

## **CHAPTER 1**

### **SCOPE, TITLE, ORDINANCE CONSTRUCTION**

#### **SECTION 1.01 SHORT TITLE**

This Ordinance shall be known and may be cited as the “Fillmore Township Zoning Ordinance.” Within the following text it may be referred to as the "Ordinance".

#### **SECTION 1.02 CONFLICTING REGULATIONS**

Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

#### **SECTION 1.03 SCOPE**

No building or structure, or part thereof, shall hereafter be erected, constructed, demolished, removed, or altered, and no land use commenced or continued within the unincorporated parts of the Township, contrary to the spirit of this ordinance, except for the provisions of essential services, agricultural buildings exempt from Public Act 230 of 1972, as amended (State Construction Code Act, Section 2A), or as specifically authorized by this ordinance. Special Uses are granted by the Township only upon finding that specified conditions are met in accordance with Chapter 18 of this Ordinance.

#### **SECTION 1.04 USE REGULATIONS**

Except as otherwise provided herein, regulations governing land and building use is hereby established in each district specified in Chapter 2 of this Ordinance. Uses permitted in each district after Special Exception approval shall be permitted only in accordance with the Special Use Approval standards and procedures of this Ordinance as established in Chapter 18.

#### **SECTION 1.05 USES NOT OTHERWISE SPECIFIED WITHIN A USE DISTRICT**

Uses which have not been specifically mentioned within any use district may be processed under the Special Use Permit procedure, in accordance with Chapter 18 upon determination by the Township Planning Commission that such use is similar in nature and intent to those uses identified within the district. Such uses and related structures shall be subject to the area, height, bulk, and placement requirements for the district in which it is proposed.

#### **SECTION 1.06 LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot used in or necessary for compliance with the provisions of this ordinance

shall through sale or otherwise be reduced beyond said minimums or again be used to satisfy the zoning requirements of another lot.

**SECTION 1.07 PUBLIC UTILITY FACILITIES**

When operating requirements necessitate the locating of public utility facilities and uses (without storage yards) within a district in order to serve the immediate vicinity, such facilities shall be permitted in all zoning districts, subject to Special Use Approval by the Township Board in accordance with Chapter 18 of this Ordinance, review and approval of a submitted site plan, and a finding by the Township Board that the use is compatible to the surrounding area.

**SECTION 1.08 EFFECTIVE DATE**

This ordinance was approved by the Fillmore Township Board of Trustees on August 14, 2007, was published on August 23, 2007, and became effective September 1, 2007.

October 2009 Revised Section 15.IJ.

October 2009 Revised Section 16.34.

July 2010 Revised Various Sections – Parks.

January 2011 Revised Various Sections – Bed & Breakfast Inns.

August 2011 Revised Section 4.03 & Section 5.03.

**CHAPTER 2**

**ZONING DISTRICTS AND MAP**

**SECTION 2.01 ESTABLISHMENT OF DISTRICTS**

Those portions of the Township of Fillmore, Allegan County, Michigan are hereby divided into zoning districts, as named and described in the following Chapters. The boundaries of these zoning districts are established as shown on the Fillmore Township Zoning Map as established in Section 2.02 of this Ordinance.

**SECTION 2.02 CREATION OF ZONING DISTRICTS.**

For the purpose of this Ordinance, those portions of Fillmore Township, Allegan County, Michigan shall be divided into the following zoning districts, which shall be known by the names and symbols here shown.

A-1	Exclusive Agriculture District
A-2	Restricted Agriculture District
RE	Rural Estate Residential District
R-1	Single Family Residential District
R-2	Single and Two Family Residential District
R-3	Multiple Family District
MHP	Manufactured Housing Park
C-1	Local Commercial District
C-2	General Commercial District
MIC	Mixed Industrial Commercial District
I	Industrial District

**SECTION 2.03 ZONING MAP.**

The boundaries of Fillmore Township zoning districts are shown on a map adopted by the Fillmore Township Board of Trustees. The map shall be entitled "The Zoning Map of Fillmore Township" and shall bear the date adopted or amended. It shall be the duty of the Township Supervisor and Township Clerk to authenticate such records by placing their official signatures thereon. Such map with all accompanying explanatory matter is hereby made a part of this Ordinance and shall be, as such, a part of this Ordinance as if the matters and information set forth thereon were all fully described herein.

**SECTION 2.04 APPLICATION OF THIS ORDINANCE.**

Except as otherwise provided in this Ordinance, erection of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be developed, redeveloped, use commenced, expanded or continued within the Township except as specifically, or by necessary implication, as authorized by this Ordinance. Lawful nonconforming structures

and uses existing at the time of passage of this Ordinance are specifically governed by Chapter 19, and generally governed by this Ordinance.

**SECTION 2.05 INTERPRETATION OF DISTRICT BOUNDARIES.**

- A. Unless otherwise shown, the boundaries of the districts are lot lines, the center lines of streets or alleys, or such lines extended, and the limits of Fillmore Township.
- B. Where a district boundary line as shown on the Zoning Map, divides a lot which was in a single ownership of record at the time of enactment of this Ordinance, the use authorized thereon shall be governed by the respective zoning district.
- C. Where due to the scale, lack of detail or illegibility of the Zoning map of this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary lines, said lines shall be interpreted upon written request, or upon its own motion, by the Zoning Board of Appeals, after recommendation by the Planning Commission.
- D. Where a district boundary line follows a shoreline, such boundary shall be construed to be the shoreline. In the event of a change in the shoreline, the boundary line shall be construed to move with the actual shoreline. Boundaries indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water shall be structured to follow such center lines.
- E. Boundaries indicated as approximately following platted lot lines, property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or as applicable amended thereto shall be construed as following such lines.
- F. Lines parallel to a street without indication of the depth from the street line shall be construed as having a depth of six hundred (600) feet from the front lot line.

**SECTION 2.06 PERMISSIVE ZONING.**

Land uses are permitted specifically in the various zoning districts of this Ordinance. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted. No land contained within any zoning district within Fillmore Township shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Chapter 19 Nonconforming Uses and Structures.

**SECTION 2.07 USES PERMITTED BY RIGHT.**

Permitted uses, as identified in Articles covering each district, are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the general provisions, parking regulations, landscaping, district intent, permit, certificate and site plan requirements found

elsewhere in this Ordinance, but otherwise is considered to be a lawful use not requiring special or extraordinary controls or conditions, unless otherwise indicated herein.

**SECTION 2.08 USES PERMITTED UNDER SPECIAL USE APPROVAL.**

The uses identified as Special Approval Uses in Article 18 covering each district are recognized as possessing characteristics of such unique and special nature (relative to location, off-site impacts, design, size, public service, utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. Chapter 18 regarding procedure and requirements for special approval uses, shall apply to these uses.

**SECTION 2.09 ZONING OF VACATED AREAS.**

Whenever any street, alley or other public way within the Township shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

**SECTION 2.10 AREAS NOT INCLUDED WITHIN A DISTRICT**

In every case where land has not been included within a district on the Zoning Map, such land shall be so designated in the A-1 Exclusive Agriculture Zoning District until officially acted upon and designated by the Township Board as provided for in this Ordinance.

**CHAPTER 3**

**ZONING DEFINITIONS**

**SECTION 3.01 INTERPRETATION OF LANGUAGE**

For the purpose of this Ordinance, the following rules of interpretation shall apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for" "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either . . . or", the conjunction shall be interpreted as follows:
  - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - 2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
  - 3. "Either . . . or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

**SECTION 3.02 DEFINITIONS**

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

**ACCESSORY USE, BUILDING OR STRUCTURE:** A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusive.

**ADJACENT:** See LOT, ADJACENT.

**ADULT DAY CARE FACILITY:** A facility which provides daytime care for any part of a day but less than twenty-four (24) hour care for functionally impaired elderly persons provided through a structured program of social and rehabilitative or maintenance services in a supportive group setting other than the client's home. Such facilities are not licensed; however those receiving funds through an Area Agency on Aging must comply with adult day care standards promulgated by the Michigan Office of Services to the Aging.

**ADULT USE:** Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually-oriented entertainment.

**AGRICULTURAL USE:** A use of any land, building, or structure used for a purpose of producing grain, fruit, nursery stock, dairy products, vegetables, livestock or fowl or other crops and animal husbandry.

**ALTERATIONS:** Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use".

**ALTERNATIVE TOWER STRUCTURE:** Man-made trees, clock towers, bell steeples, light poles, and other similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers

**ANIMAL, WILD OR EXOTIC:** Any animal not domesticated by humans or any animal which a person is prohibited from possessing by law. Wild or exotic animals shall include, but shall not be limited to the following: alligator and crocodile (family), deer (family), opossum (family); badger, wild dog or wolf (family); primate excluding human (family); bear, raccoon, ferret, skunk, wild cat (family); lemur, spider (poisonous); coyote; lizard; snake and other reptile (poisonous); weasel (family); wild boar or swine (family); and marten.

**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 telecommunication signals, or other communication signals.

**APARTMENT:** See DWELLING, MULTIPLE FAMILY.

**APPEAL:** An entreaty or demand for a hearing or review of facts and/or actions in connection with the public enforcement of this Ordinance.

**ARCHITECTURAL FEATURES:** Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

**AREA, GROSS SITE:** The total area of a planned unit development site including flood plains and water bodies.

**AUTOMOBILE:** Unless specifically indicated otherwise, "automobile" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

**AUTOMOBILE FUELING STATION:** A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

**AUTOMOBILE REPAIR:** Major or minor repair of automobiles defined as follows:

- A. Minor Repair: Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. Major Repair: Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

**AUTOMOBILE REPAIR GARAGE:** A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

**AUTOMOBILE SERVICE STATION:** A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. Automotive Service Station shall not including bumping, painting, refinishing, major repairs and



overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

**AUTOMOBILE WASH ESTABLISHMENT:** An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles, either with self-service mechanisms or with the use of an automated conveyor system.

**BANK:** An establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds by drafts or bills of exchange.

**BASEMENT:** That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

**BED AND BREAKFAST INN:** A private residence that is also the innkeeper's residence: which provides sleeping accommodations for up to ten (10) sleeping rooms for transient guests for compensation and serves meals at no extra charge to overnight guests.

**BEDROOM:** Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgment of the Township Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

**BERM:** A mound of earth used to shield, screen, and buffer undesirable views and separate incompatible land uses.

**BIKEWAY:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**BILLBOARD (OFF PREMISE SIGN):** Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located.

**BLOCK:** The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Township, or any other barrier to the continuity of development.

**BOARD OF APPEALS:** The Fillmore Township Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 184 of 1943, as amended.

**BOAT:** Boats, floats, rafts, and the attached normal equipment to transport the same on highways.

**BUFFER ZONE:** A strip of land often required between certain zoning districts or land uses reserved for plant material, berms, walls, or fencing to serve as a visual barrier.

**BUILDABLE AREA:** The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

**BUILDING:** Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semi-trailers, vehicles, mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

**BUILDING, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**BUILDING, COMPLETELY ENCLOSED:** A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only window and normal entrance or exit doors.

**BUILDING, DETACHED:** A principal building surrounded by open space.

**BUILDING HEIGHT:** The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and 75 percent of the height of an "A" frame. Chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

**BUILDING LINE:** A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this Ordinance, a minimum building line is the same as a required setback line.

**BUILDING PERMIT:** The written authority issued by the building inspector permitting the construction, removal, moving, alteration, demolition, or use of a building in conformity with the provision of this Ordinance

**BUILDING, PRINCIPAL:** A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "BUILDING, ACCESSORY" and "USE, PRINCIPAL".)

**BUILDING, TEMPORARY:** A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction site.

**BUMPER BLOCKS:** Concrete or cement cast units located at one end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles.

**CAMPER, PICK-UP:** A recreational unit designed to be mounted on a pick-up or truck chassis, with sufficient equipment to render it suitable for use as a temporary lodging for travel, recreational, and vacation uses.

**CARETAKER LIVING QUARTERS:** An independent residential dwelling unit designed for and occupied by one or two persons, of which at least one is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

**CERTIFICATE OF OCCUPANCY:** A certificate issued by the building inspector, after final inspections, indicating his or her opinion that all the provisions of this Ordinance are being complied with and met. No building or structure or use for which a building permit has been issued shall be occupied until the building inspector has, after final inspection, issued a Certificate of Occupancy (CO). The issuance of a Certificate of Occupancy shall in no case be construed as waiving any provisions of this Ordinance

**CEMETERY:** Land used for the burial of the dead including columbariums, crematories, and mausoleums.

**CHURCH OR SYNAGOGUES:** Any structure wherein persons regularly assemble for religious activity including customary ancillary or accessory uses and activities.

**CLINIC, VETERINARY:** A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

**CLINIC, MEDICAL:** An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

**CLUB, HEALTH:** Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

**CLUB OR LODGE, PRIVATE:** A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this Ordinance.

**CLUSTER HOUSING:** A group of buildings and especially dwellings built close together to form relatively compact units on a sizeable tract in order to preserve open spaces and environmentally sensitive areas larger than the individual yards for common recreation.

**COMMERCIAL CENTER, PLANNED:** A business development under single ownership consisting of two (2) or more retail or service outlets characterized by common architecture, a

pedestrian and vehicle circulation system, and off-street parking.

**COMMERCIAL, VEHICLE:** A truck or motor vehicle with cab and chassis and with a stake rack body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of 9 feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

**CONDOMINIUM:** A system of separate ownership of individual units and/or multiple unit projects according to Public Act 59 of 1978, as amended. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners.

Condominium Act: State of Michigan Public Act 59 of 1978, as amended.

Condominium, Contractible: A condominium project from which any portion of the submitted land or building may be withdrawn in pursuant to express provisions in the condominium documents.

Condominium, Conversion: A condominium project containing condominium units some or all of which were occupied before the establishment of the condominium project.

Condominium - Convertible Area: A unit or portion of the common elements of the condominium project referred in the condominium documents within which additional condominium units or general or limited common elements may be created pursuant to provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

Condominium, Expandable: A condominium project to which additional land may be added pursuant to express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

Condominium - General Common Element: The common elements other than the limited common elements intended for the common use of all of the co-owners.

Condominium - Limited Common Element: A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

Condominium - Site Condominium Project: A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision. A residential site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

Condominium Subdivision Plan: Drawings and information which show the size, location,

area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Public Act 59 of 1978, as amended.

**Condominium Unit, Site (i.e., Site Condominium Lot):** The area designating the perimeter within which the condominium unit must be built. After construction of the condominium unit, the balance of the condominium site shall become a limited common element. The term “condominium unit site” shall be equivalent to the term “lot” for purposes of determining compliance of a site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, minimum lot coverage, and maximum floor area ratio.

**CONDOMINIUM UNIT:** The portion of the condominium project designed and intended for separate ownership as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, time-share unit, or any other type of use.

**CONVALESCENT HOME:** See NURSING HOME.

**CURB CUT:** The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

**DAY CARE:**

**Day Care Center:** A facility other than a private resident receiving more than six (6) pre-school, school age children, or elderly adults for group day care for periods of less than twenty-four (24) hours a day.

**Day Care Home:** A private home in which not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or guardian.

**DECK:** An open, horizontal platform attached to the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

**DENSITY:** The number of dwelling units situated on or to be developed per net or gross acre of land.

**DETENTION FACILITY:** A facility designed for holding storm water runoff for a short period of time and then releasing it to the natural watercourse where it returns to the hydrologic cycle. A Retention Facility is a facility designed to hold storm water run-off permanently.

**DEVELOPMENT:** The construction of a new building or other structures on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

**DEVELOPMENT PLAN:** A scaled drawing which shows the existing conditions, the location

and dimensions of improvements upon a parcel of land, including but not limited to, location and size of buildings, driveways, parking areas, landscaping, sidewalks, signs, sewage systems, and drainage facilities, environmental features, and other elements required herein as applicable to the proposed development to ensure compliance with this Ordinance.

**DISTRIBUTION CENTER:** A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also WAREHOUSE.

**DISTRICT:** A portion of Fillmore Township within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRAINAGE WAYS AND STREAMS:** Existing permanent or intermittent watercourses.

**DRIVE-IN ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicles. Examples include but are not limited to, restaurants, cleaners, banks, and theaters.

**DRIVE-THROUGH ESTABLISHMENT:** A business establishment so developed that its principal retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles to service patrons from a window or booth while in their motor vehicles, rather than within a building or structure, so that consumption off-premises may be facilitated.

**DRIVEWAY:** That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**DUMPSTER:** A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

**DWELLING:** A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance.

**DWELLING, MANUFACTURED:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and



- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.

**DWELLING, MOBILE HOME:** A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance. A mobile home is a type of manufactured housing.

**DWELLING, MULTIPLE-FAMILY:** A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment:** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

**DWELLING, ONE-FAMILY OR SINGLE-FAMILY:** A detached building containing not more than one dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of 24 feet and complies in all respects with the Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Building Code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one family dwellings, which exist as of the effective date of this Ordinance, non-conforming.
- C. It is firmly attached to a permanent foundation constructed on the site in accordance with the Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable

building code for one- family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and shall have a perimeter wall as required.

- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to 10 percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the Building Official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of thirty (30) days from the receipt of notice of said Building Official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single family "dwelling" as well as the character, design and appearance of one or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280,



amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- I. The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Township pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

**DWELLING, TWO-FAMILY OR DUPLEX:** A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

**DWELLING UNIT:** One or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.

**DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE:** A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as row houses.

**EASEMENT:** Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

**EQUESTRIAN FACILITY:** A privately owned indoor or outdoor facility which includes riding stables where horses are rented and/or boarded for a fee and which may provide riding lessons for a fee. The incidental sale of tack and riding equipment/supplies is also permitted.

**ERECTED:** The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

**ESSENTIAL SERVICES:** The term "essential services" shall mean the erection, construction, alteration or maintenance by public or quasi-public utilities or municipal departments or Township-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities. Telecommunication towers or facilities, alternative tower structures, and wireless

communication facilities antenna are specifically excluded from this definition.

**EXCAVATION:** The removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever shall be the highest, excluding common household gardening and ground care.

**FAMILY:**

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one dwelling unit, whose relationship is of a continuing, non-transient, domestic character, and who are cooking and living as a single, nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this Ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, dog kennels, game fish hatcheries, stockyards, or gravel or sand pits, unless such establishments are combined with other bona fide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a normal cycle or one (1) year.

A farm permitted by this Ordinance is not intended nor implied to permit trucking equipment and/or sales, contractor yards or any other activities other than those incidental to the bonafide farm.

**FENCE:** An accessory structure of definite height and location intended to serve as a physical barrier to property ingress or egress, a screen from objectionable vista or noise, a marker, an enclosure in carrying out the requirements of this Ordinance, or for decorative use.

**FILL, FILLING:** The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

**FLOOR AREA:** The area of a building defined as follows.

- A. Floor Area, Gross: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. Floor Area, Net: See FLOOR AREA, USABLE RESIDENTIAL and FLOOR AREA, USABLE NONRESIDENTIAL.
- C. Floor Area, Usable Residential: The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. Floor Area, Usable Nonresidential: The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which issued for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area.

**FOSTER CARE HOME:** See STATE LICENSED RESIDENTIAL FACILITY.

**FOSTER CHILD:** A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

**GARAGE, PRIVATE:** An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

**GARBAGE:** All wastes, animal, fish, fowl, or vegetable matter incidental to the preparation, use, and storage of food for human consumption, or spoiled food.

**GARDEN CENTER:** An establishment with retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies, landscaping materials, and equipment.

**GAS STATION:** See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

**GLARE:** The effect produced by brightness or a source of illumination sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**GOLF COURSE OR COUNTRY CLUB:** The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

**GOLF DRIVING RANGE:** An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

**GRADE:** A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

**GRADE, AVERAGE:** The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

**GRADE, FINISHED:** The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

**HAZARDOUS SUBSTANCES:** Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities with the exception of farming operations. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

**HOME OCCUPATION:** Any occupation conducted within a dwelling unit or accessory building and carried on by the inhabitants thereof. Home occupations may provide for one (1) full-time non-resident employee. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, professions or hobby.

**HOSPITAL:** An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

**HOTEL:** A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty percent (50%) of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

**HOUSING, ELDERLY:** An institution other than a hospital or hotel, which provides room and board to non-transient persons primarily sixty (60) years of age and older. Housing for the elderly may include:

- A. Senior Apartments: Multiple-family dwelling units occupied by persons fifty-five (55) years of age or older.
- B. Elderly Housing Complex: A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years or older or couples where either the husband or wife is sixty (60) years of age or older.

- C. Congregate or Interim Care Housing: A semi-independent housing facility containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.
- D. Dependent Housing Facilities: Facilities such as convalescent homes and nursing homes which are designed for older persons who need a wide range of health and support services, including personal nursing care.

**HUNTING PRESERVE:** A privately owned natural area reserved for the hunting of game (bow and arrow as well as firearms). Hunting preserves shall not include gun clubs or skeet shooting facilities but may include the incidental sale of ammunitions and other hunting relates supplies.

**INGRESS AND EGRESS:** As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

**JUNK:** Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

**JUNKYARD:** An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

**KENNEL:** Any lot or premises on which more than three (3) dogs are six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, or grooming; and may offer provisions for minor medical treatment including animal shelters.

**LABORATORY:** A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

**LAND DIVISION:** The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in one (1) or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of section 108 and 109 of the Land Division Act, P.A. 288 of 1967 as amended.

**LANDFILL:** Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

**LIVESTOCK:** Horses, cattle, sheep, goats, hogs, and other domestic animals normally kept or

raised on a farm.

**LOADING SPACE, OFF-STREET:** An off-street space of definite size and dimensions in accordance with the requirements of this Ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

**LOT (OR ZONING LOT OR PARCEL):** For the purposes of enforcing this ordinance, a lot is defined as a piece of land under one ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single Lot of Record.
- B. A portion of a Lot of Record.
- C. A combination of complete Lots of Record, or portion thereof.
- D. A piece of land described by metes and bounds.

**LOT, ADJACENT:** Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

**LOT AREA, NET:** The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

**LOT AREA, GROSS:** The net lot area plus one-half (1/2) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

**LOT, CONTIGUOUS:** Lots adjoining each other.

**LOT, CORNER:** A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

**LOT COVERAGE:** The part or percent of the lot that is occupied by buildings or structures.

**LOT DEPTH:** The horizontal distance between the front street line and rear lot line, measured

along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE:** A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

**LOT, FLAG:** An interior lot whose lot line abuts the rear lot line of an adjacent lot fronting on a public or private road and which can be accessed by a driveway or private road abutting the side lot line of said adjacent lot.

**LOT, INTERIOR:** Any lot other than a corner lot with only one (1) lot line fronting on a street.

**LOT, LAKE:** A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

**LOT LINES:** The lines bounding a lot as follows:

- A. Front Lot Line: In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way or the center line of the road however the parcel is described. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. Rear Lot Line: Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.
- C. Side Lot Line: Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**LOT OF RECORD:** A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Allegan County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the Allegan County Register of Deeds.

**LOT WIDTH:** The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.



**LOT SPLIT AND CONSOLIDATION:** The dividing or uniting of lots by virtue of changes in the deeds in the office of the Allegan County Register of Deeds and/or the Township Supervisor. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**MAIN ACCESS DRIVE:** Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

**MASSAGE THERAPIST (Certified):** An individual specifically trained and certified in massage therapy and the healing arts by the American Massage Therapy Association or similar organization.

**MASTER PLAN:** The master plan is a document which is prepared under the guidance of the Fillmore Township Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Township.

**MEZZANINE:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

**MOBILE HOME PARK (MANUFACTURED HOUSING DEVELOPMENT):** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

**MOBILE HOME LOT:** An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

**MOTEL:** A series of attached, semi-detached, or detached rental units which may or may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty percent (50%) plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

**MOTOR HOME:** A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

**MUNICIPALITY:** The word "municipality" shall mean the Township of Fillmore, Allegan County, Michigan.



**NATURAL FEATURES:** Natural features shall include soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

**NONCONFORMING BUILDING:** A building or portion thereof that was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this Ordinance pertaining to buildings in the zoning district in which it is located.

**NONCONFORMING LOT:** A lot which was lawfully in existence at the effective date of this Ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this Ordinance pertaining to lots in the zoning district in which it is located.

**NONCONFORMING USE:** A use which was lawfully in existence at the effective date of this Ordinance, or amendment thereto, and which does not now conform to the use regulations of this Ordinance for the zoning district in which it is now located.

**NUISANCE:** Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, endanger life and health, or the generation of an excessive or concentrated movement of people or things such as : (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, or (o) invasion of non-abutting street frontage by traffic

**NURSERY, PLANT MATERIAL:** A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see OPEN AIR BUSINESS and ROADSIDE STAND.

**NURSING HOME, CONVALESCENT HOME, or REST HOME:** A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

**OCCUPANCY, CHANGE OF:** The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

**OCCUPANCY LOAD:** The number of individuals normally occupying a building or part thereof or for which the exit way facilities have been designed.

**OPEN AIR BUSINESS:** Any business that is conducted primarily out-of-doors. Unless

otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to: trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including but not limited to: tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

**OPEN FRONT STORE:** A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter said structure.

**OPEN SPACE:** Lands open from ground to sky and devoted to outdoor recreation space, greenery, and resource protection. Developed open spaces may include, but is not limited to, playground fixtures, shelter, and tennis courts.

**OPEN SPACE, COMMON:** An unoccupied area within a planned unit development which is reserved primarily for the leisure and recreational use of all the planned unit development residents, owners, and occupants, and generally owned and maintained in common by them, often through a home owners or property owners association.

**OPEN SPACE, PUBLIC:** Any primarily undeveloped land intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

**OPEN STORAGE:** Any outdoor storage of building materials, sand, gravel, stone, lumber, equipment, or other supplies.

**OUTLOT:** A parcel of land which must be designated on a recorded plat as an outlot before it may be legally considered as such.

**PARCEL:** See LOT.

**PARK, PRIVATE:** Land held in private ownership used for active recreation and/or open space. The land, at the discretion of the owner(s), may or may not be available for use by the general public.

**PARK, PUBLIC:** Publicly owned land used for active recreation and/or open space and available for use by the general public. Use of the land may be subject to specified conditions.

**PARKING LOT, OFF-STREET:** An area on private property which provides vehicular

parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

**PARKING SPACE:** An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

**PARTY WALL:** A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one building from another and that is in joint use by each building.

**PERSON:** An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

**PERFORMANCE STANDARD:** A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

**PET:** A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

**PLANNED UNIT DEVELOPMENT:** A planned unit development may include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this Ordinance using innovative and effective planning approaches.

**PLAT:** A map of a subdivision of land.

**POULTRY:** Any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

**PORCH:** An exterior appendage to a building which has a separate roof or a roof integral with the building which forms a covered approach to a doorway or vestibule.

Porch, Enclosed: A porch separated from the outside by an all-weather partition or a partition which renders the area inside the partition habitable.

Porch, Open: A porch not separated from the outside by either an all-weather partition or a partition rendering the area inside the partition habitable.

**PROPERTY LINE:** The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

**PUBLIC NOTICE:** A notice of the time, place, and purpose of a public hearing, which notice

shall be posted in a manner and within a time frame as prescribed in this Ordinance or in applicable State law.

**PUBLIC UTILITY:** Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

**RECREATION ESTABLISHMENT, INDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusement, or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as gymnasiums and fitness centers, bowling alleys, indoor soccer facilities, racquetball and tennis clubs, ice and roller skating rinks, curling centers, and firearms ranges.

**RECREATION ESTABLISHMENT, OUTDOOR:** A privately owned facility designed and equipped for the conduct of sports, amusements, or leisure time activities and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis clubs, archery ranges, golf courses, miniature golf courses, golf driving ranges, water slides, batting cages and machines, skateboarding parks, and children's amusement parks.

