

## CHAPTER 4 GENERAL PROVISIONS

**Section 4.1 Scope of this Chapter.** These general provisions shall apply to all zoning districts unless otherwise stated in this Ordinance. The provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety and general welfare in the Township.

**Section 4.2 The Effect of Zoning.** Zoning affects every structure, land use and parcel of land. No building, structure or land shall be used or occupied, and no building or part thereof, or structure or part thereof, shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in compliance with the provisions in this Ordinance for the zone in which such building, structure or land is located and except in compliance with other applicable provisions of this Ordinance. Any building, structure or land use not provided for in this Ordinance is prohibited.

**Section 4.3 Existing Lots of Record; Existing Lawful Uses.**

- (a) If any lot or parcel in the R-R or MFR Zoning Districts is platted or otherwise of legal record as of the effective date of this Ordinance, but such lot or parcel does not comply with the area and/or width requirements of the zoning district in which it is located, then such lot or parcel may be used for single-family dwelling use, if it has an area of not less than 17,500 square feet.
- (b) Any building, structure or use that is lawfully in existence at the effective date of this Ordinance or any amendment thereof, but which does not comply with an otherwise applicable provision of this Ordinance, may be continued, but it shall be subject to the terms and provisions of Chapter 16, regarding nonconforming uses and structures.

**Section 4.4 Principal Building on a Parcel.** Not more than one principal building shall be placed on a lot or parcel of land unless the lot or parcel of land is used for multiple family, agricultural, commercial or industrial purposes, or for single family and two-family detached dwellings in a conventional condominium development, and unless such use complies with the minimum provisions of the zoning district in which the use is located.

**Section 4.5 Required Area or Space.** No lot or parcel of land shall be so divided or so reduced in area that any required yard or lot area is less than the minimum requirements of this Ordinance at the time of such division or reduction.

**Section 4.6 Accessory Buildings.**

- (a) Accessory buildings are permitted in all zone districts in accordance with the provisions of this section and the accessory building provisions of the applicable zone district.
- (b) No accessory building shall be built or used on a parcel of land on which there is no principal building.

- (c) No accessory building or accessory structure shall be used as a dwelling, either in whole or in part.
- (d) No accessory building shall be installed or constructed before the principal building is constructed, nor maintained or used unless there is a principal building on the lot.
- (e) No mobile home, manufactured home, house trailer, camper, recreational vehicle, semi-trailer, truck or other vehicle, tank, junked object or salvage materials or similar things, objects or items shall be placed, established, installed, erected or used, in whole or in part, as or for an accessory building or an accessory use, whether for storage or any other accessory purpose and whether or not there is a principal building on the same parcel of land as any of such things, objects or items; provided, however, that:
  - (1) A semi-trailer, with all of its wheels and tires attached, may be used in the C and C-1 Districts only, on a parcel of land that includes a principal commercial building, for the storage of commercially-related goods and items that cannot be accommodated in the principal building or in an approved accessory building, subject to all of the following requirements:
    - (i) The semi-trailer must be placed at the rear of the principal commercial building, at a location such that it is not visible from the street that is located parallel to the front yard of the building.
    - (ii) The semi-trailer shall have an attached door or doors, which shall be locked after business hours.
    - (iii) The doors of the semi-trailer shall be kept closed except when goods or items are being placed into or removed from the semi-trailer.
    - (iv) All goods and items kept or stored in the semi-trailer shall be kept fully inside, and no junk, debris or discarded items shall accumulate outside the semi-trailer.
    - (v) When the semi-trailer is no longer used for such permitted storage, it shall be promptly removed.
    - (vi) The goods and items stored in the semi-trailer shall be only those associated with the permitted commercial use occurring on the property; no other goods or items shall be stored or kept in the semi-trailer, nor shall the semi-trailer be rented to or used by persons who are not owners of the property or operators of the commercial use occurring thereon.
- (f) No accessory building shall be installed or constructed unless a building permit and a zoning permit has been issued for such building, unless specifically excepted by this ordinance.

- (g) An accessory building shall be located such that it is at least 10 feet away from the principal building.
- (h) An accessory building may be located in the rear yard, but it shall not be located closer to the rear lot line than the required minimum rear yard building setback for the principal building; provided, however, that an accessory building that has an area of 200 square feet or less may be located within five feet of the rear lot line; and provided further, that in the case of a waterfront lot, an accessory building may be located in the front yard (water side), but it shall not be closer than 40 feet from the water's edge.
- (i) An accessory building may be located in the side yard, but it shall not be closer to any side lot line than the principal building is permitted to be. Accessory buildings located in the side yard shall not occupy more than 30% of the area of the side yard.
- (j) No accessory building shall be located in the front yard of a parcel of land, except as follows:
  - (1) An accessory building may be located in the front yard of a parcel of land if it is placed at least 100 feet back from the nearest street right-of-way line and if no part of the accessory building is located in front of any part of the dwelling or other principal building on the parcel of land.
  - (2) An accessory building on a waterfront parcel of land may be located in the front yard (the water side) of the parcel if it is set back at least 40 feet from the water's edge of the body of water.

**Section 4.7 : Accessory Uses.** In any zoning district, accessory uses, incidental and secondary to a permitted land use or other approved land use, shall be permitted when located on the same parcel of land, unless otherwise provided or limited by the terms of this ordinance.

**Section 4.8 Yards and Parcels of Land.**

- (a) Every parcel of land shall have the minimum front, rear and side yards and the minimum lot area and minimum lot width as required by the terms of the zone district in which it is located.
- (b) Minimum lot area shall not include lands comprising public street easements or private street easements, except that if the front line of a lot or parcel is the centerline of a public or private street, or if a portion of a lot or parcel lies within a street right-of-way, the lot area calculated to determine minimum lot area shall include that area inside the street right-of-way.
- (c) Minimum lot width shall not include lands comprising public street easements, private street easements, alleys or other types of easements.
- (d) All lots and other parcels of land shall be adjacent to a public street right-of-way or a private street right-of-way.

- (e) The front lot line of a lot or other parcel of land shall be at least as wide as the required minimum lot width, except that the width of a flag lot and a cul-de-sac lot at their respective front lot lines shall be at least 66 feet.
- (f) The required minimum width of a lot or other parcel of land shall be maintained throughout the depth of the lot or parcel; provided, however, that the width of a flag lot or cul-de-sac lot that has at least 66 feet of street frontage, but less than the required lot width at the street right-of-way line, shall increase throughout the depth of the lot until the required minimum lot width is achieved, and from that point, such required minimum lot width shall be maintained throughout the remainder of the lot, back to the rear lot line.
- (g) The required minimum front yard building setback shall be measured from the nearest street right-of-way line, except that for a flag lot and a cul-de-sac lot, such setback shall be measured from the point at which the required minimum lot width is first achieved.

The required minimum front yard building setback shall be measured to the nearest point on any part of the main wall of the building; provided, however, that if the portion of the street used for travel (whether paved, graveled or otherwise) is located in whole or in part nearer to the main building than the nearest street right-of-way line, then the required front yard shall be measured from the nearest edge of the traveled portion of the street (whether such portion is paved, graveled or otherwise).

- (h) No building or structure shall be located closer to the front lot line than the required minimum front yard building setback for the zone district.
- (i) No building or structure shall be located within that part of a lot or a parcel that has less than the required minimum lot width for the zone district.
- (j) That part of a lot or parcel that has less than the required minimum lot width shall not extend a distance greater than 1,320 feet from the public street or the private street on which it fronts.

**Section 4.9 Height Exceptions.**

- (a) The maximum height requirements of all zones may be exceeded by parapet walls that are four feet or less in height, chimneys, silos and farm barns, cupolas, steeples, spires and other ornamental projections, water towers and wind turbine generators and their supporting towers not exceeding 50 feet in height.
- (b) The height of antennas and towers for communications, radio, television, wind energy and other purposes shall be subject to Section 12.49.
- (c) In the I-1 District, chimneys, cooling and fire towers, elevator buildings and bulkheads, roof storage tanks and other necessary appurtenances are permitted above the maximum height limitation, if their distance from any adjoining property line is at least as great as their height.

