulation of a motion rendering a decision on the matter before the Commission, which motion must include the reasoning or rationale in support of the decision.

8. Voting on motion. Before the motion is voted upon, it should be restated by the Secretary for purposes of clarifying the meaning of the motion. The motion should then be voted upon, with all members present voting and without any member abstaining.

9. Announcement of decision and adjournment. The announcement of the results of the voting and the meaning of the decision should be done by the Chairperson. Thereafter, the hearing should be adjourned.

## V. CONDUCT OF MEETINGS.

### A. Order of Business

The order of business at a Commission meeting shall be as follows:

Call to order.
Roll call.
Announcement of agenda.
Approval of minutes of previous meeting.
Public comments and communications concerning items not on the agenda.
Old business (any unfinished or ongoing business).
New business.
Public hearing(s).

Where a meeting includes a public hearing, consideration of old and new business may be waived to allow more time for consideration of the subject of the hearing.

### B. Motions

Motions for decisions on matters before the Commission shall be restated by the Secretary before a vote is taken. The name of the maker and supporter of the motion shall be recorded and the reasoning or rationale for the decision shall be clearly stated in the motion.

### C. Voting

An affirmative vote of the majority of those Commission members present for the conduct of business shall be required for the approval of any requested action or motion placed before the Commission. Voting shall ordinarily be by voice vote; provided, however, that a roll call vote may be required if requested by any Commission member or directed by the Chairperson. All members of the Commission, including the Chairperson, except where it has been determined that the member has a conflict of interest, shall vote on all matters,

but the Chairperson shall vote last. A member shall be excused from participating and voting if that person has been determined to have a conflict of interest pursuant to IV, C hereof. No member shall abstain from voting unless it has been determined that he has a conflict of interest.

D. Rules of Order

All meetings of the Commission shall be conducted in accordance with generally accepted parliamentary procedures as governed by *Robert's Rules of Order.*

E. Minutes or Record of Meeting

The Secretary of the Commission shall maintain or keep minutes or a record of its proceedings and copies of the minutes or record shall be filed in the office of the Township Clerk, and they shall be a public record. The minutes shall contain a brief synopsis of the meeting, including a complete statement of all motions and recording of votes; a complete statement of the decision or recommendation, including any conditions thereto, made on any action taken by the Commission; and a recording of attendance. All correspondence and another communications, any written resolutions, decisions or other documentation of action taken, any exhibits submitted at hearings shall be attached to the minutes or other record of the proceedings.

## VI. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS.

A. Open Meetings Act

1. All meetings of the Commission shall be open to the public and held in a place available to the general public.

2. All deliberations and decisions of the Commission shall be made at a meeting open to the public. In other words, there shall be no closed sessions of the Commission.

3. A person shall be permitted to address a hearing of the Commission under the rules established in Subsection IV, D, and to address the Commission concerning non-hearing matters under the rules established in Subsection V, A, to the extent that they are applicable.

4. A person shall not be excluded from a meeting of the Commission except for a breach of the peace committed at the meeting.

B. Freedom of Information Act

All records, files, publications, correspondences and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

## VII. AMENDMENTS.

These Bylaws and Rules of Procedure may be amended by the Commission by a concurring vote of the majority of those Commission members present for the conduct of business during any regular or special meeting, provided that all members have received in advance a copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

## VIII PLANNING COMMISSION APPROVAL.

Planning Commission Approval. These Bylaws and Rules of Procedure and any amendments shall be approved by the Planning Commission.

Motion to Adopt

Motion by Bill Robinson and supported by Randy Ryder to adopt the foregoing Bylaws and Rules of Procedure of the Planning Commission.

| | | |
|---|---|---|
| Votes: | Ayes | 7 |
| | Nays | 0 |
| | Absent | 3 |

Bylaws and Rules of Procedure adopted November 6, 1996.

