

# **CHIKAMING TOWNSHIP**

**COUNTY OF BERRIEN, STATE OF MICHIGAN**

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## **CHIKAMING TOWNSHIP ZONING ORDINANCE**

### **ORDINANCE NO. 87**

**ADOPTED: FEBRUARY 12, 1998**

**EFFECTIVE: FEBRUARY 23, 1998**

## ACKNOWLEDGEMENTS

Ordinance No. 87, effective on February 23, 1998, repeals and replaces Ordinance No. 44, as amended, the zoning ordinance which was originally enacted in November, 1981. The new Zoning Ordinance is the culmination of several years of effort by the Chikaming Township Planning Commission and the Zoning Ordinance Revision Committee. Members of these groups included the following:

### Chikaming Township Planning Commission

James Bohac  
Albert Chapman  
Jeanne Dudeck  
Michael Livengood  
Mary Margol  
Louis Price  
Richard Postlewaite  
Ray Reip  
Dorothy Simmons  
Frank Sims

### Zoning Ordinance Revision Committee

Carl Anderson  
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Mary Margol  
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Robert Price, Zoning Administrator

**Reprinted October 2004**

### Chikaming Township Planning Commission

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Michael Livengood  
Bill Marske  
Tamara Samuels  
Tom Hackley  
Richard Postlewaite

Betsy Bohac, Zoning Administrator

Reprinted January 2007

**ORDINANCE NO. 87**  
**CHIKAMING TOWNSHIP**  
**BERRIEN COUNTY, MICHIGAN**

Adopted: February 12, 1998  
Effective: February 23, 1998  
Reprinted with Amendments August, 2004

**Rezoning Amendments attached to inside back cover:**

Ordinance No. 93  
AG to R-4 Mobile Home Park District  
Amended 11-12-98

Ordinance No. 94  
R-1 Single Family to C Commercial  
Amended 11-12-98

Ordinance No. 98  
R-1 Single Family to R-2 Residential Rural Estate  
Amended 11-11-99

Ordinance No. 105  
R-1 Single Family Residential to C Commercial  
Amended 1-10-2002

Ordinance No. 106  
R-1 Single Family Residential to C Commercial  
Amended 1-10-2002

Ordinance No. 107  
C Commercial to R-1 Single Family Residential  
Amended 4-11-2002

Ordinance No. 112  
C-Commercial to R-1 Single Family Residential  
Amended 3-30-2004

Ordinance No. 115  
C-Commercial to R-1 Single Family Residential  
Amended 7-26-2004

Ordinance No. 116  
AG-Agriculture to RE-Recreational  
Amended 9-16-2004

**Included in this Reprinting:**

Ordinance No. 91 Amended 11-12-1998  
Ordinance No. 101 Amended 10-12-2000  
Ordinance No. 114 Amended 5-13-2004  
Ordinance No. 123 Amended March 27, 2006  
Ordinance No. 125 Amended October 30, 2006

Reprinted January 2007  
Ordinance No. 127, Amended March 19, 2007 – inside back cover

## TABLE OF CONTENTS

		<u>Page</u>
ARTICLE 1	TITLE, PURPOSES AND SCOPE .....	1-1
Section 1.01	Title.....	1-1
Section 1.02	Purpose.....	1-1
Section 1.03	Scope.....	1-1
Section 1.04	Validity and Severability.....	1-1
Section 1.05	Effective Date.....	1-1
Section 1.06	Repeal of Prior Ordinance.....	1-2
Section 1.07	Legal Basis.....	1-2
ARTICLE 2	DEFINITIONS .....	2-1
Section 2.01	General Construction.....	2-1
Section 2.02	Definitions.....	2-1
Section 2.03	("A").....	2-1
Section 2.04	("B").....	2-2
Section 2.05	("C").....	2-3
Section 2.06	("D").....	2-3
Section 2.07	("E").....	2-4
Section 2.08	("F").....	2-4
Section 2.09	("G").....	2-6
Section 2.10	("H").....	2-6
Section 2.11	("I").....	2-6
Section 2.12	("J"). (Reserved for Future Use.).....	2-7
Section 2.13	("K").....	2-7
Section 2.14	("L").....	2-7
Section 2.15	("M").....	2-8
Section 2.16	("N"). (Reserved for Future Use.).....	2-9
Section 2.17	("O").....	2-9
Section 2.18	("P").....	2-9
Section 2.19	("Q"). (Reserved for Future Use.).....	2-10
Section 2.20	("R").....	2-10
Section 2.21	("S").....	2-10
Section 2.22	("T").....	2-11
Section 2.23	("U"). (Reserved for Future Use.).....	2-11
Section 2.24	("V").....	2-11
Section 2.25	("W").....	2-12
Section 2.26	("X"). (Reserved for Future Use.).....	2-12
Section 2.27	("Y").....	2-12
Section 2.28	("Z"). (Reserved for future use.).....	2-13
ARTICLE 3	ESTABLISHMENT OF ZONING DISTRICTS; PROVISION FOR OFFICIAL ZONING MAP; APPLICATION OF DISTRICT REGULATIONS .....	3-1
Section 3.01	Official Zoning Map.....	3-1
Section 3.02	Replacement of Official Zoning Map.....	3-1
Section 3.03	Zoning District Boundary Lines.....	3-2
Section 3.04	Application of Regulations.....	3-2
ARTICLE 4	NONCONFORMING LOTS, STRUCTURES AND USES.....	4-1
Section 4.01	Intent.....	4-1
Section 4.02	Nonconforming Lots of Record.....	4-1

		<u>Page</u>
Section 4.03	Nonconforming Structures by Reason of Dimensional Inadequacies.....	4-2
Section 4.04	Nonconforming Land or Structures by Reason of Use.....	4-2
Section 4.05	Uses Under Special Land Use Provisions Are Not Thereafter Nonconforming Uses. ....	4-3
Section 4.06	NCR-1 - Nonconforming R-1 Lots of Record.....	4-3
ARTICLE 5	R-1, SINGLE FAMILY RESIDENTIAL DISTRICT .....	5-1
Section 5.01	Intent.....	5-1
Section 5.02	Permitted Principal Uses. ....	5-1
Section 5.03	Permitted Accessory Structures/Uses. ....	5-1
Section 5.04	Special Land Uses.....	5-1
ARTICLE 6	R-2, RESIDENTIAL RURAL ESTATE DISTRICT .....	6-1
Section 6.01	Intent.....	6-1
Section 6.02	Permitted Principal Uses. ....	6-1
Section 6.03	Permitted Accessory Structures/Uses. ....	6-1
Section 6.04	Special Land Uses.....	6-1
ARTICLE 7	R-3, TWO-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL DISTRICT .....	7-1
Section 7.01	Intent.....	7-1
Section 7.02	Permitted Principal Uses. ....	7-1
Section 7.03	Permitted Accessory Structures/Uses. ....	7-1
Section 7.04	Special Land Uses.....	7-1
ARTICLE 8	R-4, RESIDENTIAL MOBILE HOME PARK DISTRICT.....	8-1
Section 8.01	Intent.....	8-1
Section 8.02	Permitted Principal Uses. ....	8-1
Section 8.03	Permitted Accessory Uses/Structures.....	8-1
Section 8.04	Special Land Uses.....	8-1
Section 8.05	Development Standards for Mobile Home Parks. ....	8-1
ARTICLE 9	C, COMMERCIAL DISTRICT .....	9-1
Section 9.01	Intent.....	9-1
Section 9.02	Permitted Principal Uses. ....	9-1
Section 9.03	Special Land Uses.....	9-2
ARTICLE 10	M, LIGHT INDUSTRIAL DISTRICT .....	10-1
Section 10.01	Intent.....	10-1
Section 10.02	Permitted Principal Uses. ....	10-1
Section 10.03	Special Land Uses.....	10-1
ARTICLE 11	AG, AGRICULTURAL DISTRICT .....	11-1
Section 11.01	Intent.....	11-1
Section 11.02	Permitted Principal Uses. ....	11-1
Section 11.03	Permitted Accessory Structures/Uses. ....	11-1
Section 11.04	Special Land Uses.....	11-1

	<u>Page</u>
ARTICLE 12 F, FLOODPLAIN DISTRICT .....	12-1
Section 12.01 Intent.....	12-1
Section 12.02 Permitted Principal Uses.....	12-1
Section 12.03 Special Land Uses.....	12-1
Section 12.04 Warning and Disclaimer of Liability.....	12-2
ARTICLE 13 RE, RECREATION DISTRICT.....	13-1
Section 13.01 Intent.....	13-1
Section 13.02 Permitted Principal Uses.....	13-1
Section 13.03 Permitted Accessory Uses/Structures.....	13-1
Section 13.04 Special Land Uses.....	13-1
ARTICLE 14 SCHEDULE OF DISTRICT REGULATIONS .....	14-1
Section 14.01 District Regulations Adopted.....	14-1
Section 14.02 Schedule of District Regulations, Part 1.....	14-2
Section 14.03 Schedule of District Regulations, Part 2.....	14-4
ARTICLE 15 SUPPLEMENTARY DISTRICT REGULATIONS .....	15-1
Section 15.01 Visibility at Intersections.....	15-1
Section 15.02 Fences and Walls.....	15-1
Section 15.03 Location of Accessory Buildings.....	15-1
Section 15.04 Standards for Video Reception Dishes and Antenna Masts.....	15-2
Section 15.05 One Dwelling Structure Upon a Lot of Record.....	15-4
Section 15.06 Permitted Yard Encroachments.....	15-4
Section 15.07 Exceptions to Height Regulations.....	15-4
Section 15.08 Public Street Access; Private Road Standards; Private Road Construction Permits.....	15-4
Section 15.09 Standards for All Single-Family Dwellings Located Outside Mobile Home Parks.....	15-6
Section 15.10 Keeping of Animals and Poultry.....	15-7
Section 15.11 Litter, Rubbish, Junk Storage and Disposal.....	15-7
Section 15.12 Swimming Pools.....	15-9
Section 15.13 Temporary Buildings and Structures.....	15-9
Section 15.14 Lake Front Setbacks, pursuant to Shorelands Protection and Management Act.....	15-10
Section 15.15 Location and Approval of Travel Trailer Campgrounds.....	15-13
Section 15.16 Parking and Storage of Motor Vehicles, Recreational Vehicles, Commercial Vehicles and Mobile Homes Located Outside State Licensed Parks.....	15-13
Section 15.17 Outdoor Storage in M, Light Industrial Zoning District.....	15-14
Section 15.18 Greenbelt Standards for Commercial or Industrial Use, Adjacent to Residential District.....	15-14
ARTICLE 16 SIGN REGULATIONS.....	16-1
Section 16.01 Intent.....	16-1
Section 16.02 Definitions.....	16-1
Section 16.03 General Sign Standards.....	16-2
Section 16.04 Signs Permitted in Agricultural, Recreational and Residential Zoning Districts.....	16-2

Section 16.05	Signs Permitted in Commercial and Industrial Zoning Districts. ....	16-3
Section 16.06	Signs Exempt from Permit Requirements.....	16-5
Section 16.07	Sign Permit Procedures.....	16-6
		<u>Page</u>
Section 16.08	Nonconforming Signs.....	16-6
Section 16.09	Procedure for Elimination of Unlawful or Unsafe Signs.....	16-6
ARTICLE 17	HOME OCCUPATIONS .....	17-1
Section 17.01	Intent.....	17-1
Section 17.02	Standards for Type I Home Occupations; Use Permitted by Right.....	17-1
Section 17.03	Type II Home Occupations; Standards for Issuance of Special Land Use Permit.....	17-2
Section 17.04	Home Occupations Using Hazardous Substances.....	17-3
ARTICLE 18	OFF-STREET PARKING AND LOADING REGULATIONS.....	18-1
Section 18.01	Intent.....	18-1
Section 18.02	Existing Parking and Loading Facilities.....	18-1
Section 18.03	Applicability.....	18-1
Section 18.04	Maintenance and Use of Facilities.....	18-1
Section 18.05	Procedure for Approval of Parking Area Construction.....	18-1
Section 18.06	Parking Facility Design Standards.....	18-2
Section 18.07	Location of Facilities.....	18-4
Section 18.08	Schedule of Off-Street Parking Requirements.....	18-4
Section 18.09	Stacking Space Requirements.....	18-7
Section 18.10	Parking for Mixed Use Facilities.....	18-7
Section 18.11	Required Off-Street Loading/Unloading Spaces.....	18-7
ARTICLE 19	SPECIAL LAND USES .....	19-1
Section 19.01	Intent.....	19-1
Section 19.02	Application Procedures.....	19-1
Section 19.03	Requirements for Approval of Special Land Use Permit.....	19-3
Section 19.04	Effective Date.....	19-5
Section 19.05	Permit Validity.....	19-5
Section 19.06	Amendments to Approved Special Land Use Permits.....	19-5
Section 19.07	Requirement for Compliance and Penalties for Noncompliance.....	19-6
Section 19.08	Once Granted a Special Land Use Permit, the Use is a Permitted Use on the Parcel for Which the Permit is Granted.....	19-6
Section 19.09	Additional Standards for Approval of Specific Special Land Uses.....	19-6
ARTICLE 20	PLANNED UNIT DEVELOPMENT.....	20-1
Section 20.01	Intent.....	20-1
Section 20.02	Eligibility for PUD Status: Qualifying Conditions.....	20-1
Section 20.03	Permitted PUD Uses.....	20-3
Section 20.04	Development Standards.....	20-4
Section 20.05	Common Open Space Requirements.....	20-6
Section 20.06	PUD Application, Review and Approval Procedure.....	20-7
Section 20.07	Standards for PUD Approval.....	20-13
Section 20.08	Effect of Final PUD Approval.....	20-13
Section 20.09	Changes to Approved PUD.....	20-13
Section 20.10	Commencement of PUD Construction.....	20-14

ARTICLE 20-A OPEN SPACE PRESERVATION DEVELOPMENT.....		
20A-1		
	Section 20-A.01	Intent.....
	20A-1	
	Section 20-A.02	Scope and Applicability.....
	20A-2	
20A-2	Section 20-A.03	By Right Eligibility.....
	Section 20-A.04	Density Bonus eligibility .....
2		
		<u>Page</u>
	Section 20-A.05	Project Density.....
4	Section 20-A.06	Development Standards for Open Space Preservation Developments .....
	Section 20-A.07	Open Space Amount/Requirements.....
	20A-8	
	Section 20-A.08	Procedures and Approval.....
	11	
ARTICLE 21 SITE PLAN REVIEW AND APPROVAL .....		21-1
	Section 21.01	Intent.....
	Section 21.02	When Required. ....
	Section 21.03	Contents of the Site Plan.....
	Section 21.04	Review Procedure. ....
	Section 21.05	Standards for Approval.....
	Section 21.06	Procedure for Site Plan Review and Approval of Condominium Units Intended for Single-Family or Two-Family Dwelling Units. ....
	Section 21.07	Conditions of Approval. ....
	Section 21.08	Amendments to Approved Site Plans. ....
	Section 21.09	Appeals of Final Site Plans.....
ARTICLE 21-A SITE PLAN REVIEW AND APPROVAL FOR SITE CONDOMINIUM DEVELOPMENTS.....		21A-1
	Section 21-A.01	Intent.....
	Section 21-A.02	General Provisions. ....
	Section 21-A.03	Preliminary Review and Approval of Site Condominium Plan. ....
	Section 21-A.04	Final Review and Approval of Site Condominium Plan. ....
	Section 21-A.05	Criteria for Approval. ....
ARTICLE 22 ADMINISTRATION AND ENFORCEMENT .....		22-1
	Section 22.01	Zoning Administrator. ....
	Section 22.02	Duties and Limitations of the Zoning Administrator. ....
	Section 22.03	Zoning Compliance. ....
	Section 22.04	Penalties for Violations. ....
	Section 22.05	Fee Schedule Established by Township Board. ....
ARTICLE 23 APPEALS.....		23-1
	Section 23.01	Zoning Board of Appeals: Membership and Terms of Office; Procedure.....
	Section 23.02	Zoning Board of Appeals: Powers and Duties. ....
	Section 23.03	Application and Hearing Procedures.....
	Section 23.04	Decisions of the Board of Appeals. ....



Section 23.05	Appeals from the Zoning Board of Appeals.....	23-4
Section 23.06	Duties of Zoning Administrator, Board of Appeals and Township Board on Matters of Appeal.....	23-4
ARTICLE 24	AMENDMENTS.....	24-1
Section 24.01	Intent.....	24-1
Section 24.02	Amendment Procedure.....	24-1
Section 24.03	Comprehensive Review.....	24-3
EXHIBIT A	STANDARD DETAIL FOR PRIVATE ROADS .....	A-1

TOWNSHIP OF CHIKAMING  
COUNTY OF BERRIEN, STATE OF MICHIGAN  
ZONING ORDINANCE  
ORDINANCE NUMBER 87

AN ORDINANCE TO ESTABLISH COMPREHENSIVE ZONING REGULATIONS FOR THE TOWNSHIP OF CHIKAMING, PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE TOWNSHIP RURAL ZONING ACT, ACT 184, OF THE PUBLIC ACTS OF 1943 AS AMENDED BY ACT 637, OF THE PUBLIC ACTS OF 1978, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH AND TO PROVIDE PENALTIES FOR VIOLATIONS HEREOF.

- WHEREAS, Act 110, P.A. 2006, empowers the Township Board to enact a zoning ordinance and to provide for its administration, enforcement and amendment; and
- WHEREAS, the Township Board, on November 12, 1981, enacted Ordinance No. 44, the Chikaming Township Zoning Ordinance, in accordance with the Township Rural Zoning Act, Act 184, P.A. 1943, as amended; and
- WHEREAS, the Township Board, subsequent to the enactment of Ordinance No. 44, has periodically enacted ordinances amending the provisions of Ordinance No. 44; and
- WHEREAS, the Chikaming Township Planning Commission, on October 10, 1992, adopted the Chikaming Township Master Land Use Plan, pursuant to the Township Planning Act, Act 168 of 1959, as amended; and
- WHEREAS, the Planning Commission, following the adoption of the Master Land Use Plan, conducted a comprehensive study of the need for revisions to the Chikaming Township Zoning Ordinance; and
- WHEREAS, the Planning Commission has prepared and recommended the enactment of an amended zoning ordinance; and
- WHEREAS, the Planning Commission, following due notice in accordance with the Township Rural Zoning Act, Act 184 of 1943, as amended, held a public hearing regarding the proposed amended zoning ordinance on August 22, 1996; and
- WHEREAS, the Township Board of Chikaming Township deems it necessary for the purpose of promoting the health, safety and general welfare of the Township to enact comprehensive revisions to the zoning ordinance; and
- WHEREAS, all requirements of Act 184, P.A. 1943, as amended, Act 168, P.A. 1959, as amended, and Act 110, P.A. 2006, with regard to the preparation of this Ordinance and subsequent action of the Township Board have been met; and
- WHEREAS, the continued administration of this ordinance and all other matters concerning the operation of this ordinance shall be done pursuant to P.A. 110 of 2006 (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*), hereinafter referred to as "The Zoning Act".

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN AS FOLLOWS:

**ARTICLE 1**  
**TITLE, PURPOSES AND SCOPE**

**Section 1.01 Title.**

This Ordinance shall be known and may be cited as the "Chikaming Township Zoning Ordinance."

**Section 1.02 Purpose.**

This Ordinance is based on the Chikaming Township Master Land Use Plan, as the same may be amended from time to time by the Planning Commission, and is intended and designed to regulate the use of land, and to accomplish all of the following: to promote the public health, safety, and welfare; to designate land in appropriate locations for residence, recreation, industry, trade, service and other uses, to limit the inappropriate overcrowding of land and congestion of population, transportation, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs; to encourage the use of lands and natural resources in the Township in accordance with their character and adaptability; to limit the improper use of land; to meet the needs of the state's citizens for food, fiber, energy and other natural resources, to provide for the orderly development of the Township; and to reduce hazards to life and property. This Ordinance is adopted with reasonable consideration, among other things, of the character and natural features of various areas of the Township, the suitability of each area for particular uses, the conservation of property values and the conservation of the natural character and features of the Township.

**Section 1.03 Scope.**

- A. The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.
- B. This Ordinance shall not abrogate or annul any easement, covenant or other private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- C. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.
- D. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

**Section 1.04 Validity and Severability.**

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be unconstitutional or invalid, such ruling shall not affect the validity of the Ordinance as a whole, or of any part thereof other than the provisions specifically declared unconstitutional or invalid in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, use, building, or structure, such ruling shall not affect the application of said provision to any other lot, use, building, or structure not specifically included in said ruling.

**Section 1.05 Effective Date.**

This Ordinance shall become effective on February 23, 1998.

**Section 1.06                    Repeal of Prior Ordinance.**

Ordinance No. 44, adopted November 12, 1981, and all amendments thereto, are hereby repealed as of the effective date of this Ordinance; provided, however, that such ordinances shall remain in full force and effect to the extent necessary to initiate and sustain any proper action for the enforcement or prosecution of any liability or penalty thereunder. The repeal of said ordinances shall not have the effect to release or relinquish any penalty, forfeiture, or liability incurred under said ordinances, or any part thereof.

**Section 1.07                    Legal Basis.**

This Ordinance is enacted in accordance with Michigan Public Act 184 of 1943, as amended, the Township Rural Zoning Act. The continued administration of this ordinance and all other matters concerning the operation of this ordinance shall be done pursuant to P.A. 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 *et seq.*) hereinafter referred to as "The Zoning Act".

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

## **ARTICLE 2 DEFINITIONS**

### **Section 2.01           General Construction.**

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

1.     Except with respect to the headings contained in Section 2.02, the headings which title an Article, section or subsection of this Ordinance are for the purpose of convenience only and are not to be considered in any construction or interpretation of this Ordinance, or as enlarging or restricting any of its terms and provisions in any respect.
2.     The illustrations contained within this Ordinance are intended to illustrate hypothetical applications of the provisions which refer to them, and shall not have the effect of enlarging or restricting the terms and provisions which refer to them, nor shall they be applicable to other provisions of this Ordinance which do not refer to them. In the event of any conflict between the provisions of the written text of this Ordinance and the illustrations, the text shall govern.
3.     When not inconsistent with the context, words used in the present tense shall include the future tense, words in the singular number shall include the plural number and words in the plural number shall include the singular number.
4.     The word "shall" is always mandatory and not merely discretionary. The word "may" is permissive.
5.     A "building" or "structure" includes any part thereof.
6.     The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or a combination of any of them as well as a natural person.
7.     The words "used" and "occupied", as applied to any land, building or structure, shall be construed to include the phrases "intended to be", "arranged to be" or "designed to be" used or occupied.
8.     The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built", "constructed", "reconstructed", "moved upon", or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
9.     The particular shall control the general.
10.    Terms not herein defined shall have the meanings customarily accepted.

### **Section 2.02           Definitions.**

For the purpose of their use in this Ordinance, the following terms and words are hereinafter defined:

#### **Section 2.03           ("A").**

Accessory Use, Building or Structure.--A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure.

Adult Foster Care Congregate Facility.--A type of semi-independent housing facility for more than twenty (20) adults containing congregate kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

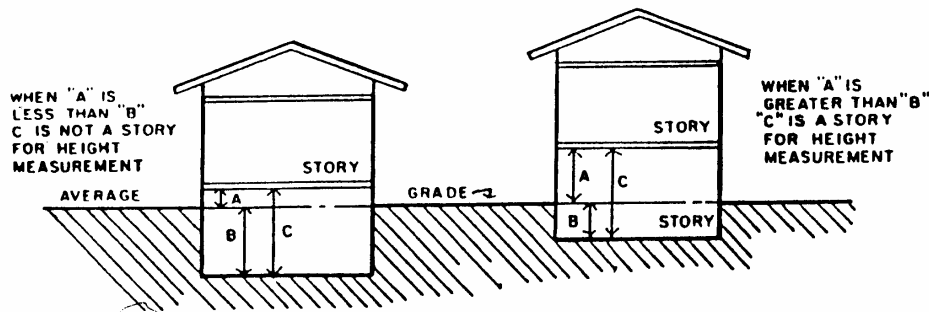
**Adult Foster Care Family Home.**--A residential structure in which one (1) but not more than six (6) adults who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Adult Foster Care Large Group Home.**--A single-family dwelling, occupied as such, in which at least thirteen (13) but no more than twenty (20) adults, who are not related to an adult member of the family occupying the dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Adult Foster Care Small Group Home.**--A single-family dwelling, occupied as such, in which twelve (12) or fewer adults, who are not related to an adult member of the family occupying the dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 2.04 ("B").**

**Basement.**--That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade, as defined herein, to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.



**Bed and Breakfast Home.**--A single family dwelling, occupied as such, in which sleeping accommodations are provided to guests in return for payment, as a use subordinate to the principal use of the building as a single-family dwelling.

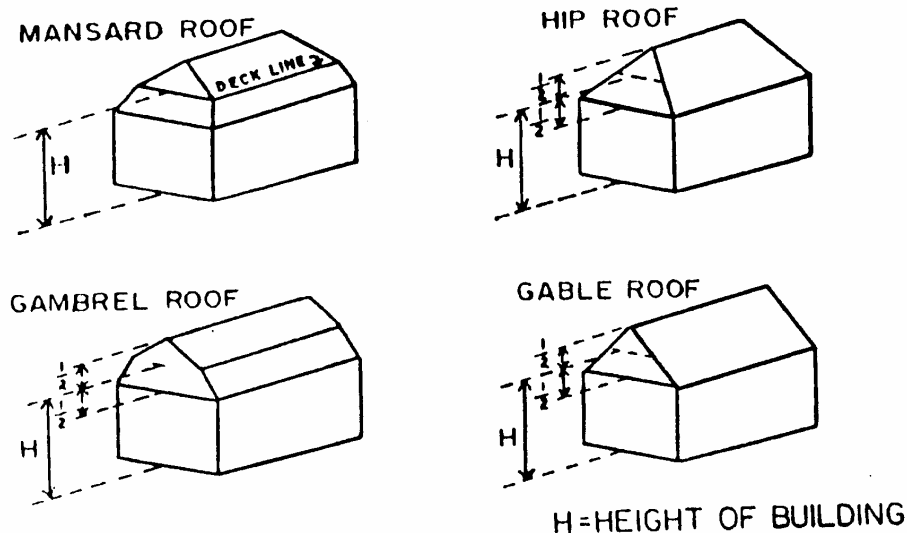
**Billboard.**--See Article 16.

**Building.**--An enclosed structure having a roof supported by columns, walls, arches or other devices, and used or intended to be used for the housing, shelter or enclosure of persons, animals, chattels or property of any kind. This definition includes mobile homes, manufactured homes, tents, storage sheds, garages, greenhouses, pole barns and other accessory structures.

**Building Attached.**--A building that is linked with a structural connection to another structure, that has a continuous foundation and shares at least 15 feet of wall with the principal structure, for which a building permit is issued, and which is comprised of a roof and walls, and is enclosed on all sides. *(Amended by Ordinance No. 114 effective 6-1-2004.)*

**Building Height.**--The vertical distance measured from the established grade to the highest point of the roof's surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves

and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, building height shall be measured from the average grade as defined herein.



**Building Permit.**--A permit issued by the Township Building Official, authorizing the construction, erection, expansion, alteration or demolition of a building or other structure, on the basis of detailed plans submitted by the permit applicant which comply with the building code adopted by the Township.

**Section 2.05 ("C").**

**Certificate of Occupancy.**--An authorization to allow use and/or occupation of a building or other structure, issued by the Township Building Official pursuant to the Township Building Code, upon completion of construction in conformance with all applicable codes, standards and regulations of the Township.

**Child Care Center.**--A facility, other than a private residence, receiving minor children for care for periods of less than 24 hours in a day, and where the parents or guardians are not immediately available. It includes a facility which provides care for not less than two (2) weeks, regardless of the number of hours of care per day. These facilities are generally described as day care centers, day nurseries, preschools or drop-in centers. This definition shall not include a Sunday School or nursery operated by a religious institution where children are cared for during short periods of time while persons responsible for such children are attending religious services. *(Amended by Ordinance No. 101 effective 11-1-2000.)*

**Condominium.**--A land development project or plan consisting of not less than 2 condominium units established in conformance with the Condominium Act, Act 59 of 1978, as amended.

**Condominium, Site.**--A condominium project or plan in which each of the condominium units consists of an exclusive ownership interest in land intended for the development of detached single-family dwellings or two-family dwellings.