- (d) Signs, wherever located, are not included within the height exceptions specified in this section; signs in all districts shall be subject to the terms of Chapter 14.

**Section 4.10 Corner Lots.** If a lot or other parcel of land is bounded by two streets, the required front yard building setback shall be complied with for each adjacent street.

**Section 4.11 Moving of Buildings.** The moving of a building to a new location shall be considered as the erection of a new building, and all provisions and requirements relating to the erection of a new building shall apply.

**Section 4.12 Basement and Illegal Dwellings.** The use of a basement or any part thereof as a dwelling or as sleeping quarters is prohibited. The use of the basement of a partially completed building as a dwelling unit is prohibited. Buildings erected as garages shall not be occupied for dwelling purposes.

**Section 4.13 Essential Services.** The erection, construction, alteration or maintenance by public utilities or governmental units of overhead or underground gas, electrical, communication, steam, water, sanitary sewer or storm sewer, distribution, transmission or collection systems and other similar equipment and structures in connection therewith, and which are reasonably necessary for the furnishing of adequate service, are permitted in any zoning district. The erection and use of buildings for such purposes shall take place only if approved by the Planning Commission as a special use under Chapter 12.

**Section 4.14 Single-Family Dwellings – Minimum Requirements.** A single-family dwelling erected or placed on a lot or parcel of land outside of a manufactured housing community shall comply with all of the following minimum requirements:

- (a) It shall have a minimum width of 22 feet, extending for at least 3/4 of its length (in the application of this sentence, width shall mean the shortest elevation of the dwelling).
- (b) There shall be a minimum floor to ceiling height of 7 1/2 feet.
- (c) The dwelling shall comply with the minimum floor area requirements for the district in which it is located.
- (d) The dwelling shall be connected to a public sewer system and public water supply system, or to such private sewer facilities and water facilities as are approved by the Kent County Health Department or by other agency having jurisdiction.
- (e) All construction and all plumbing, mechanical, electrical apparatus and insulation in and about the dwelling shall be of a type and quality complying with the Township Construction Code or the Mobile Home Construction and Safety Standards as promulgated by the U. S. Department of Housing and Urban Development. The dwelling shall satisfy all applicable roof, snow load and strength requirements.
- (f) The placement, installation and construction of a mobile home shall meet the following additional requirements:

- (1) It shall have either a sloped roof with shingles, or a flat roof containing built-up roofing.
- (2) Additions to the mobile home shall comply with the Township Building Code. The exterior of any addition shall be compatible with the exterior appearance of the mobile home.
- (3) The mobile home shall comply in all pertinent respects with the Township Construction Code. It shall be secured to the premises by an anchoring device complying with regulations of the Michigan Manufactured Housing Commission. An exposed towing mechanism or undercarriage shall not be permitted.

**Section 4.15 Maximum Lot Depth to Width Ratio.** In all zoning districts, no building or structure shall be constructed on a lot or parcel the length or depth of which exceeds four times the width of such lot or parcel, as measured at the required front yard building setback line; provided, however, that this provision shall apply only to lots or parcels of land that are 10 acres or less in area; and, provided further, that this section shall not apply to a lot or other parcel of land which was platted or was otherwise of record in the office of the register of deeds at the effective date of this section.

**Section 4.16 Home Occupations.** Home occupations, in accordance with the terms of this section, are permitted in the R-R, MFR and L-R Districts, if the home occupation is clearly incidental and secondary to the principal residential use. A home occupation shall comply with all of the requirements of this section; provided, however, that the providing of medical marijuana as a home occupation shall comply with Section 4.17 and those provisions of this Section 4.16 that are required to be complied with under the terms of Section 4.17.

- (a) A home occupation shall comply with all of the following requirements:
  - (1) The use shall be conducted entirely within a dwelling or within a building accessory to a dwelling.
  - (2) It shall be carried on only by the residents of the building and not more than one additional person.
  - (3) The use shall be clearly incidental, subordinate and secondary to the use of the dwelling for dwelling purposes. The appearance of the dwelling shall not be altered, nor shall the occupation within the dwelling be conducted in any manner that would cause the premises to differ from their residential character either by the use of colors, materials, construction, lighting or by the emission of sounds, vibrations or light that carry beyond the premises, except that a sign or signs complying with the sign requirements of the applicable zoning district may be used.
  - (4) There shall be no selling of goods, merchandise, supplies or products, except on an occasional basis, provided that orders previously made by telephone or at a sales event off the premises may be filled on the premises.

- (5) No storage or display shall be visible from outside the dwelling or an accessory building.
  - (6) No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.
  - (7) There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any significant offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line.
  - (8) As a result of home occupation, there shall not be any appreciably greater motor vehicle or pedestrian traffic than would be normal for the zoning district in which the use is located.
  - (9) There shall be adequate off-street parking spaces.
  - (10) There shall be no deliveries from commercial suppliers, other than on an occasional or incidental basis.
  - (11) A sign identifying a home occupation permitted by right shall not exceed six square feet in area.
  - (12) Not more than four motor vehicles shall be permitted at any one time on the premises, except for motor vehicles owned by persons residing on the premises and used for their personal use.
  - (13) A home occupation located in a dwelling shall occupy an area not greater than 20% of the area of one story of the dwelling.
- (b) The following home occupations shall be permitted, if in compliance with the terms of this section:
- (1) Dressmaking, sewing and tailoring.
  - (2) Painting, sculpturing and writing.
  - (3) Telephone answering service.
  - (4) Home arts and crafts, including but not limited to rug weaving, quilting, pottery and ceramics, model making, woodworking, lapidary work and jewelry making, but any sales on the premises shall be of only arts and crafts made on the premises and shall occur only occasionally.
  - (5) Office of a sales person, sales representative or manufacturer's representative.

- (6) Musical instrument instruction, except that no instrument may be electronically amplified so as to be audible beyond the parcel of land where the use occurs.
- (7) Drafting and illustration services.
- (8) Architecture and interior design work.
- (9) Bookkeeping, accounting and financial planning.
- (10) Storage and distribution of direct sale products, such as home cleaning products, cosmetics, food containers and the like (but excluding sales on the premises).
- (11) Consulting and counseling services.
- (12) Private tutoring.
- (13) Telephone solicitation work; telephone answering service.
- (14) Computer programming and other computer related work.
- (15) Secretarial services.
- (16) Office of minister, priest or other member of the clergy.
- (17) Watch repair.
- (18) Beauty salons and barber shops.
- (19) Furniture upholstery.
- (20) Cabinet making and carpentry work.
- (21) Television and other small household appliance repair.
- (22) Office of building contractor or building trades persons.
- (23) Travel booking service.
- (24) Gun repair and fitting service as a gunsmith engaged solely in the business of gun repair and fitting. The gun repair and fitting service home occupation shall not include sales on the premises.
- (25) Home occupations which are similar in nature and effect to those specifically listed in this section. The determination whether a proposed home occupation is sufficiently similar in nature and effect to a home occupation specifically listed in this section may be made by the zoning administrator,



but in the discretion of the zoning administrator, such determination may be made by the Planning Commission at a public meeting.

**Section 4.17 Providing of Medical Marijuana.**

- (a) A registered primary caregiver, operating in compliance with the MMMA General Rules, the MMMA and the requirements of this section, shall be permitted as a home occupation, as regulated in this Section 4.17. Nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing marijuana not in strict compliance with the MMMA and the MMMA General Rules.

Because federal law is not affected by the MMMA or the MMMA General Rules, nothing in this section or in this Ordinance is intended to grant, nor shall this section or this Ordinance be construed as granting, immunity from criminal prosecution under federal law. The MMMA does not protect users, caregivers or the owners of properties on which the providing or use of marijuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act or any other applicable federal legislation.

- (b) The following standards and requirements shall apply to the location at which the providing of medical marijuana, as defined in Section 2.4(d), is conducted by a primary caregiver. These requirements shall supersede and replace the general standards in Section 4.16 of the ordinance, except where such provisions are expressly incorporated by reference herein.