# ZONING BOARD OF APPEALS BY-LAWS

## ONTWA TOWNSHIP
## Cass County, Michigan

*Adopted*

***November 14, 1996***

*Prepared by*

**ONTWA TOWNSHIP PLANNING COMMISSION**

*Assisted by*

**WILLIAMS & WORKS**

## BY-LAWS AND RULES OF PROCEDURE

I. AUTHORITY.

These By-laws or Rules of Procedure are adopted by the Ontwa Township Zoning Board of Appeals (hereinafter referred to as the Board) pursuant to the Township Rural Zoning Act, the Open Meetings Act, the Freedom of Information Act, and the Ontwa Township Zoning Ordinance.

II. MEMBERSHIP.

A. Members

The Zoning Board of Appeals shall consist of seven (7) members, who shall be appointed by the Township Supervisor with the approval of the Township Board in accordance with the Ontwa Township Zoning Ordinance and who shall be representative of major interests as they exist in the Township, such as agriculture, recreation, education, public health, government, commerce, transportation and industry.

B. Officers

1. Officers and their selection. At the first meeting of the Board in the calendar year, the Board shall select from its membership a Chairperson and Vice-Chairperson, who shall serve for a one (1) year period and who shall be eligible for reelection. An elected member of the Township Board shall not serve as Chairperson or Vice-Chairperson of the Zoning Board of Appeals.

2. Duties. A Chairperson shall preside at all meetings and shall conduct all meetings in accordance with the rules provided herein. The Vice-Chairperson shall act in the capacity of the Chairperson in the absence of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office, in which case the Commission shall select a successor to the office of Vice-Chairperson at the earliest practical time.

3. Tenure. The officers shall take office immediately following their election. The term of each member shall be for three years, except that of the members first appointed, one-third (1/3) shall serve for one (1) year, one-third (1/3) shall serve for two (2) years and one-third (1/3) shall serve for three (3) years. A successor shall be appointed not more than one month after the term of the preceding Board member has expired. All vacancies for unexpired terms shall be filled for the reminder of such term.

C. Secretarial Duties

1. Secretary. The Board may select from its membership a Secretary or it may select a non-member to act as Secretary. The Secretary shall have the responsibility of keeping the minutes or record of all meetings and other pertinent records, conducting all necessary correspondence, and performing such other administrative duties as are designated by the Board.

2. Zoning Administrator. The Zoning Administrator or other person authorized by the Township Board shall be responsible for preparing and giving all notices of public hearings and meetings, preparing, posting and otherwise serving all Open Meetings Act meeting notices, notifying Board members of meetings, delivering communications, petitions, reports and related items of business to the Board, and preparing all written decisions or orders of the Board.

D. Membership Rules

1. A member of the Board may be removed from office by the Township Supervisor with the approval of the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing. Consequently, it shall be considered an act of non-performance of duty and grounds for removal if a member has three (3) consecutive unexcused absences from regularly scheduled meetings of if a member misses at least fifty percent (50%) of the meetings, both regular meetings and special meetings, within a twelve (12) month period. As the first step in the removal proceedings, the Secretary shall prepare a memorandum requesting that the member resign. If the member fails to resign, a request shall be made by the Board to the Township Supervisor to take the next step in the removal process.

2. All members shall be qualified electors of and property owners in the Township. Consequently, if any member is no longer a qualified elector of the Township due to the removal of his/her place of residence from the Township, or if any member is no longer a property owner in the Township, said member's position on the Board is automatically vacated regardless of whether a written resignation is received from said member; and the Board shall notify the Supervisor that a vacancy exists and the Supervisor, with the approval of the Township Board, shall fill the vacancy at the earliest possible date.

3. One member of the Township Planning Commission shall be a member of the Board, and his/her service on the Board shall be concurrent with his/her term of service on the Planning Commission.