**Condominium Unit.**--That portion of the 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, or recreational use.

**Section 2.06 ("D").**

**Day Care Center.**--See Child Care Center. *(Amended by Ordinance No. 101 effective 11-1-2000.)*

Drive-In Restaurant or Refreshment Stand--Any place or premises used for sale, dispensing or serving of food, refreshments or beverages to persons while in their motor vehicles, including those establishments where patrons may park and walk up to a service window, and may eat or drink the food, refreshments or beverages in a motor vehicle parked on the premises; also, a restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

Driveway--If length is 150 feet or more from road, there is a minimum requirement of 10 feet width of driving surface with an additional 3 feet width of unobstructed clearance on each side and 15 feet of overhead clearance. (*Amended by Ordinance No. 114 effective 6-1-2004.*)

Dwelling, Single-Family--A detached residential dwelling unit designed for and occupied by one (1) family only.

Dwelling, Two-Family--A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families, and conforming in all other respects to the standards set forth in this section.

Dwelling, Multiple-Family--A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided, and conforming in all other respects to the standards set forth in this Section.

Dwelling Unit--A room or rooms connected together constituting a separate, independent housekeeping establishment for one (1) family occupancy and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

## **Section 2.07 ("E").**

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

## **Section 2.08 ("F").**

Family--

- A. One or more persons related by blood, marriage or adoption occupying a dwelling unit and living as a single, non-profit housekeeping unit.
- B. A collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single 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 include a group of individuals whose association is temporary and resort-seasonal in character or nature.

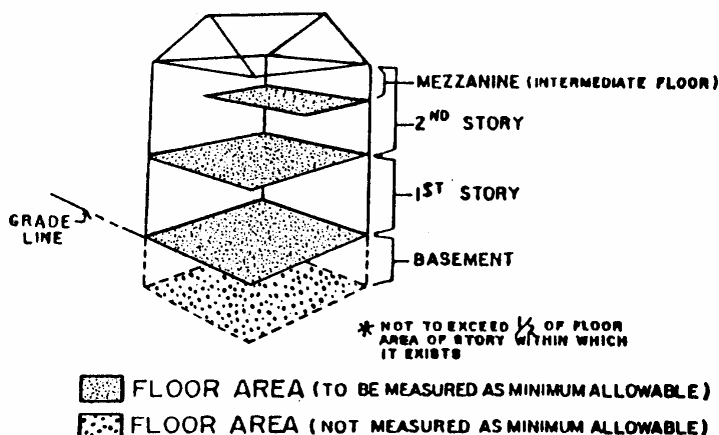
Family Day Care Home--A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.



Family day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. [Amended by Ord. No. 125, eff. Oct. 30, 2006]

**Farm.**--The land, buildings and operations used in the production of farm products, such as forage and sod crops, grain and feed crops, dairy cattle, poultry, livestock, fruits, vegetables, flowers, seeds, trees, fish, apiaries, equine and other similar products, with the exception of agricultural operations involving the disposal of garbage, sewage, rubbish, offal, wastes from rendering plants and with the exception of intensive livestock operations as defined herein.

**Floor Area.**--For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of a building shall be measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages or space used for off-street parking, breezeways, and enclosed and unenclosed porches, elevators, or stair bulkheads, common hall areas and accessory structures.



**Floor Area, Usable.**--(For the purpose of computing parking space)--That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers and all that area devoted to employee work space. Such floor area used or intended to be used principally for the storage or processing of merchandise, hallways, elevators or stair bulkheads or for utilities or sanitary facilities shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

**Foster Care Family Home.**--A residential structure in which one (1) but not more than six (6) persons who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian.

**Foster Care Group Home.**--A single-family dwelling, occupied as such, in which more than six (6) but less than twelve (12) persons, who are not related to an adult member of the family occupying the dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian.

**Foster Family Group Home.**--A private home licensed by the Michigan Department of Social Services in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four

(4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian. [Amended by Ord. No. 125, eff. Oct. 30, 2006]

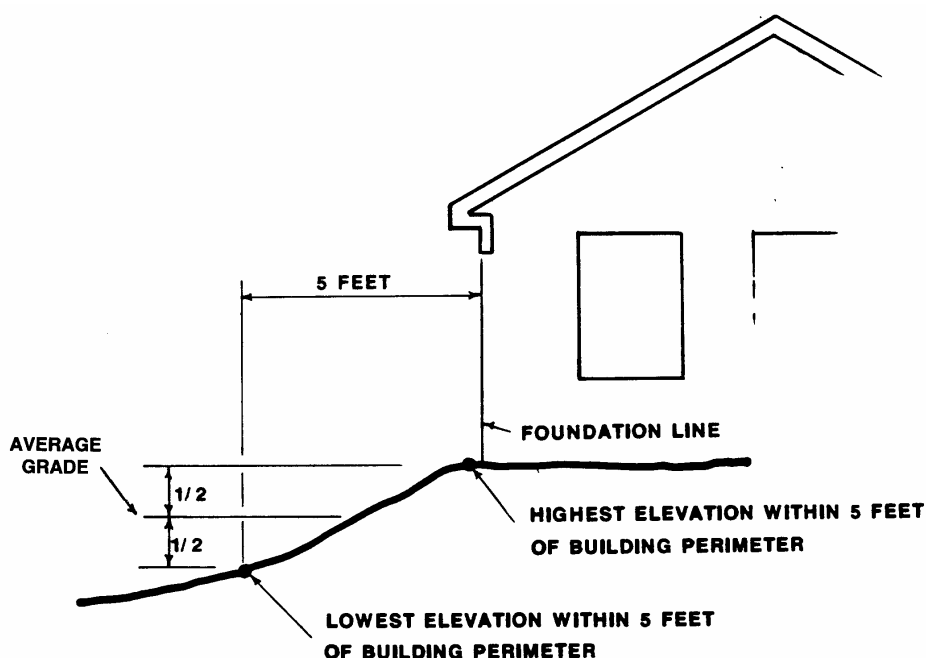
Foster Family Home--A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian. [Amended by Ord. No. 125, eff. Oct. 30, 2006]

Freestanding Sign--See Article 16.

**Section 2.09 ("G").**

Grade--(adjacent ground level) the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building.

Grade, Average--The midpoint between the lowest and highest grade elevations in an area within 5 feet of the foundation line of a building, or in the area between the foundation line and the lot line, where the foundation is less than 5 feet from the lot line.



Group Day Care Home--A private home in which more than six (6) but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. [Amended by Ord. No. 125, eff. Oct. 30, 2006]

**Section 2.10 ("H").**

Home Occupation--An occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling unit for residential purposes.

**Section 2.11 ("I").**

Incidental Sign.--See Article 16.

Intensive Livestock Operations.--A livestock production enterprise in which farm animals, including, but not limited to, horses, cattle, sheep, goats, swine or poultry, are fed, bred, and/or raised within a confined area of less than 200 square feet per individual animal, either inside a totally or partially enclosed building, or outdoors, other than in open pasture, and in which the following number of animals, according to type, are exceeded:

Beef Feedlots:	100	head
Horse Stables:	50	head
Dairy Cows:	70	head
Laying or Broiler Hens:	10,000	head (if facility has a liquid manure system)
	3,000	head (if facility has continuous overflow watering)
Turkeys:	5,500	head
Swine:	250	head
Sheep or Lambs:	1,000	head

**Section 2.12 ("J"). (Reserved for Future Use.)**

**Section 2.13 ("K").**

Kennel, Small Animal Boarding or Breeding.--Any premises on which more than four (4) dogs or cats, four (4) months of age or older, are kept, either permanently or temporarily, for purposes of boarding or breeding.

**Section 2.14 ("L").**

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

Lot.--A parcel of land, excluding those areas within private and public road rights-of-way, consisting of one (1) or more lots of record occupied or intended to be occupied by a principal building or use and any structures. The word "lot" includes the words plot, parcel, and that portion of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the Master Deed, and includes a condominium unit or the condominium unit and contiguous limited common element surrounding a unit that is or shall be assigned to the owner of the unit for the owner's exclusive use. *(Amended by Ordinance No. 123 effective March 27, 2006)*

Such lot shall have frontage on a recorded private or public street, in accordance with the requirements for minimum lot frontage contained in this Ordinance. In no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Coverage.--The percentage of the total area of a lot which is covered by all principal and accessory buildings.

Lot Frontage.--The length of the boundary line of a lot which abuts a public road right-of-way or private road right-of-way. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this section. In determining lot frontage on odd shaped lots, if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the minimum lot frontage shall be measured at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the

rear, the minimum frontage shall be measured at the rear line of the principal building or 30 feet behind the front setback line, parallel to the street or street chord. (Amended by Ordinance No. 114 effective 6-1-2004.)

Lot, Gross Area – The total area of land contained within the boundaries of a lot. (Amended by Ordinance No. 123 effective March 27, 2006)

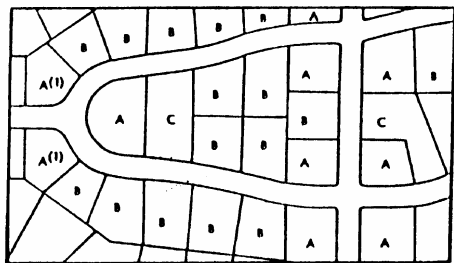
Lot, Net Area –The portion of the gross lot area excluding private and public road right-of-ways and area of any ponds, lakes or permanently submerged lands in excess of one (1) acre in size. (Amended by Ordinance No. 123 effective March 27, 2006)

Lot Measurements--

- a) Area of a lot shall be considered to be the area within the boundary lines of the lot, but excluding that portion located within a public road right-of-way or private road right-of-way or private road right-of-way or easement.
- b) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot of Record--A lot which is part of a subdivision recorded in the office of the County Register of Deeds, a unit in a site condominium which is part of a condominium subdivision plan which has been so recorded, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types--The diagram below illustrates terminology used in this Ordinance with reference to corner lots, interior lots and through lots:



6

In the diagram, A = corner lot, defined as a lot located at the intersection of two (2) or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet on an interior angle of less than one hundred thirty-five (135) degrees. See lots marked A (1) in the diagram.

B = interior lot, defined as a lot other than a corner lot with only one (1) frontage on a street.

C = through lot, defined as a lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double frontage lots.

A lakefront lot is a lot which abuts or includes within its boundaries any portion of the shoreline of Lake Michigan.

Low Power Mobile Radio Service.--A radio communications service, operated by a for-profit entity, which is interconnected to the Public Telephone Switched Network, and which is available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as authorized and regulated by the Federal Communications Commission (FCC).

**Section 2.15 ("M").**

Manufactured Home.--A dwelling unit which is designed for long-term residential use, and is wholly or substantially constructed at an off-site location.

Master Deed.--The legal document prepared and recorded pursuant to Public Act 58 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.

Mezzanine.--An intermediate floor in any story occupying space not to exceed one-half (1/2) of the floor area of such story.

Mobile Home.--A vehicular, portable structure built in conformity with standards of the National Fire Protection Association No. 501B-1973, American National Standards Institute No. A119.1-1974, as indicated on the manufacturer's data plate as required by the Michigan Construction Code Commission Rule No. R. 408,31136, which is built on a chassis and designed to be used with or without a permanent foundation as a dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure or to a utility system on the same premises for more than thirty consecutive days.

Mobile Home Park.--Any parcel or tract of land licensed and regulated under provisions of the state Mobile Home Commission Act, being Act 419 of the Public Acts of 1976 as amended, under the control of any person, upon which 3 or more occupied mobile homes are harbored on a continual or non-recreational basis, or 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 harboring or occupancy of mobile homes.

Mobile Home Subdivision.--A "subdivision" as defined by the state Subdivision Control Act, being Act 288 of the Public Acts of 1967 as amended, which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of the aforementioned Act and of all other applicable state, county and Township regulations.

**Section 2.16 ("N"). (Reserved for Future Use)**

**Section 2.17 ("O").**

Outdoor Serving Area. --An area used for serving of prepared food or beverages to patrons of a restaurant, café, tavern, bar or other eating or drinking establishment, that is located either totally or substantially outside of a completely enclosed building. A portion of a building used for serving food or beverages to patrons that is substantially open to the outdoors on two or more sides or not enclosed by permanent building walls on two or more sides shall be considered an outdoor serving area. *(Amended by Ordinance No. 91 effective 12-1-1998.)*

Off-Site Sign.--See Article 16.

On-Site Sign.--See Article 16.

Open Air Market.--Display and storage of merchandise for sale outside of a completely enclosed building, either as a principal use of land or in conjunction with retail sales conducted from a building on the same premises, for any period in excess of 72 hours.

**Section 2.18 ("P").**

Park Model Recreational Unit--A recreational unit that is built on a single chassis with an area of not more than 400 square feet and that is certified by the manufacturer as complying with the American National Standards Institute Standard A119.5. *(Amended by Ordinance No. 114 effective 6-1-2004.)*

Parking Space, Off-Street--An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for 3 or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any street, walk or alley, and so that any automobile may be parked and un-parked without moving another. Each parking space shall comprise a net area of at least 10 feet by 20 feet.

For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in conformity with all ordinances and regulations of the Township.

Planned Unit Development--Planned unit development ("PUD") denotes a land development review and approval procedure and standards designed to accomplish the objectives of the Zoning Ordinance through the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area, as authorized by this Ordinance and the Zoning Act. A land development designated as a PUD involves the development of one or more tracts of land in which a comprehensive, unified plan for development of the land is prepared which, subject to the approval of the Township, allows the opportunity for flexibility in the location, size and number of buildings, mixing of a variety of land uses and departure from traditional zoning ordinance requirements and standards. PUD's are characterized by defined and coordinated vehicular and pedestrian circulation systems, unified landscaping and buffering improvements, coordinated signage programs, and other functional and visual elements which result in overall unified, coordinated physical developments. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

Principal Building, Structure or Use--The main building, structure or use to which a premises is devoted, and the principal purpose for which the premises exists.

Private Stable--A building or property within which any animal other than customary, domestic, household pets are kept, including, but not limited to horses, cattle, sheep, goats, swine and poultry.

Public Utility--Any person, firm or corporation granted a franchise by the Township to provide service and to use public rights-of-way in the Township, or a municipal department, board or commission, duly authorized to furnish and furnishing to the public any of the following services: electricity, natural gas, steam, communications, transportation, sewage collection and disposal or water supply distribution.

**Section 2.19 ("Q"). (Reserved for Future Use.)**

**Section 2.20 ("R").**

Recreational Vehicle--A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pick-up campers, travel trailers and tent trailers, provided any such vehicle or unit which is 40 feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to mobile homes.

Residential Sign--See Article 16.

Restaurant--A building in which food is prepared and sold for consumption within the building, as opposed to a drive-in restaurant establishment where food may be taken outside of the building for consumption either on or off the premises.

**Section 2.21 ("S").**

Seasonal Resort Home.--A development in which more than one detached single-family residence and ancillary support facilities as permitted herein, are located on a single lot, and in which the primary use of the residences is short-term rental occupancy on a nightly or weekly basis.

Self-Service Storage Facility.--A building or group of buildings in a controlled-access and fenced compound that contains individual, compartmentalized and controlled-access stalls or lockers for the storage of customers' personal belongings.

Setback.--Minimum required horizontal distance between a lot line and the nearest foundation wall of a building or other designated structure or property improvement.

Sign.--See Article 16.

Signs, number and surface Area.--See Article 16.

Special land use.--A Special Land Use is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted upon the issuance of a special land use permit by the Township Board in such zoning districts in which specific provisions for such special land uses are made in this Ordinance.

Story.--That part of a building, except a mezzanine, as defined herein, included between the surface of one (1) floor and the surface of the next floor, or if no floor above, then the ceiling next above.

Story, half.--An uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and is not used, designed or arranged or intended to be used in whole or in part as an independent housekeeping unit or dwelling.

Street.--A thoroughfare for vehicular traffic including all area within the right-of-way.

Street Line.--The right-of-way line of a street or easement for ingress and egress.

Structure.--Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things structures include buildings, mobile homes, walls, fences, decks, billboards, poster panels, swimming pools, tennis courts, antennas, satellite earth receiving stations and television dish antennas.

**Section 2.22 ("T").**

Temporary Building or Structure.--A building or structure which is intended for use or occupancy of a non-permanent nature, and which is installed without permanent anchoring to the ground on a foundation, including mobile homes, mobile offices, tents or other movable structures.

Temporary Living Quarters.--A structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. *(Amended by Ordinance No. 114 effective 6-1-2004.)*

Travel Trailer.--A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding 8 feet and a body length not exceeding 40 feet.

**Section 2.23** ("U"). (Reserved for Future Use.)

**Section 2.24** ("V").

Variance.--A variance is a relaxation of the terms of the Zoning Ordinance authorized by the Zoning Board of Appeals, pursuant to this Ordinance.

Vehicle Repair Establishment.--A building or land used for caring for, servicing, repairing, refinishing, equipping, adjusting or otherwise working on vehicles for compensation, including, but not limited to, major mechanical and body work, storage of damaged or inoperable vehicles awaiting repair, and other vehicle repair work creating noise, glare, fumes or smoke, or used for the storage and impounding of vehicles, not including wrecking, junking or salvaging of vehicle parts.

Vehicle Service Station.--Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where other incidental services may be rendered and sales made.



**Section 2.25** ("W").

Wall Sign.--See Article 16.

**Section 2.26** ("X"). (Reserved for Future Use.)

**Section 2.27** ("Y").

Yard.--A required open space between a lot line and the nearest point of the foundation of a building or structure, other than a courtyard enclosed by a building, unoccupied and unobstructed by any structure or portion of a structure, except as provided within this Ordinance, provided however that poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front.--A yard extending between side lot lines across the front of a lot adjoining a public street; or, in the case of lake front lots which shall be considered as through lots, a public street on one frontage and the lake front on the other frontage.

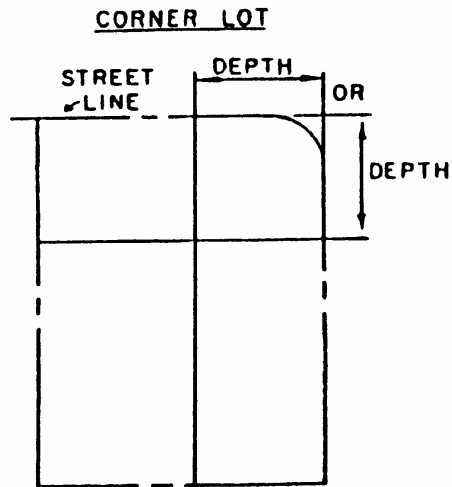
In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one (1) of the front yards which would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Zoning Administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

Every corner lot in a residential zoning district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the zoning district in which it is located; provided, however, that this does not reduce the buildable width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts a side lot line on the adjoining lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the zoning district.

Depth of required front yards shall generally be measured from the inner-most point of the front lot line inward for a distance of the required front yard depth, as in diagrams 2.26, A., B., C. and D.



In the case of rounded property corners at street intersections, reference points for measurements shall be placed as though the side lot lines would have met the street line if the corners were not rounded, as in diagram 2.26, E. The front and rear lines of the front yard shall be parallel.



E.

Yard, Side--A yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards.

Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

Yard, Rear--The yard extending across the rear of a lot between side lot lines.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

**Section 2.28 ("Z").**

Zoning Act --P.A. 110 of 2006, as amended, being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq. [Amended by Ord. No. 125, eff, Oct. 30, 2006]

**ARTICLE 3  
ESTABLISHMENT OF ZONING DISTRICTS;  
PROVISION FOR OFFICIAL ZONING MAP;  
APPLICATION OF DISTRICT REGULATIONS**

**Section 3.01            Official Zoning Map.**

- A.     The Township is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- B.     The Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk, and shall bear the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map referred to in Article 3 of the Chikaming Township Zoning Ordinance" together with the date of the adoption of this Ordinance.
- C.     If in accordance with the provisions of this Ordinance, changes are made in zoning district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map within 10 days after the amendment has been approved by the Township Board with an entry on the Official Zoning Map as follows: "On (date), by official action of the Township Board, the following (change) changes were made on the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Township Supervisor and attested by the Township Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on said map.
- D.     No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person(s) shall be considered a violation of this Ordinance and punishable as provided under Article 22.
- E.     Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Township Office, shall be the final authority as to the current zoning status of all land and improvements thereon within the Township.

**Section 3.02            Replacement of Official Zoning Map.**

- A.     In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Township Board may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Township Supervisor attested by the Township Clerk and shall bear the seal of the Township under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Zoning Ordinance Number 44 of the Township of Chikaming, Berrien County, Michigan."
- B.     Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

### **Section 3.03                    Zoning District Boundary Lines**

Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1.     Boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines.
2.     Boundaries indicated as approximately following platted lot lines or property lines shall be construed as following such lot lines or property lines.
3.     Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
4.     Boundaries indicated as following township section lines shall be construed as following such section lines.
5.     Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
6.     Boundaries indicated as following shorelines shall be construed to follow such shorelines and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines.
7.     Boundaries indicated as parallel to or extensions of features indicated in Rules 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8.     Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Rules 1 through 7 above, the Board of Appeals shall interpret the zoning district boundaries.
9.     Where a zoning district boundary line divides a lot which was in single ownership at the time of enactment of this Ordinance, the Board of Appeals may permit, as a Special Exception, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the zoning district line into the remaining portion of the lot.

### **Section 3.04                    Application of Regulations.**

The regulations set forth by this Ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land similarly situated within a zoning district, and particularly, except as hereinafter provided:

1.     No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.
2.     No building or other structure shall hereafter be erected or altered to:
  - a)     exceed the height or bulk limitations;
  - b)     accommodate or house a greater number of families; or
  - c)     have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or be erected or altered in any manner contrary to this Ordinance.

3. No part of a yard, other open space, or off-street parking or loading space required for or in connection with any building for the purpose of complying with this Ordinance shall be included as part of a yard, open space or off-street parking or loading space required for any other building.
4. No yard or lot existing upon the effective date of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
5. Essential services, as defined in Article 2, shall be permitted as authorized and regulated by law and other regulations of the Township, county and state, it being the intention hereof to exempt such essential services, but not buildings in connection therewith, from the application of this Ordinance.

**ARTICLE 4**  
**NONCONFORMING LOTS, STRUCTURES AND USES**

**Section 4.01**            **Intent.**

- A.     Within the zoning districts established by this Ordinance and its predecessors there exist lots, structures and uses which may have been lawful at the time the ordinance came into effect, but which would be prohibited, regulated or restricted under its present terms. Such lots, structures and uses are called "nonconforming," *i.e.*, they do not conform to the requirements of the ordinance and/or its amendments. The nonconforming characteristics of these lots, structures and uses may also be known as "nonconformities."
- B.     Since such nonconformities tend to disrupt the harmony of neighborhoods and adversely affect the public health, safety and welfare, it is the intent of this Ordinance to permit them to exist only conditionally. Thus, the continuance of nonconformities is discouraged, and most changes to lots, uses and structures shall, if possible, eliminate the nonconformity. Nevertheless, proposed changes which would not increase the degree of nonconformity may be accommodated.
- C.     It is further the intent of this Ordinance that the nonconforming characteristics of nonconforming lots, structures and uses shall not be enlarged upon, expanded or extended, nor shall they be used as grounds for adding other structures or uses prohibited elsewhere in the same zoning district.
- D.     To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building for which a building permit has been issued and on which actual construction shall have been diligently carried on for 30 days preceding the date of adoption of this Ordinance. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation, demolition, or removal of an existing building has been substantially begun preparatory to rebuilding, such activity shall be deemed to constitute actual construction, provided that work shall be carried on diligently.

**Section 4.02**            **Nonconforming Lots of Record.**

- A.     Nonconforming lots of record are those lots of record, as defined in Article 2, existing and lawful prior to the effective date of this Ordinance or amendments thereto, which could not be created lawfully thereafter.
- B.     No division of any parcel shall be made which creates a lot with area or frontage less than the requirements of this Ordinance, for the zoning district in which it is situated.
- C.     In any zoning district in which single-family dwellings are permitted, the Board of Appeals may, in accordance with provisions of Article 23, grant a variance to allow construction of such dwelling and customary accessory buildings on a vacant nonconforming lot of record which does not meet requirements of this Ordinance for minimum lot area, minimum lot frontage or both. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership, the combining of which would create a lot which would meet the area and frontage requirements of this Ordinance. If the lot is in the R-1 zoning district, the decision to approve the variance and the conditions attached to the variance shall be based on the standards in Section
- D.     If a nonconforming lot of record abuts one or more nonconforming lots of record in the same ownership, such lots shall be combined and considered as one lot for the purposes of this Ordinance. No portion of the combined lot shall be used or sold in a manner which diminishes compliance with lot area or frontage requirements of this Ordinance, nor shall any division of the combined lot be made which creates a lot with area or frontage less than the requirements stated in this Ordinance.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 4.03 Nonconforming Structures by Reason of Dimensional Inadequacies.**

Where a lawful structure exists on the effective date of this Ordinance or amendments thereto which could not be built under its terms by reason of restrictions on area, height, yards, location on the lot, or other dimensional requirements, such a structure may be continued so long as it remains otherwise lawful, provided: *(Amended by Ordinance No. 114 effective 6-1-2004.)*

1. Repairs, maintenance and renovation necessary for health or safety reasons or to keep such a nonconforming structure in a sound condition may be made.
2. A nonconforming structure may be enlarged, expanded or altered, so long as the nonconforming characteristic of the structure is not enlarged upon, extended or increased in its degree of nonconformance.
3. Should such a nonconforming structure be relocated for any reason or for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located.
4. If such a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.
5. Such a nonconforming structure which is damaged or destroyed by wind, fire, explosion, a natural calamity or the public enemy may be altered, repaired or replaced and the nonconforming nature thereof continued, provided that 1) the repair, replacement or alteration is undertaken within two years following the damage, 2) there is no change in use, and 3) the extent of the nonconformance with the provisions of this Ordinance is not increased.

**Section 4.04 Nonconforming Land or Structures by Reason of Use.**

Where a lawful use of land or a structure exists on the effective date of this Ordinance or amendments thereto which would not thereafter be permitted in the zoning district, such use may be continued so long as it remains otherwise lawful, provided:

1. The nonconforming use of land or structure shall not be enlarged, extended or expanded in such a way as to increase the nonconforming nature of the use, such as the addition of dwelling units, additional manufacturing or selling area, or by the addition of facilities which would allow the establishment of other nonconforming uses.
2. A nonconforming structure by reason of use shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by such structure at the effective date of adoption or amendment of this Ordinance.
3. Normal repairs, maintenance and renovation necessary for health or safety reasons or to keep any structure in a sound condition may be made, but a nonconforming structure by reason of use shall not be structurally altered except in order to change its use to one permitted in the zoning district in which it is located.
4. Any nonconforming use of a structure, or structure and premises, may by Special Land Use Permit be changed to another use more appropriate to the district than the existing nonconforming use. In permitting such change, the Township Board may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance. *(Amended by Ordinance No. 114 effective 6-1-2004.)*

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months (except when circumstances beyond the control of the owner impede access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; provided, however, the Township Board may grant an extension of such nonconforming use by Special Land Use Permit in accordance with Article 19. *(Amended by Ordinance No. 114 effective 6-1-2004.)*
6. Any structure in which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the zoning district, and the nonconforming use may not thereafter be resumed.
7. If a structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.
8. In the event a structure containing a nonconforming use is damaged by wind, fire, explosion, any natural calamity or the public enemy, and the estimated expense of reconstruction exceeds 50 percent of the market value of the structure prior to the damaging occurrence, the structure may be reconstructed or restored only for a use permitted in the zoning district in which it is located. The market value of the structure, excluding the value of land, at the time of damage shall be determined by the most recent assessment for purposes of taxation. The estimated expense of reconstruction shall be determined by a licensed contractor and confirmed by the Zoning Administrator.

**Section 4.05 Uses Under Special Land Use Provisions Are Not Thereafter Nonconforming Uses.**

After the effective date of this Ordinance or the amendments thereto, any special land use approved by the Township Board under Article 19 shall thereafter be deemed a conforming use.