**RECREATIONAL LAND:** Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

**RECREATIONAL VEHICLE:** A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, or trailer which is designed for private recreational or travel use and which is further defined as:

- A. Travel Trailer: A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a travel trailer by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.
- B. Pickup Camper: A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.
- C. Motor Home (Trailer Coach): a self-propelled motorized recreational vehicle intended, designed, used, or constructed, and duly licensable for travel and/or recreational usage, and for temporary human habitation, sleeping, and/or cooking and eating for one (1) or more persons, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor home generally contain sanitary, water, and electrical facilities.
- D. Folding Tent Trailer: A folding structure, mounted on wheels and designed for

travel and vacation use.

- E. Boats and Boat Trailers: Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
- F. Other Recreational Equipment: Snowmobiles, all terrain vehicles, special terrain vehicles, utility trailers, plus normal equipment to transport them on the highway.

**REFUSE:** The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

**RESTAURANT:** A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. Restaurant, Carry-Out: A carry-out restaurant is a restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. Restaurant, Drive-In: A drive-in restaurant is a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. Restaurant, Drive-Through: A drive-through restaurant is a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. Restaurant, Fast-Food: A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. Restaurant, Standard: A standard restaurant is a restaurant whose method of operation involves either:
  - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
  - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely

enclosed building.

**RIGHT-OF-WAY:** A right-of-way as defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

**ROADSIDE STAND:** A temporary or existing permanent building operated for the purpose of selling products grown or produced on the premises together with incidental related products, and its use shall not make it into a commercial district, land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.

**ROOM:** For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

**SATELLITE ANTENNA:** An accessory structure which at its widest dimension is in excess of 36 inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

**SCHOOL, HOME:** A school which enables a child to be educated at the child's home by his or her parent or legal guardian in an organized educational program in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. The home school family may choose whether to operate as a nonpublic school. If a home school family chooses to operate as a nonpublic school, it must register with the Michigan Department of Education.

**SCHOOL, NONPUBLIC:** A nonpublic school is any school other than a public school giving instruction to children below the age of sixteen (16) years and not under the exclusive supervision and control of the officials having charge of the public schools of the state. Nonpublic schools include private, denominational, and parochial schools.

**SCHOOL, PUBLIC:** A public elementary or secondary educational entity or agency that has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, public school academy corporation, public state university, or by the department or state board.

**SCREEN, OBSCURING:** A visual barrier between adjacent area or uses consisting of structures, such as a wall or fence, or living plant material.

**SETBACK:** The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The **MINIMUM REQUIRED SETBACK** is the minimum

distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of YARD).

**SIDEWALK:** Pedestrian or non-motorized vehicular circulation routes built according to the standards of the Township or other agency with right-of-way jurisdiction, as applicable.

**SIGN:** Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designed to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

**SITE PLAN:** A plan showing all salient features of a proposed development, as required in Chapter 17, so that it may be evaluated to determine whether it meets the provisions of this Ordinance

**SPECIAL EVENT:** An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit Fillmore Township community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

**STABLE, PRIVATE:** A private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

**STABLE, PUBLIC:** A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

**STATE LICENSED RESIDENTIAL FACILITY:** Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

- A. **Adult Foster Care Facility:** A governmental or nongovernmental establishment having as its principle function the receiving of adults, 18 years of age or older, for foster care in accordance with Public Act 218 of 1974, as amended, and the Adult Foster Care Administrative Rules as administered by the Michigan Department of Consumer & Industry Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or residential centers for persons released or assigned to a correctional facility. The following four (4) types of Adult Foster Care Homes are



provided for by these rules:

1. **Adult Foster Care Family Home:** A private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.
  2. **Adult Foster Care Small Group Home:** An adult foster care facility with the approved capacity of not more than 12 adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.
  3. **Adult Foster Care Large Group Home:** An adult foster care facility with the approved capacity to receive at least 13 but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
  4. **Adult Foster Care Congregate Facility:** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.
- B. **Foster Family Home:** A private residence that houses four (4) or fewer foster children, up to age 19, under constant child care and supervision. Under Public Act 116 of 1973, a Foster Family Home does not require local zoning approval before being licensed by the Department of Consumer and Industry Services.
- C. **Foster Family Group Home:** A private residence that houses five (5) or six (6) foster children, up to age 19, under constant care and supervision. Under Public Act 116 of 1973, a Foster Family Group Home requires local zoning approval before being licensed by the Department of Consumer and Industry Services.

**STATE EQUALIZED VALUATION:** The value shown on the Township assessment roll as equalized through the process of State and County equalization.

**STORAGE:** The depositing of material, products for sale or use, or other items for a period greater than 24 hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

**STORY:** That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least 50 percent of the usable floor area of the floor immediately below it.

A mezzanine shall be deemed a full story when it covers more than one-third (1/3) of the area of



the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A basement shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

**STORY, HALF:** The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds of the floor area of the uppermost full story. The usable floor area of a half story shall be at least 160 square feet with a minimum clear height of seven (7) feet, six (6) inches.

**STREET:** A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

- A. Collector Street: A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.
- B. Cul-De-Sac: A street that terminates in a vehicular turnaround.
- C. Local or Minor Street: A street whose sole function is to provide access to abutting properties.
- D. Major Street: A street that carries high volumes of traffic and serves as a main avenue through or around the Township. Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this Ordinance, major streets shall include those streets designated as "county primary", "county local" or "major street."
- E. Private Street or Road: A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Township, County, State or Federal Government.
- F. Public Street or Road: A street or road, the right-of-way and improvements of which have been accepted for maintenance by the County, State or Federal Government.

**STREET LINE:** A dividing line between the street and a lot, also known as the right-of-way line.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls,

antennae, swimming pools, and signs.

**STRUCTURAL ALTERATION:** Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams, or girders, or any change in the width or number of exits, or any substantial change in the roof.

**STRUCTURE, OUTDOOR ADVERTISING:** Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed.

**SUBDIVISION PLAT:** The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended.

**SWIMMING POOL:** Shall mean any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

**TELECOMMUNICATIONS TOWERS AND FACILITIES OR TOWER:** All structures and accessory facilities, including alternative tower structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, satellite dishes, federally licensed amateur (HAM) radio facilities, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**TEMPORARY USE OR BUILDING:** See BUILDING, TEMPORARY or USE, TEMPORARY.

**THEATER:** An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

**TOXIC OR HAZARDOUS WASTE:** Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. an increase in mortality, or
- B. an increase in serious irreversible illness, or
- C. serious incapacitating, but reversible illness, or
- D. substantially present a potential hazard to human health or the environment.

**TRAILER:** See RECREATIONAL VEHICLE; DWELLING, MOBILE HOME; and UTILITY TRAILER.

**TRANSITION:** The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

**TRUCK STORAGE:** An area used for the temporary storage of private trucks or trucks for hire.

**TRUCK TERMINAL:** a structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution to other parts of the Township or to be amalgamated for delivery in larger units to other points in the metropolitan area; or for distribution or amalgamation involving transfer to other modes of transportation.

**USE:** The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

**USE, ACCESSORY:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

**USE, SPECIAL:** A use which is subject to special approval by the Township Board. A special use may be granted only where there is a specific provision in this ordinance.

**USE, PERMITTED:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

**USE, PRINCIPAL:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

**USE, TEMPORARY:** Shall mean a use permitted to exist during a specified period of time under conditions and procedures as provided in this Ordinance.

**UTILITY ROOM:** A utility room is a room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

**UTILITY TRAILER:** A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

**VARIANCE:** A modification of the literal provisions of the Zoning Ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c)

applying to property. A variance is not justified unless all three elements are present in the case.

A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance. A use variance is not a special exception use.

**VEHICLE, COMMERCIAL:** Any one of a class of vehicles and similar vehicles whose characteristics are described below which have or require commercial license plates and have a gross vehicle weight in excess of six-thousand-five-hundred (6,500) pounds. Any commercially licensed vehicle which does not possess the characteristics of a commercial vehicle, as defined below, shall not be subject to the restrictions applying to commercial vehicles:

Semi-trailer: A trailer unit which is customarily attached to and propelled by a truck tractor vehicle, but which can be detached to stand alone. Semi-trailer shall include trailers with flat beds, stake beds, roll-off beds, tanker bodies, dump bodies, and full or partial box-type enclosures.

Truck Tractor: A commercial vehicle which is capable of attaching to and propelling semi-trailers, mobile homes, modular homes, boat trailers and similar units, and which is not customarily operated without an attached trailer.

Other Commercial Vehicles: Any truck or motor vehicle with a cab and chassis with a stake rack, dump body, wrecker body, tanker body, or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. This shall include any vehicle which has a commercial license plate and which is designed to accommodate a body length in excess of nine (9) feet. Commercial vehicles do not include motor homes or recreational vehicles, but do include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, and similar vehicles

**WALL, OBSCURING:** Shall mean a masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

**WALL, PARAPET:** An extension of a building wall above the roof which may serve to screen roof mounted mechanical equipment.

**WALL, RETAINING:** A permanent solid barrier of brick, stone, or other opaque material intended to enclose an area. For the purpose of this Ordinance, all supporting members, posts, stringers, braces, pilasters, or other construction features of a retaining wall shall be located and placed on the inside of the wall away from public view. Moreover, all retaining walls shall be constructed and/or painted, tinted, or colored in one color only for their exterior surface, and no sign or advertising shall be placed, affixed, painted, or designed thereon.

**WAREHOUSE:** A building used for short and/or long term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing.

**WAREHOUSE, MINIATURE OR SELF-STORAGE:** A building or group of buildings in a

controlled access and /or fenced compound that contains varying sizes of individualized, compartmentalized, and controlled-access stalls or lockers for the storage of customers goods or wares.

**WASTE RECEPTACLE STATION:** Any exterior space which is not a principal use for containers, structures, or other receptacles intended for temporary storage of solid waste materials.

**WETLAND:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh.

**WETLAND, REGULATED:** Certain wetlands regulated by the Michigan Department of Environmental Quality under the provisions of Act 451, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances, does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

- A. Contiguous to an inland lake or pond, or a river, or a stream,
- B. Not contiguous to an inland lake, pond, river, or stream, and more than five (5) acres in size, or
- C. Not contiguous to an inland lake, pond, river, or stream and five (5) acres or less in size if the Michigan Department of Natural Resources determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

**WHOLESALE SALES:** On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

**WIRELESS COMMUNICATION FACILITIES:** All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including but not limited to radio and television towers, cellular telephone and paging towers, 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 antenna, 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 facility” or “essential service.”

**WIRELESS COMMUNICATION SUPPORT STRUCTURES (TOWERS):** Any structure used to support attached wireless communication facilities, or other antenna or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, lattice towers, light poles, wood poles,

and guyed towers or other similar structures which support wireless communication facilities.

**YARD:** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance. The Minimum Required Setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. Yard, Front: A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. Yard, Rear: A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one rear yard.
- C. Yard, Side: A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

**ZONING OFFICIAL:** Official assisting Township Board, Township Supervisor, Planning Commission and Zoning Board of Appeals in administering the regulations of this Ordinance.

**CHAPTER 4**

**A-1 EXCLUSIVE AGRICULTURAL DISTRICT**

**SECTION 4.01 DESCRIPTION AND PURPOSE**

The purpose of the “A-1” Exclusive Agricultural District is twofold: first, preserve, enhance, and maintain prime agricultural lands that have historically produced high crop yields, and second, to allow for maximum freedom of operations for agricultural pursuits and to protect such uses from encroachment of non-agricultural uses. Flag lots (as defined in Chapter 3 of this Ordinance) other than to separate the farmstead from the parent parcel, are not permitted in this District.

**SECTION 4.02 PERMITTED USE REGULATIONS**

Land, buildings and structures in this Zoning District may be used for the following purposes only:

- A. Farms for both general and specialized farming, together with farm dwellings, buildings and other installations necessary to such farms, provided that such activities are in conformance with all requirements of the Allegan County Health Department, the State of Michigan Right to Farm Act, MDEQ and/or any other federal, state and/or local regulating agency having jurisdiction.
- B. Greenhouses, nurseries, orchards, vineyards, apiaries and roadside stands.
- C. Single family dwellings
- D. Adult foster care family homes of six (6) or fewer persons. This subsection shall not apply to adult foster care facilities, licensed by a state agency, for the care and treatment of persons released for or assigned to adult correctional institutions.
- E. Farm implement and supplies, including sales and repairs of equipment and sales of animal health products.
- F. Road side stands
- G. Two (2) single family farm dwellings or one (1) two-family dwelling for resident owners, those children of resident owners, or farm laborers substantially engaged in agriculturally related activities.
- H. Feed Mills
- I. Home Occupations
- J. Family Day Care Homes

- K. Accessory structures and uses customarily incidental to the above-permitted uses.

**SECTION 4.03 USES PERMITTED BY SPECIAL USE PERMIT**

The following uses may, after review and recommendation by the Township Planning Commission, be permitted by the Township Board, subject to Chapter 18; the Township Board may impose special conditions which, in the opinion of the Township Board are necessary to fulfill the purposes of this Ordinance.

- A. Churches.
- B. Kennels and animal boarding establishments.
- C. Riding stables where horses are boarded and/or rented, including facilities that provide riding lessons for a fee.
- D. Municipal, county, regional and state owned buildings and service facilities (not including outdoor storage yards) when in character with the surrounding residential and agricultural area.
- E. Hunting preserves.
- F. Public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, and gas regulator stations, (not including service or storage yards) when operating requirements necessitate the locating within the district in order to serve the immediate vicinity. This shall include wireless communication facilities.
- G. Cemeteries.
- H. Essential Services
- I. Bed and Breakfast Facilities
- J. Housing for seasonal labor
- K. Airports and Aircraft Landing Fields
- L. Onsite or electric grid wind generating facilities in accordance with **Section 16.34.**
- M. Trucking facilities and terminals relating to agricultural products and supplies.
- N. Landscaping and Snowplowing Businesses in accordance with **Section 16.37.**



**SECTION 4.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified, area, height, bulk, and placement requirements are as provided in Chapter 15, Schedule of Regulations.

**CHAPTER 5**

**A-2 RESTRICTED AGRICULTURE DISTRICT**

**SECTION 5.01 DESCRIPTION AND PURPOSE**

The purpose of the “A-2” Restricted Agriculture District is to preserve, maintain and enhance agricultural lands historically utilized for agricultural purposes but which are not included within the “A-1” Exclusive Agriculture District, as well as provide a buffer between more intensive agricultural uses permitted in the A-1 District and residentially zoned land. Lands in the “A-2” Restricted Agriculture District are typically characterized by good agricultural soils and are best suited for smaller farm units, including truck farming, livestock production, orchards, and other similar agricultural-related farming activities. To these ends, the intent of the District is to retain these areas in agricultural use and therefore limit the encroachment disbursement of non-farm development as much as possible.

**SECTION 5.02 PERMITTED USE REGULATIONS**

Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- A. Any farm or agricultural activities including stock nurseries, animal and livestock raising.
- B. The sale of farm or dairy produce which has been raised on the farm from which it is to be sold.
- C. Two (2) single family farm dwellings or one (1) two-family farm dwelling for resident owners, those children of resident owners, or farm laborers substantially engaged in conduct of an agricultural use.
- D. Single family non-farm dwellings.
- E. Home occupations.
- F. Roadside stands.
- G. Adult Foster Care Facilities
- H. Family Day Care Homes
- I. Accessory uses or buildings.
- J. Off-street parking and loading requirements in accordance with Chapter 20.

**SECTION 5.03 USES PERMITTED BY SPECIAL USE PERMIT**

The following uses may, after review and recommendation by the Planning Commission, may be permitted by the Township Board, subject to Chapter 18; the Township Board may impose special conditions which are necessary to fulfill the purposes of this Ordinance.

- A. Churches.
- B. Commercial Greenhouses.
- C. Golf Courses and Country Clubs.
- D. Hunt Clubs.
- E. Wireless Communication Facilities.
- F. Kennels and animal boarding establishments and Equestrian facility.
- G. Onsite and electric grid wind generating facilities in accordance with **Section 16.34**.
- H. Bed and Breakfast Inns, subject to Chapter 16, Section 16.36
- I. Public and private parks, campground and other recreational lands.
- J. Landscaping and Snowplowing Business in accordance with **Section 16.37**

**SECTION 5.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified are as provided in Chapter 15, Schedule of Regulations.

**CHAPTER 6**

**RE – RURAL ESTATE RESIDENTIAL DISTRICT**

**SECTION 6.01 DESCRIPTION AND PURPOSE**

This Zoning District is designed for large lot single family residential dwellings together with associated recreational, religious and educational facilities.

**SECTION 6.02 PERMITTED USE REGULATIONS**

Land, buildings or structures in this Zoning District may be used for the following purposes only:

- A. Single family dwellings
- B. Home occupations
- C. Public schools
- D. Libraries, museums, and similar uses when owned and operated by a governmental agency or non-profit organization
- E. Family day care centers.
- F. Adult foster care facilities
- J. Off street parking, subject to Chapter 20
- K. Accessory buildings

**SECTION 6.03 USES PERMITTED BY SPECIAL USE PERMIT**

- A. Churches
- B. Golf courses and country clubs
- C. Raising of livestock on parcels of three (3) acres or more.
- D. Private schools
- E. Bed and Breakfast Inns, subject to Chapter 16, Section 16.36.

**SECTION 6.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified are as provided in Chapter 15, Schedule of Regulations.

**CHAPTER 7**

**R-1 SINGLE FAMILY RESIDENTIAL DISTRICT**

**SECTION 7.01 DESCRIPTION AND PURPOSE**

This Zoning District is intended for single family detached dwellings, typically in platted areas or in site condominium projects. The necessity of utility service will depend on soil conditions, lot size, and availability of sanitary sewer service.

**SECTION 7.02 PERMITTED USE REGULATIONS**

Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- A. Single family dwellings
- B. Home occupations
- C. Public schools
- D. Libraries, museums, and similar uses when owned and operated by a governmental agency or non-profit organization
- E. Family day care centers.
- F. Adult foster care facilities
- F. Off street parking, in accordance with Chapter 20.
- G. Accessory buildings and uses.

**SECTION 7.03 USES SUBJECT TO SPECIAL PERMIT**

- A. Churches
- B. Golf courses and country clubs
- C. Raising of livestock on parcels of three (3) acres or more
- D. Private schools
- E. Bed and Breakfast Inns, subject to Chapter 16, Section 16.36.

**SECTION 7.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified are as provided in Chapter 15, Schedule of Regulations.

**CHAPTER 8**

**R-2 SINGLE AND TWO FAMILY DISTRICT**

**SECTION 8.01 DESCRIPTION AND PURPOSE**

This Zoning District is to provide for a more dense residential living environment by providing for single family dwellings on smaller lots and for two family dwellings.

**SECTION 8.02 PERMITTED USE REGULATIONS**

Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- A. Single family dwellings
- B. Two family dwellings
- C. Home occupations
- D. Libraries, museums, and similar uses when owned by a governmental agency or non-profit organization
- E. Public schools
- F. Family day care centers.
- G. Adult foster care facilities
- H. Off street parking, in accordance with Chapter 20
- I. Accessory buildings and uses.

**SECTION 8.03 USES SUBJECT TO A SPECIAL USE PERMIT**

- A. Churches
- B. Golf courses and country clubs
- C. Private schools

**SECTION 8.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified are as provided in Chapter 15, Schedule of Regulations.



**CHAPTER 9**

**R-3 MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**SECTION 9.01 DESCRIPTION AND PURPOSE**

This Zoning District is intended to provide an area within the Township which allows higher density residential density. This area may act as a buffer area between lower density residential and nonresidential uses. These districts should be located where public services can be readily furnished.

**SECTION 9.02 PERMITTED USE REGULATIONS**

Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- A. Three and four family dwellings
- B. Attached single family dwellings
- C. Townhouses
- D. Garden apartments
- E. Senior citizen housing
- F. Off street parking in accordance with Chapter 20
- G. Accessory buildings and uses

**SECTION 9.03 USES SUBJECT TO A SPECIAL USE PERMIT**

- A. Churches
- B. Convalescent and nursing homes

**SECTION 9.04 AREA, HEIGHT, BULK AND PLACEMENT REQUIREMENTS**

Unless otherwise specified are as provided in Chapter 15, Schedule of Regulations.

**SECTION 9.05 SITE PLAN REVIEW**

All permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Chapter 17.

**CHAPTER 10**

**MHP MANUFACTURED HOUSING PARK DISTRICT**

**SECTION 10.01 DESCRIPTION AND PURPOSE**

The MHP, Manufactured Housing Park District is intended to provide for the location and regulation of mobile home parks. These districts should be located in areas where they will be compatible with adjacent land uses. Accordingly, manufactured housing parks shall be located in conformance with the following:

- A. Manufactured home parks shall serve as a transition zone between residential and non-residential districts. Manufactured home parks should not be located where they would interrupt the continuity of permanent single family neighborhoods.
- B. On sites adjacent to existing manufactured home parks; however, sites which meet all other locational criteria of this Chapter may be appropriate.
- C. With paved vehicular access to a paved major thoroughfare or collector road.
- D. Sanitary sewer and water supply shall be available with sufficient capacity to serve the residents and to provide fire protection. Public sewer systems shall be required in manufactured home parks, if available within 200 feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. Furthermore, the location of a manufactured housing park shall not have an adverse impact on the proper functioning of community facilities and utility systems, including but not limited to the following: roads, sanitary sewers, water, storm drainage, police and fire protection, and the educational system.
- E. Outside of a designated floodway.

The regulations established by state law (Michigan Public Act 96 of 1987, as amended) and the Manufactured Housing Commission Rules govern all manufactured home parks. When regulations in this Chapter exceed the state law or the Manufactured Housing Commission Rules they are intended to insure that manufactured home parks meet the development and site plan standards established by this Ordinance for other comparable residential development and to promote the health, safety and welfare of the Township's residents.

**SECTION 10.02 PERMITTED USES REGULATIONS**

In all areas zoned MHP, Manufactured Housing Park District, no building shall be erected, used, or structurally altered, nor shall the land or premises be used in whole or in part, except for one or more of the following principal permitted uses.

- A. Manufactured housing parks and subdivisions.

- B. Adult foster care and family day care facilities
- C. Essential services, provided there is no building or outdoor storage yard.

**SECTION 10.03 PERMITTED ACCESSORY USES**

Accessory buildings, uses and activities customarily incidental to any of the above-named permitted uses, subject to the provisions of this Chapter.

**SECTION 10.04 DEVELOPMENT STANDARDS AND REQUIREMENTS**

**A. Preliminary Plan Review**

Pursuant to Section 11 of Michigan Public Act 96 of 1987, as amended, a preliminary plan shall be submitted to the Township for review by the Planning Commission. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan shall not include detailed construction plans.

In preparing the preliminary plan and when reviewing the plan, the developer and Planning Commission shall follow the procedures and requirements of this Ordinance, where applicable, except where said procedures and requirements are superseded by requirements in Public Act 96 of 1987, as amended, or the Manufactured Housing Commission Rules.

Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Planning Commission shall take action on the preliminary plan within sixty (60) days after the Township officially receives the plan.

**B. Minimum Requirements**

Manufactured home parks shall be subject to all the rules and requirements as established and regulated by Michigan law including, by the way of example, Act 96 of 1987, as amended, and the Manufactured Housing Commission Rules and, in addition, shall satisfy the following minimum requirements:

**1. General Authority**

Manufactured home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Manufactured Housing Commission Act, Act 96 of 1987, and subsequently adopted rules and regulations governing manufactured home parks. Application for permit to construct a Manufactured Housing Park shall be submitted to the Michigan Department of Consumer & Industry Services. Consumer & Industry Services, Construction Codes Bureau is the agency charged with licensing of manufactured home parks. Preparation of the application, support

data, and local agency review of the above mentioned materials shall conform to the requirements of Act 96.

**2. Codes**

All structures and utilities to be constructed, altered, or repaired in a manufactured home park shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate offices. However, a manufactured home built prior to June 15, 1976 shall have been constructed to the State of Michigan Standards in effect at that time.

**3. Parcel Size**

The minimum parcel size for manufactured housing parks shall be fifteen (15) acres.

**4. Site Size**

The manufactured housing park shall be developed with sites having a minimum size of 5,500 square feet per manufactured home unit. This 5,500 square foot minimum for any one site may be reduced 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open space and distance requirements be less than that required under R125.1946, Rule 46 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code.

**5. Dimensional Requirements**

Manufactured homes shall comply with the following minimum distances and setbacks:

- a. Twenty (20) feet from any part of an adjacent manufactured home.
- b. Ten (10) feet from any on-site parking space of an adjacent manufactured home site.
- c. Ten (10) feet from any accessory attached or detached structure of an adjacent manufactured home.
- d. Fifty (50) feet from any permanent building.
- e. One hundred (100) feet from any baseball, softball, or similar recreational field.
- f. Ten (10) feet from the edge of an internal road, provided that such road is not dedicated to the public. Manufactured homes and other structures in the MHP District shall be set back at least twenty (20)

feet from the right-of-way line of a dedicated public road with the manufactured home park.

- g. Seven (7) feet from any parking bay.
- h. Seven (7) feet from a common pedestrian walkway.
- i. All manufactured homes and accessory buildings shall be set back not less than twenty-five (25) feet from any park boundary line, including the future right-of-way line of abutting streets and highways.
- j. Forty (40) feet from the edge of any railroad right-of-way.

## **6. Building Height**

Buildings in the MHP district shall not exceed two and one-half (2 ½) stories or thirty-five (35) feet, except that storage sheds shall not exceed fifteen (15) feet in height.

## **7. Roads**

Roads shall satisfy the minimum dimensional, design, and construction requirements as set forth in the Manufactured Housing Commission Rules except as follows:

- a. Two-way streets shall have a minimum width of twenty-one (21) feet where no parallel parking is permitted, thirty-one (31) feet where parallel parking is permitted on one side only, and forty-one (41) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
- b. One-way streets shall have a minimum width of thirteen (13) feet where no parallel parking is permitted, twenty-three (23) feet where parallel parking is permitted on one side only, and thirty-three (33) feet where parallel parking is permitted on both sides of the street. Roads not permitting parking shall be clearly marked or signed.
- c. The alignment and gradient of a road shall be adapted to the topography and shall be graded for its full width to drain surface water. Internal road gradient and drainage construction phase features shall meet the requirements of the Manufactured Housing Commission Rule 908 and Rule 47 of the Michigan Department of Environmental Quality standards.
- d. Cul-de-sacs, where proposed, shall have a minimum radius of thirty (30) feet (60 ft. in diameter). Maximum cul-de-sac length shall be one-thousand (1,000) feet, provided no more than thirty-five (35) units may be served by a single means of access. A dead end road

shall terminate with an adequate turning area. A blunt-end road is prohibited.

- e. Adequate sight distance shall be provided at all intersections.
- f. The main entrance to the park shall have access to a public thoroughfare or shall be connected to a paved public collector or arterial road by a permanent easement which shall be recorded by the developers. Sole access to the park via an alley is prohibited.
- g. All roads shall be clearly marked with appropriate identification and traffic control signs. The name of any streets or roads shall be approved by the County Information Services IFS.
- h. All roads shall be hard-surfaced and may be constructed with curbs and gutters.