## III. MEETINGS.

### A. Types of Meetings

1. Regular meetings. Regular meetings of the Board may be held in the Township Hall on a date established by the Board at the first meeting of the Board in the calendar year. The date, time and place shall be posted at the Township Hall no later than ten (10) days after the date of the meeting establishing the regular meeting dates. Any changes in the date, time or place of the regular meetings shall be posted and noticed in the same manner as originally established. When a regular meeting date falls on or near a legal holiday, the Board may select suitable alternate dates in the same month in accordance with the Open Meetings Act.

2. Special meetings. Special meetings may be held at the call of the Chairperson or they may be scheduled in advance during a regular meeting; and in both instances at least two (2) days' notice shall be given in advance of the meeting by posting a copy of the notice at the Township Hall and by mailing or delivering a copy of the notice, or by contacting each member of the Board.

### B. Place of Meetings

Regularly scheduled meetings may be held in the Township Hall. Whenever the regular meeting place of the Board shall appear inadequate for members of the public to attend, the Chairperson may change the meeting to a larger facility located in the Township. A notice of such change shall be prominently posted on the door of the regular meeting place.

### C. Time of Meetings

Regularly scheduled meetings may begin at 7:30 o'clock in the evening unless the Board shall by majority vote in session set an earlier or later starting time. The Board shall not begin considering any matter on the agenda not yet under consideration by the hour of 10:30 o'clock in the evening except by unanimous consent of the Board members present. Matters on the agenda and not yet acted upon at the time of adjournment will be placed on the agenda of the next regular meeting or special meeting, if one is called.

### D. Change in Schedule of Regular Meetings

Changes in the schedule of regular meetings shall not be made except upon the approval of a majority of the Board members in attendance.

### E. Notice of Meetings

1. Regular meetings. Dates of regular meetings of the Board shall be established at the Board's first meeting of the calendar year and notice of the dates, time and place of such meetings shall be posted in a conspicuous place at the Township Hall within ten (10) days of the establishment of said meeting dates and copies of the schedule of regular meetings shall be delivered or mailed to each member of the Board. Any changes in the date, time or place of a regular meeting shall be posted at the Township Hall within three (3) days after the meeting at which the change is made and at least two (2) days before the rescheduled regular meeting, and notice of the change shall be given to each member of the Board at least two (2) days before the rescheduled meeting.

2. Special meetings. Notice of special meetings shall be posted in a conspicuous place at the Township Hall and given to each member of the Board at least two (2) days before the special meeting. Such notice shall be served by the Zoning Administrator upon the members personally, left at the member's usual place of residence, or mailed to them in ordinary first class mail. The notice shall contain the date, time, place and purpose of the meeting.

3. Notification to media and others. The Zoning Administrator may notify, without charge, any newspaper or radio or television station of such meeting schedule, schedule changes, or special meetings, whenever such newspaper or radio or television station shall have filed with the Board a written request for such notice. The Zoning Administrator shall also notify other individuals or organizations of regular meeting schedules, changes in the schedule, or special meetings, but only upon their written request. The Zoning Administrator shall mail all such notices by first class mail.

F. Quorum

In order for the Board to conduct business or take official action, a quorum consisting of at least four (4) of the seven (7) members of the Board shall be present. When a quorum is not present, no official action, except closing of the meeting, may take place. The members of the Board may discuss matters of interest, but can take no action until the next regular or special meeting. In the event the Board shall meet and a quorum is not present, the Board, upon the action of a majority of those present, may adjourn the meeting to another day provided that proper notice is given to the members and to the public.

## IV. PUBLIC HEARINGS.

A. In General

If time for notice allows, meetings at which public hearings are held shall be scheduled for the next regular or special meeting.

B. Notice of Public Hearings

Public hearings shall be scheduled and due and proper notice shall be given by the Zoning Administrator in compliance with the Township Rural Zoning Act and the Ontwa Township Zoning Ordinance. Notice of hearings involving applications for rezoning or variances to the terms of the Township Zoning Ordinance shall be mailed to all recorded owners of property and all occupants of single and 2-family residences located within three hundred (300) feet of the property that is the subject of the hearing.