**Section 4.06 NCR-1 – Nonconforming R-1 Lots of Record.**

A. Intent.

In portions of the R-1 zoning district where there is a preponderance of properties requiring variances to allow construction or remodeling, variances are often sought to permit this activity as these lots often do not meet the standards of the Zoning Ordinance, created subsequent to the platting of these lots. The intent of these standards to provide appropriate and standardized requirements for these areas of parcels less than 20,000 square feet in size to guide and expedite the review and approval process of the Zoning Board of Appeals and ensure consistency over the course of their decisions. This will allow for beneficial use of the property by the owners in a manner consistent with the goals and objectives of the zoning district and the Township master plan. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

B. Designation.

Non-conforming lots of record in the R-1 district shall be designated as NCR-1 (non-conforming R-1). They shall be treated the same as all other non-conforming lots of record in terms of ownership rights and development potential as provided in the sections above. Development of a NCR-1 lot will still require the approval of the Zoning Board of Appeals, as provided in Section 4.02 above. However, when the Zoning Board of Appeals is asked to hear an application on whether an owner can build on an NCR-1 lot, the decision and any conditions shall be based on the requirements and standards below. Where an NCR-1 lot satisfies the requirements and standards below, as well as the other requirements of this Ordinance, the variance may be



approved. If the proposed development of an NCR-1 lot does not satisfy the requirement and standards below, approval shall not be granted.

Even though these lots have been given a new designation, they remain zoned R-1. Except for those standards that have been modified or replaced by the language provided below, all other standards applicable to the R-1 district shall remain in place (e.g. parking, fencing, etc.) [Amended by Ord. No. 125, eff. Oct. 30, 2006]

C. Uses.

1. All permitted uses provided in Section 5.02 shall be permitted in NCR-1 areas.
2. All accessory structures / uses permitted in Section 5.03 shall be permitted in NCR-1 areas.
3. All special land uses listed in Section 5.04 shall be permitted in NCR-1 areas following issuance of a special land use permit that has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19.

[Amended by Ord. No. 125, eff. Oct. 30, 2006]

D. Development Standards.

The following development standards are a requirement for approval of development of NCR-1 lots.

1. Density, height, bulk, and coverage requirements shall be based on the following table. Differentiation between the three designations within the NCR-1 classification (NCR1-A, NCR1-B, and NCR1-C) shall be based solely on the net lot area and used strictly for allocating these different standards.

Designations	Net Lot Area	Minimum Yard Setbacks			Max. Building Height		Max Lot Coverage (b)
		Front Yard	Side Yard	Rear Yard	Feet	Stories	
NCR1-A	9,999 sq. ft. or less	Lesser of 30' or (a)	10'	30'	18'	1 ½	20%
NCR1-B	10,000 sq. ft. to 14,999 sq. ft.	Lesser of 30' or (a)	10'	30'	20'	1 ½	20%
NCR1-C	15,000 sq. ft. to 19,999 sq. ft.	Lesser of 30' or (a)	10'	30'	22'	2	25%

(a) or (b) Footnotes. See a. and b. below.

(a) Front Yard Setback.

In lieu of complying with the fixed front yard setback requirements of Section 14.02, buildings and structures with NCR-1 designations must be setback from the property line a distance equal to the average front yard setback of the nearest two lots on either side of the subject lot or 30 feet, whichever is less. When the lot is a corner lot or adjacent to a corner lot, the average setback will be computed based on the nearest two lots on either side of the structure that fronts on the same street, even if one of those structures is across a street.

(b) Lot Coverage.

Defined by ordinance as the percentage of the total area that is covered by all principal and accessory structures.

2. Accessory structures on NCR-1 lots shall be permitted based on the standards in Section 15.03.A.
3. Architectural features, such as cornices, eaves, gutters, chimneys, pilasters, and the like may extend into a required yard a maximum of two (2) feet in NCR-1 designated areas.
4. The building height limitations provided in subsection 1 above do not apply to ventilators, chimneys, and antennae.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**ARTICLE 5**  
**R-1, SINGLE FAMILY RESIDENTIAL DISTRICT**

**Section 5.01 Intent.**

This zoning district is intended to provide and maintain a residential living environment with quiet, safe, uncongested neighborhoods free from other uses except those compatible with the principal uses of the zoning district.

**Section 5.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Detached single family dwellings.
2. Adult foster care family homes.
3. Family day care homes.
4. Foster family homes.
5. Foster family group homes.
6. Type I home occupations, in conformity with Article 17.
7. Water and sanitary sewer pumping stations.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 5.03 Permitted Accessory Structures/Uses.**

These include, but are not necessarily limited to, the following:

1. Private garage and/or parking space.
2. Garden, tool, play, boat, pool and pump houses.
3. Swimming pools and hot tubs, in conformity with Article 15.
4. Propane tanks, heat pumps and gazebos.

**Section 5.04 Special Land Uses.**

The following special land uses may be permitted following issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19:

1. Type II home occupations, in conformity with Article 17. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
2. Group day care homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
3. Adult foster care small group homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
4. Bed and breakfast homes.
5. Houses of worship and related facilities, such as convents, parsonages and youth centers.
6. Public and private primary and secondary schools.
7. Public recreation uses such as parks, playgrounds, golf courses, athletic fields and community centers.
8. Local governmental buildings.
9. Libraries and museums.
10. Public utility buildings, electrical substations, natural gas regulator stations.
11. Public safety facilities.
12. Cemeteries.
13. Professional service establishments, such as offices of insurance agents, accountants, attorneys, dentists, doctors, engineers, architects, psychologists and real estate brokers.
14. Planned unit developments, in conformity with Article 20.
15. Child Care Centers. *(Amended by Ordinance No. 101 effective 11-1-2000)*



**ARTICLE 6**  
**R-2, RESIDENTIAL RURAL ESTATE DISTRICT**

**Section 6.01 Intent.**

The intent of this zoning district is to (a) satisfy demand for a semi-rural life style by providing large lots in non-prime agricultural land, (b) encourage the survival of small-scale specialty agriculture which is compatible with low-density residential areas, (c) protect some significant forest, ravine and wetland areas of the zoning district, (d) discourage dense development where municipal water and sewer services do not exist, and (e) provide a transition between the densely settled and rural portions of the Township.

**Section 6.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Detached single family dwellings.
2. Adult foster care family homes.
3. Family day care homes.
4. Foster family homes.
5. Foster family group homes.
6. Type I home occupations, in conformity with Article 17.
7. Water and sanitary sewer pumping stations.
8. Farms, excluding intensive livestock operations, food processing, animal slaughtering

and

9. meat packing.
9. Conservation areas, forest preserves and game refuge areas.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 6.03 Permitted Accessory Structures/Uses.**

These include, but are not necessarily limited to, the following:

1. Private garage and/or parking space.
2. Garden, tool, play, boat, pool and pump houses.
3. Swimming pool in conformity with Article 15.11.
4. Agricultural buildings and structures, including, but not limited to barns, pole barns and corn cribs.

**Section 6.04 Special Land Uses.**

The following special land uses may be permitted following issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards of Article 19:

1. Type II home occupations, in conformity with Article 17. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
2. Group day care homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
3. Adult foster care small group homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
4. Bed and breakfast homes.
5. Private stables.
6. Houses of worship and related facilities, such as convents, parsonages and youth centers.
7. Public and private primary and secondary schools.
8. Public recreation uses such as parks, playgrounds, golf courses, athletic fields and community centers.

9. Public utility buildings, electrical substations, natural gas regulator stations.
10. Public safety facilities.
11. Nursing homes, provided they are served by municipal water and sanitary sewer services.
12. Cemeteries.
13. Antenna towers and masts for cellular phone and other low power mobile radio services.
14. Planned unit development, in conformity with Article 20.
15. Child Care Centers. (*Amended by Ordinance No. 101 effective 11-1-2000.*)

**ARTICLE 7**  
**R-3, TWO-FAMILY AND MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

**Section 7.01 Intent.**

This zoning district is intended to provide land in suitable locations and with suitable services for two-family and multiple-family residential dwellings, in order to provide for diversity and variety in the housing stock of the Township. The zoning district also provides for consideration of uses serving the needs of the traveling public on the Interstate highway system, as special land uses, in areas adjacent to I-94.

**Section 7.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Detached single-family dwellings.
2. Two-family dwellings.
3. Adult foster care family homes.
4. Family day care homes.
5. Foster family homes.
6. Foster family group homes.
7. Type I home occupations, in conformity with Article 17.
8. Water and sanitary sewer pumping stations.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 7.03 Permitted Accessory Structures/Uses.**

These include, but are not necessarily limited to, the following:

1. Private garage and/or parking space.
2. Garden, tool, play, boat, pool and pump houses.
3. Swimming pool in conformity with Article 15.

**Section 7.04 Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19.

1. Multiple-family dwellings, provided they are served by municipal water and sanitary sewer services, including customary accessory uses such as garages or carports, covered refuse containers, swimming pools for use by residents and guests only, maintenance and management buildings.
2. Type II home occupations, in conformity with Article 17.
3. Group day care homes.
4. Adult foster care small group homes.
5. Adult foster care large group homes.
6. Bed and breakfast homes.
7. Houses of worship and related facilities, such as convents, parsonages and youth centers.
8. Public and private primary and secondary schools.
9. Public recreation uses such as parks, playgrounds, golf courses, athletic fields and community centers.
10. Libraries and museums.
11. Public utility buildings, electrical substations and natural gas regulator stations.
12. Public safety facilities.

13. Cemeteries.
14. Adult foster care congregate facilities.
15. Nursing homes, provided they are served by municipal water and sanitary sewer services.
16. Hospitals, excluding veterinary hospitals.
17. Medical clinics.
18. Hotels, motels.
19. Restaurants, delicatessens, refreshment stands and other dispensaries of food or beverages at retail, with or without outdoor serving areas.
20. Vehicle service stations, excluding facilities designed and intended to serve more than two (2) long-haul trucks on the site at one time.
21. Planned unit developments, in conformity with Article 20.
22. Child Care Centers.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*



**ARTICLE 8**  
**R-4, RESIDENTIAL MOBILE HOME PARK DISTRICT**

**Section 8.01 Intent.**

This zoning district is intended to provide land for manufactured housing in state-licensed mobile home parks, in an appropriate, safe, sanitary and attractive manner.

**Section 8.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Manufactured homes, occupied as single-family dwellings, and located in a state licensed mobile home park which has been approved pursuant to this Article.
2. Family day care homes.
3. Adult foster care family homes.
4. Foster family homes.
5. Foster family group homes.
6. Type I home occupations, in conformity with Article 17.
7. Water and sanitary sewer pumping stations.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 8.03 Permitted Accessory Uses/Structures.**

The following accessory uses/structures are permitted in this zoning district:

1. Storage buildings on individual manufactured home sites, not exceeding 150 square feet in area.
2. An office building for conducting the operations and management of the mobile home park.
3. Buildings housing self-service laundry facilities or convenience retail goods limited to serving the exclusive needs of residents of the mobile home park.
4. Outdoor recreation facilities serving the residents of the mobile home park.
5. A community building providing indoor recreation facilities and meeting or social activity space for residents of the mobile home park.

**Section 8.04 Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards of this Article and Article 19.

1. Mobile home parks, for manufactured homes and customary accessory buildings, subject to the requirements as established and regulated by the Mobile Home Commission Act, Act 419 of 1976, as amended.
2. Group day care homes.
3. Type II home occupations, in conformity with Article 17.

**Section 8.05 Development Standards for Mobile Home Parks.**

All mobile home parks shall be designed, constructed, operated, managed and maintained in conformity with the following standards:

1. General Mobile Home Park Development Standards:
  - a. Every mobile home park shall be located on a parcel or parcels having a minimum size of 10 acres, and shall contain a minimum of 40 manufactured home sites.

- b. The mobile home park shall abut and have direct vehicular access to a paved county primary road or State trunkline highway.
- c. The mobile home park shall be served by municipal water and sanitary sewer service, and all manufactured homes within the mobile home park shall be connected thereto.
- d. All utility facilities serving manufactured home sites shall be installed underground.
- e. The mobile home park shall be provided with storm drainage facilities to prevent flooding within the mobile home park, and to prevent any adverse impacts of stormwater discharged off the premises. On-site detention of stormwater may be required when deemed necessary to prevent adverse impacts of increased stormwater discharge rates and volumes onto adjoining lands and watercourses.
- f. No manufactured home or other building or structure located within the mobile home park shall exceed a height of 25 feet.
- g. The mobile home park shall contain one or more open space areas intended primarily for the recreational use of park residents. The total area of open space provided shall not be less than 200 square feet for each manufactured home site in the mobile home park. No individual open space area shall be less than 10,000 square feet in area, and no open space area shall have a length-to-width ratio in excess of 1.5 to 1. Required perimeter buffer areas shall not be included or credited as meeting the open space requirement. Recreational facilities such as swimming pools or community building may be counted toward meeting open space requirements.

2. Vehicular Circulation and Parking:

- a. Intersections of mobile home park access streets and public streets shall be located no closer than 200 feet from the intersection of two public streets, measured between intersection centerlines.
- b. If a mobile home park contains more than 100 manufactured home sites, two vehicular accesses to a public street shall be provided. Minimum separation distance between access driveways to the mobile home park shall be 150 feet, measured between driveway centerlines.
- c. Minimum street widths within the mobile home park shall conform with the following standards:

PARKING RESTRICTIONS	DIRECTION OF TRAFFIC	MINIMUM STREET WIDTH
No on-street parking permitted	One-way traffic	14 feet
	Two-way traffic	20 feet
Parallel parking permitted on one side of street	One-way traffic	20 feet
	Two-way traffic	30 feet
Parallel parking permitted on both sides of street	One-way traffic	26 feet
	Two-way traffic	36 feet

- d. All streets within the mobile home park shall be surfaced with asphalt or concrete pavement.

- e. Sidewalks at least 4 feet in width shall be installed adjacent to both sides of all streets within the mobile home park.
- f. Lighting of streets shall be provided, using "cutoff" style light fixtures mounted no higher than 30 feet above grade.
- g. Each manufactured home site shall provide a minimum of 2 off-street parking spaces, each having minimum dimensions of 10 feet by 20 feet.

3. Perimeter Setback and Buffer Zone Standards:

Manufactured home site boundaries shall be located a minimum distance of 50 feet from any public street right-of-way line, and 30 feet from any other perimeter property line of the mobile home park. Within the perimeter setback area, landscaping improvements consisting of deciduous and evergreen trees, shrubs and earth berming shall be installed to provide substantial visual and noise buffering between the mobile home park and adjoining properties and streets.

4. Manufactured Home and Site Standards:

- a. Each manufactured home site, exclusive of perimeter setback and buffer areas, open space areas and streets, shall have a minimum size of 4,800 square feet and a minimum width of 40 feet. No more than 1 mobile home shall be placed on any manufactured home site, and no manufactured home shall be occupied by more than 1 family.
- b. Each manufactured home shall be at least 14 feet in width for its entire length, and shall have a minimum of 840 square feet of living area, exclusive of porches, carports, and attached storage areas accessed from outside the home.
- c. On individual manufactured home sites, minimum setbacks between any part of a manufactured home, including attached accessory buildings or structures, and adjacent site boundaries shall be as follows:
  - (1) Front yard: 20-foot setback from edge of internal road or back of curb.
  - (2) Side yard: 10-foot setback from side lot line on the entry-side of the home; 5-foot setback from side lot line on the non-entry side of the home.
  - (3) Rear yard: 10-foot setback from rear lot line of manufactured home site.
  - (4) Minimum separation distance: No manufactured home shall be within 20 feet of another manufactured home, including any attached accessory structures such as porches, carports or storage areas.
- d. All manufactured homes within the mobile home park shall be installed in conformity with State of Michigan Mobile Home Commission rules and regulations applicable to pad design, setup and installation.
- e. All manufactured homes shall be skirted and anchored in conformance with Act 419 of 1976, as amended, and rules of the State of Michigan Mobile Home Commission.

5. Mobile Home Sales:

The premises of a mobile home park may be used for the purpose of selling new and/or used manufactured homes; provided, however, that any home offered for sale is located on a mobile home lot and is installed in compliance with this Article. This section shall not prohibit the sale of a new or used manufactured home located on a manufactured home site within the mobile home park by the resident owner or an agent of the resident owner.

6. Inspection and Permits:

- a. No manufactured home shall be placed, parked or installed in a mobile home park until a building permit is obtained from the Building Official. Such permit shall be issued upon a finding from the Building Official that said manufactured home meets construction standards as approved by the U.S. Department of Housing and Urban Development (HUD) or has been certified by a manufacturer as constructed in conformity with HUD requirements.
- b. No manufactured home shall be occupied by any person as a residence or for any other purpose until such time as said manufactured home is installed upon a manufactured home site in the mobile home park, including the completion of all support and anchoring and connections to necessary utilities in conformity with all applicable State and municipal requirements.

**ARTICLE 9  
C, COMMERCIAL DISTRICT**

**Section 9.01 Intent.**

The intent of this zoning district is to encourage and facilitate the development and maintenance of sound and efficient shopping, business and service areas, which meet the needs of year-round residents, seasonal residents and visitors. It is further the intent of this zoning district to ensure that commercial uses are developed in a manner which enhances the appearance and character of the Township, and at the same time avoids adverse impacts on surrounding uses of a non-commercial nature.

**Section 9.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Establishments for the sale of goods at retail or wholesale.
2. Retail shops which produce or fabricate merchandise for sale upon the premises.
3. Medical and dental offices and clinics.
4. Personal service uses, such as hair styling, photographers' studios, travel agencies and opticians.
5. Professional and administrative offices, including legal, architectural, engineering, accounting, real estate brokerage, insurance sales, or other professional or administrative uses.
6. Banks, savings and loan associations and similar financial institutions or offices.
7. Restaurants, delicatessens, refreshment stands and other dispensaries of food or beverages at retail, not having outdoor serving areas. *(Amended by Ordinance No. 91 effective 12-1-1998.)*
8. Theaters, night clubs, bowling alleys, skating rinks and similar entertainment or recreation uses.
9. Laundry and dry cleaning shops, provided the use is served by public sanitary sewers.
10. Veterinary office or clinic, and similar uses.
11. Hotels, motels, lodging houses, boarding houses and seasonal resort homes.
12. Funeral homes.
13. Showrooms and workshops of plumbers, electricians, painters, printers and similar tradesmen.
14. Vehicle service stations, provided all gasoline storage tanks must be underground.
15. Vehicle repair establishments.
16. Automotive parts and accessory shops, motorcycle and similar small recreation equipment sales, service and repair shops.
17. Nursing homes, provided they are served by public water and sanitary sewer.
18. Fraternal lodges and non-profit organizations.
19. Houses of worship and related facilities, such as convents, parsonages and youth centers.
20. Floriculture, berry culture or horticultural nurseries.
21. Local government buildings.
22. Libraries and museums.
23. Water and sanitary sewer pumping stations.
24. Public utility buildings, electrical substations, natural gas regulator stations. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
25. Public safety facilities. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
26. Adult foster care family home, within a single-family dwelling. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
27. Family day care home, within a single-family dwelling. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
28. Foster family homes, within a single-family dwelling. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
29. Foster family group homes, within a single-family dwelling. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
30. Bed and breakfast home, within a single-family dwelling. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
31. Child Care Centers. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

### **Section 9.03                      Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19.

1.        Single-family dwellings, either detached or in the same building as a permitted or authorized non-residential use.
2.        Two-family and multiple-family dwellings, provided they are served by municipal water and sanitary sewer services. *(Amended by Ordinance No. 114 effective 6-1-2004.)*
3.        Group day care homes, in single-family dwellings.
4.        Adult foster care small group homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
5.        Adult foster care large group homes. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
6.        Adult foster care congregate facility. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
7.        Outdoor private recreation establishments.
8.        Open air markets.
9.        Circus, fair, carnival or similar use.
10.       Public parking garage or parking lot.
11.       New and used car, mobile home, motor home and recreational vehicle sales/service.
12.       Planned unit development.
13.       Outdoor serving areas at restaurants, delicatessens, refreshment stand and other dispensaries of prepared food or beverages at retail. *(Amended by Ordinance No. 91 & 101 effective 12-1-1998 and 11-1-2000.)*

**ARTICLE 10  
M, LIGHT INDUSTRIAL DISTRICT**

**Section 10.01 Intent.**

The intent of this zoning district is to establish and preserve areas for light manufacturing, fabrication and assembly uses which are not likely to create noise, smoke, dust, fume, odor, vibration, gaseous emissions, wastewater discharges or other adverse impacts which would detract from the predominant residential and resort environment of the Township.

**Section 10.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Manufacturing, fabrication, processing, finishing, assembling, packaging and shipment from previously prepared or manufactured raw materials or components of cosmetics, pharmaceutical products, pottery or other ceramic products, textile products, metal products, plastic products, molded rubber products, apparel goods, furniture and fixtures, electronic and electric components and products and precision instruments.
2. Retail sales of products manufactured on the premises, and related products, as an ancillary use to a permitted manufacturing use.
3. Storage warehouses and product distribution facilities, not selling retail on the premises.
4. Research and testing facilities.
5. Tool, die, gauge and machine shops, excluding stamping operations.
6. Administrative and corporate offices.
7. Trade or industrial schools.
8. Public utility buildings, electrical substations, and natural gas regulator stations.
9. Water and sanitary sewer pumping stations.
10. Child Care Centers. *(Amended by Ordinance No. 101 effective 11-1-2000.)*

**Section 10.03 Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19.

1. Metal plating, buffing and polishing.
2. Trucking terminals and vehicle storage facilities.
3. Construction and building contractor's equipment and materials storage yards.
4. Electric power generating stations.
5. Antenna towers and masts for cellular phone and other low power mobile radio services.
6. Self-service storage facilities.
7. Planned unit development.

**ARTICLE 11  
AG, AGRICULTURAL DISTRICT**

**Section 11.01 Intent.**

This zoning district is intended primarily for agricultural use, and to maintain the rural character of the area in an open, partly natural state.

**Section 11.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Farms on parcels of 10 acres or greater.
2. Agricultural buildings and structures, including, but not limited to, barns, pole barns, and corn cribs.
3. Detached single-family dwellings.
4. Family day care homes.
5. Adult foster care family homes.
6. Foster family homes.
7. Foster family group homes.
8. Type I home occupations, in conformity with Article 17.
9. Forest preserves, conservation areas and game sanctuaries.
10. Public utility buildings, electrical substations and natural gas regulator stations.
11. Water and sanitary sewer pumping stations.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 11.03 Permitted Accessory Structures/Uses.**

These include, but are not necessarily limited to, the following:

1. Private garage and/or parking space.
2. Garden, tool, play, boat, pool and pump houses.
3. Swimming pools in conformity with Article 15.
4. Fresh fruit and vegetable stands for sale of farm commodities produced on the premises.

**Section 11.04 Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19:

1. Type II home occupations, in conformity with Article 17.
2. Group day care homes.
3. Adult foster care small group homes.
4. Bed and breakfast homes.
5. Riding stables and academies, public and private parks, athletic fields, community centers, athletic and recreation clubs, golf courses and driving ranges, boat liveries and similar recreational uses.
6. Raising of fur-bearing animals.
7. Veterinary office or clinic, and similar uses.
8. Small animal boarding or breeding kennels.
9. Airplane landing fields and appurtenances.
10. Houses of worship and related facilities, such as convents, parsonages and youth centers.
11. Cemeteries.
12. Public and private elementary and secondary schools.
13. Local government buildings.



14. Antenna towers and masts for cellular phone and other low power mobile radio services.
15. Planned unit development, in conformity with Article 20.
16. Child Care Centers.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**ARTICLE 12  
F, FLOODPLAIN DISTRICT**

**Section 12.01 Intent.**

The purpose of this zoning district is to regulate the use of land within flood hazard areas in order to protect against flood damage or destruction, prevent or minimize public and private economic losses caused by periodic flooding, and preserve the ability of floodplains to carry and discharge floodwaters.

**Section 12.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Gardening and horticulture.
2. Recreational uses not involving construction of buildings or structures, such as parks, play fields, athletic fields, golf courses, bridle trails and hiking/bicycling trails.
3. Off-street parking as a use accessory to a principal use located outside the 100-year floodplain on the same lot; provided, however, that no building, structure or equipment other than boundary monuments are permitted within the 100-year floodplain as an accessory use.
4. In lots partially within the 100-year floodplain, the area of such lot outside the 100-year floodplain may be used for uses permitted by the zoning district otherwise established for the lot, subject to the regulations of such zoning district; provided, however, that the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least 3 feet above the elevation of the nearest point of the 100-year floodplain designated on the zoning map.
5. In the area within the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located above the 100-year floodplain; provided, however, that no building or structure shall be located within the 100-year floodplain. In Agricultural zoning districts, land within the 100-year floodplain may also be used for agricultural purposes otherwise permitted by the regulations of the Agricultural zoning district.

**Section 12.03 Special Land Uses.**

The following special land uses may be permitted upon the issuance of a special land use permit which has been recommended by the Planning Commission and approved by the Township Board, subject, however, to the applicable general and specific standards in Article 19:

1. Within the 100-year floodplain, dumping or backfilling with any material in any manner is prohibited, unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved; and unless all applicable state regulations are complied with.
2. Within the 100-year floodplain, the construction or location of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause any significant obstruction to the flow or reduction in the storage capacity of the floodplain.

Approval of a special land use permit for any of the above shall only be granted upon submittal by the applicant of a finding by a registered engineer that the above requirements are satisfied.

**Section 12.04 Warning and Disclaimer of Liability.**

The degree of flood protection required by this Article is considered reasonable for regulatory purposes, and is based on scientific and engineering considerations. Larger floods than the magnitude on which these regulations are based can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the 100-year floodplain or uses permitted within such areas are or will be free from flooding or flood damages. This Article shall not create liability on the part of Chikaming Township, any official or employee thereof, or the Federal

Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

**ARTICLE 13  
RE, RECREATION DISTRICT**

**Section 13.01 Intent.**

This zoning district is intended to provide for the conservation of open space, wetlands and woodlands in the Township, in order to make them available for public and private enjoyment and scientific, educational and recreational uses.

**Section 13.02 Permitted Principal Uses.**

Land, buildings and other structures in this zoning district may only be used for the following purposes:

1. Farms, excluding intensive livestock operations, food processing, animal slaughtering and meat packing.
2. Horseback riding stables and bridle paths, ski areas, ice skating, tobogganing and similar winter sports facilities, golf courses, golf driving ranges, swimming beaches, boat liveries, picnic grounds.
3. State licensed summer camps for occupancy between May 30 and September 30, with only incidental and temporary occupancy at other times of the year.

**Section 13.03 Permitted Accessory Uses/Structures.**

These include, but are not necessarily limited to, the following:

1. A single-family dwelling, subject to compliance with standards of the R-1 zoning district, for the owner, operator, watchman or other staff members of the operation. *(Amended by Ordinance 114 effective 6-1-2004.)*
2. Food concessions in conjunction with and on the same premises as a permitted principal use, provided the food concession facility is at least 400 feet from all lot lines, and food concession services are primarily intended to serve the patrons of the principal use.

**Section 13.04 Special Land Uses.**

1. Privately-owned and township parks, preserves or campgrounds, with seasonal or year round use, in accordance with Article 19. *(Amended by Ordinance No. 114 effective 6-1-2004.)*
2. Privately-owned campgrounds offering ownership interests subject to the procedures, rules and regulations contained in Article 19 and Article 21 of this Ordinance. Structures shall be limited to park model recreational units ("camping cabins"), and defined under the American National Standards Institute (ANSI) Standard A119.5, and such structures shall be considered "temporary living quarters" for the purpose of Article 21 and permissible for the purposes of Article 14. *(Amended by Ordinance No. 114 effective 6-1-2004.)*

**ARTICLE 14**  
**SCHEDULE OF DISTRICT REGULATIONS**

**Section 14.01**            **District Regulations Adopted.**

- A.     Minimum required lot size, yards and lot frontage, maximum building height and minimum required floor area of dwelling units in the various zoning districts shall be as set forth in the following Sections.