**8. Parking**

- a. All manufactured housing sites shall be provided with two (2) parking spaces per Manufactured Housing Commission Rules 925 and 926.
- b. In addition, a minimum of one (1) parking space for every three (3) manufactured housing sites shall be provided for visitor parking located convenient to the area served.
- c. Off-street parking in accordance with Chapter 20 of this Ordinance shall be provided in conjunction with any community buildings, recreational facilities or office/maintenance buildings located within the manufactured home park.
- d. No unlicensed or inoperable vehicle of any type shall be parked in this district at any time except within a covered building.
- e. Common areas for the storage of boats, motorcycles, recreation vehicles, and similar equipment may be provided in a manufactured housing park, but shall be limited to use only by residents of the manufactured housing parks. The location of such storage areas shall be shown on the site plan and shall be prohibited on manufactured housing sites and in designated open space areas. No part of any such storage area shall be located in any yard required on the perimeter of the manufactured housing parks. Such storage area shall be surfaced with gravel, asphalt or similar substance and shall be screened from view from adjacent residential properties with an opaque six (6) foot wooden fence, six (6) foot masonry wall with

landscaping, or landscaped greenbelt. If a landscaped greenbelt is used, it shall consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Common laundry drying areas, trash collection stations, surface mounted transformers, and similar equipment and facilities shall also be screened from view by plant material and/or man-made screens.

**9. Sidewalks**

Concrete sidewalks having a minimum width of four (4) feet shall be provided on at least one side of collector roads in the manufactured housing park.

**10. Accessory Buildings and Facilities**

- a. Accessory buildings and structures, including park management offices and public works facilities, storage buildings, laundry facilities, recreation or community facilities, and other accessory facilities, shall be designed and operated for use by residents of the park only and shall be shown on the submitted Preliminary Plan for approval.
- b. Site-built structures within a manufactured housing park shall be constructed in compliance with the Building Codes and shall require all applicable permits. Any addition to a manufactured housing unit that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development for manufactured housing shall comply with the Building Codes.
- c. No personal property shall be stored outside or under any manufactured home. Storage structures (e.g., sheds, garages, etc.) may be used to store personal property on site. The installation of any such shed or garage shall require a Township building permit. Storage sheds need not be supplied by the owner or operator of the manufactured housing park.
- d. Travel trailers or recreational vehicles shall not be occupied as living quarters in all new and future manufactured housing developments.
- e. Towing mechanisms, including tires, shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.



**11. Open Space**

Open space shall be provided in any manufactured housing park containing fifty (50) or more manufactured housing sites, and maintained by the owner or operator of the park. The open space shall comply with the following requirements:

- a. A minimum of two percent (2%) of the park’s gross acreage shall be dedicated to well drained, usable open space developed with appropriate recreational facilities and play equipment, provided that a minimum of twenty-five-thousand (25,000) square feet of contiguous open space is available to residents.
- b. Open space shall be shaped and located conveniently in relation to the majority of dwelling units intended to be served. Up to twenty-five percent (25%) of the required open space may consist of swamp areas, marshy areas, and similar limited use areas.

**12. Landscaping and Screening**

- a. Perimeter Screening. All manufactured housing parks shall be screened from existing adjacent residential uses by either a six (6) foot privacy fence or a densely planted landscaped greenbelt. In addition, a landscaped buffer shall be provided along the public road frontage of any manufactured housing park.
  - i. If provided, screen walls shall be constructed of masonry material that is constructed of face brick, decorative block, or poured concrete with a simulated brick or stone pattern. Required walls shall be placed inside and adjacent to the lot line except where underground utilities would interfere with the placement of the wall or where the wall would unreasonably obstruct the use of adjacent property, in which case the wall may be set back from the property line a sufficient distance to resolve such concerns.
  - ii. If a landscaped greenbelt is used, it shall be a minimum of twenty (20) feet in width and consist of closely-spaced evergreen plantings (that is, no farther than fifteen (15) feet apart) which can be reasonably expected to form a complete visual barrier that is at least six (6) feet above ground level within three (3) years of planting. Deciduous plant materials may be used provided that visual screening is maintained throughout the year.
- b. Landscaping Adjacent to Rights-of-Way. A landscaped berm measuring three (3) feet in height along a landscaped greenbelt shall

be constructed along the public rights-of-way on which the manufactured housing park fronts. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. Landscaping adjacent to the road shall comply with the following requirements, which are consistent with landscaping required for other types of development in Fillmore Township:

<u>Type</u>	<u>Requirements</u>
Deciduous street tree (e.g. Red or Norway Maple, Linden, Ash)	1 per 40 lineal feet of road frontage
Deciduous or evergreen shrubs	1 per 3 lineal feet of road frontage

- c. Site Landscaping. A minimum of one (1) deciduous or evergreen tree shall be planted per two (2) manufactured housing sites.
- d. Parking Lot Landscaping. Off-street parking lots containing more than fifteen (15) spaces shall be provided with at least ten (10) square feet of interior parking lot landscaping per space. Such areas shall measure at least one-hundred-fifty (150) square feet and shall be covered by grass, ground cover, shrubs or other live plant material. At least one (1) deciduous tree shall be planted per parking lot landscaped area.

### **13. Canopies**

Canopies and awnings may be attached to any manufactured dwelling unit and may be enclosed for use as a sun room or recreation room, but not as a bedroom. Canopies and awnings shall comply with the setback and distance requirements set forth in this Section but shall not require a building permit unless fully enclosed or exceeding ten (10) foot by ten (10) foot in size.

### **14. Waste Receptacles**

If proposed, waste receptacles shall comply with the following requirements as well as Part 5 of the MDEQ Standards for waste receptacles:

- a. Receptacles shall be set back a minimum distance of fifty (50) feet from the perimeter of the manufactured housing park and at least fifteen (15) feet from any building, in a location that is clearly accessible to the servicing vehicle. Receptacles shall be provided within one-hundred-fifty (150) feet of each manufactured housing unit, unless curb-side collection is provided.
- b. Receptacles shall be screened on three (3) sides with a decorative masonry wall or wood fencing, not less than six (6) feet in height.

The fourth side of the dumpster screening shall be equipped with an opaque lockable gate that is the same height as the enclosure around the other sides.

- c. Receptacles shall be placed on a concrete pad which shall extend six (6) feet in front of the dumpster enclosure. Bollards (concrete filled metal posts) shall be installed at the opening of the dumpster enclosure to prevent damage to the screening wall or fence.

**15. Signs.**

- a. Each manufactured housing park shall be permitted either:
  - i. Two (2) signs, each of which shall not exceed five (5) feet in height and sixteen (16) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line; or
  - ii. One (1) sign which shall not exceed five (5) feet in height and thirty-two (32) square feet in area and shall be set back a minimum of ten (10) feet from any property or right-of-way line.
- b. Management offices and community buildings in a manufactured housing park shall be permitted one (1) identification sign not to exceed six (6) square feet in area.

**16. Water and Sewer Service**

All manufactured housing parks shall be served by approved central water and sewage systems, which shall meet the requirements of the Allegan County Health Department and the Michigan Department of Public Health. Public sewer systems shall be required in manufactured housing parks, if available within two-hundred (200) feet at the time of preliminary plan approval. If a public sewer system is unavailable, the park shall connect to a state-approved sewage system. The plumbing connections to each manufactured housing site shall be constructed so that all lines are protected from freezing, accidental bumping, or from creating any nuisance or health hazard.

**17. Storm Drainage**

All developed portions of the manufactured housing park shall be served by adequate storm drainage facilities, independent of sanitary sewers, designed and constructed in accordance with applicable local, county, and state regulations as outlined in Part IV of the MDEQ Standards. On-site storm water detention facilities may be required.

**18. Underground Wiring and Utilities**

All local distribution lines for franchised utilities, including but not limited to telephones, electrical service, and cable television, shall be placed entirely underground throughout mobile home parks. Mainlines and perimeter feed lines located on a section or quarter section line may be above ground if they do not overlap the park. Conduits or cables shall be placed within private easements provided to the service companies by the proprietor and/or developer or within public ways. Those telephones and electrical facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All telephones and electrical facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission.

**19. Mailbox Clusters**

The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mail box clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing park road with a public road.

**20. Manufactured Housing Unit Sales**

The business of selling new or used manufactured housing as a commercial operation shall not be permitted after complete occupancy of a new or expanded manufactured housing park has been achieved. Thereafter, new or pre-owned manufactured homes which are to remain on-site in a manufactured housing community may be sold by the resident, owner, licensed dealer or broker, provided the manufactured housing development management permits such sales activity.

**21. Prohibitions**

A manufactured home shall only be used as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured home community for sale or temporary sales office purposes.

**22. Operational Requirements**

- a. Permits. A manufactured housing park shall not be operated until a license has been issued by the Michigan Bureau of Construction Codes. No individual manufactured housing site shall be occupied until the required improvements including utilities and access roads which serve the site are in place and functioning. Buildings constructed on-site, such as a management office or clubhouse, shall

require a building permit prior to construction and a Certificate of Occupancy prior to use.

- b. Violations. Whenever, upon inspection of any manufactured housing park, the Township Zoning Administrator finds that conditions or practices exist which violate provisions of this Section or other regulations referenced herein, the Township shall give notice in writing by certified mail to the Director of Michigan Manufactured Housing Commission, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance with the ordinance or other regulations. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.
  
- c. Inspections. The Township's agent is granted the authority, as specified in Michigan Public Act No. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions of this Section or other regulations referenced herein.

## **CHAPTER 11**

### **C-1 LOCAL BUSINESS DISTRICT**

#### **SECTION 11.01 DESCRIPTION AND PURPOSE**

The C-1 Local Business District is established to accommodate retail business and services to meet the day to day convenience shopping and service needs primarily for nearby residential neighborhoods. These districts are located to concentrate such uses as recommended in the Township Land Use Plan. The purpose of these carefully located districts is to prevent excessive commercial strip developments which may contribute to deteriorating traffic conditions and create unattractive roadway corridors which lead to blight.

#### **SECTION 11.02 PERMITTED USE REGULATIONS**

- A. Professional and medical offices and clinics.
- B. Retail establishments with goods marketed to surrounding neighborhoods, including sales of bakery goods, groceries, meats, seafood, dairy, drugs, hardware, paper goods, furniture, clothes, flowers, books, convenience stores (without gas stations), and similar retail establishments.
- C. Banks, credit unions, savings and loans and similar institutions with up to three drive-through windows, including any automatic teller drive through lanes. All drive-through facilities must be within the principal building or attached by a canopy.
- D. Personal service establishments with perform services on the premises including dry cleaning, self service laundries, hair styling salons, tailors, photographic studios, and similar establishments.
- E. Restaurants, coffee shops, donut shops, ice cream parlors, and similar establishments.
- F. Rental and sales of videos, DVD's, compact discs, and similar items.
- G. Accessory buildings and uses customarily incidental to the above principal permitted uses.

#### **SECTION 11.03 USES PERMITTED BY SPECIAL USE PERMIT**

- A. Adult care centers, child care centers, preschool and day care centers, provided that the outdoor recreation area is in the rear yard only.
- B. Establishments servicing vehicles, such as muffler shops, oil change establishments, transmission shops, engine repair shops, brake shops, and vehicle detailing shops.
- C. Single and two family dwellings subject to the following conditions:

1. The dwelling unit(s) were existing prior to the adoption of this ordinance;
  2. The lot or parcel upon which the dwelling is located is a minimum of twelve thousand (12,000) square feet.
  3. The dwelling unit(s) meets the setback requirements of the R-2 District
- D. Mixed use structures, wherein a residential and commercial use contained in the same structure subject to the following conditions:
1. The lot or parcel upon which the structure is located is a minimum of twelve thousand (12,000) square feet.
  2. The structure shall meet all of the setback requirements of the R-2 District.
  3. Both the commercial and residential uses shall meet the off-street parking and loading requirements of Chapter 20 .
  4. One (1) on-premise advertising sign may be permitted provided it does not exceed twelve (12) square feet.
- E. Coin operated self-serve car wash establishments.
- F. Urgent medical care facilities
- G. Personal fitness centers, aerobic studios, and tanning salons.
- H. Outdoor and indoor recreational facilities.

#### **SECTION 11.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified, area, height, bulk and placement requirements shall be in accordance with Chapter 15, Schedule of Regulations.

#### **SECTION 11.05 SITE PLAN REVIEW**

For all principal permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Chapter 17.



## **CHAPTER 12**

### **C-2 GENERAL BUSINESS DISTRICT**

#### **SECTION 12.01 DESCRIPTION AND PURPOSE**

The C-2 General Business District is intended to accommodate those retail and service establishments which are intended to serve the Fillmore/Holland community. The large size and variety of permitted commercial uses typically generates significant volumes of vehicular traffic. Uses in this District typically require a relatively large area devoted to off-street parking.

#### **SECTION 12.02 PERMITTED USE REGULATIONS**

- A. All principal permitted uses in the C-1 Local Business District.
- B. Retail establishments of up to one hundred thousand (100,000) square feet in gross floor area.
- C. Wholesale discount clubs, outlet stores, home improvement centers and similar establishments
- D. Banquet halls fraternal halls, and private clubs.
- E. Funeral homes and mortuary establishments.
- F. Indoor movie theaters, concert halls, and playhouses.
- G. Restaurants including drive-through windows.
- H. Resale shops
- I. Accessory structures and uses customarily incidental to the above principal permitted uses.

#### **SECTION 12.03 USES PERMITTED BY A SPECIAL USE PERMIT**

- A. Outdoor and indoor commercial recreation establishments, including driving ranges, miniature golf, soccer fields, tennis courts, batting cages, and go carts.
- B. Lawn and garden centers, nurseries, and greenhouses with retail sales.
- C. Automobile wash establishments when contained within a completely enclosed structure.
- D. Shopping centers.
- E. Automobile sales (new and used), including on site maintenance and service facilities.

- F. Commercial outdoor displays, sales or storage of items such as farmers markets, new and used farm implement, mobile homes, camping trailers, boats, and other recreational vehicles.
- G. Veterinary offices, clinics, and hospitals.
- H. Radio and television stations and towers.
- I. Hotels, motels and extended stay establishments.
- J. Kennels
- K. Mini-storage warehouse facilities.
- L. Sales and service of heavy equipment
- M. Wholesale and warehousing including the sale at wholesale or warehousing of automotive equipment, dry goods and apparel, groceries and related products, electrical goods, hardware, plumbing, heating products and supplies, machinery and equipment, paper and paper products, furniture and home furnishings in an area not to exceed twelve thousand (12,000) square feet.
- N. HVAC, plumbing and electrical services and supply shops.
- O. Appliance and small engine repair shops.
- P. Any similar use consistent with the intent of the C-2 District.

**SECTION 12.04 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified, area, height, bulk, and placement requirements are provided in Chapter 15, Schedule of Regulations.

**SECTION 12.05 SITE PLAN REVIEW**

For all uses principal permitted in the C-2 General Business District and uses subject to a special use permit, a site plan shall be submitted, in accordance with Chapter 17.

## **CHAPTER 13**

### **MIC MIXED INDUSTRIAL-COMMERCIAL DISTRICT**

#### **SECTION 13.01 DESCRIPTION AND PURPOSE**

The purpose of this district is to accommodate a mixture of compatible light industrial and commercial uses which can be integrated into a business park environment. Site plan review will attempt to minimize the visual affect of outdoor storage on adjacent sites and the passing motorists.

#### **SECTION 13.02 PERMITTED USE REGULATIONS**

The following uses are permitted by right in the Mixed Use Industrial-Commercial District.

- A. Any use with the principal function of conducting research, design, testing and pilot or experimental product development.
- B. Wholesale and warehousing including the sale at wholesale or warehousing of automotive equipment, dry goods and apparel, groceries and related products, raw farm products, except livestock, electrical goods, hardware, plumbing, heating equipment and supplies, machinery and equipment, tobacco and tobacco products, paper and paper products, furniture and home furnishings, and any commodity the manufacture of which is permitted in this district.
- C. Tool and die shops
- D. Medical offices, clinics, and accessory laboratories.
- E. Cold storage plants
- F. Manufacture and or assembly electrical appliances, molded rubber, pottery, ceramics, bakery goods, metal or rubber stamps, tools, dies, gauges, heating and ventilation products, and similar products; establishments that the Planning Commission considers to be consistent with the intent of this District
- G. Machine shops
- H. Print shops
- I. Veterinary clinics
- J. Metal finishing and welding shops
- K. Contractor storage yards when accessory to a contracting office or warehouse.

- L. HVAC, plumbing, and electrical service and supply shops
- M. Appliance and small engine repair shops
- N. Banks, credit unions, savings and loan associations and similar financial institutions
- O. Any similar use consistent with the intent of this District
- P. Buildings which have a combination of both manufacturing and retail sales of the manufactured product.
- Q. Accessory uses and buildings considered customarily incidental to a principal permitted use.

**SECTION 13.03 USES PERMITTED BY SPECIAL USE PERMIT**

- A. Full service restaurants
- B. Child care and adult day care centers
- C. Outdoor storage which is accessory to a principal permitted use
- D. Planned Unit Development (PUD) projects
- E. Health clubs and fitness centers
- F. Uses of a similar nature or class as uses listed in this district as either a Principal Permitted Use or Special Land Use , but not listed elsewhere in this Ordinance, as determined by the Township Planning Commission.

**SECTION 13.04 COMPLIANCE WITH COUNTY AND STATE REGULATIONS**

Any use permitted in the MIC District, must also comply with all applicable County and State health and pollution regulations.

**SECTION 13.05 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified, these requirements are provided in Chapter 15, Schedule of Regulations.

**SECTION 13.06 SITE PLAN REVIEW**

For all principal permitted uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Chapter 17.

## **CHAPTER 14**

### **I INDUSTRIAL DISTRICT**

#### **SECTION 14.01 DESCRIPTION AND PURPOSE**

The intent of the I Industrial District is to accommodate manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations which have the potential for generating heavy truck traffic, producing noises, displaying bright light and other external physical effects which may impact adjacent districts.

#### **SECTION 14.02 PERMITTED USE REGULATIONS**

- A. All principal permitted uses in the MIC Mixed Use Industrial and Commercial District
- B. Central dry cleaning plants and laundries
- C. Essential services including buildings and necessary structures, storage yards, and other related uses.

#### **SECTION 14.03 USES PERMITTED BY SPECIAL USE PERMIT**

- A. Salvage and junk yards, including metal shredding and concrete crushing.
- B. Storage of petroleum or other flammable liquids.
- C. Truck terminals
- D. Composting and recycling centers
- E. Food processing plants
- F. Major auto engine and body repair, including undercoating shops.
- G. Asphalt, transit mix, or concrete plants
- H. Urgent medical care facilities
- I. Agriculture seed processing, storage and sales
- J. Planned Unit Development (PUD) projects
- K. Adult oriented businesses
- L. Uses of a similar nature and class as uses listed in this District as either a Permitted Use or a Special Use, as determined by the Planning Commission.

M. Accessory uses and buildings customarily incidental to any of the above Special Uses.

**SECTION 14.04 COMPLIANCE WITH COUNTY AND STATE REGULATIONS**

Any use permitted in the I Industrial District must also comply with all County and State health and pollution regulations.

**SECTION 14.05 AREA, HEIGHT, BULK, AND PLACEMENT REQUIREMENTS**

Unless otherwise specified, area height, bulk, and placement requirements are provided in Chapter 15, Schedule of Regulations.

**SECTION 14.06 SITE PLAN REVIEW**

For all principal uses and uses subject to a special use permit, a site plan shall be submitted in accordance with Chapter 17.

**CHAPTER 15  
SCHEDULE OF REGULATIONS**

**SECTION 15.01**

ZONING DISTRICT	Min. lot size Per unit		Max. bldg. height		Min. yard requirements			Max. lot coverage (%)		Min. floor area (sq. ft.)	
	area (sq. ft.)	lot width	stories	hght.	front	side	rear			1 story	2 story (1 <sup>st</sup> floor)
A-1 Exclusive AG	20 acres	660'	2.5	35'	50'a	20/40'd	30'	35		750	750
A-2 Restricted AG	10 acres	330'	2.5	35'	50'a	20/40'd	30'	35		750	750
RE Rural Estate	2 acres	200'	2.5	35'	40'a	10/20'd	25'	35		750	600
R-1 Single Family	20,000	100'	2.5	35'	35'a	10/20'd	25'	35		750	600
R-2 Single Family	12,000	80'	2.5	35'	35'a	8/20'	25'	35		750	600
R-2 Two Family	18,000	80'	2.5	35'	30'a	8/20'	25'	35		750	600
R-3 Multiple Family	e	e	2.5	35'	e,a	e,f,g	e	e		----	----
MHP Manufactured Housing Park	15 acres				-----						
C-1 Local Business	---	---	2.5	35'	---	h,j	---	i,j			
C-2 Local Business	---	---	2.5	35'	---	h,j	---	i,j			
MIC Mixed Industrial Commercial	---	---	2.5	35'	---	30/60'	30'	----			
I-1 Light Industrial	20,000	100'	3	50'	50'	30/60'	30'	50			

**SECTION 15.02 FOOTNOTES TO SCHEDULE OF REGULATIONS**

- a. In all residential districts, the required front yard shall not be used for off-street parking, loading, or unloading and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.
- b. Reserved for future use.
- c. The minimum floor area per dwelling unit shall not include areas of basements, breezeways, unenclosed porches, terraces, attached garages, attached sheds, or utility rooms.
- d. In the RE, R-1, and R-2 Districts, the width of the side yards which abut upon a street on the same side or opposite side of the same block, upon which other residential lots front, shall not be less than the required rear front yard for said homes which front upon said street.

e .Site Requirements.

	<u>Garden Apartments</u>	<u>Townhouses</u>	<u>Elderly Housing</u>
Gross site area	2 acres minimum	2 acres minimum	2 acres minimum
Max. floor area	.3 x developable area	.2 x developable area	.4 x developable area
Max. lot cov.	.25 x development Area	.25 x development area	.25x development area
Maximum hght.	2.5 stories/35'	2.5 stories/35'	4 stories/60'
Min. parking	2/unit for 1-24 units 1.75/unit for 25+	2/unit	.75/unit
Min. landscaped Area	20% gross site area	25% gross site area	30% gross site area
Maximum density	10 units/acre	6 units/acre	14 units/acre
Minimum front Yard	25'	25'	25'
Minimum side yard	20/40'	20/40'	25/50'
Minimum rear yard	30'	30'	40'
Minimum floor area Per unit (sq. ft.)			
Efficiency	480	600	480
One bedroom	600	750	550
Two bedroom	750	900	700
Three bedroom	900	1200	-----
Four bedroom	-----	1500	-----

f. For every lot on which a multiple row or terrace dwelling is erected there shall be provided a side yard on each side of the lot as indicated in the Schedule of Regulations. Each side yard shall be increased beyond the yard spaces indicated by one (1) foot for each ten (10) feet or part thereof by which the length of the multiple row or terrace dwelling exceeds forty (40) feet in overall dimension along the adjoining lot line.



g. Where two (2) or more multiple row or terrace dwellings are erected upon the same lot, a minimum yard space of twenty (20) feet in width shall be provided between structures. The yard width shall be increased by two (2) feet for each ten (10) feet or part thereof by which each multiple row or terrace dwelling having common yards exceeds forty (40) feet in length on that side of the dwelling facing the common yard.

h. Where any C-1 or C-2 District borders a residentially zoned district and the districts are not separated by an alley or street there shall be a minimum building setback of ten (10) feet from the property line.

i. Loading space shall be provided for the rear yard in the ratio of at least ten (10) square feet per front foot of building. Where an alley or a street exists or is provided at the rear of the building, the rear building setback and loading requirements may be computed from the center of said alley or street. The Zoning Board of Appeals may waive this requirement in cases where this section causes undue hardship.

j. In the A-1 Exclusive Agricultural District and the A-2 Restricted Agricultural District one (1) parcel containing a residence existing at the time of adoption of this Chapter of this Ordinance (August 8, 1991) may be split from the parent parcel whose size is a minimum of ten (10) acres. The size of the newly created parcel shall be a **maximum** of three (3) acres and have a minimum frontage of 200 feet. No additional parcels whose size does not meet the minimum parcel size of the respective zoning district may be created. The intent of this provision is to restrict the number of residential building sites in the Agricultural Districts.

k. In the A-2 District, rural non-farm dwellings may be built on parcels of less than ten (10) acres provided that the site meets the following conditions:

- Has a ten (10) year history of not being tillable as determined by the Zoning Administrator, or
- Is wooded or has significant wetlands or other wet soils or in the opinion of the Zoning Administrator the condition of the soil make agricultural production unlikely;
- Has other obvious limitations such as rock outcroppings or ravines which make agricultural production unlikely,
- Meets the requirements of the Allegan County Health Department relative to sanitary waste disposal and water, and
- Has deeded access to a public road, and
- Up to 10% of the newly created site may utilize a tillable portion of the parent parcel.
- Creates a buildable site of a maximum of two (2) acres.
- No additional parcels whose size does not meet the minimum parcel size of the respective

district may be created.

**SECTION 15.03 SUPPLEMENTARY DEFINITIONS**

- A. Gross Site Area: The total area within and conforming to the legal description of the site
- B. Garden Apartments: A residential structure having a height limit of two and half stories and containing three or more attached rooms or suites of rooms, each room or suite having its own cooking facilities and being used a dwelling for one person.
- C. Housing for the Elderly: A multiple family dwelling having the following tenant eligibility requirements. At the time of application for a rental unit, tenants must be:
  - 1. Families of two or more persons the head of which or the spouse of which is sixty-two (62) years of age or older or is handicapped; or
  - 2. Single persons who are sixty-two (62) years of age or older or who are handicapped
- D. A handicapped person is one whose impairment is expected to continue for an indefinite duration; the impairment substantially impedes the person's ability to live independently; or is such that his/her ability to live independently could be improved by more suitable housing.

## **CHAPTER 16**

### **GENERAL PROVISIONS AND EXCEPTIONS**

#### **SECTION 16.01 INTENT**

All uses, and structures whether permitted by right or by special use permit, shall be subject to the following general regulations of this Ordinance.

#### **SECTION 16.02 GENERAL EXCEPTIONS**

- A. **Essential Services.** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance. The Zoning Board of Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.
- B. **Voting Place.** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

#### **SECTION 16.03 EASEMENTS**

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building or large tree) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

#### **SECTION 16.04 GRADES, ELEVATION DIFFERENTIALS, AND RETAINING WALLS**

- A. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use, and surrounding property. However, water should not be diverted to adjacent properties.
- B. Retaining walls in excess of four (4) feet in height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral

pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

#### **SECTION 16.05 OBSTRUCTIONS TO VISION ON CORNER LOTS**

No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. In the case of corner lots, this shall also mean that there shall be provided an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

#### **SECTION 16.06 FENCE, WALL AND PRIVACY SCREEN REGULATIONS**

Fences, walls and privacy screens are permitted subject to the following:

- A. The erection, construction or alteration of any fence, wall or privacy screen as defined herein, shall be constructed to meet all relevant codes
- B. Fences shall not be taller than four (4) foot in a required front yard nor higher than six (6) foot in a required side or rear yard for parcels located in the RE or R-1 or R-2 zoning districts.
- C. A six (6) foot fence shall surround all playgrounds associated with a children's day care facility.
- D. Fences with barbed wire and electrical current are prohibited in the R-1, and R-2 zoning district.
- E. A four (4) foot fence shall surround all below ground swimming pools.
- F. Parcels located in the A-1 and A-2 Districts shall be exempt from all fence height and use restrictions except for swimming pools.

#### **SECTION 16.07 OFF-STREET PARKING REQUIREMENTS**

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as prescribed in Chapter 20 of this Ordinance.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided

as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

**SECTION 16.08 STORAGE OF OBNOXIOUS MATTER IN OPEN CONTAINERS PROHIBITED**

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground; and all containers shall be stored in such a way so as not to be accessible to animals.

**SECTION 16.09 SOIL EXCAVATION OR FILLING**

- A. The deposit or burying of any man made materials such as scrap iron, appliances, tires, and other “junk” as defined in this Ordinance anywhere in Fillmore Township which is not biodegradable is expressly prohibited. The burying of “garbage” as defined in this Ordinance when deemed to be biodegradable (such as plant and animal wastes) shall be permitted when conducted in accordance with County, State, and Federal laws. Materials such as sand, clay, muck, asphalt, concrete, gravel may not be dumped without expressed permission from the Township Board.
- B. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Township.

