

## CHAPTER 1

### TITLE, PURPOSE AND SCOPE

An ordinance to establish zoning districts, provisions, and regulations in the unincorporated portions of Tyrone Township, Kent County, Michigan, in accordance with the provisions of Act 110 of the Public Acts of 2006 as amended.

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

This ordinance shall be known as the “Tyrone Township Zoning Ordinance.”

#### **SECTION 1.02      PURPOSE**

This Ordinance is based upon the 1998 Tyrone Township Master Plan. The purpose of this Ordinance is to promote and safeguard the public health, safety, morals, prosperity, and general welfare of the people. The provisions are intended, among other things, to encourage the use of lands, waters, and other natural resources in the township in accordance with their character and most suitable uses; to limit the improper use of land and resources; to reduce hazards to life and property; to provide for orderly development within the township; to avoid overcrowding of the population; to provide for adequate light, air, and health conditions in dwellings and buildings hereafter erected or altered; to lessen congestion on the public roads and streets; to protect and conserve natural recreational areas, agricultural, residential, and other areas naturally suited to particular uses; to facilitate the establishment of an economic system of transportation, sewage disposal, safe water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land; resources, and properties. (Ordinance No. 73 Effective 8/3/99.)

#### **SECTION 1.03      SCOPE**

It is not intended by this Ordinance to repeal, abrogate, annul or in any other way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, or of any private restrictions placed upon property by covenant, deed, or other private agreement; provided, however, that where any provision of this Ordinance imposes more stringent requirements, regulations, restrictions, or limitations upon the erection or use of land and buildings, or upon the height of buildings and structures, or upon safety and sanitary measures, or requires larger yards or open spaces than are imposed or required by the provisions of any other law or Ordinance, or any said rules, regulations, permits, or easements, then the provisions of this Ordinance shall govern.

The requirements of this Ordinance are to be construed as minimum requirements, and shall in no way impair or affect any covenant or restriction imposing greater requirements.

## CHAPTER 2

### DEFINITIONS

#### SECTION 2.01 RULES APPLYING TO TEXT

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

The particular shall control the general.

The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

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

A “building” or “structure” includes any part thereof.

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

The words “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied.”

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

Any dispute over any language contained in the Zoning Ordinance may be resolved under Chapter 17 pertaining to zoning authority and procedure before the Township Zoning Board of Appeals.

#### SECTION 2.02 DEFINITIONS

**ACCESSORY BUILDING:** A building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use.

**ACCESSORY USE:** A use naturally and normally incidental and subordinate to, and devoted exclusively to the main use of the land or building.

**ADULT FOSTER CARE FACILITY:** A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. 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. Such facilities are licensed under Public Act 218 of 1979 as amended.

**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.

**ADULT FOSTER CARE FAMILY HOME:** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (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.

**ADULT FOSTER CARE LARGE GROUP HOME:** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care.

**ADULT FOSTER CARE SMALL GROUP HOME:** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

**AGRICULTURE:** The use of land for tilling of the soil, raising of tree or field crops, animal husbandry, or horticulture as a source of income.

**AGRICULTURAL SERVICE ESTABLISHMENT:** Agricultural service establishments engage in performing agricultural or animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to, centralized bulk collection, refinement, storage, and distribution of farm products to wholesale and retail markets (such as grain cleaning and selling; sorting, grading, and packing of fruits and vegetables for the grower; and agricultural produce milling and processing); the storage and sale of seed, feed, fertilizer, and other products essential to agricultural production; hay baling and threshing; crop dusting; fruit picking; harvesting and tilling; farm equipment sales, service, and repair; veterinary services; and facilities used in the research and testing of farm products and techniques.

**ALTERATIONS:** Any change, addition, or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as “altered” or “reconstructed.”

**ANIMAL HOSPITAL:** An institution in which medical or surgical care is provided for other than human beings.

**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, wireless telecommunications signals or other communication signals. (Ordinance No. 73 Effective 8/3/99.)

**APARTMENT HOUSE:** See “Dwelling, Multiple Family.”

**APPEARANCE TICKET:** A complaint of written notice issued and subscribed by a public servant authorized by law to issue it, directing a designated person to appear in a designated

local criminal court at a designated future time in connection with his or her alleged commission of a designated violation or violations of state law or local ordinance.

**AUTOMOBILE REPAIR:** Any activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines, or trailer; collision service such as body, frame, or fender repair; overall painting and rustproofing; refinishing or steam cleaning.

**AUTOMOBILE SERVICE STATION:** A building designed or used for the retail sale of fuel, lubricants, and other operating commodities for motor vehicles and including the customary space and facilities for the installation of such commodities on or in such vehicles, and including space for facilities for storage, minor repair, and servicing.

**AUTOMOBILE WASH ESTABLISHMENTS:** A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

**BASEMENT:** A floor or level of a building having one or more of its exterior walls located wholly or partially below finished grade, with grade being determined where the top of the ground rests against the building when construction is completed; not more than one-half of this floor or level shall have its height above grade.

**BILLBOARDS, SIGNBOARDS, OR SIGNS:** Any sign, display, device, figure, painting, structure, drawing, message, placard, poster, billboard, or any other thing intended, designed, or used to advertise, promote, or inform; and which is not necessary except to advertise, promote, or inform an activity conducted on the premises and which can be seen from outside any building or structure, or from the out-of-doors.

**BOARD OF APPEALS:** As used in this Ordinance, this term means the Tyrone Township Zoning Board of Appeals.

**BUILDABLE AREA:** The buildable area of a lot is the space remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

**BUILDING:** Any structure, temporary or permanent, having a roof.

**BUILDING HEIGHT:** The building height is the vertical distance measured from the average lot grade at the front of the building to the highest point of the roof.

**BUILDING INSPECTOR:** That individual appointed by the Township Board as the Building Inspector of Tyrone Township.

**BUILDING LINE:** A line parallel to, and set back from, the front lot line a distance equal to the depth of the front yard required for the district in which the lot is located.

**BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING PERMITS:** A building permit is the written authority as issued by the Building Inspector on behalf of the Township permitting the construction, moving, alteration, or use of a building or structure in conformity with the provisions of this Ordinance.

**CAMPGROUND:** “Campground” shall mean and include the temporary or permanent buildings, tents, or other structures, together with the appurtenances pertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for recreation, education, or vacation purposes, on a commercial basis or for charity purposes. The term “camp” shall not be construed to include buildings, tents, or other structures maintained by the owner or occupant or premises used exclusively to house his farm labor.

**CHILD CARE CENTER:** Any facility in which one or more children are given care and supervision for periods of less than 24 hours per day on a regular basis. Child care centers do not include Family or Group Day Care Homes, or schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center. (Ordinance No. 73 Effective 8/3/99.)

**CO-LOCATION:** The use of a single support structure, building and/or site by more than one wireless communication provider. (Ordinance No. 73 Effective 8/3/99.)

**COMMERCIAL AGRICULTURE:** The use of land and/or structures for the growing and/or production of farm products for income, including operations where fruits, vegetables, or similar farm products are picked by and sold to the consumer; i.e., “u-pick” operations.

**CONDOMINIUM UNIT:** A portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. (Ordinance No. 73 Effective 8/3/99.)

**CONVALESCENT OR NURSING HOME:** A convalescent or nursing home is a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, wherein four or more persons are cared for. Said facility shall conform to, and qualify for license under, applicable State laws.

**DECK:** An uncovered platform which extends above grade. (Ordinance No. 73 Effective 8/3/99.)

**DISTRICT OR ZONE:** A portion of the Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

**DRIVE-IN RESTAURANT:** A drive-in establishment that furnishes the patron with food in a ready-to-consume state, and where the consumption of food is allowed either in the main building, a motor vehicle parked on the premises, another facility on the premises outside the main building, or off the premises.

**DWELLING OR APARTMENT:** A building or portion thereof, designated or used exclusively as a residence or sleeping place for one or more persons, permanently or temporarily, including one-family, two-family, multiple dwellings, apartment hotels with cooking facilities, board and lodging houses, and mobile homes used for such purposes, but not including motels, motor hotel, tourist rooms, travel trailers, motor homes, trailers, or truck campers.

**DWELLING, MULTIPLE:** A building or portion thereof, used or designated for use as a residence for three or more families living independently of each other and each doing their own cooking in said building. This term includes apartment buildings and townhouses.

**DWELLING, SINGLE FAMILY:** A building used or designated for use exclusively by one family.

**DWELLING, TWO FAMILY (DUPLEX):** A detached building used or designated for use by two families living independently of each other and each doing their own cooking in said building.

**EASEMENT:** A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity. (Ordinance No. 72 Effective 2/23/99.)

**ERECTED:** This term 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 the erection.

**ESSENTIAL PUBLIC SERVICES:** The erection, construction, alteration, or maintenance by public utilities or township departments of the following utilities: gas, telephone, electrical, steam, water, or sewer for the purpose of transmission or distribution, collection, communications, supply or disposal or such utility services including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, towers, substations, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate public utility service by such public utilities or Township for the public health, safety, or general welfare, but not including buildings other than such as are primarily enclosures or shelters of the above essential service equipment. This definition shall not include sanitary landfills, recycling centers, or transfer stations.

**EXCAVATING:** Excavating shall be the removal of sand, stone, gravel, or fill dirt below the average grade of the surrounding land and/or road grade, whichever is the highest.

**FAMILY:**

- (a) One or more persons related by blood, marriage, or adoption, including foster children and servants, occupying a single dwelling unit and living as a single, non-profit housekeeping unit.

- (b) A collective number of individuals occupying a single dwelling unit whose relationship is of a permanent non-transient and distinct domestic character and cooking and living together as a single and separate housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization which is not a recognized religious order nor does it include a group of individuals whose association is temporary and/or resort seasonal in nature nor include state licensed residential facilities, as defined by the Michigan Zoning Enabling Act, being Act. No. 110 of 2006, as amended, having more than six individuals.

**FARM:** All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a contiguous parcel of not less than ten acres in area. Farms may be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, livestock and poultry farms, apiaries; but establishments for the purpose of keeping fur-bearing animals or game, or operating fish hatcheries, stock yards, stone quarries, or gravel, dirt, or sand pits shall not be considered farms.

**FARM ANIMALS:** Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals.

**FARM BUILDINGS:** Any building or accessory structure other than a farm or a non-farm dwelling unit which is used for farm operations such as, but not limited to, a barn, grain bin, silo, farm implement storage building, and/or milkhouses.

**FARM LABOR HOUSING:** A tract of land, mobile homes, buildings, and other structures pertaining thereto which is established, occupied, or used as living quarters for migratory workers engaged in agricultural activities, including related food processing.

**FARM OPERATIONS:** A condition or activity which occurs on a farm in connection with the commercial production of farm products and includes, but is not limited to, marketing produce at roadside standards or farm markets; noise; odors; dust; fumes; operation of machinery and irrigation pumps; ground and aerial seeding and spraying; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

**FARM PRODUCTS:** Those plants and animals useful to man and includes, but is not limited to, forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing; fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine, and other similar products; or any other product which incorporates the use of food, feed, fiber, fur or flora.

**FENCE:** Any permanent partition, or structure erected as a dividing structure, barrier, or enclosure, and not part of a building.

**FLOODPLAIN:** Those areas which would be inundated by flood waters in a flood on one percent yearly probability.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls or from the centerline of common walls. Floor area shall not include elevator shafts, stairwells, floor space used for mechanical and utility equipment, attic space having headroom of less than seven feet, or interior balconies or mezzanines. Any space devoted to parking or loading shall not be included.

**GARAGE – PRIVATE:** A detached accessory building or portion of a main building for the parking or temporary storage of not more than three automobiles, including not more than one light delivery or pickup motor vehicle of rated capacity not to exceed one and one-half tons used by the occupants of the premises.

**GARAGE – PUBLIC:** A building, other than a private garage, used for the care, repair, or equipping of automobiles, or where such vehicles are parked or stored for remuneration, hire, or sale.

**GASOLINE SERVICE STATION:** A structure or structures and space combined, used solely for either/or both the sale and installation in or upon motor boats or motor vehicles of the usual operating commodities such as gasoline, fuel oil, oil, grease, alcohol, water, batteries, tires, light bulbs, windshield wipers, and other minor accessories or services such as washing, wiping, cleaning, and waxing, or repair of tires, lights, charging of batteries, and tune-ups.

**GRADE:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

**GREENBELT:** A natural or planted landscaped area consisting of trees, shrubs, bushes, and grasses designed to provide a visual and spatial buffer between land uses.

**HOME OCCUPATION:** An activity carried out for remuneration by a resident conducted as a permitted use in the resident's dwelling unit or accessory building.

**JUNK YARD:** This term includes automobile wrecking yards and salvage areas and includes any area of more than two hundred square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

**KENNEL:** Any lot or parcel on which more than three dogs, six months of age or older, are kept for the purpose of breeding, boarding, or sale.

**LOT:** A parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use. (Ordinance No. 72 Effective 2/23/99.)

**LOT AREA:** The total horizontal area within the lot lines or property boundary of a lot which includes the area within public and private road rights of way if such area is included within the legal description of the lot. (Ordinance No. 76 Effective 10/25/99)

**LOT CORNER:** A lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the centerlines of the street is one hundred thirty-five degrees (135°) or less or a lot abutting upon a curved street or streets if tangents to the curve at the two points where the lot lines meet the centerline curve form an interior angle of one hundred thirty five (135°) or less.

**LOT COVERAGE:** The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

**LOT DEPTH:** The distance between the front lot line and the rear lot line measured along the median between the side lot lines.

**LOT, DOUBLE FRONTAGE:** Any lot, excluding a corner lot which fronts on two streets which do not intersect.

**LOT, INTERIOR:** A lot which has frontage on only one street.

**LOT LINE, FRONT:** The lot line separating a lot from a street right-of-way, private road, or other thoroughfare.

**LOT LINE, REAR:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregular shaped lot or parcel, an imaginary line ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the event that none of these definitions are applicable, the Building Inspector shall designate the rear lot line.

**LOT LINE, SIDE:** Any lot line other than a front or rear lot line.

**LOT WIDTH:** The horizontal distance between the side lot lines, measured parallel to and at the front lot line. ( Ordinance No. 94: Eff. 6/02/03 )

**MOBILE HOME:** A structure, transportable in one or more sections, which is built on 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, excluding, however a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved or drawn by another vehicle. A mobile home is also referred to as a manufactured home. ( Ordinance No. 94: Eff. 6/02/03 )

**MOBILE HOME PARK:** 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, nonrecreational basis and which is

offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

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

**MOTOR HOME:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

**NONCONFORMING BUILDING OR STRUCTURE:** A structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated.

**NONCONFORMING USE:** A structure, building, plot, premises, or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

**OPEN AIR BUSINESS:** A business, a substantial part of which involves activities or the display and sale of goods outside of a building, including motor vehicle and boat sales, mobile home sales, lawn and garden centers, golf driving ranges, and similar uses. (Ordinance No. 73 Effective 8/3/99.)

**OPEN SPACE PRESERVATION PROJECT:** A single family development in which a portion of the project will remain preserved in an undeveloped state in accordance with Section 506 of the Michigan Zoning Enabling Act, Being Public Act 110 of 2006 (MCL 125.3506).

**PLANNED UNIT DEVELOPMENT:** Land under unified control, to be planned and developed as a whole, in a single development operation or a definitely programmed series of development operations, including all lands and buildings. Such developments shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements.

**PORCH, ENCLOSED:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main building and has a separate roof or an integral roof with the building to which it is attached.

**PORCH, OPEN:** A covered entrance to a building or structure which is unenclosed except for supporting columns.

**PREMANUFACTURED UNIT:** An assembly of materials or products intended to comprise all or part of a building or structure and which is assembled at other than the final location of the unit of the building or structures by a repetitive process under circumstances intended to ensure uniformity of quality and material content. Premanufactured unit includes a mobile home.

**PRINCIPAL USE:** The primary or predominant use of the premises.

**PRIVATE ROAD:** (See Section 4.26)

**RESTAURANT:** A public eating place where food is prepared and served or sold for consumption solely within a building on the premises and which, as an incidental part of said principal business, may permit food to be taken from the premises for consumption. Property owned, leased, or in which an owner of a restaurant has an interest shall be considered as restaurant premises if used in the operation of such business.

**RIGHT-OF-WAY:** A street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles. (Ordinance No. 72 Effective 2/23/99.)

**RIVER'S EDGE:** The mean annual waterline of the river or tributary.

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

**SETBACK:** The minimum unoccupied distance between the lot line and the nearest wall of the principal or accessory building.

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

**SIGN, ON-SITE:** An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premise.

**SIGN, OFF-SITE:** Any sign relating to matter off the premises.

**SPECIAL USE:** A use which shall be permitted in a zoning district only after review and approval by the Planning Commission when the facts and conditions specified in the Zoning Ordinance as those upon which the use is permitted are found to exist.

**STABLE:** A structure, building, or land used for the keeping, care, and raising of horses.

- (a) **COMMERCIAL** - Any lot or parcel where horses are kept for training, riding, stabling, or breeding for compensation.
- (b) **PRIVATE** - Any lot or parcel where horses are kept and used solely by the owner or owners of the lot or parcel with no commercial activities involved.

**STORY:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

A “mezzanine” floor shall be deemed a full story only when it covers more than fifty percent of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty-four feet or more.

**STREET:** A publicly or privately owned and maintained right-of-way or easement which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except an alley. (Ord. No. 92, Effective 02-10-03.)

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground; including, but without limiting the generality of the foregoing; advertising signs, billboards, tennis courts, swimming pools, and pergolas. Fences, sidewalks, and driveways shall not be considered structures.

**THEATER:** Any building or place used for presentation of dramatic spectacles, shows, movies, or other entertainment, open to the public with or without charge.

**TOWER:** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers. Tower includes those used for transmission for radio and television, microwave, common carrier, cellular telephone, alternative tower structures and the like. Tower includes the structure thereof and any support thereto. (Ordinance No. 73 Effective 8/3/99.)

**TOWER HEIGHT:** The distance measured from the finished grade of the parcel of land to the highest point on the tower or other structure, including the base pad and any antenna. (Ordinance No. 73 Effective 8/3/99.)

**USE:** The lawful purpose for which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

**VARIANCE:** An adjustment of or variation from the requirements of this Ordinance as authorized by the Zoning Board of Appeals or the Zoning Administrator under the provisions of this Ordinance.

**YARD:** A required yard is an open space of prescribed width or depth on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(a) **FRONT YARD** - A required front yard is an open space extending the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the front street lot line, describing an unoccupied space between the front lot line and the nearest wall of the main building, excepting steps and unenclosed porches.

- (b) **REAR YARD** - A required rear yard is an open area extending across the full width of the lot, the uniform depth of which is the minimum prescribed horizontal setback distance measured at right angles to the rear lot line, describing an unoccupied space between the rear lot line and the nearest wall of the main building.
  
- (c) **SIDE YARD** - A required side yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the required side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line to the nearest wall of the main building.

**CHAPTER 3**  
**ZONING DISTRICTS**

**SECTION 3.01      ZONE DISTRICTS**

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts:

A	Agricultural
RA	Rural Agricultural
R-1	Low-Density Residential
R-2	Medium-Density Residential
R-3	Mobile Home Park
C-1	Local Commercial
C-2	General Commercial
E-1	Natural River Conservation
OS-PUD	Open Space Planned Unit Development
I	Industrial
I-RS	Industrial-Recycling Station
(olive green)	Elm Dells Overlay

(Ordinance No. 73 Effective 8/3/99.)

**SECTION 3.02      THE ZONING MAP**

The locations and boundaries of these descriptions are hereby established on a map entitled “The Official Zoning Map of Tyrone Township” which is hereby made a part of this Ordinance.

The official zoning map shall be located in the Township offices and shall be the final authority as to the current zoning status of any property in the Township. Said map is to be kept up to date, and accessible to the general public.

**SECTION 3.03      BOUNDARIES OF ZONE DISTRICTS**

Unless otherwise provided, the boundaries of zone districts shall be interpreted as following along section lines, or lines of customary subdivisions of such sections; or the centerlines of highway, streets, or open areas; or property lines of record; or the extension of any said lines.

Lines parallel to streets or highways without indicating the depth from the street line shall be construed as having a depth of two hundred fifty (250) feet from the center of the street or highway.

## CHAPTER 4

### GENERAL PROVISIONS

#### SECTION 4.01 GENERAL INTENT AND APPLICATION

It is the purpose of this Chapter to establish general regulations which have not been specifically provided for in other sections of this Ordinance. Unless specifically noted, these regulations apply to uses in all zoning districts.

#### SECTION 4.02 THE EFFECT OF ZONING

Except as hereinafter specified, no lot or land or premises shall hereafter be used, maintained, or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered, except in conformity with the regulations herein specified for the zoning district in which it is located.

Nothing in this ordinance shall be deemed to require any change in the plans, construction, or design of any building upon which construction has lawfully begun or for which a valid building permit has been issued; provided, however, that such building shall be completed within two years from the date of passage of this ordinance or subsequent amendments affecting the district in which the building is or will be located.

#### SECTION 4.03 RESTORATION OF UNSAFE BUILDINGS

Nothing in this Ordinance shall prevent the strengthening or bringing to a safe condition of any building or structure, or part thereof, which does not comply with the building codes in force in the Township and unsafe as determined by the Building Inspector.

#### SECTION 4.04 REQUIRED AREA OR SPACE

No lot or lots in common ownership and no yard, parking area, or other space shall be so divided, altered, or reduced as to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

#### SECTION 4.05 ACCESSORY BUILDINGS

- (a) General Regulations. The following regulations shall apply to accessory buildings in all zoning districts unless otherwise provided:
  - (1) In any zoning district, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building.

- (2) Accessory buildings shall not be erected in any required front or side yard.
- (3) Detached accessory buildings and garages shall not occupy more than thirty percent (30%) of any required rear yard space. Said accessory building, when located in the rear yard, shall not be located nearer than five (5) feet to any side or rear lot line nor nearer than ten (10) feet to the principal building. Any accessory building larger than eight hundred thirty-two (832) square feet in area shall be at least twenty five (25) feet from the side lot line.
- (4) The distance between detached accessory buildings or garages and the principal building or buildings shall not be less than ten (10) feet. Accessory buildings or garages shall be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.
- (5) No accessory building shall include residential or living quarters for human beings.
- (6) When an accessory use or building is located on a corner lot, it shall not project beyond the front yard setback line required on the lot in the rear of such corner lot.

(b) Residential Districts

- (1) Detached accessory buildings used as private garages in residential zone districts for the storage of vehicles shall not exceed eight hundred thirty two (832) square feet in area or have a door opening greater than ten (10) feet in height.
- (2) Detached accessory buildings in addition to permitted private garages in residential districts are permitted according to the following schedule:

<b>Lot Area</b>	<b>Maximum Size of Accessory Building</b>
Less than one acre	800 square feet
One to two acres	1,200 square feet
Over two acres	1,600 square feet

- (3) Accessory buildings in residential zones shall not exceed 18 feet in height.
- (4) In all residential zoning districts, only one detached accessory building in addition to a detached private garage shall be permitted on the same lot as the principal building.
- (5) An accessory building shall not be permitted on any lot or parcel prior to construction of the principal building.