- (1) The providing of medical marijuana shall comply at all times and in all circumstances with the MMMA and the MMMA General Rules, as they may be amended from time to time.
- (2) A registered primary caregiver shall be located outside of a 1,000-foot radius from any school, school grounds, school playing field or other school property used for instruction of children in grades kindergarten through 12th grade.
- (3) Not more than one registered primary caregiver shall be permitted to operate at one property. The primary caregiver shall be a full-time resident of the dwelling.
- (4) The providing of medical marijuana shall be conducted entirely within the dwelling (which may include an attached garage) and not more than one lawful accessory building located on the same parcel of land as the dwelling.
- (5) No sign shall be permitted which in any way identifies the home occupation, or indicates that the providing of medical marijuana is taking place on the premises, whether by word, image or otherwise, nor shall any vehicle having such a sign be parked anywhere on the premises.

- (6) Except for lighting, heating, watering, drying or other equipment, or fertilizers, herbicides or other chemicals directly related to the providing of medical marijuana, there shall be no use of material or equipment not generally associated with the normal ownership, use, and maintenance of a dwelling or a permitted accessory building.
- (7) The distribution or other delivery of marijuana or use of items in the administration of marijuana shall not occur at or on the premises of the primary caregiver. Marijuana and associated permitted items shall be delivered to the qualifying patients associated with the primary caregiver only at the qualifying patient's residence or elsewhere. No qualifying patient shall visit, come to or be present at the residence of the primary caregiver to smoke, consume, obtain or receive possession of any marijuana.
- (8) No person other than the primary caregiver for a qualifying patient shall deliver marijuana to that qualifying patient. The primary caregiver shall personally deliver the marijuana to his or her qualifying patient.
- (9) All medical marijuana shall be contained within the primary caregiver's dwelling and/or lawful accessory building on the same parcel of land as the dwelling (except when being lawfully delivered by the primary caregiver to the primary caregiver's qualifying patient at the qualifying patient's home or elsewhere) and in a fully enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver. Any person under 18 years of age shall not have access to any medical marijuana.
- (10) No on-site consumption or smoking of marijuana shall be permitted within the dwelling or a lawful accessory building (or on the lot or other parcel of land) of a primary caregiver except for any lawful medical marijuana consumption by the primary caregiver himself or herself if he or she is a registered qualifying patient and in full compliance with the MMMA.
- (11) No quantity of medical marijuana shall be grown, processed or handled at, from or through the dwelling or lawful accessory building of the primary caregiver beyond the quantity which is permitted by law for the qualifying patients of the primary caregiver.
- (12) All required building, electrical, plumbing and mechanical permits shall be obtained for any portion of the dwelling or lawful accessory building in which electrical wiring, lighting or watering devices that support the cultivation, growing, or harvesting of marijuana are located.
- (13) If a room with windows is utilized as a growing location for marijuana, the plants shall be located or the windows covered so that no marijuana plant is visible from outside of the dwelling or lawful accessory building. Any lighting shall be shielded, without alteration to the exterior of the dwelling or

lawful accessory building, to prevent ambient light spillage that may create a distraction for adjacent or nearby properties.

- (14) No growing or processing of marijuana shall occur out-of-doors. All medical marijuana growing, processing and handling shall occur entirely within the dwelling or lawful accessory building.
  - (15) No sale or distribution of merchandise or products associated in any way with medical marijuana shall be conducted on, within or from the dwelling or lawful accessory building (including the lot or parcel of land involved) of the primary caregiver, other than the permitted quantity of medical marijuana itself.
  - (16) The dwelling, any accessory building and the parcel of land on which they are located shall be open for inspection upon request by the zoning administrator, building official and law enforcement officials, for determining compliance with all applicable laws and rules.
- (c) Medical use of marijuana, a medical marijuana dispensary, a medical marijuana business, a medical marijuana provisioning center and a safety compliance facility were not permitted prior to adoption of this section, and accordingly, such uses or activities, or any of them, shall not be nonconforming uses, in whole or in part, nor shall they or any of them have the benefits of or be treated as nonconforming uses, in whole or in part.
  - (d) The providing of medical marijuana was not permitted prior to adoption of this section, and accordingly any such prior action shall not qualify as a nonconforming use.
  - (e) A qualifying patient's use of his or her dwelling or lawful accessory building for the cultivation of or other lawful activity relating to medical marijuana solely for personal use of the patient shall comply with all applicable requirements of the MMMA, the MMMA General Rules and this section.
  - (f) It is unlawful and a violation of this Ordinance to establish or operate a medical marijuana dispensary or a medical marijuana business within the Township.
  - (g) It shall be unlawful and a violation of this Ordinance:
    - (1) For a person who is not a registered primary caregiver to sell, transfer, convey, give or deliver marijuana, including the seeds of the marijuana plant or any other part of the marijuana plant, to any person;
    - (2) For a primary caregiver to sell, transfer, convey, give or deliver marijuana, including the seeds of the marijuana plant or any other part of the marijuana plant, to any person who has not specified that primary caregiver as the person's primary caregiver;

- (3) For a qualifying patient to sell, transfer, convey, give or deliver marijuana, including the seeds of the marijuana plant or any other part of the marijuana plant, to any other qualifying patient, except that a qualifying patient who is also a primary caregiver may provide marijuana to his or her qualifying patient(s) in accordance with the MMMA and this Ordinance;
- (4) For any person to possess or cultivate marijuana plants or any part thereof if such person is neither a registered primary caregiver nor a registered qualifying patient; or for any primary caregiver to possess or cultivate marijuana plants or any part thereof in excess of 12 marijuana plants for each registered qualifying patient for whom such person is the specified primary caregiver; or for any qualifying patient to possess or cultivate more than 12 marijuana plants or any part thereof if the qualifying patient has not specified a primary caregiver for himself or herself and if the qualifying patient is not also a registered primary caregiver for a qualifying patient;
- (5) For any person who is not a registered primary caregiver to sell, transfer, convey, give or deliver paraphernalia relating to the administration of marijuana to any person other than the caregiver's registered qualifying patient who is receiving or acquiring the paraphernalia for the purpose of treating or alleviating his or her own debilitating medical condition or symptoms associated with the debilitating medical condition.
- (6) For a primary caregiver to possess, or to sell, transfer, convey, give or deliver any quantity of the seeds of the marijuana plant in excess of an incidental amount of such seeds, to any person, such incidental amount being defined as not more than (a) one marijuana plant seed for each marijuana plant that a primary caregiver is permitted by law and this Ordinance to cultivate for each of the caregiver's qualifying patients, and (b) one marijuana plant seed for each marijuana plant that the primary caregiver is permitted by law and this Ordinance to cultivate for himself or herself, if such primary caregiver is also a registered qualifying patient.
- (7) For a qualifying patient to possess more than an incidental amount of seeds of the marijuana plant, such incidental amount being defined as not more than one marijuana plant seed for each marijuana plant that the qualifying patient is permitted by law to cultivate for his or her own use to treat or alleviate his or her debilitating medical condition or symptoms associated with the debilitating medical condition as defined in the MMMA.
- (8) Purchasing medical marijuana from a registered primary caregiver or a registered qualifying patient.
- (9) Purchasing or receiving medical marijuana, including seedlings, from a medical marijuana provisioning center.
- (10) Purchasing marijuana seeds to grow medical marijuana from a registered primary caregiver, a registered qualifying patient, a medical marijuana

business, a medical marijuana dispensary or a medical marijuana provisioning center.

- (11) Cultivating or manufacturing medical marijuana from marijuana seeds or marijuana seedlings that were purchased from a registered primary caregiver, a registered qualifying patient, a medical marijuana business, a medical marijuana dispensary or a medical marijuana provisioning center.
- (12) Possessing or manufacturing paraphernalia.
- (13) Possessing or processing medical marijuana produced by a medical marijuana provisioning center.
- (14) Transporting medical marijuana, including seeds and seedlings, from a medical marijuana provisioning center or a safety compliance facility.
- (15) Receiving compensation, other than reimbursement for actual and direct expenses, for the supplying or providing of medical marijuana to a registered qualifying patient.

**Section 4.18 Building Access.** No building shall be constructed or used unless the lot or parcel on which it is located is adjacent to a public or private street right-of-way.