**Section 14.02 - Schedule of District Regulations, Part 1  
YARD, HEIGHT, AND LOT SIZE REQUIREMENTS FOR PRINCIPAL AND ACCESSORY(a) USES**

ZONING DISTRICT	USE <i>*(Chart Amended by Ordinance No. 114 effective 6-1-2004)</i>	MINIMUM YARD SETBACK (in feet).(b)			MAXIMUM BUILDING HEIGHT		MINIMUM LOT SIZE		MAXIMUM LOT COVERAGE
		Front Yard	Side Yard	Rear Yard	Feet	Stories	Minimum Lot Area (Square Feet or Acres)	Minimum Lot Frontage (Feet)	
R-1	Single-family Residential	30	10	50(h)	30	2-1/2	20,000 sf	100	30%
R-2	Single-family Residential	40	10	50(h)	40	3	1.5 acres	150	20%
R-3	Single-family Residential	30	10	50(h)	30	2-1/2	20,000 sf	100	30%
	Two-family Residential	30	10	50(h)	30	2-1/2	20,000 sf	100	30%
	Multiple-family Residential(c)	30	10	50	36	3	12,000 sf, plus amount per dwelling unit, based on number of bedrooms per unit, as follows:  1 bedroom: 2,000 sf 2 bedroom: 2,700 sf 3 bedroom: 3,400 sf	100	40%
R-4	Residential Mobile Home Park	20(d)	10(d)	15(d)	--	*1	6,000 sf each home site	60 each home site	--
C	Commercial(c)	25	10(e)(f)	30(f)	40(g)	*3	12,000 sf	80	40%
M	Light Industrial(c)	25	10(e)(f)	30(f)	40(g)	2	1 acre	165	40%
AG	Agricultural	30	10	50	40(g)	2-1/2	10 acres, provided that one to three lots, each having a minimum size of 2 acres and a minimum frontage of 150 feet at the road may be split from a lot of record existing on or before November 11, 1981, so long as the remainder of the lot of record has a minimum size of 10 acres.	165	20%
RE	Recreational	--	--	--	-*20-	*1-1/2	--	--	10%

F	Flood Plain	--	--	--	--	--		--	--
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#### Footnotes to Section 14.02

The following footnotes pertain to the above Section 14.02, and are deemed to be part of the regulations contained therein:

- a See Article 15 regarding accessory building provisions.
- b See Article 15 regarding Lake Front Setbacks.
- c See Article 19 regarding Planned Unit Development.
- d See Article 8 regarding Residential Mobile Home Park District provisions.
- e Side yards requirements, except those adjacent to a residential zoning district boundary, may be waived by the Zoning Board of Appeals.
- f See Article 15 regarding landscape buffer requirements for Commercial and Industrial uses, when adjacent to a residential zoning district.
- g The height of a sign, building or storage facility shall not exceed 50 percent of the horizontal distance to the nearest residential zoning district boundary.
- h For dwellings served by municipal sewer, the minimum rear yard shall be 30 feet.



**Section 14.03 - Schedule of District Regulations, Part 2  
REQUIRED MINIMUM FLOOR AREA OF DWELLING UNITS**

TYPE OF DWELLING UNIT	BUILDING HEIGHT OR NUMBER OF BEDROOMS	MINIMUM FLOOR AREA OF FIRST STORY (Square Feet)	MINIMUM TOTAL FLOOR AREA (Square Feet)	MINIMUM ADDITIONAL FLOOR AREA FOR STORAGE AND/OR UTILITY SPACE (Square Feet)
Single-Family Dwelling	1 Story	840	840	100
	1 1/2 Stories	768	1,000	100
	2 Stories	728	1,456	100
Two-Family Dwelling	-	-	840	100
Multiple-Family Dwelling	Efficiency or Studio	-	600	100
	One-bedroom	-	750	100
	Two-or-more bedrooms	-	750, plus 100 for each bedroom over 2	200

**ARTICLE 15  
SUPPLEMENTARY DISTRICT REGULATIONS**

**Section 15.01            Visibility at Intersections.**

On any corner lot in any zoning district no fence, accessory structure, plant, shrub or similar object over 3 feet in height shall hereafter be placed, erected, planted or allowed to grow in the area bounded by the street lines of such corner lot and a line joining points along the street lines for a distance of 20 feet from the point of the intersection.

**Section 15.02            Fences and Walls.**

- A. In any required front yard, no fence or wall shall be permitted to exceed a height of 4 feet.
- B. Fences on all lots of record in all residential zoning districts and platted subdivisions which are within a required side or rear yard shall not exceed 6 feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house or the required minimum front yard, whichever is greater. Fences on lots of record in any R-1, R-2, R-3 or R-4 district shall not contain barbed wire or electric charge.

**Section 15.03            Location of Accessory Buildings.**

- A. Detached accessory structures in an R-1 Single Family Residential District shall be limited in size by the following:

Lot Area	Total Maximum Square Footage (footprint)	Maximum Number of Stories
Less than 15,000 square feet (NCR-1B and NCR-1C)	400 sq. ft.	1
15,000 to 19,999 sq. ft.	800 sq. ft.	1 ½
20,001 sq. ft. to 1 acre	1,000 sq. ft. (footprint)	1 ½
Over 1 acre to 2 acres	1,500 sq. ft. (footprint)	2
Over 2 acres	Not to exceed maximum lot coverage including principal	Not to exceed building height and number of stories in R-1

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

Exception: In-ground pools and tennis courts shall not be limited to the above chart, but included in maximum lot coverage limits.

All utilities shall be connected to the principal dwelling unit. There shall not be separate meters or connections to the accessory building.

An accessory building or structure shall not contain a dwelling unit. An accessory building or structure shall not contain a kitchen or area used or designated to be used, for the preparation of food.

- B. In all zoning districts except the AG and R-2 zoning districts, an accessory building or structure shall not be located in any portion of a front yard. In the AG and R-2 zoning districts, an accessory building may be located in the front yard, provided it is set back from the front line a minimum of 50 feet. All garages and other accessory buildings and structures attached, (as defined in Article 2), to the principal dwelling shall be considered a part of the dwelling in determining yard requirements.

- C. A detached accessory building or structure shall be located no closer than 10 feet from any side or rear lot line.  
Exception: Non-permanent storage sheds 120 sq. ft. or less may be located 5 feet from any side or rear lot line. *(Amended by Ordinance No. 114 effective 6-1-2004)*
- D. A detached accessory building or structure shall be located no closer than 10 feet to another accessory building or principal building.  
Exception: A portable hot tub less than 100 square feet can be located 3 feet from the principal dwelling. *(Amended by Ordinance No. 114 effective 6-1-2004)*
- E. No accessory building or structure shall be permitted on a lot on which there is not an existing principal building.

**Section 15.04 Standards for Video Reception Dishes and Antenna Masts.**

**A. Objective of Regulatory Standards**

The size and placement of antennas and dish devices used for the reception and transmission of video and other communications signals may have an adverse impact on the public health, safety and welfare, in one or more of the following respects:

- 1. placement of such devices in inappropriate locations on a lot may visually obstruct the view of drivers on adjacent roads.
- 2. placement of such devices may block or degrade the quality of significant scenic views which contribute greatly to private property value in the Township.
- 3. placement of a large number of such devices in locations highly visible from public roads and other public areas may create an excessive amount of visual clutter in the Township, and result in a degradation of the aesthetic quality of the visual environment in the community.

The regulations contained in this Section are intended to prevent such adverse impacts on the community, by placing reasonable limits on the placement of such devices.

**B. Standards for Installation.**

- 1. The following types of antenna devices may be installed on any portion of a lot, including mounting on the wall or roof of a building, provided they are located no less than 10 feet from a front lot line, and subject to issuance of a building permit, when required by the Building Code:
  - a. Video reception dishes, one meter or less in diameter or diagonal measure.
  - b. Roof- or mast-mounted antennas used for the reception of television broadcast signals.
  - c. Video reception dishes, greater than one meter but not more than two meters in diameter or diagonal measure, located in a Commercial (C) or Industrial (M) zoning district.
  - d. Transmission or transmission/reception dishes, one meter or less in diameter or diagonal measure, when located in a residential zoning district.
  - e. Transmission or transmission/reception dishes, two meters or less in diameter or diagonal measure, when located in a Commercial (C) or Industrial (M) zoning district.

2. The following types of antenna devices shall be subject to limitations on location and installation height, based on the device size and the zoning district designation of the property on which the device is located:
    - a. Video reception dishes or transmission dishes, greater than one meter in diameter or diagonal measure, when located in an AG, R-1, R-2 or R-3 zoning district shall be subject to the following standards:
      - (1) The dish device shall be located in the rear or side yard, or, if it is determined by the Zoning Administrator that there is no location in the rear yard that will allow adequate signal reception, the device may be installed in a side yard.
      - (2) The dish device shall be located a minimum of 10 feet from a side or rear lot line.
      - (3) The dish device shall have a maximum installed height above grade of 15 feet.
      - (4) No part of the dish device shall exhibit or display any name, message, symbol, graphic or writing, visible from adjoining property or a public right-of-way.
    - b. Video reception dishes or transmission dishes, greater than two meters in diameter or diagonal measure, when located in a C or M zoning district shall be subject to the following standards:
      - (1) The dish device shall be located in the rear or side yard, or, if it is determined by the Zoning Administrator that there is no location in the rear or side yard that will allow adequate signal reception, the device may be installed on the roof of a building, subject to conformance with building height limits for the zoning district in which the device is located.
      - (2) The dish device shall be located a minimum of 10 feet from a side or rear lot line.
      - (3) The dish device shall have a maximum installed height equal to the maximum building height for the zoning district in which the device is located.
      - (4) No part of the dish device shall exhibit or display any name, message, symbol, graphic or writing, visible from adjoining property or a public right-of-way.
  3. All dish devices and antennas shall be installed in conformance with manufacturer's installation recommendations, requirements and instructions.
- C. No antenna having a mast height greater than 12 feet or a dish antenna having a diameter or diagonal measure greater than 1 meter shall be installed, unless a building permit authorizing such installation in conformance with the Building Code has been issued by the Building Official.

**Section 15.05                    One Dwelling Structure Upon a Lot of Record.**

Every single-family and two-family dwelling and every multiple-dwelling complex shall be located upon a lot of record, as defined in Article 2. No more than one such structure shall be erected upon a lot of record, with the exception of seasonal resort homes, as defined in Article 2, located in the Commercial (C) district.

**Section 15.06                    Permitted Yard Encroachments.**

Architectural features such as cornices, eaves, gutters, chimneys, pilasters and the like may extend into a required yard a maximum of 3 feet. In areas designated NCR-1, the maximum is 2 feet, as provided in Section 4.06.D.3. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 15.07                    Exceptions to Height Regulations.**

The building height limitations contained in Article 14 do not apply to spires, belfries, cupolas, receiving antennas, water tanks, silos, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy. In areas designated NCR-1, this height exception shall only apply to ventilators, chimneys, and antennas, as provided in Section 4.06.D.4. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 15.08                    Public Street Access; Private Road Standards; Private Road Construction Permits.**

- A. Every building hereafter erected or moved and any principal use of land shall be located on a lot which has lot frontage, as defined in Article 2, on a public street right-of-way or private road right-of-way, in accordance with the requirements for minimum lot frontage contained in Article 14. All structures shall be so located on the lot as to provide safe and convenient access for servicing, fire protection and required off-street parking. *(Amended by Ordinance No. 114 effective 6-1-2004.)*
- B. A privately-owned and maintained road or way of passage for motor vehicles which provides vehicular access to more than two (2) dwelling units or places of business and upon which persons other than the owners or occupants thereof may also travel, hereinafter referred to as a "private road," shall be constructed in conformity with the following standards:
  - 1. All private roads shall be constructed in conformity with the "Standard Detail for Private Roads," which is attached to and made a part of this Ordinance, and which is on file in the office of the Zoning Administrator.
  - 2. The grade of any private road shall not exceed 8 percent.
  - 3. All private roads shall have a minimum easement width of 66 feet.
  - 4. Dead end private roads shall be provided with a turnaround having a minimum outside radius of 67 feet for the private road easement, and 50 feet for the improved road surface.
  - 5. Private road intersections with public roads shall be constructed in conformity with requirements of the Berrien County Road Commission.
  - 6. All private road easements shall provide for and permit the installation of public and private utilities. Easements to the public for purposes of emergency services access and provision of other public services shall be provided.
  - 7. All private roads shall be given a street name that is not the same or similar to any other public or private street name in the Township. No private road shall be named "Road" or "Street." A street sign bearing the name of the private road, and meeting design and

location standards of the Berrien County Road Commission, shall be erected and maintained at all intersections. Other traffic control signs shall be erected when deemed necessary by the Township Engineer.

8. All lots deriving access from the private road shall be subject to the provisions of a recorded maintenance agreement which provides for the perpetual maintenance of the private road to a necessary and reasonable standard, and for the payment of the costs thereof by the owners of the lots which derive access from the road.
- C. No private road shall be established or constructed unless a permit authorizing such construction has been issued by the Zoning Administrator, in conformity with the following procedures:
1. Application for a private road construction permit shall be made by submission of the following to the Zoning Administrator:
    - (a) A completed application form, supplied by the Township, containing the names and addresses of the owners and any other parties having any legal interest in the private road or the property across which the road is to be constructed.
    - (b) identification by property code number of all properties having any legal interest in the private road.
    - (c) a copy of the legal instrument which establishes the access rights across any parcels encumbered by the private road access.
    - (d) a map, drawn to scale, prepared by a registered engineer or surveyor, showing the precise location, route, dimension and design of the private road. The map shall identify existing and proposed elevation contours within all areas to be disturbed or altered by the construction of the private road.
    - (e) the location of all public or private utilities to be located within the private road right-of-way or easement, or within 20 feet thereof, including but not limited to water, sewer, telephone, gas, electricity and television cable.
    - (f) the location of any lakes, streams, drainageways, or State-regulated wetlands, as determined by the Michigan Department of Environmental Quality, within the proposed private road right-of-way or easement or within 100 feet thereof.
    - (g) a copy of a recorded maintenance agreement or restrictive covenant which provides for the continued maintenance and repair, and the financing thereof by the parties in interest, of the private road, which complies with the requirements of this Section.
    - (h) an application fee, to be established by resolution of the Township Board.
  2. Upon receipt of an application for a private road construction permit, the Zoning Administrator shall review the application and proposed plans for conformance with the standards contained in this section. If the plans comply with the standards contained in Paragraph B, above, the Zoning Administrator shall issue the private road construction permit. If the plans for the private road do not conform with the requirements of Paragraph B, above, the Zoning Administrator shall deny the issuance of the permit, and indicate in writing on the application form the reasons for denial.
- D. No building permit shall be issued for the construction of a dwelling unit or other principal building on a lot to which access is provided solely by a private road, unless all of the following conditions are met:

1. a permit for the construction of the private road has been issued by the Zoning Administrator.

2. the design and construction of the private road complies with all applicable provisions of this Section.
3. the private road has either been completed to the satisfaction of the Zoning Administrator, or a financial guarantee in an amount equal to the cost of the construction and in a form acceptable to the Zoning Administrator has been provided, to insure the completion of the private road in conformity with the approved permit and plans within one (1) year from the date of issuance of the building permit.

The provisions of this Paragraph D shall not be applicable to any lot to which access is provided by a private road which meets the following conditions:

1. the private road was established by means of a legal instrument recorded in the office of the Berrien County Register of Deeds, on or before the effective date of this Ordinance.
2. the private road was improved, on the effective date of this Ordinance, to a physical condition which provides adequate, safe access to the lot by conventional motor vehicles and emergency services vehicles.

**Section 15.09 Standards for All Single-Family Dwellings Located Outside Mobile Home Parks.**

A single-family dwelling, whether constructed and erected on a lot or a manufactured home, shall be permitted on a lot or parcel located outside a licensed mobile home park only if it complies with all of the following requirements:

1. It complies with the minimum square footage requirements of this Ordinance for the zone in which it is located.
2. It has a minimum width across each front, side or rear elevation of 20 feet and complies in all respects with the Township Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Township Building Code, then and in that event such Federal or State standard or regulation shall apply
3. It is firmly attached to a permanent foundation constructed on the site in conformity with the Township Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable Building Code for single family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's set-up instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
4. If the dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Berrien County Health Department.
6. The dwelling contains a storage capability area either in a basement located under the dwelling, in a utility storage area, in a garage or in a separate structure, provided the garage or separate structure is of standard construction, similar to or of better quality than the principal dwelling. The location and height of the storage capability area shall be in compliance with Article 14 and Article 15 of this Ordinance.



7. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
8. The dwelling has not less than two exterior doors with the second door being in either the rear or side of the dwelling and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
9. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by State or Federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
11. All construction required herein shall be commenced only after a building permit has been obtained in conformity with the applicable Township Building Code provisions and requirements.

**Section 15.10 Keeping of Animals and Poultry.**

- A. The keeping of customary domestic household pets such as cats, dogs, fish and birds is expressly permitted in any zoning district; provided, however, that no more than four (4) dogs or cats, four (4) months of age or older, may be kept in the R-1, R-3 or R-4 Districts.
- B. Small animal boarding and breeding kennels, as defined in Article 2, are permitted only in the AG District, by approval of a special use permit, pursuant to the provisions of Article 19.
- C. The keeping or breeding of animals other than customary, domestic, household pets, including, but not limited to horses, cattle, sheep, swine and poultry shall be a permitted principal use only in the Agricultural, AG zoning district on parcels of land ten (10) acres or more in size. In addition, private stables may be permitted in the Residential Rural Estate (R-2) District by special land use permit, as provided in Article 19.
- D. The keeping of other animals in zoning districts not mentioned herein may in a proper case be granted by the Township Board, but only by renewable special land use permit for a period of one (1) year on parcels of property of two (2) acres, or more, in area. The issuance or renewing of the special land use permit shall be conditioned upon such use being at all times kept a reasonable distance from adjoining residential dwellings in close proximity, upon the maintenance of good sanitary measures so as to avoid the creation of stench, a refuge for rodents, the breeding of flies or a hazard to public health and upon demonstration of proper and humane care of the animals involved.

**Section 15.11 Litter, Rubbish, Junk Storage and Disposal.**

- A. No unwholesome substance shall be deposited, dumped or accumulated by any person on any place or premises, private or public, situated in the Township, unless such place or premises is a landfill or salvage yard fully licensed as required by law or unless the unwholesome substance is completely shielded from public view and view from adjoining properties by being housed within a building or structure or by being enclosed by a fence provided, however, that any such fence shall be erected and maintained in compliance with this Ordinance and any other applicable Township Ordinance.

- B. As used in this Section only, those terms which appear below are defined as follows:
1. The term "building material" shall be defined as all items used or useful in the construction of a building or structure including, but not limited to, lumber, bricks, concrete blocks, cinder blocks, plumbing materials, electrical wiring and equipment, heating ducts and equipment, shingles, mortar, concrete, cement, sand and gravel.
  2. The term "inoperable vehicle" shall be defined to mean any vehicle which lacks any or all of the necessary component parts to make it operative and serviceable and/or which is not currently licensed, to the extent required, for use upon the highways of the State of Michigan.
  3. The term "junk" shall be defined to mean parts of machinery, vehicles or boats, used stoves or other appliances, plumbing fixtures, furniture stored in the open, iron, steel and other ferrous or nonferrous materials, batteries, remnants of wood, and, in general, any other cast-off material of any kind, whether or not the same could be put to any reasonable use.
  4. The term "motor vehicle body" shall be defined to mean any motor vehicle (i) which is unable to be driven upon a highway under its own power and/or which lacks all of the necessary component parts to make it operative and serviceable as a motor vehicle or (ii) which is not currently licensed for use upon the highways of the State of Michigan.
  5. The term "trash" shall be defined to mean all of the following: (i) garbage, i.e. all organic refuse and rejected food waste; (ii) ashes, i.e. the residue left from burning of paper, leaves, weeds, wood and coal; (iii) kitchen rubbish, i.e. all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper, plastic, wood and metal objects; (iv) household rubbish, i.e. all types of household materials commonly discarded such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings; and (v) yard rubbish, i.e. all materials which grow on the property such as grass clippings, weeds, leaves, plants, garden trash, clippings from hedges and shrubs, branches, limbs, roots and stumps.
  6. The term "unwholesome substance" shall be defined to mean any trash, motor vehicle body, inoperable vehicle or boat, stone, junk, offal, refuse, rubbish, debris, animal wastes, filth, building material, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public. An exception shall be made where: (i) there is in force a valid building permit for construction on the property where the building materials are located and the building materials are to be used as part of that construction or (ii) the building materials are for sale as part of a commercial business.
- C. Notwithstanding the provisions of subsections A and B above, it shall be lawful to establish and maintain on the premises of a residential use facilities for the organic decomposition or composting of yard rubbish and vegetable food waste, provided the following conditions are met:
1. Accumulation of materials for composting shall not be permitted in a front or side yard.
  2. Only materials generated or originating from the premises on which the composting is conducted shall be permitted.
  3. The volume of material accumulated for composting on a single premises shall not exceed five (5) cubic yards.
  4. Materials to be composted shall not be located within 5 feet of a side or rear lot line, or within 50 feet of any dwelling.

5. No products of animal origin, including meat, fat, grease or bones, shall be included in any material to be composted.
6. Materials accumulated for composting shall be treated and handled in a manner to prevent the creation of noxious or offensive odors beyond the premises, or the harboring of rodents or other animal pests.

**Section 15.12 Swimming Pools.**

- A. It shall be unlawful for any person(s) to install, place or construct a swimming pool upon any lot or parcel of land in Chikaming Township except in conformity with the applicable provisions of the Michigan Construction Code Act, Act 230, P.A. 1972, as amended, and rules and regulations promulgated thereto, as well as the Township Building Code.
- B. The location of a swimming pool on any lot or parcel of land must comply with the yard requirements for accessory structures as provided in Article 15.

**Section 15.13 Temporary Buildings and Structures.**

- A. Temporary buildings and structures may be placed on a lot only under the following conditions:
  1. A temporary building or structure, including a trailer or mobile home unit, may be placed on a lot for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, during construction or renovation of a principal building on the same lot, with the exception of single-family and two-family dwelling construction. The temporary building or structure shall be removed upon completion of construction, but in no case shall it be located on the lot for more than one hundred and eighty (180) days in total. In no case shall the temporary building or structure be occupied as a dwelling unit.
  2. A temporary building or structure may be authorized by the Planning Commission and Township Board, in conjunction with a temporary open air market sales event authorized pursuant to Article 19.
  3. The Zoning Administrator may authorize temporary buildings and structures, including tents, for a period not to exceed seventy two (72) hours, for use in conjunction with special short-term outdoor events, in conformity with the following standards:
    - a. The temporary structure is located such that on and off-site traffic hazards are minimized.
    - b. The structure is located no closer than 25 feet of any adjoining property or a public or private street right-of-way.
    - c. The structure shall be removed within 72 hours of its installation.
    - d. The structure is to be used for a special event which is sponsored by the Township or other public agency, or is sponsored by an existing business located on or adjacent to the lot on which the structure is to be placed, and the merchandise, goods or services displayed in the structure are of the type otherwise offered by the existing business.
    - e. The requirements of all applicable safety, health and fire codes are satisfied.

4. Other temporary structures not permitted above or by other provisions of this Ordinance may be permitted by the Zoning Board of Appeals, upon application, and upon the Board making the following findings:
  - a. The temporary structure is adequately served by a sufficient potable water supply and sanitation facilities.
  - b. The temporary structure will be so constructed and maintained that it will not be injurious to the use and enjoyment of property in the surrounding area, and will not endanger the safety, health and welfare of the public.

The Board may, in authorizing a temporary building or structure, limit the authorized duration of placement and use of the structure.

- B. A temporary building or structure shall not be installed or erected unless a building permit for its installation has been issued by the Zoning Administrator.
- C. There shall be no basement, cellar, garage, cabin, trailer, mobile home or other similar structure erected or occupied on a lot for living or sleeping purposes temporarily during the period of construction of a permanent residential structure.

#### **Section 15.14 Waterfront and Wetland Setback Regulations.**

##### **A. Purpose and Intent.**

It is the intent of this section to establish natural buffers along regulated wetlands and shorelines in Chikaming Township in order to prevent impairment and/or destruction of the natural features of the Township. These natural features include but are not limited to Lake Michigan, inland lakes, rivers, streams, wetlands, floodplains, drains, dunes, steep slopes, farmland, woodlots, habitat areas, and the open lands that surround these amenities.

Experience has shown that in the absence of regulation, development will encroach on these features leading to impairment and/or destruction, which is contrary to the public health, safety, and welfare of the community. These areas contribute to plant and animal species diversity by providing habitat areas, they absorb floodwaters and protect surrounding lands from storm surges, they filter sediment and pollutants out of stormwater before entering the ground and surface water, and they are attractive areas for everyone to enjoy.

The requirements provided below are in compliance with Public Act 451 of 1994, as amended, the Natural Resources and Environmental Protection Act. Any development in these areas must also comply with the standards of this Act. If a greater setback or prohibition is required by the Natural Resources and Environmental Protection Act, another Act or standard of the State or County, or another part of this Ordinance, the greater setback or prohibition shall apply.

Documentation of compliance with this Act and the requirements of the Michigan Department of Environmental Quality (MDEQ) and similar State and County agencies shall be required, if applicable as determined by the Building Inspector, prior to the issuance of a building permit. Similarly, issuance of a building permit by the Township shall not be construed as establishing compliance with the provisions of the Natural Resources and Environmental Protection Act or the requirements of any State or County agency, and such action shall not create liability on the part of Chikaming Township, any official or employee thereof, or the MDEQ or other State or County agency for any damage to any structure that may result from locating near natural features.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**B. Definitions.**

1. Ordinary high water mark -- the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Where the water levels vary for purposes of water level management, the ordinary high water mark shall be the higher of the levels generally present. (Section 324.30101 of Public Act 451 of 1994, as amended.)
2. Shoreline -- that area along the waterfront where land and water meet, established at the ordinary high water mark along water courses and on water bodies.
3. Regulated wetland -- a wetland area that satisfies the size and location requirements to qualify as a wetland, according to the definition in Section 324.30301 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended.
4. Watercourse -- any waterway including a river, stream, channel, creek, ditch, canal, conduit, culvert, drain, gully, ravine, or wash, in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed and banks, and shall include any area on adjacent tracts subject to inundation by reason of overflow of floodwater.
5. Waterfront lot -- any lot, building site or parcel which abuts any body of water, including, but not limited to a lake, an inland lake, stream, river, or creek.
6. Wetland -- land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**C. Setback from shoreline or edge of a regulated wetland.**

All waterfront lots or lots containing regulated wetlands shall maintain a minimum setback for any permanent structure from the ordinary high water mark and/or delineated wetland boundary as follows, which may be in excess of the minimum requirements of this Ordinance. Any person proposing to erect, install, move, or enlarge a permanent structure on a waterfront lot or lot containing a regulated wetland is required to satisfy these minimum standards unless a greater setback is otherwise required elsewhere in this Ordinance:

1. Twenty-five (25) feet from the ordinary high water mark of an inland lake, river, stream, creek, or other watercourse.
2. Twenty-five (25) feet from the boundary or edge of a regulated wetland area, as delineated on a professionally prepared survey completed by a certified professional submitted to Township and reviewed by Township staff, MDEQ, and/or other professionals, as required.
3. Any other areas or setbacks as prescribed by MDEQ (as in Public Act 451 of 1994, as amended).

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**D. Additional setbacks.**

The following additional setback standards shall apply to the following specific uses or activities, as permitted in the underlying zoning district. Setbacks are measured from the ordinary high water mark or from the delineated boundary of the regulated wetland.

1. Storage of hazardous substances – one hundred and fifty (150) feet.
2. Above or below ground petroleum storage facilities – one hundred and fifty (150) feet.
3. Raised septic systems – two hundred and fifty (250) feet.
4. Solid waste landfills or junkyards – three hundred (300) feet.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**E. Natural vegetative strip.**

Within the required setback from a watercourse or regulated wetland, a natural vegetation strip shall be maintained in its natural vegetative state, except for the clearing of dead or invasive plants. This restriction will help maintain a root and vegetative barrier to keep soil particles and nutrients from entering the watercourses and wetlands, while also helping to minimize water runoff.

1. Within this strip, a space of no greater than ten (10) feet in width may be selectively trimmed and pruned to allow for the placement of walkways, and/or for a view of the waterbody, with the approval of the Zoning Administrator or Planning Commission. Any walkway constructed inside the strip shall be on the upland side and may be oriented perpendicular or parallel to the water line. A maximum of 20% of the total vegetative strip area may be cleared for this purpose. Because the intent of the native protective strip is water quality protection, porous materials such as wood chips or gravel shall be used for any trail construction.
2. The Zoning Administrator may allow limited clearing of the vegetation over and above this purpose only when required for construction of a permitted building or structure elsewhere on the site, provided that the land cleared is returned to a vegetative state, which is approximately the same quality and extent as that which existed prior to clearing.
3. Planting of native species in the required natural vegetative strip is encouraged, especially where exposed soils and steep slopes exist. A list of approved native species may be obtained from the Township. Invasive or destructive plant species (*e.g.*, Eurasian milfoil, English ivy) shall not be permitted.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**F. Permitted accessory uses and construction within required waterfront and wetland setback.**

1. Accessory structures less than 200 square feet in size shall be exempt from the requirements of this section of the Ordinance.