**SECTION 16.10 KEEPING OF FARM ANIMALS AND OTHER ANIMALS**

The keeping, raising, or breeding of animals, poultry or livestock, including farm animals and non-domestic animals and reptiles shall be permitted in the A-1 and A-2 Districts. The keeping, raising and breeding of animals, poultry, or livestock, including farm animals and non-domestic animals and reptiles shall be permitted in the R-E and R-1 Districts on parcels of three (3) acres or more, subject to the requirements of Section 16.28.

**SECTION 16.11 SWIMMING POOL REGULATIONS**

- A. **Permit Application.** It shall be unlawful for any person to construct or maintain an outdoor swimming pool without first making application to the Zoning Administrator and obtaining a permit thereof. Application for such permit shall show the name of the owner, a plot plan of the property showing the location of such swimming pool, a detailed plan and specifications for such swimming pool, and full information as to the type, height and location of the fence surrounding such swimming pool and the number of gates therein.

- B. **Location.** Outdoor swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a side street.
- C. **Fencing.** All below ground swimming pools shall be completely enclosed by a fence not less than four (4) feet in height. Above ground pools shall have locking gates, removable ladders, or a fence not less than four (4) feet in height to restrict unauthorized access.

## **SECTION 16.12 HOME OCCUPATIONS**

A home occupation may be permitted in a single-family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

- A. No more than one (1) person total (not including the members of the family residing on the premises) shall be engaged in such occupation.
- B. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than one-quarter (25%) of the floor area of the floor on which the occupation is being conducted may be used for the purposes of the home occupation or for storage purposes in conjunction with the home occupation.
- C. A home occupation shall be conducted completely within the dwelling unit or permitted accessory building. A home occupation conducted within an accessory building shall not occupy more than fifty (50%) of said building. Accessory buildings in excess of 1,200 square feet shall be limited to 600 square feet in which to conduct the permitted home occupation.
- D. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation, and there shall be no external or internal alterations not customary in residential areas.
- E. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communications interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.
- F. Signs not customarily found in residential areas shall be prohibited, however that one (1) non-illuminated name plate, not more than four (4) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises in the R-1 and R-2 Districts. Freestanding signs not less than of six (6) square feet in area may be placed on private property in the A-1 and A-2 Districts as an alternative but not in addition

to a sign placed on the dwelling.

- G. The hours of operation for a permitted home occupation shall be subject to Planning Commission review and shall be set in accordance with the provisions of this Ordinance based upon the type of use proposed.
- H. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.

**SECTION 16.13 TEMPORARY AND PORTABLE BUILDINGS, USES, & STRUCTURES**

- A. Structures erected for hunting purposes less than one hundred (100) sq. ft. in size are expressly permitted in Fillmore Township and are exempt from the provisions of this Ordinance.
- B. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least ten (10) feet from all property lines and be removed within fifteen (15) days after the certificate of occupancy has been granted for the building under construction on the property.

Other conditions as may be reasonably applied by the Planning Commission to appropriately assure the compliance with the provisions of this Ordinance.

**SECTION 16.14 BUILDING PERMITS ISSUED PRIOR TO EFFECTIVE DATE**

Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning permit issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said building permit was granted.

A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

**SECTION 16.15 RESTORATION OF UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or required compliance with his or her lawful order. Furthermore, upon the determination of the Building Inspector and official notification thereof to the property owner, the Township Board may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within 60 days of the date the building was removed, the Township may either place a lien on the



property or place the cost of said removal on the next available tax bill as a special assessment against the property.

#### **SECTION 16.16 MOVING OF BUILDINGS**

Any building or structure (*except agricultural buildings*) that has been wholly or partially erected on any premises located within the Township shall not be moved to and be placed upon any other premises in the Township until a permit for such removal has been secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.

Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Special inspection fees as determined by the Township or County, may be charged to cover costs of inspecting the old site and the new site of such building or structure. This may include a deposit held in escrow which may be forfeited if the final inspection determines that damages have occurred. If these conditions can be complied with, a permit shall be issued for the moving of such a building or structure.

#### **SECTION 16.17 EXCEPTIONS TO AREA AND WIDTH REQUIREMENTS**

**Recorded Lots.** Lots established by a legally recorded plat or deed prior to the adoption of this Ordinance which have less than the minimum area or width requirements established by this Section, may nevertheless be used for any use permitted within the district in which such lot is located. In addition, lots established by a recorded plat or deed subsequent to the adoption of this Ordinance and which met the requirements of said Ordinance, but as a result of amendments thereto, can no longer meet the minimum area or width requirements, may nevertheless be used for any use permitted within the district in which such lot is located.

**Lack of Public Utilities.** In areas unserved by public or other approved community water and/or sewage facilities, the minimum lot areas required by this Ordinance shall be increased to include any additional area deemed necessary by the appropriate Allegan County Health Department requirements to insure safe water supply and/or adequate sewage disposal.

#### **SECTION 16.18 NUMBER OF BUILDINGS ON A LOT**

Every building hereinafter erected or structurally altered shall be located on a lot and there shall be not more than one (1) main building on one (1) lot unless otherwise allowed in this Ordinance. Exceptions to the aforementioned requirement include dwellings permitted as a result of a Planned Unit Development (PUD) open space project, or site condominium project and temporary structures meeting the requirements set for in this Chapter.



### **SECTION 16.19 ILLEGAL DWELLINGS**

The use of any portion of the basement of a partially completed building, any garage, or accessory building for dwelling or sleeping purposes in any zoning district is prohibited. No dwelling unit shall be erected in an industrial district. However, the sleeping quarters of a watchman or a caretaker may be permitted in an industrial district in conformity with the specific requirements of the particular district.

### **SECTION 16.20 OTHER PROJECTIONS INTO YARDS**

- A. **Cornice, Sill, Chimney, or Fireplace.** A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than five (5) feet.
- B. **Fire Escape.** A fire escape may extend or project into any front, side, or rear yard not more than four (4) feet.
- C. **Open Stairway or Balcony** An open, unenclosed stairway or balcony, not covered by a roof or canopy may extend or project into a required yard not more than six (6) feet and such balcony may extend into a required front yard not more than six (6) feet.
- D. **Porch, Open.** An unenclosed platform or landing which does not extend or project into any required front, side, or rear yard not more than eight (8) feet is exempted from yard requirements provided that the width of a side yard is not reduced to less than five (5) feet. An overhang, canopy, or portico may be placed over the open porch, but it shall not be enclosed.

### **SECTION 16.21 ACCESS THROUGH YARDS**

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

### **SECTION 16.22 ACCESSORY BUILDINGS AND STRUCTURES**

Accessory buildings and structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.

- B. No accessory building, structure, or use shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building, structure, or use may be placed on a lot without a principal building, structure, or use except as otherwise provided for in the A-1 and A-2 Districts. In no case shall an accessory building be located in the required front yard.
- C. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
- D. All accessory buildings, structures and uses combined shall cover no more than fifty (50) percent of any rear yard, subject to setback, lot coverage, and other standards of this Ordinance. Accessory buildings shall not be erected in any required front yard. In no instance shall such a building be nearer than ten (10) feet to any adjoining lot line or twenty-five (25) feet from a street right of way.
- E. No detached accessory building shall be located closer than ten (10) feet to any main or principal building.
- F. In the case of double frontage lots, accessory buildings shall observe front yard requirements on both street frontages wherever there are any principal buildings fronting on such streets in the same block or adjacent blocks.
- G. In the case of an accessory building located in the rear yard on a corner lot, the side lot line of which is substantially a continuation of the required front yard setback of the lot to its rear, such accessory building shall be set back from the street side at least as far as the required front yard setbacks of the lot at the rear of the subject corner lot.
- H. No accessory building may be closer than ten (10) feet to any other accessory building.

**SECTION 16.23 ADULT REGULATED USES AND SEXUALLY ORIENTED BUSINESSES**

**A. Authorization.**

In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, 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 retail establishments. Special designation and regulation in the I Industrial District 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.

**B. Uses Specified.** Uses subject to these controls as defined herein as “adult only businesses” are as follows:

1. Adult related businesses
2. Adult motion picture theaters
3. Adult book and video stores
4. Adult cabarets
5. Nude artist and photography studios

**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 and Township Board as general guidelines to help assess the impact of such a use upon the district 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, monastery, temple, or similar place of worship, cemetery, school, library, public park or playground, non-commercial assembly facility, public office building, 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 I 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. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Township Board prior to their use.
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 as determined by the Township Board.
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. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.

**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 process 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. No person shall operate an adult personal service business without obtaining a current zoning and building occupancy permit.
6. 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 Fillmore Township, County of Allegan, and State of Michigan.

**F. Conditions and Limitations.**

Prior to the granting of any permit herein provided, the Planning Commission or Township Board may impose any such conditions or limitations upon the location, construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit issued.

**G. Limit on Re-application.**

No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

**SECTION 16.24 AUTOMOTIVE FUELING STATIONS WITH CONVENIENCE STORES**

**A. Purpose.**

In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion, and traffic congestion which result from the unrestricted and unregulated construction and operation of automotive fueling stations and service stations and to regulate and control other problems incidental to these uses that they may exercise upon adjacent and surrounding areas, the following regulations and requirements shall be required in any zoning district. All automotive fueling stations and service stations erected after the effective date of this Ordinance shall comply with this section. No automotive fueling station or service station existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.

**B. Minimum Area and Frontage.**

An automotive fueling station, service station, repair center, or public garage shall be located on a lot having a frontage along the principal street of not less than one-hundred-fifty (150) feet and having a minimum area of fifteen-thousand (15,000) square feet.

**C. Setbacks.**

An automotive fueling station, service station, repair center, or public garage building housing an office and/or facilities for servicing, greasing, and/or washing motor vehicles shall be located not less than forty (40) feet from any street lot line and not less than forty (40) feet from any side or rear lot line directly adjoining a residential zoning district.

**D. Driveway and Curbs.**

1. All driveways providing ingress to or egress from an automotive fueling station, service station, repair center, or public garage shall comply with the standards of this Ordinance, and shall not be more than thirty (30) feet wide at the property line. Not more than two (2) curb openings shall be permitted along any street. No driveway or curb opening shall be located nearer than twenty (20) feet to any corner or exterior lot line, as measured along the property line. No driveway shall be located nearer than thirty (30) feet, as measured along the property line, to any other driveway. All driveway approaches shall otherwise meet Allegan County Road Commission standards for construction, turning lanes, and placement.
2. A raised concrete curb, six (6) inches in height, shall be erected along all driveway openings to minimize erosion and to appropriately direct traffic.

**E. Paved Areas.**

All parking areas, isles, driveways and loading areas shall be hard surfaced with concrete or a plant-mixed bituminous (asphalt) material, except undeveloped and landscaped areas.

**F. Equipment Location.**

All motor vehicle washing equipment shall be enclosed entirely within a building. All gasoline and fuel pumps shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street, or right of way.

**G. Walls and Screening.**

Where an automotive fueling station, service station, repair center, or public garage adjoins property located in any residential zoning district, screening shall be provided.

**H. Lighting.**

All exterior lighting, including illuminated signs, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property, and shall comply with all requirements of this Ordinance.

**I. Removal of Underground Storage Tanks.**

In the event that an automotive fueling station, service station, repair center, or public

garage use has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises in accordance with State and Federal regulations and statute.

## **SECTION 16.25 CONDOMINIUM DEVELOPMENT STANDARDS**

### **A. Purpose and Scope.**

1. Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of vacant air space within which a building or other improvements may be constructed by the condominium unit owner. Each site condominium unit may also have an appurtenant limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or the condominium unit taken together with any contiguous, appurtenant common element, shall be considered to constitute a building site which is the functional equivalent of a “lot” for the purpose of this Ordinance and other applicable laws, ordinances, and regulations.

Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project. Subject to the district zoning provisions applicable to the project’s location, any land use permitted by the Fillmore Township Zoning Ordinance may be permitted in a site condominium project.

2. The purpose of this Section is to ensure that the plans for developments within Fillmore Township proposed under the provisions of the Condominium Act, Act 59 of the Public Acts of 1978, as amended shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

### **B. Site Condominium Review and Approval Procedures (Step I Review).**

Application for review and approval of a site condominium subdivision shall be in accordance with the following procedures:

1. Prior to the formal application for a site condominium development, the developer shall meet with the Planning Commission. The purpose of this meeting is to inform the Planning Commission of the applicant’s intent to initiate a site condominium project. On or before this meeting, the applicant shall submit the following to the Township for distribution to all Planning



Commission members.

- a. A sketch drawn to scale, indicating the general location and configuration of the property to be developed; the alignment of streets and building sites; and the relationship of the proposed project to adjacent streets and neighboring properties.
  - b. A statement regarding the provision of sewer service and water supply.
2. During the preliminary discussion meeting, the Planning Commission, based on the information available to it, shall inform the applicant of the following:
    - a. General requirements of this Section and other applicable provisions of this Ordinance.
    - b. Planned or anticipated sites of parks and recreation areas and other public uses.
    - c. Utility system capabilities.
    - d. Planned or anticipated public improvements, including streets, utility extensions, and the like.
    - e. Street plans and potential problems relative to the natural features of the area, including, but not limited to floodplains, soil conditions, topography, and groundwater tables.
    - f. Additional information which will assist the applicant in proceeding in a reasonable and sound manner toward the final approval of the site condominium project.
  3. This review is intended for information purposes only and does not constitute binding commitments on the part of the Township. Neither do they imply tentative approval of any proposed site condominium project. Furthermore, such discussions shall not carry the authority to proceed with construction or to sell or transfer property.
  4. Following preliminary review, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
    - a. Michigan Department of Natural Resources/Michigan Department of Environmental Quality.
    - b. Allegan County Drain Commissioner
    - c. Allegan County Road Commission



- d. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.

**C. Site Condominium Review and Approval Procedures (Step II Review).**

- 1. An application for preliminary review of a site condominium subdivision project shall be made to the Township along with the appropriate fees as required by Township Board resolution. The application shall, at a minimum, contain the following information:
  - a. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.
  - b. The applicant's name, address, and phone number.
  - c. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
  - d. The name, address, and phone number of the owner(s) of record, if different from that of the applicant.
  - e. The legal description, address and tax parcel number of the property.
  - f. Project description, including number of structures, dwelling units, square feet of building sites, open spaces, and estimated inhabitants, phasing, etc.
  - g. Gross and net size of the parcel in acres.
  - h. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
  - i. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
  - j. A copy of any preliminary agreements which may be required before final plan approval is granted.

- k. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the County Register of Deeds as required by state law.
2. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Township. The plans at the time of their submittal shall contain the information required for preliminary site condominium plan as required by this Ordinance.
3. The application and plans shall be submitted at least thirty (30) days before the next regularly scheduled meeting of the Planning Commission.
4. Upon receipt of the preliminary site condominium project plans, the Township shall forward one copy to each member of the Planning Commission, and the Township Engineering or Planning Consultant, for consideration at the next regularly scheduled meeting of the Planning Commission.
5. The Township shall notify by mail, all the members of the Planning Commission, that a meeting will take place at a specified time concerning the property proposed for the site condominium project. At this or a subsequent meeting, a public hearing shall be held. Notice of said hearing shall be given at least fifteen (15) days prior to the hearing by one (1) publication in a newspaper of general circulation in the Township and by notice by mail to each public utility company within the geographical sections or divisions of the Township affected by the proposed development. Notices of said hearing shall also be sent, not less than fifteen (15) days prior to the date fixed therefor, by mail to the applicant and to all owners within three hundred (300) feet of the subject property. The Township shall also give such notice of the meeting as required by the Open Meetings Act. In reviewing the preliminary plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan. If the preliminary plan meets the requirements of this Ordinance and all other applicable local, state, county, and federal regulations, the Planning Commission shall grant it preliminary approval. If the plan does not meet the requirements of this Ordinance, the Planning Commission shall:
  - a. Recommend denial of the preliminary plan, setting forth the reasons in writing, or
  - b. Recommend granting of preliminary plan approval contingent upon completion of the revisions as noted.

**D. Setbacks and Boundaries.** The set back requirements for condominium buildings

shall be determined as follows:

1. **Single Family Units.**

- a. The front yard setback shall be one-half (½) the approved or recorded street right of way, plus the current setback for the existing zoning district.
- b. The side yard setbacks shall be twice the minimum required within the zoning district. The distance from the unit to the limit of development shall meet the minimum required side yard setback within the zoning district.
- c. The rear yard setback between the rear of two (2) units shall be twice the minimum rear yard setback of the zoning district. The distance from the rear of the unit to the limits of the development shall meet the minimum rear yard setback of the zoning district.

2. Multiple family units shall meet the standards of the R-3 Residential District.

3. The relocation of boundaries as defined in Section 148 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval, and these requirements shall be made a part of the by-laws and recorded as part of the master deed.

**E. Common Elements.**

After construction of a condominium unit, the undeveloped area of a unit shall become a common element.

**F. Encroachment.**

A condominium project shall not be constructed in a manner that intentionally creates an encroachment.

**G. Subdivision of Unit Sites.**

Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval, and shall be made as part of the by-laws and recorded as part of the master deed.

**H. Conformance with Subdivision Regulations.**

All condominium project plans shall conform to the plan preparation requirements, design layout, and improvements standards as established within this Ordinance.

**I. Water and Waste Water.**

The condominium project shall comply with and meet all federal, state, and county standards for a fresh water system and waste water disposal.

**I. Expansion and Conversion.**

Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.

**J. Master Deed.**

The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the by-laws, and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.

**K. As-Built Plans and Occupancy.**

Submission of an as-built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Board. Fees for these reviews shall be established and adjusted by the Township Board of Trustees.

**L. Final By-Laws, Consolidated Master Deed, and Site Plan.**

Upon approval of the development, the applicant shall furnish the Township a copy of the by-laws and consolidated master deed. The development plan shall be provided on a mylar sheet of at least twenty-four (24) inches by thirty-six (36) inches.

**M. Compliance with other Statutes and Ordinances.**

All condominium projects shall comply with pertinent federal, state, and local laws, statutes, and ordinances.

**SECTION 16.26 WIRELESS COMMUNICATIONS FACILITY REQUIREMENTS**

All transmission towers and telecommunication facilities within Fillmore Township shall comply with the following requirements:

- A. The structure shall be on a site of not less than 30,000 square feet in area and 125 lineal feet of road frontage.
- B. The structure shall only be located in agriculturally or industrially zoned areas.
- C. The structure shall be of monopole construction and painted white, gray, or silver so as to blend with the sky and constructed so as to hold not more than three (3) antennae.
- D. The maximum height of the structure shall be limited to 120 feet or the minimum height demonstrated to be necessary
- E. The site plan for the structure shall be accompanied by a signed certificate by a registered civil engineer regarding the design integrity of the structure and the manner in which the structure may fall. Such information will permit the Township to determine setback requirements.
- F. All lighting on the structure shall be prohibited unless required by the FAA.
- G. Whenever possible proposed wireless communication facilities shall co-locate on existing buildings, structures, and existing wireless communication structures.
- H. When a wireless communication structure has not been used for a period of ninety (90) consecutive days, all parts of the structure shall be removed within sixty (60) days of cessation of reception or transmission of radio signals. Fillmore Township may secure the removal of the structure if it is still standing after the Township has sent a notice to the operator stating the need of structure removal. In securing the removal, the Township may charge up to 125% of the removal cost to the operator.
- I. Accessory buildings and structures shall not exceed 600 square feet.
- J. Where the property line of a site containing a wireless communication structure abuts a residentially zoned area, the operator shall provide a green buffer of sufficient density and height so as to have immediate buffering impact on the adjacent site. In addition there shall be no interference so as to impact television, radio, or microwave signals on the abutting property.
- K. There shall be no advertising of any kind visible from the ground or other structures, other than those required for emergency purposes.
- L. Minimum spacing between tower locations shall be two (2) miles, measured by a straight line.

- M. All signals and remote control conductors of low energy extending horizontally above the ground between towers shall be a minimum of eight (8) feet in height, unless buried underground.
- N. A site plan for any structure shall be submitted to the Township for review pursuant to the requirements of Chapter 17.

**SECTION 16.27 MINING, SAND AND GRAVEL**

A. The application for a Special Use Permit for such uses shall also contain the following:

1. Name of owner of lands from which removal is to be made
2. Proposed method of removal and equipment intended to be used in the removal
3. Proposed method of restoration of area after removal of resources is completed.
4. A map of the parcel involved showing all buildings, streets, drainage facilities and natural features within two hundred (200) feet thereof shall accompany the application.
5. A topographic contour plan of the proposed restoration elevations shall also be presented with the application where qualities of earth are to be removed from the parcel.
6. Certification by the Allegan County Road Commission, Allegan County Drain Commissioner, and the Allegan County Soil Conservation Service that the proposed use will not severely threaten the public safety or property rights of others and that sedimentation control standards of the Soil Conservation Service will be met.

B. The change in the natural contour of the land during mining operations and at the cessation of same shall be maintained as safe for any person having reason to be within the area of mining activity and all trespassers.

C. No business or industrial structures or buildings of a permanent nature shall be erected without prior approval.

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

E. A well maintained wire or painted wooden fence shall be erected on any side adjoining a residential property.

F. No part of the removal process shall take place closer than two hundred (200) feet to the nearest adjacent residence or closer than fifty (50) feet to any street line.

G. The proposed restoration elevations shall be compatible with surrounding areas and adequate safeguards shall be made to insure proper drainage.

H. The property shall be restored by the replacement of topsoil and such soil shall be stabilized by appropriate plantings.

I. All truck traffic shall be directed away from residential streets.

J. All public roads in the Township shall be kept clean and free from mud and debris emanating from the mining operation.

### **SECTION 16.28 RAISING LIVESTOCK IN THE RE AND R-1 DISTRICTS**

Raising of livestock on parcels of three (3) acres or more is permitted in the RE and R-1 Districts, subject to the following conditions:

- A. One (1) large animal may be permitted for the first three (3) acres of parcel size and one (1) additional large animal may be permitted for each one (1) acre thereafter. The Township Board shall determine an acceptable number of small and medium sized animals for a specified period.
- B. No raising of livestock shall be permitted within a subdivision or as part of a site condominium project.
- C. Farm buildings housing large animals or accumulations of animal waste shall be located at least one hundred (100) feet from any residentially used premises.
- D. Runoff from pasture feeding and watering areas shall be separated from any surface water by a vegetative buffer or at least fifty (50) feet.
- E. All lots shall be fenced in a manner that no livestock, poultry, or other animals will run at large.

### **SECTION 16.29 ADDITIONAL SETBACK FOR STRUCTURES ADJACENT TO MAJOR STREETS.**

No building or structure shall be constructed, erected or enlarged on a lot abutting a state highway,  
highway,  
county primary, or county secondary road unless the building setback (as measured from the centerline of the road) is one hundred (100) feet from a state highway or county primary road and eighty(80) feet from a county secondary road.

### **SECTION 16.30 PRIVATE ROAD STANDARDS**

All parcels and lots in the Township shall have frontage on a public road. However, if there is no public road available, a parcel or lot shall front on a private road which meets the following standards.

- A. The private road shall be planned and constructed in relation to land contours and obstructions so as to provide safe ingress and egress by a driveway abutting each parcel.
- B. The layout of the private road shall be compatible with the general pattern established by adjacent roads and streets.
- C. All intersections with existing roads and driveways shall be at 90 degrees.
- D. Rights-of-way shall connect the road system of the private road development to any road or right-of-way of adjacent developments, subdivisions, or cluster of lot splits where an existing road right-of-way terminated at the boundaries of the proposed private road.
- E. The layout of the private road shall provide for a continuous circuit of travel unless limited by intent or a natural barrier, in which case the Township may approve a cul-de-sac with a radius of not less than fifty (50) feet of improved roadbed for the accommodation of emergency vehicles.
- F. An easement shall be provided for gas, electricity, telephone, and cable to each parcel.
- G. All new private roads shall have standard Allegan County name identification signs at the intersections with any public road.
- H. The right-of-way shall have a minimum of sixty-six (66) feet and shall be of uniform width. The centerline of the right-of-way, with an improved roadbed of twenty-four (24) feet in width shall have three (3) feet of improved shoulder width on each side. The road shall have adequate drainage ditches and the necessary culverts on both sides to accumulate and contain surface water from the roadbed.
- I. The roadbed shall be improved with six (6) inches of processed or stabilized gravel base over six (6) inches of granular soils.
- J. The minimum crown of any private road shall be one half (0.5) percent and the maximum grade shall be five (5) percent.
- K. Any intersection between a public and private road shall contain a clear vision triangular area of not less than twenty-five (25) feet measured along each right-of-way line as measured from the intersecting right-of-way. The clear vision area shall not contain any visual obstruction of more than two (2) feet in height above the road



grade level.

- L. No private road easement shall extend more than one thousand (1000) feet from a public road.
- M. No private road or easement shall serve more than twenty-five (25) parcels or lots.
- N. The minimum sight distance at all county road intersections with proposed roadways shall be six hundred (600) feet.
- O. A vertical curve shall be used at all changes in grade. No vertical curve of less than one hundred (100) feet or less than forty (40) times the algebraic difference in percent of grades will be used.
- P. All proposed roads shall have horizontal curves at not less than two hundred thirty (230) foot radius.
- Q. All topsoil and unsuitable shall be removed from the roadbed between the ditches.
- R. All fill and backfill within the road right-of-way shall meet the current MDOT and Allegan County Road Commission standards.
- S. Drainage easements shall be provided to accommodate all storm water from the road right-of-way.
- T. Drainage facilities shall be constructed such that no additional storm water runs into the Allegan County Road Commission right-of-way.
- U. A private road maintenance agreement shall be recorded with the Allegan County Register of Deeds and filed with the Fillmore Township Supervisor. The document shall specify the apportionment of maintenance, improvements and snow removal costs among those benefited and the right of the Township to assess such costs against those benefited plus twenty-five (25) % for administration. The document shall also give the Township the authority to perform such improvements in the event of the failure of those benefited to privately perform these responsibilities.

### **SECTION 16.31 TEMPORARY USE OF MOBILE HOMES**

The Township Supervisor is hereby given the authority to issue a permit to a person or family for the temporary use of a mobile home for dwelling purposes for a period of not more than one (1) month in any one year, provided that the mobile home is located on the premises of the applicant and has running water and sewage facilities of not less than septic tank quality available for the occupants of the mobile home. The permit shall be issued only in the event of an emergency situation where the applicant has sustained damage to his or her permanent dwelling thereby making it uninhabitable. A similar permit may be issued on those cases where a principal permanent dwelling must be razed to allow for construction of a new principal dwelling on the

same site as the original. Upon showing of unnecessary hardship or practical difficulties, the Township Supervisor may grant additional extensions to the permit, provided that the total occupancy does not exceed six (6) months. As a condition of granting the permit, the applicant shall agree to immediately remove the mobile home from the premises upon completion of repairs to his/her permanent dwelling. The Supervisor may require the posting of a performance bond or other security not to exceed \$5000 to ensure compliance with the conditions of the permit. In addition, public utilities may have mobile homes upon their property regardless of zoning district during emergency situations, upon determination of the Supervisor.

### **SECTION 16.32 LANDSCAPING STANDARDS**

The standards set forth in this Section are intended to preserve quality mature trees, screen headlights to reduce glare, help promote compatibility between land uses, assist in directing safe and efficient traffic flows at driveways, and minimize the negative impacts of storm water runoff.