**Section 4.19 Outdoor Lighting.**

- (a) The intent and purpose of this section is to promote and maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow", and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties.
- (b) Outdoor lighting shall comply with, and certain types of outdoor lighting are exempt from, the provisions of this section.
  - (1) The following types of outdoor lighting are not regulated by this section and are therefore exempt from its provisions:
    - (i) Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal lighting such as for holiday purposes, and residential yard lights, whether building mounted or pole mounted.
    - (ii) Sign lighting, which is regulated by Chapter 14.
    - (iii) Outdoor light fixtures installed prior to the effective date of this section; provided, however, that when any such outdoor light fixture is replaced or structurally altered, then the fixture shall thereafter comply with all of the provisions of this section.

- (iv) Outdoor light fixtures at and for temporary recreational events, festivals and celebratory observances not exceeding three days in duration, but such events and observances shall not be illuminated after 11 p.m., except to conclude an event or observance that was in progress prior to such time.
  - (v) Outdoor light fixtures at and for public schools, publicly-owned stadiums and arenas and other publicly-owned facilities, but an outdoor recreational facility or other outdoor recreation activity shall not be illuminated after 11:00 p.m. except to conclude any recreational or sporting event or activity, where the event or activity was in progress prior to 11:00 p.m.
  - (vi) Street lights located within the right-of-way of a public street or private street.
  - (vii) Outdoor light fixtures which use an incandescent light bulb of 150 watts or less except where they create a hazard or nuisance from glare or spill light.
  - (viii) Lighting necessary for road or utility construction or emergencies.
  - (ix) Outdoor light fixtures for the purpose of illuminating monuments and United States, state and township flags, but such lighting shall not be of any greater intensity than that necessary to reasonably illuminate such monuments or flags, and it shall not result in excessive glare or spillage of light onto adjacent or nearby lands.
  - (x) Outdoor lighting necessary for security purposes, but such lighting shall be sufficiently shielded so as not to cause excessive glare or spillage of light onto adjacent or nearby lands or public or private streets.
- (2) Outdoor lighting shall be reviewed as a part of the site plan review process under Chapter 13. The following types of lighting are regulated by the terms of this section:
- (i) Parking lot lighting and site lighting for commercial, industrial and institutional developments.
  - (ii) Multiple family development parking lot lighting and site lighting.
  - (iii) Publicly and privately owned roadway lighting.
  - (iv) Commercial and industrial building facade lighting.

- (v) Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
  - (vi) All forms of neon lighting.
- (3) Lighting shall be designed and constructed so as to comply with all of the following requirements:
- (i) Insure that direct or directly reflected light is confined to the development site.
  - (ii) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
  - (iii) The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one foot candle.
  - (iv) Lighting fixtures shall have 100 percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than 20 feet above the average grade of the site, unless otherwise permitted. All luminaries shall be recessed within the fixture to conceal the luminary or bulb.
  - (v) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.
  - (vi) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and searchlights are not permitted.
  - (vii) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- (4) Prohibited Outdoor Lighting.
- (i) Unshielded dusk to dawn outdoor lighting is prohibited in all zoning districts, except that such lighting shall be permitted on bona fide farms in the R-R District if it complies with other requirements of this section, but all such lights shall be designed, equipped and installed

so as not to cause excessive glare or spillage of light onto adjacent or nearby lands.

- (ii) The use of search lights except by law enforcement agencies and civil authorities is prohibited.

#### **Section 4.20 Private Roads.**

- (a) **Definition.** A private road is any undedicated path, trail or road which provides or is intended to provide the primary means of access to two or more parcels or two or more principal buildings, dwelling units or structures, or combination thereof, whether created by private right-of-way agreement, easement or prescription.
- (b) **Minimum Improvement and Maintenance Required.** All private roads, whether new or existing, shall at all times be improved, maintained, repaired and snowplowed so as to ensure that the private road is safe for travel at all times and so that suitable access is provided for emergency vehicles, in addition to meeting the specific standards provided in this section. All persons who own property which abuts a private road are jointly and severally responsible for compliance with this requirement.
- (c) **New Buildings.** No building or structure shall be erected which has its primary means of access from a private road unless the requirements of this section are satisfied.
- (d) **Standards for New Private Roads.** Means of ingress or egress which are physically improved or extended after May 17, 1991 so as to become private roads, regardless of whether the right-of-way was legally in existence before that time, shall comply with the following requirements:
  - (1) New private roads shall be subject to site plan review in accordance with Chapter 13 of this Ordinance. The Planning Commission shall review the plans, drawings, and other materials relating to the private road and, if it determines that all applicable provisions of the ordinance have been satisfied, the Planning Commission shall approve the issuance of a private road permit. Private roads which are part of a site condominium, planned unit development, or other development shall be reviewed and approved as part of that process, and separate site plan review shall not be required. Applicants for review of a private road shall pay a fee established by resolution of the Township Board from time to time.
  - (2) Prior to the issuance of a private road permit, there shall be submitted to the Township zoning administrator an approved driveway permit from the Michigan State Highway Department or the county road commission, in all cases where either of such permits is required.
  - (3) In connection with site plan review, the applicant and/or owner of the proposed private road right-of-way shall provide the Township with a



recordable private road maintenance or restrictive covenant agreement between the owners of the private road right-of-way and any other parties having an interest therein, or other documentation satisfactory to the Township which shall provide for and ensure that the private road shall be regularly maintained, repaired and snowplowed so as to ensure that the private road is safe for travel at all times, that suitable access is provided for emergency vehicles, and that the cost thereof is paid. The agreement shall be binding against all future owners of lands which are served by the private road. Said agreement, once approved, must be executed and recorded before a building permit shall be issued for any building or structure to be served by the private road.

(e) **Design and Construction Requirements.** All private roads shall be designed and constructed in accordance with the following minimum design, construction, inspection, approval and maintenance requirements:

- (1) The private road right-of-way shall be at least 66 feet in width.
- (2) The area in which the private road is located shall have a minimum cleared width of 30 feet.
- (3) Private roads serving four or fewer parcels shall have a minimum roadbed width of 16 feet; private roads serving five or more parcels shall have a minimum roadbed width of 22 feet of paved shoulder or valley gutter on each side.
- (4) Private roads serving four or fewer parcels of land shall have a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A).
- (5) Private roads serving five or more parcels of land shall be paved with a minimum subbase of 12 inches of sand and six inches of finished, compacted gravel (No. 22A), and a minimum of 3.5 inches of bituminous aggregate. Such paved private roads shall comply with other applicable county road commission construction requirements for local roads.
- (6) Any private road which terminates at a dead end shall have a cul-de-sac with a minimum radius of 40 feet and shall have a cleared minimum radius of at least 60 feet.
- (7) No private road shall extend for a distance of more than 2,640 feet in length from the nearest public road right-of-way as measured along the centerline of the private road, unless direct access is provided thereto from another public road.
- (8) The private road surface shall have a minimum crown of .2 feet from the centerline of the road to the outside edge thereof.

- (9) A road shoulder shall be provided on each side of the private road surface with a minimum width of two feet for each shoulder.
- (10) The maximum longitudinal road grade shall not exceed 6 percent, provided the Township may allow up to an 8 percent grade provided the Township is satisfied that such increase in road grade will not adversely public safety or cause undue erosion.
- (11) A private road shall be constructed so as to sufficiently control storm water runoff, by means of seepage basins, culverts and drainage contours and/or by such other effective methods as may be required by the Township so as to ensure adequate drainage and control of storm water runoff.
- (12) The method and construction technique to be used in the crossing of any natural stream, wetland or drainage course, by a private road, shall satisfy the requirements of the Township engineer and/or any governmental agency having jurisdiction.
- (f) All parcels utilizing a private road shall have frontage on the private road for a distance equal to or greater than the minimum lot width required for the district in which the parcel is located.
- (g) All private roads shall have direct access to a public road.
- (h) All private roads shall have a recorded permanent right-of-way or easement. The right-of-way or easement shall expressly permit public or private utilities to be installed within the right-of-way.
- (i) The layout of the private road and the intersections of the private road with either a public or private road shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is reasonably assured. The minimum distance between intersections of public and/or private road and street rights-of-way shall not be less than 150 feet, as measured along the right-of-way lines thereof.
- (j) All private roads shall be named and identified by use of appropriately located road name signs. Road names shall not duplicate any existing road name in the County, except in the case of the continuation of an existing road. All lots fronting on a private road shall have an address on the private road. A stop sign conforming to the requirements of the county road commission shall be provided at the exit point from the private road to the public road, if required by the county road commission.
- (k) A private road or interconnected private road system shall not serve more than 40 parcels, principal buildings, dwelling units, structures, or combination thereof, unless a second means of access is provided for the entire property or development served by the private road or private road system. Any such second means of ingress and egress shall comply with the minimum standards for private roads, as set forth in this section.