- (a) Mobile home structures may be used for one year for living accommodations while a permanent structure is under construction, upon approval of the Building Inspector, who shall determine that the following standards are met:
- (1) The temporary mobile home shall be used solely by the owner who is constructing the permanent structure and his immediate family.
  - (2) The owner shall have secured a building permit for the permanent structure.
  - (3) The owner shall have site plans approved by the Building Inspector for the temporary mobile home which shall show the size of the lot on which the temporary mobile home will be placed, the dimensions of the temporary structures, and its location on the lot.
  - (4) The owner shall have submitted to and obtained approval by the Building Inspector of electrical and plumbing specifications for the temporary structure.
  - (5) The owner shall submit a certificate of approval for sewer and water from the proper health agency for the temporary structure.
  - (6) The temporary structure shall provide not less than one hundred fifty (150) square feet per person who will occupy the same and must be not smaller than ten (10) feet wide throughout its length.
  - (7) Tyrone Township shall require a cash bond of Five Hundred Dollars (\$500.00) from the owner conditioned upon the prompt removal of the temporary structure upon the expiration of the permit. The cash bond shall be invested by the Township Treasurer in a savings account at the rate of interest then payable on such accounts. Upon removal of the temporary structure within the time allowed by the permit and the faithful performance by the owner of the conditions of the permit specified in this section of the zoning ordinance, the Township shall return the bond together with the interest accrued thereon to the owner. If the owner fails to remove the temporary structure within said time or fails to abide by the conditions of this section of the Zoning Ordinance, he shall be deemed to have forfeited the bond and the Township may use the same for enforcement of its ordinances for the removal of such temporary structure. In addition to receipt of the bond proceeds, the Township may seek any other appropriate legal remedy for the enforcement of its Ordinance.
- (b) In the event that the Board of Appeals determines that the permit holder has commenced building the permanent structure and has diligently pursued the building thereof, upon a hearing before said board, it may extend the temporary permit for an additional period of one year.
- (c) Notices of hearing for an extension of a temporary mobile home permit before the Board of Appeals shall be the same as that required for zoning variances.

- (d) Mobile home structures may be used temporarily while constructing a permanent nonresidential structure or a permanent dwelling damaged by wind, rain, fire, or the like for a period of one (1) year. One (1) extension of one year is permitted upon recommendation by the Building Inspector and application and approval by the Board of Appeals. The mobile home, when used as a dwelling, must be connected to a well and septic system and/or public sewer or water system approved by Kent County Health Department and must be not smaller than ten (10) feet wide throughout its length.

#### **SECTION 4.10 DWELLING UNITS OUTSIDE OF MOBILE HOME PARKS**

All dwelling units located outside of mobile home parks shall comply with the following requirements:

- (a) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (b) All dwellings shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (c) All additions to dwellings shall meet all the requirements of this Ordinance.
- (d) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one-half (7.5) feet; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled "Mobile Home Construction and Safety Standards", effective June 15, 1976, as amended.
- (e) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations, entitled "Mobile Home Construction and Safety standards", effective June 15, 1976, as amended; that is, the mobile home shall have a HUD sticker. All other dwellings shall meet the requirements of the construction code adopted by Tyrone Township.
- (f) Frame bearing mobile homes: Pillars shall be required to support frame bearing mobile homes which pillars shall extend into the soil a minimum of forty two(42) inches and have a minimum width of sixteen (16) inches. All pillars shall be placed in undisturbed soil. From the top of the pillars to the bottom of the frame of a mobile unit, a pier shall be made of 4" x 8" x 16" solid concrete blocks. The bottom of the pillars may be flared if possible but is not mandatory. If a concrete pad is poured around the pillars, a 1/2" expansion joint shall separate the pad from the pillar to allow movement of the pad. Said pillars shall be spaced not more than ten (10) feet apart on center with pillars at each end

of the unit. Provided, however, such pillars may be spaced up to thirteen (13) feet apart on center at the axle area, provided that the number of pillars shall be equal; in number had they been placed at ten (10) feet intervals. ( Ord. No. 94: Eff.6/02/03 )

- (g) As an alternative to Section 4.10(f), frame bearing mobile homes, may be installed according to the specifications of the manufacturer of the mobile home. ( Ord. No. 94: Eff.6/02/03 )
- (h) Frame bearing mobile home shall have a minimum clearance of sixteen (16) inches above the ground to the bottom of the frame of the mobile home.
- (i) Perimeter bearing mobile homes: A perimeter bearing mobile home shall have a perimeter frost wall of not less than forty (40) inches into the ground from the surface of the ground.
- (j) Perimeter bearing mobile homes shall have a minimum clearance of twenty-four (24) inches above the ground to the bottom of the frame of the mobile home.
- (k) The entire exterior perimeter of a frame bearing mobile home, between the ground level and mobile home, shall be skirted with skirting material that meets exterior sheeting requirements of mobile homes and meets and is installed to mobile home industry standards. Such skirting must be installed with thirty (30) days after placement of the mobile home on the lot or parcel.
- (l) All mobile homes, temporary and permanent, must be anchored by an anchoring system. Such anchoring system shall consist of a combination of the following:
  - Ties - straps, cable or securing devices used to connect the mobile home to ground anchors.
  - Anchoring equipment - straps, cables, turnbuckles, and chains, including tensioning devices which are used with ties to secure a mobile home to ground anchors.
  - Ground anchors - any device at the mobile home site designed to transfer mobile home anchoring loads to the ground if the mobile home is supported by pillars; otherwise to transfer such loads to the concrete pad.
- (m) All supporting pillars and frost walls shall be placed in undisturbed soil.
- (n) Factory built dwelling units shall have, exclusive of basements, porches, garages, breezeways, terraces or attics, and additions and also alterations, a finished livable floor area of not less than (900) square feet.

## **SECTION 4.11      TRANSITION ZONING**

A residential district lot having its side yard abutting a commercial or industrial district (without any street intervening between said properties), may be utilized in accordance with the next least restricted residential district requirements for new residential structures. Such transition lot shall not extend for more than one hundred fifty (150) feet from such commercial or industrial district. In addition, this transitional lot may be used for offices for doctors, dentists, architects, and similar professions. For approval of any nonresidential use on a transitional lot, a detailed site plan and an architectural vertical view of all structures to be erected shall be submitted to the Planning Commission to determine that the development meets the following minimum requirements,

- (a) The required yard setbacks of the applicable abutting zoning district.
- (b) Adequate parking areas and access drives.
- (c) Landscaping and screening plan to safeguard adjacent uses.
- (d) A residential appearance for the proposed building in keeping with the character of the adjacent neighborhood.

#### **SECTION 4.12 CLEAR VISION CORNERS**

On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight(8) feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points twenty-five (25) feet from the intersection of the right-of-way lines.

#### **SECTION 4.13 FENCES AND WALLS**

- (a) In all residential zoning districts, solid fences, walls, or plantings shall not exceed a height of three (3) feet within the required front yard. A “see-through” type fence in the required front yard shall not exceed four (4) feet in height. Height shall be measured from the average grade within a twenty-five (25) foot radius of the fence, wall, or landscaping.
- (b) For all other areas, a fence or wall shall not exceed six (6) feet in height.
- (c) In all zones on corner lots, a six (6) foot privacy fence or wall may be erected within the front setback area parallel to the side of the house which faces the street subject to the restrictions for clear vision corners as contained herein.

#### **SECTION 4.14 ESSENTIAL PUBLIC SERVICES**

The erection, construction, alteration, or maintenance of essential services shall be permitted as authorized or regulated by law and other ordinances in any district.



For a lot or parcel bounded by two intersecting streets, there shall be a front yard setback along each abutting street and one side and rear yard setback. For a lot bounded by three intersecting streets, there shall be three front yard setbacks and the remaining setback shall be a rear setback.

#### **SECTION 4.20      PRINCIPAL USE**

A lot or parcel shall not contain more than one main building or use, excepting groups of apartment or retail business buildings, or other groups of buildings the Building Inspector deems to be a main use collectively.

#### **SECTION 4.21      REPAIR OF DAMAGED BUILDINGS**

A building damaged by fire, storm, collapse, or act of God, to such an extent that the cost of repair and reconstruction exceed fifty percent (50%) of the market value as determined by the assessed value for tax purposes of such structure at the time of damage, shall either be completely razed so as not to cause a nuisance or safety hazard or shall be substantially rebuilt and the premises cleared of debris within six (6) months from the date such damages occur. Any re-building shall conform to all codes and ordinances of Tyrone Township.

#### **SECTION 4.22      SPECIAL CONTROLLED USES**

In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one area or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of this Ordinance.

(a) Uses subject to these controls are as follows:

- (1) Adult merchandise stores.
- (2) Adult cabarets.
- (3) Adult motion picture theaters.
- (4) Massage establishments.
- (5) Nude artist and photography studios.

(b) Definitions. As used in this section, the following terms shall have the indicated meanings:

- (1) Adult Motion Picture Theaters. Any establishment, or part thereof, used for presenting material distinguished or characterized by an emphasis on matter

depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined herein for observation by patrons therein.

- (2) **Adult Merchandise Store.** Any establishment, or part thereof, having a substantial or significant portion of its stock in trade, books, magazines, pictures, drawings, pictorial representations, motion pictures, photographs, video tapes, video disks or other medium used to electronically produce or reproduce images, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein, or an establishment with a segment or section devoted to the sale or display of such material. For purposes of this paragraph, the term “substantial or significant portion” shall mean an establishment where (i) 25% or more of the establishment’s retail floor space (i.e. excluding bathrooms, office areas, fitting rooms, eating areas, storage rooms/closets, etc.) is used for the sale of merchandise that is distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” (ii) 25% of the establishment’s visible inventory is comprised of merchandise that is distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” or (iii) 25% of the establishment’s gross revenues are generated by the sale or rental of merchandise that is distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas.
  
- (3) **Specified Sexual Activities.** Specified sexual activities are defined as:
  - (a) Human genitals in a state of sexual stimulation or arousal.
  - (b) Acts of human masturbation, sexual intercourse, or sodomy.
  - (c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
  
- (4) **Specified Anatomical Areas.** Specified anatomical areas are defined as:
  - a) Less than completely and opaquely covered:
    - 1) Human genitals, pubic region,
    - 2) Buttock, and
    - 3) Female breast below a point immediately above the top of the areola; and
  - b) Human male genitals in a discernibly turgid state, even if completely or opaquely covered.
  
- (5) **Cabaret.** A cafe, restaurant, bar, or any establishment where patrons are entertained by performers who dance or sing or play musical instruments.

- (6) Adult Cabaret. A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.
  - (7) Massage Establishment. Any establishment, or part thereof, having a fixed place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.
  - (8) Massage. A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping, or vibrating with the hand or any instrument.
  - (9) Nude Artist and Photography Studios. Any building, structure, premises, or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas” as defined herein, for artists and photographers for a fee or charge.
- (c) Authorization. The Planning Commission may, by the issuance of a Special Exception Permit, authorize the uses specified within this section only in the “C-2” zoning district as noted in Chapter 11 herein and after finding that the following conditions exist:
- (1) The parcel upon which the use is intended is located outside a two hundred (200) foot radius of any parcel upon which is located any residence, dwelling place, church, or school unless a petition requesting waiver of this requirement is received and certified by the Township Clerk signed by fifty-one percent (51%) of those adult persons or institutions residing within or owning residential, school, or church property within a three hundred (300) foot radius of the proposed location in which case the Planning Commission may waive this requirement.
  - (2) The use is not located within a two hundred (200) foot radius of one other such use except that such restriction may be waived by the Planning Commission if the following findings are made:
    - a) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this section will be observed.

- b) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
  - c) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation, nor will it interfere with any program of urban renewal.
  - d) That all applicable state laws and local ordinances will be observed.
- (d) **Limit in Reapplication.** No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

**SECTION 4.23      LANDSCAPE REQUIREMENTS**

- (a) **Intent.** The intent of this section is to set forth minimum standards for required landscape buffer strips. Buffer strips planted with trees and shrubs are intended to maintain or improve air quality, stabilize soils, increase groundwater infiltration, decrease wind velocity, reduce noise, and create zones of privacy.
- (b) **Required Landscaping.** Where a landscape buffer strip or greenbelt is required by this Ordinance, the following minimum landscape standards shall be observed.
  - (1) Two trees plus one additional tree for each twenty (20) feet in length of the buffer strip or greenbelt measured along the outer periphery of the required landscape area.
  - (2) Two shrubs plus one additional shrub for each fifteen (15) feet in length of the buffer strip or greenbelt measured along the outer periphery of the required landscape area.
  - (3) All trees planted in a required landscaped area shall be a minimum of one and one half (1 1/2) inch caliper at five (5) feet in height. Shrubs shall have a minimum of thirty-six (36) inches of spread at planting.
  - (4) Any and all plantings in the buffer strip shall be hardy plant materials and maintained thereafter in a neat and orderly manner. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season.

**SECTION 4.24      ENVIRONMENTAL PERFORMANCE REGULATIONS**

- (a) **Intent.** The intent of these regulations is to protect the groundwater and surface water quality in the Tyrone Township by establishing regulations for the storage of hazardous substances requiring groundwater protection measures and requiring the disclosure of the

location of storage, use, and disposal areas of hazardous substances as a condition of site plan review.

- (b) Applicability. These regulations apply to all businesses or facilities which generate, store, or handle hazardous substances as defined herein.
- (c) Pollution Prevention Plan. Any use generating, handling, or storing hazardous substances shall have a Pollution Incident Prevention Plan approved by the Michigan Department of Natural Resources. This approved plan shall be submitted to the Planning Commission before the site plan will be approved.
- (d) Any use generating, handling, or storing hazardous substances shall provide a list of these substances to the Zoning Officer at the time of site plan review application.
- (e) Above Ground Storage.
  - (1) Hazardous substances stored in drums or other containers shall be product-tight.
  - (2) Secondary containment of hazardous substances shall be provided by all uses which are subject to the site plan review procedures as contained herein. Secondary containment shall be designed to trap leaks and spills before they reach the ground and such containment measures shall be sufficient to store the hazardous substance for the maximum anticipated period of time necessary for the recovery of any released substance.

Such secondary containment facilities shall include but are not limited to: a concrete structure with concrete floor, concrete dike, an enclosed storage building with concrete floor provided no floor drains are installed, drip pans under spigots, and chemical storage cabinets.
  - (3) Outdoor storage of hazardous substances is prohibited except in product-tight containers which are protected from damage by weather or vandalism. Secondary containment shall be provided and shall be sufficient to store any released substance for the maximum anticipated period of time necessary for its recovery including an allowance for an expected accumulation of precipitation.
  - (4) At a minimum, state and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal of hazardous substances shall be met.
  - (5) The location of the above ground storage of hazardous substances and methods of primary and secondary containment shall be clearly illustrated on the site plan.
- (f) Below Ground Storage.

- (1) Any hazardous substance stored underground shall comply with the requirements of the Michigan Department of Natural Resources and the Michigan Fire Marshal.
- (2) All underground storage tanks which have been out of service for nine (9) months shall be removed from the site.

## **SECTION 4.25 HOME OCCUPATIONS**

- (a) A home occupation is a permitted use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses in the area and with the character of the neighborhood.

A home occupation shall be permitted in all residential dwelling units after a determination by the Building Inspector that the home occupation meets all of the following standards:

- (1) Only members of the immediate family who reside on the premises shall be involved in the operation of the home occupation, plus not more than one nonresident.
- (2) The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and not more than twenty-five percent (25%) of the floor area of the dwelling unit, including the basement, shall be used in the conduct of the home occupation but in no case shall the area occupied by the home occupation exceed five hundred (500) square feet.

If conducted in an accessory building, the occupation shall not exceed twenty-five percent (25%) of the area of the accessory building or a maximum of five hundred (500) square feet.

A home occupation shall not be operated in both the principal and accessory building.

- (3) Exterior storage of equipment used in the conduct of the home occupation is prohibited. All activities shall be conducted within an enclosed building.
- (4) The establishment of a home occupation shall not require exterior modification to any building on the property except those modifications necessary to accommodate the physically handicapped. A non-illuminated sign not exceeding two (2) square feet in area is permitted if mounted flat against the wall of the building which contains the home occupation.
- (5) The home occupation shall not produce excessive traffic, fumes, odors, dust, vibration, noise, smoke, electrical interference, fire hazard or other conditions which pose a nuisance to adjacent residents.

- (6) The home occupation shall not increase vehicular traffic and parking such that more than two (2) additional vehicles, other than those owned and operated by the resident family, are parked on the premises at any time. Such parking spaces shall be provided in an off-street area other than in a required front yard as regulated herein.

**SECTION 4.26 PRIVATE ROADS.** (Ordinance No. 91, Effective 02-10-03.)

The following definitions shall apply to this Ordinance:

a) **DEFINITIONS**

- (1) Lot means a parcel of land which is separately described on a deed or other instrument recorded in the office of the Register of Deeds, whether by metes and bounds description, as part of a platted subdivision or condominium unit intended for individual ownership and use.
- (2) Driveway means an improved or unimproved path or road extending from a public or private road or right-of-way to a single building, dwelling or structure, intended to provide ingress and egress primarily for the occupants thereof.
- (3) Private road is any undedicated path, trail or road which is privately owned and maintained and which provides or is intended to provide the primary means of ingress and egress to more than one lot, principal building, or dwelling unit. (Ord. No. 91, Effective 02-10-03.)
- (4) Existing Private Road - a private road which is used to provide access to lots, buildings or dwellings existing as of the effective date of this chapter.
- (5) Private Road Easement - An easement which is granted exclusively for private access to more than one lot, principal building or dwelling unit and which contains a private road. (Ord. No. 91, Effective 02-10-03.)

- b) **APPLICABILITY.** Private roads are permitted in all zoning districts. (Ord. No. 91, Effective 02-10-03.)

- c) **EXISTING PRIVATE ROAD.** After the effective date of this amendment, no existing private road shall be reconstructed, extended, improved, or relocated unless the existing private road is re-constructed according to the minimum construction standards for private roads and other requirements of this Section.

Existing private roads may be used to access lots which were of record as of the effective date of this amendment. Such lots of record may be split to create one or more additional lots which would be served by the private road but a building permit shall not be issued

for any such resulting lots unless the existing private road is re-constructed according to the minimum private road construction standards of this Section and other requirements of this Section. (Ord. No. 91, Effective 02-10-03.)

d) **PROCEDURE FOR PERMITTING OF PRIVATE ROADS**

(1) **Public Hearing**

Private roads serving more than four lots, principal buildings or dwelling units shall be reviewed by the Planning Commission following a public hearing. A notice of the hearing shall be sent by ordinary mail to all record owners of property within 300 feet of the lots proposed to be served by the private road as listed on the current Township assessment roll. The notice shall be mailed not less than ten days before the hearing.

If a private road is part of a site condominium, platted subdivision, Planned Unit Development, or Open Space Preservation Project, the public hearing will be held as part of the required review procedure. (Ordinance No. 91, Effective 02-10-03.)

(2) **Application and Fee**

An application to establish, construct, extend, improve or relocate a private road shall be filed with the Township Zoning Administrator along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

- (a) The names(s) of the owners and any other parties having any legal interest in the private road.
- (b) Permanent parcel number or legal description of the property over which the private road is to be constructed.
- (c) A site location map not to scale which shows the location of the parcel containing the road to surrounding properties and roadways within one-half mile of the site.
- (d) A scaled drawing which illustrates all of the lots which will be served by the private road.
- (e) A scaled drawing sealed by a registered engineer or surveyor showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect. This drawing shall include a profile of the proposed road.

- (f) The location of all public utilities including but not limited to water, sewer, telephone, gas, electricity and television cable to be located within the private road right-of-way or within twenty (20) feet either side thereof.
- (g) A road maintenance agreement, access easement agreement and deed restrictions as required in this Section shall also accompany the application.
- (h) A driveway permit from the Kent County Road Commission.

(3) Review by Zoning Administrator

- (a) The Zoning Administrator shall review this information in conjunction with the Township Fire Chief to determine compliance with the standards and requirements for private roads as contained herein and may consult with the Township, Attorney, Engineer or Planner. If the private road is to serve more than four lots, principal buildings or dwellings, the Zoning Administrator shall submit a report on the private road to the Planning Commission. (Ordinance No. 91, Effective 02-10-03.)
- (b) If the Zoning Administrator or Planning Commission, as the case may be, finds that the application meets the requirements of this Section, the application shall be approved and a Construction Permit issued by the Zoning Administrator for the construction of the private road. This Construction Permit shall consist of the signature of the Zoning Administrator or a stamp noting the date of approval. Two copies of the private road plans shall be stamped or signed for approval, one copy shall be kept by the applicant, and one by the Township.

This Construction Permit is not a Private Road Permit and does not authorize the construction of any buildings on the private road. The Construction Permit is valid for a period of one year from the date of approval. If construction of the private road has not commenced before this date, the permit shall expire. A new Construction Permit shall be required before construction can begin. (Ordinance No. 91, Effective 02-10-03.)

- (c) If the Zoning Administrator denies the application, the written reasons for denial shall be provided to the applicant within five working days of the date of denial.

- (d) **Final Compliance Requirements** - Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator:
  - (i) A letter from a registered professional engineer or surveyor that the road has been constructed in compliance with the approved private road plans, and
  - (ii) Documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Kent County Register of Deeds office.
  - (iii) The Zoning Administrator shall also conduct an inspection of the private road to ensure that all other requirements of this Section have been met.
- (e) **Private Road Permit Issuance** - Upon approval of items required for final compliance, the Zoning Administrator shall issue a Private Road Permit.
- (f) **Permits for Buildings on Private Roads** - A building permit shall not be issued for any building, dwelling or structure which derives its primary access from a private road unless (i) the private road has been completed in accordance with an approved Private Road Construction Permit, or (ii) the applicant for the building permit or the owner(s) of the private road right-of-way have provided the Township with an irrevocable letter of credit in an amount determined by the Township Zoning Administrator to ensure construction of the private road in accordance with the approved private road construction permit. The letter of credit shall be valid for a period of not less than one year from the date of the issuance of the building permit. The Township shall have the right to draw on the funds if the private road is not completed to the satisfaction of the Township prior to the expiration of the letter of credit.

An occupancy permit for a building served by a private road shall not be issued until the street sign(s) and house numbers required by Section 4.26(e)(4) and (11) are installed. (Ordinance No. 91, Effective 02-10-03.)

(e) **MINIMUM STANDARDS FOR PRIVATE ROADS**

- (1) A private road shall be located within a private road easement. Such easement shall not be less than 66 feet in width at any point. At any dead-end of such easement, the easement shall widen such that there is a minimum radius of 60 feet.

- (2) A lot shall have frontage on the private road easement which is at least equal to the minimum lot width required for the zoning district in which the lot is located. For lots on a cul-de-sac the frontage requirement shall be regulated by Section 4.30 herein.
- (3) A private road shall intersect and connect to a public road.
- (4) The private road shall be given a street name that is not the same or similar to any other street name in the county. A street sign bearing the street name of the private road meeting Kent County Road Commission standards as to design, location, and maintenance shall be erected and maintained where such private road adjoins any public road.
- (5) The area in which the private road is to be located shall be cleared and kept clear of vegetation for a minimum width of 28 feet. Overhead branches shall be trimmed and kept trimmed to a minimum height of 14 feet above ground.

The private road may be located anywhere within the private road easement, allowing for the required shoulder, provided that the balance of the right-of-way shall remain unencumbered to allow for future expansion. (Ordinance No., 91, Effective 02-10-03.)

