

# *Milton Township*

32097 Bertrand Street, Niles MI 49120

Phone: 269-684-7262 Fax: 269-684-1742 [www.miltontwp.org](http://www.miltontwp.org)

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# Zoning Ordinance

## Milton Township, Cass County, Michigan

Adopted: May 20, 1985

Amended through November 2015

(Print Version Date: 12/2015)

(Updated with Documented Changes through November 2015.

See B.O.T. Meeting Minutes for any subsequent  
changes *prior to* the next Print Version Update/Issuance)

**SPECIAL NOTE:** Milton Township accepts no responsibility for the enforcement of private deed restrictions or covenants, as the Milton Township Zoning Ordinance does not apply to such deed restrictions or covenants.

**TABLE OF AMENDMENTS – MILTON TOWNSHIP ZONING ORDINANCE**

<b>DATE</b>	<b>RESOLUTION</b>	<b>ORDINANCE SECTION</b>	<b>SUMMARY</b>
09/17/2012	2012-06-O	Article 14, Section 14.14	Wireless Towers
12/17/2012	2012-07-O	Article 13, Section 13.26	Garage, Barn and Yard Sales
05/20/2013	2013-01-O	Article 1, Section 1.12	Definitions – Accessory Use, Principal Building and Principal Use.
		Article 1, Section 1.11B	Remove the section “words used in present tense shall include the future.”
		Article 16, Section 16.11A	Changing the Permit Requirements.
		Article 16, Section 16.11B	Changing the Zoning Compliance Permit Application – procedure.
		Article 16, Section 16.11C	Changing the Conformity To Approved Zoning Compliance Permit.
05/20/2013	2013-02-O	Article 8, Section 8.01	Industrial Zoning District – modify Purpose and Use regulations to align with the 2012 Master Lane Use Plan.
		Article 8, Section 8.02	
05/20/2013	2013-03-O	Article 19	Schedule of Uses to reflect changes made in Section 8.02.
05/20/2013	2013-04-O	Article 14, Section 14.02	Remove the requirement that the Township Board of Trustees have the final authority to approve or deny Conditional Use Applications, and give that authority to the Planning Commission
		Article 14, Section 14.04	

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## **Zoning Ordinance**

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**MILTON TOWNSHIP  
CASS COUNTY, MICHIGAN**

**ZONING ORDINANCE**

An Ordinance to establish zoning districts and provisions governing the unincorporated portion of Milton Township, Cass County, Michigan in accordance with the provisions of Act 184 of the Public Acts of 1943, as amended; to provide for nonconforming uses and amendments; to provide for the administration thereof; and to provide for a Board of Appeal.

**THE TOWNSHIP BOARD OF MILTON TOWNSHIP ORDAINS:**

**ARTICLE I. GENERAL PROVISIONS**

**Section 1.01 SHORT TITLE**

This Ordinance shall be known as the Milton Township Zoning Ordinance.

**Section 1.02 PURPOSES**

- A. Promoting and protecting the public health, safety, and general welfare.
- B. Protecting the character and the stability of the agricultural, recreational, residential, commercial and other areas within the Township and promoting the orderly and beneficial development of such areas.
- C. Regulating the intensity of use of land and lot areas and determining the area of open space surrounding buildings and structures necessary to provide adequate light and air to protect the public health and convenience of access to property.
- D. Lessening and avoiding congestion on the public highways and streets.
- E. Providing for the needs of recreation, residence, commerce, industry and other land uses in future growth.
- F. Preserving agricultural lands which have been determined within the Land Use Plan to be essential to the stability and future economic wellbeing of the Township.
- G. Fixing reasonable standards to which buildings and structures shall conform.
- H. Prohibiting uses, buildings, or structures which are incompatible with the character of development or the uses, buildings, or structures permitted within specified zoning districts.
- I. Protecting against fire, explosion, noxious fumes and odors, dust, smoke, glare, noise, and other nuisances and hazards in the interest of the public health, safety, and general welfare.
- J. Conserving the taxable value of land, buildings, and structures throughout the Township.
- K. Providing for the completion, extension, substitution, or elimination of nonconforming uses.

### Section 1.03 VALIDITY AND SEVERABILITY CLAUSE

If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

If any court of competent jurisdiction declare invalid the application of any provision of this Ordinance to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

### Section 1.04 CONFLICT WITH OTHER LAWS

- A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- B. This Ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement provided that where any provision of this Ordinance is more restrictive, or imposes a higher standard or requirement, that such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- C. The Milton Township Zoning Ordinance, which was adopted on March 10, 1950, together with all amendments, is hereby repealed except that such Ordinance shall remain in full force and effect as to violations which occurred prior to repeal and the rights are preserved in the Township of Milton to institute or sustain any proper action for the enforcement or prosecution of any liability or penalty for such violations.

### Section 1.05 SCOPE OF REGULATIONS

- A. All buildings or structures erected hereafter, all uses of land, buildings, or structures established hereafter, all structural alteration, enlargement, or relocation of existing buildings or structures occurring hereafter, shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such building, structure, use, or land shall be located.
- B. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance and provided that construction is begun within six months of the effective date and diligently prosecuted to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further, may, upon completion, be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter, if applicable, to the provisions herein for nonconforming buildings, structures, and uses.
- C. Where the Building Official has issued a building permit for a permitted use or conditional use, such permit shall become null and void unless work thereon is underway within three months of the date of the issuance of such permit, or within the period of time beyond three months granted by the Planning Commission.

### Section 1.06 CONDITIONAL USES

- A. To provide for the location of certain uses hereinafter specified which are deemed desirable for the public welfare within a given district or districts, but which might have an adverse effect upon nearby properties, or upon the character and future development of the district in which they are located, a classification of conditional use is hereby established. Procedures for conditional uses are set forth in Article XIV.
- B. Where a use exists on the effective date of this Ordinance and it is classified as a conditional use by said Ordinance, it shall be considered to be a lawful conditional use. Additions or alterations to existing buildings or land improvements for expansion of lawful conditional uses may be made within the area of the lot included in

the ownership existing at the time of adoption of this Ordinance, and they shall be subject to yard and building height requirements set forth in this Ordinance for permitted uses in the districts in which they are located.

#### **Section 1.07 ESTABLISHMENT OF DISTRICTS**

In order to carry out the purposes and provisions of this Ordinance, the following districts are hereby established:

- A. Agricultural Production
- B. Rural Residential
- C. Single Family Residential
- D. Medium Density Residential
- E. Commercial
- F. Industrial
- G. Planned Unit Development Overlay
- H. Open Space Overlay

#### **Section 1.08 INCORPORATION OF MAPS**

The locations and boundaries of the districts established by this Ordinance are shown upon the Zoning Map(s); which are hereby incorporated into the provisions of this Zoning Ordinance and which Map in its entirety, including all amendments thereto, shall be as much a part of this ordinance as if fully set forth and described herein.

The Zoning Map, and amendments thereto, shall be maintained by Milton Township Planning Commission.

If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Zoning Map, such changes shall be entered on the Zoning Map promptly after the amendment has been approved by the Township Board. No amendment to this Ordinance which involves matter portrayed on the Zoning Map shall become effective until after such change and entry has been made on said Map.

No changes of any nature shall be made in the Zoning Map or matter shown thereon except in conformity with the procedures set forth in Article XVI of this Ordinance.

Regardless of the existence of purported copies of the Zoning Map, which may, from time to time, be made or published, the Zoning Map which shall be in the possession of the Planning Commission shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Township.

#### **Section 1.09 BOUNDARIES OF ZONING DISTRICTS**

Unless shown otherwise, boundary lines of the zoning districts shall be interpreted as measured from section lines, or quarter section lines, or subdivision lines, or center lines of highways or waterways, or the boundary lines of incorporated areas, or property lines on Legal Record on the date of enactment of this Ordinance. All questions concerning the exact location of boundary lines shall be determined by the Board of Appeals consistent with the purpose of this Ordinance.

## Section 1.10 REPLACEMENT OF ZONING MAP

In the event that the Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Township Board may, by resolution, adopt a new Zoning Map which shall supersede the prior Zoning Map. The new Zoning Map may correct drafting or other errors or omissions in the prior Zoning Map, but no such correction shall have the effect of amending the original Zoning Map or any subsequent amendment thereof.

## Section 1.11 RULES APPLYING TO TEXT

The following rules of construction apply to the text of this Ordinance:

- A. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- B. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- C. The word "building" includes the word "structure".
- D. A "building" or "structure" includes any part thereof
- E. The word "person" includes a corporation as well as an individual.
- F. The word "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".
- G. Any word or term not defined herein shall be used with a meaning of common or standard utilization.

## Section 1.12: DEFINITIONS

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

Accessory Building or Structure - A subordinate building or structure including garages, or a portion of a main building, the use of which is in keeping with, and incidental to that of the main building. Said accessory building shall clearly be located on the lot of the main building and shall not be used for habitation. Storage sheds and satellite dishes shall be considered accessory structures.

Accessory Use - A use of a building, lot, parcel, building site, or portion(s) of same which is customarily incidental and subordinate to the principal use of the principal building or of the lot, parcel or building site.

Agricultural Labor Camp - A tract of land and all tents, vehicles, buildings, and other structures pertaining thereto which is established, occupied, or used as living quarters for five or more migratory workers engaged in agricultural activities including related food processing.

Agricultural Production - The production for commercial purposes of plants and animals useful to man, including forages and sod crops, grains and feed crops, dairy and dairy products, livestock including breeding and grazing, fruits, plants, trees, shrubs, nursery stock, vegetables, and other similar agricultural uses.

Alterations - Any change, addition, or modification in construction of any building, such as walls, partitions, columns, beams, or girders, the consummate act of which may be referred to herein as "altered" or "reconstructed".

Animated Signs - Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

Archery Range - Property containing five (5) or more fixed targets used for recreational archery practice. (Ord 2010-14)

Automobile or Trailer Sales Area - Any space used for display, sale, or rental of motor vehicles or trailers in new or used and operable condition.

Automobile Repair - General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame or fender straightening and repair, overall painting and undercoating of automobiles when carried on in a completely enclosed room or building.

Automotive Service Station -An automotive service station is a building or other structure or a tract of land used exclusively for the storage and sale of gasoline or other motor fuels and for any uses accessory thereto. The sale of lubricants, accessories, or supplies, the lubrication of motor vehicles, the minor adjustment or repair of motor vehicles, or the washing of motor vehicles are permitted accessory uses. A public parking lot or public parking garage is not a permitted accessory use. Uses permissible at a filling station do not include a motor vehicle sales, major mechanical and/or body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in automotive service stations. An automotive service station is not a repair garage nor a body shop.

Basement - That portion of a building partly below grade, but so located that the vertical distance from the average ground level to the ceiling is less than the average ground level to the floor. A basement shall be considered a story if the vertical distance from the average ground level to the ceiling is greater than the average ground level to the floor.

Bed and Breakfast Establishment - A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast, and access to bathing and lavatory facilities in return for payment. (Ord 2009-05)

Billboard - Any structure or part thereof on which lettered or pictorial matter is displayed for off-premises advertising purposes.

Board of Zoning Appeals - The Board of Zoning Appeals of Milton Township.

Boarding, Rooming, or Lodging House - A dwelling (not a single family or two family dwelling, apartment house, or a motel or hotel) providing lodging with or without meals, and having lodging accommodations for less than ten guests.

Buildable Area - That portion of a lot remaining after required yards have been provided.

Building - Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind. This shall include tents and awnings.

Building Area - The maximum area covered by a building and its accessory building, excluding open steps and guttering.

Building Coverage - That percentage of the plot or lot area covered by the building area.

Building Height - The vertical distance measured from the finished grade level, sidewalk level, or its equivalent established grade from the middle of the front of the building to the highest point of the roof in the case of a flat roof, to the deck line of a mansard roof, or to the mean height level between eaves and ridge of a gable, hip, or gambrel roof.

Building Line - A line parallel to the lot line at a distance therefrom equal to the depth of the yard required for the district in which the lot is located. The building line is measured from the furthest overhang of the roof.

Building Permit - A permit for commencing construction issued in accordance with a plan for construction that complies with all the provisions of this Zoning Ordinance.

Business - The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

Campground - Any area or tract of land used or designated to accommodate recreational vehicles or camping parties for periods of not more than thirty consecutive days.

Church - A building used for the conduct of religious services, not including rescue missions or temporary structures used for revival activities.

Clinic, Medical Or Dental - A facility where three or more licensed physicians or dentists actively engage in the practice of medicine or dentistry on an outpatient basis.

Club or Lodge, Private - An association or persons who are bona fide members paying dues which owns or leases a building or portion thereof, the use of which shall be restricted to members and their guests.

Commission - Whenever the word "commission" is used in the context of this Ordinance, the same shall be defined as the Milton Township Planning Commission.

Community Center - A public building including one or more of the following facilities; meeting and recreation rooms, dining rooms, kitchen facilities and family day care centers, all for the common use of residents.

Conditional Use - A conditional use is a use that would not be appropriate without restrictions throughout the zoning district, but which, if controlled as to number, area, location, or relocation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity, or general welfare.

Day Care Center - A facility, other than a Day Care Home, which is used by a person licensed by state or local government to provide care and maintenance of children (other than his or her own family and the children of close relatives) during a portion of the day for two or more consecutive weeks.

Depth of Lot - The mean horizontal distance between the front and rear lot lines.

Depth of Yard - The mean horizontal distance between the building line and the lot line.

District - A section of Milton Township, for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land, and open spaces about buildings, are herein established.

Drive-In - A commercial establishment so developed that its operation is wholly or in part dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Dwelling Unit - A dwelling unit consists of one or more rooms in a residential building or residential portion of a building containing lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

- A. Single Family: A detached residential dwelling other than a mobile home or modular home, designed for and occupied by one family only.
- B. Two Family: A building on a lot designed and occupied exclusively as a residence for two families.
- C. Row House: A building on a lot designed for and occupied exclusively as a residence for only one family and having one or more party walls in common with an adjacent single family residence.
- D. Multiple Family: A building on a lot designed and used exclusively as a residence for three or more families living independently of one another.
- E. Mobile Home: A vehicular, portable structure of not less than meeting minimum square feet for single family dwelling, built on a chassis and designed to be used without a permanent foundation as a dwelling unit when connected to the necessary utilities designed for and occupied by one family only. A mobile home located in a mobile home park may be used without a permanent foundation.
- F. Modular Home: A factory-assembled residence built in units or sections, transported to a permanent site and erected on a foundation. Excludes mobile homes.

Easement - A portion or strip of land which is part of a lot or parcel which has been reserved for a specific use for access for persons, utilities, or services.

Erected - Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises required for the construction. Excavation, fill, drainage, and the like shall be considered a part of erection.

Essential Services - The phrase "essential services" means the erection, construction, alteration, or maintenance of public utilities or municipal department or commission of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal department or commission or for the public health safety, or general welfare.

Family - One (1) or more persons related by blood, marriage, or adoption, or a group of not more than four (4) persons (excluding servants) who need not be related by blood, marriage or adoption, living together and maintaining a common household, but not including sororities, fraternities, or other similar organizations.

Farm - All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner/operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees.

Fence - A structure partially or completely surrounding a part of or the whole of a zoning lot which is intended to prevent intrusion from without and straying from within the area controlled, but not including a hedge or other natural growth or earthen dike.

Floor Area - The sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls or from the center line of walls separating the buildings, including any area when used for residential, commercial, or industrial purposes, but not including a basement or portion of a basement used for storage or housing of mechanical or central heating or air conditioning equipment, the basement apartment of a custodian, unfinished attics, garages, outside balconies, open porches, accessory buildings, or any floor area within a building which is used for off-street parking. The floor area of structures devoted to bulk storage of materials, including but not limited to grain elevators and petroleum storage tanks, shall be determined on the basis of height in feet, i.e. ten feet (3.05 m) in height shall equal one floor.

Frontage - The contact of abutting property with a street which affords unobstructed access to the property.

Garage, Commercial - Any building or premises (except those defined herein as a private garage) used for storage of motor vehicles, for remuneration.

Garage, Private - An accessory building or an accessory portion of the principal building used for storing the private passenger vehicles of residents of the premise.

Garage, Vehicle Repair - A structure, or portion thereof, designed or used for the repair, equipment, or servicing of motor vehicles, including, but not limited to, upholstery work, glass work, painting, welding, body and fender work, and major engine overhaul and transmission work, but not including motor vehicle sales.

Grade - The ground elevation established for the purposes of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

Greenbelt or Buffer Strip - A strip of land of definite width and location reserved for planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Group Housing Quarters - A structure occupied by individuals sharing common facilities. Group housing quarters shall differ from two and multi-family dwelling units in that the rooms contained in the structure do not constitute independent housekeeping establishments.

Home Occupation - An occupation or profession carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign other than a name plate mounted flush against the wall no more than one square foot in area that will indicate from the exterior that the building is being utilized wholly or in any part for any purpose other than that of a dwelling. A home occupation is one in which no commodity is sold, other than that which is produced, on the premises, no person is employed there other than a member of the immediate family residing on the premises, and no mechanical equipment is used, except such as is permissible for purely domestic or household purposes.

Hospital - A facility in which patients are rendered medical and/or surgical care on an episodal basis with the standard provision of continuous 24 hour acute medical care on an in-patient basis.

Hospital, Animal - A medical facility for the treatment of domestic animals and birds. For purposes of this Ordinance, an animal hospital shall also be considered a veterinary clinic.

Housekeeping Unit - A group of one or more persons occupying a building and living as a single housekeeping unit. No unrelated group living as a single housekeeping unit shall consist of more than four persons, as distinguished from a group occupying a lodging house or hotel.

Industrial Park - A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

Junk Yards - An open area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, or disassembled, or handled. Junk shall include, but not be limited to rubbish, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junk yard includes vehicle wrecking yards of any size for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel - Any lot or premises or portion thereof on which more than four (4) dogs, cats, and other household domestic animals, over four (4) months of age, are boarded for compensation or kept for sale.

Land Use Plan - A composite, or portion thereof, of the mapped and written proposals and recommendations relative to the growth and development of Milton Township as adopted by the Township Board.

Landscaping - The planting and maintenance of trees, ground cover, shrubs, vines, flowers, or lawns, including natural features such as rock or stone and structural features such as fountains, art work, screens, walls, fences, and benches.

Livestock - Livestock means domestic animals, except dogs, cats, household pets and one bee hive.

Loading Space, Off-Street - Space logically and conveniently located for both pick-ups and deliveries, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

Lodging House - A building where lodging without meals is provided for compensation.

Lot - A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance, including one main building and its accessory buildings, and the open spaces required by this Ordinance, and having its principal frontage on a street, or an officially designated and approved place.

Lot, Corner - A lot at the junction of two or more streets.

Lot, Interior - Any lot other than a corner lot.

Lot, Through - A lot having frontage on two parallel or two approximately parallel streets.

Lot Line, Front - In the case of an interior lot, a line separating the lot from the street or place, and in the case of a corner lot, a line separating the narrowest street, frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

Lot Line, Rear - A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side - Any lot boundary line not a front lot line or a rear lot line.

Lot of Record - A lot of record at a time of enactment of this Ordinance in the Office of the Register of Deeds, either as a part of a subdivision or described by metes and bounds.

Manufacturing or Industry - Any use in which the major activity is the treatment, processing, rebuilding or repairing, or bulk storage of material, products, or items, and where the finished product is not acquired by the ultimate user on the premises; as distinguished from a retail use where the treatment, processing, repairing, or storage is secondary to the sale, exchange, or repairing of materials or products on the premises.

Mobile or Manufactured Home Park - A mobile or manufactured home development designed with facilities for common use and in which home spaces are rented.

Mobile or Manufactured Home Subdivision - A subdivision providing lots for sale for the placement of mobile or manufactured homes for residential purposes.

Motel - A building or a group of buildings containing sleeping units, each with bathroom facilities, designed for or used primarily on a temporary basis by automobile tourists or other transients, with parking space conveniently located to each unit

Motor Vehicle Sales Lot - Any premises where three or more motor vehicles are offered for sale or sold during any calendar year.

Motor Vehicle Wrecking Yard - Any place where two or more motor vehicles not in running condition or otherwise legally operable on public ways, or parts thereof, are stored in the open and are not being restored to operation; or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof, including farm machinery stored in the open and not being restored to operating condition.

Nonconforming Lot - A lot of record which does not conform to the lot area or lot width regulations of this Ordinance.

Nonconforming Use - Any building or land lawfully occupied by a use which, at the time of the passing of this Zoning Ordinance or an amendment thereto, does not conform with the regulations in which it is situated.

Nursing Home - A building to house and within which services are provided for ill and aged persons.

Off-Street Parking - A parcel of land with a durably surfaced area, enclosed in a main building or an accessory building, or unenclosed, sufficient in size to store at least one standard automobile. Such open, unoccupied space shall be other than a street or alley and the principal use of such parcel of land, durably surfaced, enclosed or unenclosed, shall be for the purpose of parking vehicles off the thoroughfares within Milton Township.

Official Zoning Map - The Official Map(s) showing the location and boundaries established by this Ordinance. The Official Zoning Map, together with all the explanatory matter thereon and all amendments thereto, is adopted by reference and is a part of this Ordinance.  
Open Space - The portion of the gross site area that is landscaped or that is usable and maintained for recreational purposes (does not include setbacks, roadways, or retention areas).

Overlay - An area within a district for which the Planning Commission may vary the use and area requirements for the applicable ordinance.

Parking Space - An area of not less than two hundred square feet (18.5 sq. m) designed to accommodate one motor vehicle, not including required access and maneuvering areas.

Plan Commission - The Milton Township Planning Commission.

Planned Unit Development - Residential, commercial, or industrial development, or combination thereof, on a tract of land under single ownership or control according to an approved final site development plan.

Principal Building - A building which is primarily occupied or devoted to the principal use of the lot, parcel or building site, i.e., not occupied by or devoted to an accessory use.

Principal Use - main and primary use of building, lot, parcel, building site or portions of same, which use is permitted and/or otherwise approved by the Township in the applicable zoning district.

Public Sewer System - A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating, or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health, operated and maintained by the general public.

Public Utility - Any person, firm or corporation, municipal department, board, or commission duly authorized to furnish and furnishing under Federal, State, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

Recreation Area, Private - All lands and structures which are owned and operated by private individuals, a business, or corporation which are predominately intended to accommodate recreational vehicles and provide for outdoor recreational activities.

Recreational Vehicle - Includes boats, motor homes, snowmobiles, travel trailers, and other similar items designed and intended specifically for temporary living such as travel, camping, and vacationing, whether self-propelled or towed.

Restaurant - A lot upon which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises, whether or not entertainment is offered, and includes establishments commonly known as bars, grills, cafes, taverns, nightclubs, dinner theaters, drive-ins, and any fast food establishment permitting consumption on the premises.

Restaurant, Drive-In - Any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to, or permitted to be consumed by, patrons in automobiles or other vehicles parked on the premises.

Restaurant, Fast Food - Any restaurant designed to permit or facilitate the serving of meals, sandwiches, or other food directly to patrons at a counter to be consumed elsewhere, either on or off the premises.

Right-of-way Line - The dividing line between a lot and a public street, legally open or officially plotted by the Township, County, or State, or over which the owners or tenants or two or more lots held in single or separate ownership have the right-of-way.

Roadside Stand - A structure which is used seasonally for the sale of produce. The use of a roadside stand shall not constitute a commercial district.

Rooming Houses - See Lodging House.

Sanitary Landfill - A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of suitable cover at the conclusion of each days' operation or at more frequent intervals as necessary; and maintained in accordance with the provisions of Act 641 of Public Acts of 1978, as amended.

Screening - A hedge, fence, or wall, or any combination thereof, used to reduce visual and audible effects of adjoining uses.

Section - A unit of a manufactured home at least twelve body feet in width and thirty body feet in length.

Setback - The minimum required horizontal distance between the center line of the right-of-way and the building line.

Shopping Center - A group of commercial establishments planned and developed, owned, or managed as a unit, with off-street parking and loading provided on the premises, and related in its location, size, and type of stores to the trade area which it serves.

Sign - Any name, identification, description, display, or illumination which is affixed to, painted, or represented directly or indirectly upon a building (including on window area), structure, or land which is in view of the general public and which directs attention to a person, place, commodity, activity, institution, organization, or business.

Story - That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling next above it shall be the story.

Story, Half - That portion of a building under a sloping gable, hip, or gambrel roof, the wall plates on at least two opposite exterior walls of which are not more than three feet (0.91 m) above the floor level of such half-story.

Street - A public thoroughfare between property lines, which affords principal means of vehicular access to abutting property.

Structure - An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. Anything constructed or erected, the use of which requires permanent location on or under the ground or attachment to something having a permanent location on the ground. Advertising signs, billboards, backstops, tennis courts, mobile homes, and other similar things shall be included in this definition.

Subdivision - All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development.

Swimming Pool - An artificial or semi-artificial basin or tank, including all appurtenant equipment, structures, and facilities, for the purpose of impounding water to a depth of more than two and one-half feet (0.76 m) for the immersion or partial immersion therein of human beings.

Tavern - A public establishment where food is sold and served, but where the principal business is the sell and serving of alcoholic beverages for consumption on the premises.