2. Accessory structures 200 square feet in size and greater shall be required to satisfy all of the setback requirements as set forth in this section of the Ordinance for other permanent structures.
3. Best management practices shall be employed so as to minimize disturbance of the natural terrain and vegetation during construction on waterfront lots. After construction, the lot, particularly within the wetland and waterfront setback area, should be restored to its prior conditions to the extent possible.
4. Accessory structures shall be subject to the policies and regulations of the MDEQ and other State and County agencies as well as the other requirements of this Ordinance.
5. A copy of the appropriate State or County permit, if necessary, must be on file in the Township office, prior to any construction that changes the shape of the shoreline or is located in a waterfront or wetland setback area, such as a dock, seawall, or pilings.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**G. More restrictive standards govern.**

Regulations imposed in areas identified as erosion control districts or flood hazard districts in this Zoning Ordinance shall govern if such restrictions or regulations impose a higher standard or requirement. Likewise, if other federal, state, county or local standards are more restrictive, the more restrictive regulation will govern.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 15.15 Location and Approval of Travel Trailer Campgrounds.**

- A. Location: Travel trailers are limited solely to recreation and vacation use and their occupancy as either a temporary or permanent dwelling shall not be permitted anywhere in Chikaming Township except for temporary occupancy in a state licensed travel trailer campground which now exists or hereafter may be created in Chikaming Township for recreation and vacation use within the RE, Recreational zoning district or AG, Agricultural zoning district.
- B. Approval: All travel trailer campgrounds having space for three (3) or more units must be licensed and operated under the provisions of Act 171, P.A. 1970, as amended. Such uses shall require the prior review of the Township Planning Commission and the issuance of a special land use permit in conformity with Article 19.
- C. The Planning Commission, in the first instance, shall review the location and proposed layout for any travel trailer campground and shall thereafter submit its recommendations and findings thereon to the Township Board for final approval in conformity with Articles 19 and 21.
- D. The Township Board, when in receipt of an application for a permit for a travel trailer campground together with the recommendations of the Planning Commission thereon, shall determine, among other things, that the proposed use, location and occupancy will be consistent and compatible with the public interest, health, safety and general welfare and in conformity with all rules, regulations and ordinances of Chikaming Township and statutes of the State of Michigan. The Township Board may, in their discretion, request the applicant to submit such other data, sketches and details relating to the operation, management and control of the proposed park as may be deemed necessary to consider whether or not such use in the proposed location would adversely affect public health, safety and welfare of inhabitants of Chikaming Township.

The Township Board may grant such use, subject to the provisions and conditions that may be deemed reasonably necessary to preserve the public health, safety and general welfare in conformity with Article 19.

- E. If the Township Board approves such use by special land use permit, the Building Official shall issue the building permit therefore, subject to conformance with any conditions imposed by the Township Board relating to the location, layout, operation, management and control of the use.
- F. All travel trailer campgrounds shall be serviced in conformance with Act 368 of 1978, as amended.

**Section 15.16                      Parking and Storage of Motor Vehicles, Recreational Vehicles, Commercial Vehicles and Mobile Homes Located Outside State Licensed Parks.**

- A. Motor vehicles and recreational vehicles of any kind or type without current registration plates or stickers shall not be parked, located or stored on any residentially zoned property or property used primarily for residential purposes other than in a completely enclosed building.
- B. No person shall occupy as a dwelling any recreational vehicle anywhere in Chikaming Township outside a state licensed travel trailer or recreational vehicle park. Emergency parking of a recreational vehicle in any street, alley, or highway will be permitted for a period not to exceed 24 hours, subject to any other regulations or ordinances for that street, alley or highway.
- C. No more than one unoccupied recreational vehicle shall be stored or parked on any one piece of property at any time, except in a state licensed recreational or travel trailer park, mobile home park or sales lot. Such an unoccupied recreational vehicle may be stored as follows:
  - (a) in a garage provided for same; or
  - (b) in the side or rear yard of a dwelling provided it is located not less than 10 feet from any other structure or side or rear property line.
- D. No mobile home or modular home may be stored or parked on any one piece of property at any time, except in a state licensed mobile home park. This section does not apply to a mobile home or manufactured home which has been placed on a lot of record in conformance with the provisions of Section 15.08.
- E. Nothing in this section shall be construed as permitting the owner or occupant of any parcel of land to store unoccupied recreational vehicles or mobile homes on his land where vehicles or homes are owned by other(s) than the owner or occupant of said land.
- F. In residential zones it shall be unlawful to garage or park more than one commercial vehicle larger than a regularly manufactured pickup or panel truck of one (1) ton capacity per lot; said commercial vehicle must be owned and operated by a member of the household residing on said lot or parcel.

**Section 15.17                      Outdoor Storage in M, Light Industrial Zoning District.**

Materials or equipment in the M - Light Industrial zoning district which are not contained within a completely enclosed building shall be enclosed by a substantial fence not less than 6 feet in height. Above-ground storage facilities for bulk oil, gasoline or chemicals shall be constructed in conformity with regulations of the State Fire Marshall, shall be entirely enclosed within a substantial fence not less than 6 feet in height, and shall be located a minimum of 500 feet distant from any R-1, R-2, R-3 or R-4 zoning district.

**Section 15.18                      Greenbelt Standards for Commercial or Industrial Use, Adjacent to Residential District.**



Where any Commercial (C) or Light Industrial (M) zoning district abuts a R-1, R-2, R-3 or R-4 zoning district, no building or activity shall be located within 50 feet from the residential zoning district boundary; provided that off-street parking of private passenger vehicles, excluding long-haul trailers or tractor-trailer combinations, may be located not closer than 25 feet thereto. Where the foregoing districts abut along a common lot line, a 25-foot wide landscaped greenbelt area shall be established and maintained on the Commercial or Light Industrial district property, immediately adjoining the common lot line. The greenbelt may be either existing naturally occurring trees, shrubs and other vegetation, or installed trees and shrubs which provide substantial visual screening of the Commercial or Industrial property from the abutting residential district. The greenbelt area shall be maintained in good condition so as to present a neat and orderly appearance, free of refuse and debris. All diseased or dead installed plant materials shall be replaced within 1 year, or the next appropriate planting period, whichever occurs first.

## ARTICLE 16 SIGN REGULATIONS

### **Section 16.01            Intent.**

The intent of this Article is to encourage the effective use of signs as a means of communication in the Township, to maintain the aesthetic environment, to promote the Township's ability to attract sources of economic development and growth, and to minimize the possible adverse effect of signs on nearby public and private property. The regulations contained in this Article are based on a determination that an excessive amount and improper placement of signs results in reduced ability of motorists to see and clearly interpret signs and to safely and efficiently maneuver to their desired destination, as well as degradation of the aesthetic environment of the Township, which is important to economic prosperity and property values in the Township. These regulations also are based on a recognition that businesses and other land uses in the Township require an amount of signage sufficient to provide awareness to passing motorists of the location and nature of the business.

### **Section 16.02            Definitions.**

**Billboard:** Any off-premises sign, as defined herein, which has an area greater than 10 square feet.

**Freestanding Sign:** Any on-site sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**Incidental Sign:** A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "loading only", "telephone" and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

**Off-Site Sign:** A sign advertising services or products, activities, persons or events that are not made, produced, assembled, stored, distributed, leased, sold or conducted on the premises upon which the sign is located.

**On-Site Sign:** A sign which advertises services, products, activities, persons or events made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the sign is located.

**Residential Sign:** Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of this Ordinance.

**Sign:** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**Signs, Number and Surface Area:** For the purpose of determining number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.

The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Framed and structural members not bearing advertising matter shall not be included in computation of surface area.

**Wall Sign:** A sign painted on, incorporated in or attached directly to the exterior wall of a building, with the exposed face of the sign in a plane parallel to the building wall, and projecting no more than twelve (12) inches from the wall face.

**Section 16.03            General Sign Standards.**

All signs placed upon any building, structure, lot or parcel shall comply with the following standards:

1. No sign shall project into or be placed within the right-of-way of a highway, public or private street, road, alley or utility easement nor be attached to or affixed to a utility pole or other similar device.
2. No sign shall be placed in a location which, in the judgment of the Zoning Administrator, would obstruct visibility of traffic by any motorist or otherwise constitute a traffic hazard.
3. There shall be no flashing or intermittent illumination on any sign, nor interference with clear driver vision along any highway, street or road or at any intersection of two or more streets. There shall be no moving signs or sign components other than elements of clocks or thermometers.
4. The color saturation and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
5. Light sources for externally-illuminated signs shall be arranged so that light is deflected away from adjoining properties and so that it does not cast glare onto a public right-of-way. All illuminated signs shall be placed so as to prevent their rays and illumination from being cast upon neighboring residences.
6. The area of a sign face shall be computed as the area of the smallest circle or rectangle that will encompass the extreme limits of the writing, representation, emblem or other display together with any material or color forming an integral part of the background of the display.
7. Every sign in the Township, including those signs for which permits are required or exempt signs for which no permits are required, shall be maintained in good structural condition at all times. All signs, including exempt signs, shall be kept neatly painted, including all metal parts and supports. The Township shall have the authority to order the painting, repair, alteration or removal of signs which become dilapidated or are abandoned, or which constitute a hazard to public safety.
8. In addition to complying with the requirements of this Article, the design and construction of all signs shall comply with the BOCA National Building Code, as adopted and amended by the Township.

**Section 16.04            Signs Permitted in Agricultural, Recreational and Residential Zoning Districts.**

The following signs are permitted in the AG, RE, R-1, R-2, R-3 and R-4 zoning districts, upon application for and issuance of a sign permit, in conformity with this Article:

1. One residential sign, as defined in this Article, per lot. A residential sign shall not exceed 6 square feet in area, and 5 feet in height above grade.
2. In subdivision plats and condominium developments, one free-standing sign is permitted advertising the sale of dwellings or lots. Said sign shall have an area of not more than 32 square feet and a height of not more than 8 feet above grade.

3. In subdivision plats, multiple family residential developments, mobile home parks and condominium developments, one free-standing identification sign is permitted, not exceeding 6 square feet and 5 feet in height above grade, for purposes of identifying the name of said plat or development.
4. One no-trespassing, safety or caution sign or security service sign not over 2 square feet in area shall be permitted for each 200 linear feet of perimeter lot line.
5. Non-residential uses permitted in the above zoning districts, including churches, hospitals, schools, recreational facilities, riding stables and campgrounds, are permitted one (1) wall sign and one (1) free-standing, ground-mounted sign, which together shall not exceed 40 square feet in area.

**Section 16.05 Signs Permitted in Commercial and Industrial Zoning Districts.**

The following signs are permitted in the C and M zoning districts, upon application for and issuance of a sign permit, in conformity with this Article:

1. Any sign permitted in residential zoning districts.
2. One or more on-site signs, subject to the following limitations:
  - a. The aggregate area of all signs on the lot shall not exceed one (1) square foot for each 10 square feet of building wall surface area facing the street frontage of the lot on which the building is located.
  - b. There shall be no more than one sign for each 200 feet of street frontage of the lot on which the sign is located.
  - c. Freestanding signs shall not exceed 80 square feet in area or 40 feet in height in the Commercial (C) zoning district, and 40 square feet in area or 12 feet in height in the Light Industrial (M) zoning district.
  - d. One sign per driveway entry is permitted, subject to the following conditions and limitations:
    - (1) Each such sign shall not exceed 6 square feet in area.
    - (2) The height of the signs shall not exceed 3 feet above grade.
    - (3) No words other than "enter" or "exit" shall be permitted on each sign.
3. One or more off-site signs, subject to the following limitations:
  - a. An off-site sign shall not exceed 10 square feet in area, nor have a height greater than 10 feet above grade. An off-site sign in excess of 10 square feet in area, except for one which identifies more than one business or premise on a single sign structure, in conformity with paragraph 3., below, constitutes a billboard and shall be subject to the regulations applicable to billboards contained in this Article.
  - b. No more than 3 off-site signs shall be permitted on one lot or group of contiguous lots in common ownership.
  - c. An off-site sign which identifies more than one business or premise on a single sign structure is permitted a total display area not exceeding 20 square feet per business or premise identified on the sign, or 120 square feet, whichever is less.

4. Billboards may be established in the Commercial (C) and Light Industrial (M) zoning districts, provided they meet the following standards and requirements:
  - a. No more than 3 billboards may be located per linear mile of highway, street or road, regardless of the fact that such billboards may be located on different sides of the subject highway, street or road. The linear measurement shall not be limited to the boundaries of Chikaming Township where the particular highway, street, or road extends beyond such boundaries.
  - b. No billboard shall be located within 1,000 feet of another billboard or within 1,000 feet of any freestanding sign whose height exceeds 15 feet and which abuts either side of the same street or highway.
  - c. No billboard shall be located within 200 feet of a residential zone and/or existing residence, church or school. If the billboard is illuminated, this required distance shall instead be 300 feet.
  - d. No billboard shall be located closer than 75 feet from a property line adjoining a public right of way or 10 feet from any interior boundary lines of the premises on which the billboard is located.
  - e. The total surface display area of double-faced billboard structures (that is, structures having back-to-back billboard faces) and V-type billboard structures (that is, structures having only one face visible to traffic proceeding from any given direction on a street or highway and an inside angle of the "V" not exceeding forty-five degrees (45°) shall not exceed 150 square feet on each side, for a billboard located adjacent to a federal interstate highway, and 128 square feet for a billboard adjacent to any other public road. Billboard structures with tandem (side-by-side) or stacked (one above the other) billboard faces are prohibited.
  - f. The height of billboards shall not exceed that of structures allowed in the zoning district where the billboard is erected.
  - g. No billboard shall be on top of, cantilevered over or otherwise suspended above the roof of any building.
  - h. A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is located so as to avoid glare or reflection onto any portion of any adjacent highway, street or road, the path of oncoming vehicles or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
  - i. A billboard shall be constructed so as to withstand all wind and vibration forces that can reasonably be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of the message.
5. Illuminated signs in non-residential zoning districts shall be located 100 feet or more from a residential zoning district.

**Section 16.06 Signs Exempt from Permit Requirements.**

The following signs are permitted in all zoning districts without a sign permit, provided all applicable requirements and standards as specified are met:

1. One (1) temporary sign per lot, not exceeding 6 square feet in area:
  - a. For yard sales, special functions, special event or garage sales by private parties for a period not to exceed 72 hours.
  - b. Signs for real estate open house events, for a period not to exceed 72 hours.
  - c. For agriculture purposes (such as "You-Pick" operations) for a period equal to the time the crop is in season.
  - d. Construction signs identifying the proposed use or future occupant of a building under construction and/or persons or firms involved in the design and construction of the building, not exceeding 32 square feet in area. Such sign shall be removed upon occupancy of the building.
  - e. Political signs, not exceeding 6 square feet in area, not located in a public place or public right-of-way. Such sign shall be removed within 5 business days following the political event to which it pertains.
2. Governmental signs:
  - a. Emergency and warning signs necessary for public safety or civil defense, erected by a governmental agency.
  - b. Traffic control signs and devices erected and maintained by an authorized public agency.
  - c. Legal notices, licenses, permits and other signs required to be displayed by law.
  - d. Flags and emblems of the United States and the State of Michigan.
3. Miscellaneous signs:
  - a. Address numbers not exceeding 8 inches in height.
  - b. Historical plaques erected and maintained by non-profit or governmental organizations, memorials, building cornerstones and erection date stones.
  - c. Signs attached to a building not exceeding an aggregate area of 1 square foot, identifying association membership, credit card acceptance, trading stamps given, and the like.
  - d. Display by a restaurant of a menu identical to those made available to patrons.
  - e. Signs located such that they are viewable exclusively from within the premises of the use and not visible otherwise.
  - f. Signs containing no commercial or advertising message, with letters not exceeding 6 inches in height, for identification of public telephones, service entrances, restrooms, litter receptacles and other incidental signs, as defined herein.

**Section 16.07 Sign Permit Procedures.**

- A. Any person or entity desiring to construct, reconstruct, replace, modify or alter a sign permitted by Sections 16.04 and 16.05 shall first obtain a permit authorizing the sign. Written application for a sign permit, on forms provided for such by the Township, shall be submitted to the Zoning Administrator, together with the following:
  - 1. A permit fee in an amount established from time to time by Resolution of the Township Board.
  - 2. Plans of the sign drawn to scale, accurately depicting its dimensions, height and location in relation to surrounding lot lines and public rights-of-way.
  - 3. Identification of means of illumination of the sign, if any.
- B. Where several signs are proposed for the same use, all such signs may be included in a single permit application.
- C. All applications shall be accompanied by the written consent of the record owner of the property upon which the sign is proposed to be located, or by other evidence that the applicant is entitled to erect and maintain the sign as proposed.
- D. An application for a sign permit shall be approved if the application, plans and other supporting information are in conformance with the provisions of this Article.

**Section 16.08 Nonconforming Signs.**

- A. All signs erected or constructed after the effective date of this Ordinance shall conform to the requirements set forth herein and any amendments hereof. Any sign or billboard erected or constructed after the effective date of this Ordinance that does not conform to the requirements of this Ordinance shall be deemed an unlawful structure and shall be subject to the provisions of Section 16.10 of this Ordinance.
- B. A sign in existence on the effective date of this Ordinance which was constructed in conformity with the ordinances and other applicable laws in effect on the date of its construction, but which, by reason of its size, height, location, design, or construction, is not in conformance with the requirements of this Ordinance, shall be a lawful nonconforming sign.
- C. After the enactment of this Ordinance, the Zoning Administrator shall, as soon as practicable, conduct an inventory and survey of the Township, to identify all lawful nonconforming signs. The inventory of nonconforming signs shall be kept on file in the office of the Township Clerk.
- D. A lawful nonconforming sign may be continued and shall be permitted to remain in place, provided that no action is taken which increases the degree or extent of the nonconformity. However, any nonconforming sign shall either be eliminated or made to conform with the requirements of this section when any proposed change, repair or maintenance would constitute an expense of more than 50 percent of the lesser of the original cost or replacement cost of the sign.

**Section 16.09 Procedure for Elimination of Unlawful or Unsafe Signs.**

- A. Signs which are unlawful or deemed to be unsafe by the Zoning Administrator shall be removed or made safe in conformity with the provisions of this Article.
- B. Notice; Contents; Hearing Officer; Filing Notice with officer; Service.
  - 1. When the whole or any part of a sign or sign structure is found to be in a dangerous or unsafe condition or not in compliance with this Ordinance, the Zoning Administrator shall issue a notice of noncompliance.

2. Such notice shall be directed to the owner, agent or lessee if registered with the Township Clerk for that purpose. If no owner, agent or lessee has been registered, then such notice shall be directed to each owner of or party in interest in the property on which the sign is located in whose name that certain real property appears on the last local tax assessment records.
3. The notice shall specify the time and place of a hearing on the noncompliance of the sign, at which time and place the person to whom the notice is directed shall have an opportunity to show cause why the sign should not be ordered to be demolished or otherwise made safe.
4. A hearing officer shall be appointed by the Township Supervisor to serve at the pleasure of said Supervisor. The Zoning Administrator shall file a copy of the notice of noncompliance with the hearing officer.
5. All notices shall be in writing and shall be served upon the person to whom they are directed personally, or in lieu of personal service may be mailed by certified mail, return receipt requested, addressed to such owner or party in interest at the address shown on the most recent Township tax records, at least 20 days before the date of hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing such notice, a copy thereof shall be posted upon a conspicuous part of the sign structure at least 20 days before said date of hearing.
6. The owner or party in interest in whose name the real property appears upon the most recent Township tax assessment records shall be notified of the cost of repair or demolition by first class mail at the address shown on such records. If such owner or party in interest fails to pay the same within 30 days after mailing by the assessor of notice of the amount thereof, the assessor shall add the same to the next tax roll of the Township and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by the Township.



**ARTICLE 17  
HOME OCCUPATIONS**

**Section 17.01 Intent.**

It is the intent of this article to permit, subject to reasonable controls and limitations, the use of residential premises for limited occupational purposes by the occupants thereof. These regulations are intended to allow the use of residential premises for work purposes, *e.g.*, home occupations, with a minimum regulatory burden, provided such use has negligible visual, environmental and traffic impacts on the surrounding area. It is also the intent of this Article to exercise a higher degree of regulatory control over those types of home occupations which are more likely to result in adverse impacts on the character of the surrounding residential area, and to allow such uses only by special land use permit. It is the intent of this section to allow for a home occupation to give instruction in a craft or fine art, provided such instruction satisfies the standards and conditions stated below. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 17.02 Standards for Type I Home Occupations; Use Permitted by Right.**

Home occupations which comply with all of the following standards shall be considered to be "Type I" home occupations, which are permitted by right in all residential zoning districts and the AG Agricultural zoning district:

1. The home occupation shall not employ any persons on the premises other than members of the household residing on the premises.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit, or 300 square feet, whichever is less, shall be used in the conduct of the home occupation.
3. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the home occupation. No sign identifying the home occupation shall be permitted.
4. No home occupation nor storage of goods, materials, equipment or products associated with the home occupation shall be permitted in any accessory buildings on the premises, regardless whether attached or detached from the principal residence.
5. Exterior storage and/or display of equipment, materials, goods, merchandise or supplies used in the conduct of the home occupation is prohibited.
6. The home occupation shall not involve the use or storage of commercial vehicles over 1 ton in capacity on the premises.
7. There shall be no vehicular traffic generated by the home occupation, other than occasional, incidental deliveries by parcel delivery services.
8. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
9. The sale or offering for sale on the premises of any article, goods or merchandise on the premises is prohibited.

**Section 17.03**

**Type II Home Occupations; Standards for Issuance of Special Land Use Permit.**

- A. Any home occupation having one or more of the following characteristics shall be considered a "Type II" home occupation, and shall be permitted only upon the issuance of a special land use permit, issued pursuant to Article 19:
1. The home occupation will employ persons on the premises other than members of the household residing on the premises.
  2. the home occupation is of a type in which customers or clients of the business are required to visit the residential premises.
  3. a business sign is proposed to be located on the premises.
  4. the home occupation involves the exterior storage of any materials, products, merchandise or products.
- B. In addition to complying with the standards for approval of a special land use contained in Article 19, no Type II home occupation shall be issued a special land use permit unless all of the following standards are met:
1. The Type II home occupation shall only be conducted on the premises of a detached single-family dwelling. Type II home occupations shall not be permitted within two-family or multiple-family dwellings.
  2. No more than two persons other than members of the household residing on the premises shall be engaged in the conduct of the home occupation on the premises.
  3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit, or 300 square feet, whichever is less, shall be used in the conduct of the home occupation.
  4. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of the Type II home occupation, other than signs as permitted in Article 16.
  5. Storage of goods, materials, equipment or products associated with the home occupation shall be permitted only within an enclosed accessory building, or in an outside area enclosed on all sides by a solid fence or wall, so as to be entirely screened from view from surrounding properties and the public road.
  6. Outdoor display of equipment, materials, goods, merchandise or supplies used in the conduct of the home occupation is prohibited.
  7. The home occupation shall not involve the use or storage of more than 1 commercial vehicle on the premises. Any vehicle over 1 ton capacity shall be parked or stored in an enclosed garage or accessory building.
  8. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard. The number of off-street parking spaces provided for the home occupation shall not exceed 2 spaces, exclusive of parking required for the residential use of the dwelling.

9. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
10. The sale or offering for sale on the premises of any article, goods or merchandise not produced on the premises is prohibited.

**Section 17.04 Home Occupations Using Hazardous Substances.**

Any home occupation which involves the use or production of hazardous materials shall register the particulars thereof with the Chikaming Township Fire Chief.

**ARTICLE 18  
OFF-STREET PARKING AND LOADING REGULATIONS**

**Section 18.01 Intent.**

In order to reduce or prevent vehicular congestion on the public streets, off-street parking and loading facilities shall be provided as required by this Article, in proportion to the need for those facilities created by various uses of land, buildings and structures. Off-street parking and loading areas shall be designed, maintained and operated so as to ensure their usefulness, help assure the public safety, and where appropriate, protect surrounding uses from their impact.

**Section 18.02 Existing Parking and Loading Facilities.**

Off-street parking and loading facilities which exist on the effective date of this Ordinance and which serve and are provided in connection with a building, structure or use shall not be reduced in number or dimensions to less than the minimum standards prescribed by this Article, nor shall those facilities be used to satisfy the standards of this Article for any other building, structure or use of land.

**Section 18.03 Applicability.**

Off-street parking facilities shall be provided for any new building, structure or use, for any addition or enlargement to an existing building, structure or use, or for any change in the use of an existing building or structure, according to the standards provided by this Article. If an existing building, structure or use is added to or enlarged, the amount of additional parking required shall be determined by reference only to the addition or enlargement itself and not to the previously existing building, structure or use. If an existing use is changed to a new use for which this Article requires a larger number of parking spaces than is required for the existing use, the number of additional parking spaces required for the new use shall be equal to the number of spaces by which the parking standard for the new use exceeds the parking required for the previous use.

**Section 18.04 Maintenance and Use of Facilities.**

- A. All off-street parking and loading facilities required by this Article shall be maintained free of accumulated snow, debris or other materials which prevent the full use and occupancy of those facilities by occupants and patrons of the use served by the facilities, except for temporary periods of short duration in the event of heavy snowfall.
- B. The parking, repair or storage in any off-street parking area of semi-trucks, trailers, recreation vehicles, mobile homes, machinery, wrecked or junked vehicles, merchandise or any material not specifically related to the business or activity being conducted on the premises shall be prohibited in all zoning districts.
- C. Off-street parking facilities shall not be used for repair, dismantling or servicing of any vehicles, machinery or equipment.

**Section 18.05 Procedure for Approval of Parking Area Construction.**

- A. No person shall construct a parking facility or cause any land to be used for a parking facility, with the exception of parking facilities serving a single-family or two-family dwelling, unless a site plan for the parking facility has been submitted and approved, pursuant to the provisions of this Article.
- B. If construction of an off-street parking facility is proposed as part of an overall development plan requiring approval under the provisions of this Ordinance, the application and approval procedures applicable to the development shall apply. Application for approval of construction or expansion of a parking area not in conjunction with development requiring approval shall be made by submittal to the Zoning Administrator of an application form, application fee and a site

plan for the parking facility at a scale where 1 inch equals no more than 20 feet. The plans shall include the following:

- 1) existing lot lines.
- 2) existing and proposed ground elevation contours at two-foot intervals.
- 3) location of buildings and other structures on the parcel.
- 4) location and dimensions of the proposed parking area, including location of access driveways.
- 5) parking stall, aisle and driveway dimensions.
- 6) location and size of all drainage facilities.
- 7) location, height, style and intensity of any exterior lighting proposed.
- 8) location of sidewalks which may be provided.
- 9) proposed landscaping in and adjacent to the parking area.
- 10) proposed base and surface materials of the parking area.
- 11) proposed signs associated with the parking area (See Article 16).

C. Review and approval of a site plan for construction of a parking area shall be carried out in conformity with the following procedure:

1. A site plan for the construction of 10 or fewer parking spaces shall be reviewed by the Zoning Administrator. The Zoning Administrator will either: (1) approve the site plan, if the plans for the parking facility conform with the requirements of this Article and other applicable provisions of this Ordinance, or (2) refer the site plan to the Planning Commission for review according to the provisions of Article 21 of this Ordinance.
2. A site plan for the construction of 11 or more parking spaces shall be subject to the review and approval of the Planning Commission, in conformity with the provisions of Article 21 of this Ordinance.

D. Construction of a parking facility for which a site plan has been approved shall comply with the plans as approved.

#### **Section 18.06 Parking Facility Design Standards.**

The design of any off-street parking facility constructed on or after the effective date of this Ordinance, with the exception of parking facilities serving public parks and recreation areas, farms, single- and two-family dwellings and non-public areas used primarily for private storage of vehicles, shall conform with the standards of this Section. In addition, these standards shall apply to any existing parking facility which is expanded in size by 20 percent or greater, based upon either number of parking spaces or square feet of parking area:

1. All parking facilities which provide 12 or more parking spaces shall be hard-surfaced with asphalt or concrete pavement and shall be graded and drained so as to dispose of surface water which might accumulate within or upon the parking area. Surface water from any parking area shall not be permitted to drain onto adjoining property, except a public right-of-way, unless a watershed easement has been obtained. The Planning Commission or the Township Board, in the course of approving a site plan or special land use permit, may permit a gravel surface, if it determines that the nature and character of the proposed use and its surroundings are such that a hard-surfaced parking area would be inappropriate.
2. All illumination for or on any parking area shall be deflected away from adjacent property. Light fixtures providing illumination of parking areas shall be of a "cutoff" style, directed vertically downward. The source of illumination in all parking areas abutting a residential zoning district or use shall not be more than 20 feet above the parking area surface.
3. Adequate ingress and egress to the parking area, by means of limited and clearly defined drives, shall be provided for all vehicles. One-way ingress or egress driveways shall have a width

between 12 feet and 15 feet, and two-way ingress and egress driveways shall have a width between 24 feet and 30 feet.