- (6) All private roads shall be constructed on a base of at least six inches of compacted gravel with a suitable sand sub-base. Side ditches shall be one on three front slope and one on two backslope. Ditches shall outlet into a cross culvert or drainage course.
- (7) A private road shall have a minimum roadway width of 22 feet with a minimum shoulder width of three feet on each side.
- (8) All private roads shall widen at any dead end so there is at least a 40 feet radius driving surface turnaround. ( Ord.No.94: Eff.6/02/03 )
- (9) A private road shall not exceed a grade of 10 percent; provided that within 30 feet of the intersection of a private road with any other private road or with any public right-of-way, a private road shall not exceed a grade of four percent.
- (10) A private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course, stream or other natural body of water, the method of crossing (by bridge, culvert or other structure) must be certified by a registered professional engineer that it complies with applicable Kent County Road Commission and State of Michigan requirements. Such bridge, culvert or other structure must be certified by a registered professional engineer that it is able to

safely support a weight of 40,000 pounds to ensure fire truck access. (Ordinance No. 91, Effective 02-10-03.)

- (11) A dwelling unit which derives its primary access from a private road shall display a house number at the intersection of the driveway with the private road in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three inches in height. (Ordinance No. 91, Effective 02-10-03.)
- (12) The edge of the private road driving surface shall be no closer than 50 feet from any dwelling unit located on a parcel adjacent to the private road.
- (13) The minimum distance between street intersections whether on the same side or opposite sides of the street shall be not less than 200 feet as measured along the right-of-way line between the centerline of the intersections. (Ordinance No. 91, Effective 02-10-03.)
- (14) In addition to the above requirements, a single private road, a private road system or a segment of a private road system which provides direct access to more than ten lots, dwelling units or principal buildings shall be paved.

The traveled surface shall be paved with a minimum of three inches of bituminous aggregate consisting of two levels 1 1/2 inches each of bituminous aggregate meeting MDOT specification 3B for the leveling course and MDOT specification 4B for the surface course. (Ordinance No. 91, Effective 02-10-03.)

- (15) A private road or interconnected private road system shall not serve more than 50 lots, or dwelling units, unless a secondary means of egress is provided for the entire property served. This secondary access shall meet the minimum standards of this Section. (Ordinance No. 91, Effective 02-10-03.)

(f) PRIVATE ROAD MAINTENANCE AGREEMENT

The applicant(s) and/or owner(s) of the proposed private road shall provide to the Township a recordable or recorded road maintenance agreement, access easement agreement, and/or deed restrictions which shall provide for the perpetual private (non-public) maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall include provisions for the following:

- (1) A method of financing such road and/or easements in order to keep the road in a reasonably good and usable condition.
- (2) A method of apportioning the costs of maintenance and improvements and an enforcement mechanism to ensure that such maintenance and improvements are carried out.

- (3) A notification that no public funds of the Township of Tyrone will be used to build, repair, or maintain the private road.
- (4) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
- (5) Each of the owners of property utilizing the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners and ensuring that the property owners shall have a mechanism provided to enforce these rights. Normal ingress and egress and use shall include use by family, guests, invites, tradesmen, and others bound to or returning from any of the properties having a right to use the road.
- (6) If the private road entrance is secured by a locked gate or other similar mechanism the applicant shall arrange for emergency vehicle access with the Township Fire Chief.

#### **SECTION 4.27 SWIMMING POOL**

- (a) Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet.
- (b) A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a permit has been obtained from the Building Inspector.
- (c) The outside edge of the pool wall shall not be located closer than ten (10) feet from any rear or side property line. No pool shall be located under any electrical wiring or in a front yard.
- (d) Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make such body of water inaccessible to small children. Such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.
- (e) All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

#### **SECTION 4.28 FARM ANIMALS**

- (a) Accessory buildings for raising or keeping farm animals shall be set back a minimum of fifty (50) feet from the side and rear lot lines.

- (b) Farm animals are permitted in a Residential District, provided:
- (1) They are kept at least fifty (50) feet from any adjoining property and one hundred fifty (150) feet from the front lot line.
  - (2) Such animals may be kept on parcels of land at least one and one half (1 1/2) acres but only after a permit is first obtained from the Building Inspector.
  - (3) The keeping of such animals shall be accessory to the principal use.
  - (4) There shall be no more than one (1) such animal per acre with a maximum of five (5) animals on any parcel.
  - (5) The area on which the animal(s) are kept shall be completely enclosed by a fence or similar barrier to prevent the animal(s) from trespassing on adjoining property.
  - (6) The Building Inspector shall not issue a permit until the premises on which the animals are to be kept are shown to be sanitary. The premises shall be maintained in sanitary condition and may be inspected at any reasonable time, or times, by the Building Inspector and/or Township or County Health Officer. If the premises become unsanitary, or objectionable odors from it annoy adjoining residents, the Building Inspector may revoke the permit until the premises are returned to a sanitary condition and the objectionable odors and their cause are removed or remedied.

#### **SECTION 4.29 AGRICULTURAL FARM BUILDING OR STRUCTURES**

Before the construction of any agricultural farm buildings or structures, a site plan, including the size of the lot and the location of the building or structure on the lot, must be submitted to the Building Inspector for his approval along with the proper filing fee as determined by ordinance of the Township Board.

#### **SECTION 4.30 CUL-DE-SAC LOTS.**

In the case of lots abutting cul-de-sac streets, the minimum required lot width shall be measured at the minimum required front setback distance for buildings and structures. Such cul-de-sac lots shall have a minimum lot width of 40 feet at the front lot line. For lots in the Rural Agricultural zone which have their entire frontage on a cul-de-sac, a minimum lot width of 150 feet shall be achieved at a point 125 feet from the front lot line.

A lot shall be considered to be a cul-de-sac lot if the lot has more than one-half of its required frontage on the cul-de-sac. The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line. (Ordinance No. 72 Effective 2/23/99)

#### **SECTION 4.31 ANTENNAS AND TOWERS**

The construction, use, maintenance, operation, repair and removal of antennas and towers shall comply with the provisions of this section. Antennas and Towers shall be permitted in addition to one other principal use of any parcel or lot within the appropriate zoning district.

- (a) Antennas and towers not exceeding 35 feet in height shall comply with the following requirements:
  - (1) The antenna or tower shall be permanently secured to a stable foundation.
  - (2) No part of the antenna or tower shall conduct or display any advertising, message or other graphic representation.
  - (3) An antenna or tower 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.
  - (4) An antenna may be mounted on the roof of a principal or accessory building, but it shall not exceed a height of 10 feet, as measured from its foundation.
  - (5) All antennas and towers must be grounded to protect against damage from lightning.
  - (6) An antenna or tower shall not be so located or constructed as to have a serious adverse effect on adjacent or nearby land uses.
  - (7) Amateur radio antennas operating under a license issued by the Federal Communications Commission shall be subject to the provisions of this section, unless such provisions would preclude or prevent the operation of the antenna, then such provisions shall not apply.
  - (8) Satellite dish antenna less than one meter across (39.37 inches) shall be exempt from these regulations.
- (b) Antennas and towers exceeding 35 feet in height shall be permitted only if approved as a special land use under the terms of Chapter 15. (Ordinance No. 73 Effective 8/3/99)

#### **4.32 OPEN SPACE PRESERVATION PROJECTS** (Ordinance No.89; Effective 12/03/02)

##### (a) PURPOSE

Act No. 177 of the Public Acts of Michigan of 2001 (“Act 177”) requires that zoned townships having a population of 1,800 or more and having undeveloped land zoned for residential purposes must adopt zoning regulations to permit “open space preservation” developments.

Under these regulations, a landowner has the option to retain at least 50% of the property as open space and placing dwellings on the remaining portion. The number of dwellings cannot be less than the number which would be permitted on the land without the open space preservation regulations.

The purpose of this section is to adopt open space preservation provisions consistent with the requirements of Act 177.

(b) UNIFIED CONTROL

The proposed development shall be under unified ownership or control, so that one person or entity has 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 indicating that the development will be completed in its entirety as proposed.

c) DEFINITIONS

Words and phrases used in this Section, if defined in Act 177, shall have the same meaning as provided in the Act.

(d) REVIEW PROCEDURE

- 1) An open space preservation project shall be reviewed by the Planning Commission in accordance with the requirements of site plan review contained in Chapter 16 of this Ordinance and according to the requirements and standards contained in this Section.
- 2) The Planning Commission shall hold a public hearing on an open space preservation project. For such hearing, at least ten days' notice shall be given by ordinary mail, sent to the owners of or parties with interest in the lands within 300 feet of the lands to be included in the development, as the names of such owners and other parties are given in the current township tax assessment rolls.

(e) ITEMS SUBMITTED FOR REVIEW

- 1) The applicant shall submit an application for an open space preservation project as required by Tyrone Township.
- 2) *Open Space Preservation Plan.*

The applicant shall submit 12 sets of the Open Space Preservation Plan which shall include information required by Section 16.06 of this Ordinance and the following information:

- (i) The areas devoted to preserved open space.

- (ii) The site development plan shall illustrate the location of all proposed lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side and rear yard building setbacks. The number of proposed lots on the site development plan shall not exceed the number of lots on the Existing Zoning Plan, as approved by the Planning Commission.
  - (iii) The total number of acres of land that are proposed for preserved open space, the total number of acres of land that are proposed to be used for dwellings, and the percentage of each, as compared to the total site acreage.
  - (iv) The site development plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
  - (v) If the open space development will not be served by public sanitary sewer, the applicant shall submit documentation from the Kent County Health Department that the soils are suitable for on site septic systems.
- 3) If an open space preservation development is proposed as a platted subdivision or a site condominium, the applicant must also submit all information and follow the procedures required by the Tyrone Township Subdivision Ordinance or the Tyrone Township Site Condominium regulations, as applicable.

4) *Existing Zoning Plan.*

In addition to the information required above, the applicant must also submit a separate Existing Zoning Plan.

This plan is to be prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the open space preservation option provided by this Section were not exercised. The Existing Zoning Plan shall be professionally prepared and shall include at least the following information:

- (i) Date, north arrow and scale, which shall not be more than 1" = 200'.
- (ii) Location of streets adjacent to and within the site.
- (iii) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
- (iv) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan.
- (v) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the applicant shall submit written documentation from the

Kent County Health Department that at least 40 percent of the lots are suitable for on site disposal systems. Such lots shall be spread evenly over the site. The Planning Commission may require a greater percentage in order to demonstrate that the site can actually be developed as illustrated on the Existing Zoning Plan.

- (vi) The Existing Zoning Plan shall illustrate all unbuildable land, which shall include slopes of 20% or greater, regulated and unregulated wetlands, public utility easements, floodplains, and other similar features which limit or prevent construction of buildings or roads.

(f) DETERMINATION OF NUMBER OF LOTS

The Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number of lots that could be developed on the land under its existing zoning if the clustering option provided by this Section were not exercised.

The Commission shall either approve the number of lots illustrated on the Existing Zoning Plan or require the Plan to be revised to accurately reflect the number of lots which could be developed on the land under the standards required for preparing the Existing Zoning Plan in this Section.

(g) OPEN SPACE REQUIREMENTS

1) *Required Open Space.*

Not less than 50 percent or more than 60 percent of the land proposed for development under the provisions of this Section shall remain in a perpetually undeveloped state (i.e., "open space") by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the Township Attorney.

2) *Areas Not Counted as Open Space.*

- (i) The area within all public or private road rights-of-way.
- (ii) Golf course.
- (iii) The area within a platted lot, site condominium unit or metes and bounds parcel occupied or to be occupied by a building or structure not permitted to be located in open space.
- (iv) Detention and retention ponds created to serve the project.
- (v) Community drain fields if such areas are not completely underground.

- (vi) 50% of the area of wetlands, creeks, streams, existing ponds or lakes or other bodies of water.
- (vii) 50% of the area of floodplains and 50% of areas of slopes which are 20% or over.
- (viii) Areas used for general farming purposes.

3) *Standards for Open Space.*

The following standards shall apply to the preserved open space required by this Section:

- (i) The open space may include a recreational trail, picnic area, children's play, ball fields area or other use which, as determined by the Planning Commission, is substantially similar to these uses.
- (ii) The open space shall be reasonably accessible and useable for all residents of the development, subject to reasonable rules and regulations.
- (iii) If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space abut the body of water.
- (iv) A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.

4) *Methods to Preserve Open Space.*

The applicant shall submit before final approval of the project a copy of the conservation easement, plat dedication, restrictive covenants, or other legal instrument that would run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this Section in an undeveloped state. Such legal instrument shall be reviewed by the Township attorney prior to recording, and shall be subject to the approval of the attorney, consistent with the terms of this Section. The legal instrument shall:

- (i) Indicate the permitted use(s) of the open space.
- (ii) State the parties who have an ownership interest in the open space.
- (iii) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures or other improvements, except

such drainage improvements, utility lines, walking trails, picnic areas, park or playground equipment, or similar improvements that are approved by the Planning Commission.

- (iv) Require that the open space be maintained by parties who have an ownership interest in the open space.
- (v) Provide standards for scheduled maintenance of the open space, including necessary pruning and harvesting of trees and new plantings.
- (vi) Provide for maintenance to be undertaken by and at the option of Tyrone Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance. Any costs incurred by the Township shall be assessed to the owners of the property within the Open Space Preservation Project.

(h) **DEVELOPMENT REQUIREMENTS**

1) *Water and Sanitary Sewer.*

Open Space Preservation projects shall be served by either public or community water and sanitary sewer OR by private wells and septic systems subject to the approval of the Kent County Health Department.

2) *Minimum Lot Sizes and Setbacks.*

In order to accommodate both the required open space and the number of lots permitted according to the Existing Zoning Plan the Planning Commission shall allow a reduction in the minimum lot size and building setback requirements of the zoning district in which the Open Space Preservation project is located.

- (i) For Open Space Preservation projects the minimum lot sizes shall not be less than the following:

	<u>Minimum Lot Size</u>	<u>Minimum Lot Width</u>
<b>A-1 and RA Zones</b>	20,000 square feet	110 feet
<b>R-1</b> without both public or community sewer and water	15,000 square feet	100 feet
<b>R-1</b> with either public or community water or sewer	10,000 square feet	75 feet

- (ii) The minimum setback for buildings may be reduced to not less than 20% of the minimum required setbacks for the zoning district in which the Open Space Preservation project is located.

(iii) *The Planning Commission may allow a decrease in the above minimum lot sizes however, for the purpose of achieving the number of lots allowed by the Existing Zoning Plan.*

3) *Compliance with Zoning District.*

The development of land under this Section shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except for the lot size and setback requirements.

4) *Maximum Number of Lots.*

The Open Space Preservation project shall contain no more than the maximum number of lots as determined from the Existing Zoning Plan approved by the Planning Commission.

5) *Perimeter Lots.*

Notwithstanding any other provision of this Section, the Planning Commission may require that the Open Space Preservation development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing). *The Planning Commission may however, allow a decrease in the minimum lot sizes specified in Section 4.32(h)(i) for non-perimeter lots for the purpose of achieving the number of lots allowed by the Existing Zoning Plan.*

6) *Sidewalks.*

The Planning Commission may require sidewalks in accordance with the Township's Site Condominium regulations or Subdivision Ordinance.

7) *Private Roads.*

A private road which is part of an Open Space Preservation project shall comply with the requirements for private roads as contained in Section 4.26 of this Ordinance.

8) *Grading.*

Grading shall comply with the following requirements:

- (i) To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof.

- (ii) All areas indicated as open space on the approved development plan shall be undisturbed by grading or excavating, except as permitted by the Planning Commission.

(i) STANDARDS FOR APPROVAL

Prior to approving a site plan for an Open Space Preservation project, the Planning Commission shall require that the following standards be satisfied: If these standards and the other requirements noted in this section or in other Township ordinances are met, the site plan shall be approved.

- 1) The site plan complies with all open space requirements of this Chapter.
- 2) The houses are arranged to respect the natural features of the site and so residents can benefit from viewing or utilizing the required open space.
- 3) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or by making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance.
- 4) Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- 5) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Township Fire Department.
- 6) All streets and driveways shall be developed in accordance with the Township's Private Road Ordinance or the Kent County Road Commission standards.
- 7) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public stormwater drainage system. Provisions shall be made to accommodate stormwater, prevent erosion particularly during construction, and prevent the formation of dust. The use of detention/retention ponds may be required. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
- 8) Site plans shall conform to all applicable requirements of county, state and federal statutes and approval may be conditioned on the applicant receiving necessary county, state and federal permits before final site plan approval or an occupancy permit is granted.

(j) CONDITIONS OF APPROVAL

As part of an approval to an Open Space Preservation Plan, the Planning Commission may impose additional conditions that may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the review standards of Section 4.32(h) are met.

(k) VALIDITY OF APPROVED SITE PLANS

- 1) An approved Open Space Preservation Plan which is also approved under the Township's Site Condominium Ordinance or Subdivision Ordinance shall remain valid as prescribed in these Ordinances.
- 2) For all other approved Open Space Preservation Plans, the approval shall be valid for one year from the date of approval as regulations by Section 1808 of this Ordinance.

(l) PERFORMANCE GUARANTEE

The Planning Commission may require reasonable performance guarantees in accordance with Section 16.07 of this Ordinance.

(m) AMENDMENTS TO APPROVED SITE PLAN

- 1) Any person who has been granted site plan approval for an Open Space Preservation Project shall notify the Zoning Administrator of any proposed amendment to the approved site plan.
- 2) A minor change in the site plan may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (i) Reduction in the number of dwellings.
- (ii) An alteration of the required open space which does not materially affect the approved intended use of the open space.
- (iii) Plantings approved in the site plan landscape plan being replaced by similar types of landscaping.
- (iv) Changes required or requested by the Township for safety reasons or to better accommodate stormwater management or other utilities.

- (v) Changes which will preserve the natural features of the site without changing the basic site layout.
- (vi) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

**SECTION 4.33      REQUIRED LOT FRONTAGE ON A PUBLIC AND PRIVATE STREET ( Ord. No. 94: Eff.6/02/03 )**

- (a) All lots shall have the front lot line abutting a public street or private road in accordance with the lot width requirements for the zoning district in which the lot is located. Lots which are used exclusively for farm buildings in the Agriculture and Rural Agriculture zones are exempt from this requirement. Essential public service buildings and structures in any zone and radio antennas and towers in any zone are also exempt from this requirement.
- (b) A building, dwelling unit or structure shall be erected only on a lot or parcel which has its front lot line abutting a public street or private road in accordance with the lot width requirements for the zoning district in which the lot is located. Farm buildings in the Agriculture and Rural Agriculture zones are exempt from this requirement. Essential public service buildings and structures and radio antennas and towers in any zone are also exempt from this requirement.

## CHAPTER 5

### “A” - AGRICULTURE

#### SECTION 5.01 DESCRIPTION AND PURPOSE

This district is intended to preserve and provide for large tract of land used for farming, dairying, forestry, and other rural activities, including vacant or fallow land. The specific intent is to encourage the proper use of lands through preventing mixture of urban and rural uses which may create incompatibility and conflict, place unbalanced tax burdens on agricultural lands, and otherwise contribute to the premature development of lands which should be preserved in their present state. The land within this district is well suited for growing crops due to climate and to a greater extent soil types and terrain which are a unique natural resource of the Township.

#### SECTION 5.02 PERMITTED USES

Land and/or buildings in this district may be used for the following purposes only:

- (a) Agriculture, including farms for both general and specialized farming together with farm dwellings and other installations customary to such farms. Except as may otherwise be provided by this Ordinance, no restrictions on the keeping of domestic animals, poultry, or livestock shall be applicable to unplatted land; provided, however, that all domestic animals, poultry, and livestock shall be housed and fenced so as not to create a public nuisance. No accumulations of refuse or manure shall be permitted in this district within one hundred feet of adjoining property lines and shall not constitute a nuisance or source of pollution.
- (b) Detached single family dwellings on premises.
- (c) Roadside stands on farm premises for the sale of farm products produced on that same farm. When such stands involve operations totaling forty-five days or more during any one year period, such stands shall be permitted only on annual permit by the Planning Commission which must determine that the operations will not interfere with the enjoyment of substantial property rights by other property owners in the vicinity and will not constitute a traffic hazard. Said Commission may establish conditions as to the number and size of signs, hours of operation, lighting, and other matters as necessary.
- (d) Tree and sod farms but not including retail sales on the premises.
- (e) Storing, packaging, processing, canning and freezing of farm produce.
- (f) Commercial agriculture uses, including “u-pick” operations with sufficient off-street parking provided.
- (g) Private stables.

- (h) Home occupations per Section 4.25 herein.
- (i) Uses customarily incidental to the principal use.
- (j) Parks and playgrounds operated by a governmental agency.
- (k) Farm labor housing of any size as an accessory use to a farm, provided the following conditions are met in addition to the other requirements of the Agricultural District:
  - (1) Compliance with Michigan Public Health Code, being Act 368 of the Public Acts of Michigan of 1978, as amended, including any rules promulgated pursuant thereto;
  - (2) The occupants are employed for farm labor at some time by the owner of the property while they occupy the housing;
  - (3) Mobile homes may be used to provide such housing;
  - (4) Farm labor housing must be at least one hundred (100) feet from all side and rear property lines and must be at least seventy-five (75) feet from the street right-of-way on which the property fronts. Farm labor housing must also be at least one hundred fifty (150) feet from any single-family residence located on a separate parcel of property owned by another individual or entity. Farm labor housing existing as of March 13, 1990 that does not meet these setback requirements may be expanded or enlarged, provided such expansion or enlargement does not reduce the existing distance of such farm labor housing from said property lines and single-family dwellings;
  - (5) Farm labor housing may be permitted as a principal use on a parcel which contains a minimum of two acres and which complies with all other requirements of this section. This parcel shall be adjacent to the farm parcel where the laborers are employed and both parcels shall be under the same ownership.
- (l) Cemeteries.
- (m) Storage of materials, vehicles and equipment which are used by the occupant of the premises in the operation of a business which is conducted off the premises. This shall primarily include, but shall not be limited to, materials, equipment and vehicles used in the building and construction trades. Materials and equipment shall be located either indoors or screened from the view of adjacent roadways and properties. Vehicles shall be parked in a building or structure unless there are extenuating circumstances as determined by the Building Inspector or shall be parked a minimum of one hundred (100) feet from all lot lines if parked outdoors.

Such storage shall be clearly incidental to the permitted principal use.

- (n) Adult foster care facilities.
- (o) Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)
- (p) Single family dwellings designed as Open Space Preservation Projects as regulated by Section 4.32 herein. ( Ordinance No.89; Effective 12/03/02)

## **SECTION 5.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use in the Agricultural District when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 contained herein and the provisions noted below where applicable.