Township Board - The Board of Trustees of Milton Township, Cass County, Michigan.

Truck Terminal - Any place where trucks are stored and/or dispatched or where freight is brought and dispatched by truck.

Variance - A variation of the lot size or width requirements, yard requirements, height restrictions, sign regulations, parking and loading requirements, or other development standards from those set forth in the Zoning Ordinance, granted by the Board of Zoning Appeals in accordance with the provisions of this Ordinance where strict enforcement of the terms of the Ordinance would create undue hardship, owing to the unique characteristics of the property for which the variance is sought.

Wireless Communication Facility: All structural facilities attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers; cellular telephone and paging devices; telephone devices and exchanges; microwave relay towers; telephone transmission equipment buildings; and commercial mobile radio service facilities. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities which are subject to state and federal law.) Wireless communication facilities shall be specifically excluded from the definition of "public utility".

Wireless Communication Support Structure: Any structure used to support attached wireless communication facilities, or other antennae or facilities, including support lines, cables, wire braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or other similar structures which support wireless communication facilities.

Yards - The area of each lot in which no building or structure shall be erected. The size of such area is determined by the distance from the property lines to the building lines.

- A. Front: The minimum required area extending the full width of the lot from the property line to the building line.
- B. Side: The minimum required area extending from the front main building line to the rear lot line and extending from the side lot line to the nearest point of the main building line.
- C. Rear: The minimum required area extending the full width of the lot from the rear lot line to the nearest point on the main building line.

Zone - Same as District.

Zoning Administrator - The designated administrator and enforcement official of this Ordinance.

Zoning Lot - A tract of land designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A zoning lot may or may not coincide with a lot of record.

Zoning Map - A map showing the division of land into various districts within the jurisdiction of Milton Township.

## ARTICLE II. AGRICULTURAL PRODUCTION DISTRICT

### Section 2.01 INTENT

It is recognized that the public health and welfare of the citizens of Milton Township, the State of Michigan, and the United States are greatly dependent upon the sustenance and economic benefit provided by a viable agricultural industry. It is the purpose of the Agricultural Production District to insure that land areas within Milton Township which are uniquely suited for the production of food are retained for agricultural production, unimpeded by the establishment of incompatible uses of land which would hinder agricultural practices and irretrievably deplete essential agricultural lands and productivity.

### Section 2.02 PERMITTED USES

The following uses of land and structures shall be permitted in an Agricultural Production District:

- A. Agricultural production including the raising or growing of forages and sod crops; grains and feed crops; dairy and dairy products; livestock, including breeding and grazing; fruits, plants, shrubs, and nursery stock; vegetables; and other similar agricultural uses, but not including slaughtering of animals for other than home use on the premises.
- B. Single family dwellings including modular homes.
- C. Home occupations.
- D. Roadside stands for the sale of farm products produced on the premises, or other premises owned and operated by the owner or operator of the farm, provided that off-highway parking facilities be provided, and that entrance and exit facilities be approved in writing by the County or State Road Commission in the interest of public safety.
- E. Uses or structures customarily incidental to the operation of a farm and permitted dwellings.
- F. Accessory uses or buildings.
- G. Essential Services.

### Section 2.03 USES PERMITTED AS A CONDITIONAL USE

The following uses of land and structures may be permitted in an Agricultural Production District upon issuance of a conditional use permit in accordance with the procedures and criteria contained in Article XIV.

- A. The sale and service of machinery used in agricultural production.
- B. Facilities used for the centralized bulk collection, storage, and distribution of agricultural products to wholesale and retail markets.
- C. The storage and sale of seed, feed, fertilizer, and other products essential to agricultural production.

- D. Facilities used to provide veterinarian services for livestock.
- E. Facilities used in the research and testing of agricultural products and techniques.
- F. Cemeteries.
- G. Landing Fields
- H. Commercial mining, gravel pits, and sandpits.
- I. Sanitary landfill and backfilling.
- J. Concrete, ready mix, plants and asphalt batching plant meeting all State Statutes.
- K. The following uses of land and structures may be permitted as conditional uses which require no new building construction and the exterior character of existing buildings will remain unchanged:
  - 1. Bakery and dairy products, retail only.
  - 2. Barber and beauty shops.
  - 3. Books, stationery and newspapers, video.
  - 4. Clothing and dry goods.
  - 5. Florist and garden shop.
  - 6. Groceries and food stuffs.
  - 7. Offices, business and professional.
  - 8. Restaurant.
  - 9. Signs in accordance with the provisions of Section 13.15.
  - 10. Tailoring and dress making.
  - 11. Antiques and gifts.
  - 12. Churches.
  - 13. The sale, purchase, construction, and/or repair of firearms (Res. 2010-10)
  - 14. Archery Range located on 5 acres or more (Ord. 2010-14)
  - 15. Landscaping Services located on 5 acres or more (Ord. 2010-14)
- L. Bed and Breakfast Establishment (Res. 2009-05)
  - 1. The use shall only be established in a single family dwelling.
  - 2. The establishment shall contain the principal residence of the owner or operator.
  - 3. The interior design of the establishment must adhere to typical residential characteristics so that the dwelling unit retains its inherent single-family character.
  - 4. Meals shall be served only to the operator's family, employees, and overnight guests.
  - 5. All guest rooms must have interior access to common areas (e.g. dining, sitting, and restrooms, etc)
  - 6. Parking shall be located to minimize impact on adjacent properties.
  - 7. The number of guest rooms in the establishment shall not exceed five (5) plus one (1) additional guest room for each ten-thousand (10,000) square feet of lot area, or fraction thereof, in excess of one (1) acre of lot area, not to exceed nine (9) guest rooms in any case.
  - 8. Exterior refuse storage facilities beyond what is normally expected for a single-family dwelling shall not be located in the front yard and shall be properly fenced or screened from view on three (3) sides

In addition to the criteria for conditional use approval contained in Article XIV, the following standards shall be applied in approving a conditional use permit in an Agricultural Production District:

- A. The proposed use shall be situated upon lands which are less suitable for agricultural production than other lands within the Agricultural Production Districts in Milton Township. This determination shall be based upon a comparative analysis of evidence considering natural as well as economic factors.
- B. The proposed use shall be situated in a manner reducing to a minimum the amount of productive agricultural land which is converted to the proposed use.

- C. The proposed use shall be located in close proximity to existing facilities providing agricultural services whenever possible and appropriate. The clustering of agricultural services permitted by conditional use into agricultural service centers shall be encouraged.

**Section 2.04 SITE DEVELOPMENT STANDARDS**

The use of land and structures within an Agricultural Production District shall maximize agricultural productivity and conform to the following standards:

- A. Minimum Lot Size: Each dwelling shall be situated on a lot encompassing a minimum of five (5) acres per dwelling unit. The width of such lots shall not be less than two hundred (200) feet and the depth no greater than three (3) times the width.
- B. The Township Zoning ordinance will allow that one (1) adult animal of more than forty (40) pounds may be kept on not less than three (3) acres. One (1) additional adult animal of more than forty (40) pounds may be kept on one (1) each additional acre over three (3) acres up to twenty (20) acres.
- C. Setback: All dwellings and structures shall be situated no closer than fifty (50) feet to the closest point of the right-of-way of a street or road, nor fifty (50) feet to the nearest point on a property boundary defining the limits of a farm or lot. Accessory structures used to house livestock or fowl shall not be located closer than one hundred (100) feet to any property boundary.
- D. Minimum Building Size: The minimum ground floor area for residential buildings shall be nine hundred sixty (960) square feet.
- E. A lot of recorded existing on the effective date of this ordinance of not less than thirty thousand (30,000) square feet and one hundred fifty (150) feet in width at the building line may be developed for single family residential use. The yard requirements for the development of a substandard lot of record shall be those required in Article III.

NOTE\*\*\*\*\*

Section 12.06 NONCONFORMING LOTS

B. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two-family dwelling when permitted, provided that required yards or lot areas are not less than sixty (60) percent of the minimum required dimensions or areas.

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**Section 2.05 SUPPLEMENTARY STANDARDS**

The following supplementary standards shall apply to the use of land and structures within an Agricultural Production District:

- A. Agricultural Labor Camp: The dwelling units in agricultural labor camps provided for migratory employees engaged in agricultural activities on a farm shall be exempt from the minimum lot size and width requirements contained in this section. All structures in agricultural labor camps shall comply with the setback requirement established in this section and the provisions of Public Act 289 of 1965, as amended, and the administrative rules promulgated thereunder. The provisions of this section shall apply to dwelling units for seasonal employees which do not meet the definitions of an agricultural labor camp.
- B. Site Development Standards for Conditional Uses: In addition to applicable general requirements of this Ordinance, and such conditions imposed in accordance with the standards stated in Section 2.03 and Article XIV, a conditional use permitted in an Agricultural Production District shall be identified as either a commercial or industrial use, and shall comply with the applicable site development standards contained in either Articles VI or VIII.

- C. Hardships: Dwelling units constructed in conformance with the provisions of this section which become vacant as a result of the death of the owner, operator, or employee of a farm or the termination of an ownership, operational, or employee relationship with a farm shall be subsequently occupied in conformance with the provisions of this section, except where the Board of Appeals finds that such a restriction would result in undue hardship as outlined in Article XVII, Section 17.04. Upon a finding of undue hardship, the Board of Appeals shall have the power to issue a variance from the occupancy restriction of this section in accordance with the procedures in Article XVII. Such a variance shall only be applicable to the dwelling unit in question, and shall not operate to permit construction of additional dwelling units.

### ARTICLE III. RURAL RESIDENTIAL DISTRICT

#### Section 3.01 PURPOSE

The Rural Residential Districts are those areas identified on the Township's Land Use Plan as being marginal for agriculture production and yet not presently needed for urban residential-type uses. The purpose of this section is to provide for the continual change from rural agriculture to suburban and from suburban to urban uses. The Rural Residential Districts are expected to remain essentially in agriculture productions, but provide for the transition of these uses to more intensively used rural residential developments on large lots providing a variety of housing types.

#### Section 3.02 PERMITTED USES

- A. Agricultural production including the raising or growing of forages and sod crops; grains and feed crops; dairy and dairy products; livestock, including breeding and grazing; fruits, plants, shrubs, and nursery stock; vegetables; and other similar agricultural uses, but not including slaughtering of animals for other than home use on the premises.
- B. Single family dwellings, including modular homes.
- C. Home occupations.
- D. Roadside stands for the sale of farm products produced on the premises, or other premises owned and operated by the owner or operator of the farm, provided that off-highway parking facilities be provided, and that entrance and exit facilities be approved in writing by the County or State Road Commission in the interest of public safety.
- E. Uses or structures customarily incidental to the operation of a farm and permitted dwellings.
- F. Accessory uses or buildings.
- G. Essential Services.
- H. Single family dwellings.
- I. Modular Home

#### Section 3.03 CONDITIONAL USES (Amended 4/8/2010, Ordinance 2010-01)

The following uses of land and structures may be permitted in a Rural Residential District upon issuance of a conditional use permit in accordance with the procedures and criteria contained in Article XIV.

- A. The sale and service of machinery used in agricultural production.
- B. Facilities used for the centralized bulk collection, storage, and distribution of agricultural products to wholesale and retail markets.
- C. The storage and sale of seed, feed, fertilizer, and other products essential to agricultural production.
- D. Facilities used to provide veterinarian services for livestock.

- E. Facilities used in the research and testing of agricultural products and techniques.
- F. Cemeteries
- G. The following uses of land and structures may be permitted as conditional uses which require no new building construction and the exterior character of existing buildings will remain unchanged:
  - 1. Antiques and gifts
- H. Churches
- I. Day Care, State Licensed
- J. State Licensed Adult Foster Care
- K. Wireless communication facility and support structure.
- L. Archery Range located on 5 acres or more (Ord. 2010-14)
- M. Landscaping Services located on 5 acres or more (Ord. 2010-14)
- N. Bed and Breakfast Establishment (Res. 2009-05)
  - 1. The use shall only be established in a single family dwelling.
  - 2. The establishment shall contain the principal residence of the owner or operator.
  - 3. The interior design of the establishment must adhere to typical residential characteristics so that the dwelling unit retains its inherent single-family character.
  - 4. Meals shall be served only to the operator's family, employees, and overnight guests.
  - 5. All guest rooms must have interior access to common areas (e.g. dining, sitting, and restrooms, etc)
  - 6. Parking shall be located to minimize impact on adjacent properties.
  - 7. The number of guest rooms in the establishment shall not exceed five (5) plus one (1) additional guest room for each ten-thousand (10,000) square feet of lot area, or fraction thereof, in excess of one (1) acre of lot area, not to exceed nine (9) guest rooms in any case.
  - 8. Exterior refuse storage facilities beyond what is normally expected for a single-family dwelling shall not be located in the front yard and shall be properly fenced or screened from view on three (3) sides.

#### **Section 3.04 HEIGHT REGULATIONS**

- A. For any dwelling thirty-five (35) feet, not exceeding two and one-half (2-1/2) stories;
- B. For any other nonresidential building or other structure, thirty-five (35) feet, except that such height may be increased to a maximum of sixty-five (65) feet provided that for every foot of height in excess of thirty-five (35) feet there shall be added to each yard requirement one (1) corresponding foot of width and depth.

#### **Section 3.05 AREA, WIDTH, AND YARD REGULATIONS**

- A. Minimum Lot Area and Width: A lot area of not less than two (2) acres, with no dimension less than two hundred (200) feet at the building line, shall be provided for every building or other structure erected or used for any use permitted in this district, except a lot of record of not less than thirty thousand (30,000) square feet and one hundred fifty (150) feet in width at the building line may be developed for single family residential use. The depth of any lot shall not exceed three (3) times the width of the lot. The minimum lot area and width requirements for uses dealing with a public utility may be reduced when authorized by the Planning Commission.
- B. Front Yards: On every lot or premises, there shall be a front yard not less than eighty-five (85) feet in depth from the center line of the road nor less than fifty (50) feet from the right-of-way line.
- C. Side Yards:

1. On each interior lot, there shall be two (2) side yards having an aggregate width of not less than thirty (30) percent of the total lot width at the building line and neither side yard having a width of less than twenty (20) feet.
  2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than eighty-five (85) feet from the center line of the street, and the side yard not abutting the street having a width of not less than twenty (20) feet.
  3. On any lot and any side yard not abutting the street, a detached private garage may be erected and maintained within the rear yard of the lot if not closer to the side lot line than twenty (20) feet.
- D. Rear Yard: There shall be a rear yard on each lot, the depth of which shall be not less than fifty (50) feet, except that an accessory use structure may be erected within the rear yard not closer to the rear property line than ten (10) feet.
- E. Building Coverage: Not more than ten (10) percent of the area of any lot shall be occupied by buildings.
- F. Building Size: The minimum ground floor area for residential buildings shall be nine hundred sixty (960) square feet.

**NOTE \*\*\*\*\***

**Section 12.06 NONCONFORMING LOTS**

B. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two-family dwelling when permitted, provided that required yards or lot areas are not less than sixty (60) percent of the minimum required dimensions or areas.

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**Section 3.06 SITE DEVELOPMENT STANDARDS FOR FARMS**

The use of land and structures within the Rural Residential District for agricultural purposes shall conform to the following standards:

- A. Minimum Farm Size: A farm within a Rural Residential District shall encompass a minimum of twenty (20) acres. On farm sites of less than twenty (20) acres, one (1) adult animal of more than forty (40) pounds may be kept on not less than three (3) acres. One (1) additional adult animal of more than forty (40) pounds may be kept one (1) each additional acre over three (3) acres up to twenty (20) acres.
- B. Minimum Lot Size: No dimension of any farm shall be more than three (3) times any other dimension of the farm property. Each dwelling placed on a farm in addition to the principle farm dwelling occupied by the farm owner or operator shall be situated on a lot encompassing a minimum of thirty thousand (30,000) square feet per dwelling unit. The width of such lot shall be not less than one hundred fifty (150) feet.
- C. Minimum Setback: All dwellings and structures shall be situated no closer than fifty (50) feet to the closest point of the right-of-way of a street or road, nor closer than fifty (50) feet to the nearest point on a property boundary defining the limits of a farm or a lot. Accessory structures used to house livestock or fowl shall not be located closer than one hundred (100) feet to the nearest point of any property boundary defining the limits of a farm or a lot, except, the Milton Township Plan Commission may approve a setback of less than 100 feet when it determines that the proposed structure will not be detrimental to the adjacent properties or the neighborhood.

**Section 3.07 VISION CLEARANCE**

Vision clearance requirements will be in accordance with the provisions of Sections 13.07 and 13.10 of this Ordinance.

**Section 3.08 OFF-STREET PARKING**

Off-street parking requirements will be in accordance with the provisions of Article XV of this Ordinance.

**Section 3.09 SIGNS**

Sign requirements will be in accordance with the provisions of Article XIII of this Ordinance.

**ARTICLE IV. SINGLE FAMILY RESIDENTIAL DISTRICT**

**Section 4.01 INTENDED PURPOSES**

The purpose of creating residential districts is to provide areas primarily designed for residential use consisting of single family dwellings located on individual lots or premises, of adequate size to provide for safe water and sewage disposal facilities, spaced to diminish spread of fire, and set back from the public thoroughfare to facilitate safe exit from and entrance to the premises.

The requirements are intended to protect and stabilize the basic qualities of each district, and to provide suitable and safe conditions for family living.

The general character of these residential districts is to consist of single family detached dwellings, set on large building lots. Nonresidential uses would be restricted to those community facilities which:

- A. May appropriately be located in residential areas to serve educational, needs or to provide other essential services for the residents, or
- B. May appropriately be located in residential areas to provide recreational, religious, health and other essential services for residents, or
- C. Can perform their activities more effectively in a residential environment, unaffected by adjacent industrial or general services uses, and
- D. Do not create significant objectionable influences in residential areas.

In Single Family Residential Districts, the following regulations shall apply:

**Section 4.02 USE REGULATIONS**

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes and no other:

- a. Permitted Uses:
  - 1. Single family detached dwelling units.
  - 2. Modular Home
  - 3. Publicly owned parks and playgrounds without buildings.
  - 4. Accessory uses.
  - 5. Home occupations.
  - 6. Small non-domesticated animals and birds of less than forty (40) pounds each may be kept on lots of more than one (1) acre at the ratio of an animal or bird for each two hundred fifty (250) square feet over one (1) acre.

b. Conditional Uses by Permit:

1. Churches, parish houses, schools, educational and philanthropic institutions.
2. The use of open lands and waters for privately owned and operated parks, picnic groves, golf courses, and similar facilities for outdoor exercise and recreation, but not including race tracks or miniature golf courses.
3. Community facilities and public utility uses directly related to and necessary for essential services within the district or Township
4. A maximum of two (2) horses may be allowed on lots of five or more acres. All accessory buildings used to house or feed horses shall be no closer than 100 feet from any property line. Additional horses may be allowed as a Conditional Use.
5. Bed and Breakfast Establishment (Res. 2009-05)
  - a. The use shall only be established in a single family dwelling.
  - b. The establishment shall contain the principal residence of the owner or operator.
  - c. The interior design of the establishment must adhere to typical residential characteristics so that the dwelling unit retains its inherent single-family character.
  - d. Meals shall be served only to the operator's family, employees, and overnight guests.
  - e. All guest rooms must have interior access to common areas (e.g. dining, sitting, and restrooms etc)
  - f. Parking shall be located to minimize impact on adjacent properties.
  - g. The number of guest rooms in the establishment shall not exceed five (5) plus one (1) additional guest room for each ten-thousand (10,000) square feet of lot area, or fraction thereof, in excess of one (1) acre of lot area, not to exceed nine (9) guest rooms in any case.
  - h. Exterior refuse storage facilities beyond what is normally expected for a single-family dwelling shall not be located in the front yard and shall be properly fenced or screened from view on three (3) sides.

**Section 4.03 HEIGHT REGULATIONS**

- A. For any dwelling, thirty-five (35) feet, not exceeding two and one-half (2-1/2) stories;
- B. For any building accessory to any dwelling use, not to exceed twelve (12) feet at the eaves and sixteen (16) feet at the roof peak.
- C. For any other nonresidential building or other structure, thirty-five (35) feet.

**Section 4.04 AREA, WIDTH AND YARD REGULATIONS**

- A. Minimum Lot Area and Width: A lot area of not less than sixty thousand (60,000) square feet, with no dimension less than one hundred fifty (150) feet at the building line, shall be provided for every building or other structure erected or used for any use permitted in this district, except a lot of record of not less than ten thousand (10,000) square feet and seventy (70) feet in width at the building line may be developed for single family residential use. The depth shall not exceed three (3) times the width of any lot.

In the case of a use dealing with public utilities, the minimum lot area and width requirements may be reduced when authorized by the Planning Commission.

- B. Front Yards: On every lot or premises, there shall be a front yard not less than seventy (70) feet in depth from the center line of the road, nor less than thirty-five (35) feet from the right-of-way line. Where a yard of greater or lesser depth occurs in front of a dwelling, in existence on the date of enactment of this Ordinance, on the same side of the street or road in the same block or within three hundred (300) feet of the said lot lines, the depth shall not be less, and need be no greater than the average depth of the front yards of existing dwellings, but this shall not require a front yard of greater depth than fifty (50) feet, or permit a lesser depth than thirty-five (35) feet.

C. Side Yards:

1. On each interior lot, there shall be two (2) side yards having an aggregate width of not less than thirty (30) percent of the total lot width at the building line, and neither side yard having a width of less than fifteen (15) feet.
2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than thirty (30) feet and the side yard not abutting the street having a width of not less than ten (10) feet.
3. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained if not closer to the side lot line than ten (10) feet.
4. Underground structures shall be no nearer than ten (10) feet to any lot line.

D. Rear Yard: There shall be a rear yard on each lot, the depth of which shall be not less than twenty-five (25) feet, except that an accessory use structure may be erected within the rear yard not closer to the rear property line than five (5) feet.

E. Building Coverage: No more than thirty (30) percent of the area of any lot shall be occupied by buildings.

F. Building Size: The minimum ground floor area for residential buildings shall be nine hundred sixty (960) square feet.

NOTE \*\*\*\*\*

Section 12.06 NONCONFORMING LOTS

B. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two-family dwelling when permitted, provided that required yards or lot areas are not less than sixty (60) percent of the minimum required dimensions or areas.

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Section 4.05 VISION CLEARANCE

Vision clearance requirements will be in accordance with the provisions of Section 13.07 and 13.10 of this Ordinance.

Section 4.06 OFF-STREET PARKING

Off-street parking requirements will be in accordance with the provisions of Article XV of this Ordinance.

Section 4.07 SIGNS

Sign requirements will be in accordance with the provisions of Article XIII of this Ordinance.

## ARTICLE V. MEDIUM DENSITY RESIDENTIAL DISTRICT

### Section 5.01 INTENDED PURPOSES

The general character of these residential districts is to consist of single family, two (2) family, and multiple family dwellings set in a medium density living environment. Nonresidential uses would be those permitted in Single Family Residential Districts.

In Medium Density Residential Districts, the following regulations shall apply:

### Section 5.02 USE REGULATIONS

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes and no other:

#### A. Permitted Uses:

1. Single family detached dwelling units.
2. Modular home.
3. Publicly owned parks and playgrounds without buildings.
4. Accessory uses.
5. Home occupations.
6. Small non-domesticated animals and birds of less than forty (40) pounds each may be kept on lots of more than one (1) acre at the ratio of an animal or bird for each two hundred fifty (250) square feet over one (1) acre.
7. Single family attached, not to exceed six (6) dwellings per structural unit;
8. Multiple family dwellings;
9. Accessory uses.

#### B. Conditional Uses by Permit:

1. Churches, parish houses, schools, educational and philanthropic institutions.
2. The use of open lands and waters for privately owned and operated parks, picnic groves, golf courses, and similar facilities for outdoor exercise and recreation, but not including race tracks or miniature golf courses.
3. Community facilities and public utility uses directly related to and necessary for essential services within the district or Township.
4. Bed and Breakfast Establishment (Res. 2009-05)
  - a) The use shall only be established in a single family dwelling.
  - b) The establishment shall contain the principal residence of the owner or operator.
  - c) The interior design of the establishment must adhere to typical residential characteristics so that the dwelling unit retains its inherent single-family character.
  - d) Meals shall be served only to the operator's family, employees, and overnight guests.
  - e) All guest rooms must have interior access to common areas (e.g. dining, sitting, and restrooms, etc)
  - f) Parking shall be located to minimize impact on adjacent properties.
  - g) The number of guest rooms in the establishment shall not exceed five (5) plus one (1) additional guest room for each ten-thousand (10,000) square feet of lot area, or fraction thereof, in excess of one (1) acre of lot area, not to exceed nine (9) guest rooms in any case.

- h) Exterior refuse storage facilities beyond what is normally expected for a single-family dwelling shall not be located in the front yard and shall be properly fenced or screened from view on three (3) sides.
- 5. Community facilities and public utility uses directly related to and necessary for essential service within the district or Township
- 6. Mobile home sub-division (as a conditional use only, in accordance with the regulations established in Article XIV).
- 7. Mobile home park.