4. Wheel stops or raised curbing shall be provided and located so as to prevent any vehicle from projecting beyond the designated parking area.
5. Individual parking spaces shall be clearly identified and marked with durable striping.
6. Parking areas, with the exception of access driveways from public streets, shall be located entirely within lot lines and shall not encroach into any public right-of-way.
7. Off-street parking areas shall be designed so as to avoid the necessity of vehicles backing into any street.
8. Dimensions of parking spaces and maneuvering aisles shall comply with the following requirements:

PARKING PATTERN	MINIMUM AISLE WIDTH		MINIMUM SPACE WIDTH	MINIMUM SPACE LENGTH
	TWO-WAY	ONE-WAY		
Parallel Parking	24 ft.	12 ft.	9 ft.	23 ft.
45 degree angle	-----	12 ft.	9 ft.	18 ft.
60 degree angle	-----	15 ft.	9 ft.	18 ft.
90 degree angle	26 ft.	15 ft.	9 ft.	18 ft.

Minor adjustments of the dimensions prescribed in this section may be authorized by the Zoning Administrator, if consistent with generally recognized design standards for off-street parking facilities.

9. Landscaping of Off-Street Parking Areas: Any continuous off-street parking area containing 20 or more parking spaces shall comply with the following landscaping standards:
  - a. Landscaped area within the perimeter of the parking area shall be provided at a minimum rate of 1 square foot of landscaped area for each 25 square feet of paved area.
  - b. The minimum size of any landscaped area shall be 60 square feet in area, and 3 feet in width.
  - c. All landscaped areas shall be covered by turfgrass, shredded bark or a living ground cover. The use of washed rock is discouraged.
  - d. Deciduous trees shall be provided in landscaped areas at a minimum density of 1 tree per 300 square feet of landscaped area.
  - e. Trees shall be located so as not to be damaged by vehicles, so as not to obscure traffic signs, fire hydrants or lighting, and so as not to obscure vision of drivers or pedestrians.
  - f. All landscaped areas shall be protected by a raised standard or curb.
  - g. Landscaped areas shall be distributed throughout the parking area to visually divide and soften large expanses of impervious surface and to define access and circulation patterns.

10. Parking structures may be built to satisfy off-street parking regulations when located in other than residential zoning districts, subject to the area, height, bulk, and placement regulations of such zoning district in which located.

**Section 18.07 Location of Facilities.**

- A. All parking associated with a particular use shall be located in the same zoning district as that use.
- B. In the AG, R-1, R-2, and R-3 zoning districts, required off-street parking areas shall be located either on the same lot as the use served by the parking or on an adjoining lot under the same ownership or control as the lot on which the use is located.
- C. In the C and M zoning districts, required off-street parking areas shall be located within 300 feet of the building, structure or use served by the parking, measured as the shortest distance from any part of the building or structure to any part of the parking area.

**Section 18.08 Schedule of Off-Street Parking Requirements.**

- A. Each use shall provide at least the number of parking spaces required by Subsection B, below, subject to the following provisions:
  - 1. Where fractional requirements result from the application of this schedule, the nearest whole number shall be required.
  - 2. For any use not listed in this schedule, parking spaces shall be provided in a quantity sufficient to reasonably and adequately provide for the highest expected volume of users, as determined by the Planning Commission.
  - 3. If the required number of parking spaces is based on measurement of floor area, the measurement shall not include area used for parking within a building, incidental storage, mechanical, heating, ventilation system areas, and similar areas.
- B. A minimum number of parking spaces shall be provided for each use as follows:

<u>Use</u>	<u>Spaces</u>	<u>Per Each:</u>
<u>Residential:</u>		
Single- and two-family dwellings	2	Per dwelling unit.
Multiple-family dwellings	1.5	Per efficiency or 1-bedroom unit.
	2.2	Per 2-bedroom or greater size unit.
<u>Housing for the elderly:</u>		
Independent living units	1.5	Per unit.
Interim or intermediate care less, plus employment shift.	1 1	Per each room or 2 beds, whichever is per employee during the peak

Convalescent, nursing homes	1	Per 3 beds or 2 rooms, whichever is less, plus
	1	per employee during the peak employment shift.

Institutional:

Places of worship, theaters, auditoriums, assembly areas and gymnasiums	1	Per 3 seats or 6 feet of seating length.
Group day care homes and foster care group homes	1 1	Per 4 clients, plus per each employee.
Hospitals	1 1 1	Per each 2 beds, plus per staff doctor, plus per other employee.
Libraries, museums, governmental administration buildings	1	Per 200 square feet of floor area.
Schools, elementary and middle	1.5	Per classroom, plus amount required for auditorium or gymnasium seating (See above).
Schools, secondary	1 1.5	Per 4 students, plus per classroom, plus amount required for auditorium or gymnasium seating (See above).

Commercial:

Appliance/furniture/carpet sales	1	Per 500 square feet of floor area.
Automobile sales and service garages, without sales of convenience goods	2 1	Per service bay, plus per 500 square feet of floor area devoted to sales of automotive goods.
Banks and other financial institutions	1	Per 300 square feet of floor area.
Barber and beauty shops	3	Per each chair or booth.
Bowling alleys	6	Per lane.
Car wash	2	Per employee at peak shift, plus 2 spaces.
Convenience store, with or without gasoline sales	1	Per 200 square feet of floor area, excluding spaces at gas pump islands.



Dance halls, assembly areas, exhibition halls without fixed seating	1	Per 100 square feet of floor area.
Eating and drinking establishments, sit-down type	1	Per 100 square feet of floor area.
Eating and drinking establishments, fast-food or drive-in type	1	Per 75 square feet of floor area.
Funeral homes or mortuaries	1	Per 25 square feet of parlor or chapel area, plus per service vehicle.
	1	
Hotels, motels, bed and breakfast homes	1	Per guest room, plus amount required for other uses on the premises, plus per employee.
	1	
Indoor commercial recreational establishments	1	Per 3 persons allowed within maximum occupancy permitted by building code.
Laundry, self serve	1	Per dryer unit.
Medical offices and clinics, including veterinarians	6	Per physician or veterinarian, plus per employee.
	1	
Office, except medical	1	Per 300 square feet of floor area.
Personal and business services, including dry cleaning, household equipment repair and rental shops, clothing and shoe repair, fitness studios, photocopying and quick printing services, photographic studios, employment agencies, data processing service	1	Per 500 square feet of floor area.
Retail sales, not otherwise specified herein	1	Per 200 square feet of floor area.
<u>Industrial:</u>		
Manufacturing uses	1	Per 1,000 sq. ft. of gross manufacturing area, plus amount required for office space on the premises.
Warehouses, storage buildings, wholesale establishments, lumber and supply yards	1	Per 1,000 sq. ft. of floor area.

**Section 18.09 Stacking Space Requirements.**

A. Uses which include drive-through service windows or bays shall provide area for vehicles waiting for service, according to the following schedule:

Auto repair station, such as oil change, lubrication, etc.	1 space per service bay.
Financial institutions	4 spaces per service window.
Restaurants.	10 spaces per service window.
Automatic car wash.	10 spaces per wash bay.
Self-service car wash.	2 spaces per wash bay.

B. Waiting spaces for vehicles shall have minimum dimensions of 9 feet in width and 23 feet in length. Stacking area for vehicles shall not conflict or block access to the site or to parking spaces on the site.

**Section 18.10 Parking for Mixed Use Facilities.**

For mixed uses in the same building or on the same parcel, or if a single parking facility serves more than one use, the amount of parking specified for each use individually shall be provided, unless evidence is submitted that the aggregate minimum is unreasonably high, as a result of differing periods of peak parking demand for each use or other factors resulting from the joint use of parking, in which case the Planning Commission may approve a reduced aggregate amount.

**Section 18.11 Required Off-Street Loading/Unloading Spaces.**

A. For every building or addition to a building to be used for manufacturing, storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or similar use involving the receipt or distribution of materials or merchandise in vehicles, there shall be provided and maintained on the same lot with the building or addition off-street loading spaces and related maneuvering space for ingress and egress of delivery vehicles, as follows:

<u>Building floor area:</u>	<u>Required loading spaces:</u>
Less than 20,000 square feet:	1 space.
20,000 to 49,999 square feet:	2 spaces.
50,000 square feet or more	2 spaces, plus 1 space for each additional 50,000 square feet or fraction thereof over 50,000 square feet.

B. Off-street loading/unloading spaces shall have minimum dimensions of 10 feet in width, 25 feet in length and an unobstructed height of 14 feet.

C. Any loading space located closer than 50 feet to a residential zoning district or use shall be completely screened from the residential zoning district or use by a solid fence or wall at least 6 feet in height or a landscape screen consisting of a dense, evergreen vegetative buffer not less than 6 feet in height at time of planting.

D. Adequate space shall be provided so that vehicles using required loading/unloading spaces do not interfere with use of a public road, or use a public street for maneuvering of the vehicle to the loading space.

- E. No person shall construct an off-street loading area or cause any land to be used for an off-street loading area, unless a certificate of zoning compliance for the loading facility has been issued by the Zoning Administrator. Application for a certificate of zoning compliance shall be made in the manner provided in this Article for approval of construction of a parking area, including review and approval of a site plan.

**ARTICLE 19  
SPECIAL LAND USES**

**Section 19.01            Intent.**

- A.     In order to make this Ordinance sufficiently flexible to deal with a wide variety of conditions and circumstances, while still giving full consideration to preservation of property values, promotion of orderly and compatible development, and protection of public health, safety and welfare, the Township Board is empowered to approve, following procedures specified herein, certain special land uses that are in addition to the permitted principal uses of the zoning districts.
  
- B.     Special land uses are those uses of land, other than the permitted principal uses in a zoning district, which may be allowed, but which possess characteristics or locational qualities which require individual review and restriction in order to assure that they are (1) harmonious with the existing or intended character of the neighborhood, (2) in keeping with the character and adaptability of the natural environment of the site, (3) not hazardous to neighboring property, and (4) adequately served by essential public services.
  
- C.     The intent of this Article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The standards for approval and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.

**Section 19.02            Application Procedures.**

An application for permission to establish a special land use shall be submitted and acted upon in conformity with the following procedures:

- 1.     Applicant. Any person owning or having an interest in the subject property may file an application for one or more special land use permits provided for in this Ordinance in the zoning district in which the land is situated.
  
- 2.     Application. Applications for special land use permits shall be submitted to the Zoning Administrator. Each application shall be accompanied by the payment of a fee in conformity with the schedule of fees adopted by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
  
- 3.     Required Information. Three (3) copies of the following shall be presented to the Zoning Administrator:
  - a.     A special land use permit application form supplied by the Zoning Administrator which has been completed in full by the applicant.
  
  - b.     A site plan in conformance with Article 21 of this Ordinance.
  
  - c.     A written statement and other evidence or proof by the applicant of present and future compliance with the standards for approval contained in this Article and other standards imposed by this Ordinance affecting the special land use under consideration.
  
  - d.     Where appropriate, a written statement or plan setting forth how the applicant intends to operate the special land use and how it is to be maintained so as to be a credit to the community.
  
- 4.     Incomplete Application. If the Zoning Administrator is unsure whether an application is complete, he/she may submit the application for review for completeness to the

Township Engineer or Attorney. The review for completeness of the application shall be concluded within 30 days of receipt of the application by the Zoning Administrator. An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees have been paid in full.

5. Copy of Application to Township. The Zoning Administrator shall forward a copy of the application for the special land use permit to the Planning Commission within 7 days after determining the application is complete. The Planning Commission shall review the application for completeness at its next regular meeting and, if it is deemed complete, set a public hearing as provided below. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
6. Hearing. After a preliminary review of the site plan and special land use permit application, the Planning Commission shall hold a public hearing on the request.
  - a. If the application is complete, the administrator shall send a notice of the public hearing not less than 15 days before date that the application will be considered to the following persons:
    - (1) The applicant.
    - (2) The owner of the property, if different.
    - (3) The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the Chikaming Township or not.
    - (4) The occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the Chikaming Township or not.
    - (5) The general public by publication in a newspaper which circulates in Chikaming Township.
    - (6) The members of the Planning Commission.
  - b. The notice shall include:
    - (1) The nature of the Special Use Permit being requested.
    - (2) The property(ies) for which the request has been made.
    - (3) A listing of all existing street addresses within the property(ies) which is(are) subject of the special use. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
    - (4) The location where the application documents can be viewed and copied prior to the date the application will be considered.
    - (5) The date, time and location of when the hearing on application will take place.

- (6) The address at which written comments should be directed prior to the consideration.
- (7) For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- 7. Review. A site plan and special land use permit application shall be reviewed by the Planning Commission in accord with the procedures and standards specified in Section 19.03. If a submitted application and site plan do not meet the requirements of the Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with this Ordinance, such changes shall be allowed and shall become an integral part of the special land use permit request. The Planning Commission shall hold the public hearing and complete its review in a reasonable time after they receive the required application materials. After their review, the Planning Commission shall make a recommendation on the special land use permit to the Township Board as to the final decision. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- 8. Decision. The Chikaming Township Board shall approve, approve with conditions or disapprove the special land use permit request. A special land use permit request may not be disapproved if it complies in all respects with the requirements of this Ordinance and with other applicable county, state or federal laws, rules and regulations.
  - a. Approval and issuance of a special land use permit shall signify prior approval of the application and site plan therefore, including any modification and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved and recommended to the Township Board by the Planning Commission, and any statements of conditions and modifications shall become part of the special land use permit and shall be enforceable as such.
  - b. The record of the decision to approve or deny a request for a special land use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of findings and conclusions which specify:
    - (1) The basis for the decision;
    - (2) Any changes to the original application and site plan necessary to insure compliance with the Ordinance; and
    - (3) Any conditions imposed with approval.
- 9. Issuance of a Special Land Use Permit. Upon approval by the Township Board, the Township Clerk shall issue a special land use permit to the applicant.
  - a. Once a special land use permit is issued, all site development and use of land on the property affected shall be consistent with the special land use permit, unless a change conforming to Ordinance requirements receives the mutual agreement of the landowner and the Township Board and is documented as such.
  - b. The Zoning Administrator shall monitor compliance with the terms, conditions and restrictions of any special land use permit and take any enforcement action necessary in the event of a violation of the special land use permit.

**Section 19.03**

**Requirements for Approval of Special Land Use Permit.**

- A. Prior to approval of a special land use permit application (including the required site plan) the Township Board shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, are satisfied.
- B. General Standards. The Planning Commission shall review the particular circumstances of the proposed special land use in terms of the following general standards. A recommendation by the Planning Commission for approval of the request requires compliance with each of the following standards. The special land use shall:
1. Be consistent with the goals, objectives and policies of the Chikaming Township Master Land Use Plan.
  2. Be accompanied by a site plan which conforms with all applicable standards of this Ordinance.
  3. Be listed as a special land use in the zoning district in which the parcel is situated, or be of the same nature or character as a listed use, having no greater degree of adverse impact on the surrounding area than the similar listed use.
  4. Be planned to be harmonious with the existing or intended character of the neighborhood, thus not inappropriately changing that neighborhood or interfering with the general enjoyment, use or development of adjacent property.
  5. Be compatible with the character and adaptability of the natural environment of the site, and so designed and constructed as not to damage neighboring property by negative effects such as water runoff, deposition of sediment or pollution.
  6. Not involve uses, activities, processes, materials and equipment, or conditions of operation that would be hazardous to neighboring property or detrimental to the health, safety, or welfare of persons or property through excessive production of traffic, noise, smoke, odor, fumes, glare, or other public nuisance.
  7. Be adequately served by essential public facilities and services such as, but not limited to, roads, police and fire protection, drainage structures, municipal water and sewer (where appropriate) and schools, or it shall be demonstrated that the applicant shall be able to provide continually and adequately for such essential public facilities and services.
  8. Where appropriate, provide assurance that the use shall be designed, constructed, operated and maintained so as to meet the standards of this Ordinance, and any conditions imposed for approval (see Paragraph C below).
- C. Conditions of Approval.
1. The Township Board may impose reasonable conditions with the approval of a special land use permit, to ensure compliance with the general standards stated above and other applicable Township ordinances relating to the health, safety and welfare of the community. These conditions, however, must lie within the authorized police power of the Township.
  2. The conditions made as a part of the approval of the special land use permit and site plan shall be considered an integral part of the special land use permit and shall run with the land.

3. The conditions imposed with respect to approval of the special land use permit and site plan, together with the reasons therefor, shall be made a part of the approval record. These conditions shall remain unchanged unless an amendment to the special land use permit is approved by the Township Board (see Section 19.06 below).
4. The conditions, and any amendments thereto, shall be enforced by the Zoning Administrator, who is authorized to make investigations as necessary to ensure continued compliance. Failure to comply with the imposed conditions shall constitute grounds for revocation of the special land use permit, following a duly constituted special land use procedure, including a public hearing and notice to the applicant.

**Section 19.04                    Effective Date.**

- A. The special land use permit shall become effective upon approval of the application by the Township Board. Following approval of the special land use permit, the Township Clerk shall have recorded, in the office of the Berrien County Register of Deeds, a copy of the approved special land use permit, including any conditions attached to the approval.
- B. A building permit shall not be issued until approval of such special land use permit by the Township Board, and recording of a notice thereof, as provided above.
- C. Until a building permit has been granted pursuant to the special land use permit, there shall be no construction or excavation of said land, nor shall use of the land be made toward the intended purposes of such special land use permit.
- D. Land subject to a special land use permit may not be used or occupied for purposes of such special land use until after a certificate of occupancy for same has been issued pursuant to the provision of this Ordinance.

**Section 19.05                    Permit Validity.**

- A. Approval of a special land use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
- B. In instances where development authorized by a special land use permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance. The Planning Commission, following public notice and hearing as required for an original special land use permit application, shall recommend that the special land use permit approval shall become null and void if any of the following factors are found to have caused the special land use permit request to no longer conform with the standards for approval contained herein:
  1. Conditions on the property have been substantially altered.
  2. There has been substantial change in conditions on surrounding property.
  3. There has been a revision of the provisions of this Ordinance which are applicable to the special land use permit.
- C. Where it is determined that a special land use permit application remains in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the special land use permit shall remain valid, subject to periodic review in accordance with the provisions of this section.

**Section 19.06                    Amendments to Approved Special Land Use Permits.**



- A. The approved special land use permit for a property may be amended by application to the Zoning Administrator, who shall first determine whether the proposed amendment constitutes a minor or major amendment. An amendment involving any of, but not necessarily limited to, the following changes shall be considered a major amendment:
  - 1. The addition of land to the legal description of the original special land use permit approval.
  - 2. The establishment of another use or uses.
  - 3. The addition of more sales or service area, or the addition of dwelling units.
- B. A major amendment to an approved special land use permit shall comply with the same filing and review procedures as the original approval, including final decision by the Township Board.
- C. A minor amendment to an approved special land use permit may be approved by the Planning Commission, without referral to or action by the Township Board.

**Section 19.07 Requirement for Compliance and Penalties for Noncompliance.**

It shall be the duty and obligation of the owner(s) and occupant(s) or operator(s) of land and uses subject to a special land use permit and approved site plan therefor, that the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure to comply shall be a violation of this Ordinance, shall be subject to the penalties and remedies provided in Article 22, and the continuance thereof is declared to be a nuisance per se.

**Section 19.08 Once Granted a Special Land Use Permit, the Use is a Permitted Use on the Parcel for Which the Permit is Granted.**

Any use for which a special land use permit has been granted shall be deemed a conforming use permitted in the zoning district in which such use is located provided:

- 1. Such permit was issued in conformity with the provisions of this Ordinance, and
- 2. Such permit shall be deemed to affect only the lot or portion thereof and uses thereupon for which the special land use permit shall have been explicitly granted, and
- 3. Such permit authorizes a use which is subsequently built, operated and maintained in compliance with the Ordinance, the special land use permit, and all conditions established with its approval.

**Section 19.09 Additional Standards for Approval of Specific Special Land Uses.**

In addition to complying with the general standards for special land use permit approval contained in this Article, specific categories of special land use shall be subject to compliance with additional standards, as follows:

- A. Airplane landing fields and appurtenances.
  - 1. Plans for such facilities shall have received approval by the Federal Aviation Agency and the Michigan Department of Aeronautics, based on airport classification, prior to submittal of the special land use permit application.
- B. Antenna towers and masts for cellular phone and other low power mobile radio services.
  - 1. The application for special use approval for the tower shall include the following items, in addition to other materials required by this Article:

- a. a visual impact analysis, which includes accurate graphical depictions of the 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 Zoning Administrator.
  - b. documentation of the potential for locating the proposed antenna through co-location on an existing tower in the same general vicinity as the proposed tower.
2. The tower shall be of the minimum height necessary to serve its intended function.
  3. It is not feasible to provide equivalent service by locating the antenna on an existing tower or other existing structure in the Township.
  4. The tower will not have an adverse impact on significant views from properties within one quarter (1/4) mile of the tower site. For purposes of this section, a significant view is defined as a view from a residential property which has one or more of the following characteristics:
    - a. a view from a residence and its immediate perimeter which encompasses landscape features substantially free of man-made alteration, as a result of the unique topographic siting of the home.
    - b. a view which is a dominant feature of a residential building site, and which contributes significantly to the value of the residential building site, as evidenced by the siting of a dwelling unit on the site, the size, number and orientation of windows on the structure, and the location and orientation of improved outdoor spaces on the site, such as patios and decks.

The fact that the proposed tower may be visible from a residence shall not alone be considered an adverse impact on a significant view.

5. Any building housing equipment needed for operation of the tower shall be of a size, type and exterior materials which are aesthetically and architecturally compatible with the surrounding area, and as minimally obtrusive as possible.
6. The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower may not be approved unless the Planning Commission determines that it will not have a significant adverse aesthetic impact on properties and residents of the surrounding area.
7. The owner/operator of the tower shall agree to permit use of the tower by other low power mobile radio service providers, on reasonable terms, so long as such use does not conflict with the owner/operator's use of the tower.
8. If, for any reason, the tower ceases operation or is abandoned, it shall be removed from the site by the tower owner within 3 months of termination of service.
9. 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 tower shall be lowered to such decreased minimum height.

C. Bed and breakfast homes.

1. The proposed bed and breakfast home, considered with other existing bed and breakfast homes within the surrounding area, will not result in an excessive concentration of such

facilities that would be detrimental to the stability and residential character of the surrounding area.

2. The number of bedrooms available for accommodation of guests shall not exceed 7 rooms; provided that the Planning Commission may limit the number of guest rooms in the establishment to a lower number than the maximum authorized above, when deemed necessary to prevent adverse impacts on the surrounding neighborhood.
3. The site and building occupied by the establishment shall comply with the requirements for minimum lot area and frontage, maximum building height, and minimum front, side and rear yards applicable to single family dwellings for the District in which the establishment is located.
4. The establishment shall be located on a lot which has frontage on and direct access to a public road.
5. The dwelling shall be the principal residence of the owner and operator of the establishment.
6. Meal service shall be provided only to overnight guests of the establishment.
7. The premises shall not be used for other non-lodging business purposes, beyond occasional, incidental services to lodging guests, such as wedding ceremonies.
8. Off-street parking facilities shall be provided in the amount of 1 space per guest room, in addition to 2 off-street parking spaces required for the single-family dwelling.
9. No separate cooking facilities shall be provided for bed and breakfast guests.
10. Exterior solid waste facilities shall not be of a size or type other than that typically used for a single-family household.
11. No guest shall occupy the establishment for a period greater than 14 consecutive nights, or for more than 30 days in a 1 year period.
12. Signs identifying the establishment shall be limited to 1 wall sign not exceeding an area of 6 square feet, or one ground-mounted freestanding sign not exceeding an area of 6 square feet, and a height of 5 feet. If the sign is lighted, provision shall be made for manual shut-off of the lighting, and the lighting shall be of a type and intensity that does not cast objectionable glare onto adjoining property.

D. Adult foster care small and large group homes.

1. The adult foster care group home shall not be located nearer than 1,500 feet to a foster care family or another foster care group home.
2. Off-street parking spaces shall be provided in a quantity sufficient to accommodate employees of the foster care group home and visitors. However, the extent of pavement coverage of the front yard shall be limited to be visually compatible with the surrounding area.
3. The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding neighborhood.
4. Adult foster care family homes shall be considered residential uses of property and approved as such in all residential districts.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

E. Group day care homes.

1. A family day care home shall be considered a residential use of property and approved as such in all residential districts.
2. A group day care home shall be issued a special land use permit in any residential district if it satisfies all of the following conditions:
  - a. It is located not closer than 1,500 feet to any of the following:
    - (1) Another licensed group day care home.
    - (2) Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act (P.A. 218 of 1979).
    - (3) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the Public Health Code (P.A. 368 of 1978).
    - (4) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
  - b. Has appropriate fencing for the safety of the children in the group day care home as determined by the Township.
  - c. Maintains the property consistent with the visible characteristics of the neighborhood.
  - d. Does not exceed 16 hours of operation during a 24 hour period. The Township may limit but not prohibit the operation of the home between the hours of 10 p.m., and 6 a.m.
  - e. Meets regulations regarding signage for a group day care home.
  - f. Meets regulations regarding off-street parking accommodations for employees.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

F. Hospitals, excluding veterinary hospitals.

1. Building height shall not exceed 4 stories.
2. Minimum site size shall be 10 acres.
3. The proposed site shall abut and have vehicular access to a primary road as classified by the Berrien County Road Commission or a State trunkline highway.
4. Front, side and rear yard minimum setback shall be 50 feet.
5. Parking setback shall be 20 feet in the front yard, 10 feet for side and rear yards.
6. Emergency room, ambulance and delivery areas shall be screened from public view with an obscuring wall and/or landscaping a minimum of 6 feet in height.

7. Auxiliary uses, such as a pharmacy, gift shop, cafeteria, medical office buildings with required parking and similar customary hospital related uses shall be allowed.
- G. Houses of worship and related facilities.
1. Minimum lot area shall be 1 acre; provided that, if the main sanctuary has a seating capacity in excess of 300 persons, the minimum lot area shall be 2 acres, plus an additional 20,000 square feet of lot area for each 100 persons capacity in excess of 300.
  2. Front, side and rear yard minimum building setback shall be 50 feet.
  3. Parking setback shall be 20 feet in the front yard, 10 feet for side and rear yards.
  4. The maximum building height limits of the applicable zoning district may be waived, provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed. The maximum height of a steeple shall be 60 feet.
  5. Whenever an off-street parking area is adjacent to a residential zoning district, a continuous obscuring wall, fence and/or landscaped area at least 4 feet in height shall be provided. The Planning Commission may reduce this buffer requirement in cases where existing vegetation or topographic conditions provide sufficient screening.
- H. Mobile home park.
1. The use shall comply with all development standards for mobile home parks contained in Article 8, R-4, Residential Mobile Home Park zoning district.
- I. New and used car, mobile home, motor home and recreational vehicle sales/service.
1. Minimum lot area shall be 5 acres.
  2. Minimum lot frontage shall be 200 feet.
  3. All outdoor storage and display areas shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose of stormwater without negative impact on adjacent property. The Township may approve a gravel surface for all or a portion of the display or storage area, where appropriate in consideration of surrounding land uses and for low intensity activities.
  4. Outdoor storage and display areas shall have a minimum setback from any lot line fronting a public road of 20 feet, and shall be set back from side and rear lot lines a distance equal to the minimum required building setback.
  5. The site shall include a building, installed on a foundation in conformity with the Building Code, of at least 500 square feet of gross floor area for office use in conjunction with the use.
  6. The site shall be designed such that all loading and truck maneuvering may be accommodated on-site, without use of the public road for backing into the site.
- J. Open air market (as a permitted or accessory use, including sales or storage of lumber/building supplies, contractors yards, garden/landscape supplies, nurseries, greenhouses, mobile homes, boats, jet skis, mowing equipment, construction equipment and similar materials or equipment).