- (l) Upon completion of construction, the owner shall submit a certification signed by a registered engineer stating that the road has been completed in accordance with the approved site plan and construction plan. The owner shall correct any deficiencies identified. Upon review and approval of the completed private road improvement, the zoning administrator shall issue a final private road permit to the owner. Building permits for construction on property served by the private road shall not be issued until the final private road permit has been issued.
- (m) The erection of a building or other structure which would increase to five or more the total number of such buildings or structures served by a private road constructed after May 17, 1991, whether by extension of the private road, lot division or otherwise, shall be prohibited unless such private road complies, for its whole length, with paragraph (d)(5) and the other provisions of this section.
- (n) **Existing Private Roads.** Notwithstanding the foregoing, a building or structure may be erected upon a lot or parcel abutting a private road constructed adjacent to that property before May 17, 1991 if:
- (1) The lot or parcel was platted or otherwise of legal record as an individual lot or parcel as of December 31, 1998 and
  - (2) The private road:
    - (i) Has a cleared area at least 24 feet in width.
    - (ii) Has a travel area at least 16 feet in width.
    - (iii) Is graded to be passable by emergency vehicles.
    - (iv) Has sufficient gravel or other surface to be passable on a year-round basis.
- (o) **Division of Parcels on Existing Private Roads.** Notwithstanding the foregoing, if
- (i) a building or structure is proposed to be erected upon a lot that was not platted or otherwise of legal record as an individual lot or parcel as of December 31, 1998, and
  - (ii) the private road abutting the lot was constructed before May 17, 1991, then the building or structure may be erected if that portion of the private road which from its intersection with the public right-of-way, extending across the lot on which the building is to be constructed, is brought into compliance with paragraph (d), with the following exceptions:
- (1) Site plan review shall not be required.
  - (2) The required minimum right-of-way shall be reduced to 24 feet for private roads which provide access to less than five lots, parcels, buildings or structures and to 30 feet for those which provide access to five or more lots, parcels, buildings, or structures, and the required right-of-way width for any required turn-around to a radius of 40 feet.

(3) The requirement for a road maintenance agreement shall be waived if the owners of other properties abutting the road refuse to agree upon road maintenance. In this case, there shall be recorded against the property a binding covenant that the owner of the property must ensure that the private road shall be maintained, repaired, and snowplowed so as to ensure that it is safe for travel at all times and provides sufficient access to emergency vehicles. Such covenant will not relieve other parties who utilize the road from their responsibilities under paragraph (b) of this section.

(p) **Extension of Private Roads.** No private road which does not meet the standards of paragraph (d) shall be extended in length, nor shall any new private road be constructed which intersects with said nonconforming private road, unless the entire length of the private road or roads is brought into compliance with paragraph (d) of this section, subject to the same exceptions listed in paragraphs (n)(1) and (2).

**Section 4.21 Inoperable, Disabled and Unused Motor Vehicles.**

(a) The accumulation or storage of inoperable, disabled or unused motor vehicles, or parts thereof, except in compliance with the terms of this Ordinance or other township ordinances, is hereby declared to be a public nuisance. The presence of such motor vehicles or parts thereof constitutes an attractive nuisance, invites plundering, constitutes an unsightly condition tending to reduce the value of real property and otherwise contributes to blight and deterioration, all contrary to the public interest and welfare.

(b) No inoperable or disabled motor vehicle or any part thereof shall be located on any lot or parcel of land for a period in excess of seven consecutive days, unless such motor vehicle or part thereof is kept within a wholly-enclosed building or other wholly-enclosed structure or unless the keeping of such motor vehicle or part thereof is in compliance with the junk yard regulations of the Township Ordinance Code and all other applicable Township ordinances.

(c) As used in this section, an inoperable motor vehicle means:

(1) A motor vehicle subject to registration under the State of Michigan Motor Vehicle Code but which has not been registered or which does not display current license plates issued for the vehicle.

(2) Or a motor vehicle, whether or not registered under the State of Michigan Motor Vehicle Code, which by reason of dismantling, disrepair or other cause is incapable of being propelled under its own power or which is unsafe for operation on the streets and highways of the state because of its non-compliance with the State Motor Vehicle Code.

(d) As used in this section, disabled motor vehicle means any motor vehicle which is wrecked, inoperable, partially or totally dismantled, junked or abandoned and any part or parts thereof which:

- (1) Constitute an unsightly condition.
  - (2) Create a fire hazard.
  - (3) Constitute an attractive nuisance.
  - (4) Tend to be a refuge for disease-spreading insects or vermin.
  - (5) Promote or contribute to blight or deterioration.
- (e) Not more than one motor vehicle may be parked or stored out of doors on any lot or parcel of land for more than seven consecutive days without such vehicles displaying current valid license plates, unless the same is otherwise permitted by the terms of this Ordinance or by the terms of other applicable Township ordinances.

**Section 4.22 Trash and Junk.** It shall be unlawful for any person to accumulate, place, store or allow or permit the accumulation, placement or storage of trash, refuse, litter or junk on any lands in the Township, except in a lawful junk yard or sanitary landfill or unless such materials are placed in watertight storage receptacles designed for the temporary accumulation of trash.

**Section 4.23 Motor Vehicle Repair.** Normal and customary maintenance work on motor vehicles in residential districts shall be permitted, but such work shall not be carried out for business or commercial purposes.

**Section 4.24 Traffic Visibility Across Corners.** No fence, structure or planting over 30 inches in height shall be erected or planted within a 20-foot radius of the corner property lines, in order to avoid interference with traffic visibility across corners.

**Section 4.25 Fences and Walls.**

- (a) The construction, placement and use of all fences and walls shall comply with the provisions of this section.
- (b) All fences or walls constructed on lands abutting lakes or other navigable bodies of water shall be so located and shall be constructed of such material as to permit an unobstructed view of any such lake or body of water through the fence or wall.
- (c) Fences or walls constructed or maintained on lots or parcels of land having an area of three acres or less shall not contain barbed wire or have any electric current or other charge of electricity.

**Section 4.26 Antennas and Towers Not Exceeding 50 Feet in Height.** Freestanding radio, television or commercial wireless telecommunications antennas or towers (including satellite dish antennas) not exceeding 50 feet in height, are permitted in all districts upon compliance with the following requirements:

- (a) The antenna shall be permanently secured to a stable foundation.

- (b) No portion of the antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.
- (c) No freestanding antenna shall exceed a height of 50 feet above grade, except that freestanding antennas or towers exceeding such height may be permitted by the Planning Commission as a special land use under Chapter 12.
- (d) Except in the R-R District, an antenna or tower (including a satellite dish antenna) shall be located only in the rear yard or the side yard and shall not be closer to a property line than its height or the depth of the required rear or side yard setback, whichever is the greater.
- (e) An antenna may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of 20 feet, as measured from its foundation.
- (f) All antennas must be grounded to protect against damage from lightning.
- (g) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.
- (h) Amateur radio antennas (being antennas operated for the purpose of receiving or transmitting communications by a radio station described in Section 153(q) of Title 47 of the U.S. Code) and operated under a license issued by the Federal Communications Commission shall be subject to the provisions of this section, but if the effect of any such provision upon the operation of an amateur radio antenna would be to preclude or prevent the operation of such an antenna, then such provisions shall not apply.