**Section 5.03 HEIGHT REGULATIONS**

No principle building shall hereafter be erected or altered to exceed thirty-five (35) feet in height or three (3) stories in height.

For any building accessory to a dwelling use, not to exceed twelve (12) feet at the eaves and sixteen (16) feet at the roof peak.

**Section 5.04 AREA, WIDTH AND YARD REGULATIONS**

- A. Minimum Lot Area and Width: A minimum lot area per housing unit and a minimum lot width at the building line shall be provided for every building erected, altered, or used for any dwelling use permitted in this district in accordance with the following table:

Type of Dwelling Per Dwelling Unit	Minimum Lot Area Lot Width	Minimum
Single Family Dwelling	30,000 square feet	150 feet
Single Family, Attached (not less than 6 units per structure)	5,000 square feet	16 feet per unit
Two Family Dwelling	10,000 square feet	100 feet
Multifamily—3 bedrooms	6,000 square feet	
Multifamily—2 bedrooms	5,000 square feet	
Multifamily—1 bedroom	4,000 square feet	

For every building erected, altered, or used for any use permitted in this district, there shall be a lot area of not less than thirty thousand (30,000) square feet and a lot width of not less than one hundred fifty (150) feet at the building line.

- B. Front Yards: On every lot or premises, there shall be a front yard not less than seventy (70)feet in depth from the center line of the road, nor less than thirty-five (35) feet from the right-of-way line. Where a yard of greater or lesser depth occurs in front of a dwelling, in existence on the date of enactment of this Ordinance, on the same side of the street or road in the same block or within three hundred (300) feet of the said lot lines, the depth shall not be less, and need be no greater than the average depth of the front yards of existing dwellings, but this shall not require a front yard of greater depth than fifty (50) feet, or permit a lesser depth than thirty-five (35) feet.

- C. Side Yards

- 1. On each interior lot, side yards shall be provided in accordance with the following table:

<u>Type of Dwelling</u>	<u>Min. No. of Yards</u>	<u>Minimum Aggregate Width</u>	<u>Any One</u>
Single Family Dwelling	2	20% of lot width	10 feet
Single Family Attached (end only)	1	2 feet	12 feet
Two Family Dwelling	2	20% of lot width	10 feet
Multifamily Dwelling	2		25 feet

- 2. On each corner lot, there shall be a side yard abutting the street having a width of not less than thirty (30) feet and, except where the lot is occupied by a single family dwelling or a two (2) family dwelling, a side yard abutting the interior side lot line having a width of not less than less than ten (10) feet.

3. For every building erected, altered, or used for any other use permitted in this district, there shall be side yards provided in accordance with the following:
    - a. On the interior lots, there shall be two (2) side yards having an aggregate width of not less than twenty (20) percent, neither side yard having a width of less than ten (10) feet.
    - b. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than thirty (30) feet, and the side yard not abutting the street having a width of not less than ten (10) feet.
  4. On any lot, in any side yard not abutting the street, a detached private garage may be erected and maintained within the rear quarter of the lot if not closer to the side lot line than ten (10) feet.
- D. Rear Yards: There shall be a rear yard on each lot, the depth of which shall not be less than twenty-five (25) feet, except that an accessory use structure may be erected within the rear yard not closer to the rear line than ten (10) feet.
- E. Building Coverage and Size: The maximum percentage of the area of each lot which may be occupied by buildings shall be in accordance with the following table:

<u>Type of Dwelling Unit</u>	<u>Maximum Coverage</u>
Single Family	30%
Single Family, Attached	40%
Two Family	30%
Multifamily	40%

The minimum dwelling size for single family and two family dwellings shall be nine hundred sixty (960) square feet and for multifamily dwellings seven hundred thirty-five (735) square feet per dwelling.

F. Distance Between Structures: The minimum distance between any two (2) multiple family residence buildings on the same lot shall be fifty (50) feet, except that where two (2) buildings are so situated that:

1. Neither is visible from any window or entrance of the other, or
2. No line drawn perpendicular to any wall of either building intersects the other building, then the minimum distance between such buildings may be twenty-five (25) feet less than indicated above.

NOTE\*\*\*\*\*

Section 12.06 NONCONFORMING LOTS

B. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two-family dwelling when permitted, provided that required yards or lot areas are not less than sixty (60) percent of the minimum required dimensions or areas.

\*\*\*\*\*

**Section 5.05 VISION CLEARANCE**

Vision clearance requirements will be in accordance with the provisions of Sections 13.07 and 13.10 of this Ordinance.

**Section 5.06 OFF-STREET PARKING**

Off-street parking requirements will be in accordance with the provisions of Article XV of this Ordinance.

**Section 5.07 SIGNS**

Sign requirements will be in accordance with the provisions of Article XIII of this Ordinance.

## ARTICLE VI. COMMERCIAL DISTRICT

### Section 6.01 INTENDED PURPOSES

This district is designed to provide for automotive, service, and free-standing commercial activities which require limited comparison shopping. Customers usually arrive by automobile making a separate stop for each errand. Uses permitted in this district usually require larger sites and buildings and often provide services which are not compatible with residential districts.

In Commercial Districts, the following regulations shall apply:

### Section 6.02 USE REGULATIONS

A building may be erected, altered, or used, and a lot may be used or occupied for any of the following purposes:

#### A. Permitted Uses

1. Retail stores and shops offering chiefly new merchandise when conducted within a completely enclosed building.
2. Business and personal services including barber shops, beauty parlors, shoe repair shops, radio and television shops, real estate sales, insurance and similar businesses and services.
3. Professional offices, show rooms, banks, undertaking establishments, publicly owned buildings, and fraternal, civic, and social organization buildings.
4. Motels and hotels.
5. Theaters (except drive-in theaters).
6. Milk distributing (retail-wholesale), no processing.
7. Packaging services.
8. Other uses similar in character to the above and not listed specifically.

#### B. Conditional Uses by Permit:

1. Public utility buildings, telephone exchanges, transformer stations, substations with service yards, but without storage yards.
2. Outdoor advertising media and signs not pertaining exclusively to the business conducted within the building on the premises.
3. Automobile sales and service (new or used).
4. Business and personal services including dry cleaning agencies, self-service laundries and printing shops.

5. Contractors – air conditioning, plumbing, heating and ventilating, electric, insulation.
6. Material handling equipment sales and service.
7. Meat processing (no slaughtering).
8. Mobile home sales and service.
9. Animal hospitals, animal boarding or dog kennels.
10. Rental equipment
11. Farm equipment sales and service.
12. Outdoor drive-in theaters.
13. Other uses similar in character to the above and not listed specifically.
14. Laundries.
15. Food service establishments (including drive-ins, taverns, or nightclubs).
16. Antique shops.
17. Residential Use

#### **Section 6.03 HEIGHT REGULATIONS**

No building shall exceed forty (40) feet or three (3) stories in height.

#### **Section 6.04 AREA, WIDTH AND YARD REGULATIONS**

- A. Front Yards: On a street frontage between two (2) street intersections, each lot fronting on such street shall have a setback line between the lot line and the front building line as follows:
  1. Where all lots are unimproved, the front building line depth shall not be less than fifty (50) feet from the center of the street or twenty-five (25) feet from the property line, whichever is greater.
  2. Where one (1) or more lots are improved, the front yard depth need not be more than the average depths of the existing front yards of the lots adjoining on either side. In no case shall it be less than twenty-five (25) feet.
- B. Side Yards:
  1. On each corner lot, there shall be a side yard abutting the street having a width of not less than fifty (50) feet from the center line of the right-of-way or twenty-five (25) feet from the property line (whichever is the greater), and another side yard having a width of not less than twenty-five (25) feet unless the building employs a common party wall with the building on the adjoining lot.
  2. All interior lots shall have two (2) side yards, each having a width of not less than fifteen (15) feet, except where party walls are used.
  3. Where abutting lots have buildings, employing a common party wall, no side yard is required.
  4. On a lot abutting any residential zoning district, there shall be a side yard abutting such district having a width of not less than forty (40) feet, which shall be effectively screened from abutting lots by a strip of

planting creating an opaque screen at least seven (7) feet in height, such planting consisting of not less than fifty (50) percent evergreen material scattered through or a wall fence as approved by the Zoning Administrator.

5. On any lot, any side yard not abutting a street may be used to provide access to the rear portion of the yard.

C. Rear Yards: There shall be a rear yard on every lot, which rear yard shall have a minimum depth of not less than ten (10) percent of the depth of the lot for a one (1) story building, which depth shall be increased to fifteen (15) percent of the depth of the lot for a two (2) story building; provided, however, that such rear yard need not exceed thirty (30) feet in depth. Accessory buildings not more than fifteen (15) feet high may be located in a rear yard, provided the accessory buildings occupy not more than twenty-five (25) percent of the rear yard area, and are located no nearer to the side or rear lot line than five (5) feet. Accessory buildings shall not be used for residential purposes.

D. Building Coverage: No more than fifty (50) percent of any lot may be covered by buildings.

#### **Section 6.05 OFF-STREET PARKING AND LOADING**

Adequate off-street parking and loading space shall be provided in accordance with Article XV.

#### **Section 6.06 SIGNS**

Sign requirements will be in accordance with the provisions of Article XIII of this Ordinance.

#### **Section 6.07 SPECIAL CONDITIONS**

All business shall be conducted within a completely enclosed building, except for off-street parking, unless authorized by the Planning Commission.

#### **Section 6.08 VISION CLEARANCE**

Vision clearance requirements will be in accordance with the provisions of Sections 13.07 and 13.10 of this Ordinance.

#### **Section 6.09 FENCES**

The erection of a fence around that portion of this district which a drive-in restaurant utilizes for customer parking shall be mandatory. The ingress and egress driveways are excluded from this requirement. The fence shall be so designed as to contain paper products and debris within the enclosed area.

No fence over seven (7) feet in height shall be erected between the lot line in the rear and the building setback line. No fence over four (4) feet in height shall be erected between the setback line and the front lot line; provided, however, that such fence shall have a minimum of seventy-five (75) percent of its surface open to permit visibility through it.

**ARTICLE VII. (RESERVED)**

**Section 7.00 (RESERVED)**

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## ARTICLE VIII. INDUSTRIAL

### Section 8.01 INTENT AND PURPOSE

The regulations of this District are intended primarily for industrial uses which do not generate and/or emit hazardous materials, fumes, or smoke. The district is established to encourage operations which manufacture, compound, process, package, treat and assemble products from previously prepared materials. Other specific Industrial Uses are also provided for, consistent with the rural character of the township and the limited availability of essential services such as water, sewer, roads, energy sources, etc.

### Section 8.02 USE REGULATIONS

In the Industrial District, buildings and premises may be used, and buildings may be erected or structurally altered for the following uses only:

- A. 1) Advertising Services
- 2) Agricultural Processing
- 3) Business Services - Other
- 4) Contractor's Yards
- 5) Dwelling & Other Building Services
- 6) Fabrication assembly and packaging
- 7) General Contract Construction Services
- 8) Grinding, milling and production
- 9) Manufacturing - Engineering, Scientific, Medical & Research Equipment
- 10) Manufacturing - Jewelry, Silverware & Plated Ware
- 11) Manufacturing - Musical Instruments & Parts
- 12) Manufacturing - Novelties & Misc. Notions (Except Precious Metals)
- 13) Manufacturing - Pens, Pencils & Other Office & Artists' Supplies
- 14) Manufacturing - Photographic Equipment & Supplies
- 15) Manufacturing - Pottery & Related Products
- 16) Manufacturing - Toys, Amusement, Sporting & Athletic Goods
- 17) Manufacturing - Watches
- 18) Manufacturing - Wood Containers
- 19) Material handling and equipment
- 20) Pipeline Right-of-Way & Essential Service
- 21) Publishing & Printing, Binding & Related
- 22) Radio & Television Communication (Base Station)
- 23) Storage Services - Agricultural Products Only
- 24) Warehousing & Storage Services
- 25) Wholesale - Drugs, Chemical & Allied Products
- 26) Wholesale - Dry Goods & Apparel
- 27) Wholesale - Electrical Goods
- 28) Wholesale - Groceries & Related Products
- 29) Wholesale - Hardware, Plumbing, Heating Equipment & Supplies
- 30) Wholesale - Machinery, Equipment & Supplies (Farm Equipment)
- 31) Wholesale - Motor Vehicles & Automotive Equipment
- 32) Winery

## B. CONDITIONAL USES

- 1) Bulk storage
- 2) Cleaners and laundries
- 3) Handling and processing of construction material
- 4) Manufacturing - Canning & Processing of Food & Related Products
- 5) Manufacturing - Dairy Products
- 6) Manufacturing - Electrical machinery, Equipment & Supplies
- 7) Manufacturing - Floor Coverings (Rugs & Carpets)
- 8) Manufacturing - Fur Goods
- 9) Manufacturing - Glass & Glassware (Pressed or Blown)
- 10) Manufacturing - Household & Office Furniture & Related Products
- 11) Manufacturing - Leather & Leather Products
- 12) Manufacturing - Machinery (Except Electrical)
- 13) Manufacturing - Miscellaneous Apparel & Accessories
- 14) Manufacturing - Miscellaneous Plastic Products
- 15) Manufacturing - Mobile Homes & Offices & Recreational Vehicles 1
- 16) Manufacturing - Other Small Wares (Cotton, Man Made Fibers, Silk, Wool)
- 17) Manufacturing - Other Wood Products (Except Furniture)
- 18) Manufacturing - Paperboard Containers & Boxes
- 19) Manufacturing - Soap, Detergents, Perfumes, Cosmetics & Other Toiletries
- 20) Manufacturing - Textile Goods
- 21) Motor vehicle services
- 22) Outdoor advertising signs
- 23) Repair and service of heavy duty trucks and construction equipment
- 24) Research Facilities
- 25) Wholesale - Other Wholesale Trade (Junk Yard)

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### Section 8.03 HEIGHT REGULATIONS

The maximum height of buildings and other structures erected or enlarged in this district shall be fifty (50) feet, except that such height may be increased to a maximum of sixty-five (65) feet, provided that for every foot of height in excess of thirty-five (35) feet, there shall be added to each yard requirement one (1) corresponding foot of width and depth.

### Section 8.04 AREA, WIDTH AND YARD REGULATIONS

- A. Front Yards: There shall be a front yard on each lot which shall be not less than fifty (50) feet in depth.
- B. Side Yards
  1. On each interior lot, there shall be two (2) side yards, each side yard having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection E hereof.
  2. On each corner lot, there shall be two (2) side yards, the side yard abutting the street having a width of not less than fifty (50) feet and the side yard not abutting the street having a width of not less than twenty-five (25) feet, except as hereinafter provided in Subsection E hereof.
- C. Rear Yard: There shall be a rear yard on each lot the depth of which shall be not less than fifty (50) feet, except as hereinafter provided in Subsection E hereof.
- D. Building Coverage: Not more than fifty (50) percent of the area of any lot shall be occupied by building.
- E. Lots Abutting Residential Districts: Unless authorized as a special exception, in no case shall any building or

structure be erected closer than one hundred (100) feet to any residential district nor shall any parking area be closer than forty (40) feet to any residential district, which forty (40) foot area between such parking lot and such residential district shall be maintained as green area entirely covered by grass, shrubs, and/or trees. See Off-Street Parking Regulations Section 15.01, paragraph F. 4.

#### **Section 8.05 OFF-STREET PARKING**

The provisions of Article XV to the contrary notwithstanding, no parking area shall be permitted closer than forty (40) feet to the front line of any lot in this district, nor closer than forty (40) feet to any residential district.

#### **Section 8.06 SIGNS**

Sign requirements will be in accordance with the provisions of Article XIII of this Ordinance.

#### **Section 8.07 OPEN STORAGE**

Any open storage or repair yards shall be entirely enclosed with a fence at least eight (8) feet high. The material and construction of this fence shall be approved by the Planning Commission.

**ARTICLE IX. (RESERVED)**

**Section 9.00 (RESERVED)**

(This article reserved for future use)

## ARTICLE X. PLANNED UNIT DEVELOPMENT DISTRICT

### Section 10.01 INTENT AND PURPOSE

Recognizing that there is a need for flexibility in keeping abreast of new building methods, designs, and materials; and to provide for variety in dwelling types and commercial complexes, this District is limited to allow for variation in the use and area requirements of this Ordinance (which are designed primarily to apply to the traditional pattern of lot development and building arrangement generally prevailing within the Township) and in the regulations applying to buildings, yards, etc. The Township Board may amend this Ordinance and Zoning Map for the accomplishment of the foregoing purposes, in accordance with the following procedure:

### Section 10.02 PRELIMINARY AND FINAL PLANS REQUIRED

For the purpose of accomplishing the objectives of this section, the owner or owners of any tract of land shall submit to the Township Board a preliminary plan and the Board shall refer it to the Township Planning Commission for review and public hearing. The Planning Commission shall then make its recommendation to the Township Board. If the Township Board approves the preliminary submission after report of the Planning Commission, the preliminary plan shall be signed by the Township Board and filed with the Township Planning Commission. The Board shall then amend the Zoning Map to include the zoning district change. Within a period of twelve (12) months following such approval, a final detailed plan shall be submitted showing that specific and detailed provisions have been made for the essential conditions listed in this Ordinance. The detailed plan shall be submitted to the Planning Commission and, except for the requirement of recording in the Office of the County Register of Deeds, be processed in the same manner as for subdivision in the Township. Although the preliminary plan must show the entire proposed developments, the final detailed plan may be submitted and approved in stages. No building permit shall be issued nor construction be commenced before a detailed final plan or stage thereof is approved, signed, and filed with the Township Planning Commission.

### Section 10.03 THE PRELIMINARY PLAN

The preliminary plan shall show the layout of the total area to be included in the proposed district and shall be accompanied by documentary evidence to the satisfaction of the Planning Commission and the Township Board showing the following:

- A. That the plan shall be consistent with the Land Use Plan as adopted and from time to time amended for the orderly development of the Township and that it will promote the general welfare of the Township;
- B. That the appropriate use and value of adjacent property will be safe-guarded;
- C. That the capacity of existing or proposed utilities, streets, and thoroughfares is adequate to absorb the additional burden created by the Planned Unit Development District when considered in conjunction with presently existing and additional proposed facilities;
- D. That the development will consist of a grouping of buildings or other structures deemed by the Township Planning Commission to be compatible; that adequate service, parking, and open spaces will be provided; and that this development will be a common operating and maintenance unit;
- E. That proper and sufficient provision is made for open space, but not less than eight (8) percent of the total site;

- F. That all buildings will be served by a State approved sewage disposal system, State approved water supply and other utilities;
- G. That any reduction in the minimum lot area per dwelling otherwise required in this Ordinance will result in increased open space immediately available to those residents and will be in addition to the requirement of Subsection E above.

**Section 10.04 FINAL PLANS**

If the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions and intent of this Ordinance shall be fully complied with at the completion of each stage. The comprehensive final detailed plans shall have a scale of not less than 1"=100' and this plan with its evidence shall show the following:

- A. Contour lines showing two (2) foot changes in elevation or indicating any unusual topographical features;
- B. That adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site;
- C. That the location, dimensions, and arrangements of all open spaces, yards, access ways, entrances, exits, off pedestrian ways, widths of roads, streets, and sidewalks are adequate to provide for safe and efficient ingress and egress to and from public streets and highways serving the development;
- D. The size and capacity of all areas to be used for automobile access, parking, loading and unloading, with respect to parking (see Article XV Off-Street Parking and Loading Requirements);
- E. The location, uses planned, elevations, major exterior treatment, dimensions, gross floor area, building coverage, and height of each building or other structure;
- F. The location and arrangement of all areas devoted to planted lawns, trees, recreation, and similar purposes;
- G. Provisions made for the location of existing or proposed sewage disposal, water supply, storm water drainage, parking lot lights, and other utilities;
- H. Sufficient additional data as may have been required by the Planning Commission or Township Board subsequent to the approval of the preliminary plan to enable the Planning Commission to judge the effectiveness of the design and character of the entire Planned Unit Development District and to consider properly such things as the relationship to surrounding area, anticipated traffic, public health, safety, and general welfare.

**Section 10.05 TIME LIMIT FOR BEGINNING OF CONSTRUCTION AND REVERSION TO FORMER ZONING CLASSIFICATION**

Every application, when approved by the Planning Commission either as submitted or resubmitted in modified form, shall constitute an agreement by the applicant or owner that such installation shall be made, completed, and operated as indicated by the approved plan and in accordance with the provisions of this section and that the area which has been zoned or rezoned shall lose its new classification and revert to its former zoning classification in any of the following events:

- A. If construction of approved buildings and improvements shall not be undertaken within twelve (12) months after the approval of the detailed plans or within such additional time as may be authorized by the Township Planning Commission.
- B. If there shall be a failure to complete construction or to comply or to continue to comply with the specified conditions listed in Section 10.04 and in this section, or with conditions imposed by the Township Board hereunder in the zoning of the area.

The change of zoning required by this section shall not be effective unless written notice has been given to the applicant by mail, giving him thirty (30) days in which to show cause to the Township Planning Commission why the change in zoning should not take place.

#### **Section 10.06 ZONING DESIGNATION BINDING SUCCESSORS IN INTEREST**

Whenever a tract of land has been designated as a Planned Unit Development, such zoning designation shall continue in effect irrespective of subsequent changes in ownership, whether all or a portion of the designated tract; and the uses and regulations of such zoning shall bind and be applicable to any successors in interest to those who were the owners of such tract at the time this zoning was imposed upon this real estate.

### **ARTICLE XI. OPEN SPACE OVERLAY DISTRICT**

#### **Section 11.01 INTENDED PURPOSES**

Because of accelerating suburban development in Agriculture and rural areas, the intent of the Open Space District is to promote the preservation of the Township's pristine features. By grouping dwellings on a limited portion of larger parcels, the resulting effect is the preservation of the natural character of open fields, stands of trees, brooks, hills, and similar features.

#### **Section 11.02 Establishment of Overlay District**

Open Space Overlays are herein established as Overlay Districts. The Overlay Districts open space significance is based upon a combination of factors including soil type, topography, existing vegetation and habitat, historical use of land, size of parcel, use of land for agricultural purposes, and character of surrounding area.

#### **Section 11.03 PERMITTED USE**

- A. Single family residential dwellings are permitted having a minimum of nine hundred sixty (960) square feet of living area.

#### **Section 11.04 SETBACKS AND WIDTHS**

- A. The following design parameters will be used to establish setbacks.
  - 1. Front and rear yard setbacks may be staggered to provide for maximum variety in the size of such yards.
  - 2. Exception: If an attached garage is to be front loaded from the street, the minimum front yard setback from the street right-of-way or street easement shall be thirty-five (35) feet.
  - 3. The minimum distance between dwellings shall be thirty (30) feet, fifteen (15) feet from property lines.
- B. The following design parameters will be used to establish lot widths.
  - 1. Lots not served by public sanitary sewer shall have a minimum of one hundred fifty (150) feet of frontage at the front building line.
  - 2. Lots served by public sanitary sewer shall have a minimum of one hundred twenty (120) feet of frontage at the front building line.
  - 3. Lots served by public water and by public sanitary sewer shall have a minimum of one hundred (100) feet of frontage at the front building line.

#### **Section 11.05 ACCESSORY USES**

- A. For every single family residential dwelling, two accessory buildings shall be
  - A. Permitted per parcel. One accessory building may be constructed up to one hundred fifty (150) square feet in size, and one accessory building may be constructed up to six hundred (600) square feet in size.
    - 1. Side wall height may not exceed ten (10) feet.
    - 2. Overall height may not exceed seventeen (17) feet to the peak.

3. Setbacks within an Open Space Development for residential accessory buildings shall be ten (10) feet from a side lot line and ten (10) feet from the rear lot line.
- B. Accessory uses incidental to the principal permitted uses include recreational activities, which are passive and occur on common open space lands only, such as soccer fields, softball fields and similar type fields, including parks and boat launches.
- C. Agriculture, horticulture or floriculture accessory use buildings, livestock raising operations and animal stables are allowed in open space areas if approved during site plan review. Permitted uses within dedicated open space shall be required to meet the following requirements.
1. Side wall height may not exceed twenty-five (25) feet.
  2. Overall height may not exceed forty (40) feet to the peak.
  3. The setback from a side property line shall be seventy-five (75) feet.
  4. The setback from a rear property line shall be twenty-five (25) feet.
  5. The setback from a front property line or right-of-way shall be seventy-five (75) feet.
  6. Any accessory structure(s) or building(s) constructed in open space areas shall not exceed, in the aggregate, one (1%) percent of the open space area, and be no closer than 75 feet to any residential lot.