1. Any stockpiles of soil, gravel, rock, bark, fertilizer or similar loosely packaged materials shall be sufficiently covered or contained to prevent dust or blowing of materials.
  2. All outdoor storage areas shall be paved and include a stormwater drainage system approved by the Township Engineer.
  3. No outdoor storage shall be permitted within 20 feet of a front lot line.
  4. The site shall include a building of at least five hundred (500) square feet of gross floor area for office use in conjunction with the use.
  5. The display and storage area shall be paved with a permanent, durable and dustless surface and shall be graded and drained to dispose stormwater without negative impact on adjacent property. The Township may approve gravel for all or part of the display or storage area where appropriate in consideration of surrounding land uses and for low intensity activities.
  6. All loading and truck maneuvering shall be accommodated on-site.
- K. Private stables in the R-2 district.
1. A building or structure in which animals are kept shall be located a minimum of one hundred (100) feet from all property lines, and shall be located a minimum of one hundred and fifty (150) feet from any dwelling unit other than the dwelling unit on the same property.
  2. The maximum number of animals which may be kept shall be three (3).
  3. Minimum lot area on which one (1) to three (3) animals may be kept shall be three (3) acres.
- L. Public utility buildings, electrical substations, natural gas regulator stations.
1. Electric or gas regulator equipment and apparatus shall be set back a minimum of 30 feet from all lot lines.
  2. Outdoor storage areas and equipment, including transformers, switchgear, valve structures and other appurtenances, shall be screened from adjoining property and public rights-of-way by a continuous obscuring wall, fence and/or landscaped area at least 6 feet in height.
- M. Raising of fur-bearing animals.
1. Minimum lot size shall be 5 acres.
  2. Buildings wherein animals are kept shall not be located nearer than 100 feet to an adjacent occupied dwelling, and shall not be located in the front yard, or in a required side or rear yard setback area.
- N. Restaurants, delicatessens, refreshment stands and other dispensaries of food at retail, when located in an R-3 zoning district.
1. The total floor area of the establishment shall not exceed 2,000 square feet.
  2. Only 1 vehicular access drive shall be provided onto any street.

3. A continuous obscuring wall, fence and/or landscaped area at least 6 feet in height shall be provided along side and rear lot lines adjoining a residential zoning district or residential use. The Planning Commission may reduce this buffer requirement in cases where existing vegetation or topographic conditions provide sufficient screening.
- O. Self-service storage facilities.
1. Minimum lot size shall be 3 acres.
  2. The front yard and any side yards adjacent to a residential district shall be provided with a landscaped greenbelt, in conformance with the planting and maintenance standards for greenbelts contained in Article 14.
  3. All storage shall be completely within an enclosed building; outdoor storage of any materials is prohibited.
- P. Small animal boarding or breeding kennels.
1. For kennels housing dogs, the minimum lot size shall be 5 acres.
  2. Building wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than 200 feet to a side or rear lot line, and shall not be located in a front yard.
- Q. Vehicle service stations, excluding facilities designed and intended to serve more than 2 long-haul trucks on the site at one time, when located in an R-3 zoning district.
1. There shall be a minimum lot area of 1 acre and minimum lot frontage of 250 feet.
  2. Pump islands shall be a minimum of 25 feet from any public right-of-way or lot line, and at least 40 feet from any residential lot line.
  3. Only one driveway shall be permitted from any street unless the proposed use has frontage on only one street, in which case two driveways shall be permitted.
  4. Where adjoining residentially zoned or used property, a solid fence or wall 6 feet in height shall be erected along any common lot line. Such fence or wall shall be continuously maintained in good condition. The Township may optionally approve a landscaped berm.
  5. All repair work shall be conducted completely within an enclosed building.
  6. There shall be no outdoor storage or display of vehicle components and parts, supplies or equipment, except within an area defined on the site plan approved by the Planning Commission and which extends no more than 10 feet beyond the building.
  7. Storage of wrecked, partially dismantled, or other derelict vehicles is prohibited, unless such storage is required under police or court order.
  8. The applicant shall submit a Pollution Incidence Protection Plan (PIPP) as part of the special land use permit application. The PIPP shall describe measures to prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: formal personnel policies and procedures for spill response, special check valves, drain back catch basins and automatic shut off valves.
  9. If an automobile service station use has been abandoned or terminated for a period of more than 1 year, all underground fuel storage tanks shall be removed from the premises.

- R. Veterinary office or clinic, and similar uses.
1. The principal building shall be set back 75 feet from the front property line and 50 feet from all other property lines.
  2. If the facility provides boarding services, the standards applicable to small animal boarding or breeding kennels shall be met.
- S. Outdoor serving areas at restaurants, delicatessens, refreshment stands and other dispensaries of prepared food or beverages at retail: *(Amended by Ordinance No. 91 effective 12-1-1998.)*
1. The outdoor serving area shall be located on the site such that potential objectionable impacts on adjacent properties are minimized. Where possible, locations that directly adjoin a residential use shall be avoided.
  2. If the square footage of the outdoor serving area is greater than one quarter (1/4) the square footage of the indoor serving area of the establishment, additional parking shall be required for the outdoor serving area, at the rate of one (1) parking space per one hundred (100) square feet of floor area, applied to the amount by which the size of the outdoor serving area exceeds one quarter (1/4) of the indoor serving area.
  3. The outdoor serving area shall be screened on all sides that face a residential zoning district or residential use by a solid fence or wall, having a minimum height of six (6) feet.
  4. As a condition of approval, the Township Board may establish limits on the allowable hours of use of an outdoor serving area, and may establish such other conditions relating to the operation of the outdoor serving area and the activities conducted therein as are deemed necessary to protect surrounding properties from objectionable noise and other impacts that may arise from the outdoor activity.
- T. Child Care Centers. *(Amended by Ordinance No. 101 effective 11-1-2000.)*
1. Off-street parking spaces shall be provided in a quantity sufficient to accommodate employees and visitors. However, the extent of pavement coverage of the front yard shall be limited to be visually compatible with surrounding area.
  2. Whenever an off-street parking area is within or adjacent to a residential zoning district, a continuous obscuring wall, fence and/or landscaped area at least 4 feet in height shall be provided between the parking area and the adjacent residential district. The Planning Commission may reduce this buffer requirement in cases where existing vegetation or topographic conditions provide sufficient screening.
  3. Adequate fencing shall be provided around outdoor exercise/play areas, for the safety of persons in care.
  4. Off-street vehicular pickup and drop off areas shall be provided, and shall be located so as to protect pedestrians from moving vehicles, and to permit vehicular ingress and egress without backing of vehicles into the public street.
- U. Privately Owned Campgrounds. *(Amended by Ordinance No. 114 effective 6-1-2004.)*
1. "Campgrounds" means a parcel or tract of land under the control of a person, corporation, or association in which sites are offered for the use of the public or members of an organization, either for a charge or for a fee, for the establishment of



temporary living quarters for 5 or more recreational units. "Campground" shall not include a "seasonal mobile home park" licensed under Act No. 419 of the Public Acts of 1976, as amended, being Sections 125.1101 to 125.1147 of the Compiled Laws of 1970.

2. The maximum density of sites allowed shall be 5 sites per acre.
3. No structure shall be occupied for more than 90 consecutive days during the period of June 1 through September 15. Occupancy during the period of September 16 through May 31 shall not exceed 14 consecutive days.
4. Campgrounds may only be located on property when it is determined the operation will not be detrimental to the public health, safety and welfare.
5. A site in a campground shall abut on a roadway or have access from a roadway. The site shall have not less than 50 feet of road frontage width and an area of 3,750 square feet. Site setbacks shall be: (1) front yard setback – 15 feet from the road right-of-way; (2) 10 feet rear yard setback; and (3) 10 feet side yard setback. No tents, travel trailers, camping trailers, motor homes, truck campers, slide-in campers or chassis-mount campers shall be parked on or occupy a site. The maximum number of persons allowed to occupy a site shall be limited to eight (8).
6. A campground owner shall locate all sites and other facilities on a site plan in accordance with Article 21. The site shall be of such a size and so arranged to provide space for a park model recreational unit(s), a storage shed not to exceed 100 square feet, and parking space for not more than 2 vehicles. Temporary living quarters shall not exceed 700 square feet, nor consist of more than 2 recreational units. Site coverage shall not exceed 25%, which includes the living unit(s), shed, deck and similar structures. Park Model recreational units shall be attached to a foundation according to manufacturer recommendations or better. No structure shall be used as a permanent dwelling, residence or living quarters.
7. All construction of amenities, including but not limited to, bath/shower houses, swimming pools, community buildings, laundry facilities, etc., shall be in accordance with the Michigan Building Code, as amended. All electrical, plumbing and mechanical work shall be in compliance with applicable State of Michigan Codes, as amended.
8. A campground owner shall provide a road right-of-way that is not less than 40 feet wide. The driving surface shall have an aggregate surface 20 feet wide and a 2 foot wide shoulder on each side, as illustrated in Exhibit A of this Ordinance and as referenced in Section 15.08,B,1. A campground owner shall ensure that the right-of-way is free of obstructions and provides free and easy access to abutting sites. A campground owner shall maintain the traveled portion of the right-of-way in a passable and reasonably dust-free condition. A campground owner shall ensure that vehicles do not park in the road right-of-way.
9. A campground shall be served by municipal water and sewer. Connection to municipal utilities shall be pursuant to Chikaming Township Utility Ordinances (Ordinance No. 71, as amended, for water and Ordinance No. 111, as amended, for sewage disposal system.)
10. A campground owner shall locate all connections to the water distribution system above the elevation defining the 100-year flood plain. The campground owner shall locate the top of site sewer connections above the elevation defining the 100-year flood plain.
11. A campground shall provide customer site piping to convey water from the service connection to the points of use within the campground, as provided for in the Safe Water Drinking Act, Act 399 of the Public Acts of 1976, as amended, and rules promulgated

under the Act. A campground shall provide a private sewer collection system as permitted by the Michigan Department of Environmental Quality meeting the requirements of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended, and rules promulgated under the Act.

*("U." was Amended by Ordinance No. 114 effective 6-1-2004.)*

**ARTICLE 20  
PLANNED UNIT DEVELOPMENT**

**Section 20.01            Intent.**

- A.     The intent of this Article is to provide a degree of flexibility in regard to the use, area, height, bulk, and placement regulations for developments which qualify as Planned Unit Developments, as provided for in Section 503 of the Zoning Act. These may include, but are not limited to residential developments; shopping centers; industrial, office and business park developments; and medical or educational campuses. Qualifying developments may be of such size and configuration as to justify a controlled degree of flexibility, and to permit a mix of land uses that may not normally be permitted in the zoning district, but would, under specific circumstances, increase convenience, be compatible with the overall character of the district, and not be injurious to adjoining properties. This shall result in a high level of quality and compatibility, shall minimize the damage to sensitive environmental features, and shall comply with the goals and objectives of the Township Master Plan. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
  
- B.     The PUD regulations provided by this Article are intended to:
  - 1.     Provide a more desirable environment by preserving open fields, woodlands, wetlands, areas of steep topography, creeks, ponds and similar natural assets;
  - 2.     Encourage a creative approach to development design in the Township;
  - 3.     Encourage an efficient, aesthetic and desirable use of open areas and a reduction in development costs by allowing the developer to avoid and preserve natural obstacles on the site;
  - 4.     Encourage open space and recreational facilities within and around new development;
  - 5.     Promote the goals of the Township's Master Land Use Plan to maintain the Township's rural character, maintain an attractive landscaped corridor along the Township's major roadway frontages, maintain the traffic carrying capacity of the Township's major roadways, and protect environmentally-sensitive areas;
  - 6.     Provide the Township with a higher degree of control over the use of land and structures and design details of development in locations where application of traditional zoning requirements may not be appropriate;
  - 7.     Provide the opportunity for inclusion in a single, unified development plan of associated or ancillary uses which are related to or supportive of the principal use.
  
- C.     The provisions of this Article are not intended to be used solely to avoid the otherwise applicable requirements of this Ordinance, including the provisions of the zoning district of the subject property.

**Section 20.02            Eligibility for PUD Status: Qualifying Conditions.**

- A.     To be eligible for consideration under the PUD provisions of this Article, all of the following conditions must exist with regard to the proposed PUD site and Plan:
  - 1.     The PUD site must be located within an area zoned AG, R-1, R-2, R-3, C or M. Planned unit development is not permitted within the R-4, F or RE zoning districts.
  - 2.     The PUD site must constitute a land area of at least 5 acres.
  - 3.     In addition, the proposed PUD must meet one or more of the following preconditions:

- a. Sites determined to be appropriate for redevelopment, including sites with buildings that are functionally obsolete or historically significant, and sites where achieving economically sound development under a conventional zoning approach would be extremely difficult.
- b. Sites where flexibility is necessary because of site constraints, including but not limited to sensitive environmental features, incompatible adjoining land uses, or traffic conditions that affect ease of access.
- c. Sites where the flexibility of the PUD regulations is necessary to achieve a reasonable and desirable transition between land uses, without affecting the overall Township land use pattern, intensity of development or objectives of the Master Plan or any sub-area or corridor plans.
- d. Sites where the public health, safety and welfare is better served through creation of a planned unit development, because of the density of population, adequacy of schools, parks, or other public facilities, traffic volumes or circulation, neighborhood compatibility, adequate provision of light or air, or accessibility for fire and police protection.
- e. Sites where the proposed development is compatible with the objectives of the Township Master Plan.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- B. The PUD shall not be approved if any of the following conditions are determined to exist on the proposed development:
  - 1. The PUD is used for the sole purpose of increasing the density or intensity of development, or avoiding the requirements for dimensional variances.
  - 2. The PUD is used in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards.
  - 3. The PUD adds public service or facility loads beyond those contemplated in the Master Plan or other adopted policies or plans, except where the applicant provides a means of securing public improvements needed to serve the development, and demonstrates to the satisfaction of the Township Board that such added loads will be accommodated or mitigated by the PUD.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- C. If the PUD site is intended to contain any residential use other than detached single family dwellings, it must be served by public water and sanitary sewer service.
- D. The PUD site must abut or have direct access to a public street.
- E. The proposed development shall either: (1) be under single ownership or control such that there is a single person or entity having responsibility for assuring completion of the project in conformity with this Ordinance, or (2) if there is more than one owner or entity with an interest in the project, then there shall be a commitment in writing by each owner and/entity to work in unison to complete the project in complete conformity with this Ordinance.

The applicant(s) shall provide legal documentation of single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions which indicate that the development can be completed as shown on the plans, and further, that all

portions of the development that are not to be maintained or operated at public expense will continue to be operated and maintained by the developments or their successors. These legal documents shall bind all development successors in title to any commitments made as a part of the documents. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Zoning Administrator.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

**Section 20.03 Permitted PUD Uses.**

Subject to review and approval under the procedures and standards contained in this Article, the following uses may be permitted in a Planned unit development:

- A. Uses permitted in a PUD shall be based on the uses permitted in the underlying zoning district, unless otherwise specified in this Ordinance. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- B. Mixed-Use Component. A Planned Unit Development may incorporate a mix of land uses, provided that it is developed and approved in conjunction with the standards provided below in addition to the others contained in this Article:
  - 1. The development shall be located on a lot of sufficient size to contain all structures, parking, and landscape buffering required for the most intense development proposed for the site.
  - 2. The amount of land required for the total project area and the degree to which the land uses may be mixed is dependent upon the zoning district. The following table describes the standards.

District	Minimum Gross Area for Mixed Use Development	Percent Non-Residential
AG	50 acres	Max. 10%
R-1	20 acres	Max. 30%
R-2	50 acres	Max. 10%
R-3	20 acres	Max. 30%
C	5 acres	Min. 50%
M	5 acres	Min. 80%

- 3. All uses shall be compatible with the surrounding area.
- 4. The Planning Commission finds that the architectural design of the structures is compatible with the balance of the development.
- 5. All structures are connected to a pedestrian access system servicing the rest of the development.
- 6. Vehicular access is available only from an access drive to the PUD that connects directly with a County Primary Road.
- 7. If a proposed project cannot provide direct access to a County Primary Road, the Planning Commission may approve a non-residential land use component for a PUD project located on any paved County thoroughfare, subject to the Planning Commission making the finding that the overall site layout, including the architectural design and the vehicular circulation pattern, is:
  - a. Compatible with the surrounding land uses, and

- b. Will not have a significant detrimental effect on the character of surrounding residential uses.
- 8. All parking and loading areas serving the non-residential uses shall be to the rear or side of the structure and fully screened from view of any public roadway, except that the Planning Commission may allow up to twenty five percent (25%) of the minimum number of required parking spaces in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted with a landscape buffer consisting of evergreen trees spaced no more than fifteen (15) feet on center.
- 9. The following uses shall be permitted commercial uses in residential zoning districts within a PUD and shall be recorded with a deed restriction on the property:
  - a. Food and beverage stores for the sale of: groceries, fruit, meat, baked goods, dairy products, beverages and liquor.
  - b. Personal service establishments such as barber shops, beauty salons, laundry pick-up, and similar uses.
  - c. Child care or day care centers.
  - d. Offices for the professions or occupations of doctor, dentist, attorney, engineer, accountant, architect, financial consultant or broker, publisher, real estate broker, secretarial services, and similar uses as determined by the Planning Commission, may be permitted, subject to findings by the Planning Commission that (a) such a use is consistent with the intent of this Article and (b) provides no significant negative impact on the PUD project or other surrounding land uses.
- 10. The following uses shall be permitted residential uses in commercial or industrial zoning districts within a PUD and shall be recorded with a deed restriction on the property:
  - a. Single-family dwellings.
  - b. Two-family and multiple-family dwellings, provided they are served by municipal water and sanitary sewer services.

*[Amended by Ord. No. 123, effective 3-27-2006]*

**Section 20.04 Area, Height, Bulk, Placement and Density Standards.**

- A. The purpose of this Section is to ensure that planned unit developments in all zoning districts are compatible with the surrounding area and Township. Wherever possible, the provisions of the underlying zoning district(s) and the design standards of this Ordinance shall be followed in the design of Planned Unit Developments. Modifications to these standards may be approved as part of a Preliminary PUD Plan in any zoning district, provided that such modifications are determined to be consistent with the purpose of this Article and the following:

1. For PUD's located in the AG, R-1, R-2 or R-3 zoning districts, and for residential PUD's located in any other zoning district, minimum lot size, minimum distance between buildings, and maximum lot coverage shall be as follows:

STANDARD	ZONING DISTRICT				
	AG	R-1	R-2	R-3	C or M
Minimum Lot Size in Acres (ac.) or Square Feet (s.f.)	1 ac.	12,000 s.f.	12,000 s.f.	Single-family lot: 12,000 s.f. Multiple-family lot 5 ac.	5 ac.
Minimum Distance Between Buildings	20 feet	20 feet	20 feet	20 feet	20 feet
Maximum Lot Coverage	20%	30%	20%	Single Family/Two Family: 30% Multiple Family: 40%	40%

2. In areas designated in Community Centers as the Township's Future Land Use Map, the following shall apply:
  - a. The maximum lot coverage shall be 60%.
  - b. The minimum distance between buildings shall be 0 feet, except for detached single family residences, which shall be provided with a minimum 20 foot separation from all other structures in designated Community Center areas.
3. For non-residential PUD's located in the C or M zoning districts, the minimum distance between buildings shall be as provided by the Michigan Building Code.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

**B. Density.**

The permitted density in the Planned Unit Development shall be based on the net buildable area of the site, as defined in Article II of the Township Zoning Ordinance.

To assist the Planning Commission in determining the net buildable area, the applicant shall submit a parallel plan for the development that is consistent with the requirements for a site plan in Chapter 21. The parallel plan should show how the site could be developed under conventional zoning and subdivision standards. The parallel plan should be drawn to contain the maximum number of lots allowable per these standards in the underlying zoning district.

The Planning Commission shall review the parallel plan and determine the number of lots that could be feasibly constructed (based on site conditions, engineering, cost, and similar factors) following the design. This number, as determined by the Planning Commission, shall be the base number of dwelling units allowable for the Planned Unit Development project.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- C. There shall be no flexibility granted for the maximum building height. The maximum building height standard in the underlying zoning district shall govern. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- D. The layout of roads shall generally provide a continuous circuit of travel or permit such an extension in the future. Where proposed land is limited by natural barriers or use of the land, a cul-de-sac design may be approved provided that an easement or right-of-way is reserved extending from the cul-de-sac to the development boundary. If a road of an existing development terminates at the boundaries of the proposed development, the proposed road network shall connect. These requirements may be waived by the Township where natural barriers or other similar conditions exist that make such arrangements not feasible. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- E. All utility lines within the development shall be underground. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- F. Plans must satisfy the minimum parking requirements of Article 18 of this Ordinance. However, the Township may reduce the minimum parking requirements if it can be demonstrated that the needs of the uses in the development can be satisfied through shared parking, on street parking, or other similar means. If future expansion is anticipated or future parking needs are expected, parking areas may be banked. They should be shown on the site plan as banked parking areas, and left as open space until necessary for use. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- G. Existing landscaping shall be preserved and /or improved when feasible or additional landscaping provided to ensure that proposed uses will be adequately buffered from one another and surrounding public and private property. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- H. The proposed storm drainage plans shall be reviewed and approved by the County Drain Commissioner, and maintained as a Drain permanently. Proof of compliance shall be required prior to final plan approval. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*

**Section 20.05 Common Open Space Requirements.**

- A. A minimum of 20% of the total area of the PUD project site shall be open space. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- B. A minimum of 25% of the open space shall be usable, upland areas. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- C. Open space areas set aside as part of a PUD development shall accomplish one or more of the following objectives:
  - 1. To provide common recreational area for use by the residents of the PUD, in cases where the development is expected to create a significant demand for common recreational area, which demand will not otherwise be met by the PUD as proposed.
  - 2. To protect and preserve environmentally sensitive areas, such as floodplains, shorelands, dunes, regulated and non-regulated wetlands, stream corridors, steeply-sloped areas, woodlands, or other sensitive areas which may exist on the development site and enhance the rural character of the area.
  - 3. To provide open space buffer areas between the PUD and adjoining property so as to minimize adverse impacts of the PUD on adjoining property.
  - 4. To provide open space along public road corridors so as to maintain a natural character along public roadways in rural portions of the Township, as encouraged in the Chikaming Township Master Land Use Plan.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*



- D. Land dedicated as common open space is subject to the following requirements:
1. To the extent possible, open space areas shall be continuous throughout the development. Open space shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development.
  2. Land devoted to public or private street easements, rights-of-way or parking, and above-ground portion of a private community on-site waste water disposal system, or land within the boundaries of a lot or unit shall not be included in computing the area of common open space.
  3. Access to common open space shall be provided from all areas of the PUD by means of public or private streets or pedestrian access ways.
  4. Common open space areas should be accessible by pedestrians and non-motorized vehicles from all dwelling units by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of twenty (20) feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- E. As a condition of Final PUD approval, and prior to the occupancy of any structure within the PUD (or within any phase of the PUD), the applicant shall be required to establish a property owners' association (or other similar organization acceptable to the Township) of which all residents or occupants of the PUD shall be required to become members through appropriate plat restrictions, covenants, and conditions. The property owners' association must be legally capable of assuming, and shall assume, the obligation to maintain the common open space as required by this Section. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*

#### **Section 20.06 PUD Application, Review and Approval Procedure.**

The procedures in this Section shall be followed when applying for PUD approval as provided for by this Article.

- A. Pre-Application Conference.

Prior to the submission of an application for PUD approval, the applicant may meet with the Planning Commission for the purpose of preliminary discussion and review regarding the eligibility for consideration, appropriateness, general content and design approach of a proposed PUD. An applicant desiring a pre-application conference must submit to the Zoning Administrator a written request that the conference be placed on the Planning Commission's agenda. The request must be submitted at least 14 days prior to the Planning Commission meeting at which the conference is to take place.

The applicant shall present at such conference or conferences, at minimum, a sketch plan of the proposed Planned Unit Development, plus a legal description of the property; the total number of acres in the project; a statement regarding the proposed uses, the number of acres for each use, and the number of residential units proposed; the number of acres to be preserved or used for recreation space; all known natural resources or features to exist on the site as well as those being preserved; and the existing conditions on the site. If multiple meetings are desired, a fee, established by the Township Board, shall be charged for each meeting after the first.

No formal action shall be taken at a pre-application conference. Statements made by any person during the course of a pre-application conference shall not be deemed to constitute legally binding commitments.

*[Amended by Ord. No. 123, Eff. Mar. 27, 2006]*

B. Preliminary PUD Review.

Preliminary, PUD review is the first step of the two-step PUD approval process. It is an opportunity for the Township to review the plans and make sure they satisfy the standards and intent of the Zoning Ordinance prior to further development of the PUD plans and investment in the project.

1. Preliminary PUD Application.

An application for Preliminary PUD approval requires submission of 10 copies of the following items to the Zoning Administrator, not less than 14 days prior to the Planning Commission meeting at which the request will first be considered:

- a. Application fee in the amount established by resolution of the Township Board.
- b. A completed application form as supplied by the Township. The application form must be signed by the applicant, and by the owners of all of the land to be included within the PUD (if different than the applicant).
- c. A Preliminary Site Plan, containing all information as specified in Article 21, encompassing all phases of the proposed PUD.
- d. A parallel Plan, containing all the information specified in Article 21, as described in Section 20.04B above. *[Amended by Ord. No. 123, Eff. Mar. 27, 2006]*
- e. A thorough, written narrative responding to the following:
  - (1). The items listed in Section 21.03.C.1.C.
  - (2). The reasons why the proposed project qualifies as a PUD
  - (3). The reasons why PUD is preferred at this location
  - (4). The possible impacts of the proposed development on adjacent properties
  - (5). The potential benefits of the development to Chikaming Township
  - (6). A description and rationale for modifications to Zoning Ordinance standards

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- f. Legal documentation that the proposed site is under single ownership, single control, or joint unified control in the form of agreements, contracts, covenants, and deed restrictions. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- g. An impact statement, consistent with the requirements in Article 21, may be required by the Planning Commission. *[Amended by Ord. No. 123, Eff. Mar. 27, 2006]*

The Planning Commission may waive any of the application requirements provided above (except for the application fee), if the Commission determines that the

requirement to be waived is not applicable to the PUD under consideration or is otherwise unnecessary to meet the intent and purposes of this Article.