While considered the minimum necessary to achieve the goal of promoting safe and aesthetic environments, in certain instances, they are intentionally flexible to encourage creative design. Applicants are encouraged to provide landscaping beyond these minimum requirements to improve the function, appearance and the value of their property.

- A. Plan Required. A landscaping plan is required for all developments subject to the site plan review provisions of this ordinance. The plan may be submitted separately or as part of the site plan, just as long as information on planting details and specifications, including planting technique, material installation, mulch and material depth is clear.
- B. Landscaping Requirements. For any development subject to site plan review, a greenbelt of at least ten (10) feet in width shall be provided along the front property line. For land abutting residentially zone property, a minimum of a ten (10) foot greenbelt shall be provided along the lot lines abutting the residentially zoned property.
- C. Greenbelt Requirements. There shall be a minimum of one (1) deciduous or evergreen tree and four (4) shrubs per lineal thirty (30) feet of the greenbelt. The location of the trees and shrubbery shall be varied as to provide a natural and sustainable buffer.
- D. Installation. Unless otherwise approved by the Township Board, required landscaping shall be planted in the spring or autumn immediately following the approval of the landscaping plan, whichever comes first. The applicant shall request an inspection by the Zoning Administrator, after the landscaping has been installed. Landscaping shall be installed in a sound manner according to generally accepted planting procedures with the quality of the plant materials described in this Section and shall be protected from vehicular encroachment and snow removal.

E. Plant Material Standards:

1. *Plant material quality.* Plant materials permitted in required landscaped areas shall be hardy to the Michigan climate, long-lived, resistant to disease and insect attack, and shall have orderly growth characteristics.
2. *Plant size specifications.* Trees, shrubs and other plant materials shall be of the following minimum sizes.
  - a. Deciduous trees: Two and a half (2 1/2 ) inch caliper measured at fifty-six (56) inches above grade.
  - b. Evergreen trees: Six (6) feet in height with a minimum spread of three (3) feet.
  - c. Deciduous ornamental trees: One (1) inc caliper measured at breast height.
  - d. Shrubs: Minimum of twenty-four (24) inches in height above planting grade.
  - e. Hedges: Planted in a manner so as to form a continuous unbroken visual screen within two (2) growing seasons
  - f. Ground cover: Planted in such a manner as to present a finished appearance and complete coverage within two (2) growing seasons, i.e. at least three (3) plants per square foot.
  - g. Mulch material: Minimum of four (4) inches deep for planted trees, shrubs, and vines and shall be installed in a manner so as to present a finished appearance.
  - h. Grass: Planted in species normally grown as permanent lawns in southwest Michigan. Grass, sod, and seed shall be free of weeds and disease.
  - i. No plant materials used shall be comprised of plastic or synthetic material.

- F. Maintenance Standards The occupant of the site shall be responsible for the long term maintenance of required landscaping. The Zoning Administrator may order in writing that the occupant take necessary actions to maintain landscaped areas and to replace dead, diseased, or dying vegetation. The Township Board may order the removal and replacement of dead or diseased plant materials and attach a lien to the property for one hundred and twenty-five (125) percent of the cost of such action.

## **SECTION 16.33 ACCESS MANAGEMENT**

**Intent.** The provisions of this Chapter are intended to promote safe and efficient travel within Fillmore Township; minimize disruptive and potentially hazardous traffic conflict; ensure safe access by emergency vehicles; protect the substantial public investment in the highway and road system by preserving capacity and avoiding the need for the unnecessary and costly reconstruction which disrupts business and traffic flow; separate traffic conflict areas by reducing the number of driveways; provide safe spacing standards between driveways and between driveways and intersections; provide for shared access to abutting properties; implement the Fillmore Township Land Use Plan; ensure reasonable access to properties, though not always by the most direct access; to coordinate access and decisions with the Michigan Department of Transportation and/or the Allegan County Road Commission.

### **One Access Per Parcel.**

A. All land in a parcel or lot having a single tax code number, as of the effective date of this ordinance, (hereafter referred to as the “parent parcel”), that shares a lot line for less than six hundred and sixty (660) feet, with right-of-way on M-40 shall be entitled to one (1) driveway per parcel from M-40.

1. All subsequent land divisions of a parent parcel shall not increase the number of driveways or road accesses beyond those entitled to the parent parcel.
2. Parcels subsequently divided from the parent parcel, either by metes and bounds, as a recorded plat, or as condominium project shall have access by a platted subdivision road, by another public road, by a private road in accordance with the standards of this Ordinance, or by an approved service drive.

B. Parent parcels with more than three hundred and thirty (330) feet of frontage on M-40 shall also meet the requirements of Paragraph A., except that, whether substantially divided or not, are entitled to not more than one driveway for each three hundred and thirty (330) feet of frontage on M-40, unless a registered traffic engineer determines that the topographic conditions on the site, the curvature on the road, or sight distance limitations demonstrate that a second driveway within a lesser distance than three hundred and thirty (330) feet is safer or the nature of the land use to be served requires a second driveway for safety. If the parcel is on a corner lot and a second driveway is warranted, the second driveway shall have access from the abutting street unless that street is of a higher functional classification.

### **Application Approval and Coordination Process**

A. All standards of the Michigan Department of Transportation and the Allegan County Road Commission shall be met prior to review and approval by Fillmore Township.

B. Applications for driveway or access approval shall be made in accordance with Chapter 17 Site Plan and Sketch Plan Approval. Applications are strongly encouraged to use the following sources for access designs:

1. The National Access Management Manual, 2002
2. The AASHTO “Green Book” A Policy on Geometric Design on Highways and Streets.
3. National Cooperative Highway Research Program “Access Management Guidelines for Activity Centers” and “ Impacts of Access Management Techniques”.

### **SECTION 16.34 ON-SITE AND UTILITY GRID ENERGY SYSTEMS**

#### **Definitions**

1. Ambient: The sound pressure level exceeded 90% of the time
2. ANSI: American National Standard Institute
3. dB(A): The sound pressure in decibels.
4. Decibel: The unit of measure used to express the magnitude of sound pressure and sound intensity.
5. IEC: International Electro-technical Commission.
6. ISO: International Organization for Standardization.
7. On-site Use Wind Energy System: A system intended to serve primarily the needs of the consumer.
8. Rotor: An element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting rotation, kinetic energy directly from the wind.
9. SCADA Tower: A freestanding tower containing instrumentation such as anemometers that are designed to provide present moment wind data for use by the supervisory control and data acquisition system.
10. Shadow Flicker: Alternating changes in light intensity caused by the moving blade of the wind energy system casting shadows on the ground and stationary objects, such as a window in a dwelling unit.
11. Sound Pressure: The average rate at which sound energy is transmitted through a unit

area in a specified direction.

12. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels.
13. Utility Grid Wind Energy Systems: A system that is designed and built to provide electricity to the electric utility grid.
14. Wind Energy System: A wind energy conversion system which converts wind energy into electricity through the use of wind turbine generator and includes the turbine blades, the tower, and the related electrical equipment. This does not include wiring to connect the wind energy system to the grid.
15. Wind Site Assessment: An assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

All On-site Wind Energy systems in any zoning district which require towers (commercial, private, or anemometers for assessing feasibility) require a Site Plan and a Special Use Permit. The requirement for a Special Use Permit may be waived by the Planning Commission for private systems and anemometers in the A-1 and A-2 Districts with towers seventy-five (75) feet or less in height.

In addition to a site plan, wind energy systems that are subject to a Special Use Permit shall also submit the following:

1. documentation that the sound pressure, the construction of the tower, interconnection (if applicable), and all safety requirements have been met.
2. proof of the applicant's public liability insurance.
3. a setback from all structures, property lines and road rights-of-way of 110% the height of the wind energy system, including the height of the blade in its vertical position.
4. documentation that the wind energy system will not exceed 55 dB(A) at the property line closest to the wind energy system. (This sound level may be exceeded during short term events such as utility outages and/or severe wind storms.
5. documentation that the wind energy system including towers comply with all construction and electrical codes.
6. documentation that the wind energy system including towers comply with the Michigan Airport Zoning Act, the Michigan Tall Structures Act, and Federal Aviation Administration (FAA) regulations.
7. all wind energy systems shall have automatic, governing, or a feathering system

- to prevent uncontrolled rotation or over-speeding.
- 8. all towers shall have lightening protection.
- 9. minimum vertical blade tip clearance from grade shall be twenty(20) feet for a wind energy system employing a horizontal axis rotor.

Utility Grid Wind Energy Systems are permitted in the A-1 and A-2 Districts by a Special Use Permit. In addition to the requirements for an on-site wind energy system, the applicant must provide the following information:

1. Copies of any written waivers from neighboring property owners
2. A wind site assessment determining the wind speeds affecting the site and the subsequent feasibility of using the site for a wind energy system
3. Copies of the results of modeling and analysis report determining the sound pressure levels.
4. Certification that the applicant has complied with all applicable state and federal regulations.
5. Visual simulations depicting how the completed project will look from viewable angles. The system shall use tubular towers covered in a non-reflective matte finish color. No lettering, company insignia, advertising, or graphics shall be on any part of the tower(s). The project shall be so designed to have a similar appearance throughout.
6. Copy of an environmental impact analysis. The applicant shall have a third party professional conduct an analysis to identify and assess any potential impacts on the natural environment, including historical sites. The analysis shall also address potential electromagnetic interference with existing transmission systems.
7. Copy of an avian and wildlife impact analysis. The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. At a minimum the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area
8. Copy of a shadow flicker analysis. The applicant shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sunset over the course of a year.
9. Copy of a decommissioning plan. The plan shall include the anticipated life of the project, the estimated decommissioning costs net of salvage value in current dollars, the method of ensuring that funds will be available for the decommissioning and restoration, and the anticipated manner in which the project will be decommissioned and the site



restored.

10. Description of a complaint resolution process. The process may use an independent mediator or arbitrator and shall include a time limit for acting on the complaint. The process shall not preclude government from acting on the complaint.
11. Manufacturers' material safety data sheets describing the type and quantity of all materials used in the operation of all equipment including lubricants and coolants.

### **SECTION 16.35 REQUIRED YARD OR LOT AREA**

All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the District in which they are located; however flag lots as defined in Chapter 3 of this Ordinance shall be permitted in the A-1 Exclusive Agriculture District only to allow for the separation of the farmstead from the parent parcel. The maximum size of the farmstead site shall be three (3) acres with a minimum road frontage requirement of two hundred (200) feet. The newly created non-farmstead site shall have a minimum road frontage of one hundred (100) feet on a public road. Private road frontage is not permitted. Other than to permit separation of the farmstead from the parent parcel, flag lots are not permitted in the A-1 Exclusive Agriculture District.

### **SECTION 16.36 BED AND BREAKFAST INNS**

1. The bed and breakfast operation shall be clearly incidental to the principal residence on the site. The bed and breakfast operation shall be confined to the single family dwelling unit which is the principal dwelling on the site. Not more than thirty (30) percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.
2. No more than six (6) bed and breakfast sleeping rooms shall be established in a bed and breakfast inn. However, the Township Board, upon recommendation from the Planning Commission, may limit the number of sleeping rooms based on site or building limitations.
3. The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast inn is in operation.
4. There shall be no separate cooking facilities for the bed and breakfast operation, other than those which serve the principal residence. Food may be served only to those persons who rent a room in the inn. Dining space shall be provided to serve all guests.
5. There shall be at least two (2) exits from each room to the outdoors, with separate means of egress provided from each room.
6. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) adult occupants and their minor children.



7. Each sleeping room shall be equipped with a smoke detector which shall be connected in such a way that all smoke detectors operate alarms simultaneously when triggered by any one detector. A fire escape shall be graphically displayed in each guest room. A fire extinguisher in proper working order shall be placed on every floor at a maximum of seventy-five (75) feet apart.
8. A minimum of one (1) bathroom shall be provided for each two (2) guest rooms on the same floor.
9. Duration of stay of guests shall be limited to fourteen (14) consecutive days.
10. All bed and breakfast inns shall maintain a guest register.
11. One (1) sign on the site and related to the bed and breakfast inn is permitted, the maximum size of which shall be twenty-four (24) square feet. Any sign illumination shall be external to the sign and sign structure.
12. Parking as required in 20.03 1d.

#### **SECTION 16.37 LANDSCAPE AND SNOWPLOWING BUSINESS**

1. No outdoor storage of equipment used in connection with said business.
2. Outdoor storage of materials used in landscaping, such as landscape timber, plant materials, shrubs, trees and mulch are permitted outdoor storage until transported to a job site only.
3. No retail sales of any kind are permitted on the property.
4. No outdoor storage of any material that could negatively affect ground water such as salt.
5. Outdoor advertising shall be in accordance with Chapter 22 of the Zoning Ordinance.
6. No storage of material or yard waste brought from job sites to be on the property.

**CHAPTER 17**

**SITE PLAN AND SKETCH PLAN REVIEW AND APPROVAL  
PROCEDURES**

**SECTION 17.01 PURPOSE**

The purpose of site plan and sketch plan review is to provide for consultation and cooperation between the land developer and the Township in order to accomplish the developer's objectives in harmony with the existing and prospective use and development of adjacent properties. It shall be the further purpose of this section to insure that each proposed development and its components, appearance, and function is in compliance with this Ordinance, other Township ordinances, and State and Federal laws. These purposes apply to development of previously unimproved sites; to the redevelopment, expansion, contraction or alteration of existing sites; and to the alteration or replacement of existing uses.

The site plan and sketch plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans. Through the application of the following provisions, the attainment of the Fillmore Township Master Plan will be assured, and the Township will develop in an orderly fashion.

**SECTION 17.02 WHEN A SITE PLAN IS REQUIRED OR IS NOT REQUIRED.**

A. **Site Plan Not Required.** Submission of a site plan is not required in the following circumstances:

1. Single family residential detached houses and accessory buildings
2. Duplexes and accessory buildings
3. Agricultural accessory buildings when located in agriculturally zoned districts

B. **Site Plan Required.** Unless the project qualifies for sketch plan review, submission of a site plan shall be required for any of the following:

1. Any development or use for which submission of a site plan is required by provisions of this Ordinance;
2. any proposal to construct, move, relocate, convert or structurally alter a building, including accessory buildings. A structural alteration shall be defined as one that changes the location of the exterior walls and/or the area of the building. This requirement shall in no way permit the expansion of a nonconforming structure so as to become more nonconforming or increase the area already in violation of the provisions of this Zoning Ordinance;
3. Any proposal to change, replace with a different use, add or recommence a use on an existing site, including expansions in area, volume or intensity of an

existing use unless otherwise permitted by this ordinance;

4. All condominium developments (including “site condominium” developments),
5. Any proposal to build, expand or decrease an off-street parking lot; or to resurface an off-street parking lot when construction includes resurfacing, drainage alterations, or addition or replacement of base or sub-grade,
6. Any other change in use or development that could affect compliance with the standards set forth in this Ordinance,
7. Wireless communication facilities.
8. Wind generating towers

**C. Site Plan Review Not Required.** Uses with approved site plans or existing buildings which propose a change constituting ten percent (10%) or less of the building floor area or ten percent (10%) or less of the required parking spaces may be reviewed, approved and administrated by the Zoning Administrator. Such review and approval by the Zoning Administrator shall be duly reported to the Planning Commission and the Township Board at their next regularly scheduled meetings.

**D. Sketch Plan Review.** When, in the opinion of the Zoning Administrator, a proposed new development, expansion of an existing development or remodeling project requires a minimum amount of information to insure compliance with the relevant standards of this Article, an applicant may submit a proposed sketch plan for review by the Zoning Administrator. All information on the sketch plan must be **accurate**, including but not limited to:

1. name and address of applicant;
2. legal description of the property;
3. description of the project;
4. size and area of the site;
5. current zoning designation;
6. scale of not less than one inch = 50’;
7. drainage showing that all storm water will be managed on site
8. number and dimensions of off-street parking;
9. location and dimension of any proposed structure(s);
10. all setbacks for any proposed structure(s);
11. a landscaping plan
12. location of underground wiring and utilities

The Zoning Administrator may approve the sketch plan, deny the sketch plan, or approve the sketch plan with conditions or may seek the opinion of the Planning Commission, the Township Engineer, and/or the Township Planner before making a decision. The Zoning Administrator shall take action on the sketch plan within thirty (30) days of its receipt. The Zoning

Administrator shall maintain an accurate record of all proceedings, including the reasons for any action taken. The Zoning Administrator shall report on all sketch plan applications and decisions at the Planning Commission meeting and the Township Board meeting following any action taken.

**SECTION 17.03 APPLICATION PROCESS FOR SITE PLAN REVIEW**

Application for site plan review shall be made to the Township by filing of not less than ten (10) copies of an application form and detailed site plan with the office of the Township Zoning Administrator at least thirty (30) calendar days in advance of the regularly scheduled Planning Commission meeting at which the plan is to be first considered. Fees are required to be paid in accordance with the fee schedule in effect as established by the Township at the time the application is made.

The Township Zoning Administrator shall examine the site plan to determine that it contains all the necessary information. If it is incomplete, it shall be returned to the applicant. If it is complete and appears to comply with the requirements of the Zoning Ordinance, it shall be processed in accordance with this Ordinance.

A. **Application Form.** Each submittal for site plan review shall be accompanied by a completed application form furnished by the Township and shall include the following information:

1. The applicant's name, address, and phone number,
2. The address and parcel number of the property,
3. A signed statement that the applicant is the owner of the property or has a legal financial interest in the property (i.e. purchase agreement),
4. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s),
5. Project description, including the total project title, number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, and other pertinent information,
6. The gross and net acreage of all lots or parcels in the project,
7. Existing zoning classification, land uses, and structures on the subject parcel,
8. Name and address of developer (if different from the applicant), engineer, architect and/or land surveyor,

9. Project completion schedule/development phases, and
10. If in the opinion of the Township such information is necessary, written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.

**B. Site Plan Information.** Each submittal for site plan review shall be accompanied by a detailed site plan which shall consist of an accurate drawing, showing the entire site and all land within 300 feet of the site. The scale of the site plan shall be not less than 1 inch = 50 feet if the subject property is less than 3 acres, and 1 inch = 100 feet if three acres or more. If multiple sheets are used, each shall be labeled and the preparer identified. If there is an accurate site plan for the lot on file with the Township, the Township Zoning Administrator may waive the requirement for a site plan. The following information on the sketch plan shall be included:

1. Name of development and general location sketch;
2. Name, address and phone number of owner(s), developer, engineer, architect and/or designer;
3. North arrow, scale, and date of original drawing and revisions;
4. The seal of one of the following professionals registered in the State of Michigan: Registered Architect, Registered Civil Engineer, Registered Landscape Architect, Registered Land Surveyor. The architectural plans of the buildings shall be prepared by and bear the seal of a Registered Architect. A site plan for an alteration or addition to an existing structure may be prepared by the builder or contractor;
5. A legal description and address of the property in question;
6. The area of the site in square feet and acres excluding all existing and proposed public rights-of-way;
7. The dimensions of all lots and subject properties, showing the relationship of the subject property to abutting properties, including lots across rights-of-way and easements. The boundaries of the subject property shall be clearly indicated on the site plan, differentiated from other contiguous property. If the parcel is a part of a larger parcel, boundaries of total land holding shall be indicated;
8. Existing topographic elevations at two foot intervals, including ground elevations of all existing buildings, drives and/or parking lots, and any adjacent unusual surface conditions. Indicate direction of drainage flow into the Tulip City Drain system;

9. The location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains, and wetlands;
10. Any significant site amenities and unique features;
11. Existing land uses and zoning classification of the subject parcels and adjacent parcels;
12. All required minimum setbacks from the existing or proposed right-of-way and from adjacent lots;
13. The location and dimensions (length, width, height) of all existing and proposed structures on the subject property and all existing structures within three hundred (300) feet of the subject property;
14. The location and width of all existing public roads, rights-of-way or private easements of record, abutting streets, alleys, and driveway locations to abutting streets;
15. location and dimensions of any required pedestrian sidewalks;
16. With non-residential proposals, the number of offices, and the number of employees;
17. Proposed parking lots including layout and typical dimensions of parking spaces, number of spaces provided (including how computed per ordinance requirements) and type of surfacing;
18. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development;
19. Proposed traffic and pedestrian circulation patterns, both within the site and on the public streets adjacent to the site as well as proposed loading and unloading areas, barrier free access, any fire lanes, and carports;
20. Proposed finish grade of buildings, driveways, walkways, and parking lots;
21. Proposed type of building materials, roof design, and projections;
22. Proposed water service;
23. Proposed sanitary sewer facilities and the location of all existing utilities, easements and the general placement of lines, manholes, tap-ins, pump stations,

and lift stations;

24. Proposed storm water management plan including design of sewers, outlets (enclosed or open ditches), and retention or detention ponds. Sufficient data regarding site run-off estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanency of drainage detention and/or retention as well as the impact on local surface and groundwater. The point of discharge for all drains and pipes should be specified on the site plan. All storm water drainage must be managed on site;
25. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone, and steam;
26. Soil erosion and sedimentation control measures;
27. Detailed landscaping plan indicating location, types and sizes of material;
28. The dimensions and location of all signs, both wall signs and free-standing signs and of lighting structures and shielding;
29. Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities;
30. Easements for proposed public rights-of-way, utilities, access, shared access, and drainage;
31. Notation of any variances which have been or must be secured;
32. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup;
33. For developments that are of a scale to warrant phased development, the phasing of construction shall be indicated.
34. Approval from the local fire department, saying that the site plan provides sufficient access to buildings and structures by emergency vehicles.

**SECTION 17.04 CRITERIA FOR GRANTING SITE PLAN APPROVAL**

Each site plan shall conform to all applicable provisions of this Ordinance. The following criteria shall be used by the Township Board as a basis upon which site plans will be reviewed and approved, after receiving a recommendation from the Township Planning Commission. The Township Planning Commission and the Township Board shall adhere to sound planning principles, yet may allow for design flexibility in the administration of the following standards:

- A. All elements of the site shall be harmoniously and efficiently designed in relation to

the topography, size, and type of land, and the character of the adjacent properties and the proposed use. The site shall be developed so as not to impede the reasonable and orderly development or improvement of surrounding properties for uses permitted on such property.

- B. The site plan shall comply with the zoning district requirements for minimum floor space, height of building, lot size, open space, density and all other requirements as set forth in this Ordinance.
- C. The existing natural landscape shall be preserved in its natural state as much as possible, by minimizing tree and soil removal and by topographic modifications that result in maximum harmony with adjacent properties.
- D. The site plan shall provide reasonable visual and sound privacy. Fences, walls, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and the safety and privacy of occupants and users. Where landscaping is provided, there must be provision for maintaining all plantings through a regular program of fertilizing, irrigating, pruning, mowing and replacing all dead and diseased materials.
- E. Special attention shall be given to proper site drainage. Appropriate measures shall be taken to insure that the removal of surface waters will not adversely affect adjacent properties. All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- F. There shall be a pedestrian circulation system that is insulated as completely as possible from the vehicular circulation system. In order to insure public safety, pedestrian underpasses or overpasses may be required in the vicinity of schools, playgrounds, local shopping facilities, and other uses that generate considerable amounts of pedestrian movement.
- G. All streets shall be developed in accordance with the Allegan County Road Commission design specifications.
- H. All off-street parking, loading and unloading areas and outside storage areas, including areas for storage of trash, that face or are visible from adjacent residential districts or public thoroughfares, shall be screened by walls, fencing or landscaping of effective height as required within the landscape provisions of this Ordinance. Building entrances designed for vehicular access shall not access any building through the front yard of a development.
- I. Adequate services and utilities including sanitary sewers, and improvements shall be available or provided, located and constructed with sufficient capacity and durability to properly serve the development.
- J. Any use permitted in any zoning district must comply with all applicable requirements



of state, local, and federal statutes including health and pollution laws and regulations with respect to noise, smoke and particulate matter, vibration, noxious and odorous matter, glare and heat, fire and explosive hazards, gases, electromagnetic radiation and drifting and airborne matter, toxic and hazardous materials, erosion control, floodplains, wetlands, and requirements of the State Fire Marshal. Site plan approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

**SECTION 17.05 REVIEW AND APPROVAL.** Site plans shall be reviewed in accordance with the following procedures:

- A. **Department Review.** The Township may secure comments from the Building Inspector, Allegan County Road Commission, Sheriff's Department, Fire Chief and the Township's Consultant Engineer and/or Planner, and forward all comments to the Planning Commission for its review. The Planning Commission shall review the plans and may solicit further comments from an Engineer, Planning Consultant and other agencies, groups or persons, as appropriate. The Planning Commission shall transmit its recommendation to the Township Board within ninety (90) days of receipt of the site plan.
- B. **Site Plan Approval.** The Township Board is hereby authorized to review and approve, with or without conditions or to review and deny approval, all site plans submitted under this Ordinance. Approval of the site plan is based on standards contained in this Ordinance and other statutorily authorized and properly adopted planning documents of Fillmore Township. When the Township Board approves a site plan with conditions from the applicant, the Township Zoning Administrator shall require a revised site plan with a revision date, indicating said conditions on the site plan.
- C. **Record of Action.** Each action taken with reference to site plan review and approval shall be duly recorded in the minutes of the Fillmore Township Board. A final copy of the approved site plan shall be so marked and placed on file with the Township Clerk's office.
- D. **Final Site Plan.** When a site plan approval is required, no building permit shall be issued until three copies of a final site plan, which includes all conditions of approval, a revision date and notation of all variances has been signed by the chairman of the Planning Commission, the Township Zoning Administrator, the Township Supervisor or their designees. Prior to issuance of a permit, one copy of the final signed plan shall be filed with each of the following: Township Clerk, Building Inspector or Zoning Administrator and the Applicant.

**SECTION 17.06 ISSUANCE OF BUILDING PERMIT AFTER SITE PLAN APPROVAL.**

Complete construction plans including component phases, shall be submitted for review by the Building Inspector and, as applicable, the Township Engineer. Upon review and finding that the

construction plans meet with the requirements of site plan approval and other applicable ordinances of the Township, the Building Inspector shall issue a building permit for said construction.

Site plan approval shall be valid for one year from the date of approval. If an applicant does not obtain a building permit within one year after site plan approval, the site plan approval expires and is of no force or effect, unless extended by a vote of the Township Board. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner and/or applicant.

**SECTION 17.07 MODIFICATION OF AN APPROVED SITE PLAN**

Once site plan approval has been granted by the Township Board, changes to the approved site plan shall require a re-submission and payment of the required application fee, unless otherwise provided in this Chapter.

**SECTION 17.08 CONFORMITY TO APPROVED SITE PLAN REQUIRED**

Following approval of a site plan by the Township Board, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Upon completion of the installation of required improvements as shown on the approved site plan, the property owner/applicant shall submit to the Township Zoning Administrator two copies of an "as built" site plan, certified by an engineer or architect, at least one week prior to the anticipated occupancy of any building. A Certificate of Occupancy shall be withheld by the Building Official in any case where the site plan and major conditions as approved by the Township Board have not been complied with. Any minor variations, as defined in this Chapter, may be approved by the Building Official, and shall be reported within 30 days to the Township Board after the issuance of Certificate of Occupancy.

## CHAPTER 18

### SPECIAL USE PERMIT PROCEDURES

#### SECTION 18.01 SPECIAL USE PERMIT PROCEDURES

A. **Application.** The application for special use review shall be made on the forms and according to the guidelines provided by the Zoning Administrator. Each application shall be accompanied by the following:

1. A site plan which shall include all the information required by Chapter 17 of this Ordinance.
2. A letter describing the proposed use of the property.
3. Other information which the Planning Commission and the Township Board may reasonably deem necessary for adequate review.