- (a) Airfields
- (b) Campgrounds
- (c) Country clubs, golf courses
- (d) Extraction of natural resources
- (e) Kennels
- (f) Commercial stables
- (g) Junkyards or salvage yards
- (h) Establishments which provide retail sales of one or more of the following items:
  - (1) Nursery stock and accessory products
  - (2) Landscaping products
  - (3) Antiques and crafts
  - (4) Firewood
  - (5) Produce and fruit grown in Michigan

- (i) Churches on a lot or parcel of at least two (2) acres with three hundred (300) feet of frontage.
- (j) Public and non-public schools not including colleges or universities.
- (k) Farm implement repair.
- (l) Agricultural service establishments which engage in performing agricultural, animal husbandry, or horticultural services on a fee or contractual basis, including but not limited to the following:
  - (1) Centralized bulk collection, refinement, storage and distribution of farm products to wholesale and retail markets (such as grain cleaning and shelling; sorting, grading, and packing of fruits and vegetables for the grower and agricultural produce milling and processing);
  - (2) The storage and sale of seed, feed, fertilizer, and other products essential to agricultural production;
  - (3) Hay baling and threshing;
  - (4) Crop dusting;
  - (5) Fruit packing;
  - (6) Harvesting and tilling;
  - (7) Farm equipment sales and service;
  - (8) Veterinary services;
  - (9) Facilities used in the research and testing of farm products and techniques.
  - (10) General repair and welding of farm implements and farm machinery.
- (m) Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein. (Ordinance No. 73 Effective 8/3/99)

**SECTION 5.04 AREA REGULATIONS**

No principal building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

(a) FRONT YARD - For residential buildings and buildings normally considered accessory thereto, there shall be a front setback of not less than fifty (50) feet. For all other buildings, there shall be a minimum front setback of one hundred (100) feet.

(b) SIDE YARD - For residential buildings and buildings normally considered accessory thereto, there shall be total side yards of twenty-five (25) feet with a minimum side yard of at least ten (10) feet on one side.

(c) REAR YARD - There shall be a rear yard of not less than thirty-five (35) feet.

(d) LOT AREA - The minimum lot area shall be one acre with a minimum of 150 feet of lot width at the front lot line. (Ordinance No.94 Effective 6/02/03)

#### **SECTION 5.05 MINIMUM FLOOR AREA**

Dwelling units in this district shall have a minimum floor area of nine hundred (900) square feet.

## CHAPTER 6

### “RA” - RURAL AGRICULTURAL

#### SECTION 6.01 DESCRIPTION AND PURPOSE

This zoning is intended to provide for residential development in a rural setting close to agricultural land use areas and zoning districts. With a density of one dwelling unit per one (1) acre, this zoning district will also permit general and specialized farming activities but on a smaller scale than the Agricultural Zoning District.

The large lots and agricultural activities permitted in the “RA” District are intended to satisfy a demand for a semi-rural life style without using up prime agricultural land.

Rural agricultural areas are not intended to be served by public water and sanitary sewer. The “RA” zone is also intended to serve as a transition or buffer zone between the Agricultural zone and more intense land uses.

#### SECTION 6.02 USE REGULATIONS

Land in this “RA” zone may only be used for the following purposes:

- (a) As permitted in the Agricultural Zoning District, Section 5.02 herein.
- (b) Private stables subject to the following regulations:
  - (1) There shall be at least one acre of land for each horse kept on the premises.
  - (2) The area on which the horses are kept shall be completely enclosed by a fence or similar barrier to prevent trespass on adjoining property or roadways.
  - (3) The premises shall be kept in a sanitary condition and the keeping of horses shall not result in objectionable odors which would pose a nuisance to nearby residents.

#### SECTION 6.03 SPECIAL LAND USES

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 as contained herein:

- (a) As permitted in Section 5.03 herein, Agricultural zone, except for agricultural service establishments.

#### SECTION 6.04 AREA REGULATIONS

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) **FRONT YARD** - For residential buildings and buildings normally considered accessory thereto, there shall be a front setback of not less than fifty (50) feet. For all other buildings, there shall be a minimum front setback of one hundred (100) feet.
- (b) **SIDE YARD** - For residential buildings and buildings normally considered accessory thereto, there shall be total side yards of twenty-five (25) feet with a minimum side yard of at least ten (10) feet on one side.
- (c) **REAR YARD** - There shall be a rear yard of not less than thirty-five (35) feet.
- (d) **LOT AREA** - The minimum lot area shall be one acre with a minimum of 150 feet of lot width at front lot line. (Ordinance No.94 Effective 6/02/03)

**SECTION 6.05      MINIMUM FLOOR AREA**

Dwelling units in this district shall have a minimum floor area of nine hundred (900) square feet.

## CHAPTER 7

### “R-1” - LOW DENSITY RESIDENTIAL

#### SECTION 7.01 DESCRIPTION AND PURPOSE

The R-1 zoning district is intended to provide primarily for detached single family dwelling units with a maximum density of 3.63 units per acre. Lot sizes are permitted to vary, depending upon the availability of public utilities. Non-residential uses such as churches, schools, and public buildings are also permitted as a special exception according to their compatibility with nearby single family homes. Existing agricultural uses in the R-1 zone shall be permitted to continue but the intent of this district is to phase out such uses over time so that the predominant use becomes detached single family dwelling units.

#### SECTION 7.02 USE REGULATIONS

Land in the “R-1” zone may only be used for the following purposes:

- (a) Single family detached dwelling units.
- (b) Home occupations per Section 4.25 herein.
- (c) Adult foster care facilities.
- (d) Family day care homes with no more than six (6) children.
- (e) Accessory buildings, structures, and uses customarily incidental to any of the above uses when located on the same lot.
- (f) Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)
- (g) Single family dwellings designed as Open Space Preservation Projects as regulated by 4.32 herein on parcels which are not served by both public or community sanitary sewer and water. (Ordinance No.89; Effective 12/03/02 )

#### SECTION 7.03 SPECIAL LAND USES

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 herein.

- (a) Two family dwelling units when located on a County primary road. (Ordinance No. 73 Effective 8/3/99)
- (b) Churches, synagogues, or similar religious institutional uses.
- (c) Public and non-public schools not including colleges or universities.
- (d) Cemeteries.
- (e) Parks, playgrounds, community centers, or similar recreational uses when operated by a governmental agency.
- (f) Municipal, county, state, and federal administration buildings.
- (g) Essential public services.
- (h) Child care centers and nursery schools.
- (i) Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein. (Ordinance No. 73 Effective 8/3/99)

**SECTION 7.04 AREA REGULATIONS**

No buildings or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yard and area requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) FRONT YARD - For residential buildings and buildings normally considered accessory thereto, there shall be a front setback of fifty (50) feet.
- (b) SIDE YARD - There shall be a total side yards of twenty-five (25) feet provided that no side yard shall be less than ten (10) feet.
- (c) REAR YARD - There shall be a rear yard of not less than thirty-five (35) feet; except for duplexes, the rear yard setback shall not be less than fifty (50) feet.
- (d) LOT AREA-
  - (1) For single family dwellings without public sewer and water, the minimum lot area shall be 30,000 square feet with a minimum of 132 feet of lot width at the front lot line. ( Ord.No.94: Eff. 6/02/03 )
  - (2) For single family dwellings with either public sanitary sewer or public water or a community septic or well system the minimum lot area shall be 20,000 square feet with a minimum of 100 feet of lot width at the front lot line. ( Ord.No.94: Eff. 6/02/03 )

- (3) For single family dwellings with both public sanitary sewer and water or a community septic and well system the minimum lot area shall be 12,000 square feet with a minimum of 80 feet of lot width at the front lot line. ( Ord.No.94: Eff. 6/02/03 )
  
- (4) For two family dwellings with or without public sanitary sewer or water the minimum lot area shall be 30,000 square feet with a minimum of 132 feet of lot width at the front lot line. ( Ord.No.94: Eff. 6/02/03 )

**SECTION 7.05      MINIMUM FLOOR AREA**

For single family and two family dwelling units, the minimum floor area shall be nine hundred (900) square feet per unit.

## **CHAPTER 8**

### **“R-2” - MEDIUM DENSITY RESIDENTIAL**

#### **SECTION 8.01 DESCRIPTION AND PURPOSE**

The “R-2” zoning district is intended to provide for medium density residential development up to six (6) units per acre. Multi-family dwelling units are permitted in this zoning district along with duplexes and single family dwellings. Certain non-residential uses are also permitted by special exception use. Medium density residential uses shall be served by either a public or community sewer system and located on paved streets in order for better accessibility by fire and police services. Medium density residential uses are also intended to serve as a buffer or transition zone between non-residential uses and low density residential uses.

#### **SECTION 8.02 USE REGULATIONS**

Land on the “R-2” zone may only be used for the following purposes:

- (a) Two-family dwelling units.
- (b) Multiple family dwelling units.
- (c) Uses customarily incidental to the permitted principal use.
- (d) Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)

#### **SECTION 8.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 herein.

- (a) As permitted by Section 7.03 herein, except that two family dwellings shall not be subject to special exception approval.

#### **SECTION 8.04 AREA REGULATIONS**

- (a) FRONT YARD - The minimum front yard shall be fifty (50) feet.
- (b) SIDE YARD -
  - (1) For two-family dwelling units as regulated by Section 7.04(b) herein.

- (2) The minimum side yard setback for multi-family dwelling units which abut a different zoning district shall be thirty (30) feet. For multi-family units which abut an “R-2” district, the minimum side yard setback shall be fifteen (15) feet.

The minimum distance between multi-family dwelling structures shall be thirty (30) feet.

(c) REAR YARD -

- (1) For two family units as regulated by Section 7.04(c) herein.
- (2) For multiple family units, the minimum rear yard shall be fifty (50) feet.

(d) LOT AREA - The minimum lot area in this district shall be as follows:

- (1) Two family dwellings shall have a minimum lot area of 30,000 square feet with a minimum lot width of 132 feet at the front lot line. (Ordinance No.94: Effective 6/02/03)
- (2) Multiple family dwellings shall have a minimum lot area of seven thousand two hundred sixty (7,260) square feet with a lot width of not less than two hundred (200) feet at the front lot line. (Ordinance No.94: Effective 6/02/03)

**SECTION 8.05 MINIMUM FLOOR AREA**

Multiple family dwelling units shall have the following minimum floor areas:

One bedroom	Three hundred fifty (350) square feet.
Two bedroom	Five hundred fifty (550) square feet.
Three bedroom	Eight hundred (800) square feet.

All other uses shall meet the requirement of the “R-1” District.

**SECTION 8.06 LANDSCAPE BUFFER**

Where an “R-2” zone abuts an “R-1” or “R-A” zone, a landscape buffer strip shall be installed as required by Section 4.23 herein.

**SECTION 8.07 SITE PLAN REVIEW**

Multi-family dwelling units in the “R-2” zone shall be subject to the site plan review requirements contained in Chapter 16 herein.

## CHAPTER 9

### “R-3” - MOBILE HOME PARK DISTRICT

#### **SECTION 9.01 PURPOSE AND REGULATION**

The purpose of this district is to allow for the establishment of mobile home parks and related accessory uses. A mobile home park within this zoning district shall comply with all applicable procedures and requirements of the Mobile Home Commission Act, being Act 419 of 1976, as amended, and the Michigan Administrative Code. A mobile home park established within this district shall be subject to the site plan review procedures of Chapter 16 herein.

Public sewer and communal water facilities shall be provided for each mobile home park. The Township Board, however, may permit the use of a treatment system meeting all State and County regulations if public sewer facilities are not available. Connection shall be made to public sewer and water within one year after same shall become available within five hundred (500) feet of the premises.

**SECTION 9.02** Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)

**SECTION 9.03** Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein. (Ordinance No. 73 Effective 8/3/99)

## **CHAPTER 9-A**

### **ELM DELLS OVERLAY ZONE** (Ordinance No. 75 Effective 8/31/99)

#### **SECTION 9A.01 DESCRIPTION AND PURPOSE**

The purpose of this overlay zone is to allow for lot sizes and building setbacks which are reflective of the existing conditions in the Elm Dells subdivision on Red Pine and 17 Mile Road and other residential lands on Red Pine Road north of 17 Mile road in Tyrone Township. These existing conditions, in particular lot sizes and building setbacks, do not conform to many of the zoning regulations of the Rural Agricultural zoning district. The regulations proposed by this overlay zone are designed to bring existing buildings and lots into conformance with the Zoning Ordinance and reduce the need for property owners to obtain variances in order to expand or rebuild their dwellings.

#### **SECTION 9A.02 DISTRICT BOUNDARIES**

The regulations of this section shall apply to those parcels within the area illustrated as the Elm Dells Overlay Zone on the Official Tyrone Township Zoning Map.

#### **SECTION 9A.3 APPLICABLE REQUIREMENTS**

The regulations of the underlying zoning district shall apply to all lands within this overlay zone except that the regulations listed below shall supersede the regulations of the underlying zoning district.

a) Lot Area and Width

The minimum lot area shall be 18,000 square feet with a minimum lot width of 90 feet at the building line.

b) Setbacks

- 1) Front - A minimum of 25 feet.
- 2) Side - A minimum of 5 feet from each side lot line.
- 3) Rear - A minimum of 25 feet.

## CHAPTER 10

### “C-1” - LOCAL COMMERCIAL

#### SECTION 10.01 DESCRIPTION AND PURPOSE

This district is intended to permit local retail business and service uses that are desirable to serve the residential areas of the Township and environs. In order to promote sound business so far as is possible and appropriate, uses are prohibited which could create hazards, offensive and loud noises, vibration, and other nuisances. The intent of this district is also to encourage the concentration of business uses, to the mutual advantage of consumers and merchants.

#### SECTION 10.02 PERMITTED USES

Land and/or buildings in this district may be used for the following uses only:

- (a) Retail shops and stores, including but not limited to bakeries, drug stores, hardware stores, appliance and furniture stores, clothing shops, and similar uses.
- (b) Personal service establishments such as barber shops, beauty salons, shoe repair, and other similar establishments.
- (c) Professional offices of doctors, dentists, lawyers, architects, and other similar professions.
- (d) Private offices offering services to the general public such as plumbers and contractors.
- (e) Temporary building or trailer offices incidental to construction activities.
- (f) Public utility and service buildings not requiring a storage yard.
- (g) Automobile service stations not performing major repair work.
- (h) Outdoor retail sales of trees, fruit, seeds, lawn furniture, playground equipment, and other home garden supplies and equipment, provided no space devoted to such sales is within any required yard.
- (ii) Financial and business service establishments such as banks, insurance offices, and other similar businesses.
- (j) Health and physical fitness salons.
- (k) Eating and drinking establishments when the food or beverage is consumed completely within an enclosed building or carried from the premises. Establishments with a character of a drive-in or open front store are prohibited in this district.

- (l) Auto wash facilities.
- (m) Sign painting.
- (n) Dry cleaning establishments.
- (o) Printing shops.
- (p) Other uses determined by the Board of Appeals pursuant to Chapter 20 to be similar to the above uses.
- (q) Accessory uses and structures customarily incidental to the permitted principal uses.
- (r) Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)

**SECTION 10.03 AREA REQUIREMENTS**

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement:

- (a) FRONT YARD - There shall be a front setback of not less than eighty (80) feet.
- (b) REAR YARD - There shall be a rear yard of not less than twenty (20) feet.
- (c) SIDE YARD - A side yard is not required in this zone except that where it is not desired to build to the property line, a minimum side yard of ten (10) feet shall be required. Where this zone abuts any zone other than commercial or industrial, a minimum side yard of 20 feet is required.
- (d) LOT WIDTH - There shall be a minimum lot width of one hundred fifty (150) feet at the front lot line. (Ord. No. 94: Eff. 6/02/03)

**SECTION 10.04 GREENBELT**

When a “C-1” zone abuts an “R-A” or residential zoning district, a greenbelt twenty (20) feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 4.23 herein.

**SECTION 10.05 SITE PLAN REVIEW**

All uses permitted within the “C-1” zoning district shall be subject to the site plan review provisions of Chapter 16 herein.

**SECTION 10.06 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 herein:

- (a) Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein.

## CHAPTER 11

### “C-2” - GENERAL COMMERCIAL

#### SECTION 11.01 PURPOSE

This district is intended to provide areas for general community wide commercial and service uses and to provide for orderly development and concentration of such uses to satisfy the needs of the overall community.

#### SECTION 11.02 PERMITTED USES

Land and/or buildings in this district may be used for the following uses only:

- (a) Any use permitted in the “C-1” district.
- (b) Private clubs and lodges.
- (c) Assembly halls, billiard halls, and other similar commercial recreation facilities operating within a completely enclosed building.
- (d) Public or private business schools.
- (e) Theaters, not including drive-in theaters.
- (f) Drive-in restaurants.
- (g) Open air businesses, including used vehicle sales.
- (h) Mortuaries.
- (i) Motels.
- (j) Automotive, truck, farm implement, and related vehicle sales.
- (k) Mobile home, trailer, and camper sales.
- (l) Retail building supply sales.
- (m) Veterinary and animal hospital and kennels.
- (n) Special controlled uses, when authorized by the Planning Commission as a special land use in accordance with Chapter 15 and Section 4.22 herein.
- (o) Auto repair shops

- (p) Other uses determined by the Board of Appeals pursuant to Chapter 20 to be similar to the above mentioned uses.

**SECTION 11.03 AREA REQUIREMENTS**

Yard and area requirements shall be the same as those required for the “C-1” zone except that there shall be a front yard setback of not less than eighty-five (85) feet.

**SECTION 11.04 GREENBELT**

As required by Section 10.04 herein.

**SECTION 11.05 SITE PLAN REVIEW**

As required by Section 10.05 herein.

**SECTION 11.06 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 herein.

- (a) Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein. (Ordinance No. 73 Effective 8/3/99)

## CHAPTER 12

### I - INDUSTRIAL

#### SECTION 12.01 PURPOSE

This zone is intended to permit industrial uses which are not offensive or debilitating to surrounding property through the effects of noise, smoke, odor, dust, noxious gases, vibration, glare and heat, fire hazards, industrial wastes, or traffic. In those instances where there is a doubt regarding the effect of the operation, the prospective operator shall demonstrate, through the use of qualified technical persons and acceptable testing techniques, that protective devices shall be utilized which will categorically assume the control of the questioned factor. All buildings, storage, and handling of flammable and explosive materials and other activities shall conform to all applicable regulations and requirements. No operations shall directly discharge waste of any kind into any river, stream, or lake. All methods of sewage disposal shall be approved by the appropriate agencies.

#### SECTION 12.02 PERMITTED USES

In addition to complying with the above requirements, only uses hereafter listed shall be permitted in this zone.

- (a) The manufacture, compounding, processing, packing, or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils.
- (b) The manufacturing, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
- (c) Transportation, communications, and utility facilities.
- (d) Auto repair shops.
- (e) Auto wash.
- (f) Bottle plants and dairies.
- (g) Contractor yards.
- (h) Crating and packing service.
- (i) Central dry cleaning and laundry facilities.

- (j) Machine shop.
- (k) Printing shops.
- (l) Sign painting and servicing shops.
- (m) Taxidermist.
- (n) Warehouse and storage.
- (o) Wholesale sales.
- (p) Uses determined by the Board of Appeals pursuant to Chapter 20 to be similar to the above. Accessory building and uses customarily incidental to the permitted principal uses.
- (q) Accessory building and uses customarily incidental to the permitted principal uses.
- (r) Towers and antennas which do not exceed 35 feet in height as regulated by Section 4.31 herein. (Ordinance No. 73 Effective 8/3/99)

### **SECTION 12.03 SPECIAL LAND USES**

The following uses may be permitted as a special land use when approval is granted by the Planning Commission. Such uses are subject to the provisions of Chapter 15 herein.

- (a) Asphalt manufacturing or refining, tar distillation or tar products manufacture.
- (b) Iron, steel, aluminum, and other ferrous and nonferrous forging, casting, or rolling.
- (c) Rendering plant.
- (d) Slaughter house or yards.
- (e) Manufacture, processing, and bulk storage of petroleum products and by-products.
- (f) Junk yards.
- (g) Towers and antennas which are greater than 35 feet in height as regulated by Section 15.06 herein. (Ordinance No. 73 Effective 8/3/99)

### **SECTION 12.04 ADDITIONAL REQUIREMENTS**

All uses permitted in this zone shall be conducted within a completely enclosed structure or within an area enclosed on all sides by a screening structure to be approved by the Planning Commission: provided further, that no goods, material, or objects shall be stacked higher than the fence or wall: and no noise, smoke, dust, vibration, or any other like nuisance shall exist to affect adjoining properties in an adverse manner.

Drives and service roads to industrial buildings must be paved. All utilities must be placed underground.

A \$10,000 performance bond is required with industrial application.

A three (3) sided dumpster enclosure - six (6) feet high minimum is required.

### **SECTION 12.05 AREA REQUIREMENTS**

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, enlargement:

- (a) FRONT YARD - There shall be a front setback of not less than eighty-five (85) feet.
- (b) REAR YARD - There shall be a rear yard of not less than twenty (20) feet.
- (c) SIDE YARD - There shall be a side yard of not less than twenty (20) feet.
- (d) LOT AREA - The minimum lot area shall be two (2) acres with a minimum lot width of two hundred (200) feet at the front lot line. (Ord. No. 94: Eff. 6/02/03)

### **SECTION 12.06 GREENBELT**

When an “I-1” zone abuts an “R-A”, residential, or agricultural zoning district, a greenbelt twenty (20) feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 4.23 herein.

### **SECTION 12.07 SITE PLAN REVIEW**

All uses permitted in the “I-1” zoning district shall be subject to the site plan review provisions of Chapter 16.

## CHAPTER 12-A

### INDUSTRIAL I - RS (RECYCLING STATION)

#### SECTION 12A.01 PURPOSE

This zone is intended to permit a station or location where used materials may be sorted and transferred to other locations for purposes of manufactured reuse. By way of illustration and not limitation such permitted materials may include appliances, paper products, plastic, tin, and farm machinery.

#### SECTION 12A.02 REQUIREMENTS

- (a) No agricultural or industrial wastes, oil or solvents, except drained from vehicles or mobile homes, shall be accepted or treated on the premises. Gas tanks and batteries may be removed from vehicles but there shall be no sale of vehicles parts.
- (b) The use permitted in this zone shall be conducted within a completely enclosed structure. No noise, smoke, dust, vibration, or any other like nuisance shall exist to affect adjoining properties in an adverse manner.
- (c) No oil or discharge of any material from a motor vehicle shall be permitted outside of an area designed to contain the same which has been approved by the proper government agency.
- (d) No other treatment of material than that permitted in this district shall be conducted on the premises.
- (e) No items brought to the premises for recycling shall remain on the premises for more than ninety (90) days.

#### SECTION 12A.03 AREA REQUIREMENTS

No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement.

- (a) FRONT YARD - There shall be a front yard setback of not less than eighty-five (85) feet.
- (b) REAR YARD - There shall be a rear yard of not less than twenty (20) feet.
- (c) SIDE YARD - There shall be a side yard of not less than twenty (20) feet.
- (d) LOT AREA - The minimum lot area shall be one (1) acre with a minimum lot width of one hundred fifty (150) feet at the front lot line. (Ord. No. 94: Eff 6/02/03).

**SECTION 12A.04 GREENBELT**

When an “I-RS” zone abuts an “A”, “R-A” or residential zoning district, a greenbelt twenty (20) feet wide shall be installed along the entire length of the common lot line according to the provisions of Section 4.23 herein.

**SECTION 12A.05 SITE PLAN REVIEW**

All uses permitted in this “I-RS” zoning district shall be subject to the site plan review provisions of Chapter 16.

The foregoing amendment to the Tyrone Township Zoning Ordinance and Land Use Map shall take immediate effect.

## CHAPTER 13

### “E-1” - NATURAL RIVER ZONE

#### SECTION 13.01 DESCRIPTION AND PURPOSE

The purpose of this Ordinance is to preserve and enhance the value of the Rogue River and its designated tributaries for water conservation, its free flowing condition and its fish, wildlife, boating, scenic, aesthetic, flood plain, ecological, historic and recreational values and uses. This Natural River Zone shall include a strip of land three hundred (300) feet wide on each side of and parallel to the banks of the Rogue River and one hundred fifty (150) feet wide on each side of and parallel to the banks of the designated tributaries.