C. Conflict of Interest

1. Disqualification from participation as a member. A member shall be disqualified from participating and voting on any issue in which the member has a conflict of interest.

2. Definition of conflict of interest. A member of the Board shall be deemed to have a conflict of interest as to any matter or proceeding pending before the Board if: (1) the member has a direct or indirect pecuniary or financial interest in the outcome of the matter at issue; or (2) the matter at issues involves the member's business or place of employment; or (3) participation in making a decision might violate the letter or spirit of a member's code of professional ethics or responsibility; or (4) the member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

3. Raising issue of conflict of interest. Although the issue of whether or not a member has a conflict of interest should be raised by the member who believes he/she has a conflict of interest, the issue of a conflict of interest may also be raised by another member of the Board or by the applicant for the relief being sought under the Zoning Ordinance. The issue should be raised prior to the commencement of the public hearing or as soon as the conflict of interest is discovered.

4. Determination of issue of conflict of interest. The determination of a conflict of interest shall be made by the Board upon motion of the member claiming a conflict of interest or upon motion of another member of the Board.

5. Grounds for removal. Failure of a member to raise the issue of a possible conflict of interest and to have the Board rule upon it shall constitute misconduct in office and shall be grounds for removal from office.

D. Format for Conducting a Public Hearing

1. Opening remarks by chairperson. The Chairperson of the Board shall officially open the hearing and he/she shall announce that the public hearing is being conducted on an application for relief under the Zoning Ordinance and that the purpose of the hearing is to receive input from the applicant and the public regarding the subject of the hearing. The Chairperson should give a brief description of the subject of the hearing and any history or other information which might be relevant to the hearing.

2. Announcement of hearing rules. The Chairperson shall also announce the following hearing rules:

   a. This is a public hearing designed to receive comments on the above subject. Only comments regarding this subject will be accepted and the Board and applicant for relief will not be required to answer questions posed by members of the public unless deemed appropriate by the Chairperson.

   b. All persons wishing to comment shall be given an opportunity to do so.

   c. The person addressing the Board shall state his/her name and address and make comments directly to the Board.

   d. Each person speaking shall limit his/her comments to three (3) minutes.

   e. Everyone shall have an opportunity to speak before a person is allowed to speak a second time.

   f. If at any time during the hearing, the Chairperson feels no other relevant comments are being stated or the public is out of order, a motion may be requested to close the public hearing. The Chairperson may, at his/her discretion, terminate unreasonably repetitive, irrelevant, or lengthy comments which are non-productive to the issue at hand.

3. Remarks and/or recommendation by Zoning Administrator. The Board may allow the Zoning Administrator to address the Board in regard to the relief being sought by the applicant and to make a recommendation if the Zoning Administrator deems it appropriate.

4. Presentation by Applicant**.** This shall include:

a. Remarks by applicant or spokesman for applicant, if any;

b. Reading of correspondence in support of applicant;

c. People in audience speaking in support of application; and

d. Questioning by Board.

5. Presentation by opposition. This shall include:

a. Remarks by spokesman for opposition, if any;

b. Reading of correspondence in opposition to application;

c. People in audience speaking in opposition to application; and

d. Questioning by Board.

6. Applicant's rebuttal.

a. The applicant will be allowed to respond only to matters raised in the opposition's presentation - not new matters or a rehash of matters already covered.

b. Additional questioning by Board, if any.

7. Deliberations.

a. Upon conclusion of the presentations, the Chairperson shall request a motion to close the public portion of the hearing for Board deliberations. No further input shall be allowed from the applicant or public after commencement of deliberations unless specifically requested by the Board.

b. Deliberations should involve the following:

(1) A pro and con discussion among the members of the Board;

(2) Formulation of a motion rendering a decision on the matter before the Board, which motion must include the reasoning or rationale in support of the decision.