#### Section 11.06 GENERAL DEVELOPMENT STANDARDS

- A. Ownership and Control: A proposed Open Space Development shall be under single or limited ownership control, such that a single person or entity has proprietary responsibility for the completion of the development. The applicant shall provide documentation of ownership or control in the form of agreements, contracts or covenants that indicate the development will be completed as proposed.
- B. Density Standards:
1. Number of Dwellings:
    - a. The total number of residential dwelling units permitted in an Open Space Development shall be determined by submittal of a preliminary drawing identifying the lots and buildable lands using the underlining District lot size standards.
    - b. After Planning Commission review of the preliminary drawing, the maximum number of buildable lots for the Open Space Development will be determined at a hearing within 30 days after the preliminary drawing has been reviewed.
    - c. In no case shall the maximum density specified for the zoning district in which the Open Space Development is located, be increased by more than the bonus credits.
  2. Lot Sizes: Lots not served by public or common sanitary sewer shall have a minimum lot area of sixty thousand (60,000) square feet. Lots served by public or common sanitary sewer shall have a minimum lot area of thirty thousand (30,000) square feet. Lots served by public water and by public or common sanitary sewer shall have a minimum lot area of twenty thousand (20,000) square feet.
  3. Minimum Open Space Percentage: Dwelling units shall be grouped so that open space within a development is at least forty (40%) percent of the total area of buildable land. The Planning Commission may approve a lesser percentage of open space within a development if an alternative density is calculated using bonus percentages and/or credits are approved.
- C. Credits
1. Density Standards Credit: The total number of dwelling units permitted in an Open Space Development shall be determined as explained in the Density Standards, and in the following bonus increase given for

the following credits. The maximum number of dwellings in a group shall be determined by the Planning Commission.

2. Shoreline Credit: To encourage preservation of river and stream areas and to provide an incentive for property owners to incorporate the areas surrounding water bodies into an open space network, a shoreline credit shall be permitted if the following requirements are met.
  - a. One additional lot may be added to the open space development for each five hundred lineal feet of shoreline protected.
  - b. A minimum of one hundred feet of open space must be created along the shoreline that is protected subject to permanent open space dedication.
  - c. All provisions of the Flood Plain Ordinance must be complied with when considering this credit.
3. Pathway Credit: To encourage the development of a pathway within the open space area, a pathway credit will be given to a developer who completes the following steps.
  - a. A credit of one additional lot shall be given if a pathway is created and installed. It must be installed prior to the sale of any lot within the development.
  - b. The pathway is no less than five (5) feet wide, has a raised base so that it drains properly, and is covered by a surface other than grass or dirt, such as wood chips, pavement or stone.
  - c. All pathways are significant in length as determined by the Planning Commission, in order to take advantage of the available open space. The pathway should be circular in nature going around the development and connecting developments when feasible.
4. Recreation Area Credit: To encourage the development of parks, playgrounds or recreational fields, a recreation area credit will be given to a developer who completes the following steps.
  - a. A credit of one additional lot shall be given if a recreation area is developed. The recreation area must be shown on brochures and must be staked out prior to the sale of any lot within the development so that potential buyers are aware of its location.
  - b. The recreation area must include one of the following items: a) A baseball, soccer, football or similar field. b) A picnic area with tables and park benches c) Other non-motorized recreation areas that are approved by the Planning Commission.
  - c. All recreation areas will be significant in overall size and will be beneficial to the residents as determined by the Planning Commission, in order to take advantage of the available open space.
5. Open Space Area Credit: To encourage the preservation of open space, an open space area credit will be given to a developer who completes the following steps, showing a significant increase in open space area preservation.
  - a. A credit of one additional lot shall be given if a development preserves sixty (60%) percent of the determined buildable area as open space within a development.
  - b. A further credit of one additional lot shall be given if a development preserves seventy (70%) percent of the determined buildable area as open space within a development.
  - c. The additional open space area credit lot(s) shall be included in the computation when determining if the development meets the open space area credit percent requirement. No lots shall be added into the development after the computation is made.

#### **Section 11.07 OPEN SPACE STANDARDS**

A. Areas Not considered Open Space: The following areas shall not be calculated as dedicated open spaces.

1. Open space shall not include areas devoted to public or private road right-of-ways or any land that has been or is to be conveyed to a public agency for utilities.

2. Any area devoted to natural or improved waterways unless permitted by DEQ/DNR or areas of county drain easements.
  3. All areas that are surface water bodies and regulated wetlands shall not be considered dedicated open space.
- B. Calculating Open Space: Except as noted above, any undeveloped land area within the boundaries of the parcel may be included as required open space.
- C. Use of Open Space: All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, approved land improvement or is not considered open space as defined above shall be considered dedicated open space and shall be set aside as common land for recreational, conservational and agricultural uses and preserved in an undeveloped state. Further subdivision of open space lands, or their use for other than recreation, conservation or agriculture shall be prohibited.
- D. Open Space Access: Pedestrian access points to open space shall be required between rows of six (6) or more lots, and at the end of cul-de-sacs. Access points must be of common ownership and a minimum of six (6) feet in width. The Planning Commission shall determine if additional access points are necessary for pedestrian access to open areas or if a modification of this standard is necessary.
- E. Maintenance Vehicle and Open Space Access: Open Space Developments shall provide maintenance vehicle access to interior common areas.
- F. Waterway Buffering: All dwellings, accessory structures and roadways shall be no less than one hundred (100) feet from any lakes, ponds, rivers and streams. The one hundred (100) foot area shall be part of the dedicated open space and shall be in common open space ownership.
- G. Preservation of Open Space: Open space shall be set aside by the developer through an irrevocable conveyance that is acceptable to the Township. All forms of protecting open space within an Open Space Development shall be subject to the review of the Township Attorney. Forms of dedicating open space may include:
1. A conservation easement.
  2. Covenants that run perpetually with the land. Use of dedicated open space may be restricted to dwelling owners within the development.
- H. Conveyance Standards: Such conveyance shall assure that the open space will be protected from all forms of development, except as allowed under this ordinance and shown on an approved site plan and shall never be changed to another use. Such conveyance shall:
1. Indicate the allowable use(s) of the dedicated open space with site plan approval.
  2. Require that the dedicated open space be maintained by parties having an ownership interest in the open space and/or the right of use, and/or the developer or its successor as determined by the Township Board.
  3. Provide standards for scheduled maintenance of the open space.
  4. Be recorded on every deed of parcels within the development.

#### **Section 11.08 PRIVATE ROADWAY STANDARDS**

- A. Access: Open Space Developments shall have access to a public roadway by connection to another Open Space Development, or by physical connection. Access to Open Space Developments shall be provided internally from roadways constructed within the proposed development. Any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection as measured from the nearest right-of-way line.

- B. Internal Roads: Construction of private roads as a means of providing access and circulation is required within an Open Space Development. All roadways constructed shall provide adequate storm drainage systems, including necessary storm sewers, drain inlets, manholes, culverts and bridges and shall be required in all developments. The drainage requirements for each development shall be established by the Cass County Road Commission. All roads designed for an Open Space Development must be approved by the Township Zoning Administrator prior to construction. The following requirements must be established within all Open Space Development deed restrictions.
1. A deed restriction to be placed on the project site that perpetually vests fee simple the land area in the parties adjoining the road and prohibits future transfer to the public, prohibits future lot splits.
  2. A deed restriction placed on each lot with a private road maintenance plan attached stating that only lot owners within the development shall pay for roadway maintenance and snow removal and that the Township shall not be responsible for any future improvements to the private road.
- C. Review Notice: Application, review and approval of a proposed private road shall follow the same procedures, as site plan review applications with regards to notice and timing.
- D. Sealed Prints: Application for approval of a private road shall include a site plan sealed by a professional engineer showing:
1. Lot lines: Existing and proposed lot lines.
  2. Structures: The location of existing structures.
  3. Width of Roads: The width and location of the private road easement.
  4. Road Materials: A cross section of the proposed road, showing the types of material the road base and surface will consist of.
  5. Utility: Utility plans including the location, size and capacity of storm water drainage systems to comply with the Storm Water Management Ordinance, sewer or septic systems, water lines or private well locations and private utilities such as telephone, electrical and cable service.
  6. Driveways: Proposed locations of driveways off the private road to any recreational fields.
  7. Right-of-way: Any existing or proposed structures, trees or other obstructions within the proposed right-of-way.
  8. Land Division Ordinance: All division of land shall be in compliance with the Land Division Ordinance.
  9. Traffic Calming: All private roads within an Open Space Development shall use significant traffic calming designs that will reduce speeds naturally. The use of green islands and curved roads to slow traffic naturally will be required on all roads over six hundred (600) feet in length.
- E. Private Road Standards: The proposed private road shall meet the following standards:
1. The minimum right-of-way width shall be sixty-six (66) feet, provided that an applicant can request a reduction in right-of-way width in order to protect natural features provided that in no case may the right-of-way be less than forty (40) feet.
  2. All roads shall be paved with bituminous asphalt or concrete and shall have a base designed meeting the standards found in the Cass County Road Commissions "procedures, standards and specifications for plat development" handbook. The following shall be complied with:

- a. If bituminous is used, the private road shall be constructed meeting the rural cross section design for a typical bituminous all season road as outlined in the handbook.
  - b. If concrete is used, the private road shall be constructed meeting the rural cross section design for a typical concrete all season road as outlined in the handbook.
  - c. Only the width of the bituminous or concrete surface in the handbook may be narrowed to ten (10) feet, and the shoulders may be narrowed to three (3) feet, nothing less will be allowed to ensure adequate emergency vehicle access.
- 3. The maximum grade within one hundred (100) feet of an intersection shall be three (3%) percent.
  - 4. No fence, wall, sign, screen or any planting shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a road right-of-way line and a private road right-of-way line and a line connecting two (2) points which are located on those intersecting right-of-way lines, thirty (30) feet from the point of intersection.
  - 5. In no instances may a cul-de-sac be over fifteen hundred (1,500) feet in length from the main access road within the Open Space Development, and not be less than 120 feet diameter.
  - 6. Any driveways off of a private road shall be at least forty (40) feet from the intersection of the private road right-of-way.
  - 7. Intersections of private roads with public roads shall be at an angle as close to ninety (90) degrees as possible, but in no case shall it be less than eighty (80) degrees or more than one hundred (100) degrees.
  - 8. Private roads shall meet the maintenance requirements as provided in the deed restrictions of the development.
  - 9. Parcels fronting on private roads shall meet the required Open Space Development lot size requirements.
- F. Access: No private road shall provide connection or access to industrial or commercial property.
  - G. Inspection Fee: An inspection fee shall be paid by the developer prior to site plan review, so that the Cass County Road Commission may ensure proper and safe private road construction. Fee to be set by Board resolution.
  - H. Off-street parking requirements will be in accordance with the provisions of Article XV of this Ordinance.

**Section 11.09 HOUSING DEVELOPMENT STANDARDS**

- A. Dwelling Placement: Dwelling units shall be carefully located and designed. Dwelling placement shall be planned to screen homes from off-site vantage points, away from environmentally sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.
- B. Sanitary Sewer: If sanitary sewer or public water is provided within the development, all provisions for the review and approval by the Township must be completely followed. If there is a public sanitary sewer within five hundred (500) feet from any portion of the proposed development, the sanitary sewer shall be provided according to Township requirements.
- C. Water: If there is an existing or extendible public water supply within five hundred (500) feet from any portion of the proposed development, the sanitary sewer shall be provided according to Township requirements.

1. Lot Drainage: All lots shall have lot drainage that shall comply with all requirements of the Cass County Drain Commission. Open space area undisturbed may not be required to be evaluated for storm water review.
  2. Septic System: If not served by public sanitary sewer, the following on-site septic system procedure may be followed upon Township approval.
    - a. In order to meet the Cass County Health Department and Department of Environmental Quality's requirement for lot size, a portion of the open space area may be used for septic system lot size computation and if necessary for its installation.
    - b. The open space area used for septic system computation an installation must be restricted to the installation of an individual dwelling septic system only. The following conditions must be met prior to Township Planning Commission approval of any such system.
      - 1) The development is not served by public or common sanitary sewer.
      - 2) The septic system must be placed as close as possible to the dwelling using the system
      - 3) The County Health Department and all State required installation details must be followed.
      - 4) Open space area used as part of the required septic system computation may only be used once.
        - a. The site plan submitted for review by the Township Planning Commission must show the area to be used in the septic system calculation.
        - b. The parcel owner must remove the septic system from the open space area if public sanitary sewer is connected to the dwelling.
        - c. Open space areas having septic systems on them may not in any way be turned over to the Township as Township property
      - 5) If the open space is farmed, no plantings shall be allowed over the septic system.
      - 6) No trees may be planted over a septic system in open space areas.
- D. Prior to Construction: Prior to any residential construction within an Open Space Development, all roadways, drainage and utilities must be installed for that phase and approved by the Zoning Administrator. All sidewalks along common areas and all required tree plantings within common open space areas must be installed within one (1) year of the first home start. All pathways must be installed prior to any residential construction.
- E. Signage: All proposed signage in the residential area shall be regulated as if it were Single Family zoned.

**Section 11.10 GOVERNMENTAL CONSTRUCTION AUTHORITY STANDARDS**

Nothing in this ordinance shall be construed as prohibiting further construction or use of land by any government body for public purposes where consistent with the zones and regulations of this chapter.

A. Definitions

1. COMMON DRIVEWAY: A driveway shared by 2 or more parcels and not considered to be road frontage. Frontage requirements must be met only by having frontage on a private or public road.
2. OPEN SPACE DEVELOPMENT: A residential housing development within an established overlay district that allows the grouping of single family homes in a designated area, with all remaining acreage preserved as open space. The reasoning for grouping homes is to preserve the natural rural environment. Roadways within the development are private, designed using traffic calming techniques to reduce automobile speeds, making the development safer while enhancing its rural character.
3. FRONT LOADED: Accessed from the side facing the street or roadway.
4. OPEN SPACE: Land considered dedicated open space shall be set aside as common land for recreational, conservational and agricultural uses and preserved in an undeveloped state. Further

subdivision of open space lands or their use for other than recreation, conservation or agriculture shall be prohibited.

5. PRIVATE ROAD: A road that provides direct access to a parcel which is not dedicated to and accepted by an authorized governmental road agency and is not maintained by any governing agency. A common driveway as used in this ordinance does not constitute a private road.
6. TRAFFIC CALMING TECHNIQUES: A form of roadway design that naturally slows traffic by means of winding the roadway, creation of planting islands between traffic lanes and the planting of trees along the edge of roadways.

#### **Section 11.11 PLAN PROCEDURE**

For the purpose of accomplishing the objectives of this section, the owner or owners of any tract of land shall submit to the Township Board a preliminary plan which is consistent with the preliminary drawings submitted under Section 11.06 as modified and the Board shall refer it to the Township Planning Commission for review and public hearing. The Planning Commission shall then make its recommendation to the Township Board. If the Township Board approves the preliminary submission after report of the Planning Commission, the preliminary plan shall be signed by the Township Board and filed with the Township Planning Commission. The Board shall then amend the Zoning Map to include the zoning district change. Within a period of twelve (12) months following such approval, a final detailed plan shall be submitted showing that specific and detailed provisions have been made for the essential conditions listed in this Ordinance. The detailed plan shall be submitted to the Planning Commission and, except for the requirement of recording in the Office of the County Register of Deeds, be processed in the same manner as for subdivision in the Township.

Although the preliminary plan must show the entire proposed developments, the final detailed plan may be submitted and approved in stages. No building permit shall be issued nor construction be commenced before a detailed final plan or stage thereof is approved, signed, and filed with the Township Planning Commission.

#### **Section 11.12 THE PRELIMINARY PLAN**

The preliminary plan shall show the layout of the total area to be included in the proposed district and shall be accompanied by documentary evidence to the satisfaction of the Planning Commission and the Township Board showing the following:

- A. That the plan shall be consistent with the Land Use Plan as adopted and from time to time amended for the orderly development of the Township and that it will promote the general welfare of the Township;
- B. That the appropriate use and value of adjacent property will be safe-guarded;
- C. That the capacity of existing or proposed utilities, streets, and thoroughfares is adequate to absorb the additional burden created by the Open Space Development District when considered in conjunction with presently existing and additional proposed facilities;
- D. That the development will consist of a grouping of buildings or other structures deemed by the Township Planning Commission to be compatible; that adequate service, parking, and open spaces will be provided; and that this development will be a common operating and maintenance unit;
- E. That proper and sufficient provision is made for open space, but not less than forty (40) percent of the total site;
- F. That all buildings will be served by a State approved sewage disposal system, State approved water supply and other utilities;
- G. That any reduction in the minimum lot area per dwelling otherwise required in this Ordinance will result in increased open space immediately available to those residents and will be in addition to the requirement of Subsection E above.

### Section 11.13 FINAL PLANS

If the development is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions and intent of this Ordinance shall be fully complied with at the completion of each stage.

The comprehensive final detailed plans shall have a scale of not less than 1"=100' and this plan with its evidence shall show the following:

- A. Contour lines showing two (2) foot changes in elevation or indicating any unusual topographical features;
- B. That adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site;
- C. That the location, dimensions, and arrangements of all open spaces, yards, access ways, entrances, exits, off pedestrian ways, widths of roads, streets, and sidewalks are adequate to provide for safe and efficient ingress and egress to and from public streets and highways serving the development;
- D. The size and capacity of all areas to be used for automobile access, parking, loading and unloading, with respect to parking (see Article XV Off-Street Parking and Loading Requirements);
- E. The location, uses planned, elevations, major exterior treatment, dimensions, gross floor area, building coverage, and height of each building or other structure;
- F. The location and arrangement of all areas devoted to planted lawns, trees, recreation, and similar purposes;
- G. Provisions made for the location of existing or proposed sewage disposal, water supply, storm water drainage, parking lot lights, and other utilities;
- H. Sufficient additional data as may have been required by the Planning Commission or Township Board subsequent to the approval of the preliminary plan to enable the Planning Commission to judge the effectiveness of the design and character of the entire Open Space Development District and to consider properly such things as the relationship to surrounding area, anticipated traffic, public health, safety, and general welfare.

### Section 11.14 TIME LIMIT FOR BEGINNING OF CONSTRUCTION AND REVERSION TO FORMER ZONING CLASSIFICATION

Every application, when approved by the Planning Commission either as submitted or resubmitted in modified form, shall constitute an agreement by the applicant or owner that such installation shall be made, completed, and operated as indicated by the approved plan and in accordance with the provisions of this section and that the area which has been zoned or rezoned shall lose its new classification and revert to its former zoning classification in any of the following events:

- A. If construction of approved buildings and improvements shall not be undertaken within twelve (12) months after the approval of the detailed plans or within such additional time as may be authorized by the Township Planning Commission.
- B. If there shall be a failure to complete construction or to comply or to continue to comply with the specified conditions listed in Section 11.12 and in this section, or with conditions imposed by the Township Board hereunder in the zoning of the area.

The change of zoning required by this section shall not be effective unless written notice has been given to the applicant by mail, giving him thirty (30) days in which to show cause to the Township Planning Commission why the change in zoning should not take place.

## ARTICLE XII. NONCONFORMING USE SPECIFICATIONS

### Section 12.01 IDENTIFICATION OF USE

- A. Any lawfully established use of a building or land established prior to the effective date of this Ordinance or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued, except as otherwise provided herein.
- B. Any legal nonconforming building or structure may be continued in use, provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.
- C. Any building for which a permit has been lawfully granted, prior to the effective date of this Ordinance or of amendments hereto, may be completed in accordance with the approved plans, provided construction is started within six (6) months after the date of the permit and diligently prosecuted to completion. Such building shall thereafter be deemed a lawfully established building.

### Section 12.02 DISCONTINUANCE OF USE

- A. Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by any nonconforming use, even though the building may have been originally designed and constructed for the prior nonconforming use.
- B. Whenever a nonconforming use of a building or structure or part thereof has been discontinued for a period of 12 consecutive months, (except when government action impedes access to the premises), or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be reestablished, and the use of the premises thereafter shall be in a conformity with the regulations of the district.
- C. Where no enclosed building is involved, discontinuance of a nonconforming use for a period of one (1) year shall constitute abandonment.

### Section 12.03 CHANGE OF USE

A nonconforming use of a building or structure may not be changed to any use except one which conforms to the zoning district in which it is located; or the Zoning Board of Appeals may permit a change to a use which is similar in nature, as long as the use generates no more traffic or customers as the original use, that no more land is utilized for the new use than that which was used for the original use, and that the level of noise, smoke, glare, heat, vibration, or odors is not greater than that of the original use. Changes of ownership may occur at any time with the same nonconforming use.

#### **Section 12.04 REPAIRS AND ALTERATIONS**

- A. Normal maintenance of a building or other structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use.
- B. No structural alterations shall be made in a building or other structure containing a nonconforming use, except in the following situations:
  - 1. When the alteration is required by law.
  - 2. When the alteration will actually result in eliminating the nonconforming use.
  - 3. When a building containing residential nonconforming uses may be altered in any way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

#### **Section 12.05 DAMAGE AND DESTRUCTION**

If a building or other structure containing a nonconforming use is damaged or destroyed by any means to the extent of seventy-five (75) percent or more of its replacement value at that time, the building or other structure may be rebuilt or used thereafter only for a conforming use and in compliance with the provisions of the district in which it is located. In the event the damage or destruction is less than seventy-five (75) percent of its replacement value, based upon prevailing costs, the extent of the damage shall be established by estimates made by the Zoning Administrator. An appeal from the decision of the Zoning Administrator may be taken by the owner or agent of the property involved in the manner set forth in Section 17.03. The building may then be restored to its original condition and the occupancy or use of such building which existed at the time of such partial destruction may be continued. In either event, restoration or repair of the building or other structure must be started within a period of one (1) year and diligently prosecuted to completion.

#### **Section 12.06 NONCONFORMING LOTS**

- A. When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.
- B. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this Ordinance, that does not meet the requirements for minimum lot width and area, may be utilized for a one-family or two-family dwelling when permitted, provided that required yards or lot areas are not less than sixty (60) percent of the minimum required dimensions or areas.

#### **Section 12.07 CHANGE OF TENANCY OR OWNERSHIP**

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises, provided there is no change in the nature or character of such nonconforming uses.

#### **Section 12.08 CLASSES OF NONCONFORMING USES OF STRUCTURES AND LAND**

In keeping with the intent of the Milton Township Land Use Plan and the Zoning Ordinance, the following classes of nonconforming uses are established:

- A. Class I - Minimum Negative Impact: The following nonconforming uses may be completed, restored, reconstructed, or expanded.
  - 1. Nonfarm residential uses in AP District (except that no new dwelling units may be added).

- B. Class II- Moderate Negative Impact: The following nonconforming uses may be completed, restored, reconstructed, or expanded only within existing structures.
  - 1. Commercial-industrial uses in AP and RR Districts.
  - 2. Residential uses in C and I Districts (except that no new dwelling units may be added).
- C. Class III - Maximum Negative Impact: The following nonconforming uses may not be expanded, completed, restored, or reconstructed.
  - 1. Commercial-industrial uses in the Single Family and Medium Density Residential Districts.

**Section 12.09 PURCHASES OF NONCONFORMING BUILDINGS**

The elimination of nonconforming uses of structures is hereby declared to be in the public interest and for a public use. The Township may acquire by purchase, condemnation, or otherwise private property or an interest in private property for the removal of nonconforming uses. The cost and expense, or a portion thereof, of acquiring the private property may be paid from general funds or assessed to a special district in accordance with the applicable statutory provisions relating to the creation and operation of a special assessment district for public improvements in Townships. The Township Board may institute and prosecute proceedings for condemnation of nonconforming uses and structures under the power of eminent domain in accordance with Act 149 of the Public Acts of 1911 as amended, being Sections 213.21 to 213.41 of the Michigan compiled laws or other applicable statute.

**Section 12.10 REMOVAL OF NONCONFORMING USES OF LAND**

The lawful nonconforming use of land not involving substantial buildings, nonconforming advertising signs and structures which are not necessary to the permitted uses of substantial structures and temporary, movable or makeshift buildings, fences and other structures which are accessory to nonconforming uses not involving substantial buildings, shall be discontinued and the incidental structures removed within five (5) years from the date of passage of this ordinance. All subsequent use of such land shall be in conformity with the provisions of this ordinance.

## ARTICLE XIII. SPECIAL PROVISIONS

### Section 13.01 PURPOSE

There are certain conditions concerning land uses that warrant specific regulations and standards in addition to the requirements of the zoning districts in which they are located.

### Section 13.02 DWELLING PER LOT

Every dwelling hereafter erected shall be located on a lot or premises, the description of the boundaries of which are on record at the Register of Deeds Office, or in the case of a Land Contract shall be on record with the Zoning Administrator as adequately descriptive.

### Section 13.03 ACCESSORY BUILDING (Updated, Resolution 2009-06)

- A. All accessory buildings not attached to the main building and located less than one hundred and fifty (150) feet from the road shall be located in the rear yard, except private garages, which may be located equal to or behind the front building line. All accessory buildings, including private garages shall be located not less than (10) feet from the sideline of the lot on which the accessory building is located. All accessory buildings attached to the main building, including breezeways, shall be considered a part of the main building.
- B. An accessory building used exclusively for the purposes of protecting school children from inclement weather shall be the only exemption from the one hundred and fifty (150) set back requirements and must comply with the following additional requirements.
  - 1. The structure shall not exceed twenty-five square feet (25) in size.
  - 2. The structure shall be totally enclosed.
  - 3. The structure shall be harmonious with the surroundings.
  - 4. The structure must be temporary and portable and must be removed as soon as the public school age children residing on the property are no longer enrolled in school.
  - 5. The structure shall be used for no purposes than to protect school children from inclement weather.
  - 6. The structure shall not be allowed unless the residence is more than one hundred (100) feet from the road right of way.
- C. No accessory building shall occupy more than thirty (30) percent of the area of any rear yard.
- D. On a corner lot, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot.