The application shall be submitted by the owner having an interest in land for which the special use approval is sought, or by the owner's designated agent. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

B. **Notice.** Upon receipt of a complete application, site plan, and attachments, the Township Planning Commission shall send a notice of the public hearing at which the special use application will be considered. The notice shall be given not less than fifteen (15) days prior to the date of the meeting. The notice shall be published in a newspaper that circulates in the Township; and such notice shall be sent by mail to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to occupants of all structures within three hundred (300) feet of the property boundary regardless if the property is located in Fillmore Township. The notice shall contain:

1. A description of the nature of the special use request.
2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

C. **Planning Commission Recommendation.** The Planning Commission shall review the application for the special use permit, together with any findings and reports and

recommendations of Township consultants and other reviewing agencies. The Planning Commission shall make a recommendation to the Township Board for approval, approval with conditions, or denial of the special use request.

**D. Standards for Granting Special Use Approval.** Upon receipt of the Planning Commission's recommendation the Township Board shall base its action on the following standards:

1. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses and zoning of land.
2. The proposed use shall promote the use of land in a socially and economically desirable manner. The proposed use shall not adversely impact the social and economic well-being of those who will use the proposed land use or activity; residents, businesses, and landowners immediately adjacent; or the Township as a whole.
3. The proposed special use shall be compatible with and in accordance with the general principles and future land use configuration of the Township Land Use Plan and shall promote the intent and purpose of this Ordinance.
4. The proposed use shall be designed, constructed, operated and maintained so as to assure long-term compatibility with surrounding land uses. Consideration shall be given to:
  - a. The size, placement, and materials of construction of the proposed use in relation to surrounding uses.
  - b. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
  - c. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping.
  - d. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
  - e. The hours of operation of the proposed use. Approval of a special use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
5. The location of the proposed special exception use within the zoning district shall minimize the impact of the traffic generated by the proposed use.

Consideration shall be given to the following:

- a. Proximity and access to major thoroughfares.
  - b. Estimated traffic generated by the proposed use.
  - c. Proximity and relation to intersections.
  - d. Location of and access to off-street parking.
  - e. Required vehicular turning movements.
  - f. Provision for pedestrian traffic.
6. The proposed special use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
  7. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
  8. The proposed use shall be compatible with the natural environment.

**E. Recording of Township Board Action.** The Township Board shall have sixty (60) days to act on the application following the recommendation from the Township Planning Commission. Each action taken with reference to a special use proposal shall be duly recorded in the minutes of the Township Board. The minutes shall record the findings of fact relative to each special use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records of proceedings shall be kept on file and made available to the public.

**F. Effective Duration of Special Use Approval.** Special use approvals shall run with the land but may be issued for specified periods based upon the impacts of the proposed use to surrounding property.

**G. Amendments to Special Uses.** When an application is received to expand or change the use, traffic pattern, or other elements of a special use, the application shall be subject to the same procedures followed for an original special approval of land use. The denial of an application to amend an existing special use permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) special use permit approval.

**H. Revocation of Special Use Approval.** Approval of a special use permit and site plan may be revoked by the Township Board if construction is not in conformance with the approved plans. In such a case, the Zoning Administrator shall place the special use on the agenda of the Township Board for consideration, and give written notice to the applicant at least five (5) days prior to the meeting. The applicant shall be given the opportunity to present information to the Township Board and answer questions. The Township Board may revoke approval if it finds that a violation exists and has not been

remedied prior to the hearing.

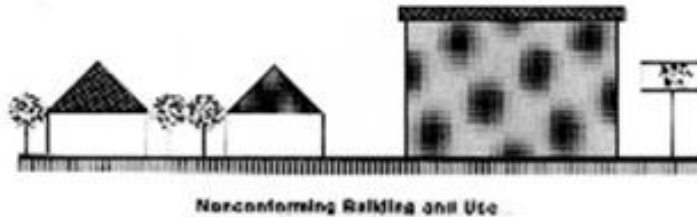
**CHAPTER 19**

**NONCONFORMING USES AND STRUCTURES**

**SECTION 19.01 INTENT**

Nonconformities are uses, structures, buildings, or lots which do not conform to one or more provisions or requirements of this Ordinance or a subsequent amendment, but which were lawfully established prior to the time of adoption of the ordinance or amendment. Such nonconformities are declared by this Ordinance to be incompatible with the current or intended use of land in the district in which they are located.

Accordingly, the purpose of this Section is to establish regulations that govern the completion, restoration, reconstruction, extension, and/or substitution of nonconformities, and to specify the circumstances and conditions under which nonconformities shall be permitted to continue.



**SECTION 19.02 NONCONFORMING USES OF LAND**

A nonconforming use of land occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located.

Where, on the effective date of this Ordinance, or the effective date of an amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Use.** No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- B. **Moving.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
- C. **Discontinuation of Use.** If such nonconforming use of land ceases for any reason for a period of more than twelve consecutive (12) months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. In applying this Section to seasonal uses, the time during the off-season shall not be counted, provided that the off-season time for such uses is reported to the Township.

### **SECTION 19.03 CONTINUANCE OF NONCONFORMING USE OR STRUCTURE**

A nonconforming structure exists when the height, size, minimum floor area, or lot coverage of a structure or the relationship between an existing building and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. **Expansion of Structure.** Structures, or uses nonconforming by reason of height, yards, area, or parking provisions may be extended, altered or modernized provided that no additional encroachment of the height, yard, area or parking provisions are occasioned thereby.
- B. **Moving.** Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is relocated after it is moved.

### **SECTION 19.04 ALTERATIONS, REPAIRS AND MAINTENANCE**

- A. **Protecting Public Safety.** Repairs or maintenance deemed necessary by the Building Inspector to keep a nonconforming building structurally safe and sound are permitted. However, if a nonconforming structure or a structure containing a nonconforming use becomes physically unsafe and/or unlawful due to lack of maintenance and repairs and is declared as such by the Building Inspector, it shall not thereafter be restored, repaired, or rebuilt except in full conformity with the regulations in the district in which it is located.
- B. **Damage by Fire or other Natural Disaster.** Any nonconforming structure or building, but not a nonconforming use, that is damaged by fire, flood, wind or other



natural means may be restored, and the conforming use or occupancy of such building or structure, or part thereof, which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year after the time of such damage or event and is diligently prosecuted to completion. A one time extension of not more than one year may be granted upon review and approval of the Planning Commission. The granting of an extension will be based upon the applicant's capability to complete the project within the allowed time frame.

- C. **Enlargement & Extension Beyond Present Building Confines.** No nonconforming use of land, except residential dwellings, shall hereafter be enlarged or extended beyond its present building confines. A nonconforming use of land may however, be expanded or extended within its present building confines. Furthermore, a residential nonconforming use may be expanded or extended up to twenty-five (25) percent of the ground floor area of the existing residence

#### **SECTION 19.05 TOWNSHIP REMOVAL OF NONCONFORMING USES AND STRUCTURES.**

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township, pursuant to Public Act 110 of 2006 as amended, may acquire by purchase, condemnation or otherwise, private property for the purpose of removal of the nonconformity.

#### **SECTION 19.06 CHANGE IN 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 except in conformity with the provisions of this Ordinance.

#### **19.07 ENCUMBERING LAND REQUIRED TO SATISFY REGULATIONS**

No portion of a lot necessary for compliance with the provisions of this Ordinance in regard to area, height, bulk, and placement regulations in connection with an existing or proposed building, structure, or use, shall through sale or otherwise again be used as a part of the lot required in connection with any other building or structure or use.

#### **SECTION 19.08 UNLAWFUL NONCONFORMITIES**

No nonconformity shall be permitted to continue in existence if it was unlawful at the time it was established.

#### **SECTION 19.09 RECORDING OF NONCONFORMING USES AND STRUCTURES**

The Township shall be responsible for maintaining records of nonconforming uses and structures as accurate as is feasible, and for determining legal nonconforming uses and structures in

existence on the effective date of this Ordinance. Failure on the part of a property owner to provide the Township with necessary information to determine legal nonconforming status may result in denial of required or requested permits.

**SECTION 19.10 PLANS ALREADY FILED**

Where plans for a building have been filed which would conform with the zoning regulations then effective, but not with subsequently enacted regulations, and where a building permit for such building has been issued, such building may be erected provided construction is begun within three (3) months and diligently pursued to completion.

## CHAPTER 20

### PARKING AND LOADING STANDARDS

#### SECTION 20.01 OFF-STREET PARKING REQUIRED.

In all zoning districts, off-street facilities for the storage and parking of self-propelled motor vehicles for the use of occupants, employees and patrons of all buildings hereafter erected, altered, or extended after the effective date of this Ordinance, shall be provided as herein prescribed.

Whenever the use of a building, structure, or lot is changed, parking facilities shall be provided as required by this Ordinance for the new uses. If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for such increase in intensity of use.

#### SECTION 20.02 GENERAL REQUIREMENTS.

In all zoning districts, off-street vehicle parking facilities shall be provided and maintained as herein prescribed:

- A. **Off-Street Parking Spaces for One and Two-Family Dwellings.** Off-street parking facilities required for one and two-family dwellings shall consist of a parking strip, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. No parking shall be permitted in the required front yard except on a driveway which leads to an approved parking space.
- B. **Off-Street Parking for Multiple-Family and Non-Residential Uses.** Off-street parking facilities required for multiple-family and non-residential uses shall be located on the same lot or parcel as the building or use they are intended to serve, or within three hundred (300) feet of such building or use. Ownership or a use easement, duly recorded with the Township, shall be shown for all land areas intended for use as parking by the applicant.
- C. **Existing Parking Facilities.** An area designated as required off-street parking facilities in existence at the effective date of this Ordinance shall not be reduced below the requirements for the use or building served as set forth in this Ordinance.
- D. **Joint Use of Facilities.** Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the individual requirements at the same time of day. The maximum joint requirements will be less than the total individual requirements if the peak needs for the uses occur at distinctly different times of the day from the peaks of

the other uses.

- E. **Non-overlapping Operating Hours.** In the instance of land uses requiring off-street parking spaces where operating hours of the uses do not overlap, the Planning Commission may grant an exception to the individual provisions of Section 20.03.
- F. **Restriction of Parking on Private Property.** It shall be unlawful to park or store any motor vehicle on private property without the express written consent of the owner, holder, occupant, lessee, agent, or trustee of said private property.
- G. **Duration.** Except when land is used as permitted storage space in direct connection with a business, a twenty-four (24) hour time limit for parking in non-residential off-street parking areas shall prevail, provided that it shall be unlawful to permit the storage of wrecked, inoperable, or junked vehicles on any parking area in any district.
- H. **Use of Loading Space.** Required loading spaces shall not be counted or used for required parking.
- I. **Fractional Requirements.** When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one (1) parking space.
- J. **Uses Not Specified.** For those uses not specifically mentioned under Section 20.03, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers to be similar in type.

**SECTION 20.03 TABLE OF OFF-STREET PARKING REQUIREMENTS.**

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Spaces Per Unit of Measure
<b>1. Residential</b>	
a. Residential, One-Family and Two-Family Dwelling, including mobile homes.	Two (2) for each dwelling unit.
b. Residential, Multiple-Family	One (1) for each efficiency unit, one and one-half (1-1/2) for each one (1) bedroom unit, two (2) for each two (2) bedroom unit, and three (3) for three (3) or more bedroom units.

- c. Residential, Multiple-Family Senior Citizen Housing  
One (1) for each dwelling unit plus one (1) for each employee. If units revert to general occupancy, then Section 20.03(1)b above applies.
- d. Boarding, Rooming, Lodging  
One (1) parking space for each, and/or occupancy unit plus one (1), parking space for each employee on the largest employment shift.

**2. Institutional**

- a. Churches, Temples or Synagogues  
One (1) for each three (3) seats, based on maximum seating capacity in the main unit of worship.
- b. Hospitals  
One (1) for each patient bed, plus one (1) additional space for every worker employed during the eight (8) hours shift in which the greatest number of employees are on duty.
- c. Foster Care Group Homes, Homes for the Aged, Convalescent Homes and Children Homes  
One (1) for each three (3) beds, plus one (1) for each employee on the largest employment shift.
- d. Elementary and Junior High Schools  
One (1) for each one (1) teacher, employee or administrator, plus one (1) per classroom for visitor use in addition to the requirements for the auditorium, if provided.
- e. Senior High Schools  
One (1) for each teacher, employee or administrator, one (1) for each ten (10) students, and one (1) per classroom for visitor use, in addition to the requirements for the auditorium and stadium, if provided.
- f. Private Clubs or Lodge Halls  
One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
- g. Fraternity or sorority  
One (1) for each five (5) permitted active members, plus one (1) per employee on the largest employment shift.

- h. Boat Launch, Private or Public  
Twenty-four (24) combined vehicle and boat trailer spaces for each one (1) individual boat ramp.
- i. Theaters and Auditoriums  
One (1) for each three (3) seats plus one (1) for each two (2) employees on the largest employment shift.
- j. Libraries, Museums, Cultural Centers or Similar Facilities  
One (1) for each four hundred (400) square feet of gross floor area.
- k. Nursery, Day Care, or Child Care Centers  
One for each three hundred fifty (350) square feet of usable floor space.

**3. Recreational**

For each use below, additional spaces shall also be provided as required for restaurants, bars, clubhouses, pro shops, or other affiliated facilities.

- a. Archery Facilities  
One (1) for each two targets.
- b. Softball, Baseball Fields  
Twenty-five (25) for each playing field.
- c. Bowling Establishments  
Six (6) for each lane.
- d. Health Clubs  
One (1) for each two (2) persons who , may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.
- e. Football and Soccer Fields  
Thirty (30) for each field.
- f. Golf Course, Public or Private  
Five (5) for each golf hole, plus one for each employee on the largest employment shift.
- g. Golf Course, Miniature  
Two (2) for each golf hole, plus one (1) for each employee in the largest employment shift.
- h. Golf Driving Range  
One (1) for each tee.
- i. Stadium, Sports Arena, or other large assembly facility  
One (1) for each three (3) seats or six (6) feet of

- similar place of outdoor assembly
- benches, plus one (1) for each employee on the largest employment shift.
- j. Swimming Pools
- One (1) for each four (4) persons who may be legally admitted at one time based on occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.
- k. Tennis Clubs and Court-Type Uses
- One (1) for each one (1) person admitted based on the capacity of the courts, plus (1) for each employee in the largest employment shift.
- l. Billiards, Skate Rinks
- One (1) for each two (2) persons who may be legally admitted at one time based on the occupancy load established by local codes, plus one (1) for each employee on the largest employment shift.

**4. Business and Commercial**

- a. Animal Hospitals
- One (1) for each four hundred (400) square feet of usable floor area, plus one (1) for each employee in the largest employment shift.
- b. Automobile Service Stations
- Two (2) for each lubrication stall, rack or pit; and one (1) for each employee on the largest employment shift.
- For quick oil change facilities, one (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to a service station shall be provided as required by Section 20.05.
- c. Auto Wash
- One (1) for each one (1) employee on the largest employment shift. In addition, stacking spaces for automobiles awaiting entrance to the auto wash shall be provided as required by Section 17.05.
- d. Beauty Parlor or Barber Shop
- Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1-1/2) spaces for each additional chair.
- e. Drive-In Establishments
- One (1) for each thirty (30) square feet of

- usable floor area, with a minimum of twenty-five (25) parking spaces, plus eight (8) stacking spaces for each drive-in or drive-thru transaction station as required by Section 20.05.
- f. Establishments for Sale and Consumption of Beverages, Food or Refreshments One (1) for each fifty (50) square feet of usable floor area.
- g. Furniture and Appliance, feet of Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician or Similar Trade, Shoe Repair and Other Similar Uses One (1) for each eight hundred (800) square usable floor area exclusive of the floor area occupied in processing or manufacturing for which requirements. (see industrial establishments below). One (1) additional space shall be provided for each one (1) person employed therein in the largest employment shift.
- h. Ice Cream Parlors One (1) for each seventy-five (75) square feet of gross floor area, with a minimum of eight (8) spaces.
- i. Laundromats and Coin Operated Dry Cleaners One (1) for each two (2) washing machines.
- j. Mortuary Establishments One (1) for each fifty (50) square feet of assembly room parlor, and slumber room.
- k. Motel, Hotel or Other Commercial Lodging Establishment One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee on the largest shift, plus extra spaces for dining rooms, ballrooms, or meeting rooms as required based upon maximum occupancy load.
- l. Motor Vehicle Sales and Service Establishments, Trailer Sales and Rental, Boat Showrooms One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room, plus one space per employee on the largest employment shift.
- m. Open Air Business One (1) for each six hundred (600) square feet of lot area used in open air business.





Establishments

(1) employee in the largest working shift, or one (1) for every one thousand seven hundred (1,700) square feet of gross floor area, whichever is greater.

**SECTION 20.04 OFF-STREET PARKING FOR PHYSICALLY HANDICAPPED PERSONS.**

Off-street parking facilities as required under this Ordinance shall include, in accordance with the following table and identified by signs, parking spaces which are reserved for physically handicapped persons. Signs shall be located approximately six (6) feet above grade. Each reserved parking space shall be not less than thirteen (13) feet wide. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one (1) foot in twelve (12) feet and a width of not less than four (4) feet shall be provided for wheelchair access. Parking spaces for the physically handicapped shall be located as close as possible to walkways and building entrances. Signs shall be provided when necessary indicating the direction to a barrier-free entranceway into a building.

<b>Total Parking Spaces in Lot</b>	<b><u>Required Number of Handicapped Spaces</u></b>
<u>Up to 25</u>	<u>1</u>
<u>26 to 50</u>	<u>2</u>
<u>51 to 75</u>	<u>3</u>
<u>76 to 100</u>	<u>4</u>
<u>101 to 150</u>	<u>5</u>
<u>151 to 200</u>	<u>6</u>
<u>201 to 300</u>	<u>7</u>
<u>301 to 400</u>	<u>8</u>
<u>401 to 500</u>	<u>9</u>
<u>501 to 1,000</u>	<u>2% of total</u>
<u>over 1,000</u>	<u>20 plus 1 for each 100 spaces over 1,000</u>

**SECTION 20.05 OFF-STREET WAITING AREA AND STACKING SPACES FOR DRIVE-THRU FACILITIES.**

- A. On the same premises with every building, structure or part thereof, erected and occupied for the purpose of serving customers in their automobiles by means of a service window or similar arrangement, such as drive-in banks or cleaning

establishments, where the automobile engine is not turned off, there shall be provided four (4) off-street stacking spaces for each service window or transaction station. Eight (8) off-street stacking shall be provided for each drive-thru transaction station of a restaurant.

- B. Self-service motor vehicle car wash establishments shall provide three (3) off-street stacking spaces for each washing stall. Quick oil change facilities and motor vehicle car wash establishments other than self service, shall provide stacking spaces equal in number to three (3) times the maximum capacity of the motor vehicle wash for automobiles awaiting entrance. "Maximum capacity" shall mean the greatest number possible of automobiles undergoing some phase of washing at the same time, which shall be determined by dividing the length of each wash line by twenty (20) feet. A drying lane fifty (50) feet long shall also be provided at the exit of the washing stalls in order to prevent undue amounts of water from collecting on the public street and thereby creating a traffic hazard.
- C. An off-street waiting space is defined as an area ten (10) feet wide by twenty (20) feet long.

**SECTION 20.06 OFF-STREET PARKING LOT LAYOUT, CONSTRUCTION, AND MAINTENANCE.**

All off-street parking lots shall be laid out, constructed, and maintained in accordance with the following requirements:

- A. **Review and Approval Requirements.** In the event that new off-street parking is proposed as part of a development requiring site plan review, said proposed parking shall be shown on the site plan submitted to the Planning Commission for review in accordance with Chapter 17.01. In the event that proposed off-street parking is not part of a development requiring site plan review, the applicant shall submit a parking plan to the Township Planning Commission for review and approval.

Plans shall be prepared at a scale of not less than fifty (50) feet equal to one (1) inch. Plans shall indicate the location of the proposed parking in relation to other uses on the site and on adjoining sites, the proposed means of ingress and egress, the number and dimensions of parking spaces, and the method of surfacing. Existing and proposed grades, drainage, water mains and sewers, surfacing and base materials, and the proposed parking layout shall also be shown.

Upon completion of construction, the parking lot must be inspected and approved by the Zoning Administrator before a Certificate of Occupancy can be issued for the parking lot and for the building or use the parking is intended to serve.

- B. **Layout Requirements.** Plans for the layout of off-street parking facilities shall be in accordance with the following minimum requirements:

<u>Parking Patterns</u>	<u>Lane Width</u>	<u>Parking Space Width</u>	<u>Parking Space Length</u>	<u>Total width of one tier of stalls and maneuvering lane</u>	<u>Total width of two tiers of stalls and maneuvering lane</u>
<u>0°(Parallel Parking)</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>23 ft.</u>	<u>20 ft. (one way)</u> <u>32 ft. (two way)</u>	<u>28 ft. (one way)</u> <u>40 ft. (two way)</u>
<u>30° to 53°</u>	<u>12 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>32 ft.</u>	<u>52 ft.</u>
<u>54° to 74°</u>	<u>15 ft.</u>	<u>8 ft.</u>	<u>20 ft.</u>	<u>36 ft.</u>	<u>55 ft.</u>
<u>75° to 90°</u>	<u>20 ft.</u>	<u>9 ft.</u>	<u>20 ft.</u>	<u>40 ft.</u>	<u>60 ft.</u>

C. **Access.** All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or alley shall be prohibited.

D. **Ingress and Egress.** Adequate ingress and egress to the parking lot shall be provided by means of clearly defined and limited drives. No entrance or exit from any parking lot in a non-residential district or from a non-residential use shall be nearer than twenty (20) feet to any residentially zoned district.

E. **Paving.** All parking lots shall have a hard surface unless waived by the Township Board.

F. **Bumper Stops.** Bumper stops or curbing shall be provided so as to prevent any vehicle from projecting beyond the parking lot area or bumping any wall or fence or encroaching upon landscaping.

In all cases where parking lots abut public or private sidewalks, continuous concrete curbing or bumper stops, at least six (6) inches high, shall be placed so that a motor vehicle cannot be driven or parked on any part of the sidewalk. In all cases where necessary for the protection of the public and the adjoining properties, streets or sidewalks, curbs as described above, shall be installed.

G. **Striping.** All spaces shall be outlined with three (3) inch stripes of paint, the color of which contrasts with the parking lot surface.

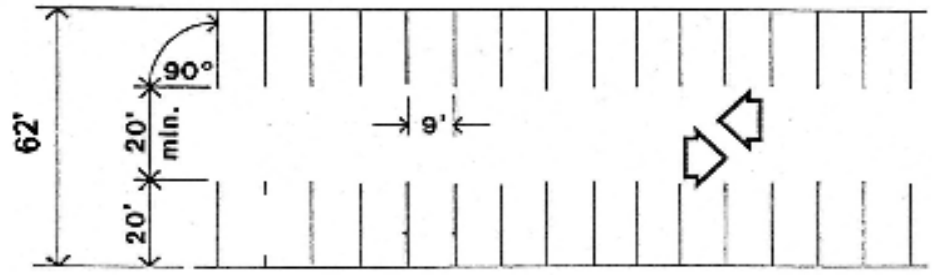
H. **Screening.** All off-street parking areas, except those serving single and two-family residences, shall be screened.

I. **Parking Setbacks.** All parking setbacks as required elsewhere by this Ordinance shall be maintained.

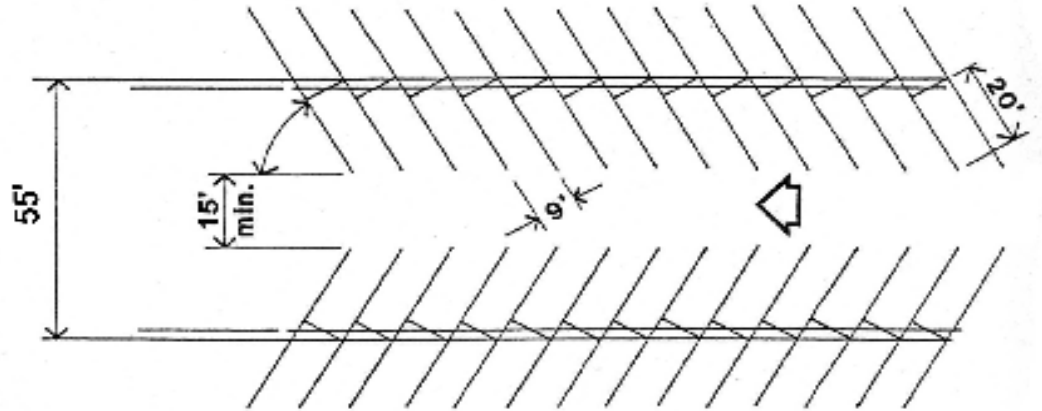
J. **Landscaping.** Where yard setbacks are required, all land between the required walls and the property lines, and other unpaved areas which are designed to break up the expanse of paving, shall be kept free from refuse and debris and shall be landscaped with lawns, deciduous shrubs, evergreen plant material, and ornamental trees. All

- such landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance.
- K. **Lighting.** All lighting used to illuminate any off-street area shall not exceed twenty (20) feet in height above the parking surface grade and shall be directed or shielded so as not to shine onto any adjacent properties or public right-of-ways.
- L. **Signs.** Accessory directional signs shall be permitted in parking areas in accordance to Chapter 15.
- M. **Buildings.** No building or structure shall be permitted on an off-street parking lot, except for a maintenance building or attendant shelter, which shall not be more than fifty (50) square feet in area and not more than fifteen (15) feet in height.
- N. **Additional Requirements.** In addition to the above requirements, parking areas shall comply with additional requirements or conditions which may be deemed as necessary by the Planning Commission for the protections of abutting properties in a residential district.
- O. **Delay in Construction.** In instances where the Zoning Board of Appeals determines that weather conditions prohibit parking lot construction, the construction may be temporarily waived, pending suitable weather, but the Zoning Board of Appeals shall require a cash or surety bond in the anticipated amount of the parking lot construction costs.

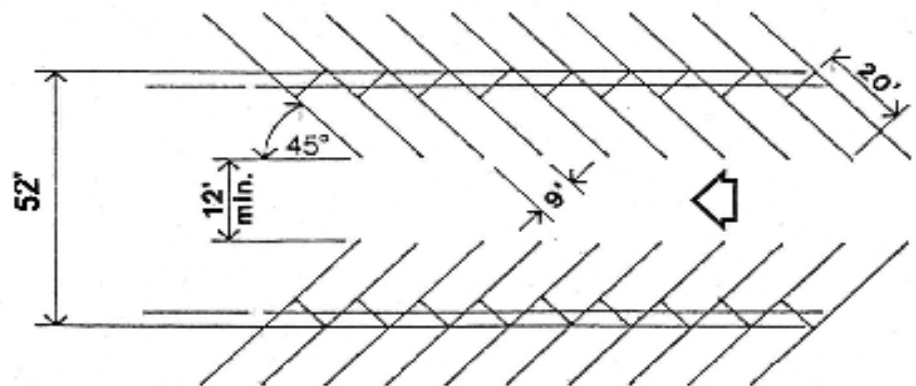
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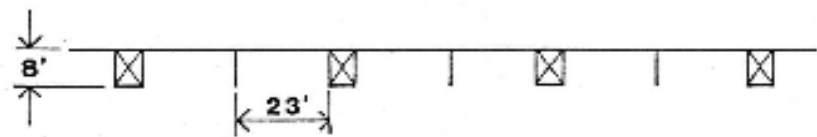
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parallel



## PARKING LAYOUTS

**SECTION 20.07 OFF-STREET LOADING SPACE REQUIREMENTS.**

On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, including department stores, wholesale stores, markets, hotels, hospitals, mortuaries, laundries, and dry cleaning establishments, there shall be provided and maintained on the lot, adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way and vehicular circulation on the site. Such spaces shall be provided as follows:

Gross Floor Area (In Square Feet)	Loading and Unloading Spaces	
	10'x 25' space	10'x 50' space
0 - 1,999	NA	NA
2,000 - 4,999	1	NA
5,000 - 19,999	NA	1
20,000 - 49,999	NA	2
50,000 - 79,999	NA	3
80,000 - 99,999	NA	4
100,000 - 149,999	NA	5
150,000 and over	NA	5*

\*One additional space for each fifty thousand (50,000) square feet of floor area in excess of one hundred fifty thousand (150,000) square feet.