**Section 4.27 Flag Lots.** Flag lots are permitted in the R-R Rural District only upon compliance with the following minimum requirements:

- (a) A flag lot shall be accessed only by that part of the parcel that is at least 66 feet wide and which connects to a public street. That part of the parcel which consists of the access portion and which connects to a public street shall not be included for purposes of calculating the minimum lot area of the flag lot.
- (b) A flag lot shall be divided from a lot not less than five acres in area. After the division both the flag lot and the parcel from which it is divided shall each have a minimum lot area of two acres.
- (c) Except for the access portion of the flag lot, the flag lot shall comply with the minimum lot width of the zone district, and its length or depth shall not exceed four times its width.
- (d) The minimum distance between the access portions of two flag lots shall be at least 200 feet.

- (e) The access portion of a flag lot shall have a cleared area at least 24 feet wide, have a traveled area at least 16 feet wide and shall be graded and sufficiently maintained to be readily passable by emergency vehicles on a year round basis. The access portion of a flag lot shall have a cul-de-sac with a minimum 40-foot radius turn-around area at the end, so as to accommodate the turning around of emergency vehicles.
- (f) The house number for a flag lot shall be posted on the public street near the intersection of the public street with the access portion of the flag lot.

**Section 4.28 Domestic Animals.**

- (a) Animals shall be kept only under sanitary conditions and in sanitary enclosures.
- (b) Livestock such as, but not limited to, horses, cattle, pigs, sheep, llamas, buffalo and other large animals commonly regarded as livestock shall be permitted only in the R-R District.
- (c) Not more than three adult, household dogs, six months of age or older, shall be kept or housed on any parcel of land unless a kennel special land use is approved under the terms of Section 12.29.
- (d) Animals other than customary household pets shall at all times be confined on the parcel of land where they are kept, and shall not be permitted to escape to other lands.
- (e) Exotic, endangered or unusual animals such as but not limited to leopards, bobcats, wolves, coyotes, cougars, large snakes and alligators shall not be kept or maintained on lands in any district.
- (f) The provisions of this section shall not apply to farm livestock and other farm animals that are kept as a part of a bona fide farm operation.

**Section 4.29 Natural River District.** As to all lots and parcels of land adjacent to Wabasis Creek and east of Morgan Mills Avenue, the following minimum provisions shall be required:

- (a) Each lot or parcel shall have a minimum width of 150 feet.
- (b) No structure shall be located closer than 100 feet from the edge of the stream.
- (c) A 25-foot wide natural vegetation strip shall be maintained on both sides of the stream. Trees and shrubs may be pruned in order to create a filtered view of the river, but clear-cutting is prohibited. Dead, diseased, unsafe or fallen trees and noxious plants and shrubs may be removed without approval of the Zoning Administrator. Selective removal or trimming of trees for timber harvest, landscaping or public utilities is permitted if approval is obtained from the Zoning Administrator.

- (d) No mining or other extractive industry or activity shall be permitted within 300 feet of the stream.

**Section 4.30 Landscaping and Buffering.**

- (a) Landscaping is an important element of the use, development and preservation of lands devoted to those land uses that are subject to site plan review under the terms of this ordinance. Landscaping is a significant factor in conserving the value of land and buildings.
- (b) The standards and requirements of this section apply to any land use for which site plan review is required under the terms of Chapter 13, including but not limited to commercial uses, industrial uses, special land uses, planned unit developments and other circumstances or types of land use as to which site plan review is required.
- (c) The provisions of this section shall not apply to an individual single-family detached dwelling or an individual two-family dwelling.
- (d) In several instances, the standards and requirements of this chapter are intentionally made flexible, so as to encourage innovative and creative landscape design, consistent with the purposes of this chapter. Applicants are encouraged to provide landscaping in addition to the minimum required, so as to improve the function, appearance and value of properties within the Township.
- (e) The landscaping requirements of this section shall be complied with insofar as they are reasonably feasible. However, in its review of a site plan, the Planning Commission may modify the landscaping, buffering and screening requirements of this chapter, if the purposes of this chapter will nevertheless be achieved. In approving any such modifications, the Planning Commission shall consider the following criteria:
  - (1) The amount of space on the site available for landscaping.
  - (2) Existing landscaping on the site and on adjacent and nearby properties.
  - (3) The type of land use on the site and the size and scope of the development
  - (4) Existing and proposed adjacent and nearby land uses.
  - (5) Existing native vegetation on the site, and the extent to which strict application of the regulations of this chapter may result in less effective screening and landscaping than alternative landscape designs which incorporate the native vegetation on the site.
  - (6) The topographic features of the site which may create conditions such that strict application of the provisions of this chapter will result in less effective screening and landscaping than alternative landscape designs which utilize existing topographic features.



- (f) For those land uses for which landscaping is required, a landscape plan shall be prepared and submitted. The plan may be incorporated within a site plan being submitted for site plan review or for other approvals, or it may be a separate plan. The plan shall have sufficient detail and clarity to enable the Planning Commission fully to evaluate all aspects of the proposed landscaping. The landscape plan shall include, among other matters, the following, except those matters which the Planning Commission determines are not necessary to a decision with respect to required landscaping:
- (1) Existing vegetation on the site and a clear indication of which existing plants, if any, will be retained.
  - (2) Existing and proposed contours of the site, shown at reasonable intervals.
  - (3) The location, spacing, size and description of each plant type proposed to be used in all landscaped areas.
  - (4) Topographic features of the site which will be utilized as a part of the landscaping of the site.
  - (5) Description of a proposed landscape maintenance program, including a statement that all diseased, damaged or dead plant materials shall be promptly replaced.
- (g) A landscape plan shall be subject to the approval of the Planning Commission. The Commission shall review the plan in its review of a site plan, a planned unit development plan, or in connection with the review of other land uses for which a landscape plan is required. The Planning Commission may approve the landscape plan, reject the plan or approve the plan with terms and conditions and/or modifications.
- (h) Required landscaping under the provisions of this section shall comply with the following:
- (1) All required landscaping shall be planted prior to the issuance of a certificate of occupancy; provided, however, that if a certificate of occupancy is ready to be issued, but inclement weather prevents the completion of required landscaping, the certificate may nevertheless be issued, but upon the specific condition that the remaining required landscaping shall then be installed as soon as weather conditions permit, or not later than a date to be specified in the certificate.
  - (2) For the purpose of applying the landscape requirements of this chapter, a corner lot shall be considered as having a front yard along each intersecting street, and accordingly, the required front yard landscaping shall be provided for both street frontages.

- (3) Plant materials shall be planted and maintained so as not to create any site obstruction near street intersections.
- (4) Landscaping shall be provided adjacent to buildings if such landscaping serves to enhance the general appearance of the building.

(i) **Preservation of Existing Trees and Other Landscape Elements.**

- (1) A landscape plan shall provide for the preservation of existing trees of reasonable quality whenever such preservation is feasible, particularly in greenbelt areas. Relocation of existing trees within the site is also encouraged.
- (2) Existing trees may be utilized for the purpose of complying with landscape requirements, if the trees are in healthy growing condition and if they comply with minimum size requirements.
- (3) Existing trees and other vegetation that are to be preserved shall be labeled "to remain," or with some comparable legend, on the landscape plan. During construction, protective measures shall be taken so as to protect all plants that are to be preserved, including the installation of temporary fencing or other barriers.

(j) **Installation and Maintenance of Plant Materials.**

- (1) All landscaping shall consist of hardy plant materials, which shall be maintained thereafter in a healthy condition. Withered and/or dead plant materials shall be replaced within one growing season.
- (2) All landscaped areas shall be provided with a readily available water supply, sufficient in quantity and reasonably convenient, so as to assure adequate water for maintaining plant materials in a healthy growing condition.

(k) **Front Yard Landscaping.**

- (1) Except for necessary driveways, frontage roads, service drives or walkways, the front yard shall be landscaped in accordance with the following minimum requirements:
  - (i) Front yard landscaping required by the terms of this section, shall be within a greenbelt that is at least 20 feet wide.
  - (ii) Front yard landscaping may consist of canopy trees, evergreen trees, ornamental trees, shrubbery or any combination thereof, subject to the approval of the Planning Commission in site plan review.
  - (iii) As an alternative to formal groupings of trees and shrubbery, and to provide more variety in landscaping, applicants are encouraged to

incorporate natural vegetation, including grasses, perennials and the like.