### Section 13.04 SUBSTANDARD DWELLINGS

For the express purpose of promoting the health, safety, and general welfare of the inhabitants of the Township, and of reducing hazards to health, life, and property, no basement dwelling, cellar dwelling, tent, garage-house, or other substandard structure shall hereinafter be erected or moved upon any premises and used for dwelling purposes.

### Section 13.05 REQUIRED WATER SUPPLY AND SANITARY SEWER FACILITIES

In addition to the requirements established by the State and County Health Departments, the following site development and use requirement shall apply:

- A. No structure for human occupancy or use shall hereafter be erected, altered, or moved unless it shall be provided with a safe, sanitary, and potable water supply and a safe effective means of collection, treatment and disposal of wastes.
- B. No drain field or septic system may be installed or used unless it has been installed according to and approved by the Cass County Health Department.

#### **Section 13.06 ACCESS TO A STREET**

No lot of record shall be occupied except where access to a public street or way is provided by a public or private easement or other right-of-way no less than twenty (20) feet in width. Public access to commercial, industrial, or recreational uses shall not be designed so as to pass through the residential neighborhoods.

Where a public street or public or private easement provides access to two or more buildable lots, the street or easement must be at least sixty-six (66) feet wide and if the street, or public or private easement, is not a thru street, a turn-around or cul-de-sac, of not less than one hundred fifty (150) feet in diameter shall be provided as its terminus.

#### **Section 13.07 VISIBILITY AT INTERSECTIONS**

No fence, wall, hedge, screen, sign, structure, vegetation, or planting shall be higher than two (2) feet above street grade on any corner lot or parcel in any zoning district requiring front and side yards within the triangular area formed by the intersecting streets right-of-way lines and a straight line joining the two (2) street lines at points which are thirty (30) feet distant from the point of intersection, measured along the street right-of-way lines.

#### **Section 13.08 STREET CLOSURES**

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

#### **Section 13.09 HEIGHT REGULATIONS**

The height requirements established by this Ordinance shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance; spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio and television broadcasting and receiving antennas, silos, parapets and other necessary mechanical appurtenances, provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration, and other public authorities having jurisdiction.

#### **Section 13.10 FENCES, WALLS AND SCREENS (Updated, Res 2010-xx)**

Within the limits of a front yard space of a lot within a residential district, no fence, wall, other than necessary retaining wall, or other screening structure shall be higher than six (6) feet. No such fence or wall located within a side or rear yard shall exceed eight (8) feet in height. All fences which are more than 50 percent opaque shall be approved by the Zoning Administrator.

### **Section 13.11 SHORELINE EXCAVATION AND DREDGING**

No person shall alter, change, transform, or otherwise vary the edge, bank, or shore of any lake, river, or stream except in conformance with the following:

- A. As provided in the Inland Lakes and Streams Act, 291 of the Public Acts of 1965, as amended, and in accordance with the requirements of the Michigan Department of Natural Resources.
- B. If any edge, bank, or shore of any lake, river, or stream is proposed to be altered in any way by any person, such person shall submit to the Planning Commission all data, exhibits, and information as required by the Department of Natural Resources.

### **Section 13.12 ESSENTIAL SERVICES**

For purposes of this Ordinance, the following provisions shall apply:

- A. The surface of land used for pipeline right-of-ways shall be restored and maintained as near as possible to its original condition prior to the construction of the pipeline.
- B. Essential services shall be exempt from lot area requirements in the Agricultural and Industrial Districts.

### **Section 13.13 SWIMMING POOLS**

All swimming pools shall conform to the requirements of the County Health Department. Swimming pools to be constructed or which are already constructed shall be enclosed by a fence, wall, or other structure which shall be at least four (4) feet in height as measured from the outside. Any opening under the bottom of the fence shall not be more than four (4) inches in height. A fence or wall enclosure shall be of a type that impedes climbing by small children and shall be equipped with a gate that is a self-closing and latching type with the latch on the pool side of the gate. Said entrance way shall lead to the shallow end of the pool. If the entire premise is enclosed by a fence or wall, this requirement may be waived.

### **Section 13.14 GENERAL SIGN REGULATIONS (Updated, Res 2009-01)**

- A. No sign shall be erected at any location where, by reason of the position, size, shape, color, movement, or illuminations, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device so as to interfere with, mislead, or confuse traffic.
- B. No signs shall be placed closer to a neighbor's property line than ten feet.
- C. Signs shall be placed back to back on the same framework or connected in a V position and carrying the same message shall be regulated as a single sign with each side not to exceed the maximum area allowed in the zoning district.
- D. Where illuminated signs are permitted, the source of the light must not be directly visible and must not shine onto the adjoining properties or traffic.
- E. The size of signs placed on walls shall be regulated by the size of the outline of the printed message and any accompanying design and not by the size of the wall.
- F. Signs exceeding sixteen feet in height shall require the Zoning Administrator's approval, only after a structural engineer's report attesting to the structural soundness of such sign is received by the Zoning Administrator.
- G. No moving or flashing signs shall be permitted unless approved by the Planning Commission.
- H. No signs shall be permitted to be hung from utility poles.

**Section 13.15 SIGNS PERMITTED IN AGRICULTURAL PRODUCTION DISTRICTS (Updated, Res 2009-01)**

In Agricultural Production Districts signs of each of the following types shall be permitted on each lot or parcel, unless otherwise specified.

- A. Non-illuminated sign advertising the sale or rental of a building or property, signs for the sale of agricultural products, garage sale signs and election signs none of which shall exceed six (6) square feet in area and must be removed within seventy-two (72) hours after the completion of the sale or election.
- B. Non-illuminated no trespassing, safety, directional, or caution signs not exceed six (6) square feet.
- C. One non-illuminated sign announcing a home business, service or agricultural product offered on the premises not exceeding thirty-two (32) square feet.
- D. One illuminated sign or bulletin board identifying a church, school, park or other government use not to exceed thirty-two (32) square feet. (Updated Res. 2011-04)
- E. All Property classified as being in the Agricultural Production District and being less than five acres shall be administered and enforced by Section 13.16 of this Ordinance and not by Section 13.15.

**Section 13.16 SIGNS PERMITTED IN RURAL RESIDENTIAL, MEDIUM DENSITY RESIDENTIAL and SINGLE FAMILY RESIDENTIAL DISTRICTS (Updated, Res 2009-1)**

In any of the residential districts under this section, one of each of the following types shall be permitted on each lot or parcel unless otherwise specified.

- A. Non-illuminated temporary signs advertising the sale or rental of a building or property, signs for the sale of agricultural products, garage sale signs and election signs none of which shall exceed six (6) square feet in area and must be removed within seventy-two (72) hours after the completion of the sale or election.
- B. One non-illuminated sign announcing a home occupation or service that is offered on the premises. Such signs shall be no larger than four (4) square feet.
- C. One non-illuminated temporary sign advertising a new recorded subdivision or development not to exceed ninety-six (96) square feet, the actual size and location to be approved by the Planning Commission in cooperation with the develop. Such signs shall be removed within one (1) year of the sale of all lots within the development.
- D. One illuminated sign identifying a subdivisions or development that shall not exceed thirty-two (32) square feet. Where the natural landscape would obstruct the view of a sign located parallel to the entrance to a subdivision, a sign identifying the subdivision may be placed on both sides of the entrance road angled to facilitate ease of viewing and each sign shall not exceed thirty two (32) square feet.
- E. One illuminated sign identifying a church, school, park or other government use not to exceed thirty-two (32) square feet.
- F. All property classified as being in a Rural Residential District and being five acres or larger shall be administered and enforced by Section 13.15 of this Ordinance and not by Section 13.16.

**Section 13.17 SIGNS PERMITTED IN COMMERCIAL AND INDUSTRIAL DISTRICTS (Updated, Res 2009-01)**

A sign in any Commercial or Industrial District is permitted only where it advertises a business occupying the same land upon which the sign is erected with the exception of A. within this Section

- A. Non-illuminated temporary signs advertising the sale or rental of a building or property, sale of agricultural products, garage sale signs, and election signs none of which shall exceed six (6) square feet and must be removed within seventy-two (72) hours after the completion of the sale or election.
- B. In any Commercial or Industrial District, a sign may be affixed flat against the wall of the building, or may project not more than forty-eight (48) perpendicular from the wall, provided that such signs do not project over a public right-of-way. Projecting signs shall be at least twelve (12) feet above finished grade. The total sign area shall not exceed one square foot for each foot of length or height of the wall, whichever is greater. No such signs shall extend above the roof of the building to which the sign is attached.
- C. One free-standing identification sign may be erected at the site of a commercial or industrial building. The area for such sign shall be based on one square foot for each foot of building frontage/width; however, it shall not exceed two hundred square feet.
- D. Where multiple businesses are located on a single parcel of land only a single business sign shall be permitted with each business's portion of that sign not to exceed thirty-six (36) square feet.
- E. Signs shall only be illuminated internally or by reflected light
- F. Non-illuminated temporary signs advertising the sale or rental of a building or property, signs for the sale of agricultural products, garage sale signs and election signs none of which shall exceed six (6) square feet in area and must be removed within seventy-two (72) hours after the completion of the sale or election.
- G. Non-illuminated no trespassing, safety, directional, or caution signs shall not exceed six (6) square feet.
- H. No signs of any type exceeding two hundred (200) square feet shall be allowed in the Commercial or Industrial Districts.
- I. Signage affixed to awnings or canopies shall be permitted.

**Section 13.18 SIGNS FOR GASOLINE SERVICE STATIONS (Updated, Res 2009-01)**

Notwithstanding other provisions of this Ordinance, one permanently installed sign shall be permitted on each street frontage, installed so that a clear view of street traffic by motorists or pedestrians shall not be obstructive in any way. The height of such signs shall not exceed sixteen feet other than necessary supports and not exceed thirty-two square feet in surface area. A sign or legend may also be placed flat on the main building and fuel pump canopies. The total area of all signs shall not exceed two hundred (200) square feet. All signs controlled by this section are subject to Site Plan Review.

**Section 13.19 ELIMINATION OF NONCONFORMING SIGNS (Updated, Res 2009-01)**

All signs and billboards erected after the effective date of this Ordinance shall conform to the regulations as set forth in this Ordinance and any subsequent amendments. Any sign erected before the effective date of the establishment of this ordinance shall be deemed a nonconforming use and shall be made to conform to the ordinance or removed. If the owner of a non-conforming sign fails to bring said sign into compliance or fails to remove the nonconforming sign, it shall be deemed a violation of the Sign Ordinance and subject to all the provisions of the Township Enforcement Ordinance.

**Section 13.20 (RESERVED) (Updated, Res 2009-01)**

**Section 13.21 PROCEDURE FOR SITE PLAN REVIEW**

Site plan review shall be required for all residential construction projects of three (3) or more dwelling units and nonresidential projects prior to the issuance of a building permit. This review will be carried out by the Planning Commission.

- A. Any applicant shall submit to the Planning Commission a sketch of the proposed project for a preliminary review.
- B. After reviewing the sketch plan with the applicant, the Planning Commission shall suggest any changes in the proposal deemed necessary in order to comply with the provisions of this Zoning Ordinance and the subdivision regulations.
- C. The applicant shall then prepare and submit proper plans of the project to the Planning Commission. Development plans shall be drawn to scale and shall show:
  - 1. Location of main and accessory buildings;
  - 2. Location of yards, driveways, walks, parking areas, recreation areas, and other site improvements;
  - 3. Proposed storm drainage facilities;
  - 4. Surrounding streets and nearby buildings; and
  - 5. Proposed building plans.
- D. Seven (7) copies of the development plan should be submitted to the Planning Commission no less than ten (10) days before the next Commission meeting.
- E. After reviewing the development plan, the Commission may approve, conditionally approve, or disapprove the development plan.
- F. After approval of the site plan by the Planning Commission, a copy of the approved drawings along with the recommended additions or corrections shall be signed by the officers of the Commission and filed at the Township Office for future reference.
- G. The Planning Commission shall review with the Zoning Administrator to see that the specifications of the site plan are carried out.

**Section 13.22 DEVELOPMENT OF WETLAND AREAS**

Any piece of land that is covered by water more than twenty (20) days during the year or is within one hundred (100) feet of any land that is so covered will be considered wetland and may not be developed with any structure.

**Section 13.23 TEMPORARY DWELLING UNIT**

- A. The owner of any premises which qualifies for the erection of a replacement dwelling unit on those premises may occupy the existing dwelling unit if it is suitable for occupancy during the actual construction of the replacement dwelling unit thereon, but not to exceed a period of eighteen (18) months from the issuance of a building permit for construction of the replacement dwelling unit. The original dwelling unit must be removed by the owner within ninety (90) days from the date the certificate of occupancy for the replacement dwelling unit has been issued and a building permit for the removal of such original dwelling unit is required.
- B. A PERFORMANCE BOND for removal of the original or the temporary dwelling unit in an amount to be determined by the building inspector in favor of the Township shall be issued prior to the issuance of a building permit for the replacement dwelling unit.
- C. Such bond shall be forfeited to Milton Township to pay the cost of the removal of the original or temporary dwelling unit if such unit is not removed within ninety (90) days of the date of issuance of the certificate of occupancy, as required above.

- D. To the extent that the bond does not satisfy the costs of removal and clean-up, excess costs shall become a lien on the premises and the Township may execute upon such lien as allowed by law, including but not limited to, adding an amount equal to the excess costs onto the premise's real property tax bill.
- E. The owner of any premises where a dwelling unit has been destroyed by fire, explosion or natural disaster may move onto such premises not more than one (1) mobile home, where such premises qualify for the erection of a replacement dwelling unit and occupy the mobile home during the actual construction of a replacement dwelling unit, but such occupancy shall not exceed a period of eighteen (18) months from the date of issue of a building permit for the replacement dwelling unit. Ninety (90) days from the issuance of a certificate of occupancy for the replacement dwelling unit, the owner shall remove the temporary mobile home and any foundation therefore from the said premises.
- F. Private water supply and sewage disposal facilities in all events shall conform to all requirements of this Ordinance and to the requirements of the Cass County Health Department.
- G. The location of such mobile home shall, to the maximum extent possible, conform to all yard and setback requirements of the zoning district in which it is located, consistent with proper location of the replacement dwelling.
- H. On approval of the building permit by the Township the applicant shall certify on a copy retained by the Zoning Administrator and on the copy returned to the applicant, that the applicant has full knowledge of the limitations and requirements of the permit, including the penalties for violations provided by this Ordinance. Failure to conform to the Ordinance provisions shall cause immediate cancellation and be deemed a violation and a civil penalty not to exceed Twenty (\$20.00) Dollars per day for each day the violation continues to exist.
- I. Renewal of any permit shall be solely in the discretion of the Township and shall be contingent upon progress in construction of the replacement dwelling unit and conformance to the provisions of this Ordinance. Any renewal permit shall be subject to the same provisions as the original building permit.

**Section 13.24 NUISANCE ABATEMENT ORDINANCE (Repealed by Civil Ordinance 2007-4, October 2007)**

**A. Definitions**

- 1. The word "persons" or "person" as used in this ordinance means a natural person and also includes corporations, partnerships, and associations and their officers and officials existing under or authorized to exist under the laws of the State of Michigan or of any other state or any foreign country.
- 2. The word "nuisance" as used in this ordinance means any act or acts or omission to act on the part of any person which creates or permits the existence of a situation which annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons or property. As defined herein, a nuisance includes, but is not limited to, conditions which render persons insecure in life or in the use and enjoyment of their property, such as effects and emanations from noise, glare, lights, vibration, dust, smoke, odor, gas, steam, fly-ash, soot, acids, chemicals, fumes, cinders, worms, insects, rodents, flies, decaying matter, whether such effects and emanations are natural or result from human or mechanical alteration or manipulation of materials. A nuisance also include residues or leaching from deposits of matter which seep into water on the surface or in the ground thereby making it unfit or unpalatable for human consumption, or for use by domestic animals. A nuisance includes a condition which is indecent, obnoxious, or offensive to the senses.

**B. Committee**

Upon receipts by the Township Board of a written complaint claiming a public nuisance exists within the Township the Township Supervisor shall appoint an Ad Hoc committee of no less than 3 persons, one of whom shall be a member of the Board of Trustees, to investigate the complaint. The Committee shall determine after investigation as to whether in their opinion a nuisance as defined above exists or not. The Ad Hoc Committee shall report to the Board of Trustees within 30 days after their appointment and their report shall be in writing. The report of the Ad Hoc Committee is advisory only and after the report has been given the Township Board may proceed as it decides in its sole discretion, or it may send the matter back to the Ad Hoc Committee for further investigation.

**C. Penalty**

Any person who creates, causes, allows, suffers or permits the existence of a nuisance shall be guilty of a misdemeanor. Each day that such nuisance is permitted to exist shall constitute a separate misdemeanor. Any person who is convicted of such a misdemeanor shall be punished by a fine not in excess of \$100 per day or by imprisonment in the Cass County jail for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the judge imposing sentence.

**D. Abatement**

It is the duty of the person who creates, causes, allows, suffers or permits the existence of a nuisance, to abate the same. The term "abate" or "abatement" shall include demolition removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, appurtenances or equipment; and it shall also include removal, transportation, buying, disposal and treatment of refuse, manure or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals insecticides or other substances or the use of mechanical means to control, eradicate and eliminate the nuisance conditions, including screen-belts of trees and fences.

**E. Enforcement**

The supervisor is hereby authorized to enforce this ordinance, and he may delegate the enforcement to any administrative official or employee of the township. The township may seek abatement to any administrative official or employee of the township. The township may seek abatement of a nuisance and such other relief as may be obtained by civil proceedings in court. This is in addition to and not in derogation of prosecutions for violations of this ordinance under Section C hereof.

**Section 13.25 SEXUAL-ORIENTED BUSINESS ORDINANCE**

**Purpose**

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.

It is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as locational needs similar to many other business establishments. Special designation and regulation in the Industrial Zoning classification is therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

These controls do not legitimize activities which are prohibited in other sections of this Ordinance. Uses subject to these controls are as follows:

1. Adult book stores
2. Adult cabarets
3. Adult motion picture theaters
4. Massage establishments
5. Nude artist and photography studios

## **B. Definitions:**

As used in this section, the following terms shall have the indicated meanings:

1. **Adult Motion Picture Theaters.** Any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specific sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein.
2. **Adult Book Store.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals 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.
3. **Specified Sexual Activities.** Specified sexual activities are defined as:
  - a. Human genitals in a state of sexual stimulation or arousal;
  - b. Acts of human masturbation, sexual intercourse or sodomy;
  - c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast
4. **Specified Anatomical Areas.** Specified anatomical areas are defined as:
  - a. Less than completely and opaquely covered:
    - i. Human genitals, pubic region.
    - ii. Buttock, and
    - iii. Female breast below a point immediately above the top of the areola; and
  - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
5. **Cabaret.** A café, restaurant or bar where patrons are entertained by performers who dance, sing or play musical instruments.
6. **Adult Cabaret.** A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.
7. **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 education, 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.
8. **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.
9. **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.

**C. Site Location Principles** The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the neighborhood and area in which it is proposed:

1. No adult only business shall be located within one thousand (1000) feet, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, of a residential zoning district, church as herein defined, cemetery, school, library, public park or playground, non-commercial assembly facility, public office building,

school bus stop, licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), or arcade.

2. An adult only business shall be located as a special use in the Industrial District.

3. No adult only business shall be permitted within a one-thousand (1,000) foot radius of an existing adult only business. Measurement of the one-thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

**D. Site Development Requirements.**

1. The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.

2. Windows, displays, signs, and decorative structural elements of buildings shall not include or convey examples of a sexual nature.

3. All building entries, windows, and other such openings shall be located, covered, or screened in such a manner as to prevent viewing into the interior from any public or semi-public area.

4. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.

5. The entire perimeter of the parcel of land shall be screened from adjacent parcels with a combination of a four-foot high earthen berm, a four-foot high solid fence and a shrubbery landscape buffer on the exterior side of the fence planted on the earthen berm.

**E. Use Regulations.**

1. No person shall reside in or permit a person to reside in the premises of an adult only business.

2. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the prices for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.

3. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.

4. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.

5. Parking spaces shall be provided at the ratio of one space per person permitted by the maximum occupancy load established by local, county, and state fire, health, or building codes.

6. No adult use shall remain open at any time between the hours of eleven o'clock p.m. and ten o'clock a.m. and no such use shall be open on Sundays.

7. No alcohol shall be served at any adult use organization.

8. No adult use organization shall permit any person under the age of eighteen years to enter the premises. Signs shall be conspicuously posted noting that such minors are not allowed.

9. All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one hour after closing each night.

10. No person shall operate a sexually-oriented business without obtaining a current special use permit and current building occupancy permit. The Zoning Administrator after approval by the Milton Township Board (Cass County), Building Inspector, or duly appointed designee following an inspection to determine compliance with the relevant ordinances of

Milton Township (Cass County) shall issue such special use permit. Such special use permits shall be subject to all regulations of federal, state, and local governments.

11. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult entertainment business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from Milton Township, County of Cass, and State of Michigan.

#### **F. Conditions and Limitations.**

In granting a Special Use Permit the Planning Commission may impose any such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as in its judgment, be necessary for the protection of the public interest and the public health, safety and welfare. Such conditions and limitations shall be directly related to the standards in this Ordinance, and accomplish the purposes for which those standards were adopted.

#### **G. Special Use Application**

The formulation and enactment of this Zoning Ordinance is based upon the concept of permitted special use. In addition to such permitted special uses it is recognized that there are certain uses which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Township.

### **1. AUTHORITY TO GRANT PERMITS**

The Township Board, with recommendations from the Township Planning Commission, shall have the authority to grant special use permits, subject to such conditions of design and operation, safeguards, and time limitations as it may determine related to provisions of this Ordinance.

### **2. APPLICATION AND INFORMATION REQUIRED**

Written application, on a form provided by the Milton Township Board (Cass County), shall be made to the Zoning Administrator who shall immediately forward a copy of said application to the Planning Commission. The application shall include the following.

- a. Name of applicant and owner of the premises.
- b. Legally recorded description of the premises.
- c. Description of proposed use, including parking facilities, if required and ingress and egress as approved by the Cass County Road Commission.
- d. A legible site plan drawn to scale showing size of building or structure and location on the property and required landscaping.
- e. Sewage disposal and water supply facilities, existent or proposed.
- f. Use of premises on adjacent properties.
- g. Statement by applicant appraising the effect of proposed use on adjacent properties and development of the neighborhood.

### **3. PUBLIC HEARING**

The Township Planning Commission shall hold a public hearing, or hearings, upon any application for a special use permit, notice of which shall be given by publications in a newspaper of general circulation in the Township, the notice shall be given not less than 15 days before the date of such hearing.

In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time the special use permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. The Milton Township Board (Cass County) shall be empowered to renew or extend a special use permit when all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance exists.

Upon finding that any condition, safeguard, or requirement has been breached or modified, the Building Inspector and/or Zoning Administrator shall revoke an occupancy permit and/or special use permit. All operations will cease fourteen (14) days following notification by the Building Inspector and/or Zoning Administrator of such violations unless such conditions are corrected. Reinstatement of a revoked permit shall require a new application and approval. All permits shall be reviewed by the Planning Commission annually.

The operator shall be required to pay a fee for the special use permit application and an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board. The Township Board shall set the annual fee.

#### **4. REQUIRED STANDARDS AND FINDINGS FOR MAKING DETERMINATIONS**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards as outlined above and in the additional requirements indicated above.

1. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
2. Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
3. Will be served adequately by essential public facilities and service, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
4. Will not be hazardous or disruptive to existing or future neighboring uses.
5. Will not create excessive additional requirements at public cost for public facilities and services.

#### **Section 13.26 GARAGE, BARN AND YARD SALES**

The incidental and customary sale of household goods in a garage sale, barn sale, yard sale, or other similar types of sales is permitted in all Zoning Districts, provided a permit is first obtained from the Zoning Administrator. Such permit shall be for not more than (3) consecutive days and that not more than six (6) such permits may be issued to any person, or location, during a twelve (12) month period. Signs, which are put up for such sales, shall be taken down within twenty-four (24) hours of termination of the permit authorizing such sale.

### **ARTICLE XIV. CONDITIONAL USES**

#### **Section 14.01 PURPOSE**

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into districts, each of which are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts but which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Township. Such uses, on account of their peculiar local need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

#### **Section 14.02 AUTHORITY TO GRANT PERMITS**

The Township Planning Commission, shall have the authority to grant conditional use permits, subject to such conditions of design and operation, safeguards, and time limitations as it may determine for all conditional uses specified in the various district provisions of the Ordinance.