- A. All loading spaces shall be located in the non-required rear yard and meet all minimum yard setback requirements for the district in which it is located in accordance with this Ordinance.
- B. Loading space areas shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface.
- C. All loading spaces shall have a minimum of fourteen (14) foot high clearance.
- D. Loading areas shall not utilize any required area for maneuvering to parking spaces or block general vehicular circulation.
- E. No loading space shall be located closer than one hundred (100) feet from any residentially zoned district unless located within a completely enclosed building or enclosed on all sides facing a residential zoning district by a solid masonry wall not less than six (6) feet in height.

- F. Central loading facilities may be substituted for individual loading spaces serving businesses on separate lots provided that all of the following conditions are fulfilled:
1. Each business served shall have direct access to the central loading area without crossing streets or alleys.
  2. Total loading space provided shall meet the minimum requirements specified herein, computed on the basis of total floor area of all businesses served by the central loading space.
  3. No building served shall be more than 500 feet from the central loading area.
- G. The storage of merchandise, sale of motor vehicles, storage of inoperable vehicles, or repair of vehicles is prohibited in required loading space.



## **CHAPTER 21**

### **PLANNED UNIT DEVELOPMENT AND OPEN SPACE COMMUNITIES**

#### **SECTION 21.01 OBJECTIVES FOR PLANNED UNIT DEVELOPMENTS**

It shall be the policy of Fillmore Township to promote progressive development of land and construction by encouraging planned unit development to achieve:

- A. A maximum choice of living environments by allowing a variety of housing and building types and permitting and increased density per acre and lot reduction in dimensions, yards, building setbacks, and area requirements.
- B. A more useful pattern of open space and recreation areas and, if permitted as part of the development, more conveniences in the location of accessory commercial uses and services.
- C. A development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation, and prevents the disruption of natural features.
- D. A more efficient pattern of land use than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets.
- E. A development pattern in harmony with the land use density, transportation facilities, and community facilities objectives of the Township Land Use Plan.

#### **SECTION 21.02 PROVISIONS GOVERNING PLANNED UNIT DEVELOPMENTS**

Because of the unique characteristics of planned unit developments, special provisions governing the development of land are required. Whenever there is a conflict between the provisions of this chapter and those of other chapters of this ordinance, the provisions of this chapter shall prevail. Subjects not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Ordinance.

#### **SECTION 21.03 APPLICATION AND PROCEDURE**

Upon approval by the Planning Commission and the Township Board, a planned unit development district may be applied to any existing residential or commercial district. Upon approval of a final development plan, the Official Zoning Map shall be annotated for the land area involved so that the district name includes the notation "PUD". Planned unit development districts shall be approved by the Planning Commission and the Township Board in the manner provided in Sections 21.16-21.30.

#### **SECTION 21.04 USES PERMITTED**

Compatible residential, commercial, and public uses may be combined in PUD districts provided that the proposed location of the commercial uses will not adversely affect adjacent property, and/or the public health, safety, and general welfare. Lot area and other yard requirements of the residential districts established in this Ordinance shall apply except as modified in Sections 21.10 and 21.12.

The amount of land devoted to commercial use in a residential-commercial development shall be determined by the Planning Commission and approved by the Township Board.

#### **SECTION 21.05 MINIMUM IMPACT AREA**

The gross area of a tract of land to be developed in a planned unit development district shall be a minimum of twenty (20) acres, provided, however, that smaller parcels may be considered on the basis of their potential to satisfy the objectives of this Chapter as stated in Section 21.01.

#### **SECTION 21.06 PROJECT OWNERSHIP**

The project land may be owned, leased, or controlled either by a single person or corporation, or by a group of individuals or corporations. Such ownership may be by a public or private corporation.

#### **SECTION 21.07 COMMON OPEN SPACE**

A minimum of twenty (20) percent of the land developed in any planned unit development project shall be reserved for common open space and recreational facilities for the residents or users of the area being developed. The open space shall be disposed of as required in Section 21.08 of this Ordinance.

#### **SECTION 21.08 DISPOSTION OF OPEN SPACE**

The required amount of common open space land reserved under a planned unit development shall either be held in corporate ownership by owners of the project area for the use of each owner who buys property within the development or be dedicated to the Township and retained as common open space for parks, recreations, and related uses. All land dedicated to the Township must meet the Planning Commission's requirements as to size, shape, and location. Public utility and similar easements and rights-of-way for water courses and other similar channels are not acceptable for common open space dedication to the Township unless such land or right-of-way is usable as a trail or other similar purpose and approved by the Planning Commission.

The responsibility for the maintenance of all open spaces shall be specified by the developer before approval of the final development plan.

#### **SECTION 21.09 UTILITY REQUIREMENTS**

Underground utilities, including telephone and electrical systems, are required within the limits

of all planned unit developments. Appurtenances to these systems which can be effectively screened may be excepted from this requirement if the Planning Commission finds that such exemption will not violate the intent or character of the proposed planned unit development.

#### **SECTION 21.10 MINIMUM LOT SIZES**

- A. Lot area per dwelling unit may be reduced by not more than forty (40) percent of the minimum lot area required. A planned unit development need not conform to the density requirements of this Ordinance. A diversification of lot sizes is encouraged.
- B. Lot widths may be varied to allow for a variety of structural designs. It is also recommended that setbacks be varied.

#### **SECTION 21.11 LOTS TO ABUT UPON COMMON SPACE**

Every property developed under the planned unit development approach should be designed to abut upon common open space or similar areas. A clustering of dwellings is encouraged. In areas where town houses are used, there shall be no more than eight (8) town house units in any continuous group.

#### **SECTION 21.12 HEIGHT REQUIREMENTS**

For each foot of building height over the maximum height regulations, the distance between such buildings and the side and rear property lines of the planned unit development project area shall be increased by a one (1) foot addition to the side and rear yard required in the districts.

#### **SECTION 21.13 PARKING**

Off-street parking, loading, and service areas shall be provided in accordance with this Ordinance. However, off-street parking and loading areas shall not be permitted within fifteen (15) feet of any residential use.

#### **SECTION 21.14 PERIMETER YARDS**

Notwithstanding the provisions of this Chapter, every lot abutting the perimeter of the planned unit development district shall maintain all yard requirements for the applicable conventional zoning district.

#### **SECTION 21.15 ARRANGEMENT OF COMMERCIAL USES**

When planned unit development districts include commercial uses, commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares. Planting screens or fences shall be provided on the perimeter of the commercial areas abutting residential areas.

The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulations, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding noncommercial areas.

All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner as specified by the Planning Commission.

#### **SECTION 21.16 PROCEDURE FOR APPROVAL OF PUD DISTRICT**

Planned unit development districts shall be approved in accordance with the procedures in Sections 21.17 – 21.30.

#### **SECTION 21.17 PRE-APPLICATION MEETING**

The developer shall meet with the Planning Commission prior to the submission of the preliminary development plan. The purpose of this meeting is to discuss early and informally the purpose and effect of this Ordinance and the criteria and standards contained herein, and to familiarize the developer with the land use plan and transportation plan.

#### **SECTION 21.18 CONTENTS OF APPLICATION FOR APPROVAL OF PRELIMINARY DEVELOPMENT PLAN**

An application for preliminary planned unit development shall be filed with the Township Clerk by at least one owner or lessee of property for which the planned unit development is proposed. At a minimum, the application shall contain the following information filed in triplicate:

- A. Name, address, and phone number of applicant.
- B. Name, address, and phone number of registered surveyor, registered engineer, and/or urban planner assisting in the preparation of the preliminary development plan.
- C. Legal description of property.
- D. Description of existing use.
- E. Zoning district(s).
- F. A vicinity map at a scale approved by the Planning Commission, showing property lines, streets, existing and proposed zoning, and such other items as the Planning Commission may require to show the relationship of the planned unit development to the land use and to existing schools and other community facilities and services.
- G. A preliminary development plan at a scale approved by the Commission showing topography at two (2) foot intervals; location and type of residential and commercial land

uses; layout, dimensions, and names of existing and proposed streets, rights-of-way, utility easements, parks and community spaces; layout and dimensions of lots and building setback lines; preliminary improvement drawings showing water, sewer, drainage, electricity, telephone, and natural gas; and such other characteristics as Planning Commission deems necessary.

- H. Proposed schedule for the development of the site.
- I. Evidence that the applicant has sufficient control over the land in questions to initiate the proposed development plan within five (5) years

The application for preliminary planned unit development shall be accompanied by a written statement by the developer setting forth the reasons why, in his opinion, the planned unit development would be in the public interest and would be consistent with the Township's statement of objectives for planned unit developments in Section 21.01 of this Ordinance. Plans shall be submitted in accordance with Section 17.03 of this Ordinance.

**SECTION 21.19 PUBLIC HEARING BY PLANNING COMMISSION**

Within sixty (60) days after receipt of the preliminary development plan, the Planning Commission shall hold a public hearing.

**SECTION 21.20 NOTICE OF PUBLIC HEARING BY PLANNING COMMISSION IN NEWSPAPER**

Before holding the public hearing provided in Section 21.19, notice shall follow procedures in Section 18.01.B. of this Ordinance.

**SECTION 21.21 NOTICE TO PROPERTY OWNERS BY PLANNING COMMISSION**

Before holding the public hearing required in Section 21.19, written notice of such hearing shall be sent by the Chairman of the Planning Commission by first class mail, at least twenty (20) days before the hearing, to all owners of property contiguous to or directly across the street from the area proposed to be included within the planned unit development district. The failure to deliver the notice, as provided in this section, shall not invalidate any such approval. The notice shall contain the same information as required of notices published in newspapers as specified in Section 18.01.B.

**SECTION 21.22 APPROVAL IN PRINCIPLE BY PLANNING COMMISSION**

Within sixty (60) days after the public hearing required by Section 21.19, the Planning Commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this Ordinance; whether the proposed development advances the general welfare of the community and neighborhood; and whether the benefits, combination of various land uses, and the interrelationship with the land uses in the surrounding area justify the deviations from standard district regulations. The Commission's approval in principle of the

preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels, or engineering feasibility.

### **SECTION 21.23 FINAL DEVELOPMENT PLAN**

After approval in principle of the preliminary development plan, the developer shall submit a final development plan to the Planning Commission. The final development plan shall be in general conformance with the preliminary development plan approved in principle. Five (5) copies of the final development plan shall be submitted and sealed by a licensed architect, registered land surveyor, registered civil engineer, or landscape architect.

### **SECTION 21.24 CONTENTS OF APPLICATION FOR APPROVAL OF FINAL DEVELOPMENT PLAN**

An application for approval of the final development plan shall be filed with the Township Clerk by at least one (1) owner or lessee of property for which the planned unit development is proposed. Each application shall be signed by the owner or lessee, attesting to the truth and exactness of all information supplied on the application for final development plan. Each application shall clearly state that the approval shall expire and may be revoked if construction of the project has not begun within five (5) years from the date of issuance of the approval. At a minimum, the application shall contain the following information:

- A. A survey of the proposed development site, showing the dimensions and bearings of the property lines, area in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.
- B. All the information required on the preliminary development plan; the location and sizes of lots, location and proposed density of dwelling units, nonresidential building intensity, and land use considered suitable for adjacent properties.
- C. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres in the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population; anticipated timing for each unit; and standards for height, open space, building density, parking areas, population density and public improvements proposed for each unit of the development whenever the applicant proposes and exception from standard zoning districts or other ordinances governing development.
- D. Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waste disposal facilities; street improvements, and nature and extent of earth work required for site preparation and development.
- E. Site plan, showing building(s), various functional use areas, circulation, and their

relationship.

F. Preliminary building plans, including floor plans and exterior elevations.

G. Landscaping plans.

H. Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of the land and the improvements thereon, including those areas which are to be commonly owned and maintained.

#### **SECTION 21.25 PUBLIC HEARING BY PLANNING COMMISSION**

Within sixty (60) days after submission of the final development plan, the Planning Commission may hold a public hearing. If a second public hearing is held, notice shall be given as specified in Section 18.01.B.

#### **SECTION 21.26 RECOMMENDATION BY PLANNING COMMISSION**

Within sixty (60) days after receipt of the final development plan, the Planning Commission shall recommend to the Township Board that the final development plan be approved as presented, approved with supplementary conditions, or disapproved. The Planning Commission shall then transmit all papers constituting the record and the recommendations to the Township Board.

#### **SECTION 21.27 CRITERIA FOR RECOMMENDATIONS BY PLANNING COMMISSION**

Before making its recommendation as required in Section 21.26, the Planning Commission shall find that the facts submitted with the application and presented at the public hearing establish that:

- A. The proposed development can be initiated within five (5) years of the date of approval.
- B. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under standard district regulations.
- C. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the planned unit development.
- D. Any proposed commercial development can be justified at the locations proposed.



- E. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accord with the planned unit development and the adopted policy of the Planning Commission and the Township Board.
- F. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- G. The planned unit development is in general conformance with the land use plan of the Township.
- H. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

### **SECTION 21.28 ACTION BY TOWNSHIP BOARD**

Within sixty (60) days after receipt of the final recommendation of the Planning Commission, the Township Board shall by ordinance either approve, approve with supplementary conditions, or disapprove the application as presented. If the application is either approved or approved with conditions, the Township Board shall direct the Building Inspector to issue zoning permits only in accordance with the approved final development plan and the supplementary conditions attached thereto.

### **SECTION 21.29 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS**

In approving any planned unit development district, the Township Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions or safeguards, when made a part of the terms under which the final development plan is approved, shall be deemed a violation of this ordinance.

### **SECTION 21.30 EXPIRATION AND EXTENSION OF APPROVAL PERIOD**

The approval of a final development plan for a planned unit development district shall be for a period not to exceed five (5) years to allow for preparation and recording of the required subdivision plat and the development of the project. If, in the opinion of the Township Board, no significant construction has begun within five (5) years after approval is granted, the approved final development plan shall be void and the land shall revert to the district regulations in which it is located. An extension of the time limit or modification of the approved final development plan may be approved if the Planning Commission finds that such extension or modification is not in conflict with the public interest.

### **SECTION 21.31 PROVISIONS FOR AN OPEN SPACE COMMUNITY**

It is the intent of this section to offer an alternative to traditional subdivisions through the use of the Michigan Zoning Enabling Act, P.A. 110 of 2006 and the Open Space Preservation Act P.A. 177 of 2001 for the purpose of:



- A. Encouraging the use of Township land in accordance with its characteristics and adaptability;
- B. Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
- C. Providing recreational facilities within a reasonable distance of all residents of the Open Space Community development;
- D. Allowing innovation and greater flexibility in the design of residential developments;
- E. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- F. Ensuring compatibility of design and use between neighboring properties; and
- G. Encouraging a less sprawling form of development, thus preserving open space and undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This chapter is not intended as a device for circumventing the zoning regulations of the Township, the standards set therein, not the planning concepts upon which the Zoning Ordinance is based.

These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair, and consistent decision making.

The Open Space Community provision is established as an overlay district applicable to the A-1 Exclusive Agriculture District, the A-2 Restricted Agriculture District, the RE Rural Estate District, and the R-1 Single Family Residential District.

### **SECTION 21.32 SCOPE**

For the purposes of this Article, an “open space community” is defined as a predominately single family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

### **SECTION 21.33 ELIGIBILITY CRITERIA**

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

- A. **Recognizable Benefits.** An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as high quality architectural design, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
- B. **Minimum Project Size.** The minimum size of an open space community development shall be ten (10) acres of contiguous land.
- C. **Open Space.** The proposed development shall provide at least one of the following open space benefits:
1. **Significant Natural Assets.** The site contains significant natural assets such as woodlands, individual trees over twelve (12) inch diameter, measured at breast height, rolling topography with grades exceeding 15%, significant views, natural drainage ways, water bodies, floodplains, regulated or non-regulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the Township Board of Trustees after review of a Site Analysis Plan, prepared by the applicant, that inventories these features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that Open Space Community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
  2. **Recreation Facilities.** If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.
  3. **Creation of Natural Features.** If the site lacks existing natural features, it can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate of double (2x) what is required by this Ordinance.
- D. **Guarantee of Open Space.** The applicant shall guarantee to the satisfaction of the

- Township Board that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space community plan.
- E. Cohesive Neighborhood. The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the Open Space Community.
  - F. Unified Control. The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  - G. Density Impact. The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The Township Board may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The Township Board may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical.) If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.
  - H. Township Master Plan. The proposed development shall be consistent with and further the implementation of the Township Master Plan.

#### **SECTION 21.34 PROJECT DESIGN STANDARDS**

A proposed open space community shall comply with the following project design standards:

- Location.** An open space community may be approved within any of the following

zoning districts: A-1, A-2, RE, and R-1.

**Permitted Uses.** An open space community is generally restricted to single family detached or attached residential dwellings.

**Dwelling Density.** The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.

- A. The applicant shall prepare, and present to the Planning Commission for review, a parallel design for the project that is consistent with State, County and Township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as shown in paragraph B), lot width and setbacks as normally required, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the Michigan Department of Environmental Quality.
- B. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this ordinance:

Underlying Zoning District	Parallel Plan Minimum Lot Size (square feet)	Parallel Plan Minimum Lot Width
A-2	130,000	300'
RE	70,000	180'
R-1	15,000	80'

- C. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space community project.
- D. In order to maximize the preservation of agriculture, the following provision for housing development in the A-1 District shall apply. One housing site may be created for the first whole twenty (20) acres; two (2) additional housing sites may be created for the second and third whole thirty (30) acres; one additional housing site may be created for each forty (40) acres thereafter. All housing sites on the parallel plan must have a minimum width of six hundred and sixty (660) feet.

**Base Zoning Regulations.** Unless specifically waived or modified by the Township Board, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations shall remain in full force. However,

no building site or residential lot shall exceed 60,000 square in area.

**Regulatory Flexibility.**

- A. To encourage flexibility and creativity consistent with the open space community concept, the Township Board may grant specific departures from the requirements of the Zoning Ordinance as a part of the approval process for the following:
  - 1. Yard, lot width, and bulk standards may be modified, provided that such modification results in enhanced buffering from adjacent land uses or public right-of-ways, or preservation of natural features. Any modification to the Natural River District standards must also be approved by the Michigan Department of Environmental Quality, if required.
  - 2. Standards that apply to entryway features such as decorative gates (non-closable), walls and signs may be modified, provided that the overall entranceway design is reviewed by the Township Board and found to be consistent with the proposed open space community and the character of the surrounding area in terms of size, materials, color, lighting and landscaping.
- B. Any regulatory modification shall be approved through a finding by the Township Board that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space community plan may be appealed to the Zoning Board of Appeals. This provision shall not preclude an individual lot owner from seeking a variance following a final approval of the Open Space Community, provided such variance does not involve alteration to open space areas as shown on the approved Open Space Community site plan.

**Open Space Requirements.**

- A. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent to preserve existing topography.
- B. An open space community shall maintain a minimum of fifty percent (50%) of the gross area of the site as dedicated open space held in common ownership. A minimum of ten percent (10%) of the open space shall be upland area that is accessible to all residents of the Open Space Community and not include golf

course fairways.

C. Areas Not Considered Open Space. The following areas are not included as dedicated open space for purposes of this Article:

1. The area of any street right-of-way proposed to be dedicated to the public. This provision shall not preclude the future dedication of a private road easement to a public road agency.
2. Any portion of the project used for commercial purposes.
3. The required setbacks surrounding a residential structure that is not located on an individual lot or condominium site.

D. The common open space may either be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall generally have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition. The open space along the exterior public roads shall be landscaped with a minimum of one (1) evergreen tree or canopy tree for each twenty (20) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting the frontage landscaping requirement.

E. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the Township Board.

F. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Township Board, such as:

1. recorded deed restrictions,
2. covenants that run perpetually with the land, or
3. a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.

The Planning Commission may require the inclusion of open space restrictions that prohibit the following:

- a. Dumping or storing of any material or refuse;
  - b. Activity that may cause risk of soil erosion or threaten any living plant material;
  - c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
  - d. Use of motorized off road vehicles;
  - e. Cutting, filling or removal of vegetation from wetland areas;
  - f. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  3. Provide standards for scheduled maintenance of the open space.
  4. Provide for maintenance to be undertaken by Fillmore Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.
- G. Continuing Obligation. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land.
- H. Allowable Structures. Any structure(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space.



## CHAPTER 22

### SIGNS

#### SECTION 22.01 PURPOSE AND INTENT

It is hereby determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services and facilities without difficulty and confusion, to promote traffic safety, safeguard public health and welfare, and facilitate police and fire protection. In addition, it is the intent of this Ordinance to assure the continued attractiveness of the total community environment through the adoption of discretionary controls designed to preserve scenic, aesthetic and economic values within the Township.

These regulations are designed to permit maximum legibility and effectiveness of signs and to prevent their over-concentration, improper placement and excessive height, bulk and area. In general, it is intended that signs of a general commercial or industrial nature be prohibited in districts where commercial or industrial activities are prohibited and that signs in residential districts be limited to those directly related to activities on the premises.

#### SECTION 22.02 COMPUTATION OF SIGN AREA

For the purposes of this Ordinance, the total area of a sign shall be expressed in square feet and shall be computed as follows:

A. **Single-Face Sign.** The total area of a single-face sign shall be computed as the number of square feet within any single or combination of geometric shapes -- such as a square, rectangle, triangle or circle -- encompassing the extreme limits of an individual letter(s), word(s), message(s), representation, emblem or any similar figure, including open space(s), together with any frame or other material forming an integral part of display used to differentiate such sign from the background against which it is placed.

B. **Double-Face Signs:** For double-face signs having two (2) faces of equal size arranged and/or positioned back to back, parallel to each other, with no more than a two (2) foot space between the two faces; the area of the sign shall be computed as one-half (1/2) the total area of the two (2) faces. When the faces of such a sign are not of equal area, then the area of the sign shall be computed as the total area of the largest face.

C. **Three-Dimensional Signs.** For signs which are designed as a three dimensioned geometric form such as a sphere, cone, cylinder, or cube; the area shall be computed as one half (1/2) the total surface of the geometric form.

#### SECTION 22.03 PERMIT REQUIRED FOR SIGNS

A. **Sign Erection Permit:** It shall be unlawful for any person to construct, erect, re-erect, move, alter, enlarge, or illuminate, any sign unless a permit shall have been first obtained



from the Zoning Administrator, except as provided in Section 22.05 (Signs Exempt from Permit Requirement). Any sign that makes use of electricity, shall, in addition to a sign permit, require an electrical permit, regardless of size.

**B. Sign Maintenance or Change of Message:** No permit shall be required for ordinary servicing, repainting of existing sign message, or cleaning of a sign. No permit is required for change of message of a sign designed for periodic message change without change of structure, including a bulletin board or billboard, but not including a sign to which a new permanent face may be attached.

**C. Planning Commission Approval:** All subdivision/development signs, time/date/temperature signs, or any type of sign not explicitly defined herein, must be approved by the Fillmore Township Planning Commission before a permit shall be issued.

**D. Permit Applications:** Applications for sign permits shall be made upon forms provided by the Building Official for this purpose and shall contain the following information:

1. Name, address and phone number of applicant.
2. Location of the building, structure, or lot on which the sign is to be attached or erected.
3. Position of the sign on the building, structure or lot on which the sign is to be attached or erected.
4. Position of the sign in relation to nearby buildings, structures, signs, property lines, and rights-of-way, existing or proposed.
5. Zoning district in which the sign is to be located.
6. Two (2) copies of the sign plans and specifications for construction, and attachment to the building or ground. The sign plans shall include all pertinent data including highest point, low point clearance, face outline and total face area with method of calculation. When public safety so requires, the specifications shall include the certificate or seal of a registered structural or civil engineer as a condition to the issuance of a permit.
7. Name and address of the sign erector.
8. Such other information as the Building Official may require to show full compliance with this and all other applicable laws of the Township and the State of Michigan.

**E. Sign Erection Permit Expiration.** A sign permit shall become null and void if the work for which the permit was issued is not completed within 90 days of the date of issue.

**F. Compliance Certification:** All signs shall be inspected at original installation and if found to be in full compliance with the provisions of this Chapter, shall be issued a Zoning Permit Certificate. The Zoning Administrator shall cause existing signs to be inspected if deemed necessary by him to determine continuation of compliance with the provisions of this Chapter.

**SECTION 22.04 GENERAL SIGN PROVISIONS**

**A. Public Rights-of-Way:** No sign (or any pole or support cable of any nature) except those established and maintained by the Township, County, State, or Federal Governments, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, unless otherwise authorized in this Ordinance.

**B. Sign Heights:** The highest point of any sign shall not exceed twenty-five (25) feet above the ground or grade level.

**C. Traffic Interference.** No advertising device shall be erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such manner as to interfere with, mislead, confuse or create a visual impediment or safety hazard to pedestrian or vehicular traffic.

**D. Clear Corner Vision:** No sign above a height of thirty (30) inches shall be located within, project into, or overhang the triangular area formed at the intersection of any two street right-of-way lines (existing or proposed) by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection, unless visual under clearance can be assured on the plans.

**E. Proximity to Electrical Conductors:** No sign shall be erected so that any part including cables, guys, etc., will be within ten (10) feet of any electrical conductor, electric light pole, street lamp, traffic light, or other public utility pole or standard.

**F. Illumination:** All illuminated signs shall be so arranged or shielded so as not to interfere with the vision of persons on adjacent thoroughfares. In no event shall light from an illuminated sign shine on adjacent property which is used for residential purposes.

**G. Fire Escapes:** No signs of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape.

**H. Wall Signs:** No wall sign shall project beyond or overhang the wall, or any permanent architectural feature and shall not project above or beyond the highest point of the roof or parapet.

**I. Freestanding Signs:** With respect to freestanding signs, components (supporting structures, backs, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural

environment.

**J. Liability Insurance:** If the height of a proposed or existing sign is such that if it fell or could fall into the public right-of-way or adjacent property, the owner of said sign shall carry sufficient liability insurance to protect the public and adjacent property owners from damage and injury from the fallen sign.

**SECTION 22.05 SIGNS EXEMPT FROM PERMIT REQUIREMENTS**

No sign permit is required for signs listed below. Such exemptions, however, shall not be construed to relieve the owner for its proper location, erection, and maintenance.

**A. Government Signs.** Signs erected by or on behalf of or pursuant to the authorization of a government body, including legal notices, informational signs, directional, or regulatory signs.

**B. Flags:** Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.

**C. Address Signs:** Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

**D. Street Signs:** Signs erected by the township, county, state, or federal government for street names, traffic control, or direction and information.

**E. Private Traffic Signs:** Signs directing and guiding traffic and parking on private property that do not exceed four (4) square feet each and bear no advertising matter.

**F. Handicapped Signs:** Not exceeding four (4) square feet each and bearing no advertising matter.

**G. Architectural Features/Artwork:** Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

**H. Small Accessory Signs:** Any accessory sign erected on a premise which is no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals.