8. Voting on motion. Before the motion is voted upon, it should be restated by the Secretary for purposes of clarifying the meaning of the motion. The motion should then be voted upon, with all members present voting and without any member abstaining.

9. Announcement of decision and adjournment. The announcement of the results of the voting and the meaning of the decision should be done by the Chairperson. Thereafter, the hearing should be adjourned.

## V. CONDUCT OF MEETINGS.

### A. Order of Business

The order of business at a Board meeting shall be as follows:

Call to order.
Roll call.
Announcement of agenda.
Approval of minutes of previous meeting.
Public comments and communications concerning items not on the agenda.
Old business (any unfinished or ongoing business).
New business.
Public hearing(s).

### B. Motions

Motions for decisions on matters before the Board shall be restated by the Secretary before a vote is taken. The name of the maker and supporter of the motion shall be recorded and the reasoning or rationale for the decision shall be clearly stated in the motion.

### C. Voting

An affirmative vote of the majority of those Board members present for the conduct of business shall be required for the approval of any requested action or motion placed before the Board. Voting shall be by voice vote, provided, however, that a roll call vote may be required if requested by any Board member or directed by the Chairperson. All members of the Board, including the Chairperson, except where it has been determined that the member has a conflict of interest, shall vote on all matters, but the Chairperson shall vote last. A member shall be excused from participating and voting if that person has been determined to have a conflict of interest pursuant to IV, C hereof. No member shall abstain from voting unless it has been determined that he has a conflict of interest.

### D. Rules of Order

All meetings of the Board shall be conducted in accordance with generally accepted parliamentary procedures as governed by *Robert's Rules of Order.*

E. Minutes or Record of Meeting

The Secretary of the Board shall maintain or keep minutes or a record of its proceedings and copies of the minutes or record shall be filed in the office of the Township Clerk, and they shall be a public record. The minutes shall contain a brief synopsis of the meeting, including a complete statement of all motions and recording of votes; a complete statement of the decision or recommendation, including any conditions thereto, made on any action taken by the Board; and a recording of attendance. All correspondence and another communications, any written resolutions, decisions or other documentation of action taken, any exhibits submitted at hearings shall be attached to the minutes or other record of the proceedings.

## VI. OPEN MEETINGS AND FREEDOM OF INFORMATION PROVISIONS.

A. Open Meetings Act

1. All meetings of the Board shall be open to the public and held in a place available to the general public.

2. All deliberations and decisions of the Board shall be made at a meeting open to the public. In other words, there shall be no closed sessions of the Board.

3. A person shall be permitted to address a hearing of the Board under the rules established in Subsection IV, D, and to address the Board concerning non-hearing matters under the rules established in Subsection V, A, to the extent that they are applicable.

4. A person shall not be excluded from a meeting of the Board except for a breach of the peace committed at the meeting.

B. Freedom of Information Act

All records, files, publications, correspondences and other materials are available to the public for reading, copying and other purposes as governed by the Freedom of Information Act.

## VII. AMENDMENTS.

These Bylaws and Rules of Procedure may be amended by a the Board by a concurring vote of the majority of those Board members present for the conduct of business during any regular or special meeting, provided that all members have received in advance a copy of the proposed amendments at least three (3) days prior to the meeting at which such amendments are to be considered.

## VIII. ZONING BOARD APPROVAL.

These Bylaws and Rules of Procedure and any amendments are subject to the approval of the Zoning Board.

Motion to Adopt

Motion by Jack Durban, and supported by Gary Waterkamp to adopt the foregoing Bylaws and Rules of Procedure of the Zoning Board of Appeals.

| | | |
|---|---|---|
| Votes: | Ayes: | 4 |
| | Nays: | 0 |
| | Absent_ | 3 |

Bylaws and Rules of Procedure adopted November 14, 1996.

# ONTWA TOWNSHIP
# INDEX OF TERMS