#### **Section 14.03 APPLICATION AND INFORMATION REQUIRED**

Written application, on a form provided by the Planning Commission, shall be made to the Zoning Administrator. The application shall include the following:

1. Name of applicant and owner of the premises.
2. Legally recorded description of the premises.
3. Description of proposed use, including parking facilities, if required and ingress and egress as approved by the County Road Commission.
4. A legible sketch drawn to scale showing size of building or structure and location on premises.
5. Sewage disposal and water supply facilities, existent or proposed
6. Use of premises on adjacent properties
7. Statement by applicant appraising the effect of proposed use on adjacent properties and development of the neighborhood.

#### **Section 14.04 PUBLIC HEARING (Updated, Res. 2011-05)**

The Township Planning Commission shall hold a public hearing, or hearings, upon application for a Conditional Use Permit, notice of which shall be given by one (1) publication in a newspaper of general circulation in the Township not more than thirty (30) days, nor less than 15 days, before the date of such hearing.

#### **Section 14.05 REQUIRED STANDARDS AND FINDINGS FOR MAKING DETERMINATIONS**

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel:

- A. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B. Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C. Will be served adequately by essential public facilities and service, such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. Will not be hazardous or disruptive to existing or future neighboring uses.
- E. Will not create excessive additional requirements at public cost for public facilities and services.

#### **Section 14.06 JUNK YARDS AND INOPERATIVE VEHICLES**

In addition to and as an integral part of development, the following provisions shall apply:

A. Junk yards shall be established and maintained in accordance with all applicable State of Michigan Statutes.

B. It is recognized by this Ordinance that the location in the open of such materials included in this Ordinance's definition of "junk yard" will cause the reduction of the value of adjoining property. To the end that the character of the district shall be maintained and property values conserved, an opaque fence or wall at least eight (8) feet in height, and not less in height than the materials located on the lot on which a junk yard shall be operated, shall be located on said lot no closer to the lot lines than the yard requirements for buildings permitted in this district. The materials and construction of this fence shall be approved by the Planning Commission. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced material. In no event shall any materials included in this Ordinance's definition of "junk yard" be located on the lot on which a junk yard shall be operated in the area between the lines of said lot and the opaque fence or wall located on said lot.

C. All traffic ingress or egress shall be on major streets, and there shall be not more than one (1) entrance way in the lot on which a junk yard shall be operated from each public road on which said lot abuts.

D. On the lot on which a junk yard shall be operated, all roads, driveways, parking lots, and loading and unloading areas within any yard shall be paved or chemically treated so as to limit on adjoining lots and public roads the nuisance caused by windborne dust.

#### **Section 14.07 INDIVIDUAL MOBILE HOMES AND MODULAR HOMES**

In zoning districts in which individual mobile homes and modular homes are permitted as a conditional use, the following provision shall apply in order to insure compatibility with existing dwellings or with dwellings which may be constructed in the future.

- A. Owner shall make application and obtain Certificate of Approval and Building Permit for said residence and accessory building as set forth in Section 14.03.
- B. Lot size, main living area, front and side setback shall be the same as set forth for residences in the Rural Residential District.
- C. Applicant and occupant shall own or have Land Contract for property upon which home is to be placed.
- D. Maximum age of home, at the date of installation, shall be NO OLDER than thirty-six (36) months, unless approved by the Planning Commission.
- E. Water and sanitation provisions shall comply with Section 13.05.
- F. An accessory building shall be constructed to the rear of each home to provide storage for the essential outdoor home items. The construction of a garage of sufficient size as to provide this storage in addition to space for motor vehicles shall be judged as meeting this requirement.
- G. Dwelling, accessory building, and grounds shall be maintained and kept in such manner as to provide a neat and orderly appearance and to maintain property value.
- H. Failure to comply with any of the above requirements shall constitute violation of this Ordinance and cause to enforce the removal of the home from the premises.

#### **Section 14.08 GUEST TRAILER**

The owner or renter of any premises occupied by a dwelling may permit the parking of an occupied recreational vehicle (RV) of a guest or visitor on the premises for a period not exceeding a total of fifteen (15) days in the calendar year, provided the serial number and license number of the RV and the name of the owner thereof are recorded with the Township Clerk, and, provided further, that the occupants of the RV shall have unrestricted use of the sewage and water supply facilities of the dwelling.

#### **Section 14.09 DRIVE-IN THEATERS AND TEMPORARY TRANSIENT AMUSEMENT ENTERPRISES**

In addition to and as an integral part of development, the following provisions shall apply:

- A. Drive-in theaters shall be enclosed for their full periphery with an opaque fence at least seven (7) feet in height. Fences shall be of sound construction, painted, or otherwise finished neatly and inconspicuously and shall contain no advertising.
- B. All fences shall be set back at least one hundred (100) feet from any property line. In addition, the Planning Commission may require a greenbelt to be constructed.
- C. All traffic ingress or egress shall be on major streets and all local traffic movement shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements into or out of the public thoroughfares. All points of entrance or exit for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of any two (2) streets or highways.

#### **Section 14.10 GASOLINE SERVICE STATIONS**

Any gasoline service station or filling station in any district shall conform at least to the following regulations. Where the intensity regulations for any district in which a gasoline service station is located are more restrictive than the regulations contained hereinafter, all gasoline service stations or filling stations shall conform to the more restrictive dimensional requirements:

- A. Frontage and Area: Every gasoline service station shall have a minimum frontage of one hundred twenty (120) feet and a minimum area of twelve thousand (12,000) square feet.
- B. Setbacks: Every structure erected for use as a gasoline service station shall have a minimum setback from the street right-of-way of thirty-five (35) feet and a minimum setback from all other property lines of twenty-five (25) feet.
- C. Construction Standards: All vehicle service areas shall be constructed to conform to the following standards:
  - 1. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel guards, or traffic islands. Where the portion of the property used for vehicular traffic abuts a street, said portion shall be separated from the street line by a curb at least six (6) inches high.
  - 2. The entire area used for vehicle service shall be paved, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - 3. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting may be carried out within the premises.
  - 4. Minimum angle of driveway intersection with the street from the curb line to lot line shall be no less than sixty (60) degrees.
  - 5. The minimum distance of any driveway from any property line shall be at least twenty (20) feet.
- D. Lighting: All lighting shall be accomplished in a manner such that no illumination source causes a nuisance to adjacent properties or distraction to motorists.

#### **Section 14.11 QUARRYING & EXCAVATING OF NATURAL RESOURCES**

1. Earth removal, quarrying, gravel processing, mining and relating. Mineral extraction businesses. In recognition that certain valuable natural resources may exist in the Township which can only be used if extracted from the earth, and recognizing that mineral extraction, by its nature, can present very serious consequences that can be devastating to the environment; the value of property in the community; the health and safety of the people; and the general public welfare, earth removal, quarrying, gravel processing, mining and related mineral extraction businesses and uses are only permitted in the Township where the applicant can demonstrate that the value to the public generally of removal of the natural resources substantially outweighs the negative impacts of the proposed use upon the public health, safety and welfare. In evaluating a request for approval of such a use as a conditional use (where specifically provided for in this Ordinance), the Planning Commission shall balance all the evidence and information submitted to it by the applicant and by others at or before the required public hearing. Prior to permit for earth removal, quarrying, gravel processing, mining and/or related mineral extraction businesses in any area of the township, said Commission shall be satisfied the following conditions and limitations are, or shall be, strictly complied with in addition to any other requirements contained in the township zoning ordinance or in any other township ordinance controlling such operations:

2.

a. Location

- (1) All such operations shall be located on a primary road, as defined by the County of Cass, for ingress and egress thereto and on a road which if used as the access to the proposed operation, will not result in significant increase in truck traffic through an area developed primarily for residential purposes. Where necessary, the Commission may require the applicant to construct and/or improve a road to accommodate the truck traffic created by the operations as a condition of the permit and for the purpose of routing traffic around residential areas and preventing the breaking up of existing roads which are not "all weather" roads.
- (2) Sufficient setbacks of mining, excavation and extraction activities shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No excavation operations shall be permitted closer than 150 feet from interior boundary lines of the property. Larger setbacks may be required by the Planning Commission to adequately protect adjoining properties. However, if the adjoining property is also used for mining and excavation operation then the Planning Commission may reduce or eliminate the required setback from the interior boundary line. Such required setback may be temporarily reduced to 50 feet by action of the Planning Commission if reclamation of the land is promptly effected to increase the setback to at least 150 feet in accordance with the reclamation plan approved by the Commission, and adequate lateral support as set forth in at all times maintained. However, any temporary reduction in a required setback shall be conditioned upon specific written assurances by the applicant detailing the date(s) such reduced setback shall occur and the date by which reclamation to increase the setback to 150 feet shall be completed. Failure of the applicant to comply with said written assurances shall be grounds for revocation of the temporary setback reduction permit and for revocation of the special land use permit in its entirety.
- (3) No such excavation operation shall be permitted within 50 feet of the adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grad level of said rights-of-way. Such excavation businesses shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
- (4) Any processing plant and its accessory structures and digging or excavating apparatus, and areas where stockpiling and loading of materials occurs, shall be located no closer than 250 feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. All areas used for parking or storage of equipment shall also comply with this requirement.

- (5) No excavation or processing operation shall be located within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission or such other state commission having jurisdiction thereof. No such mining, excavation, processing, or relating operations shall interfere with the natural established flow or surface waters to the detriment or damage of adjoining public or private properties.

b. Sight Barriers

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- (1) Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions. Such barriers shall consist of one or more of the following:
  - (a) Earth berms constructed to a height of 6 feet above the mean elevation of the centerline of the adjacent public highway of 6 feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of 1 foot vertical to 4 feet horizontal and shall be planted with grass, trees, or shrubs.
  - (b) Plantings of evergreen trees or shrubbery in rows parallel to the boundaries of the property not less than 4 feet in height at the time of planting and which grow to not less than 6 feet in height at maturity. The trees and shrubbery shall be spaced to provide effective sight barriers and maintained at least 6 feet in height at maturity.
  - (c) Masonry walls or attractive solid fences made of uniform new materials constructed to a height of not less than 6 feet and maintain in good repair.

c. Nuisance Abatement

- (1) Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed and maintained to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be located, maintained and operated in such a manner so as to eliminate, as far as practicable, noise and vibrations which are discernable outside the boundaries of the property.
- (2) Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation which avoid any excessive dust or dirt of other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
- (3) Hours - The operation shall be restricted to the hours of 7:00 o'clock a.m. until 7:00 o'clock p.m. and no operations shall be allowed on Sundays or legal holidays. The Planning Commission may require shorter hours of operation of certain activities such as hauling or processing where the proposed use is to be located in or near an area where residential uses exist because of the very serious consequences that noise, dust, and traffic have upon residential uses.
- (4) Traffic - The operation shall be managed and controlled so that truck traffic generated by the use is controlled by the permit holder so that trucks use routes approved by the Planning Commission.

- (5) Fencing - All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.
- (6) Security - The Planning Commission may require on-site security provision to be provided to protect the site and adjoining areas from danger of unauthorized entry or operations. However, no on-site security shall be permitted which has the effect of creating a condition of noise or glare of lights.
- (7) Maximum Area - Mining, excavating and extraction of minerals shall be limited to an area of 5 acres or less at all times. No expansion of the area of mining, excavation or extraction shall occur until reclamation and rehabilitation of areas has been completed in conformity to the approved site plan so as to limit the area actively being used plus the area where mining has occurred but which has not yet been fully reclaimed and rehabilitated to no more than 5 acres, total, at any time.
- (8) Prior to approval of any conditional use permit for gravel, mining, excavation, extraction or processing, the applicant shall submit a detailed site plan for review by the Planning Commission showing the plan for use including a detailed and specific schedule for extraction, processing and reclamation activities. The proposed plan shall be reviewed annually by the Planning Commission for comparison of actual progress to the applicant's proposals.
- (9) There shall be a condition imposed with every conditional use permit in this category that the Township Zoning Administrator shall be authorized to go onto the property at any time during the permitted hours of operation on 48-hours advance notice to inspect the operation.

d. Reclamation of Mined Areas

- (1) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of 1 acre or more. Substantial completion of reclamation and rehabilitation shall be effected within 1 year after termination of mining or excavation activity. Inactivity for a 12-month consecutive period shall constitute, for this purpose, termination of mining activity.
- (2) The following standards shall control reclamation and rehabilitation:
  - (a) All excavation shall be either to a water-producing depth of not less than 5 feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:
    - (i) That the excavated area shall not collect stagnant water and not permit the same to remain therein; or,
    - (ii) That the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion and which will be generally compatible with the adjoining land area.
  - (b) The banks of all excavations shall be sloped to the waterline in a water-producing excavation and to the pit floor in a dry operation, at a slope which shall not be steeper than 1 foot vertical to 4 feet horizontal.

- (c) Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water except where streets, beaches, or other planned improvements are to be completed within a 1-year period. Where used, top soil shall be applied to a minimum depth of 4 inches sufficient to support vegetation.
- (d) Vegetation shall be restored by the appropriate seeding of grasses and/or the planting of trees and shrubs to establish a permanent vegetation cover on the land surface and to minimize erosion.
- (e) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time not to exceed 12 months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan, may be retained.

- (3) A performance bond (in a form approved by the Township attorney) or cash shall be furnished to the township clerk insuring the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be to less than \$10,000 per acre proposed to be mined or excavated in the following 12 months' period plus \$10,000 per acre which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of 5 feet or more shall be deemed to be reclaimed areas to within 15 feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than 1 vertical to 4 horizontal for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually, on or about the anniversary date of the permit, for adjustment and compliance with the foregoing requirements by the Zoning Administrator of the Township and the Township Planning Commission. In no event shall such financial guarantee be less than \$10,000 in amount.

e. Submission of Operational and Reclamation Plans

- (1) No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a plan has been submitted to the Planning Commission disclosing compliance with all of the provisions of the within Ordinance or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:
  - (a) A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets and whether or not the same are "all weather" roads, additional roads, if any, to be constructed and the location and nature of proposed improvements on adjoining property.
  - (b) The number of acres and the location of the same proposed to be operated upon within the following 12 months' period after commencement of operations.
  - (c) The type of mining or processing proposed to be conducted and the nature of the equipment to be used. Specific information shall be provided concerning the applicant's plan for controlling traffic, hours of operation, noise, pollution, drainage, and security.

- (d) The location of the principal processing plant and the distance of any proposed excavation or mining from the boundaries of the site, and the location and layout of loading areas and parking areas proposed to be used for storage.
  - (e) Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than 150 feet from any boundary of the site. Said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by the Township Engineer. The written consent of the owners of adjoining premises and of the Planning Commission shall be required if mining operations shall be closer than specified in the within Ordinance to the boundaries of the site.
  - (f) A map or plan disclosing the final grades and elevations to be established following the completion of the mining operations including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.
- f. Liability Insurance: All operators shall be required to carry personal injury and property damage insurance in the amount of not less than \$100,000 for each person or property injured or damaged and not less than \$300,000 for injury or damage to more than one person or one person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Clerk. The insurance required by this subsection shall be continuously in force until all areas within the parcel(s) to which the permit applies have been fully reclaimed or rehabilitated in conformity to the reclamation plan.
- g. Hearing
- (1) After receiving the application for the grant of a conditional use permit for an earth removal, quarrying, gravel processing, mining and related mineral extraction business accompanied by the required plans and specifications and permit fee, the Township Planning Commission shall hold a public hearing upon such application preceded by the notices required for conditional uses set forth in the Township Zoning Ordinance.
  - (2) Opportunity shall be given to all present to be heard at such hearing.
  - (3) Following such hearing, the Planning Commission shall grant or deny the application and set forth its reasons for its decision. Such decision shall be based upon the criteria set forth in the within Ordinance and shall be based, in addition, on a consideration of the following.
    - (a) The most advantageous use of the land, resources, and property.
    - (b) The character of the area in question and its peculiar suitability, if any, for particular uses.
    - (c) Conservation of property, as well as natural resources, and the general and appropriate trend and character of development in the subject area.
    - (d) The protection and preservation of the general health, safety and welfare of the Township.
    - (e) The effect of the proposed use upon existing public services and facilities.

- (f) The scarcity or value of the minerals sought to be mined as compared with the effect of the proposed operations upon the adjacent community.
  - (g) Whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of such previous operations.
- (4) In making any decision, the Planning Commission shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its conditional use permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a conditional use permit where all standards and conditions are complied with and may revoke or refuse to renew the same where noncompliance exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area. No permit shall be revoked or not renewed until the operator has been given written notice of any violation forming the basis of such revocation or denial of renewal and not less than 30 days have elapsed to correct the said violation. All permits shall be reviewed by the Planning Commission annually.
- (5) The operator shall be required to pay an annual fee to cover the cost of inspections and additional meetings of the Planning Commission as may be established by the Township Board.
- (6) The Township Board shall set annual fee.
- h. Variances: The Zoning Board of Appeals shall have the right and authority to grant variances from the foregoing conditions and limitations where particular circumstances or hardship may exist, the spirit and intent of the provisions to protect the neighborhood from devastation are still complied with and substantial justice would thereby be affected. The procedures established by the Zoning Ordinance for submittal and consideration of variance requests shall apply to variances requested hereunder. However, in the event that any variance is granted by the Zoning Board of Appeals, same shall not have the effect of amending a site plan or permit previously approved by the Planning Commission. Instead, upon grant of any such variance by the Zoning Board of Appeals, the applicant shall apply to the Planning Commission for approval of a revised site plan or a revised conditional use permit conforming to the terms of the variance granted, and the

Planning Commission shall conduct a public hearing to consider the proposed revisions and shall approve the proposed revised site plan and/or revised conditional use permit if it conforms to the variance granted by the Zoning Board of Appeals and to all of the other standards of the Ordinances and applicable law. If a site plan or conditional use permit is approved by the Planning Commission on condition that the applicant apply for and receive a specific variance from the Zoning Board of Appeals, submittal of a revised site plan or revised conditional use permit to the Planning Commission shall not be required if a variance granted by the Zoning Board of Appeals is identical to the specific variance referred to in the condition imposed by the Planning Commission.

#### **Section 14.12 CAMPGROUNDS, CAMPS, AND LODGES**

Including private and semi-private camps and lodges for active and passive recreation uses, provided that such activity shall be permitted as a conditional use in the Agricultural Production districts, and shall comply with the following provisions:

- A. No commercial activity shall be conducted on the premises, except as an accessory use.
- B. Such use shall be located on a site of not less than three (3) acres in size.
- C. Building shall not exceed thirty (30) feet in height, and shall be located no nearer to any property line than forty (40) feet. Yards may be utilized for parking provided that such parking shall not be closer than twenty (20) feet to any property.
- D. Any portion of the facility located adjacent to any residential district shall be screened from such district by an approved fence, or masonry wall of not less than four (4) feet no greater than eight (8) feet in height. In lieu of a separate fence or masonry wall, an evergreen hedge that effectively screens the parking area from adjacent properties may be planted and maintained at a height of not less than four (4) feet. Residential districts separated by a roadway shall also be considered as adjacent.

**Section 14.13 ESSENTIAL SERVICE BUILDINGS**

In every zoning district, except Industrial, the following essential service buildings shall be required to have a conditional use permit prior to their construction; transformer substations, pumping stations, communications relay stations, gas and steam regulating valves and stations and buildings of similar function.

No building shall be used for human occupancy.

An opaque fence or screening material may be required by the Planning Commission.

**Section 14.14 WIRELESS COMMUNICATIONS FACILITIES AND STRUCTURES**

**Purpose:** The purpose of this section of the ordinance is to establish guidelines for the siting of wireless communication towers and antennas within the Township. These guidelines are based upon the following objectives:

- 1. To minimize the total number of towers within the community;
- 2. To encourage the co-location of antenna onto existing towers or on alternative structures;
- 3. To reduce the impact upon adjoining residential uses through appropriate setback and screening, including camouflaging or stealth-type design;
- 4. To encourage the proper coordination between the most efficient provision of services with the least impact on the community in terms of health and safety.

**Exemption:** Milton Township owned towers and related equipment used for the health, safety and general welfare of Milton Township residents are exempt from the requirements of this Ordinance. Further, towers and related equipment placed on property owned or leased by Milton Township are also exempt. However, site plans must be submitted to the township showing the safety provisions used for such towers and related equipment.

**Definitions:** In addition to the definitions listed under Section 1/12 of this Ordinance, the following definitions relate specifically to the subsection:

**Alternative Tower (Mounting) Structures:** Any structure, including manmade trees, clock or water towers, steeples, light or telephone poles, which can be utilized for purposes of mounting antenna in order to eliminate the need for a traditional tower or for purposes of camouflaging the presence of such use.

**Amateur Radio Station Operations or Receive-Only Antennas:** Such use shall not be considered for regulation under this section of the Ordinance provided such tower, or the installation of any antenna, is under fifty (50) feet in height and is operated by a federally -insured amateur radio station operator or is utilized for receive-only antennas.

**Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals. Satellite dishes and other types of receiving or sending devices devoted to personal use shall be excluded from regulation under these provisions.

**Co-location:** The provision of multiple antennas of more than one commercial wireless communication service provider or government entity on a single tower or structure.

**Propagation Data:** The mapping and related information on existing and proposed tower locations within the Township and within three (3) miles of the Township boundaries as provided by the service provider at the time of application.

Wireless Communication towers for limited service: such use shall not be considered for regulation under this section of this Ordinance provided such tower, or the installation of any such antenna or tower, is:

- A. A free-standing tower
- B. Does not exceed 65 feet in height
- C. Has a base not to exceed 36 inches in length at ground level
- D. Has no ground level equipment building required
- E. No antenna or structure extends more than 6 feet horizontally from the tower
- F. Has no illumination equipment/lights installed or shining on the tower
- G. Erected in Single Family residential, Rural Residential, Agricultural Production, Industrial or Commercial Zoning Districts
- H. A shield shall be provided that prevents climbing on the tower

However, any such limited use internet tower shall be covered by the site plan approval and setback requirements for the respective zoning district requirements.

**Conditional Use:** The development of any Wireless Communication facilities, including telecommunication towers or alternative structures supporting such antenna, shall be subject to approval as a conditional use (special land use) within Agricultural Production, Rural Residential, Commercial or Industrial zoning districts. Such Application shall adhere to the requirements established for such use within Article XIV of this Ordinance.

In granting the conditional or special use permit, the Township Board, upon recommendation from the Planning Commission, may impose conditions beyond those listed under the site requirements below. Such conditions shall be based upon the need to minimize any adverse impacts of the proposed tower on adjoining properties or the community base upon objectives as listed above.

**Application Requirements:** Information shall be submitted by the applicant related to the engineering and construction of the tower on site, including civil (structural), electrical or mechanical, and such information shall be certified by a licensed professional engineer. The applicant shall include propagation data related to the proposed location of the tower within the community and information on other towers, including height, distance and the existing service providers on any tower within and adjoining the Township in order to conclude that development of a new tower is required to fulfill the need of the service provider.

**Site Requirements:**

1. The application for the development of any new wireless communication facilities shall be subject to site plan review and approval. Such site plan shall include the legal description for the subject property and a legal description for any leased area or access easements for development of the site. The site plan shall indicate the proposed height of the tower and the proposed setback of the tower from any adjoining property lines and any adjoining residential structures.
2. The setback of any new tower structure shall be no less than 110% of the tower height from any adjoining property line or public road right-of-way. No tower shall be located within 200 feet or 300% of the tower height, whichever is greater, from any existing residence.
3. All towers shall be equipped with an anti-climbing device and fenced with a minimum six (6) foot woven fence to prevent unauthorized access. Where appropriate, landscape screening of the fence enclosure may be required by the Planning Commission.

- a. Performance Standards: the applicant shall provide a notarized statement that development of the tower will support the co-location of no less than one (1) additional service provider for every fifty (50) feet of tower height.
- b. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
- c. All towers must meet the standards of Federal Aviation Administration, The Federal Communications Commission, and any other applicable federal, state or local regulation.
- d. Whenever possible the structure shall be of monopole construction.
- e. Accessory structures are limited to uses associated with operation of the tower. The site plan shall identify the location of any cabinets, fencing point of access and parking for maintenance of the tower and any accessory structures.
- f. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
- g. Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connection, with all applicable local statutes, regulations and standards.
- h. Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the building code.
- i. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure shall be at least eight (8) feet above the ground at all points, unless buried underground.
- j. Minimum spacing (separation distance) between tower locations shall be one (1) mile for any monopole tower of less than 200 feet and shall be two (2) miles for non-monopole towers or any tower over two hundred (200) feet, with this measured by a straight line from each tower base. Within the Agricultural Production and Rural Residential Districts, towers within one-half mile of US-12 may be provided by a waiver from these required separation distances where the Planning Commission and Township Board determine that such location may reduce the number of towers constructed within these districts outside of the 1-mile wide corridor.
- k. The maximum height of the tower shall not exceed three hundred (300) feet from grade.
- l. Towers shall not be artificially lighted unless required by the Federal Aviation Administration and, if so required, lighting shall be the minimum provided for under the regulations, subject to the Township's approval and orientated inward so as not to project onto surrounding property. Strobe lights shall not be used.
- m. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- n. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
- o. The antenna shall be painted to match the exterior treatment of the structure. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- p. Structures shall be subject to any State and Federal regulations concerning non-ionizing electromagnetic radiating. If more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform or the Special Use Permit will be subject to revocation by the Township Board. Cost for testing and verification of compliance shall be borne by the operator of the antenna.