- (iv) Earthen berms may be utilized within the front yard to provide variety in the appearance of the site and for the screening of vehicle parking areas.

- (l) **Parking Area Landscaping.** Off-street paved parking areas may be required to be landscaped, either along portions of the perimeter thereof or by the establishment of landscaped islands, as may be required by the Planning Commission in site plan review.

**Section 4.31 Open Space Preservation Development.** Residential open space preservation development, as defined herein shall conform to the provisions of Section 506 of the Zoning Enabling Act, or its successor provisions; and all applicable provisions of this Ordinance. A division of land on the basis of condominium ownership shall comply with the requirements of Chapter 13A of this Ordinance for site condominium approvals.

- (a) The terms of this Section 4.31 are intended to offer an optional open space preservation approach to residential development patterns within areas of the Township zoned for two or fewer dwelling units per acre, or if the land is served by a public sewer system, three or fewer units per acre. In no event shall an open space preservation development result in more residential units on a site than would be permitted within the zoning district under conventional development patterns.
- (b) Prior to submitting an application for site plan approval to develop lands within the Township for residential purpose, an applicant considering this open space preservation development option shall submit a pre-application therefore to the Township Zoning Administrator. Such pre-application shall:
  - (1) State the intent to undertake an open space preservation development.
  - (2) Indicate the proposed method for the perpetual preservation of open space.
  - (3) Indicate the proposed number of parcels.
- (c) Not less than 50 percent of the developable land area, will remain perpetually in an undeveloped state by means of a recorded legal instrument which may include, but not necessarily be limited to, a conservation easement, plat dedication, master deed, restrictive covenant or other legal means that runs with the land. Such legal instrument shall be subject to the review and approval of the Township Attorney.
- (d) The maximum number of lots that may be approved shall be determined through the submission of a layout plan applying all zoning rules and regulations illustrating the maximum number of lots that may be developed. Unbuildable areas, including areas in a floodway, slopes greater than 15 percent, wetlands, and areas necessary for storm water management facilities, shall be taken into consideration and clearly delineated.

- (e) To achieve the permitted density and preserve the required open space, the lot area may be reduced up to 50 percent of the required lot area for the district and lot width may be reduced up to 33 percent of the required lot width in the district.
- (f) The zoning administrator shall review the pre-application and determine compliance with the requirements of this section. Upon the approval of the zoning administrator, the applicant shall submit a request for the applicable land division process - land split, subdivision or site condominium in accordance with applicable standards and rules of the Township. A building permit shall only be issued after all approvals have been granted and a copy of the recorded documents preserving the open space has been filed with the Township clerk.
- (g) Open space area developments shall adhere to the following design standards:
  - (1) The landscape and natural features shall be preserved, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site. Natural drainage areas shall be a priority for non-disturbance on the site.
  - (2) The development shall be set back from a public street such minimum distance as may be required by the Planning Commission.
  - (3) An undisturbed natural vegetation buffer of 25 feet in width shall be maintained immediately adjacent and parallel to any wetland, lake or stream bank or high water line.
  - (4) Where an open space development abuts a lake or stream, at least 50 percent of the shoreline, or such lesser percent as may be specified by the Planning Commission, as well as reasonable access to the shoreline, shall be a part of the common open space land.
  - (5) At least one-third of the common open space, or such lesser portion as may be permitted by the Planning Commission, shall be usable open space. The open space and access to it shall be permanently and clearly marked.
  - (6) Common open space in any one residential cluster shall be laid out, to the maximum extent feasible, to connect with other open space existing or proposed.
  - (7) Open space areas may not include golf courses, marinas, parking areas, the area within a platted lot or condominium unit, street rights-of-way, or utility easements.
  - (8) Open space areas shall have minimum dimensions of 50 feet on all sides.

**Section 4.32 Temporary Buildings.** A temporary building for construction materials and/or equipment which is incidental and necessary for construction work at the site where the temporary building is located shall be permitted, but any such temporary building shall be promptly removed upon the completion of the construction work at the site.

**Section 4.33 Security for Completion of Improvements.** When financial security is required for completion of any improvement provided for by this Ordinance, such security shall comply with the following standards:

(a) **Performance or Surety Bond.**

- (1) The bond shall inure to the benefit of the Township, covering construction, operation and maintenance of the improvement.
- (2) The bond shall be in an amount equal to the total estimated cost for completing construction of the improvement, including contingencies, as estimated by the Planning Commission, and the Township Engineer.
- (3) The Planning Commission shall specify the term during which the bond shall remain in force.
- (4) The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Township Board.

(b) **Cash Deposits, Certified Check, Negotiable Bond, or Irrevocable Bank Letter of Credit.**

- (1) A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, acceptable to the Township, shall be given to the Township Clerk, or deposited with a responsible escrow agent or trust company.
- (2) The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the improvement including contingencies, as estimated by the Township.
- (3) The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period specified by the Township.
- (4) In the case of cash deposits or certified checks, an agreement between the Township and the developer may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond, or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the improvement, in accordance with a previously entered into agreement.

**Section 4.34 Standards for Discretionary Decisions.** In addition to any specific standards which may be applicable, the following standards and guidelines shall serve as the basis for decisions involving special land uses, planned unit developments and other discretionary decisions set forth in this Ordinance: The proposed uses shall (a) be compatible with adjacent uses of land; (b) be consistent with, and promote the intent and purpose of, this Ordinance; (c) be compatible with the natural environment; (d) be consistent with the capacities of public services and facilities affected by the proposed use; and (e) protect the public health, safety and welfare.

**Section 4.35 Maps, Drawings and Renderings.** Whenever under the terms of this Ordinance the Planning Commission and/or the zoning administrator may be considering or reviewing a proposed land use or activity, the Planning Commission may require the submission of maps, drawings, renderings and such other information as will assist the Planning Commission and/or the zoning administrator in their consideration and review of the proposed land use or activity.

**Section 4.36 Resubmission of Matters to Planning Commission.** For a period of one year following a decision by the Planning Commission, no reconsideration of the decision shall be undertaken, nor may an application for the same matter be submitted, unless the Planning Commission in its sole discretion determines that there has been a material change in the development plans submitted or a material change in the facts and circumstances applicable to the requested rezoning, special land use, planned unit development or other relief or approval sought by an applicant.

**Section 4.37 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odor.** Every use shall be so conducted and operated that it does not create a nuisance and so that it is not dangerous by reason of heat, glare, fumes, dust, noise, vibration or odor beyond the lot on which the use is located.

**Section 4.38 Reimbursement of Township Land Use Expenses; Escrow Deposit.**

- (a) The Township Board has adopted a policy that applicants for land use approvals, including but not limited to rezoning of lands, special land uses, platted subdivisions, condominiums and site condominiums, planned unit developments, variances and other land use permits or approvals, shall reimburse the Township for its expenses in the consideration of such applications, whether or not such applications are granted or approved. Such expenses include, among others, the Township's costs of publication and mailing of notices; costs for special meetings, if needed; attorney fees; engineering fees; other consultant's fees; and other costs that may arise.
- (b) Such reimbursement, under the terms of the Township Board resolution, is to occur by the applicant depositing an initial sum of money, determined by the Township, into a Township escrow account, at the time of application. Such funds are then used by the Township to reimburse itself as expenses in the matter are incurred. During the consideration of an application, an applicant may be required to make further deposits into the escrow account, as the total of expenses incurred approaches the amount remaining on hand. Any amounts deposited that are not needed for reimbursement are promptly returned to the applicant, at the conclusion of all proceedings and inspections.

- (c) Compliance with the above-stated Township Board policy on reimbursement of land use expenses and deposits of funds into a Township escrow account when required are requirements of this Ordinance, and accordingly, the failure of an applicant to do so is a violation of this Ordinance. No zoning permits, building permits or other approvals will be issued or given, nor may applicants proceed under the terms of any land use approvals, until all Township expenses in the matter have been reimbursed in full by the applicant to the Township.