#### SECTION 13.02 USE REGULATIONS

Land and/or buildings in this zone may be used for the following purposes only:

- (a) Single-family dwelling and appurtenances.
- (b) Camping and other recreational activities which do not require the construction of permanent facilities and situated not less than one hundred fifty (150) feet from the river's edge of the Rogue River or one hundred (100) feet from a designated tributary.
- (c) Operating of non-motorized watercraft.
- (d) Fishing and hunting in compliance with current laws and regulations.
- (e) Reforestation.
- (f) Cutting of trees six (6) inches or less in diameter at breast height is permitted. Removal of trees of any size on the area to be occupied by a residence and up to within fifteen (15) feet of such residence shall be permitted.
- (g) Underground gas utility lines. (See Section 13.06(c)).
- (h) Agricultural pursuits, unless the Bureau of Water Management determines that such pursuit will contribute to degradation, in which event such use shall not be closer than fifty (50) feet from the river's edge of the Rogue River and twenty-five (25) feet from the river's edge of its tributaries.
- (i) Except as permitted in Section 13.06(d),(i),(v), licensed and unlicensed motor vehicles are permitted only outside an area measured three hundred (300) feet from the edge of the Rogue River or its tributaries. Such use is permitted on existing public or private roads and designated trails on land owned by the Federal Government, State of Michigan or any subdivision thereof.

- (j) Other uses determined by the Board of Appeals pursuant to Chapter 20 to be similar in nature.

**SECTION 13.03 AREA REGULATIONS**

No building or structure or appurtenance thereto including septic systems shall be hereafter erected or constructed unless the following yards and building coverage requirements are provided and maintained:

- (a) **SETBACK** - One hundred fifty (150) feet measured horizontally from the river's edge on the mainstream except that a building or structure may be erected or constructed five feet closer to the river's edge for each foot of vertical bank height exceeding ten (10) feet until a minimum of one hundred (100) feet is reached. Provided, however, that no such structure or building shall be erected closer to the river than twenty (20) feet landward from the break of the river bank within said one hundred fifty (150) feet setback and one hundred (100) feet on designated tributaries.
- (b) **MINIMUM LOT WIDTH** - Two hundred (200) feet at the front lot line. (Ord. No.94: Eff. 6/02/03)
- (c) **MINIMUM LOT DEPTH** - Three hundred (300) feet.
- (d) No building shall be placed on lands within three hundred (300) feet of the water's edge where the highest ground water table is within six (6) feet of the ground surface.

**SECTION 13.04 SECONDARY OR INCIDENTAL USES**

Such uses which are secondary or incidental to the principal use permitted in the zoning Ordinance shall be allowed as restricted as follows:

- (a) **DOCKS** - Docks may be constructed not to exceed six (6) feet in width nor more than twenty (20) feet in length. No dock shall extend toward the center of the river or the tributaries more than four (4) feet from the river's edge.
- (b) **SIGNS** - Only those signs necessary for identification, direction, resource information, and regulation of use are permitted along public use areas of the designated river and tributaries. Signs advertising the sale of products or services are prohibited in this zone.

**SECTION 13.05 SPECIFICALLY PROHIBITED ACTIONS AND USES**

- (a) Cutting, filling or building in a floodplain.
- (b) Stream alteration (damming, dredging, filling, channelization, enlarging or diminishing a stream or stream improvement without the express written consent of the Department of

Natural Resources as required by the Inland Lakes and Streams Act of 1972, being Act 346 of the Public Acts of 1972 (MCLA 281.951 et. seq.).

(c) UTILITIES -

- (1) No gas, oil pipelines, telephone lines, or electric transmission lines shall be permitted in this district or to cross the designated river and tributaries except on existing right-of-way, without prior written consent of the Natural Resources Commission.
- (2) New distribution lines shall not cross the designated portion of the river or housing setback zones unless they are placed underground.
- (3) The utilities specified in 13.06(l) to private dwellings shall originate from the landward side of the dwelling.

(d) ACCESS -

- (1) No vehicular access to the river or its tributaries not existing at the date of adoption of this amendment shall be provided except for emergency and maintenance vehicles.
- (2) No public roads not in existence at the date of adoption of this Ordinance shall be permitted in this zone without the prior consent of the Natural Resources Commission.
- (3) No public road in this zone shall be relocated or improved until plans therefore have been approved by the Natural Resource Commission.
- (4) No road access to private property shall be permitted without prior approval of the Building Inspector.
- (5) Road access to private property shall not be permitted within one hundred fifty (150) feet of the mainstream or within one hundred (100) feet of the designated tributaries. Provided, however, where the setback is less than one hundred fifty (150) feet as permitted in Section 13.04(a), access shall be permitted to the edge of the dwelling most distant from the river.

- (e) Cutting of trees six (6) inches or more in diameter at breast height is prohibited except as provided in Section 13.02(f).

## CHAPTER 14

### "OS-PUD" - OPEN SPACE PLANNED UNIT DEVELOPMENT DISTRICT (Ordinance No. 73 Effective 8/3/99)

#### SECTION 14.01 PURPOSE

- (a) It is the intent of this Chapter to offer an alternative to traditional subdivisions through the use of a Planned Unit Development (OS-PUD). An Open Space PUD is the process of designing residential communities in which the most important design step is identifying the land which is to be preserved as open space. Most dwellings would abut this permanently preserved open space in order to provide views and access for residents.

Some degree of flexibility is permitted in the use, height, bulk and placement requirements for OS-PUD developments, but it is also intended that each OS-PUD district afford reasonable protection to uses that are near and adjacent to the OS-PUD district. The OS-PUD District is intended for the following purposes:

- (1) Implementing the goals and objectives of the Township's Master Plan relating to preservation of open space, rural character and natural resources;
  - (2) Assuring the permanent preservation of open space and other natural resources and allowing for the continuation of limited farming activities.
  - (3) Providing recreation areas within a reasonable distance of all residents of the Open Space Development;
  - (4) Allowing innovation and greater flexibility in the design of residential developments;
  - (5) Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
  - (6) Ensuring compatibility of design and use between neighboring properties and a density substantially consistent with that permitted in the current zoning district;
  - (7) Encouraging a less sprawling form of development, thus preserving open space as undeveloped land;
  - (8) Preserving wildlife habitat.
- (b) These regulations are intended to preserve the character of the Township through the creation of residential neighborhoods with supporting open space. It is the intent of these regulations to produce a development substantially consistent with Zoning Ordinance standards, yet to allow for modifications from the general standards to meet the intent of

this Ordinance. Zoning decisions made pursuant to this chapter shall give due consideration to the maintenance of reasonable conditions for OS-PUDs with regard to density of land uses, general appearance and character of the OS-PUD, reasonable compatibility with nearby land uses, effects on values of surrounding lands, water supply and sanitary sewage disposal, stormwater management, groundwater quality, ease of police and fire protection, traffic congestion, pedestrian safety, blighting influences and other considerations pertaining to the effects or possible effects of a OS-PUD.

- (c) The provisions of this Chapter are not intended, nor shall they be applied, to circumvent the land use planning decision inherent in the Township's Master Plan. A OS-PUD that is otherwise qualified under this Chapter shall be approved only if the resulting land use and the density and other characteristics thereof are substantially consistent with the Master Plan's provisions or land use designations for the lands involved.

#### **SECTION 14.02 AUTHORIZATION**

An Open Space PUD zoning district may be approved by the Township Board in any location which is recommended for Rural Agricultural or Residential use by the Tyrone Township Master Plan in accordance with the procedures of this Ordinance. The granting of an Open Space Planned Unit Development rezoning application shall require an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this ordinance. An approval granted under this chapter, including all aspects of the final plan and conditions imposed, shall constitute part of the Zoning Ordinance.

#### **SECTION 14.03 ELIGIBILITY CRITERIA.**

To be eligible for Open Space PUD consideration, the applicant must present a proposal for residential development that meets the following:

- (a) **Recognizable Benefits.** An Open Space PUD shall result in recognizable and substantial benefits both to the residents of the project 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, combination of lots which would not result in as desirable a development if developed separately, extensive landscaping, sensitivity to adjacent residential land uses, unique site design features, preservation of natural features, preservation of farm land and maintenance of rural appearance.
- (b) **Minimum Size.** The parcel shall be a minimum of five contiguous acres.
- (c) **Unified Control.** The proposed development shall be under unified ownership or control, so that one person or entity has 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 indicating that the development will be completed in its entirety as proposed.

- (d) **Guarantee of Dedicated Open Space.** The applicant shall provide an open space preservation and maintenance agreement to the Township Board stating that all dedicated open space portions of the development shall be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in title to commitments made as 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 PUD plan, unless an amendment is approved by the Township Board.

The agreement must be acceptable to the Township Board and may consist of a recorded deed restriction, covenants that run perpetually with the land or a conservation easement established according to the Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980 as amended.

The agreement shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space.
- (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 dedicated open space including necessary pruning, harvesting of trees and new plantings.
- (4) Provide for maintenance to be undertaken by Tyrone Township in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance. Any costs incurred by the Township shall be assessed to the owners of the property within the OS-PUD.

#### **SECTION 14.04 PERMITTED USES**

Land and buildings in an Open Space PUD may only be used for the following uses or combination of such uses:

- (a) Single family detached dwelling units.
- (b) Two family attached dwelling units (duplexes) provided that such dwellings shall not constitute more than 25% of the total dwellings in an OS-PUD.
- (c) Multi-family dwelling units up to eight units per building but only if the land requested for rezoning to Open Space PUD is designated for such use in the Township Master Plan.
- (d) Other uses as may be allowed by the future land use recommended in the Township Master Plan and the equivalent zoning district listed in Section 14.07.

- (e) Limited farming activities if conducted upon the Dedicated Open Space within the OS-PUD. For purposes of this Section farming activities shall be limited to the growing of crops, fruits, and vegetables and the raising and keeping of farm animals. In permitting farming activities as part of a OS-PUD, the project shall demonstrate that the farming activities will not pose a nuisance or a hazard to the residents of the OS-PUD.
- (f) Golf courses, tennis courts, ball fields, bike paths, walking paths, playground, community buildings, and similar recreational facilities as well as day care facilities, provided such uses are accessory to the residential uses in the OS-PUD and designed to be used primarily by residents of the OS-PUD.
- (g) Accessory uses, structures and buildings which are customarily associated with the uses specified above.

**SECTION 14.05 DEVELOPMENT REQUIREMENTS**

The lot area, lot width, building setback, and yard requirements applicable within an OS-PUD shall be determined by the Planning Commission and Township Board in order to achieve the objectives of this section and to carry out the site design principles in Section 14.08 based on the application of site planning criteria to achieve integration of the project with the characteristics of the project area. Other criteria which shall be used in making these determinations shall include the following:

- (a) Number and type of dwelling units.
- (b) Proximity and impact of the OS-PUD on adjacent existing and future land uses.
- (c) Preservation of existing vegetation or other natural features on site.
- (d) Topography of the site.
- (e) Provision of water, sanitary sewer and storm sewer or approval of the Kent County Health Department for on site well and septic systems.
- (f) Access for emergency vehicles to all dwellings.

**SECTION 14.06 MINIMUM OPEN SPACE REQUIREMENTS.**

- (a) An Open Space PUD shall provide and maintain a minimum of 20 percent of the gross area of the site as Dedicated Open Space or a minimum of two acres of the site's gross area as open space, whichever is greater. The Dedicated Open Space shall consist of equal amounts of primary and secondary conservation areas as defined in Section 14.08

- (b) Only open space areas meeting the standards in Section 14.06(f) shall be included in the calculations for the minimum Dedicated Open Space area.
- (c) All land within a development not devoted to a residential unit, an accessory structure or use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as open space for recreation, conservation, or preservation in an undeveloped state. Connections with adjacent open space and bike paths shall be encouraged.
- (d) If a golf course is included as open space, it shall not account for more than 50 percent of the minimum required Dedicated Open Space.
- (e) Areas Not Considered Dedicated Open Space. The following land areas shall not be classified as Dedicated Open Space for the purposes of this Section:
  - (1) The area within any public street right-of-way.
  - (2) The area within private road access easements.
  - (3) Any easement for overhead utility lines unless adjacent to qualified open space.
  - (4) Fifty percent of any floodplain, lakes, streams, detention ponds or other surface water bodies, or wetlands.
  - (5) The area within a platted lot or site condominium lot.
  - (6) Parking areas.
- (f) Standards for Dedicated Open Space. The following standards shall apply to the Dedicated Open Space provided in the development:
  - (1) Dedicated Open Space shall be for use by all residents of the OS-PUD.
  - (2) The dedicated 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.
  - (3) If the site contains a lake, stream or other body of water, a portion of the Dedicated Open Space shall abut the body of water.
  - (4) A portion of the Dedicated Open Space shall be located along the public road frontage abutting the site. The depth of this area shall be at least 50 feet not including public road right-of-way, and this area shall be left in its natural condition or landscaped to help reduce the view of houses on site from the adjacent roadway and preserve the rural view.

- (5) A Dedicated Open Space area shall be configured such that the open space is reasonably usable by residents of OS-PUD. The minimum size of a Dedicated Open Space area shall be 20,000 square feet; provided, however, that the required open space abutting a public street may be less than 20,000 square feet; and, further provided, that the Planning Commission may approve other Dedicated Open Space areas of less than 20,000 square feet if such areas are designed and established as pedestrian or bicycle paths or are otherwise determined by the Planning Commission to be open space reasonably usable by residents of the OS-PUD.
  - (6) Open space areas are encouraged to be linked with any adjacent open spaces, public parks, bicycle paths or pedestrian paths.
  - (7) Open space areas shall be located so as to be reasonably accessible to the residents using them. Pedestrian access points to the Dedicated Open Space areas shall be provided and shall be clearly identified by signs or a visible improved path for safe and convenient access.
  - (8) Grading in the Dedicated Open Space shall be minimal, with the intent to preserve existing topography where practical except for uses permitted by Section 14.06(f)(9).
  - (9) Dedicated Open Space may consist of ball fields, tennis courts, swimming pools and related buildings, community buildings and golf courses, and similar recreational facilities. These uses however shall not utilize more than 50 percent of the Dedicated Open Space.
- (g) Allowable Accessory Structures and Uses in the Dedicated Open Space. A structure or building accessory to a recreation or conservation use or an entryway may be erected within the Dedicated Open Space, subject to the approved open space plan. These accessory structure(s) and building(s), shall not exceed, in the aggregate, one percent of the dedicated open space area. Accessory structures or uses of a significantly different scale or character than any abutting residential districts shall not be located near the boundary of the development if it may negatively impact the residential use of adjacent lands as determined by the Planning Commission and Township Board.

**SECTION 14.07 DENSITY BASED ON ZONING DISTRICT EQUIVALENT OF FUTURE LAND USE CATEGORY**

- (a) An area which is requested for rezoning to OS-PUD shall only be developed in accordance with the density and land uses recommended by the Township Master Plan. The permitted number of dwellings per acre (density) for the proposed OS-PUD area shall be based on the density requirements of the zoning district which is the equivalent of the future land use category proposed by the Master Plan. The zoning district equivalent for the Master Plan future land use category and the density permitted are contained in the following Density Table.

### Density Table

<u>Master Plan Category</u>	<u>Zoning District</u>	<u>Maximum Ave. Density</u>
Rural Agricultural	= Rural Agricultural	<i>One</i> unit/acre
Low Density Residential	= R1, Low Density Residential	<i>1.45</i> units/ac.w/o public sewer& water. <i>2.17</i> units/acre w/ <i>either</i> public sewer or water. <i>3.63</i> units/acre w/ <i>both</i> public water & sewer.
Medium Density Residential	= R2, Medium Density Res.	<i>3.63</i> units/ac. for two family dwellings. <i>Six</i> units/acre for multi-family dwellings.

- (b) To determine the number of dwelling units which may be constructed within the Open Space PUD, multiply the permitted density from the Density Table by the total acreage of the site excluding those areas within the 100-year flood plain, wetland areas and areas permanently inundated by water such as lakes, ponds, streams and rivers, one-half of the areas with existing slopes of 20% or more and one half of the area of any golf course. The Planning Commission and the Township Board may in their discretion allow fewer dwelling units than would otherwise be permitted by this section.

The determination of the existence of wetlands and floodplain areas on a parcel shall be demonstrated to the satisfaction of the Planning Commission through a written determination by the Michigan Department of Natural Resources or by an analysis performed by a professional biologist, ecologist, environmental engineer or similar professional person deemed acceptable to the Planning Commission.

- (c) Additional dwellings above what is allowed by Section 14.07(a) & (b) may be permitted at the discretion of the Township Board and Planning Commission if the development provides additional amenities or preserves additional open space which would result in a significant recognizable benefit to the Township and residents of the OS-PUD. Items which could be added to a OS-PUD so it may be eligible for consideration for additional dwelling units shall include one or more of the following items as well as similar items:
- (1) Provision of recreational facilities such as playground areas with play equipment, ball fields, golf course, bike path, walking path, man-made lake, community building or similar recreation facility.
  - (2) Additional landscaping to preserve or enhance the rural view along the roadway.
  - (3) Enhancement of existing wetlands, subject to applicable regulations.

- (4) Provision of additional unique open space or mature stands of trees which would be of recognizable benefit to Township residents.
- (5) Provision of a public or private community water and/or sanitary sewer system.
- (d) If additional dwelling units are to be permitted, the maximum number of dwelling units shall be determined by multiplying the density permitted in the Density Table by the total acreage of the site including wetlands, floodplain, bodies of water, steep slopes, golf courses, and portions of the site within existing road right of way. In no case shall the number of dwelling units exceed what is permitted by this subsection.

**SECTION 14.08 PROCEDURES**

- (a) **Preapplication Conference.** Before submitting an application for a OS-PUD, an applicant may meet with the Planning Commission or Township Zoning Administrator, Planner or Engineer to submit information regarding a proposed OS-PUD and to confer with the Planning Commission, or staff, about the proposed application and the OS-PUD.
- (b) **Application for OS-PUD Approval.** An application for OS-PUD rezoning shall be in accordance with the application procedures for site plan review as required by Chapter 16 of this Ordinance.
- (c) **Preliminary Open Space Plan.** The applicant shall prepare a preliminary site plan using the four step design process described below:

**STEP 1**

Prepare a site plan of the proposed OS-PUD development that identifies the *Primary Conservation and Secondary Conservation Area* which shall include:

**Primary Conservation Areas**

- wetlands
- floodplains
- creeks, streams, ponds or lakes soils that will not sustain buildings
- steep slopes (20% or over)
- habitats of unique or endangered species

**Secondary Conservation Areas**

- woodlands
- farm land
- meadows and hedgerows
- farm buildings and fences

- historic, cultural, and archeological features
- views into and out of the site
- any other area which, due to significant natural or cultural features, is determined to be worthy of preservation

Next, identify on the plan those secondary Conservation areas which shall be preserved as Dedicated Open Space. Special emphasis shall be given to preserving views along the public roadway. All of the Primary Conservation Areas should be preserved as dedicated Open Space.

Next, identify potential development areas where houses can be located.

Next, determine the number of houses permitted for the site by Section 14.07 herein.

## **STEP 2**

On the same site plan, illustrate the tentative location of house sites. Within Open Space PUD developments, house sites shall be identified before determining the location of lot lines and streets. The location of house sites shall be based upon the following criteria:

- House sites shall be located within the potential development areas and outside beyond the boundaries of those areas identified as *Primary Conservation Areas* and Secondary Conservation areas identified as Dedicated Open Space in Step 1.
- Houses should be placed so that the predominant view from the house is of open space and not of dwellings on the opposite side of the street.
- Houses should be placed so that scenic views are left unblocked or uninterrupted, particularly as seen from the public road right-of-way.
- In order to maintain scenic views and rural character, dwellings placed directly on hilltops shall be discouraged if the dwelling is unscreened from the view of nearby properties and roads. If such dwellings are permitted, they should be one story to avoid walkout type dwellings from having the appearance of a three story dwelling and detracting from the rural view.

## **STEP 3**

Next illustrate the location of streets and trails. The following criteria shall apply when locating streets and trails:

- Avoid crossing wetlands, wildlife habitat, or other sensitive natural areas with streets. Travel lanes may be split into a boulevard-style street with natural areas between the travel lanes.
- Avoid long straight street segments that encourage speeding; curving roads or shorter straight segments at 90 degrees to each other are preferable.
- Whenever possible, street systems should be designed to produce *terminal vistas* (views) of open spaces, village greens, water features, meadows or playing fields.

- Where possible, streets should allow *single loading* of house sites, which allows all homes views of open spaces within the development.
- Every effort should be made to connect each street with another so that dead ends are minimized, to provide safe and efficient access for emergency and public service vehicles, and to avoid conditions where certain residential streets become collectors that carry the majority of neighborhood traffic.
- Where cul-de-sacs are unavoidable, they should be provided with pedestrian and bike linkages to nearby streets or adjoining neighborhoods. These cul-de-sacs should be designed with a central island where existing trees can be preserved or native species can be planted.
- Whenever possible, streets serving new developments should be designed to connect with adjoining properties.
- Conservation subdivision developments should provide a trail system that provides pedestrian and bicycle linkage throughout the development, that takes advantage of the *Primary* and *Secondary Conservation Areas*, and that provides linkage to future neighborhoods and developments that may occur adjacent to the development.

#### **STEP 4**

Next *draw the location of lot lines within the development.*

- Lots shall be of a size and width necessary to obtain approval from the Kent County Health Department. If permitted by the KCHD, septic drainfields may be located within designated open space areas outside the lot lines.
- In addition to the preliminary site plan, the applicant shall provide documentation from the Kent County Health Department that the soil types in the buildable areas are acceptable for on site well and septic systems.
- If the applicant is also seeking approval for the private road, information required by Section 4.26 herein shall also be submitted.

(d) **Environmental Impact Assessment** The Planning Commission may require an environmental impact assessment as part of the Preliminary or Final Site Plan. This assessment shall describe the effect and impact that the proposed OS-PUD will or may have upon or with respect to the following matters.

- (1) The lands involved and the adjacent and nearby lands; streams, rivers, wetlands, and the quality and volume of surface and groundwater; wildlife and trees, and other significant vegetation; the effect, if any, on surrounding property values.
- (2) Population in the immediate area and the Township; local school systems; traffic congestion.
- (3) Additional costs to governmental units and school districts; police and fire protection; storm water drainage; water supply and sewage disposal.

- (4) Noise, vibration, dust and dirt, litter, smoke, odor, light, and glare;
- (5) General appearance and character of the area; historic structures and places; archeological sites and artifacts.
- (6) Such other matters as the Planning Commission may request to be included. If requested by the Planning Commission, the environmental impact assessment shall include statements or comments from the following public agencies or officials concerning those aspects of the proposed land use within their respective responsibilities and jurisdictions: County health department; county road commission; county drain commissioner; department of natural resources; intermediate school district; local board of education; county sheriff's department local fire department and other appropriate agencies.
- (7) Traffic impact study.
- (8) A community impact analysis.
- (9) An economic feasibility study for the principal uses of the proposed OS-PUD.
- (10) An analysis of the nature and effect of any private utility systems, including septic tanks and drain fields, storm water control and retention facilities, and water supply and distribution systems.