- q. There shall be no employees located on the site on a permanent basis. Occasional or temporary repair and service activities are excluded from this restriction.
- r. Whenever possible, proposed wireless communication facilities shall co-locate on existing buildings or alternative tower structures and existing wireless communication structures. If a provider fails to or refuses to permit co-location, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way.

4. Reclamation

To secure the removal of a vacant structure, the Township may require a bond up to 125% of the removal cost to the operator and/or landowner.

When a wireless communication structure has not been used for a period of twelve (12) months, all parts of the structure shall be removed within ninety (90) days from the date that notice is given to the tower owner or operator of record, unless the Township Board grants an extension from this deadline. The removal of antennas or other equipment from the structure or the cessation of reception or transmission of radio signals shall be considered the beginning of non-use. Milton Township may secure the removal of the structure at the expense of the property owner, as shown on the tax rolls, for the property on which the structure is situated if the structure is not removed within the required period of time.

## ARTICLE XV. OFF-STREET PARKING AND LOADING REQUIREMENTS

### Section 15.01 OFF-STREET PARKING

In all districts, in connection with industrial, business, institutional, agricultural, recreational, residential or other use, there shall be provided at the time any building is erected, or uses established, enlarged or increased in capacity, off-street parking spaces for automobiles with the requirements herein specified.

- A. Plans and specifications showing required off-street parking space, including the means of access and interior circulations, for the above uses, shall be submitted to the Zoning Administrator for review at the time of application for a building permit. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within three hundred (300) feet thereof except that this distance shall not exceed one hundred fifty (150) feet for single family and two-family dwellings.
- B. No parking area or parking space which exists at the time this Ordinance becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance, unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within three hundred (300) feet of the proposed or existing uses for which such parking will be available.
- C. Parking of motor vehicles in residential zones shall be limited to passenger vehicles, one (1) camper-type recreational vehicle per dwelling unit, and not more than one (1) commercial vehicle of the light delivery type, not to exceed one (1) ton, shall be permitted per dwelling unit. The parking of any other type of commercial vehicle or bus, except for those parked on school or church property, is prohibited in a residential zone. Parking spaces for all types of uses may be provided either in garages or parking areas conforming to the provisions of this Ordinance.
- D. Each off-street parking space for automobiles shall not be less than two hundred (200) square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten (10) feet in width, and where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space.
- E. Off-street parking facilities required for churches may be reduced by fifty (50) percent where churches are located in nonresidential districts and within three hundred (300) feet of usable public or private off-street parking areas. Off-street parking facilities for trucks at restaurants, service stations, and other similar and related uses shall be of sufficient size to adequately serve trucks and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten (10) feet in width and fifty-five (55) feet in length.
- F. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:
  1. All off-street parking spaces shall not be closer than five (5) feet to any property line, except where a wall, fence, or compact planting strip exists as a parking barrier along the property line.
  2. All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a surface resistant to erosion.
  3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining premises and streets.
  4. Any off-street parking area providing space for five (5) or more vehicles shall be effectively screened on any side which adjoins, or faces property adjoining, a residential lot or institution, by a wall, opaque fence, or compact planting no less than four (4) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
  5. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of single or two-family dwellings.

6. Combined parking facilities are allowed when two (2) or more uses occur on one (1) property or when a building(s) on the (1) property contains two (2) or more uses, provided that the permanent allocation of the required number of parking spaces shall be the sum of the requirements for the various uses and computed in accordance with this Ordinance. Parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use, except churches.
- G. Any sign intended to advertise parking or loading facilities shall be constructed in accordance with the regulations specified in Article XIII.
  - H. A business involving the repair, service, sale, or display of vehicles is prohibited in areas used for parking or loading.
  - I. For the purposes of determining off-street parking requirements, the following units of measurement shall apply:
    1. Floor Area: In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for incidental service, storage, installations of mechanical equipment, penthouses, housing ventilators and heating systems, and similar uses.
    2. Places of Assembly: In stadiums, sport arenas, churches, and other places of assembly in which those in attendance occupy benches, <sup>pews</sup>, or other similar seating facilities, each eighteen (18) inches of such seating facilities shall be counted as one (1) seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
    3. Fractions: When units of measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall require one (1) parking space.
    4. The minimum required off-street parking spaces shall be set forth as follows:
 

Auction Barn: One (1) parking space for fifty (50) square feet.

Automobiles or Machinery Sales and Service Garages: One (1) space for each two hundred (200) square feet of showroom floor area, plus two (2) spaces for each service bay, plus one (1) space for each two (2) employees on the maximum shift.

Banks, Business, and Professional Offices: Two (2) parking spaces for each two hundred (200) square feet of floor area, plus one (1) parking space for each employee working within the building.

Barber Shops and Beauty Parlors: Two (2) spaces for each chair, plus one (1) space for each employee.

Boarding and Lodging Houses and Fraternities: Two (2) parking spaces for each three (3) beds.

Bowling Alleys: Five (5) parking spaces for each alley, plus one (1) space for each employee per shift.

Churches, Auditoriums, Stadiums, Sports Arenas, Theaters, Dance Halls, Assembly Halls Other Than Schools: One (1) space for each four (4) seats, or for each four (4) persons permitted in such edifice as stated by the Fire Marshall.

Clinics: Four (4) spaces for each doctor, plus one (1) space for each employee per shift.

Convalescent Home, Orphanage, or Similar Use: One (1) parking space for each four (4) beds, plus one (1) space for each two (2) employees, including nurses, per shift.

Drive-In Banks, Cleaners, and Similar Businesses: Storage space for five (5) cars between the sidewalk area and the service window and one (1) parking space for each two (2) employees.

Drive-In Eating Establishments: Ten (10) parking spaces, plus one (1) parking space for each twenty (20) square feet of building floor area.

Dwellings (Single and Two Family): Two (2) parking spaces for each family dwelling unit.

Dwellings (Three-Family or more): One bedroom-1.25 spaces per unit; Two or more bedrooms-Two-(2) spaces per unit.

Funeral Homes and Mortuaries: Four (4) spaces for each individual chapel or one (1) space for each fifty (50) square feet of floor area, whichever is greater, plus one (1) space for each fleet vehicle.

Furniture, Appliance Stores, Household Equipment, and Furniture Repair Shops: One (1) space for each four hundred (400) square feet of floor area.

Gasoline Filling and Service Stations: One (1) parking space for each repair and service stall, plus one (1) space for each employee per shift

General Office Building: One (1) parking space for each four hundred (400) square feet of gross floor area, excluding auto parking within or on the building, plus one (1) parking space per two (2) employees per shift.

Hotels, Motels, Lodging Houses, Tourist and Boarding Homes: One (1) space for each living unit, plus one (1) space for each two (2) employees per shift.

Livestock Auction: Two (2) square feet of parking area for each one (1) square foot of buildings, pens, and all enclosed area on the premises of the auction facility.

Manufacturing, Fabricating, Processing and Bottling Plants, Research and Testing Laboratories: One (1) space for each two (2) employees on maximum shift.

Restaurants, Taverns, Night Clubs, and Private Clubs: One (1) parking space for each two (2) patron seats, plus one (1) parking space for each two (2) employees per shift.

Retail Stores. Except as Otherwise Specified Herein: One (1) parking space for each one hundred fifty (150) square feet of floor area excluding auto parking space within or on the building.

Roadside Stands: Five (5) parking spaces, plus one (1) parking space for each twenty-five (25) square feet of floor area.

Schools, Private or Public Elementary and Junior High Schools: One (1) space for each employee normally engaged in or about the building or grounds, plus one (1) space for each thirty (30) students enrolled.

Senior High School and Institution of Higher Learning, Private or Public: One (1) parking space for each employee (including teachers and administrators), plus one (1) space for each ten (10) students in addition to the requirements of the auditorium.

Self-Service Laundry or Dry Cleaning Stores: One (1) space for each two (2) washing and/or dry cleaning machines.

Supermarket, Self-Service Food and Discount Stores: Two (2) spaces for each two hundred (200) square feet of floor area, plus one (1) space for each two (2) employees per shift.

Wholesale Establishments and Warehouses: One (1) space for each four hundred (400) square feet of floor area, plus one (1) space for each two (2) employees.

5. For uses not specifically mentioned herein, off-street parking requirements shall be established by the Zoning Administrator from requirements for similar uses.

### Section 15.02 LOADING~UNLOADING REQUIREMENTS

In connection with every building or part thereof hereafter erected, except single and two-family dwelling unit structures, there shall be provided on the same lot with such buildings, off-street loading and unloading spaces for uses which customarily receive or distribute material or merchandise by vehicle.

- A. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a building permit for the erection or enlargement of a use of a building or structure.
- B. Each off-street loading-unloading space shall not be less than the following:
  1. In a residential district, a loading-unloading space shall not be less than ten (10) feet in width and twenty-five (25) feet in length and, if a roofed space, not less than fourteen (14) feet in height.
  2. In any commercial or industrial district, a loading-unloading space shall not be less than ten (10) feet in width and fifty-five (55) feet in length, and if a roofed space, not less than fifteen (15) feet in height.
- C. Subject to the limitations of the next paragraph, a loading-unloading space may occupy all or any part of any required side or rear yard, except the side yard along a side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
- D. Any loading-unloading space shall not be closer than fifty (50) feet to any other lot located in any residential district unless wholly within a completely enclosed building or unless enclosed on all sides by a wall, opaque fence, or compact planting not less than six (6) feet in height.
- E. In the case of mixed uses on one (1) lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately.
- F. All off-street loading-unloading facilities that make it necessary to back out directly into a public road shall be prohibited.
- G. Off-street loading space and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed and any light used for illumination shall be so arranged as to reflect the light away from the adjoining premises and streets.

- H. Off-street loading-unloading requirements for residential (excluding single family dwellings), hotels, hospitals, mortuaries, public assembly, offices, retail, wholesale, or distribution by vehicles, the uses having over five thousand (5,000) square feet of gross floor area shall be provided with at least one (1) off-street loading-unloading space, and for every additional twenty thousand (20,000) square feet of gross floor space, or fraction thereof, one (1) additional loading-unloading space, the size of such loading-unloading space subject to the provisions of this Ordinance.
- I. For uses not specifically mentioned herein, loading-unloading requirements shall be established by the zoning Administrator from requirements for similar uses.

## ARTICLE XVI. ADMINISTRATION AND ENFORCEMENT

### Section 16.01 PURPOSE

It is the purpose of this Article to provide the procedures for the administration of the Ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators, and enforcement of the provisions of this Ordinance and amendments thereto.

### Section 16.02 ADMINISTRATION

The provisions of this Ordinance shall be administered by the Township Planning Commission and the Township Board in accordance with the State of Michigan Planning Commission Act, Act 168 of the Public Acts of 1959, as amended, and the State of Michigan Township Rural Zoning Act, Act 184 of the Public Acts of 1943, as amended.

The Township Board shall employ a Zoning Administrator in order to effect proper administration of this Ordinance. The individual selected, the terms of employment, and the rate of compensation shall be established by the Township Board.

In the absence of the Zoning Administrator, a Township officer as designated by the Township Board shall assume all the powers and duties of the Zoning Administrator.

### Section 16.03 DUTIES OF A ZONING ADMINISTRATOR

- A. Review all applications for building permits and approve or disapprove such applications based on compliance with the provisions of this Ordinance and shall approve issuance of the permit if the use and the requirements of this Ordinance are met.
- B. Review all applications for conditional use permits; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations and notify the applicant, in writing, of any decision of the Planning Commission.
- C. Receive all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance; conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations to the Zoning Board of Appeals for determination.
- D. Review all applications for amendments to this Ordinance, conduct field inspections, surveys, and investigations, prepare maps, charts, and other pictorial materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; and report to the Planning Commission all such applications together with recommendations.
- E. The Planning Commission Secretary shall be responsible to update the Township Zoning Map and keep it current.
- F. Be responsible for providing forms necessary for the various applications as required by this Ordinance and shall be responsible for what information is necessary on such forms for the effective administration of this Ordinance, subject to the general policies of the Township Board, Planning Commission, and Zoning Board of Appeals.
- G. Attend all Planning Commission meetings.

**Section 16.04 BUILDING PERMIT**

- A. Building Permit Requirements: A building permit is required for and shall be obtained after the effective date of this Ordinance from the Office of the building inspector or his agent by the owner or his agent for the following conditions:
  - 1. The construction, enlargement, alteration, or moving of any dwelling, building, or structure or any part thereof.
  - 2. Repairs or alterations which do not change the use, occupancy, area, structural strength, fire hazard, fire protection, exits, light, and ventilation of a building shall not require a building permit.
  - 3. Any structure erected on a foundation or permanently attached to the ground shall require a building permit.

NOTE \*\*\*\*\*  
Section 13.05 REQUIRED WATER SUPPLY AND SANITARY SEWER FACILITIES

In addition to the requirements established by the State and County Health Departments, the following site development and use requirement shall apply:

- A. No structure for human occupancy or use shall hereafter be erected, altered, or moved unless it shall be provided with a safe, sanitary, and potable water supply and a safe effective means of collection, treatment and disposal of wastes.
- B. No drain field or septic system may be installed or used unless it has been installed according to and approved by the Cass County Health Department.

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- B. Application for a Building Permit: Application for a building permit shall be made in writing upon a blank form furnished by the Building Inspector and shall state the name and address of the owner of the building and the owner of the land upon which it is to be erected, enlarged, altered, or moved. There shall be submitted with all applications for building permits two (2) copies of a site layout or plot plan showing:
  - 1. The location, shape, area, and dimensions for the lot, lots, or acreage.
  - 2. The location of the proposed construction upon the lot, lots, or acreage affected.
  - 3. The dimensions, height, and bulk of structures.
  - 4. The nature of the proposed construction, alteration, or repair and the intended use.
  - 5. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other uses.
  - 6. The present use of any structure affected by the construction or alteration.
  - 7. The yard, open area and parking space dimensions, if applicable.
  - 8. The proposed design and construction standards of parking spaces, if applicable.
  - 9. The number of loading and unloading spaces provided, if applicable.

10. Any other information deemed necessary by the Building Inspector to determine and provide for the enforcement of this Ordinance. If the information shown on the site layout is in compliance with the above requirements and all other provisions of this Ordinance, the Building Inspector shall issue a building permit upon payment of the required building permit fee.
- C. **Voiding of Permit:** In the event a building permit shall have been issued by the Building Inspector, and no proceeding under authority thereof shall have been commenced by the applicant within ninety (90) days following the date of issue or construction completed by the applicant within eighteen (18) months following the date of issue, said permit shall lapse and become null and void unless, within sixty (60) days following said lapsing of said permit, the applicant shall apply for reinstatement thereof. The Building Inspector is hereby authorized to reinstate such permit, providing no original building permit shall be reinstated more than once. The Building Inspector shall make every effort to notify the holder of a permit that is liable for voiding action before voidance is actually declared. The Building Inspector may suspend or revoke a permit issued in error or on a basis of incorrect information supplied by the applicant or his agent or in violation of any of the ordinances or regulations of the Township.
  - D. **Fees, Charges, and Expenses:** The Township Board may establish a schedule of fees, charges, and expenses, and a collection procedure for building permits, appeals, and other matters pertaining to the Ordinance. The schedule of fees shall be posted in the Office of the Building Inspector, and may be altered or amended only by the Township Board. No permit, certificate, conditional use on approval, or variance shall be issued until such costs, charges, fees, or expenses listed in the Ordinance have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, until preliminary charges and fees have been paid in full.
  - E. **Inspection:** The construction or usage affected by any building permit shall be subject to the following inspections:
    1. At the time of staking out of building foundation.
    2. Upon completion of the footings and before erection of the foundation walls, before the excavation is backfilled.
    3. Upon completion of the frame, rough in of plumbing and wiring, chimneys, and vents.
    4. Upon completion of the work authorized by the permit.
    5. No final approval for the electrical hook up will be given until the plumbing has received final approval from appropriate authorities, the septic and water systems have been approved by the Cass County Health Department and the mechanical applications have been made.

It shall be the duty of the holder of every permit to notify the Building Inspector when construction is ready for inspection. Upon receipt of such notification for the first inspection, the Building Inspector shall determine whether the location of the proposed building, as indicated by corner stakes, is in accordance with yard setbacks and other requirements of the Ordinance. The Building Inspector shall issue his written approval at the time of inspection, if the building or proposed construction meets the requirements of this Ordinance. Should the Building Inspector determine that the building or structure is not located according to the site and construction plans filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify the holder of the permit, or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved by the Building Inspector upon notice and request for reinspection duly made.

Should a building permit holder fail to comply with the requirements of the Building Inspector at any inspection stage, the Building Inspector shall make report in writing of such failure to the Township Clerk.

The Building Inspector shall cause notice of such permit cancellation to be securely and conspicuously posted upon or affixed to the construction not conforming to the Ordinance requirements and such posting shall be considered as service upon and notice to the permit holder, of cancellation thereof; and no further work upon said construction shall be undertaken or permitted until such time as the requirements of this Ordinance have been met. Failure of the permit holder to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed. A certification of occupancy shall be issued at the time of final approval and prior to occupancy.

**SECTION 16.05 VIOLATIONS (Ord. 2010-14)**

A. Nuisance Per Se. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, and any use of a lot or land which is begun, continued, or changed in violation of any term or provision of this Ordinance, is hereby declared to be a nuisance per se subject to abatement pursuant to MCL 125.3407 and as otherwise provided by law.

B. Violation. Any person who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the 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.

**SECTION 16.06 PENALTIES (Ord. 2010-14)**

A. 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 or More Offense	\$500.00	\$500.00

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which Milton Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 be ordered.

B. Remedial Action. Any violation of this Ordinance shall constitute a basis for injunctive relief or other appropriate remedy in any court of competent jurisdiction to compel compliance with this Ordinance and enforce the provisions thereof.

C. Enforcement. The Milton Township Zoning Administrator, the Milton Township Ordinance Enforcement Officer, any Cass County Sheriff's Deputy and any other individual Township official(s) that may from time to time be designated shall administer this Ordinance and are hereby authorized and empowered to investigate violations and to issue notices of violation and citations for violation of the same.

### Section 16.07 INITIATING AMENDMENTS AND FEES

The Township Board may from time to time, on recommendation from the Planning Commission, amend, modify, supplement, or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Except for the Township Board or the Planning Commission, the petitioner or petitioners requesting an amendment shall, at the time of application, pay a fee prescribed by the Township Board, no part of which shall be returnable to the petitioner.

### Section 16.08 AMENDMENT PROCEDURE

The Township Zoning Ordinance may be amended upon request from a Township property owner or upon initiation by the Township Board of Trustees or the Township Planning Commission. The following procedures will be followed in receiving, reviewing, and approving amendments for changing the Zoning Ordinance.

- A. The applicant should submit to the Planning Commission Secretary an application for zoning amendment together with the required application fee and the following documentation:
  1. Evidence that the applicant has an ownership interest in the property proposed to be rezoned.
  2. Legal description and dimensions of the property proposed to be rezoned shown on a site plan drawn to scale.
  3. Location of all existing improvements.
  4. Description of proposed use or uses, including access roadways and proposed off-street parking.
  5. Description of sewage disposal and water supply facilities and proposed surface drainage.
  6. A sign location plot plan.
- B. The Plan Commission Secretary will review the rezoning application to insure that the application is in order and all required documentation is included,
- C. The Plan Commission Secretary will transmit the application for rezoning to the Township Planning Commission.
- D. The Township Planning Commission will receive the rezoning application and conduct a background study to determine:
  1. If the proposed rezoning is compatible with the goals and objectives of the Township Land Use Plan.
  2. Impact of the proposed use surrounding properties and development.
  3. The effect on public facilities and services.
  4. The relationship of the proposed project to the intent of Township Zoning Ordinance.
  5. The applicant, or his representative, should be present during the Planning Commission review.

- E. The Township Planning Commission will establish a date for public hearing on the proposed zoning amendment at its regular meeting allowing for the requirements for notification. The Planning Commission Secretary will provide to the Township Clerk all required materials for publication and notification.
- F. The Township Clerk will publish a notice of the public hearing in the South Bend Tribune, Michigan Edition, zones 1 and 2. The notice must be printed not less than fifteen (15) days prior to the hearing.
- G. The Township Clerk shall notify by mail, not less than fifteen (15) days prior to the public hearing, each electric, gas pipeline, telecommunication utility, and railroad company operating within the district or zone affected, that registers its name and mailing address with the Township Planning Commission for the purpose of receiving the notice. An affidavit of mailing shall be maintained. The notices shall include the places and times at which the tentative text and any maps of the Zoning Ordinance may be examined.
- H. If less than 11 properties are involved, the Township Clerk shall notify by mail all persons who own real property within three hundred (300) feet of the property proposed to be rezoned and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be made not less than fifteen (15) days before the hearing.

The notice shall describe the nature of the request, indicate the properties that are the subject of the request by address (if the properties have an address), state when and where the request will be considered, and indicate when and where written comments will be received concerning the request. An affidavit by mailing shall be filed with the Township Planning Commission before the hearing. The notice shall be delivered to the property owners and occupants of structures. If the occupants name is not known, the term "occupant" may be used.

- I. The Township Planning Commission will hold a public hearing on the requested rezoning. The hearing should represent an opportunity for all involved to present and rebut information concerning a rezoning request.
- J. The Township Planning Commission will complete its background study on the rezoning request and address the concerns raised at the public hearing.
- K. The Township Planning Commission will submit the rezoning request to the County Planning Commission for review and recommendation.
- L. The Township Planning Commission will transmit the rezoning request together with its recommendation and the comments of the County Planning Commission to the Township Board for final action. The transmittal to the Township Board will include a record of the comments received at the public hearing, background material developed by the Township Planning Commission on the rezoning request, and the findings which support the Planning Commission's recommendations. The Township Planning Commission shall publish a summary of its findings within fifteen (15) days following the Planning Commission recommendations.
- M. The Township Board of Trustees may adopt or reject the proposed amendment to the Zoning Ordinance, provided that:
  1. If the Board desires to make a change in the proposed amendment, it must refer the amendment back to the Township Planning Commission for recommendation; and
  2. If a land owner requests a hearing on the proposed amendment, the Board must hold the requested hearing before action is taken.

- N. If the Township Board of Trustees holds additional public hearings, notice shall be published in the newspapers not less than fifteen (15) days prior to the hearing.
- O. After receiving the Township Planning Commission's report and recommendation on a proposed rezoning amendment, the Township Board of Trustees shall grant a public hearing to a property owner who, by certified mail addressed to the Clerk of the Township Board, requests a hearing. The Township Board shall request the Township Planning Commission to attend the hearing.
- P. After completing its study and review, the Township Board of Trustees may approve, reject, or approve with changes the proposed rezoning amendment. If the Township Board approves the rezoning amendment with changes, the proposed amendment with changes will be referred back to the Township Planning Commission for further study recommendation.

**Section 16.09 CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendments or Notice of Adoption and summary published, without referring the same to any other board or agency.

**Section 16.10 REZONING SIGN REQUIREMENTS**

- A. The proponent of a rezoning request will be required to submit a sign location site plan with the application for rezoning.
- B. The rezoning sign must meet the following specifications:
  - 1. Black letters on a white background.
  - 2. Size of sign – minimum four (4) feet (vertical) by six (6) feet (horizontal).
  - 3. Sign face shall be an exterior plywood, aluminum, or similar material.
  - 4. Wording shall be as follows:

**ZONING CHANGE PROPOSED  
FOR MORE INFORMATION CALL  
MILTON TOWNSHIP  
(269) 684-7262**

(min. 8-inch high letters)  
(min. 3-inch high letters)  
(min. 4-inch high letters)  
(min. 5-inch high letters)

- 5. Installed a minimum of 42 inches above the ground.
- 6. The sign support system must be structurally sound and able to withstand lateral wind of 14 pounds per square foot.
- C. Signs shall be placed on the property proposed for development and in full public view along street or road frontages. The proposed sign must be located along the property line of the right-of-way at the midpoint of the property width.
- D. A corner lot, or a lot situated on more than one road, will require a sign for each road frontage.

- E. In no instance shall a sign be located within twenty-five (25) feet of an intersection.
- F. In unique cases due to the configuration of the property, or natural features the Planning Commission or Zoning Administrator may approve an alternative sign location.
- G. Rezoning signs shall be installed by the applicant, a minimum of fifteen (15) days prior to the Planning Commission Public Hearing. The rezoning request will not be heard at that scheduled Public Hearing if the rezoning sign is not installed prior to that time. The Zoning Administrator will inspect the sign(s) for appropriate wording, location, visibility, and timing.
- H. Rezoning signs must be removed within:
  1. Seven (7) days of enactment by the Township Board.
  2. Seven (7) days of withdrawing rezoning application.
  3. Seven (7) days of denial of rezoning request by the Township Board.

Failure to remove sign(s) within this period may require removal of the sign(s) by the township at the owner's expense.