**Section 4.39 Marihuana Facilities/Establishments Prohibited.**

- (a) The following uses are completely prohibited in the Township, and may not be established or operated in any zoning district, by any means, including by way of a variance:
  - (1) Any and all types of a “marihuana establishment,” as that term is defined and used in Michigan Initiated Law 1 of 2018, commonly known as the Michigan Regulation and Taxation of Marihuana Act.
  - (2) Any and all types of a “marihuana facility,” as that term is defined and used in the Medical Marihuana Facilities Licensing Act, MCL 333.27101, et seq.
- (b) This Section 4.39 does not limit any privileges, rights, immunities or defenses of a person as provided in the Michigan Medical Marihuana Act, Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq., or as reflected in Section 4.17 of this Ordinance.

**Section 4.40 Solar Energy Conversion Systems; Onsite.**

- (a) **Applicability.** This section applies to Solar Energy Conversion System; Onsite. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground, which are a permitted use. Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.
- (b) **General Requirements.**
  - (1) **Permit Required.** No Solar Energy Conversion System; Onsite shall be installed or operated except in compliance with this section. A zoning compliance permit shall be obtained from the Zoning Administrator prior to installation and shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer’s specifications.
  - (2) **Applications.** In addition to all other required application contents as listed in Chapter 18, equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.

- (3) **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. With the exception of the energy collecting surface, the color of framing and structural equipment shall be muted soft white, gray, galvanized, or other similar neutral color that blends into the environment or structure on which it is located. The Zoning Administrator may request that a paint sample be provided to demonstrate consistent appearance in paint finish and color. A unit may not be installed or located so that sunlight or glare is reflected into neighboring structures or onto adjacent roads or private roads.
  - (4) **Installation.**
    - (i) A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable requirements.
    - (ii) Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
  - (5) **Power Lines.** On-site power lines between solar panels and inverters shall be placed underground.
  - (6) **Abandonment and Removal.** A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned. Following the abandonment of a solar energy collector system, the following standards are applicable:
    - (i) The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Township is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
    - (ii) The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
- (c) **Building Mounted Solar Energy Collectors.** These systems, unless classified as utility grid solar energy systems, may be established as accessory uses in all zoning districts subject to the following conditions:
- (1) **Maximum Height.** Building-mounted solar energy collectors shall be attached directly to the building and shall not be taller than the peak of the building to which they are attached.
  - (2) **Obstruction.** Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.



(d) **Ground-Mounted Solar Energy Collectors.** These systems, unless classified as utility grid solar energy systems, are permitted in all zoning districts as accessory uses subject to the following conditions:

- (1) **Rear and Side Yards.** The unit may be located in the rear yard or the side yard but shall be subject to the setbacks for accessory buildings.
- (2) **Front Yard.** The unit may be located in the front yard only if located not less than two hundred (200) feet from the front lot line.
- (3) **Obstruction.** Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
- (4) **Maximum Size.**
  - (i) **Residential Uses.** There shall be no more than one percent (1%) of the lot area, up to two thousand (2,000) square feet, of collector panels on a ground-mounted solar energy collector system. For determining lot area coverage, the solar collector surface area shall be used.
  - (ii) **Agricultural, Commercial, and Industrial Uses or Community Solar Energy Systems.** There shall be no more than ten thousand (10,000) square feet of solar collector surface on a ground-mounted solar energy collector system unless a utility grid solar energy systems is approved pursuant to Section 12.50.

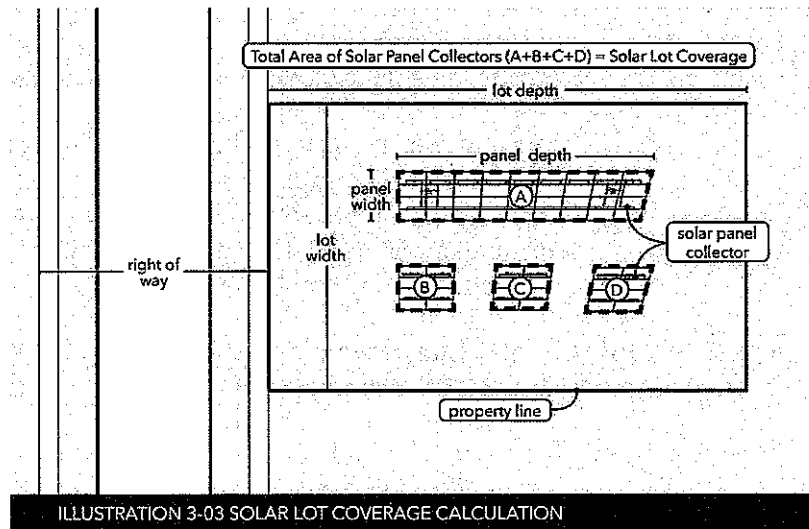


ILLUSTRATION 3-03 SOLAR LOT COVERAGE CALCULATION

(5) **Maximum Height.**

- (i) Residential Uses. The maximum height shall be twelve (12) feet, measured from the natural grade below the unit to the highest point at full tilt.
- (ii) Agricultural, Commercial, and Industrial Uses or Community Solar Energy Systems. The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.

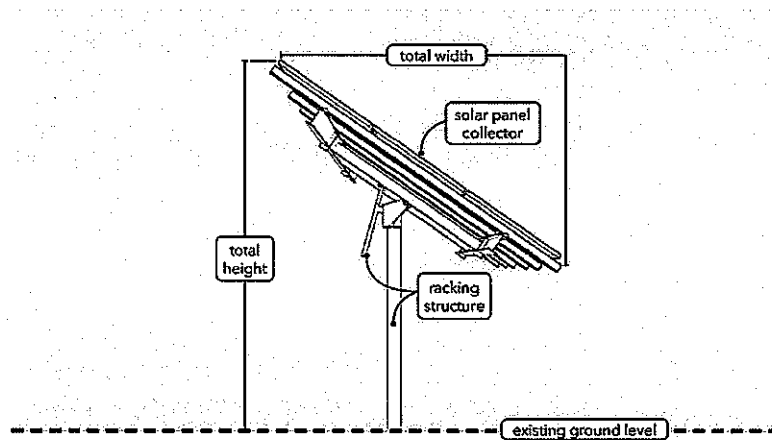


ILLUSTRATION 3-04 SOLAR PANEL HEIGHT, WIDTH, AND COMPONENTS

- (6) Minimum Lot Area. Two (2) acres shall be the minimum lot area to establish a ground-mounted solar energy collector system.
- (7) Screening. Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.

**Section 4.41 Wind Energy Conversion Systems; Onsite (“WECS”).** A Wind Energy Conversion System; Onsite shall be a permitted use in all zoning districts, subject to the following:

- (a) **Permit Required.** A permit shall be obtained from Oakfield Township. A permit shall be issued after an inspection of the required information for the WECS by Oakfield Township or an authorized agent of the Township, and where the inspection finds that the WECS complies with the requirements of this section, all applicable state construction and electrical codes, Township building permit requirements, and all manufacturers’ installation instructions.

The following information is required to be submitted for a WECS permit:

- (1) Name of property owner(s) and address.
- (2) An accurate drawing showing the proposed location of the WECS, property lines, existing building(s), proposed WECS setback lines, right-of-way lines, public easements, and overhead utility lines.
- (3) The proposed type and height of the WECS to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- (4) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- (5) Other relevant information as may be reasonably requested by the Zoning Administrator or Building Inspector.

(b) **Height.**

- (1) The height of a tower mounted WECS shall not exceed 120 feet.
- (2) The height of a building mounted WECS shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.
- (3) Height for these purposes is measured to the higher of the highest point of a vertical swept rotor or the axis of rotation for a horizontal axis rotor.

(c) **Setback.**

- (1) The setback for a tower mounted WECS shall be a distance which is at least equal to 1.5 times the height of the WECS measured from the furthest outward extension of all moving parts. No portion of the WECS, including the guy wire anchors, shall be located within or above the required front, side or rear yard building setback.
- (2) The setback for a building mounted WECS shall be a minimum of 15 feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of the building. If the WECS is affixed by any extension to the side, roof or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of 15 feet. The setback shall be measured from the furthest outward extension of all moving parts.

- (d) Wind Energy Conversion Systems more than 120 feet in height, or properties proposed for more than one Wind Energy Conversion System, must comply with Section 12.51 of the Oakfield Township Zoning Ordinance.