(e). **Review of Preliminary Development Plan.** The Planning Commission shall review the preliminary development plan and make recommendations to the applicant regarding the OS-PUD, together with any recommended changes or modifications thereof. A copy of the Planning Commission's recommendations as contained in the minutes of the Planning Commission shall be forwarded to the Township Board. Such review and other consideration of the preliminary plan shall take place at a public meeting or meetings of the Planning Commission, and at meetings of committees of the Commission, where appropriate. The recommendations of the Planning Commission to the applicant, regarding the OS-PUD, shall be based on the following considerations:

- (1) The requirements of this Ordinance.
- (2) How well the preliminary site plan conforms to the four step design process of this Section.
- (3) The setback and placement of buildings and structures.
- (4) Ingress to and egress from the OS-PUD and proposed buildings and structures therein, including motor vehicle and pedestrian safety and convenience, traffic flow and control and emergency access.
- (5) Off-street parking and loading areas where required.

- (6) Screening and buffering, including type, dimensions and character of materials used therefore.
  - (7) Water supply and sanitary sewage disposal, including locations, availability and compatibility, the preservation of natural resources and natural features.
  - (8) Open spaces and recreational areas.
  - (9) Drainage courses, flood plains, lakes, streams, and wetlands.
  - (10) The number of dwellings proposed.
  - (11) Impact and adverse effects, if any, upon adjacent and nearby lands, the surrounding area and the Township.
  - (12) Other aspects and effects of the OS-PUD, as reasonably deemed appropriate by the Planning Commission.
- (f) **Advisory Public Hearing.** In the course of its consideration of the preliminary development plan, the Planning Commission may, in its discretion, convene an advisory public hearing in order to receive public comments concerning the preliminary development plan. For such hearing, the Planning Commission shall give notice thereof in the manner set forth in Section 103 of Public Act 110 of 2006, as amended, being MCLA 125.3103.
- (g) **Final Development Plan.**
- (1) After receiving the recommendations of the Planning Commission on the preliminary development plan, the applicant for OS-PUD rezoning shall submit a Final Development Plan to the Township office in accordance with the requirements for Final Site Plan Review as contained in Chapter 16 of this Ordinance. Copies of the plan shall be forwarded to the Planning Commission.
  - (2) The final development plan shall contain all of the information required for Final Site Plan review unless the same is waived by the Planning Commission as not being reasonably necessary for the consideration of the OS-PUD plus the following:
    - (i) All of the drawings, narrative, studies, assessments, and other information, and materials comprising the preliminary development plan, including all of the recommendations of the Planning Commission thereon, or if the applicant has not incorporated all of such recommendations, the final development plan shall indicate such fact and shall state the basis or grounds upon which such recommendations have not been included.

- (ii) Projected time for completion of the entire OS-PUD; proposed phasing, if any, of the OS-PUD and the projected time for completion of each phase.
  - (iii) Any other information reasonably required by the Planning Commission in connection with its review of the OS-PUD and consideration of the rezoning of the lands in accordance with the OS-PUD plan.
- (h) **Public Hearing on Final Development Plan.** The Planning Commission shall hold a public hearing on the final development plan and the application for rezoning in accordance with the plan. The giving of public notice for the public hearing and the convening of the hearing shall proceed in the same manner and in accordance with all of the requirements of a public hearing by the Planning Commission for a rezoning of land within the Township, as set forth in the Michigan Zoning Enabling Act, being Public Act 110 of 2006, as amended.
- (i) **Consideration of Final Development Plan by Planning Commission.** After public hearing, the Planning Commission shall make recommendations concerning the final development plan and the modifications in the final development plan, to the Township Board. The Planning Commission may recommend in favor of the rezoning of the lands in accordance with the final development plan; may recommend against rezoning of the lands in accordance with the final development plan; or may recommend such rezoning only if certain changes or modifications in the OS-PUD are made or if certain specified conditions are imposed. The recommendations of the Planning Commission shall then be transmitted to the Township Board.
- (j) **Standards for Approval.** In making a recommendation to approve a OS-PUD, the Planning Commission must find that the proposed OS-PUD meets the following standards:
  - (1) Granting the OS-PUD rezoning will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved.
  - (2) The OS-PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the OS-PUD as approved.
  - (3) The OS-PUD will be compatible with the Master Plan of the Township and consistent with the intent and purpose of this chapter.
  - (4) The OS-PUD will not result in significant adverse effects upon nearby or adjacent lands, and will not change the essential character of the surrounding area.
  - (5) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as approved for essential services or recreation amenities.

- (6) Preserves and maintains mature woodlands, fields, pastures, meadows, orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
  - (7) Designs around existing hedgerows and treelines between fields or meadows, and minimize impacts on woodlands greater than 5 acres.
  - (8) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public road rights-of-way.
  - (9) Avoids siting new construction on prominent hilltops or ridges by taking advantage of lower topographic features.
  - (10) Protects the rural roadside character by establishing buffer zones along scenic corridors and improves public safety and vehicular carrying capacity by avoiding development that front directly on to existing roadways.
  - (11) Includes a pedestrian walkway designed to ensure that pedestrians can walk safely and easily throughout the site.
  - (12) The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.
- (k) **Final Consideration of OS-PUD by Township Board.** The Township Board shall review the final development plan and the recommendation submitted by the Planning Commission. The Township Board shall hold a public hearing if required by statute. The Township Board shall determine whether the final development plan complies with the standards, conditions, and requirements of this Ordinance and, in addition, shall determine whether the proposed project promotes the intent and purpose of this Ordinance; insures that the proposed project will be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the proposed project; and insures that the proposed project will be consistent with the public health, safety, and welfare needs of the Township. Upon a determination that a proposed project meets such standards, conditions, and requirements, the Township Board may approve the final development plan and grant the rezoning request.
- (l) **Conditions of Approval.** The Township Board may impose reasonable conditions upon its approval. Such conditions may include conditions necessary to insure that public services and facilities affected by a proposed project will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements.

- (1) They shall be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the proposed project under consideration, residents, and landowners immediately adjacent to the proposed project,, and the community as a whole.
- (2) They shall be related to the valid exercise of the police power, and the purposes which are affected by the proposed project.
- (3) They shall be necessary to meet the intent and purpose of this Ordinance, be related to the standards established in the Ordinance for the proposed OS-PUD under consideration, and be necessary to insure compliance with those standards.

The conditions imposed with respect to the approval of a OS-PUD shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Township Board and the property owner. The Township Board shall maintain a record of conditions which are changed.

If the Township Board approves the final development plan and the proposed application for rezoning, it may rezone the property in accordance with the Township Rural Zoning Act as amended. The Zoning Ordinance amendment shall be forwarded to the Township clerk for inclusion in the Township Ordinance Book. Publication of the rezoning ordinance or publication of a summary of the provisions thereof shall be accomplished in the manner provided by law.

- (m) The Zoning Board of Appeals is without authority to accept appeals or grant variances from the decision of the Township Board regarding a final development plan and rezoning request pursuant to this chapter.

#### **SECTION 14.09 AMENDMENTS TO APPROVED PUD**

- (a) An approved Final OS-PUD Development Plan and any conditions imposed upon Final PUD approval shall not be changed except upon the mutual consent of the Township Board and the applicant except as otherwise noted below.
- (b) Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required for the plan by the Commission.

The following items shall be considered as minor changes:

- (1) Reduction of the size of any building and/or sign.
- (2) Movement of buildings and/or signs by no more than ten (10) feet.

- (3) Plantings approved in the site plan landscape plan may be replaced by similar types of landscaping.
- (4) Changes of building materials to a higher quality.
- (5) Changes in floor plans which do not alter the character of the use.
- (6) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (7) Changes required or requested by the Township for safety reasons.
- (8) Changes which will preserve the natural features of the site without changes the basic site layout.
- (9) Other similar changes of a minor nature proposed to be made to the configuration, design, layout or topography of the site plan which are deemed by the Zoning Administrator to be not material or significant in relation to the entire site and which the Zoning Administrator determines would not have any significant adverse effect on adjacent or nearby lands or the public health, safety and welfare.

The Zoning Administrator may refer any decision regarding any proposed change to an approved site plan to the Planning Commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the Planning Commission for approval, the Zoning Administrator may consult with the Chairperson of the Planning Commission.

- (c) Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor, re-submission to the Planning Commission for an amendment shall be required and conducted in the same manner as an original application.

#### **SECTION 14.10 PERFORMANCE GUARANTEES**

The Township Board, after recommendation by the Planning Commission, or in its own discretion, may require reasonable performance guarantees or assurances deemed satisfactory in the circumstances and authorized by law. The amount of the performance guarantee shall be determined by the Township Board based on a recommendation from the Planning Commission. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the OS-PUD and construction and placement of all of the improvements therein. In its discretion, the Township Board, upon recommendation by the Planning Commission, may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or other written assurance, based upon the percent or other portion of improvements completed, as verified by the Planning Commission or appropriate Township official.

## **SECTION 14.11      TIME LIMITATIONS ON DEVELOPMENT**

Each OS-PUD shall be under construction within one year after the date of approval of the final development plan and adoption of a zoning ordinance amendment by the Township Board. If this requirement is not met, the Planning Commission may, in its discretion, grant an extension not exceeding one year, provided that the OS-PUD applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the OS-PUD. If the OS-PUD has not been commenced within the above-stated period of time, or within any authorized extension thereof, any building permits issued for the OS-PUD or any part thereof shall be of no further effect, at the conclusion of said periods of time, and the Planning Commission and Township Board may then, in their discretion, initiate proceedings for the rezoning of the lands to some other zoning district.

## CHAPTER 15

### SPECIAL LAND USES

#### SECTION 15.01 PURPOSE

The purpose of this article is to provide regulations for uses which are not essentially incompatible with uses permitted by right in a given district, but which should not be permitted without restrictions or conditions being imposed by reason of special problems presented by the use itself or its particular location to neighboring properties. The special exception permit procedure established herein is designed to provide the Township Planning Commission with an opportunity to review and act upon any application for a special exception permit.

#### SECTION 15.02 AUTHORIZATION

The Township Planning Commission shall have the power to hear and decide such questions as are involved in determining whether special exception permit applications should be granted; to approve special exception permit applications with such conditions and safeguards as are appropriate under this Ordinance; or to deny special exception permit applications where not in harmony with the purpose and intent of this Ordinance.

#### SECTION 15.03 SPECIAL LAND USE PROCEDURE

Application for a special exception shall be submitted and processed under the following procedures:

- (a) An application shall be submitted to the Planning Commission on a form for that purpose. Each application shall be accompanied by the payment of a fee as determined by resolution of the Township Board. In the event the allowance of a proposed use required both a rezoning and a special exception permit, the application for rezoning shall be processed in its entirety prior to Planning Commission action on the special exception.
- (b) Site Plan Requirement: Applications for a special land use permit shall also be accompanied by a site plan which shall contain the information for final site plans required by Chapter 16 herein.
- (c) Additional Information: The Planning Commission may also require that the applicant provide additional information about the proposed use. Such information may include, but shall not be limited to, traffic analysis, environmental impact statement, an economic analysis justifying the need for a proposed commercial use or uses, impact on public utilities and services and affect on the public school system.
- (d) Upon receipt of an application for a special land use, the Planning Commission shall give notice thereof in the manner set forth in Section 103 of Public Act 110 of 2006, as amended, being MCLA 125.3103.

- (e) At the public hearing or within a reasonable time thereafter, the Planning Commission shall deny, approve, or approve with conditions, the request for a special land use. The decision shall be incorporated in a statement containing the conclusions relative to the special land use under consideration which specifies the basis for the decision, and any conditions imposed.

The decision of the Planning Commission rendered pursuant to the request shall be final unless such decision is reversed or modified by a court of competent jurisdiction. The Board of Appeals is without jurisdiction to accept appeals or grant variances from the decision of the Planning Commission.

#### **SECTION 15.04      STANDARDS FOR APPROVAL**

The following general standards shall serve as the basis for decisions by the Planning Commission involving special land use permits. The Commission shall find that, in addition to specific standards for a particular use, the proposed use shall:

- (a) Be designed, constructed, operated and maintained so it will be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- (b) Be adequately served by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities and schools.
- (c) Not create excessive additional requirements at public cost for public facilities and services.
- (d) Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
- (e) Be consistent with the intent and purpose of the zoning district in which such use will be located.

#### **SECTION 15.05      IMPOSITION OF CONDITIONS**

Reasonable conditions may be imposed with approval of a special land use. The conditions may include conditions necessary to insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and

economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (a) Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will exercise 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 any standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- (d) The conditions imposed shall be recorded in the record of the approval action, and shall remain unchanged except as provided by law.

#### **SECTION 15.06 SITE DESIGN STANDARDS**

Uses permitted as special land use shall be subject to the requirements of the zoning district in which they are permitted. In addition, specific site design and development standards shall apply to the following uses:

- (a) **AIRFIELDS OR LANDING STRIPS USED BY MORE THAN TWO AIRPLANES**
  - (1) The take-off and landing pattern within one thousand (1,000) feet of the end of the runway shall not pass over an occupied structure.
  - (2) The landing strip and areas upon which airplanes taxi are at least two hundred (200) feet from any property line. The airfield must be of such size, with the runways so located, that the operation thereof, in accordance with the regulations of the Federal Aviation Administration, will not require limitation of the heights of structures on land within the vicinity to less than the height limit specifically prescribed for the zoning district. All land area used by aircraft under its own power shall be surrounded by a substantial fence not less than six (6) feet in height, with suitable gates, effectively controlling access to such area.
- (b) **CAMPGROUNDS, TRAVEL TRAILER PARKS**
  - (1) The term “lot” or “park” shall mean a campground or travel trailer park. The minimum lot size shall be ten (10) acres.

- (2) No commercial enterprises shall be permitted to operate within the park, except that a convenience goods shopping building may be provided in a park containing more than fifty (50) campsites.
- (3) No building or camp site shall be located within two hundred (200) feet of an property line. A house used only for purposes of residence by a park manager or owner shall be subject to the agricultural zoning regulations. Setback requirements on the side or rear property line may be waived or modified when said line is constituted by the edge of a river, lake, or State land, and the Planning Commission shall find that no useful purpose would be served by the stipulated setback.
- (4) All parks shall afford direct vehicular access to a county primary road or a state highway, with no openings closer than one hundred (100) feet to a side property boundary line.

(c) **ANTENNAS AND TOWERS EXCEEDING 35 FEET**

- (1) Purpose - It is the general purpose and intent of the Township to comply with the requirements of the Federal Telecommunications Act of 1996 by authorizing towers and antennas needed to operate wireless communication systems. It is the further purpose and intent of the Township to provide for such authorization in a manner which will retain the integrity of neighborhoods and the character, property values, and quality of the Township.

It is the further purpose and intent of this Section to:

- (i) Facilitate adequate and efficient provision of sites for towers and antennas.
- (ii) Ensure that towers and antennas are situated in appropriate locations and relationships to other land uses, structures and buildings.
- (iii) Limit overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- (iv) Require adequate information about plans for towers and antennas in order to permit the Township to effectively plan for the location of such facilities.
- (v) Minimize adverse impacts of the technological obsolescence of such facilities.
- (vi) Minimize the negative visual impact of towers and antennas on neighborhoods, community land marks, natural beauty areas and public

rights-of-way, by reducing the numbers of towers through co-location where feasible.

- (2) Application - Antennas and towers exceeding a height of 35 feet shall be permitted only if approved as a special land use by the Planning Commission under the terms of this section.

The application for special land use for such antenna or tower shall include the following information, in addition to what is otherwise required by the terms of this chapter:

- (i) A detailed site development plan depicting the nature, type, appearance and location of the antenna and tower, any buildings or other structures and all other external features of the special land use, including driveways, fencing, isolation distances, screening and landscaping and other matters.
- (ii) A visual impact analysis which shall include graphic depiction of the anticipated visual appearance of the tower from important vantage points in the surrounding area. Methods used in preparing the analysis shall be reviewed and approved by the Township Planner.
- (iii) A justification for the proposed height of the antenna and tower and an evaluation of alternative designs which might result in lower heights.
- (iv) A maintenance plan and any applicable maintenance agreement, prepared so as to ensure long-term, continuous maintenance of the antenna and tower and any supporting structures.
- (v) A list of all properties investigated for placement of the proposed tower and antenna and the rationale and other background material for selecting the proposed location. The applicant shall provide copies of correspondence to and from owners of properties who have been contacted by the applicant and who have refused to allow their property to be utilized, purchased or leased by the applicant.
- (vi) A list of other wireless communication providers who have been contacted by the petitioner regarding co-location as well as any correspondence to and from the other providers.
- (viii) A map showing existing and known proposed telecommunications facilities or other structures within and surrounding the Township which could possibly be used by the applicant to co-locate the proposed antenna.

- (3) Co-location -

- (i) It is the policy of the Township that all wireless communication providers co-locate on existing towers or structures capable of accommodating antennas to minimize the overall number of newly established towers within the Township and to encourage the use of existing towers and structures for new antennas.

The policy of the Township is for co-location. Thus, if a party who owns or otherwise controls a tower as defined herein, shall fail or refuse to allow the alteration of a tower so as to accommodate a proposed and otherwise feasible co-location, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.

- (ii) Approval of co-located antenna. An application for co-location on an existing tower shall require only site plan review in order to obtain approval. The site plan shall be reviewed by a Site Plan Review Committee which is created for this purpose only. The Committee shall consist of the Township Zoning Administrator and Fire Chief and one Planning Commissioner appointed by the Chairperson of the Planning Commission.

The Committee shall also review the application in accordance with the applicable requirements and standards of this Section. The Committee shall have the authority to refer the application for co-location to the Planning Commission. (Ordinance No. 93, Effective 02-10-03.)

- (4) Requirements and Standards - An antenna or tower approved as a special land use shall comply with all of the following requirements:

- (i) Items (1), (2), and (4)through (8) of Section 4.31(a)
- (ii) In addition to the standards for approval of all special land use permit applications contained in Chapter 15, the Planning Commission shall consider the following factors in determining whether to issue a special use permit;
  - (aa) Height of the proposed tower;
  - (bb) Proximity of the tower to residential structures and residential district boundaries;
  - (cc) Nature of uses on adjacent and nearby properties;
  - (dd) Surrounding topography;
  - (ee) Surrounding tree coverage and foliage;

- (ff) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
  - (gg) Proposed ingress and egress; and
  - (hh) Availability of suitable existing towers, or other structures for co-location, or alternative technologies not requiring the use of towers or structures, as discussed in Section 15.06c(4)(iii) below.
- (iii) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structures or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- (aa) No existing towers or structures are located within the geographic area which meets the needs of the applicant.
  - (bb) Existing towers or structures are not of sufficient height to meet the applicant's needs.
  - (cc) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (dd) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (ee) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (ff) The applicant demonstrates that there are other material limiting factors that render existing towers and structures unsuitable.
  - (gg) The applicant demonstrates that an alternative technology that does not require the use of towers or structures is unsuitable.

- (iv) Facilities shall be located and designed so as to be reasonably harmonious with the surrounding area.
- (v) The maximum height of the antenna and tower shall be the minimum height necessary for reasonable communications by the applicant, and by other entities which may collocate on the structure.
- (vi) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes.
- (vii) The support system shall be constructed in accordance with all applicable building codes.
- (viii) A proposed tower for commercial telecommunications services shall be required to be designed, constructed and placed so as to accommodate both the applicant's equipment and comparable equipment for at least three or more additional users. The Planning Commission may permit a tower design which would allow fewer than three other users if the Commission finds that three additional users would not be consistent with the intent and purposes of this section.

The Planning Commission may require that such towers be designed and constructed so as to allow for the future rearrangement of equipment upon the tower, and to accept equipment mounted at varying heights on the tower.

- (ix) Towers for telecommunications services shall be designed so as to blend, insofar as possible, into the surrounding environment, through the use of color of equipment and architectural treatment, except in those cases where color of equipment may be dictated by state or federal agencies. Such towers shall be of a monopole design unless the Planning Commission determines that an alternative design would be satisfactory. The monopole may be designed to resemble natural features or to fit in with the design of other existing structures in the area.
- (x) The Planning Commission may require that telecommunications towers, or other related structures or buildings, be screened with landscaping, berms, walls or a combination of any of them. The Commission may require plantings to be placed on properties adjacent to the tower site in order to provide a more effective visual screen.
- (xi) Towers for commercial telecommunications services which are abandoned or unused shall be removed by the owner or operator along with any associated buildings, structures or equipment within 180 days of a written notice from the Township, unless a time extension is granted by the

Zoning Administrator. One time extension, of up to six months, shall be permitted if the Zoning Administrator determines that the owner or former operator of the facility is taking active steps to insure its removal.

- (xii) If the height required for the tower to serve its intended function decreases from the installed height, due to technological advancement, additional tower installations at other locations, or other factors, the owner shall notify the Township and the tower shall be lowered to such decreased minimum upon notice given by the Township.
- (xiii) Tower lighting shall not be permitted unless required by federal or state agencies.
- (xiv) Any ancillary building housing equipment needed for the operation of the antenna or tower, or any other appurtenance, shall be of a size, type, color and exterior materials which are aesthetically compatible with existing principal buildings within the surrounding area.

The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall conform with all district requirements for principal buildings, including yard setbacks.

- (xv) Where a tower or antenna is proposed for the roof a building or for the top of another existing structure, the tower shall be designed, constructed and maintained so as to be reasonably architecturally compatible with the principal building or structure.
- (xvi) Any antenna or tower shall be located only in a rear yard or side yard, unless otherwise permitted by the Planning Commission. It shall not be closer to a property line than its height, unless a lesser setback is permitted by the Planning Commission based on documentation from the applicant that a closer setback will not create a hazard to adjoining properties or roadways.
- (xvii) The requirements of the Federal Aviation Administration, the Federal Communications Commission and the Michigan Aeronautics Commission shall be fully complied with.
- (xviii) In its reasonable discretion, the Planning Commission may impose additional terms and conditions regulating the construction, installation, use, repair, maintenance and removal of an antenna or tower in order to achieve the intent and purposes of this section.

- (5) Revocation of Permit. Failure to comply with conditions of approval stipulated for a tower or antenna under this section may result in the revocation of the

Special Use Permit. In considering whether or not to revoke a Special Use Permit, a hearing shall be held by the Planning Commission in accordance with the procedures of Chapter 15.

(d) COUNTRY CLUBS, GOLF COURSES

- (1) The minimum area shall be forty (40) acres for a par 3 course, sixty-five (65) acres for a 9 hole course, and one hundred twenty (120) acres for an 18 hole course.
- (2) No building or non-golfing use, with the exception of parking, shall be located within two hundred (200) feet of any property line.
- (3) Parking shall be provided at a minimum of five (5) spaces per hole.

(e) EXTRACTION OF NATURAL RESOURCES

The removal or extraction of sand, gravel, soil, rock, mineral, and similar natural resources or the reshaping, enlarging, straightening, damming, or diminution of lakes, waterways, ponds, or other bodies of water is permitted only when such action will prepare or render the premises suitable for a permitted use in the agricultural district.