**I. Temporary Signs, Banners, Flags:** Temporary signs, not specifically regulated in any other section of this Ordinance, including but not limited to: political or campaign signs, real estate signs, signs for special events or activities, air or gas filled signs, banners, flags, and the like shall be permitted subject to the following conditions:

1. No temporary sign or devices shall be located in the public right-of-way, attached to any utility pole, or located within five (5) feet from any street right-of-way.
2. All temporary signs must be removed within fourteen (14) days of the conclusion of the event, activity, election, sale, etc., for which the temporary sign is displayed.
3. The total area and height of temporary signage shall not exceed the following standards:
  - a. In residential districts, temporary signage shall be limited to six (6) square feet in area and six (6) feet in height.
  - b. In all commercial and industrial districts, temporary signage shall not exceed thirty-two (32) square feet of total sign area per side or a height of eight (8) feet.

J. Seasonal produce and farm product stands.

#### **SECTION 22.06 SIGNS PROHIBITED THROUGHOUT THE TOWNSHIP**

The following signs are prohibited throughout the Township, notwithstanding anything to the contrary in this Chapter.

A. **Unsafe Signs:** Any sign which is structurally or electrically unsafe.

B. **Utility Poles and Landscaping:** Any sign erected on a utility pole, directional sign post, or landscaping including trees. Prohibited signs shall not include street signs erected by the township, county, state, or federal government or a public transit agency.

C. **Businesses No Longer Existing (Abandoned Signs):** Any business sign or sign structure now or hereafter existing which advertises a business conducted or a product sold, which no longer exists or is no longer in business on the premises on which the sign is located. Such sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over such sign.

D. **Sign Structure Without Sign:** Any sign structure or frame no longer supporting or containing a sign. The owner of the property where the sign is located shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign. This subsection shall not be construed to prevent the changing of the message of a sign.

E. **Tobacco and Alcohol:** Any sign advertising alcohol or tobacco is prohibited

**F. Other Signs Prohibited:** Other signs not expressly permitted shall be prohibited.

**SECTION 22.07 DISTRICT REGULATIONS.**

**A. Signs Permitted in Agricultural and Residential Districts:**

1. For each dwelling unit, one (1) address sign in compliance with Section 15.05(c) of this Zoning Ordinance.
2. Small accessory signs no more than four (4) square feet in area, such as no trespassing signs, garage sale signs, and signs warning of animals. The total area of all small accessory signs on one premise shall not exceed eight (8) square feet.
3. One (1) subdivision entrance sign per vehicle entrance may be permitted on private property in compliance with the corner clearance provisions and shall not exceed twenty-four (24) square feet in area or a height of six (6) feet above grade. The location and appearance of all subdivision/condominium signs shall be subject to review and approval by the Planning Commission at the time of site plan review, provided that such signs shall be located no closer than twelve (12) feet from any property line. Adequate provisions shall also be made at the time of site plan review to insure continued maintenance of the sign.
4. No more than one (1) freestanding and one (1) wall institutional sign for schools, churches, libraries, or similar institutions having an area of no more than thirty-two (32) square feet, having a height of no more than six (6) feet above the established grade, and located no closer than ten (10) feet from any property line.
5. Signs of a combined area of not more than thirty-two (32) square feet advertising the name and activities of a permitted nonresidential use or legal non-conforming use. Said sign shall be located on the same parcel as the use. Signs for discontinued legal non-conforming uses shall be removed as provided for in this Chapter.
6. Customary farm and crop signs on active farms.

**B. Signs Permitted in the C-1 and C-2 Commercial Districts:**

1. The total sign area for an occupied parcel of property in the C-1 and C-2 Commercial Districts shall not exceed 125 square feet per 100 feet of street frontage with the total sign area for any parcel not to exceed 200 square feet.
2. One (1) freestanding sign may be allowed per property. Such sign shall not exceed twenty-five (25) feet in height and 100 square feet in area.
3. In addition to the signs allowed in paragraphs 1 and 2 above, wall sign(s) may be erected on the rear or parking lot side of a premises not exceeding one-half (½) square foot for each linear foot of the rear length of the principle building(s),

provided that the total sign area shall not exceed thirty-two (32) square feet.

4. Gasoline service stations shall be permitted signs on each pump island indicating the prices and types of gasoline and the type of service. The aggregate area of such signs shall not exceed twenty (20) square feet per pump island. In no event shall the total area of all such signs exceed one-hundred twenty (120) square feet.

**C. Signs Permitted in Light Industrial and Manufacturing Districts:**

1. One (1) wall sign may be erected per building face up to one-hundred (100) square feet in area or 10% of the total facade area of the building whichever is less.
2. One (1) freestanding (ground or pole mounted) sign may be erected provided said sign does not exceed one-hundred (100) square feet of display area per side. Such sign shall have a height of no more than twenty (20) feet above the established grade and be erected no closer than twenty (20) feet from any property line.
3. In addition to signs permitted in paragraph 1 above, one (1) wall sign shall be permitted for each tenant having an individual means of entranceway into the side or rear of a building. Such sign shall not exceed six (6) square feet in area, and shall be erected not less than four (4) feet nor more than twelve (12) feet above the established grade.
4. Directional signs, up to four (4) square feet in area, designating entrances, exits, parking and unloading areas, shipping docks, and similar internal traffic control signs shall be permitted and located no closer than within five (5) feet of any property line.

**SECTION 22.08 CONSTRUCTION AND MAINTENANCE REQUIREMENTS**

**A. Materials and Design:** All signs shall be designed, constructed and maintained in conformity with the provisions for materials, loads, and stresses of the latest adopted edition of the Building Code and requirements of this Chapter.

**B. Fastenings:** All signs must be erected in such a manner and with such materials to remain safe and secure during the period of use, and all bolts, cables, and other parts of such signs shall be kept painted and free from corrosion. Any defect due to the fault of the erector shall be repaired by the erector.

**C. Freestanding Signs:** Freestanding signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is no danger that either the sign or the supportive structure may be moved by the wind or other forces and cause injury to persons or property.

**D. Sanitation/Landscaping:** Property surrounding any freestanding sign shall be kept clean, sanitary and free from obnoxious and offensive substances, weeds, debris, rubbish, and flammable material. All plant materials and other landscaping surrounding a

freestanding sign shall be maintained on a regular basis, including pruning, mowing, watering, fertilizing and replacement of dead and diseased materials.

**E. Maintenance:** All signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. Peeling or missing paint, holes, broken, cracked, bent, warped, rotted, discolored, sagging, out-of-plumb, worn, rusted or missing material parts shall be repaired within fifteen (15) days of written notification of the Township Zoning Administrator.

## **SECTION 22.09 NON-CONFORMING SIGNS**

**A. Intent:** It is the intent of this Chapter to encourage eventual elimination of signs that as a result of the adoption of this Chapter become non-conforming, to administer this Chapter to realize the removal of illegal non-conforming signs, and to avoid any unreasonable invasion of established private property rights.

**B. Lawful Existing Signs:** Any sign lawfully existing at the time of the adoption of this Chapter which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be permitted to remain as long as the sign is properly maintained and not detrimental to the health, safety and welfare of the community except as hereafter provided.

**C. Continuance:** A non-conforming sign shall not:

1. Be expanded or changed to another nonconforming sign;
2. Be relocated.
3. Be structurally reconstructed so as to prolong the life of the sign; or so as to change the shape, size, type, placement, or design of the sign's structural parts; or so as to add illumination;
4. Be repaired or re-erected after being damaged if the repair or re-erection of the sign, within any 12-month period, would cost more than fifty (50%) percent of the cost of an identical new sign. If deemed necessary by the Building Official, the cost of an identical new sign shall be determined as the average of no less than three (3) cost estimates obtained from three (3) contractors.
5. Be altered unless the alteration or reconstruction be in compliance with the provisions of this Chapter. For the purpose of this Chapter only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area; landscaping below the base line; or changing electrical wiring or devices, backgrounds, letters, figures, or characters.

**D. Termination of Business:** Nonconforming signs and sign structures shall be removed or made to conform within 60 days of the termination of the business or use to which they are accessory.

**E. Change of Property:** If the owner of a sign or the premises on which a sign is located, changes the location of a building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Chapter.

**F. Administration:** The Zoning Administrator shall make every reasonable effort to identify all the nonconforming signs within the Township. The Zoning Administrator shall keep complete records of all communications and other actions taken with respect to such nonconforming signs.



**CHAPTER 23**

**ZONING BOARD OF APPEALS**

**SECTION 23.01 CREATION**

It is hereby created, under P.A. 110 of 2006 Michigan Zoning Enabling Act, the Fillmore Township Zoning Board of Appeals, referred in this Ordinance as the “Zoning Board of Appeals.” The Zoning Board of Appeals shall be constituted and appointed as provided by Michigan Township Zoning Act and shall be comprised of a minimum of three members (3) members. One member shall be a member of the Planning Commission. The Township Board may appoint not more than two (2) alternate members for the same term as regular members. A regular or alternate member may be a member of the Township Board. An alternate member may be called to serve as a member of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings or if a regular member is recused because a conflict of interest.

**SECTION 23.02 INTENT**

The purpose of this Chapter is to provide guidelines and standards to be followed by the Zoning Board of Appeals (ZBA) to act on matters where this Ordinance or state law gives jurisdiction to the ZBA.

**SECTION 23.03 ADOPTION OF RULES AND PROCEDURES**

The Zoning Board of Appeals shall establish fixed rules and regulations governing its procedures, meetings, operations, and actions. Said rules shall be made available to the public and shall be in conformance with the provisions of this Ordinance and the Michigan Zoning Enabling Act.

**SECTION 23.04 JURISDICTION OF THE ZONING BOARD OF APPEALS**

**A. General Authority**

The ZBA shall have the authority to act on those matters where this Ordinance provides for administrative review/appeal, interpretation, or appeal of a special use permit decision, and shall have the authority to authorize a variance as defined in this Ordinance and laws of the State of Michigan. Such authority shall be subject to the rules and standards in this Section. The ZBA shall not have the authority to alter or change zoning district classifications of any property, nor to make any change in the text of this Ordinance.

**B. Administrative Review**

The ZBA shall have authority to hear and decide appeals where it is alleged that there is an error in an order, requirement, permit, decision, or refusal made by an official, board

or commission in carrying out or enforcing any provisions of this Ordinance.

**C. Interpretation**

The ZBA shall have authority to hear and decide appeals or requests for interpretation of the Zoning Ordinance, including the zoning map. The ZBA shall make such decisions so that the spirit and intent of this Ordinance shall be observed. Text interpretations shall be limited to the issues presented, and shall be based upon a reading of the Ordinance as a whole, and shall not have the effect of amending the Ordinance. Map and boundary interpretations shall be made based upon rules in the Ordinance, and any relevant historical information. In carrying out its authority to interpret the Ordinance, the ZBA shall consider reasonable and/or practical interpretations which have been consistently applied in the administration of the Ordinance. Prior to deciding a request for an interpretation, the ZBA may confer with staff and/or consultant to determine the basic purpose of the provision subject to interpretation and any consequences which may result from differing decisions. A decision providing an interpretation may be accompanied by a recommendation for consideration of an amendment of the Ordinance. Such authority shall include interpretation of whether a use is permitted in a given zone, or determination of off-street parking and loading requirements for any use not specifically listed.

**D. Variances**

The ZBA shall have authority in specific cases to authorize one or more variances from the strict letter and terms of this Ordinance by varying or modifying any of its rules or provisions so that the spirit of this Ordinance is observed, public safety secured, and substantial justice done. A dimensional or non-use variance allows a deviation from the dimensional (i.e., height, bulk, setback) requirements of the Ordinance. A use variance authorizes the establishment of a use of land that is otherwise prohibited in a zoning district. The ZBA is not authorized to grant use variances by this Ordinance. Such authority shall be exercised in accordance with the following standards:

1. The ZBA may grant a requested “non-use” variance only upon a finding that practical difficulties exist. A finding of practical difficulties shall require demonstration by the applicant of all of the following:
  - a. Strict compliance with restrictions governing area, setback, frontage, height, bulk, density or other non-use matters, will unreasonably prevent the owner from using the property for a permitted purpose or will render conformity with the Ordinance conformity unnecessarily burdensome.
  - b. The variance will do substantial justice to the applicant, as well as to other property owners.
  - c. A lesser variance than requested will not give substantial relief to the applicant and/or be consistent with justice to other property owners.

- d. The need for the variance is due to unique circumstances peculiar to the property and not generally applicable in the area or to other properties in the same zoning district.
  - e. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
2. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings. Administrative officials and other person may, but shall not be required to, provide information, testimony and/or evidence on a variance request.

**E. Conditions**

The ZBA may impose reasonable conditions in connection with an affirmative decision on an appeal, interpretation or variance request. The conditions may include requirements necessary to achieve any of the following:

- 1. To insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- 2. To protect the natural environment and conserve natural resources and energy
- 3. To insure compatibility with adjacent uses of land
- 4. To promote the use of land in a socially and economically desirable manner.

Conditions imposed shall meet the following requirements:

- a. Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance, be related to the standards established in the ordinance of the land use or activity under consideration, and be necessary to insure compliance with those standards.

Conditions imposed with respect to the approval of a variance shall be recorded as part of

the ZBA minutes, and shall remain unchanged except upon the mutual consent of the ZBA and the landowner following notice and hearing as required in a new case. The breach of any such conditions shall automatically invalidate the permit granted.

## **SECTION 23.05 APPLICATION AND NOTICES**

### **A. Application**

All applications to the ZBA shall be filed with the Township Zoning Administrator, on forms provided by the Township, and shall be accompanied by the applicable fee established by resolution of the Township Board. Applications shall include a completed application form, fee, all plans, studies and other information and data to be relied upon by the applicant.

### **B. Site Plan**

A site plan shall be required with all variance requests. The plan shall be to scale and include all property lines and dimensions; setbacks; bearings of angles correlated with the legal description and a north arrow; all existing and proposed structures and uses on the property and abutting lots and parcels, dimensions of the structures and their dimensioned locations; lot area calculations necessary to show compliance with the regulations of this Ordinance. Where an application provides a variance sought in conjunction with a regular site plan review, a site plan prepared according to Section 4.24 shall satisfy the requirements of this section.

The ZBA shall have the authority to require a land survey prepared by a registered land surveyor or registered engineer when the ZBA determines it to be necessary to insure accuracy of the plan.

The ZBA shall have no obligation to consider and/or grant a request for relief unless and until a conforming and complete application has been filed; including relevant plans, studies and other information.

### **C. Application Involving an Appeal of Administrative Order**

In a case involving an appeal from an action of an administrative official or entity, shall transmit to the ZBA copies of all papers constituting the record upon which the action was taken, together with a letter specifying an explanation of the action taken.

### **D. Consent of Property Owner Required**

Application to the ZBA shall be made with the full knowledge and written consent of all owners of the property in question, acknowledged by the owner(s) on the application. This requirement shall include the consent of a land contract seller to the relief sought by a land contract purchaser.

**E. Notice**

The Township shall publish a notice in a newspaper of general circulation in Fillmore Township not less than fifteen (15) days before the public hearing. The notice shall also be sent by mail or personal delivery to the owners of property for which the notice is being considered. Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property and to occupants of all structures within 300 feet regardless of whether the property or occupant is located in Fillmore Township.

The notice shall be given not less than 15 days before the date the application for a variance will be considered. The notice shall contain:

1. A description and nature of the request.
2. An indication of the property that is the subject of the request.
3. A statement of when and where the request will be considered.
4. An indication of when and where written comments regarding the request will be received.

If the request does not involve a specific parcel, only publication and notification of the person making the request are required.

**F. Stay of Proceedings**

An appeal shall have the effect of staying all proceedings in furtherance of the action being appealed unless the officer or entity from whom the appeal is taken certifies to the ZBA that, by reason of facts stated in such certification, a stay would in his or her opinion cause imminent peril to life or property. If such certification is made, proceedings shall not be stayed unless specifically determined by the ZBA, or by a court of competent jurisdiction.

**G. Decision by the Zoning Board of Appeals**

The concurring vote of a majority of the membership of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, board or commission made in the enforcement of this ordinance, to decide in favor of an applicant on any matter upon which the ZBA is required to pass under this ordinance, or to grant a variance from the terms of this ordinance. A ZBA member may not vote on the same matter they have voted on as a Planning Commission member. However, they may vote on an unrelated matter for the same property. A decision shall be made upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned.

**SECTION 23.06 DISPOSITION AND DURATION OF APPROVAL**

**A. ZBA Powers**

The ZBA may reverse, affirm, vary or modify any order, requirement, decision, or determination presented in a case within the ZBA's jurisdiction, and to that end, shall have all of the powers of the officer, board or commission from whom the appeal is taken, subject to the ZBA's scope of review, as specified in this Ordinance and/or by law. The ZBA may remand a case for further proceedings and decisions, with or without instructions

**B. Decision Final**

A decision by the ZBA shall not become final until the expiration of twenty-one (21) days from the date of entry of such order and service of the same upon the parties concerned unless the ZBA shall find the immediate effect of such order is necessary for the preservation of property or personal rights or public safety and shall so certify on the record. To the extent that decisions are requested or required to be in writing, the minutes of the ZBA meeting, and decision, as proposed under supervision of the secretary, shall constitute the written decision.

**C. Period of Validity**

Any decision of the ZBA favorable to the applicant shall remain valid only as long as the information and data relating to such decision are found to be correct, and the conditions upon which the decision was based are maintained. The relief granted by the ZBA shall be valid for a period not longer than one year, unless otherwise specified by the ZBA, and within such period of effectiveness, actual, on-site improvement of property in accordance with the approved plan and the relief granted, under a valid building permit, must be commenced or the grant of relief shall be deemed void.

**D. Record of Proceedings**

The secretary of the ZBA, shall prepare and keep minutes of the ZBA proceedings, showing the findings, decisions, conditions, if any, and votes of each member in each case, including a member's absence or failure to vote. The minutes shall be the responsibility of the secretary of the ZBA, and shall be subject to approval of the ZBA. To the extent that a written decision in a case is requested or required, the minutes, prepared under the supervision of the ZBA secretary, along with the plan submitted, shall serve as the written decision, even if the minutes are awaiting final ZBA approval. The official records of the ZBA proceedings shall be filed in the Township Hall and shall be public records.

**E. Appeal of a ZBA Decision**

Appeals of a ZBA decision may be taken to Allegan County Circuit Court at the discretion of the applicant. An appeal shall be filed within thirty (30) days after the ZBA

issues its decision in writing, signed by the chairman or members of the ZBA or within twenty-one (21) days after the approval of the minutes.

**F. New Application for Variance**

If the ZBA denies a request for a variance, the decision of the ZBA shall not be subject to reconsideration for a period of 365 days, whereupon the applicant may submit a new application for the variance. However, the ZBA may waive the one year period if conditions upon which their original decision was made change, or if information relating to their original decision are found to be incorrect or inaccurate.

**G. Site Plan Requirements**

If an application or appeal to the Board of Appeals involves a development project which requires a recommendation of site plan approval by the Planning Commission, the applicant or appellant shall first apply for site plan approval as set forth in Section 4.24 “Site Plan Review”. The Planning Commission shall review the site plan and shall determine the layout and other features required before granting a recommendation of approval of the site plan. The Planning Commission shall then transmit a copy of the site plan and the Planning Commission’s findings thereon to the Zoning Board of Appeals.

**CHAPTER 24**

**ZONING ADMINISTRATION**

**SECTION 24.01 ZONING ADMINISTRATION**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator.

**SECTION 24.02 ZONING ADMINISTRATOR**

The Zoning Administrator shall be appointed by the Township Board for a term subject to such conditions and at a rate of compensation as the Township Board shall determine. To be eligible for appointment to the post of Zoning Administrator, the applicant must be: 1) generally informed of the provisions of this Ordinance; 2) have general knowledge of the building arts and trades or; 3) be in good health and physically capable of fulfilling the duties; 4) be indirectly involved in the sale or manufacture of any material, process, facility, or device used in connection with building construction.

**SECTION 24.03 PERMITS**

No building or structure except farm buildings in the Agricultural Districts (not including farm dwellings) shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except wholly interior alterations or repairs at a cost of five hundred dollars (\$500) or less, unless a permit has been issued by the Zoning Administrator as provided by the terms of the building code adopted by Fillmore Township.

**SECTION 24.04 CERTIFICATES OF OCCUPANCY**

No building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be used in whole or in part until the owner shall have been issued a certificate of use and occupancy as provided by the terms of the building code adopted by Fillmore Township. No such certificate of occupancy shall be issued unless all the provisions of this Ordinance and all mechanical, electrical, and electrical codes have been complied with by the owner of the building or structure for which a certificate is sought.



## CHAPTER 25

### AMENDMENTS TO THE ZONING ORDINANCE AND MAP

#### SECTION 25.01 STATEMENT OF INTENT

For the purpose of establishing and maintaining sound, stable and desirable development within the territorial limits of the Township, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Township generally, to rezone an area, to extend the boundary of an existing District or to change the regulations and restrictions thereof. Such amendment to this Ordinance may be initiated by any person, firm, or corporation by filing an application with the Zoning Administrator; by motion of the Township Board; or by the Planning Commission requesting the Zoning Administrator to initiate an amendment procedure. The procedures for amending this Ordinance shall be in accordance with P.A. 110 of 2006 the Michigan Zoning Enabling Act as amended.

#### SECTION 25.02 AMENDMENT PROCEDURE

A. **Application.** Applications for amendments to this Ordinance shall be filed with the Zoning Administrator on an appropriate form provided by the Township and accompanied by the required fee. All applications for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:

1. The applicant's name, address and interest in the application as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the Zoning Map, a complete legal description of the entire land area affected, the present zoning classification of the land, the names and addresses of the owners of all land within the area requested to be rezoned. Also, a fully dimensioned drawing shall be submitted showing the land which would be affected, the zoning classification of all abutting districts, all public and private rights-of-way and easements bounding and intersecting the land under consideration, and the location of all existing and proposed buildings.
4. If the proposed amendment will correct an alleged error, a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
5. The changed or changing conditions in the area or in Fillmore Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.

6. All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

**B. Receipt of Application.** The Zoning Administrator, upon receipt of an application to amend the Ordinance, shall review the application for completeness and refer same to the Planning Commission for study and report. The Planning Commission shall cause a complete study of the proposed amendment and hold a public hearing in accordance to Subsection (c) below.

**C. Public Hearing.** Notice of the public hearing for an amendment to this Ordinance shall be given by publishing said notice in a newspaper of general circulation in the Township stating the time and place of such hearing and the substance of the proposed amendment. These notices shall appear in said newspaper not less than 15 days prior to the date set for the public hearing. Such notice shall also be mailed to each public utility company and railroad company owning or operating any public utility or railroad within the zoning districts affected by the proposed amendment that registers its name and mailing address with the Township for the purpose of receiving such notice. The Township Clerk shall maintain an affidavit of such mailing.

In addition to the above, if an individual property or several adjacent properties are proposed for rezoning, the Township shall give a written notice of the public hearing to the owner(s) of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all dwellings within three hundred (300) feet regardless of whether the occupants are within Fillmore Township. The notice shall state the time, place, date, and purpose of the hearing. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be mailed or delivered not less than fifteen (15) days before the hearing.

**D. Planning Commission Recommendation.** Following the public hearing, the Planning Commission shall prepare a report and its recommendations regarding the proposed amendment, and transfer such to the Township Board.

**E. Township Board Action.** After the Planning Commission has held a Public Hearing and has made a written report to the Township Board indicating their recommendation on the proposed amendment, the Township Board may adopt the proposed amendment, decline to adopt the proposed amendment, or may adopt it in whole, part, or with or without additional changes. The Board may also hold a public hearing on the proposed amendment or refer the proposed amendment back to the Planning Commission for further study and review or for additional public hearings.

**SECTION 25.03 PROTESTS.**

Upon the filing of a notice of intent to request a referendum, the effective date of an amendment shall be either thirty (30) days after publication, if a petition is not filed or the petition lacks adequate signatures, or after approval by the electors if an adequate petition is filed.

Within 30 days following the adoption of an amendment to the Zoning Ordinance, a petition signed by a number of qualified and registered voters residing in the unincorporated portion of Fillmore Township equal to not less than 15 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected may be filed with the Office of Township Clerk requesting therein for the submission of the amendment to the electors residing in the unincorporated portion of Fillmore Township for their approval.

**SECTION 25.04 CONFORMANCE TO COURT DECREE**

Any amendment for the purpose of conforming to a provision of a decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of amendment published without referring same to any other board or agency.

**SECTION 25.05 CONDITIONAL ZONING**

When submitting an application for a rezoning, an applicant may voluntarily propose conditions regarding the request for the use and development of the land as part of the rezoning request.

A. Application Contents

1. An applicant for a rezoning change may voluntarily offer in writing conditions relating to the use and/or development of the subject property. This offer may be made either at the time the application is filed or may be made at a later time during the rezoning process.
2. The application process shall be the same at that of considering requests made without conditions.
3. The applicant's offer of conditions may not request land uses or developments not permitted in the new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special use permit under the terms of this Ordinance may only begin if a special use permit has been granted by the Township.
5. If the use or development requires a variance by the Board of Zoning Appeals, the use or development cannot begin until the variance has been granted.
6. If the proposed use or development requires site plan approval, the use or development cannot begin until the site plan has been approved.

7. The offer of conditions may be amended during the process of rezoning provided that any amended or additional conditions are voluntarily made by the applicant. An applicant may withdraw all or part of the conditions at any time during the rezoning process.
8. The Planning Commission may recommend approval, approval with conditions, or denial of the rezoning application. However any recommended changes must be approved by the applicant.
9. After receipt of the Planning Commission's recommendation, the Township Board may approve or deny the rezoning application. If the Township Board considers amendments to the proposed conditional rezoning application to have merit, and they are acceptable to the applicant, the Township Board shall refer such amendments to the Planning Commission for comment and proceed with the rezoning application to deny or approve the conditional rezoning request with or without amendments.
10. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the applicant. The Statement of Conditions shall:
  - a.) Be in a form recordable with the Allegan County Register of Deeds or in a form acceptable to the Township.
  - b.) Contain a legal description of the subject land.
  - c.) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding on successor owners of the land.
  - d.) Incorporate the attached or reference any drawings approved by the applicant and the Township.
  - e.) Incorporate a statement acknowledging that the Statement of Conditions may be recorded by the Township with the Allegan County Register of Deeds.
  - f.) Contain notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offered and consented to the provisions of the Statement of Conditions.
11. When the rezoning takes effect, the Township Clerk shall amend the zoning map to reflect that the subject land contains special conditions.
12. The use of the land shall conform to all of the requirements regulating its use and development.

13. If an approved use and/or development does not occur within the time frame specified in the Statement of Conditions, the land shall revert back to its former zoning classification. The rezoning back to its former classification shall be initiated by the Township Board.



**CHAPTER 26**

**PENALTIES**

**SECTION 26.01 PENALTIES**

Any person who violates a provision of this Ordinance or fails to comply with any of its requirements shall be responsible for a minor civil infraction subject to enforcement procedures as set forth in the Civil Infractions Ordinance adopted by the Township and subject to a written warning for a person's first infraction. Each day during which any violation continues after a written warning has been served shall be deemed to be a separate offense. Increased civil fines may be imposed for repeat violations of this Ordinance; a repeat violation means a municipal infraction violation committed by a person within any twelve (12) month period after the issuance of a written warning to that person and for which a person admits responsibility or is determined to be responsible.

The increased civil fine for repeat violations shall be as follows:

- A. The fine for any offense which is a first repeat offense shall be fifty dollars (\$50.00) plus costs and other sanctions: and
- B. The fine for any offense which is the second repeat offense or any subsequent repeat offense shall be two hundred and fifty dollars (\$250.00) plus costs and other sanctions.

**SECTION 26.02 PROCEDURE**

Any Allegan County Deputy Sheriff assigned to the Township pursuant to an agreement between Fillmore Township and Allegan County and any other Township official authorized as a code enforcement officer are authorized to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction notices, directing alleged violators to appear at the Township Hall.