#### **16.11 Zoning Compliance Permits**

- A. **PERMIT REQUIREMENTS:** It shall be unlawful for any person to commence excavation for any building, structure, or use; or to commence the erection of any building or structure; and no land use shall be commenced; until a Zoning Compliance Permit for same has been secured from the Township Zoning Administrator. No such Zoning Compliance Permit shall be issued for any building, structure, land, or use thereof, where the construction, addition, alteration, or the use thereof would be in violation of the provisions of this Zoning Ordinance.

Each Zoning Compliance Permit shall be null and void within one (1) year following the issuance of the permit unless the provisions of the permit have been utilized or unless reapplication has been approved by the Zoning Administrator.

Exempted from this permit requirement are alterations and /or repairs that do not affect the external dimensions of the structure or building, and are not impacted by the Non-Conformity provisions of the Zoning Ordinance.

- B. **ZONING COMPLIANCE PERMIT APPLICATION:** Application for a Zoning Compliance Permit shall be filed in writing with the Zoning Administrator, on such form approved by the Township, and signed by the person, firm, corporation, requesting same; or by the duly authorized agent of such person, firm, or corporation. Prior to the issuance of a Zoning Compliance Permit, the applicant shall furnish such information, plans, sketches, and/or diagrams as the Zoning Administrator may require to be satisfied that the building, premises, structure, and/or proposed use complies with all applicable Township ordinances, rules, regulations, and state laws. Where site plan approval is required by the Planning Commission pursuant to other sections of the Zoning Ordinance, such site approvals shall be obtained by the applicant, prior to filing for a Zoning Compliance Permit. The fee for such permit application is established by the Township Board.
- C. **CONFORMITY TO APPROVED ZONING COMPLIANCE PERMIT:** The property which is the subject of an approved Zoning Compliance Permit shall be developed and used in strict compliance with the Zoning Compliance Permit, and any written amendments which have been reviewed and approved, in writing, by the Zoning Administrator.

## ARTICLE XVII. ZONING BOARD OF APPEALS

### Section 17.01 PURPOSE

It is the purpose of this Article to provide a means to alleviate undue hardship which may, in certain instances, be caused by the strict and literal interpretation and enforcement of the provisions of this Ordinance.

### Section 17.02 BOARD OF APPEALS ESTABLISHED

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided by Section 18, Act 184 of the Public Acts of 1943, as amended, in such a way that the objectives of this Ordinance shall be enforced, the public health and safety secured, and substantial justice done.

### Section 17.03 POWERS AND DUTIES

The Board of Appeals shall have powers to interpret the provisions of this Ordinance, and to grant variances from the strict application of any provisions of this Ordinance.

### Section 17.04 VARIANCE

A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
  - 1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - 2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - 3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.
  - 4. That no nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall make findings that the requirements of the Ordinance have been met by the applicant for a variance.
- C. The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance, and punishable under Section 16.06 of this Ordinance.
- F. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in said district.

**Section 17.05 VOIDING OF AND REAPPLICATION FOR VARIANCE**

The following provisions shall apply:

- A. Each variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance or permit has been commenced within ninety (90) days after the granting of such variance and pursued diligently to completion.
- B. No application for a variance which has been denied wholly or in part by the Board of Appeals shall be resubmitted for a period of three hundred sixty-five (365) days from such denial, except on grounds of new evidence or proof of changed conditions found by the Board of Appeals to be valid.

**Section 17.06 PROCEDURE FOR APPEALING TO THE BOARD OF APPEALS**

The following provisions shall apply:

- A. Appeals, How Taken: Appeals from the ruling of the Township Building Inspector may be made to the Board of Appeals in the following manner:
  - 1. The person, firm, or agent thereof making the appeal shall file in writing to the Building Inspector a letter stating what the specific appeal is and the reasons for said appeal.
  - 2. The Building Inspector submits the written appeal, along with all papers constituting the record from which the action appealed was taken, to the Zoning Board of Appeals.
- B. Who May Appeal: Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board, agency, or bureau of the Township, County, or State.
- C. Fee for Appeal: A fee as prescribed by the Township Board, no part of which shall be returnable, shall be submitted to the Building Inspector at the time of filing the letter of appeals. The appeals fee shall immediately be placed in the Township General Fund.
- D. Effect of Appeal, Restraining Order: An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Township Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- E. Hearing by the Board of Appeals, Request, Notice, Hearing: When a request for appeals has been filed in proper form with the Board of Appeals, the Secretary or Township Clerk shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place, and object of the

hearing to be served personally or by registered return receipt mail at least fifteen (15) days prior to the date of such hearing, upon the party or parties making the request for appeal.

- F. Representation at Hearing: Any party or parties may appear in person or by agent or by attorney at the hearing.
- G. Decisions of the Board of Appeals and Appeals to the Circuit Court: The Board of Appeals shall decide upon all appeals within a reasonable time and reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such 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 Building Inspector from whom the appeal is taken. The Board of Appeals decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case and the signatures of each member of the Board of Appeals affixed thereon. Any persons having an interest affected by such resolution shall have the right to appeal to the Circuit Court on questions of law and fact.

**ARTICLE XVIII. EFFECTIVE DATE OF ORDINANCE**

**Section 18.01 EFFECTIVE DATE**

This Ordinance was adopted by the Board of Trustees of Milton Township, Cass County, Michigan at a meeting on the 20<sup>th</sup> day of May, 1985, and ordered published in a newspaper such as the South Bend Tribune, Michigan Edition, Zones 1 and 2, or other newspaper having similar circulation in said Township, as required by Act 191 of the Public Acts of 1939, as amended.

Latest update: 11/2015

**Section 18.02 PERIOD OF EFFECTIVENESS**

This Ordinance shall remain in full force and effect henceforth unless repealed.

Harold Markward, Township Supervisor

Robert Ziliak, Township Clerk

# Article XIX

## SCHEDULE OF USES

**Key:**

O = Conditional Use      ● = Permitted Use

**ZONING DISTRICTS**

- AP = Agricultural Production District
- RR = Rural Residential District
- SFR = Single Family Residential District
- MDR = Medium Density Residential District
- C = Commercial District
- I = Industrial District

USE CATEGORY	AP	RR	SFR	MDR	C	I
Advertising Services					○	●
Agricultural Processing	○	○				●
Agricultural Related Activities - Other	○	○			○	
Aircraft Transportation - Other	○	○				
Airports & Flying Fields	○	○				
Amusements - Other	○	○	○	○	○	
Animal Hospitals, animal boarding, or dog kennel					○	
Animal Husbandry Services	●	●			○	
Apartments, Condominiums (Multi-Family)				●		
Archery Range (Ord. 2010-14)	○	○				
Apparel Repair, Alteration & Cleaning, Shoe Repair					●	
Automobile Parking					●	
Automobile Repair & Services					○	
Automobile Sales and Service (new or used)					○	
Banking & Bank-Related Functions					●	
Beauty & Barber Services	○				●	
Bed & Breakfast Establishments (Res. 2009-05)	○	○	○	○		
Blast Furnace, Steel Works & Rolling & Finishing Ferrous Metals						
Brewery, Distillery						●
Bulk Storage						○

Bus Transportation Terminals					●	
Business Services - Other					○	●
<b>USE CATEGORY</b>	<b>AP</b>	<b>RR</b>	<b>SFR</b>	<b>MDR</b>	<b>C</b>	<b>I</b>
Cemeteries	○	○				
Cleaners and Laundries						○
Commercial Forestry Production	●	●				
Confinement Feeding	●					
Contractor's Yards					○	●
Cultural Activities	○	○	○	○	○	
Cultural, Entertainment & Recreational - Other	○	○				
Drive-In Movies					○	
Duplicating, Mailing & Stenographic Services					●	
Dwelling & Other Building Services					○	●
Dwelling Unit – Residential Use		●	●	●	○	
Employment Services					●	
Fabrication assembly and packaging						●
Fairgrounds & Amusement Parks					○	
Farm Dwelling & Related Outbuildings	●	●				
Farms	●	●				
Financial Services					●	
Firearms – Sale, Purchase, Construction, and/or Repair (Res. 2010-10)	○					
Forestry Activities - Other	○	○			○	
Forestry Services	○	○			○	
Fraternity, Sorority Houses, Residence Halls or Dormitories				●		
Funeral					○	
General Contract Construction Services					○	●
Grinding, milling and production						●
Group or Organized Camps	○	○				
Handling and Processing of Construction Material						○
Home Occupations	●	●	●	●	●	
Houses of Worship & Associated Activities	○	○	○	○	○	
Insurance Carriers, Real Estate & Related Services					●	
Iron & Steel Foundries						
Laundering, Dry Cleaning & Dyeing Services					○	
Landscaping Services (Ord. 2010-14)	○	○				
Legal Services					●	
Manufacturing - Canning & Processing of Food & Related Products						○
Manufacturing - Cut Stone & Stone Products	○				○	
Manufacturing - Dairy Products						○
Manufacturing - Electrical machinery, Equipment & Supplies						○

Manufacturing - Engineering, Scientific, Medical & Research Equipment						●
Manufacturing - Floor Coverings ( Rugs & Carpets)						○
Manufacturing - Fur Goods					○	○
USE CATEGORY	AP	RR	SFR	MDR	C	I
Manufacturing - Glass & Glassware (Pressed or Blown)						○
Manufacturing - Household & Office Furniture & Related Products						○
Manufacturing - Jewelry, Silverware & Plated Ware						●
Manufacturing - Leather & Leather Products					○	○
Manufacturing - Machinery (Except Electrical)						○
Manufacturing - Miscellaneous Apparel & Accessories						○
Manufacturing - Miscellaneous Plastic Products						○
Manufacturing - Mobile Homes & Offices & Recreational Vehicles						○
Manufacturing - Musical Instruments & Parts						●
Manufacturing - Novelties & Misc. Notions (Except Precious Metals)						●
Manufacturing – Other Small Wares (Cotton, Man Made Fibers, Silk, Wool)						○
Manufacturing – Other Wood Products (Except Furniture)						○
Manufacturing - Paperboard Containers & Boxes						○
Manufacturing - Pens, Pencils & Other Office & Artists' Supplies						●
Manufacturing - Photographic Equipment & Supplies						●
Manufacturing - Pottery & Related Products					○	●
Manufacturing - Soap, Detergents, Perfumes, Cosmetics & Other Toiletries						○
Manufacturing - Textile Goods						○
Manufacturing - Toys, Amusement, Sporting & Athletic Goods						●
Manufacturing - Watches						●
Manufacturing - Wood Containers						●
Material Handling and Equipment						●
Medical & Other Health Services					●	
Mining & Quarrying of Nonmetallic Minerals (Except Fuels)	○					
Mining Services	○					
Miscellaneous Services - Other					○	
Mobile Home Parks or Courts				○		
Motels and Hotels					●	
Motor Vehicle Services						○
Motor Vehicle Transportation - Other				○	○	

News Syndicate Services					●	
Nursery, Primary & Secondary Education	○	○	○	○		
Outdoor Advertising Signs						○
Parks - General Recreation			●	●		
Parks - Leisure & Ornamental			●	●		
Personal Services - Other	○	○				
<b>USE CATEGORY</b>	<b>AP</b>	<b>RR</b>	<b>SFR</b>	<b>MDR</b>	<b>C</b>	<b>I</b>
Photographic Services (Including Commercial)					●	
Pipeline Right-of-Way & Essential Service	●	●				●
Playgrounds & Athletic Areas	○	○	●	●		
Postal Services					●	
Professional Services - Other					○	
Public Assembly - Other					○	
Publishing & Printing, Binding & Related Industries					○	●
Radio & Television Communication (Base Station)					○	●
Railroad Passenger Terminals	○	○	○	○	○	
Railroad Switch Yard						
Railroad Transportation	○	○	○	○	○	
Recreation (Including Camping & Picnic Areas) - Other	○	○	○	○		
Relay Towers & Transmitting Stations (TV & Radio Commercial)	○	○				
Repair and Service of Heavy Duty Trucks and Construction Equipment						○
Repair Services - Other					○	
Research Facilities						○
Resources Production Extraction - Other	○	○				
Retail - Antiques & Secondhand Merchandise	○	○			○	
Retail - Bakeries	○				●	
Retail - Books, Stationery & Video	○				○	
Retail - Candy, Nuts & Confectionery	○	○			●	
Retail - Clothing & Furnishings					●	
Retail - Dairy Products	○	○			●	
Retail - Department Stores					●	
Retail - Direct Selling Organizations					●	
Retail - Drinking Places (Alcoholic Beverages)	○	○			○	
Retail - Drug & Proprietary					●	
Retail - Eating Places (Non-Alcoholic)	○				●	
Retail - Electrical Supplies					●	
Retail - Farm & Garden Supplies	○	○			●	
Retail - Fruits & Vegetables	○	○			●	
Retail - Fuel & Ice					○	
Retail - Furniture, Home furnishings, Equipment,					●	

Household Appliances (New)						
Retail - Gasoline Service Stations					○	
Retail - Groceries (With or Without Meat)	○				●	
Retail - Hardware & Farm Equipment	○				●	
Retail - Heating & Plumbing Equipment					○	
Retail - Limited Price Variety Stores	○				●	
Retail - Liquor					○	
Retail - Mail Order Houses					●	
<b>USE CATEGORY</b>	<b>AP</b>	<b>RR</b>	<b>SFR</b>	<b>MDR</b>	<b>C</b>	<b>I</b>
Retail - Meats, Fish & Poultry	○	○			●	
Retail - Motor Vehicles - Except Salvage					○	
Retail - Other Automotive, Marine Craft, Aircraft & Accessories - Except Salvage					●	
Retail - Other Food Trade					●	
Retail - Other Trade					○	
Retail - Other Trade - General Merchandise					●	
Retail - Paint, Glass & Wallpaper					●	
Retail - Sporting Goods & Bicycles	○	○			●	
Retail - Tires, Batteries & Accessories					●	
Retirement Homes, Orphanages, Religious Quarters		●		●		
Rooming & Boarding Houses		○	○	●		
Sanitariums, Convalescent & Rest Home Services	○	○	○	○		
Special Construction Trade Services					○	
Special Training & Schooling	○	○	○	○		
Storage Services - Agricultural Products Only	○					●
Swimming Areas	○	○	●	●		
Telephone Community (Local)					●	
Tenant Farm Housing	●	●				
Theater- Drive-in/Outdoor					○	
Theaters (except drive-in theaters)					●	
Transportation Services					●	
Travel Agencies					●	
University, College, Junior College & Professional School Education	○	○	○	○	○	
Utilities - Other					○	
Warehousing & Storage Services					○	
Welfare & Charitable Services					●	
Wholesale - Drugs, Chemicals & Allied Products					○	●
Wholesale - Dry Goods & Apparel					○	●
Wholesale - Electrical Goods					○	●
Wholesale - Groceries & Related Products					○	●
Wholesale - Hardware, Plumbing, Heating Equipment & Supplies	○				○	●

Wholesale - Machinery, Equipment & Supplies (Farm Equipment)					○	●
Wholesale - Motor Vehicles & Automotive Equipment					○	●
Wholesale - Other Wholesale Trade (Junk Yard)						○
Wireless Communication					●	
Winery	●					●

## ARTICLE XX – MEDICAL MARIHUANA

### Section 20.01 PURPOSE

The use of Medical Marihuana was approved by statewide referendum and subsequently the State Legislature passed the Michigan Medical Marihuana Act PA 208, MCL 333.26421 et seq. No previous provisions existed in the Milton Township Ordinance to provide local regulations and enforcement for Medical Marihuana. Since the Michigan Legislature has left the development of local regulations to the local municipalities, Article XX shall provide the necessary local regulations.

### Section 20.02 DEFINITIONS

1. **Medical Marihuana**. Marihuana grown, used or transferred for medical use as defined in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d).
2. **Patient**. A person who has been diagnosed by a physician licensed by the State of Michigan as having a debilitating medical condition and has been issued a registry card and who otherwise meets the definition of a qualifying patient under the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
3. **Caregiver**. A person who has agreed to grow, cultivate process and deliver medical marihuana to a registered patient for an approved medical use. The caregiver must possess a valid registry identification card and must otherwise meet the definition of a primary caregiver as stated under the Michigan Medical Marihuana Act, MCL 333.26421. et seq.
4. **Registry Identification Card**. A document issued by the Michigan Department of Community Health or its agent that identifies a person as a qualified registered patient or a qualified registered primary caregiver.
5. **Medical Marihuana Cultivation**. Growing marihuana as allowed by the Michigan Medical Marihuana Act, MCL 333.26421. et seq.
6. **Marihuana Collective or Cooperative**. Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, distributed, consumed, given, delivered, provided, made available or used, that is formed by a group of individuals acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.
7. **Marihuana Dispensary or Dispensary**. Any facility, structure, dwelling or other location where medical marihuana is grown cultivated, process, stored, transmitted, dispensed, distributed, consumed, given, delivered, provided, made available to or used by two or more of the following: a registered primary caregiver, a registered qualifying patient, or a person in possession of an application for an identification card. The term “dispensary” shall not apply to a single registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualified patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.
8. **Smoke House**. Any facility that allows multiple qualifying patients to consume or ingest medical marihuana on the premises. This term does not encompass: 1) a primary caregiver’s private facility at which medical marihuana is consumed or ingested on the premises solely by the designated qualifying patients of the primary caregiver; or 2) the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice licensed by the State of Michigan at which the qualifying patient is receiving care.

## **Section 20.03 GENERAL PROVISIONS**

- A. The growth of Medical Marihuana in Milton Township shall occur in complete compliance with the Michigan Marihuana Act and shall only occur in the Agricultural Production District or in the Rural Residential District. The restriction of the growth of Medical Marihuana to these zoning districts shall apply only to licensed caregivers.
- B. No public use or distribution shall occur in Milton Township.
- C. The distribution of Medical Marihuana by a licensed caregiver to a licensed patient shall occur either at the residence of the patient or at the residence of the caregiver. No third person transfer of Medical Marihuana shall be permitted.
- D. A primary caregiver must be located outside of a one-thousand (1000) foot radius from any real property as follows: a daycare facility; a church or any other public place of worship; a recreational park, public community center, private youth center, playground, public swimming pool, video arcade facility; a public or private preschool, elementary school, middle school, high school, community college, a public or private college or university or any other public or private facility at which minors may congregate. Measurements for purposes of this section shall be made from the boundary of the lot on which the marihuana is grown to the boundary of any of the above facilities.
- E. Not more than one (1) primary caregiver within a single family dwelling shall be permitted to serve as licensed caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building, cooperative building or similar housing, or commercial or multi use building.
- F. No external advertising signs regarding Medical Marihuana shall be permitted.
- G. All actively growing Medical Marihuana shall be contained within the main residential structure in a totally enclosed locked facility secured with locks that permits access to only the caregiver or the patient. The use of accessory buildings associated with the primary residence is expressly prohibited to be used for the growth of Medical Marihuana within Milton Township.
- H. All caregivers who plan to grow Medical Marihuana in Milton Township shall have their growing site inspected for mechanical, plumbing and electrical certification prior to beginning operation of their facility. Certification may be obtained either by Milton Township inspectors or contractors holding Michigan licenses in the appropriate specialties.
- I. If a room with windows is utilized as a Medical Marihuana location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 6 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent light spillage that creates a distraction or a nuisance to adjacent properties.
- J. No communal consumption of Medical Marihuana shall be permitted on the outside premises of a private residence or on any other open private property at any time.
- K. The Milton Township Medical Marihuana Ordinance should not be construed as having any mitigating effect on the Michigan and Federal laws concerning the growth, distribution and use of marihuana.
- L. It shall be considered unlawful for any person or persons to establish and/or operate a for profit or a not for profit Medical Marihuana dispensary, collective or cooperative or smoke house in Milton Township.
- M. Sites for two or more caregivers at which Medical Marihuana is grown and cultivated shall all be separated by a minimum of 1000 feet.

**Section 20.04 PERMIT FOR THE GROWTH AND CULTIVATION OF MEDICAL MARIHUANA**

- A. Application for a Permit to Grow and Cultivate Medical Marihuana in Milton Township.
  - 1. Provide evidence that the applicant has valid and current State of Michigan registration card that entitles the applicant to grow Medical Marihuana.
  - 2. Provide the address and legal description of the property at which Medical Marihuana is to be grown and cultivated.
  - 3. Describe the enclosed, locked facility in which the growth and cultivation of the Medical Marihuana is to be grown and a description of where and how the processed marihuana is to be stored.
  - 4. The applicant shall document that the site for which a Permit is requested will be in compliance with all the applicable requirements listed within Section 20.03 of this Ordinance.
  - 5. The application fee shall be determined by the Milton Township Board.
  - 6. Permits shall be renewable on a yearly basis.
  
- B. Standards for Approval of a Permit to Grow and Cultivate Medical Marihuana in Milton Township.
  - 1. Verification by the Milton Township Zoning Administrator that the application is complete and accurate.
  
  - 2. Verification that the mechanical, plumbing and electrical inspections have been satisfactorily completed.
  
  - 3. Verification that the application fee has been paid.
  
- C. Facilities in Existence Prior to the Approval of this Ordinance.
  - 1. A facility that exists on the effective date of this ordinance must make an application for and receive approval to operate; provided, an application shall be filed within fifteen days following the effective date of this ordinance. If an application for a Permit under this ordinance is denied due to minimum distance requirement standards, and a timely application has been filed seeking a permit under this ordinance, such facility shall have sixty days from the date of application denial to cease operating at the denied site.
  
- D. Confidentiality of Application
  - 1. The detailed information in an application for a permit to grow and cultivate Medical Marihuana shall be confidential and available only to the Zoning Administrator in Milton Township.
  - 2. Information contained in such an application shall not be accessible by the FOIA request. Release of such information shall only be by a court order.

**Section 20.05 DISCLAIMER OF IMMUNITY**

Nothing in this Ordinance shall be construed as allowing the use, cultivation, distribution or possession of marihuana not in strict compliance with the express provisions of the MMMA and this Ordinance. Further, nothing in this Ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the use, cultivation, distribution or possession of marihuana or to prevent prosecution there under.

**Section 20.06, SEVERABILITY**

The various sections and provisions of this ordinance shall be deemed to be severable, and should any section or provision of this ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

**ARTICLE XXI. (RESERVED)**

**Section 21.00 (RESERVED)**

(This article reserved for future use)

**ARTICLE XXII. (RESERVED)**

**Section 22.00 (RESERVED)**

(This article reserved for future use)

## **ARTICLE XXIII PRIVATE ROAD ORDINANCE**

An Ordinance to protect the health, safety, and general welfare of the inhabitants and property owners of Milton Township.

The Township of Milton ordains as follows: This Ordinance shall be known as the "Private Road" Ordinance.

### **SECTION 23.01 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 that are not subject to regulation under the Michigan Subdivision Control Act 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 23.02 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; or
  - (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.
- D. Driveway - An access road serving not more than one (1) lot.

E. Lot - A parcel of land; real estate.

F. Permit - A private road permit issued pursuant to this ordinance.

G. Private Road - A route which provides vehicular access to a lot or lots and which has not been dedicated to public use

#### SECTION 23.03 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 23.04 E and a private road permit must be obtained as per Section 23.06. 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, mobile home parks, and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Milton Township Zoning Ordinance.

D. The provisions of this Ordinance shall not apply retroactively to an existing private road which provides access to existing lots or dwelling units. Those requirements pertaining to names for private roads and house numbers 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 as 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 Milton 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 23.04 (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 23.04 (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 23.04 (E) of this ordinance including paving.

#### SECTION 23.04 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 according to M-DOT or Cass County Road standards in effect at the time of application. 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 subbase (MDOT Class 2). The top elevation of the roadway shall be a minimum of three (3) feet above the seasonal high water table.

F. It is recommended that a private road 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 23.05 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 23.06 (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 23.04 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 Milton or Cass County 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 23.06 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 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 23.05 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 and that that such road conforms to the Cass County road name requirements.

##### 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 applicable 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 the following:
  - a) A letter documenting that the private road has been constructed in compliance with the approved private road plans. This letter can be obtained as a result of the applicant contracting with a licensed professional road or civil engineer or as a result of contracting with the engineers from the Cass County Road Commission.
  - b) Documentation shall be provided demonstrating that the road maintenance agreement, access easement and deed restrictions have been recorded with the Cass County Register of Deeds office, and c) Documentation shall be provided demonstrating that an access permit for the private road has been obtained 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 23.03 herein.

#### SECTION 23.07 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. Such wording shall be included in the maintenance agreement document required to be referenced by each deed for lots served by the Private Road.

## **SECTION 23.08 APPEAL PROCESS**

Any person affected by a decision regarding this Ordinance shall have the right to appeal the decision to the Township Zoning Board of Appeals 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 appeal must be filed according to the Zoning Board of Appeals process as described in the Milton Township Zoning Ordinance. The Township Zoning Board of Appeals shall establish a time for hearing the appeal. 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 Zoning Board of Appeals 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 Zoning Board of Appeals shall be final. An appeal may be taken to Circuit Court. The Township Zoning Board of Appeals shall grant variances for private roads 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 23.09 VIOLATION**

Violation of any of the provision of this Ordinance or failure to comply with any of its requirements shall be subject to enforcement proceedings as specified in Article 16 of the Milton Township Zoning Ordinance.

## **SECTION 23.10 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.

## **EFFECTIVE DATE**

This Ordinance shall be effective 30 days after adoption.