- (1) Final grades shall be harmonious with surrounding grades and shall not be in excess of five percent (5%) unless demonstrably necessary for the future intended use of the land. No topsoil shall be removed from the property unless demonstrably necessary for the proper intended use of the property. All remaining topsoil shall be redistributed properly upon termination of the building permit. Except as provided in (3) of this section, no final grades shall be such as to create any area which will fill with water after the removal operation. No removal shall be permitted below the grades of the proposed plan unless a surety bond satisfactory to the Township Board is posted with the Township to insure that the final grades of the plan will be met by the expiration date of the building permit. No excavation shall be permitted within fifty (50) feet of an adjoining property line.
- (2) Mechanical processing of natural resources may be permitted where noise, vibration and dust from such operation would be not detrimental to an adjacent conforming use of land. Storm or water runoff shall be led to existing drainage systems in a manner approved by the Township and the County.
- (3) The creation or enlargement of a lake shall only be permitted where the applicant can demonstrate from engineering and geological studies that such water will not become polluted or stagnant; submits a plan for future use of the lakeshore and lake; and shows that such lake has been approved by the Department of Natural Resources of the State of Michigan and the Kent County Drain Commission.
- (4) The alteration, straightening, damming, widening or diminution of a waterway or body of water shall be approved by the said Department and Commissioner.

- (5) No removal, storage area, structure, access drive, or loading area shall be closer than one hundred fifty (150) feet to a principal structure on adjoining property unless across a public street therefrom. All unpaved areas and roadways shall be regularly maintained and kept in a dust-free condition.
  - (6) Truck routing shall be only on streets approved by the County Road Commission under such conditions and securities as may be imposed by the Township or the County to protect or repair the roads and to insure the safety of the public.
  - (7) All structures, stored material and equipment shall be removed from the property within six (6) months of the discontinuance of the use for removal or extraction of natural resources. All land shall be graded to final elevations and reseeded not later than the next growing season so as to avoid erosion following the expiration of activities.
  - (8) If approval is granted, the Planning Commission may require the filling of a corporate surety bond, cash deposit certified check, or irrevocable bank letter or credit with the Township Board to insure compliance with this section. Upon approval of said performance guarantee, the Building Inspector shall issue any necessary building permits and a temporary occupancy permit for a one (1) year period. An occupancy permit may be renewed for up to three (3) years at a time or for the duration of an accepted performance guarantee, whichever is lesser, upon a finding by the Planning Commission that all conditions and plans are being complied with and no nuisance has been created by prior operations. Where any new area is to be considered, the procedures for a new application shall be followed.
  - (9) The Building Inspector shall revoke an occupancy permit where operations do not conform to approved plans or special conditions. All operations shall cease fourteen (14) days following notification by the Building Inspector of such violations unless such conditions are corrected. Reinstatement of a revoked permit shall require a new application and approval therefor.
- (f) **KENNELS**
- (1) The minimum lot size shall be two (2) acres with an additional one-third (1/3) acre for each dog in excess of three.
  - (2) Buildings for housing dogs, dog runs, and/or exercise areas shall not be located nearer than one hundred (100) feet to any adjoining property.

(g) **RIDING STABLES**

- (1) The minimum area devoted to the use shall be ten (10) acres. Such area may include pasture and riding trails but shall not include area devoted to living quarters or other uses not normally incidental to a riding stable.
- (2) Areas for riding trails or riding purposes shall be located on the same premises, provided, however, that the owner may lease adjacent lands for said purpose. Further provided that access to riding areas shall not necessitate riding or leading of animals upon or across a public road. Parking shall be available at a ratio of one (1) space for each horse available for rental. Such parking need not be paved or hard-surfaced.
- (3) Parking shall be available at a ratio of one (1) space for each horse available for rental. Such parking need not be paved or hard-surfaced.
- (4) One (1) identification sign, not exceeding thirty-two (32) square feet in area, is permitted.
- (5) The premises shall be maintained in such a manner as to contain manure, employ the use of proper insect control methods and be suitable fenced.
- (6) No structures or accessory use shall be within two hundred (200) feet of an adjoining property line.

(h) **JUNK YARDS**

- (1) The minimum lot area shall be ten (10) acres.
- (2) The setback from the front property line to the area upon which junk materials are stored and/or processed shall be not less than one hundred fifty (150) feet. Said storage and/or processing area shall be screened by means of natural vegetation so as to not be visible from the roadway.
- (3) The area upon which junk materials are stored and/or processed shall be located not less than one hundred (100) feet from any side or rear yard line.
- (4) All fluids shall be drained from vehicles or appliances in order to prevent such fluids from leaking into the groundwater and to minimize the possibility of fire hazards.
- (5) One unlighted sign, not to exceed twenty-five (25) square feet in area, is permitted subject to other provisions of this Ordinance.
- (6) All stored material and equipment shall be removed within six (6) months of the discontinuance of the use. The Planning Commission may require the filing of a corporate surety bond, cash deposit, certified check, or irrevocable bank letter of credit with the Township Board to insure compliance with this section. Upon

approval of said performance guarantee, the Building Inspector shall issue any necessary building permits and a temporary occupancy permit for a one (1) year period. An occupancy permit may be renewed for up to three (3) years at a time or for the duration of an accepted performance guarantee, whichever is lesser, upon a finding by the Planning Commission that all conditions and plans are being complied with and no nuisance has been created by prior operations.

- (i) SALE OF NURSERY STOCK AND PRODUCTS ACCESSORY THERETO, LANDSCAPING PRODUCTS, SALE OF ANTIQUES OR CRAFTS, FIREWOOD OR FRUIT AND PRODUCE GROWN IN MICHIGAN.
  - (1) The minimum lot area shall be two (2) acres.
  - (2) The setback from the front property line to the area upon which any nursery or landscaping material is stored or any building is built shall be one hundred (100) feet.
  - (3) There shall be total side yards of twenty-five (25) feet, provided that no side yard shall be less than ten (10) feet. On corner lots, a side yard of at least fifty-five (55) feet shall be maintained on the street side.
  - (4) There shall be a rear yard of not less than thirty-five (35) feet.
  - (5) Two (2) signs, the total of which shall not exceed one hundred fifty (150) square feet, neither one of which shall exceed one hundred (100) square feet, and one (1) attached sign not to exceed ten percent (10%) of the side building on which the sign is attached, are permitted subject to other provisions of this Ordinance. No sign shall exceed eighteen (18) feet in height above the natural grade at the site of the sign. No sign shall be lighted.
  - (6) Business hours shall be 9:00 A.M. until 9:00 P.M. on weekdays and 7:00 A.M. until 9:00 P.M. on weekends.
  - (7) There shall be one (1) parking space for each one hundred fifty (150) square feet of floor area. No on-road parking shall be permitted.
- (j) FARM IMPLEMENT REPAIR
  - (1) The minimum lot area shall be five (5) acres.
  - (2) The setback shall be two hundred (200) feet.
  - (3) There shall be side yards of fifty (50) feet each.
  - (4) There shall be a rear yard of two hundred (200) feet.

- (5) The outside storage of all farm implements to be repaired or equipment necessary for such repair shall be in the rear yard.
- (6) A greenbelt shall be required per Section 4.23 herein when such use abuts residential use or zone.

## CHAPTER 16

### SITE PLAN REVIEW

#### SECTION 16.01 PURPOSE

The intent of this section is to provide for consultation and cooperation between the applicant and the Township Planning Commission in order that the applicant may accomplish their objectives in the utilization of his land within the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses and environment in the immediate area and vicinity.

#### SECTION 16.02 SCOPE

The Building Inspector shall not issue a building permit for any principal use requiring more than four (4) parking spaces, a change of use or as required in this Ordinance until a site plan has been reviewed and approved by the Planning Commission.

#### SECTION 16.03 APPLICATION PROCEDURES

An application for Site Plan Review, plus either a preliminary or final site plan, shall be submitted ten (10) days prior to the next scheduled Planning Commission meeting through the Building Inspector who will review the application and plans for completeness, then transmit to the Planning Commission.

#### SECTION 16.04 PRELIMINARY PLAN REVIEW

Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such plans shall include the following as deemed necessary by the Building Inspector.

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
- (c) A generalized map showing any existing or proposed arrangement of:
  - (1) Streets
  - (2) Lots
  - (3) Access points
  - (4) Other transportation arrangement

- (5) Buffer strips
  - (6) Natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets
  - (7) Signs - location and lighting
  - (8) Buildings
- (d) A narrative describing:
- (1) The overall objectives of the proposed development.
  - (2) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
  - (3) Dwelling unit densities by type.
  - (4) Proposed method of providing sewer and water service, as well as other public and private utilities.
  - (5) Proposed method of providing storm drainage.
  - (6) Proposed method of revegetating open sand areas, both pre-existing and newly created, to a stable condition.

In addition to the above, said applicant shall submit a fee in accordance with the fee schedule established by the Township Board to cover the normal and specially incurred expenses of the Planning Commission. One half (1/2) of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan. (Note: Please refer to Township Ordinance No. 37 for additional fees to cover cost of professional services.)

**SECTION 16.05 PLANNING COMMISSION REVIEW OF PRELIMINARY SITE PLAN**

The Planning Commission shall review the preliminary site plan and make recommendations to the applicant at the regular Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable.

- (a) Ingress and egress to the property and proposed structures thereon with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in cases of fire, catastrophe or emergency.
- (b) Off-street parking and loading areas where required, with particular attention to noise, glare and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
- (c) Sewer, water and storm drainage with reference to locations, availability and compatibility.

- (d) Screening and buffering with reference to type, dimensions and character.
- (e) Signs, if any, and their proposed lighting relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.
- (f) Required yards.
- (g) General compatibility with adjacent properties.
- (h) The general purposes and spirit of this Ordinance.

#### **SECTION 16.06 FINAL SITE PLAN REVIEW**

The final site plan shall include the following information and such items as may be requested by the Planning Commission from its review of the optional preliminary site plan:

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
- (c) A map at a scale not to exceed one (1) inch equals two hundred (200) feet (1" = 200').  
The following items shall be shown on the map:
  - (1) Date site plan was prepared.
  - (2) Name and address of the preparer.
  - (3) The topography of the site at a minimum of five (5) foot intervals and its relationship to adjoining land.
  - (4) Existing man-made features.
  - (5) Dimensions of setbacks, locations, heights and size of buildings and structures.
  - (6) Street rights-of-ways, indicating proposed access routes, internal circulation, and relationship to existing rights-of-ways.
  - (7) Proposed grading.
  - (8) Location and type of drainage, sanitary sewers, storm sewers, and other utilities.
  - (9) Location and type of fences, landscaping, buffer strips, and screening.
  - (10) Location and type of signs and on-site lighting.

- (11) Proposed parking areas and drives. Parking areas shall be designed by lines showing individual spaces and shall conform with the provisions of Chapter 17.
  - (12) Easements, if any.
  - (13) Dimensions and number of proposed lots.
- (d) A narrative describing the items indicated in Section 16.04(d).

**SECTION 16.07 PLANNING COMMISSION REVIEW OF FINAL SITE PLAN**

The Planning Commission shall review the final site plan and either approve, deny, or approve with conditions, the final site plan based on the purposes, objectives and requirements of this Ordinance and specifically the considerations listed in Section 16.05.

- (a) Further, the Planning Commission may recommend to the Board that a certified check in an amount equal to the estimated cost of improvements associated with the project be required. Such performance guarantee, if required by the Board, shall be deposited with the Clerk of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond shall be forfeited. The Township shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of Section 16.07(b) have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.
- (b) Each development shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Commission may grant a sixty (60) day extension provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the site development plan shall be null and void.
- (c) The Planning Commission shall undertake and complete all site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan, the Chairperson of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Commission's files and one (1) shall be forwarded to the Zoning Administrator for issuance of a building permit. The third copy shall be returned to the applicant.

## CHAPTER 16-A

### REVIEW AND APPROVAL OF SITE CONDOMINIUMS (Ordinance No. 73 Effective 8/3/99)

#### SECTION 16A.01 PURPOSE AND SCOPE

Site condominiums are developments by a land division in which each condominium unit consists of an area of land and a volume of air space within which a building or other improvements may be constructed. 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 limited common element, shall be considered to constitute a building site which is the functional equivalent of a "lot" for purposes of determining compliance with the requirement of the Zoning Ordinance and other applicable laws, ordinances and regulations. Site condominiums may also include general common elements consisting of common open space, recreational areas, streets, and other areas and amenities available for use by all owners of condominium units within the development.

This chapter requires preliminary review by the Planning Commission followed by final review and approval by the Township Board of site condominium plans to ensure that site condominiums comply with this Ordinance and other applicable Township ordinances.

#### SECTION 16A.02 DEFINITIONS

For purposes of this chapter, the following words and phrases are defined as follows:

- (a) "Building envelope" means the area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium. In a single-family residential site condominium project, the building envelope refers to the areas of each condominium unit within which the dwelling and any accessory structures may be built.
- (b) "Building site" means either:
  - (1) The area within the site condominium unit by itself (i.e., exclusive of any appurtenant limited common element), including the area under the building envelope; or
  - (2) The area within the condominium unit, taken together with any contiguous and appurtenant limited common element.

For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitations, height, area, yard, and density requirements)

or with other applicable laws, ordinance or regulations, a “building site” shall be considered to be the equivalent of a “lot.”

- (c) “Condominium Act” means Public Act 59 of 1978, as amended.
- (d) “Limited common element” means an area which is appurtenant to a site condominium unit and which is reserved in the master deed for the exclusive use of the owner or co-owners of a specific unit or units.
- (e) “Site condominium development” means a plan or development consisting of not less than two site condominium units established in compliance with the Condominium Act.
- (f) “Site condominium development plan” means the plans, drawings and information prepared for a site condominium development as required by Section 66 of the Condominium Act and as required by this chapter for review of the development by the Planning Commission and the Township Board.
- (g) “Site condominium unit” means a condominium unit established in compliance with the Condominium Act which consists of that portion of the condominium project designed and intended for separate ownership and use.
- (h) Except as otherwise provided by this chapter, the following words and phrases, as well as any other words or phrases used in this chapter which are specifically defined in the Condominium Act, shall conform to the meaning given to them in the Condominium Act: “common elements”; “condominium documents”; “condominium unit”; “contractible condominium”; “convertible area”; “expandable condominium”; “general common elements”; and “master deed.”

### **SECTION 16A.03 REVIEW OF PRELIMINARY PLANS BY THE PLANNING COMMISSION**

- (a) Prior to final review and approval of a site condominium development plan by the Township Board, a preliminary site condominium development plan shall be reviewed by the Planning Commission in accordance with the procedures, standards and requirements provided by this chapter. Such review shall take place following a public hearing by the Planning Commission on the preliminary plan. For such hearing, at least ten days’ notice shall be given by ordinary mail, sent to the owners of or parties of interest in the lands within 300 feet of the lands to be included in the development, as the names of such owners and other parties are given in the current township tax assessment rolls, provided however, that notice for the review of a preliminary site condominium development plan involving a planned unit development shall be given in the manner provided for in Section 103 of Public Act 110 of 2006, being MCLA 125.3101.
- (b) Application for review and approval of a site condominium development plan shall be initiated by submitting to the Township Clerk:

- (1) A minimum of 10 copies of a preliminary site condominium development plan which complies with the requirements of Section 2.02 of the Township Subdivision Ordinance; and
  - (2) An application fee in accordance with the fee schedule established by resolution of the Township Board.
- (c) The Planning Commission shall review the preliminary site condominium development plan in accordance with the standards and requirements contained in Article IV of the Township Subdivision Ordinance. All of the requirements for plats, as set forth in said Article IV, shall be requirements for site condominium developments. In addition, the following standards and requirements shall apply:
- (1) In its review of a site condominium development plan, the Planning Commission may consult with the Zoning Administrator, Township Attorney, Township Engineer, Township Fire Chief, Township Planner or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, development layout and design, or other aspects of the proposed development.
  - (2) The building site for each site condominium unit shall comply with all applicable provisions of this ordinance, including minimum lot area, minimum lot width, required front, side and rear yards, and maximum building height.
  - (3) All private streets in a site condominium development shall be developed as required by the Township Private Road Ordinance.
  - (4) If public water and sanitary sewer facilities are not available, each condominium unit shall either be served by a private central system (designed for connection to a public system when and if a public system is made available), or shall have a well, septic tank, and drain field located within the condominium unit's building site. Water and sanitary sewer facilities shall be approved by the Kent County Department of Health and the Township in accordance with applicable standards.
  - (5) The Planning Commission shall require that portions of the plan as relevant to the reviewing authority in question be submitted to the Kent County Health Department, Kent County Road Commission, Kent County Drain Commissioner, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies where approval is required by law over any aspect of the proposed site condominium development.

#### **SECTION 16A.04 PLANNING COMMISSION RECOMMENDATION**

After reviewing the preliminary site condominium development plan, the Planning Commission shall prepare a written statement of recommendations regarding the proposed site condominium

development, including any suggested or required changes in the plan. The Planning Commission shall provide a copy of its written recommendations to the applicant and to the Township Board.

**SECTION 16A.05 REVIEW AND APPROVAL OF FINAL PLANS BY TOWNSHIP BOARD**

- (a) After receiving the Planning Commission's recommendations on the preliminary plan, the applicant shall submit to the Township Clerk a minimum of 7 copies of a final site condominium development plan which complies with the requirements of this section and of Section 2.02 of the Township Subdivision Ordinance. All of the requirements for plats, as set forth in said Article IV, shall be requirements for site condominium developments. The Township Clerk shall forward the copies of the final plan to the Township Board.
- (b) The final site condominium plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the Planning Commission based on its prior review of the preliminary plan. If any of the Planning Commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated and the reasons why those recommendations have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the Planning Commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the Planning Commission. Changes made to the plan other than those necessary to incorporate the recommendations of the Planning Commission shall be reviewed by the Planning Commission prior to approval of the plan by the Township Board.
- (c) After receiving the Planning Commission's recommendations on the preliminary plan and a final site condominium development plan from the applicant, the Township Board shall proceed to review and may approve, deny or approve with conditions the plan in accordance with the standards and requirements provided by Article IV of the Township Subdivision Ordinance and other applicable procedures, standards and requirements provided by this chapter.
- (d) As a condition of approval of a final site condominium development plan the Township Board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Board covering the estimated cost of improvements associated with the site condominium development for which approval is sought to be deposited with the Township as provided in Section 505 of the Michigan Zoning Enabling Act, being Public Act 110 of 2006, as amended.

**SECTION 16A.06 CONTENTS OF SITE CONDOMINIUM PROJECT PLANS**

A condominium development plan shall include the documents and information required by Section 66 of the Condominium Act and by Section 2.02 of the Township Subdivision Ordinance and shall also include the following:

- (1) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
- (2) A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair and maintenance of all drainage facilities.
- (3) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair and maintenance of all utilities.
- (4) A narrative describing the overall objectives of the proposed site condominium development.
- (5) A narrative describing the proposed method of providing potable water supply, waste disposal facilities and public and private utilities.
- (6) A street construction, paving and maintenance plan for all private streets within the proposed condominium development.

**SECTION 16A.07 CONSTRUCTION IN COMPLIANCE WITH APPROVED FINAL SITE CONDOMINIUM DEVELOPMENT PLAN**

No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium development except in compliance with a final site condominium development plan as approved by the Township Board, including any conditions of approval.

**SECTION 16A.08 COMMENCEMENT OF CONSTRUCTION; ISSUANCE OF PERMITS**

No building permit shall be issued, and no public sewer or public water service shall be provided for any dwelling or other structure located on a parcel established or sold in violation of this chapter. The sale, or the reservation for sale, of site condominium units shall be as regulated by the Condominium Act. No building in a site condominium development may be occupied or used until all required improvements have been completed and all necessary utilities installed.

**SECTION 16A.09 EXPANDABLE OR CONVERTIBLE CONDOMINIUM DEVELOPMENTS**

Approval of a final site condominium development plan shall not constitute approval of expandable or convertible portions of a site condominium development unless the expandable or convertible areas were specifically reviewed and approved by the Planning Commission and Township Board in compliance with the procedures, standards and requirements of this chapter.

## **SECTION 16A.10 CHANGES TO APPROVED PLAN**

Any change proposed in connection with a development for which a final site condominium plan has previously been approved shall be regulated by this section.

(a) The following definitions shall apply:

- (1) “Exempt change” means a change to a site condominium project (other than a major or minor change) that is exempt from review and approval as required for major or minor changes under this chapter. Exempt changes shall be limited to the following:
  - (i) a change in the name of the development; in the name of a street within the development; or in the name of the developer;
  - (ii) a change in the voting rights of co-owners or mortgagees; or
  - (iii) any other change in the site condominium development which, as determined by the Zoning Administrator, does not constitute a major or minor change or will not otherwise change the site configuration, design, layout, topography or any other aspect of a development which is subject to regulation under the Zoning Ordinance.
- (2) “Major change” means a major change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that could result in:
  - (i) an increase in the number of site condominium units;
  - (ii) any other change in the site configuration, design, layout, topography, or other aspect of the project which is subject to regulation under this Zoning Ordinance, including, without limitation, a change in the location of streets and utilities, or in the size, location, area, horizontal boundaries or vertical boundaries of a site condominium unit, and which is determined by the Zoning Administrator to constitute a major change to the site condominium project.
- (3) “Minor change” means a minor change in the site configuration, design, layout or topography of a site condominium development (or any portion thereof), including any change that will result in:
  - (i) a decrease in the number of site condominium units;
  - (ii) a reduction in the area of the building site for any site condominium unit;

- (iii) a reduction of less than 10 percent in the total combined area of the general common elements of the site condominium;
  - (iv) a reduction in the total combined area of all limited common elements of the site condominium;
  - (v) any other minor variation in the site configuration, design, layout, topography or other aspect of the development which is subject to regulation under this Zoning Ordinance, and which, as determined by the Zoning Administrator, does not constitute a major change.
- (b) Any change which constitutes a major change shall be reviewed by the Planning Commission, at a public hearing and with the notice required for an original approval of a site condominium development, and shall also be reviewed and approved by the Township Board, as provided in this chapter for the original review and approval of preliminary and final plans.
- (c) Any change which constitutes a minor change shall be reviewed and approved by the Zoning Administrator, but in the discretion of the Administrator, any such minor change may be reviewed and approved by the Planning Commission, at a public meeting, but without the public hearing or mailed notice requirement otherwise provided in this chapter for an original approval.
- (d) Any change which constitutes an exempt change shall not be subject to review by the Township under this chapter, but a copy of the exempt changes shall be filed with the Township Clerk.

**SECTION 16A.11 INCORPORATION OF APPROVED PROVISIONS IN MASTER DEED**

All provisions of a final site condominium development plan which are approved by the Township Board as provided by this chapter shall be incorporated by reference in the master deed for the site condominium project. Further, all major changes to a development shall be incorporated by reference in the master deed. A copy of the master deed as recorded with the Kent County Register of Deeds shall be provided to the Township within 10 days after recording.

**SECTION 16A.12 COMMENCEMENT OF CONSTRUCTION**

Construction of an approved site condominium development shall commence within two years after such approval and be diligently pursued to completion in accordance with the terms and conditions of the approval. Such two-year period may be extended by the Township Board in its discretion, for additional periods of time as determined appropriate by the Board. Any such extension shall be applied for by the applicant within such two-year period.

**SECTION 16A.13 VARIANCES**

A variance from the provisions of this chapter may be granted if the applicant demonstrates that literal enforcement of any of the provisions of this chapter is impractical because of special or peculiar conditions pertaining to the land. Upon application, the Township Board, after recommendation by the Planning Commission, may permit a variance or variances which are reasonable and within the general policies and purposes of this chapter. The Planning Commission and Township Board may attach conditions to the variance.

## CHAPTER 17

### PARKING REVIEW

#### SECTION 17.01 PURPOSE AND DEFINITION

The purpose of this section is to prescribe regulations for off-street parking of motor vehicles in residential and non-residential districts, to ensure by the provisions of these regulations that adequate parking and access is provided in a safe and convenient manner, and that adjacent land uses are afforded reasonable parking protection from light, noise, air pollution, and other effects of parking areas.

#### SECTION 17.02 GENERAL OFF-STREET PARKING REQUIREMENTS

- (1) All parking areas or spaces which exist at the time this Ordinance becomes effective or which are later established to comply with this Ordinance shall thereafter not be relinquished or reduced in any manner below the requirements established by this Ordinance.
- (2) For the purpose of this Article, "Floor Area" shall mean the gross floor area of all floors measured to the exterior of the outside wall of the building. However, "floor area" shall not include the floor area of the basement unless such area is utilized for retail or showroom use in a commercial structure. Also, areas devoted to storage, mechanical equipment, heating and cooling systems, rest rooms, and similar places shall not be included as floor area.
- (3) For purposes of this Chapter, parking area shall include the space where the vehicle is parked as well as access aisles, driveways, and loading and unloading areas.
- (4) Where benches, pews, or other similar seating are used as seats, each twenty-four (24) inches of such seating facility shall be counted as one (1) seat.
- (5) Fractions: When units of measurement determining number of required parking spaces result in a requirement of a fractional space, that fraction shall be counted as a full parking space.
- (6) When required parking spaces are based on the number of employees, this shall mean the number of employees during the largest working shift.

#### SECTION 17.03 PARKING REQUIREMENTS

In all Zoning Districts, there shall be provided, before any building or structure is occupied or is enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

*Uses*

*Minimum Parking Spaces Required*

(a) Dwellings	One (1) for each dwelling unit
(b) Lodging, room and boarding houses	Two (2) for each three (3) guest rooms or each six (6) beds for guests, whichever amount is greater.
(c) Private clubs and lodges	One (1) for each five (5) active members and one (1) for each employee with a minimum of one (1) for each one hundred (100) square feet of floor area.
(d) Hospitals, institutions, and clinics	Two (2) for each patient bed.
(e) Sanitariums or convalescent or nursing homes	One (1) for each two (2) beds.
(f) Homes for senior citizens	One (1) for each three (3) beds.
(g) Hotels	One (1) for each guest room.
(h) Motels and tourist homes, including bed and breakfast establishments	One (1) for each sleeping room.
(i) Theaters, auditoriums, stadiums	One (1) for each four (4) seats.
(j) Bowling alleys	Eight (8) for each alley.
(k) Private, elementary and junior high schools	Two (2) for each three (3) employees normally engaged in or about the buildings and grounds plus one(1) for each eight (8) auditorium seats.
(l) Senior high schools and institutions of higher learning	Two (2) for each three (3) employees normally engaged in or about the buildings and grounds, and one (1) additional for each four (4) students enrolled in the institution.
(m) Churches	One (1) for each four (4) seats in the main worship room.
(n) Community center	One (1) for each one hundred (100) square feet of assembly floor area.

***Uses (cont.)***

***Minimum Parking Spaces Required***

(o) Libraries, museums, and post offices	One (1) for each one hundred (100) square feet
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	of assembly floor area.
(p) Professional offices and buildings	One (1) for each two hundred (200) square feet of floor area.
(q) Restaurants, grills, dining rooms, dairy bar, soda fountain	One (1) for each two (2) seats.
(r) Medical doctors office or dental clinic	Eight (8) for each doctor plus one (1) for each employee.
(s) Banks, business offices, and public buildings not specifically mentioned elsewhere	One (1) for each hundred fifty (150) square feet of floor area.
(t) Mortuaries or funeral homes	One (1) for each fifty (50) square feet of floor area used for services.
(u) "Drive-in" establishments	Eight (8) for each one hundred twenty-five (125) square feet of ground floor area.
(v) Use groupings	
(1) Retail stores, supermarkets, department stores, personal service shops - general business	One (1) for each one hundred (100) square feet of floor area in the basement and on the first floor used for retail sales and one(1) for each four hundred (400) square feet of floor area on the second floor used for retail sales and one(1) for each six hundred (600) square feet of floor area on the third floor used for retail sales, and one (1) for each eight hundred (800) square feet of floor area on any additional floors used for retail sales.
(2) Business offices and/or research laboratories and/or similar uses	One (1) for each employee on the maximum shift or peak employment period.
(3) Manufacturing, processing, and/or fabricating, manufacturing buildings, and/or business offices and/or research laboratories and/or other facilities related, but not necessarily connected, to a manufacturing or industrial building.	One (1) for each three (3) employees on the maximum shift or peak employment period.
(4) Other uses not specifically mentioned	For uses not specifically mentioned therein, off-street parking requirements shall be established by the Zoning Administrator from requirements for similar uses.

(5) Mixed uses in the same building.

In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one (1) use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein.

#### **SECTION 17.04 JOINT USE OF FACILITIES**

Provisions 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 maximum individual requirements.

#### **SECTION 17.05 LOCATION OF FACILITIES**

Off-street parking facilities shall be located as hereafter specified: when a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to the nearest normal entrance to the building or use that such facility is required to serve.

- (a) For all residential buildings and for all non-residential buildings and uses in residential zoning districts, required parking shall be provided on the lot with the building or use it is required to serve.
- (b) For commercial and all non-residential buildings and uses in commercial and industrial zoning districts, required parking shall be provided within three hundred (300) feet.

#### **SECTION 17.06 SIZE OF PARKING SPACE**

Each off-street parking space shall have an area of not less than one hundred eighty (180) square feet (exclusive of access drives or aisles) and shall be a minimum of nine (9) feet in width.

#### **SECTION 17.07 PARKING AREA REQUIREMENTS**

All parking areas shall meet the following requirements:

- (a) All driveways and parking areas shall be hard-surfaced with an asphalt or cement binder or surfaced with a minimum of four (4) inches of gravel on an adequate sand base and so graded and drained to dispose of all surface water accumulated within the area.
- (b) Where a parking area used to service a commercial or industrial use adjoins on the side or rear of a residential use or zone, a greenbelt as required herein shall be provided and maintained between the parking area and the adjoining residential zone or use, provided, however, that a fence may be substituted for the greenbelt if agreed to, in writing, by the residential property owner.

- (c) Parking areas shall have all entrances and exits within the zoning district in which the parking area is located.
- (d) Lighting for parking areas in or adjoining residential zones shall be shielded in a manner so as to reflect away from adjacent lands.
- (e) Parking areas in residential zones shall contain no signs except those necessary to identify exits, entrances, and conditions of use, and such signs shall not exceed one square foot in area.
- (f) The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicles. Driveways, except for single and two-family uses, shall conform to the following minimum standards:

One-way: 13 feet minimum width, 32 feet maximum  
Two-way: 24 feet minimum width, 32 feet maximum

#### **SECTION 17.08      LOADING SPACES**

For every building or addition to an existing building hereafter erected to be occupied by a use requiring the receipt or distribution of materials or merchandise in vehicles other than passenger automobiles, there shall be provided and maintained on the same premises with such building or addition, off-street loading spaces of a size and number adequate to accommodate the specific needs of said use. Such space shall meet all applicable requirements of off-street parking areas.

No such loading space shall be located closer than fifty (50) feet to a residential zone unless wholly within a completely enclosed building or enclosed by a wall or fence of uniform appearance not less than six (6) feet in height or by a greenbelt.

## CHAPTER 18

### SIGNS

#### SECTION 18.01 PURPOSE AND DESCRIPTION

This chapter is intended to regulate the construction, reconstruction, placement, and design of signs to protect the public health, safety, peace, and general welfare. Specifically, this chapter is intended to regulate the size of signs, to regulate the place and manner of their display in order: (1) to prevent or limit traffic or pedestrian accidents, injuries, deaths, and property damages resulting from obstructed vision, distraction or confusion; (2) to minimize the risk of damage and injuries from signs that are dilapidated, (3) to achieve some uniformity in the size, number, and placement of signs; (4) to enhance the aesthetics of the community; (5) to prevent blight; and (6) to protect equality among residents and property.

#### SECTION 18.02 SIGN REQUIREMENTS

Signs shall not be erected or used in any zone except those which meet the following requirements.

- (a) All Zones
  - (1) All signs shall be on private property.
  - (2) No sign shall be erected at any location where it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device. No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used in connection with any sign.
  - (3) Illuminated signs shall be lighted in a manner such that no illumination source is directly visible beyond the property lines of the lot upon which the sign is located.
  - (4) Signs shall be placed so they do not obstruct the vision of drivers or pedestrians or otherwise present a hazard.
  - (5) A building permit shall be required for the erection, construction, or alteration of any sign exceeding sixteen (16) feet in area.
- (b) Residential and Agricultural Zones
  - (1) One temporary, unlighted sign advertising the sale or rental of the premises on which it is maintained, such sign not to exceed eight (8) square feet; provided that one such sign may be permitted for each street the advertised premises abuts.

- (2) One identification sign which may include a bulletin board, said sign not to exceed thirty-two (32) square feet in area, for the following uses: apartment house, cemetery, church, educational facility, golf course, mobile home park, or other public or semi-public institution. Said sign shall not exceed a height of ten (10) feet above grade and shall have a minimum setback of twenty-five (25) feet.
- (c) Commercial and Industrial Zones
- (1) Off-site signs provided such signs shall be set back in accordance with the building setback lines required by the zone in which the sign is located. Such signs shall not exceed two hundred (200) square feet, and the sign shall not exceed a height of twenty-five (25) feet above grade level.
  - (2) One on-site sign not to exceed one hundred (100) square feet, may be erected on each abutting street, provided such sign shall not exceed a height of twenty (20) feet and shall have a setback of not less than five (5) feet. Such signs, if placed on a pole, shall have a ground clearance of at least ten (10) feet. If placed on the ground, it shall not exceed a height of four (4) feet.
  - (3) One flat on-site sign attached to the building. Such signs shall not exceed fifty (50) square feet in area nor shall project above the highest point of the roof of the building to which it is attached.
  - (4) One temporary, unlighted sign advertising the sale or rental of the premises, such signs may not exceed nine (9) square feet in area and shall be removed after six (6) months unless the Board of Appeals grants an extension.
- (d) Gasoline service stations – in addition to the foregoing, service stations may display the following signs as customary and necessary to their operation,
- (1) Directional signs or lettering displayed over individual entrance doors or bays.
  - (2) Customary lettering and insignias which are a structural part of the gasoline pump.
- (e) Political signs – may be located in all zones subject to the following:
- (1) No such sign shall exceed eight (8) square feet in area.
  - (2) All signs shall be located on private property.
  - (3) No such signs shall be posted except for a period not to exceed forty-five (45) days prior to the election or voting day.
  - (4) All such signs shall be removed within forty-eight (48) hours following the election or voting day.



## CHAPTER 19

### NONCONFORMING USES

#### SECTION 19.01 NON-CONFORMING USES

If the use of a dwelling, building, or structure or of the land is lawful at the time of enactment of this Ordinance or an amendment to this Ordinance, then that use may be continued although the use does not conform to the provisions of this Ordinance or any amendment thereto.

- (A) A legal non-conforming use may not conform to the requirements of the Zoning District but is not considered a nuisance, or damaging to abutting premises, or hazardous to persons on the same or adjoining premises.
- (B) An illegal non-conforming use is one considered to be a nuisance and is to be abated or discontinued according to the provisions of law and this Ordinance

#### SECTION 19.02 NON-CONFORMING USE DISCONTINUED

- (A) When non-conforming use of property is discontinued through vacancy, lack of operation, or other similar condition, for a period of twelve (12) consecutive months or more, thereafter no right shall exist to maintain on said property a non-conforming use unless the Zoning Board of Appeals grants such privilege prior to the expiration of such twelve (12) month period. In no case shall an extension of more than six (6) additional consecutive months be granted. No non-conforming use shall be resumed or changed back to a non-conforming use, after having been discontinued for the above stated time period.
- (B) The following factors shall be considered in determining whether a use has been discontinued.
  - (1) Utilities such as water, gas and electricity to the property, have been disconnected;
  - (2) The property, buildings, and grounds have fallen into disrepair;
  - (3) Signs or external indications of the existence of the nonconforming use have been removed;
  - (4) Equipment or fixtures which are necessary for the operation of the nonconforming use have been removed; and
- (5) Other actions have occurred which in the opinion of the Zoning Administrator, constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.

#### SECTION 19.03 RECONSTRUCTION OF DAMAGED NON-CONFORMING BUILDING AND STRUCTURES

Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance, wherein the expense of such reconstruction does not exceed fifty (50) percent of the fair valuation of the entire building or structure at the time such damage occurred. The valuation of the proposed construction shall be subject to the approval of the Zoning Administrator whose decision may be appealed to the Board of

Appeals, and provided that such restoration and resumption shall commence within six (6) months of the time of such damage and diligently prosecuted to completion. Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension of up to six (6) months, provided that the property owner submits a certification from the insurance company attesting to the delay.

#### **SECTION 19.04 NON-CONFORMING STRUCTURES**

Where a lawful structure exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, it may be continued so long as it remains otherwise lawful, subject to the following provisions.

- (A) No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be enlarged or altered if such alteration conforms to the requirements of the zoning district or if such alteration will decrease its non-conformity.
- (B) Should such structure be moved for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **SECTION 19.05 NON-CONFORMING USES OF LAND**

Where at the time of passage of this Ordinance, lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with an assessed value exceeding five hundred dollars (\$500), the use may be continued so long as it remains otherwise lawful provided:

- (A) No such non-conforming 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) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
- (C) No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.

#### **SECTION 19.06 NON-CONFORMING USES OF STRUCTURES**

If lawful use involving individual structures with an assessed value of five hundred dollars (\$500) or more or of structure and premises in combination, exists at the effective date of adoption of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (A) No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- (B) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

- (C) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use provided that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use as determined by the Zoning Board of Appeals. Whenever a non-conforming use has been changed to a conforming use, or to a use permitted in a district of greater restriction, it shall not thereafter be changed to a non-conforming use.
- (D) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

**SECTION 19.07      REPAIRS AND MAINTENANCE**

- (A) Any lawful non-conforming structures may be repaired, reinforced, or reconstructed during its life to correct deterioration, obsolescence, depreciation and wear, PROVIDED that such repair does not exceed an aggregate cost of fifty (50) percent of the fair valuation of the building unless the subject building is changed by such repair to a conforming building or structure.
- (B) If a non-conforming structure or portion of a structure containing a non-conforming use become physically unsafe or unlawful due to a lack of repairs and maintenance, and is declared by the Building Inspector to be unsafe or unlawful by reason of physical condition, it shall not hereafter be restored, repaired, or rebuilt except in conformity with the regulation of the district in which it is located.

## **CHAPTER 20**

### **ZONING BOARD OF APPEALS**

#### **SECTION 20.01      CREATION, MEMBERSHIP, TERM OF OFFICE**

There is hereby created and/or continued a Township Zoning Board of Appeals of five (5) members. The first member of such Board shall be a member of the Township Planning Commission; one (1) member shall be a member of the Township Board, and the remaining members shall be selected and appointed by the Township Board from the electors of the Township residing in the unincorporated areas of the Township, provided that an elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals nor, except as otherwise provided, shall an employee or contractor of the Township Board serve as a member of the Zoning Board of Appeals.

The term of each member shall be for three (3) years, except that of the members first appointed, two (2) shall serve for two (2) years and the remaining members for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

#### **SECTION 20.02      RULES OF PROCEDURE**

The Zoning Board of Appeals may adopt those rules of procedure it deems necessary to assist it in the performance of its duties.

#### **SECTION 20.03      POWERS AND DUTIES**

The Zoning Board of Appeals shall act upon all questions as they arise in the administration of this Ordinance, unless otherwise specified herein, including the interpretation of zoning maps. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under the terms of this Ordinance. An appeal may be taken by any person aggrieved, or may be taken by any officer, department, board, or bureau of the Township, county, or state. The grounds for every such determination of the Zoning Board of Appeals shall be stated as a public record.

(a)    **VARIANCE.** Subject to the provisions of this Ordinance, the Board shall have jurisdiction to decide applications for variances:

(1)    Where, by reason of exceptional narrowness in width, breadth, length, or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the land, building, or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties.

(2) Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeals, in passing upon appeals, may vary or modify any of its rules or provisions so that the spirit of this Ordinance is observed, public safety is secured, and substantial justice done.

(3) The Zoning Board of Appeals is without authority to grant variances from uses of land.

(b) **STANDARDS.** The Board shall grant such variances only upon finding, from reasonable evidence, that the following facts and conditions exist:

(1) That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

(3) That the authorizing of such variance shall not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.

(4) That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation. Provided, however, that where the Zoning Board of Appeals is given particular authority by other provisions of this Ordinance, the standards established by such provisions shall apply.

#### **SECTION 20.04      COMPENSATION**

Each member shall receive a reasonable sum as determined by the Township Board for services in attending each regular or special meeting of said Board; sums to pay said compensation and the expenses of the Board shall be provided annually in advance by the Township Board.

#### **SECTION 20.05      REMOVAL**

Members of the Zoning Board of Appeals shall be removed by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearings.

#### **SECTION 20.06      MEETINGS, RECORD**

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board in rules of procedure may specify. The Chairperson, or if not present, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record.

## **SECTION 20.07      PROCEDURE**

- (a) The presence of three (3) members shall constitute a quorum. The Board shall not conduct business unless a quorum is present. The concurring vote of a majority of the members shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide on any matter upon which it is required to pass under this Ordinance or to effect any variation in said Ordinance. A member shall disqualify himself or herself from a vote in which there is a conflict of interest. Failure of a member to disqualify him or herself from a vote in which there is a conflict of interest shall constitute misconduct in office.
- (b) Appeals shall be filed with the Secretary of the Board specifying the grounds thereof. Appeals shall be received within such time as prescribed by general rule of the Zoning Board of Appeals. If the appeal is based upon a determination of the Building Inspector, the appeal shall be transmitted to the Board along with the papers constituting the record upon which the action is being appealed.
- (c) Each appeal or application for variance shall be accompanied by a filing fee to be determined by Ordinance of the Township Board. Fees may be changed by the Township Board at any regular meeting, which change shall be effective thirty (30) days from the date of publication of such change. When a matter is referred by the Planning Commission as required by the Zoning Ordinance to the Board of Appeals for consideration, no fee shall be charged.
- (d) When an application or appeal has been filed in proper form and by the required date, the Zoning Board of Appeals shall fix a reasonable time for the hearing and the Notice of the hearing shall be published in a newspaper of general circulation in Tyrone Township. The notice shall also be sent by mail or personal delivery to the owners of property which is the subject of the hearing, and shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property. The notice shall be given not less than 15 days before the date of the hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall do all of the following: (i) Describe the nature of the request. (ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used. (iii) State when and where the request will be considered. (iv) Indicate when and where written comments will be received concerning the request.

- (e) Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interest in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.
- (f) At the hearing, any party may be heard in person or by agent or attorney.
- (g) The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit.

## **SECTION 20.08 IMPOSITION OF CONDITIONS**

The Board of Appeals may impose conditions with an affirmative decision. Conditions may include those necessary to ensure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

- (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 land owners 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 any standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- (d) The conditions imposed shall be recorded in the record of the approval action and shall remain unchanged except as provided by law.

## **SECTION 20.09 STAY OF PROCEEDINGS**

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Zoning Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than

by a restraining order which may be granted by the Board of Appeals or by the Circuit Court, on application, on notices to the Building Inspector, and on due cause shown.

#### **SECTION 20.10      DECISIONS OF THE BOARD**

The Board of Appeals shall decide all applications and appeals within thirty (30) days after the final hearing thereon. A copy of the decision shall be transmitted to the applicant or appellant and to the Building Inspector. Such decision shall be binding upon the Building Inspector and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board of Appeals.

The decision of the Zoning Board of Appeals rendered pursuant shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the Circuit Court as provided by law.

## **CHAPTER 21**

### **ADMINISTRATION**

#### **SECTION 21.01 ORDINANCE ADMINISTRATION**

Except as otherwise provided, the provisions of this Ordinance shall be administered and enforced by a Zoning Administrator who may also be the Building Inspector or any other employee as designated by the Township Board.

#### **SECTION 21.02 BUILDING PERMIT, FEES, AND OCCUPANCY PERMIT**

It shall be unlawful for any person to commence excavation for, or construction of, any building or structure, or to make structural alterations in any existing building or structure, or any alteration or addition in plumbing or electrical, or move or place a mobile home, manufactured home or pre-manufactured unit onto a lot without first obtaining a building permit therefore from the Building Inspector as hereinafter provided. Fees for building permits shall be in accordance with a schedule established by the Township Board. ( Ord. No. 94: Eff. 6-02-03 )

Applications for any such permit shall state the name and address of the owner and contractor, the address or description of the premises, and a statement of value of the improvements. It shall be accompanied by a plot plan and such plans and specifications as the Building Inspector may consider to be necessary to determine that the requirements of this Ordinance and any other applicable laws or ordinances will be complied with.

Issuance of a permit shall in no case be construed as waiving any provision of this Ordinance, and the Building Inspector is without authority to alter or vary the terms of the Ordinance.

No land shall be occupied or used and no building hereafter erected, reconstructed, or structurally altered shall be occupied or used, in whole or in part, for any purpose whatsoever, until a Certificate of Occupancy shall have been issued by the Building Inspector certifying that the building and use comply with all the applicable requirements. Upon completion of the improvement covered by the building permit, the Building Inspector shall inspect the premises, and if said inspection reveals that the improvement has been completed in substantial conformity with the applicable regulations, shall issue a Certificate of Occupancy.

#### **SECTION 21.03 REMEDIES AND ENFORCEMENT**

The Building Inspector, the Township Supervisor, or any other officer of the Township designated by the Township Board to enforce the provisions of this Ordinance, or any person or persons aggrieved by any violation thereof may institute a suit in a court of competent jurisdiction to restrain a person or a governmental unit from violating the provisions of this Ordinance or take any other legal action permissible for the enforcement thereof.

Any building erected, moved, altered, razed, or converted, or any land or premises used in violation of any provision of this Ordinance of the requirements thereof is hereby declared to be a nuisance. Any person, firm, trust, partnership, or other legal entity, which violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to a fine of not more than five hundred (\$500.00) dollars plus any costs, damages, expenses, and other sanctions as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended and other applicable laws. Each day such violation occurs or continues shall be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this section are cumulative and in addition to any other remedies provided by law.

**SECTION 21.04 FILING FEES**

Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as determined by resolution of the Township Board.

**SECTION 21.05 AMENDMENTS**

Amendments and supplements to this Ordinance may be initiated by the Township Board upon its own motion, by the Planning Commission, or may be proposed for consideration by the owner or owners of real property within the Township. All amendments to this Ordinance, whether an amendment to the text thereof or the zoning of land, shall be made in accordance with the provision of Act 110 of the Public Acts of 2006, as amended.

**SECTION 21.06 REPEAL**

The former zoning ordinance of the Township and all amendments thereto are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder.

**SECTION 21.07 SEVERABILITY**

Should any action or provision of this Ordinance be declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole or any portion thereof other than the portion so declared to be invalid.

**SECTION 21.08 EFFECTIVE DATE**

This Ordinance shall become effective immediately with subsequent amendments effective seven days after publication.

Passed and approved by the Township Board of Tyrone Township, Kent County, Michigan, on March 13, 1990 and amended through September 12, 2006.

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Shelley Worley, Township Clerk