2. Public Hearing; Review and Action by Planning Commission; Conditions of Approval.
  - a. Upon receipt of a completed application for Preliminary PUD review, the Zoning Administrator shall schedule a public hearing on the Plan, and provide copies of all application materials received to members of the Planning Commission. Notice of the public hearing shall be provided as required by this Ordinance for public hearings on special land use permit requests.
  - b. Immediately following the public hearing, or within a reasonable time thereafter, the Planning Commission shall recommend to the Township Board that the Preliminary PUD be approved, approved with conditions, or disapproved. The Planning Commission may recommend approval of the request only if the proposed PUD meets all of the standards for PUD approval contained in this Article. The minutes of the Planning Commission decision shall state its conclusions regarding the application, the basis for its recommendations, and any conditions imposed in connection with a recommendation to approve the request.
  - c. The Planning Commission shall provide the applicant with a copy of the Commission's report and recommendation regarding the request for PUD approval.
3. Review of Preliminary PUD Plan by Township Board; Effect of Approval.
  - a. After receipt and review of the Planning Commission report and recommendation, the Township Board shall approve, approve with conditions, or disapprove the Preliminary PUD, provided that the request may be approved only if the PUD meets all of the standards for PUD approval contained in this Article.
  - b. Reasonable conditions may be imposed by the Township Board in conjunction with a Preliminary PUD approval, subject to the same limitations as specified in this Article for conditions imposed on a Final PUD approval.
  - c. The Township Board shall prepare a written report stating its conclusions regarding the Preliminary PUD, the basis for its decision, the decision, and any conditions relating to an affirmative decision.
  - d. Approval by the Township Board of the Preliminary PUD shall confer upon the applicant for a period of 1 year the right to submit a Final PUD Plan for the PUD (or for any phase of the PUD, as identified on the Preliminary PUD Plan) for review and approval by the Planning Commission.
    - (1) If a Final PUD Plan is not submitted within the 1 year period, the preliminary PUD Plan approval shall lapse. However, the Planning Commission may extend the time for submission of the Final PUD Plan for 1 year if the applicant requests an extension prior to the expiration of the initial period. Only 1 such extension may be granted. *[Amended by Ord. No. 123, Eff. Mar. 27, 2006]*
    - (2) If the PUD is proposed for construction in phases, a Final PUD Plan for at least the first phase of the construction shall be submitted within the time limitations contained in this Section. Final plans for subsequent phases shall be submitted within a 6 year period starting with the

approval of the preliminary plan. *[Amended by Ord. No. 123, Eff. Mar. 27, 2006]*

- (3) If a Preliminary PUD approval lapses due to failure of the applicant to submit a Final PUD application within the time limitations contained in this Section, a new Preliminary PUD application must be submitted for review by the Planning Commission in conformity with the then existing provisions of this Ordinance.
- e. Approval of a Preliminary PUD Plan does not guarantee approval of a Final PUD Plan. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

C. Final PUD Review.

1. Final PUD Application.

Application for Final PUD approval may be requested for an entire PUD, or for one or more sequential phases of the PUD if the phases conform to the provisions for phased development contained in the Preliminary PUD approval. Application for Final PUD approval shall be made by submittal of 10 copies of the following items to the Zoning Administrator not less than 14 days prior to the Planning Commission meeting at which the request will first be considered:

- a. A completed application form as supplied by the Township. The application form must be signed by the applicant, and by all of the owners of the land to be included within the PUD, if different than the applicant.
- b. Application fee as established by resolution of the Township Board.
- c. A final site plan containing all of the information required by Article 21 of this Ordinance.
- d. Typical elevation sketches, with identification of facade materials, of all sides of each principal building type included in the PUD, drawn at a scale of 1 inch = 8 feet.
- e. Summary data schedules containing the following:
  - (1) Total gross site area.
  - (2) Area of existing or proposed rights-of-way.
  - (3) Area and percentage of site covered by buildings.
  - (4) Area and percentage of site covered by pavement.
  - (5) Area and percentage of total open space.
  - (6) For residential development, number, sizes and bedroom mix of proposed dwelling units.
  - (7) For commercial development, total floor area for each category of commercial use.

- f. Proof of compliance with reviews and approvals from required external agencies such as Berrien County Road Commission, Berrien County Drain Commissioner, DEQ, and Berrien County Health Department, supplied by his or her agent. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- g. Statement indicating compliance with preliminary PUD plan and any conditions of approval. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- h. A draft Planned Unit Development Agreement, setting forth the terms and conditions negotiated and to be agreed to by the applicant and the Township, and upon which approval of the Planned Unit Development proposal will be based. The Planned Unit Development Agreement shall, at minimum, include the following:
  - (1) A description of the land that is subject to the agreement.
  - (2) A description of the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings.
  - (3) History of the review procedures and action taken by the Planning Commission or Township Board.
  - (4) List of all plans, documents, and other materials submitted by the applicant.
  - (5) Review and explanation of all special provisions agreed to by the applicant and Township in conjunction with the proposed Planned Unit Development project.
  - (6) An explanation of all public improvements to be undertaken by the applicant or the Township in conjunction with the proposed Planned Unit Development project.
  - (7) Description of any required dedications and permits.
  - (8) Confirmation that the proposed development is consistent with applicable Township ordinances and planning objectives.
  - (9) Duration of the Planned Unit Development Agreement, along with terms under which a termination date may be extended by mutual agreement.
  - (10) Applicability of future amendments to the general zoning regulations to land that is subject to the proposed Planned Unit Development Agreement.
  - (11) Extent to which the Planned Unit Development Plan may be modified subject to administrative approval, Planning Commission approval, or Township Board approval.

*[Amended by Ord. No. 125, eff. Mar. 27, 2006]*

- i. The Planning Commission may waive any of the application requirements provided above (except for the application fee), if the Commission determines that the requirement to be waived is not applicable to the PUD under consideration or is otherwise unnecessary to meet the intent and purposes of this Article.
2. Review of Final PUD Application by Planning Commission.
- a. The Planning Commission shall review the Final PUD application, and shall approve, approve with conditions or disapprove it.
  - b. The Final PUD Plan may be approved only if:
    - (1) The PUD as proposed meets all of the standards for approval as provided in this Article; and
    - (2) The PUD as proposed is consistent with the intent of the Township Master Plan. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*
    - (3) The Final PUD Plan is consistent in all significant respects with the Preliminary PUD Plan as approved by the Township Board, including any conditions imposed by the Board on the Preliminary PUD Plan approval. Specifically, changes in any of the following features of the PUD shall require submittal of a revised Preliminary PUD Plan for review by the Planning Commission and the Township Board as provided by this Article:
      - (a) Addition of uses different from those included in the Preliminary PUD Plan.
      - (b) Increases in the size, height or number of buildings.
      - (c) For residential development, any increase in number of dwelling units.
      - (d) Any other change deemed by the Planning Commission to be substantially inconsistent with the previously approved Preliminary PUD Plan.
  - c. Reasonable conditions may be imposed by the Planning Commission in conjunction with a Final PUD approval, for the purpose of:
    - (1) Ensuring that public services and facilities affected by the PUD will be capable of accommodating increased services and facility loads caused by the PUD;
    - (2) Protecting the natural environment and conserving natural resources and energy;
    - (3) Ensuring compatibility with adjacent uses of land, and
    - (4) Promoting the use of land in a socially and economically desirable manner.
  - d. Any conditions imposed shall also meet all of the following requirements:

- (a) Be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, 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 this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance.
- e. Performance guarantees to assure compliance with an approved Final PUD Plan and conditions of Final PUD approval may be required by the Planning Commission as authorized under Section 16f of the Zoning Enabling Act. The performance guarantee may consist of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond, in a form acceptable to the Township, covering the estimated costs of improvements associated with the PUD. The performance guarantee shall be deposited with the Township Clerk at the time of issuance of the permit authorizing the improvement activity or project. If requested by the depositor, the Township shall rebate a proportional share of any cash deposit, based on the percentage of work completed on the date of the request for the rebate, as attested to by the depositor and verified by the Zoning Administrator.
  - f. The Planning Commission shall prepare a written report stating its conclusions on the request for approval, the basis for its decision, and any conditions relating to an affirmative decision.

**Section 20.07 Standards for PUD Approval.**

Approval of a Preliminary PUD or Final PUD shall only be granted by the Planning Commission or Township Board if the PUD Plan complies with all of the following standards:

- A. Satisfies the standards of this article. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- B. Satisfies the standards of the Zoning Ordinance unless specifically noted modifications have been granted. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- C. Satisfies the goals and objectives of the Master Plan. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- D. Does not adversely affect adjacent property areas. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- E. Does not result in a significant increase in demand for public services or facilities. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- F. Protects the natural environment better than conventional development could have at the same location. *[Amended by Ord. No. 125, eff. Mar. 27, 2006]*
- G. Results in recognizable and substantial benefits to residents of the site, surrounding property, and township, particularly when compared to the potential benefits of conventional zoning at the site. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*

**Section 20.08 Effect of Final PUD Approval.**

- A. Following Final PUD approval, no construction shall be undertaken on the land included within the PUD except in conformity with the Final PUD Plan and any conditions imposed in connection with the Final PUD approval.
- B. Upon approval of the Final PUD, the Planned Unit Development Agreement shall be reviewed by the Township Attorney. When in final form, the agreement shall be executed by the Township and the applicant and recorded at the Berrien County Register of Deeds, at which time approval of the Final PUD will take effect. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*
- C. Prior to granting any permits for construction within the development as-built drawings and copies of the recorded PUD agreement and other documents will be required to be submitted to the Township. *[Amended by Ord. No. 123, eff. Mar. 27, 2006]*

**Section 20.09 Changes to Approved PUD.**

- A. An approved Final PUD Plan and any conditions imposed upon Final PUD approval shall not be changed except upon the mutual consent of the Planning Commission and the applicant.
- B. Except for changes determined to be minor changes as provided by paragraph C, below, changes to an approved Final PUD Plan or to any conditions imposed on Final PUD approval shall be reviewed and approved, approved with conditions, or denied by the Planning Commission pursuant to the procedures provided by this Article for an original request for Final PUD approval.
- C. Minor changes to a Final PUD Plan may be approved by the Zoning Administrator, without review by the Planning Commission, subject to the following limitations:
  - 1. For residential buildings, the size of structures may be reduced by 5 percent or increased by 5 percent, provided that there shall be no increase in the number of dwelling units.
  - 2. Gross floor area of non-residential buildings may be reduced by 5 percent or increased by 5 percent, or no greater than 5,000 square feet, whichever is less.
  - 3. Floor plans may be revised, if consistent with the character of the use.
  - 4. Horizontal and vertical elevations may be altered up to 5 percent.
  - 5. Building footprints may be relocated by up to 5 feet, unless a specific setback or separation distance is imposed as a condition of approval.
  - 6. Areas designated as "not to be disturbed" may be increased in area.
  - 7. Plant materials included in the Final PUD Plan may be substituted by similar types of landscaping on a 1-to-1 or greater basis.
  - 8. Improvements to access and circulation systems may be made, such as addition of acceleration/deceleration lanes, boulevards, curbing, pedestrian/bicycle paths.
  - 9. Changes in exterior materials may be made, provided that any changes are for the use of materials of equal or higher quality than those originally approved, as determined by the Zoning Administrator.
  - 10. Signs may be reduced in size, and sign setbacks may be increased.



11. Parking spaces in a parking lot may be internally rearranged, if the total number of parking spaces provided is not reduced and circulation hazards or congestion are not created by the redesign.
- D. The Zoning Administrator may refer a decision regarding any proposed change to a Final PUD Plan (including any change which is a minor change under Section 20.08(b)) to the Planning Commission for review and approval by the Commission.

**Section 20.10 Commencement of PUD Construction.**

- A. Construction shall be commenced and shall be proceeding meaningfully toward completion within 1 year from the date of Final PUD approval for all or any phase of a PUD. Construction of each phase of a multi-phased PUD shall be commenced within 1 year of the schedule established for the phase as approved for the PUD.
- B. If construction is not commenced within the applicable 1 year period, approval of the Final PUD Plan shall lapse. However, the Planning Commission may extend the time for commencement of construction if the applicant requests an extension prior to the expiration of the 1 year period, and demonstrates to the satisfaction of the Commission that the extension is justified either:
  1. Because the delay is due to unforeseen difficulties beyond the reasonable control of the applicant, and there remains a likelihood of proceeding to completion with the PUD; or
  2. Upon other good cause shown by the applicant.
- C. If the Zoning Administrator determines that construction has not commenced or is not proceeding meaningfully toward completion within the required time period as provided by this Section, the Zoning Administrator shall provide written notice of that failure to the applicant (and to the owners of the land located within the PUD, if different than the applicant) at least 14 days prior to the expiration of the applicable required time period.
- D. If Final PUD approval lapses as provided by this Section due to a failure to commence construction and proceed meaningfully toward completion within time periods provided by this Section, a new application for Final PUD approval must be submitted for review by the Planning Commission under the then applicable provisions of this Ordinance.

**ARTICLE 20-A  
OPEN SPACE PRESERVATION DEVELOPMENT**

**Section 20-A.01            Intent**

This article contains standards and procedures for review and approval of "Open Space Preservation Developments" that meet the criteria for open space preservation development design set forth in Section 506, of the Michigan Zoning Enabling Act, P.A. 110 of 2006. The purpose of these standards and procedures is to: *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- A.     Encourage the use of Township land in accordance with its character and adaptability and the goals and objectives of the Township Master Plan;
- B.     Assure the permanent protection of open space, agricultural lands, and natural resources from development pressures;
- C.     Encourage development designs that preserve traditional southwest Michigan rural, countryside views along major road corridors;
- D.     Provide passive recreational facilities within a reasonable distance of all residents of the Open Space Community development;
- E.     Allow innovation and greater flexibility in the design of residential developments;
- F.     Facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner that is less damaging to the environment;
- G.     Ensure compatibility of design and use between neighboring properties;
- H.     Encourage a less sprawling form of development, thus preserving open space as undeveloped land;
- I.     Connect open space areas on adjacent developments to create a network of green space and habitat area throughout the community, and where appropriate provide paths, trails, or greenways between these areas; and
- J.     To encourage the use of this tool consistent with the purpose and intent of this Ordinance. These regulations are intended to result in creative development in a manner that reflects the rural character of the community and protects the natural features of the surrounding area through the creation of open space areas and the clustering of development areas within a project site. This Article is not intended as a device for ignoring the Zoning Regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair, and consistent decision making.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

**Section 20-A.02            Scope and Applicability**

For the purposes of this Article, an “Open Space Preservation Development” is defined as a predominantly residential development in which dwelling units are placed together into one or more groupings within a defined project area without increasing the overall project density unless granted a bonus per the standards below. The dwellings are clustered together, and the development includes substantial open space that is perpetually protected from development. A minimum of fifty percent (50%) of the land area shall remain perpetually in an undeveloped state as open space on the property. *[Amended by Ord. No. 123, eff. March 27, 2006]*

**Section 20-A.03            By Right Eligibility**

Open Space Preservation Development is permitted by right in the zoning districts identified in Section VI.A, below. A proposed Open Space Preservation Development shall be required to satisfy those development standards that would be applied to a conventional development in the same district, except that a parallel plan (Section V.A) shall be required in order to determine the number of lots or units permitted to be developed on the subject property. A By Right Open Space Preservation Development shall satisfy the requirements of Section 506, of the Zoning Act, including provision of a guarantee of protection of the open space by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land. A By Right Open Space Preservation Development completed according to these provisions, however, will not be eligible for any density bonus provided in this article. *[Amended by Ord. No. 123, eff. March 27, 2006 and Ord. No. 125, eff. Oct. 30, 2006]*

**Section 20-A.04            Density Bonus Eligibility**

To be eligible for consideration for a density bonus as an Open Space Preservation Development, the applicant must present a proposed development plan that meets each of the following:

A.        Recognizable and Substantive Benefits

An Open Space Preservation Development shall result in recognizable and substantive benefits to the ultimate users of the project and the community, and shall result in a higher quality of development than could be achieved under conventional zoning. Such benefits can be provided through site design elements in excess of the requirements of this Ordinance, such as the following:

1.        Extensive Traditional Landscaping. Maintaining existing landscaping on site to the extent feasible, particularly along primary roads and in common areas as well as enhancing existing landscaping with species native to Berrien County beyond the requirements of the Zoning Ordinance, resulting in quality development satisfying the intent of this Ordinance.
2.        Transition Areas from Residential Development. Providing buffers – distance and landscaping – between areas of potentially incompatible uses, whether located within a proposed development or between a proposed development and an adjacent property.
3.        Unique Site Design Features. Creating a development plan or site layout that exhibits creativity, demonstrates a conscious effort to protect significant natural features and other unique elements on the site (including historic or unique structures, view sheds, or community facilities), or provides other unanticipated and distinctive features in keeping

with the tradition and character of Chikaming Township and are of high quality and value to the community.

4. Unified Access. Limiting access from individual parcels and lots within the development to internal roads only; following other adopted access management standards; and providing for a continuous circulation system both within the development and with adjacent properties where development has occurred or is possible in the future (either through stub roads or through easements).
5. Preservation of Significant Natural Areas. Strategic location of development areas within the project site to protect significant natural areas (identified in Section B.1 below).
6. Buffering of Development from Lakes, Rivers, Streams, Wetlands, and Major Thoroughfares. Providing areas of existing natural space to buffer proposed development from natural features as well as major thoroughfares (I-94).

*[Amended by Ord. No. 123, eff. March 27, 2006]*

## B. Open Space

The proposed development shall be designed to maintain and/or enhance open space areas within the project site. These areas may include the following:

1. The site plan shall preserve significant natural assets in the required open space area, to the extent required. Removal or destruction of such assets for development shall be minimized. Significant natural assets include the following:
  - (a) Woodlands – trees and other plants in a densely wooded area
  - (b) Landmark trees – individual trees over 12 inch diameter measured at chest height (four feet above the ground)
  - (c) Steep slopes – topography exceeding 15% slope
  - (d) Rural view sheds
  - (e) Natural drainage ways or County drains
  - (f) Surface water – lakes, ponds, rivers, and streams
  - (g) Flood plains
  - (h) Regulated and non-regulated wetlands
  - (i) Natural wildlife habitat corridors (If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the Open Space Preservation Development Plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.)
2. Recreation Facilities. Additional enhancements in the open space areas may be provided to encourage use of and connection to the natural areas. Such facilities are

subject to the standards provided for in this Ordinance and include primarily passive recreational uses. These include trails, picnic areas, children's play areas, and greenways. This does not include a golf course.  
*[Amended by Ord. No. 123, eff. March 27, 2006]*

C. Impact of Density

The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this Ordinance, and shall not place an unreasonable impact to the subject, surrounding land, property owners and occupants, and/or the natural environment. The Planning Commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic, or socio-economic impact resulting from the proposed Open Space Preservation Development Plan. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development.

The Planning Commission may require that the applicant prepare a Comparative Impact Assessment, a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination. (This may include an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

D. Compliance with Township Master Plan

The proposed development shall be consistent with and further the implementation of the Township Master Plan. *[Amended by Ord. No. 123, eff. March 27, 2006]*

**Section 20-A.05 Project Density**

A. Parallel Plan

The permitted density in the Open Space Development shall be based on the net buildable area of the site, as defined in Article II of the Township Zoning Ordinance.

To assist the Planning Commission in determining the net buildable area, the applicant shall submit a parallel plan for the development that is consistent with the requirements for a site plan in Chapter 21. The parallel plan should show how the site could be developed under conventional zoning, land division, subdivision, and/or site condominium regulations. The parallel plan should be drawn to contain the maximum number of lots allowable per these standards in the underlying zoning district without any bonuses or provisions of the Open Space Preservation Development Plan.

The Planning Commission shall review the parallel plan and determine the number of lots that could be feasibly constructed (based on site conditions, engineering, cost, and similar factors) following the design. This number, as determined by the Planning Commission, shall be the base number of dwelling units allowable for the Open Space Preservation Development project.

Density bonuses may be applied to this base value by the Planning Commission per the standards of Section V, B and C below, if the development is eligible.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

**B. Density Bonus**

The Planning Commission may grant a density bonus to Open Space Preservation Developments that satisfy the eligibility requirements of Section IV above. In these cases, the base number of lots in an Open Space Preservation Development may be increased by the following percentages, resulting in the following overall densities for the entire project site:

Zoning District	Percent Density Bonus	Permitted Density Under Conventional Zoning	Permitted Density With Open Space Bonus
AG	25%	1:10 Acres	1:8 Acres
R-1	15%	1:20,000 Square Feet	1:17,391 Square feet
R-2	20%	1:1.5 Acres	1:1.25 Acres
R-3	15%	1:20,000 Square Feet	1:17,391 Square Feet

*[Amended by Ord. No. 123, eff. March 27, 2006]*

**C. Bonus for Exemplary Project**

The Planning Commission may allow an additional density bonus for exemplary Open Space Preservation Developments that include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate, to the satisfaction of the Planning Commission, that the proposed project exceeds the minimum standards for Open Space Preservation Development eligibility under Section III.

An additional variable density bonus may be allowed at the discretion of the Planning Commission, based upon a demonstration by the applicant of design excellence in the open space community. Projects qualifying for an additional density bonus shall include at least one of the elements identified below. Each element is worth an additional percentage density bonus as indicated for each district below. However, the maximum additional density bonus for an exemplary project shall be fifteen percent (15%) in the R-1 and R-3 districts and twenty-five percent (25%) in the AG and R-2 districts.

1. A high level of clustered development where a minimum of sixty percent (60%) of the gross land area of the Open Space Preservation Development is protected open space. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
2. Inclusion of an integrated mixture of housing types and sizes, including units with a livable floor area of 1,500 square feet or less. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
3. Providing frontage transition areas along all public roads that are at least one hundred fifty (150) feet in depth with suitable landscaping. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)

4. Providing public amenities such as trails for non-motorized use, children's playgrounds, picnic facilities, or community centers (not included in open space area). (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
5. Providing paths, trails, greenways, or other connectors between adjacent open space areas, accessible to the public, and connected to or creating a network of trails throughout the community. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
6. Cleanup of site contamination. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
7. Storm water management on site that relies upon natural systems to the greatest extent possible and preserves the quality and integrity of such systems. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
8. Use of porous paving materials to reduce impervious surfaces. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)
9. Other similar elements as determined by the Planning Commission. (Density bonus: 3% in R-1 and R-3; 5% in AG and R-2)

*[Amended by Ord. No. 123, eff. March 27, 2006]*

#### **Section 20-A.06          Development Standards for Open Space Preservation Developments**

##### **A.          Zoning Districts**

An Open Space Preservation Development may be located in the Ag - Agricultural or R-2 - Residential Rural Estate Districts. If the property has access to public sewer, a proposed development may also be located in the R-1 - Single Family Residential District and the R-3 - Two-Family and Multiple-Family Residential District. *[Amended by Ord. No. 123, eff. March 27, 2006]*

##### **B.          Permitted Uses**

1. An Open Space Preservation Development is generally restricted to single family detached or single family attached residential dwellings consistent with the underlying zoning district.
2. Multiple Family Component. In an Open Space Preservation Development in the R-1 or R-3 districts, multiple-family residential uses may be permitted consistent with the standards for a multiple-family residential structure in the R-3 district unless otherwise modified through the Open Space Preservation Development process by the Planning Commission, considering the following minimum standards.
  - (a) The Planning Commission may modify these standards based upon a determination that off-street parking will be adequate and that the modification will preserve natural features. Building setback requirements along the perimeter of the development shall not be reduced below the ordinance standard.
  - (b) Where the rear of a building abuts the side or rear of another residential structure, the minimum spacing between the structures shall be the combined total of the two setback requirements.

- (c) Where two buildings are located side-by-side, a thirty five (35) foot spacing shall be maintained between apartment buildings.
- (d) Off-street parking lots serving three (3) or more dwelling units shall provide a ten (10) foot wide open green space area around the perimeter of the parking lot.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

C. Minimum Standards

- 1. Unless specifically waived or modified by the Planning Commission, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations shall remain in full force.
- 2. Minimum setback standards may be modified if necessary based on reduced lot sizes and sound planning and design principals, taking into account the degree of compatibility between adjoining uses, sensitivity to characteristics of the site, the needs for free access for emergency vehicles, the need for adequate amounts of light and air between building, and the need for proper amounts of open space for the use of residents on the site.
- 3. Building and parking lot setback standards along the public road frontage of Open Space Preservation Developments shall be 50 feet.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

D. Roads and Driveways

To the extent practicable, the arrangement of lots, access roads, and designated open space within an Open Space Preservation Development shall achieve the following objectives:

- 1. All lots shall be accessed through an interior network of public or private streets. Unless specifically waived by the Township and the Berrien County Road Commission, individual lots shall not be accessed directly from the pre-existing public road adjacent to the property.
- 2. Streets systems and lot layout should be designed so that their curvature or alignment produces unimpeded views of prominent open space elements. This may commonly occur at the terminus of street intersections or through use of a street alignment directly abutting open space.
- 3. The amount of site disruption caused by road and driveway construction and associated grading required for construction shall be minimized in Open Space Preservation Developments.
- 4. Roads shall follow existing contours to minimize the amount of cut and fill.
- 5. Where sites include linear features, such as tree lines and stone rows, roads shall follow these features to minimize the visual impact of the roads.
- 6. Both sides of all internal roads shall be landscaped with street trees. For road frontages of individual lots or condominium sites, a minimum of two (2) canopy trees shall be



provided per dwelling. For sections of road that do not abut lots or condominium sites, one canopy tree shall be provided on each side for every fifty (50) feet of road. Existing trees to be preserved within five (5) feet of the road right-of-way or easement may be credited towards meeting this requirement.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

E. Utilities

1. All utility distribution lines and service lines to individual dwelling units, including telephone, electric and cable television lines, shall be placed underground.
2. If there is public water or sewer service available to the site on which an open space community development is proposed, the Planning Commission shall require connection into the system.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

F. Lighting

Street lighting shall be permitted only if authorized in the Open Space Preservation Development Plan approved by the Township. The design and style of any street lighting shall be subject to the approval of the Township. Cut-off fixtures with little to no glare that do not brighten the night sky shall be selected if street lights are used in the development. *[Amended by Ord. No. 123, eff. March 27, 2006]*

G. Stormwater Management

Existing natural drainage shall be maintained to the maximum extent feasible. Retention and detention basins, where proposed or required, shall resemble natural ponds with gradual slopes and shall be landscaped with plant material native to Berrien County that enhances the wildlife habitat. *[Amended by Ord. No. 123, eff. March 27, 2006]*

H. Regulatory Flexibility

1. Upon showing that an alternative standard will result in a higher quality development or increased protection of open space / natural resources the Planning Commission may grant specific modifications from the requirements in the Zoning Ordinance as a part of the approved process for a particular development.
2. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals.
3. An appeal of an Open Space Preservation Development Plan decision shall not be heard by the Zoning Board of Appeals. Such an appeal shall be to the Circuit Court of Berrien County.
4. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the Open Space Preservation Development, provided such a

variance does not involve alterations to open space areas as shown on the approved Open Space Preservation Development site plan.

5. A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this Open Space Preservation Development article. This specification should include Ordinance provisions, from which deviation is sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this Ordinance shall be considered.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

#### **Section 20-A.07 Open Space Amount/Requirements**

Open Space Preservation Developments shall provide and maintain open space in an Undeveloped State as defined in Article 2 of the Zoning Ordinance. The Planning Commission may determine that a public park or a public facility is appropriate and should be located in the open space areas of Open Space Preservation Developments. Open space provided in Open Space Preservation Developments shall comply with the following standards:

- A. A minimum of fifty percent (50%) of the gross land area of an Open Space Preservation Development shall be designated as open space. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- B. Open space shall be located on the parcel to meet the following objectives:
  1. To protect and preserve distinct natural features, scenic or wooded conditions, and rural characteristics.
  2. To allow for the continued use of agricultural lands within a residential environment in compliance with GAAMP Standards.
  3. To protect viewsheds and provide visual and spatial separation between the developed property and adjoined property.
  4. To provide Open Space along public road corridors.
  5. To provide common recreational area for use by the residents of the development or the public.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

- C. The open space shall be strategically located on a lot adjacent to open space areas on contiguous developments or potential open space areas on undeveloped properties in order to establish continuous networks of important environmental resource systems including, but not limited to, wetlands, woodlands, stream and river corridors, and wildlife corridors and habitats. *[Amended by Ord. No. 123, eff. March 27, 2006]*

- D. In addition, no more than 40% of the required open space may be developed with children's play facilities, picnic facilities, and/or public parks, to satisfy the needs of future residents of the development, provided that all such facilities shall be compatible in design with other open space requirements and objectives and shall satisfy the definition standards for open space. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- E. At least 25% of the open space must be in usable, upland areas. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- F. To the extent possible, dedicated open space areas shall be continuous throughout the Open Space Preservation Development. Open space areas shall be large enough and of proper dimensions so as to contribute significantly to the purpose and objectives of the development. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- G. Land with any of the following characteristics shall not be included in the calculation of the area of designated open space.
1. Land subject to public or private street easements or right-of-way.
  2. Land used for any above ground portion of a private community on-site wastewater disposal system.
  3. Land that is included within the boundaries of a lot in a subdivision plat, within the boundaries of a condominium unit, or within the boundary of a parcel intended to be a building site.
  4. Land designated for parking of vehicles.
- [Amended by Ord. No. 123, eff. March 27, 2006]*
- H. Unpaved trails and passive recreation space shall be permitted in open space areas. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- I. The required open space shall be perpetually preserved in an undeveloped state and protected against uses or activities inconsistent with the intent of this article through use of a conservation easement held by the Township or a qualified land trust, a plat dedication, restrictive covenant, or other instrument of record that runs with the land. Such conveyance shall:
1. Be subject to approval of the Township Attorney.
  2. Indicate the proposed use(s) of the required open space.
  3. Provide for the privately owned open space to be maintained by the property owners' association or other association of private property owners having a shared ownership interest in the open space.
  4. The applicant(s) for the proposed development shall provide the Township with a recordable maintenance or restrictive covenant agreement between the owner(s) of the open space, or other documentation satisfactory to the Township, which shall provide for and assure that the open space shall be preserved in perpetuity and maintained as needed.

5. Provide notice of possible assessment to the private property owners by the Township for the maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
6. Except for on existing active farms, the maintenance requirements of dedicated open space are not necessarily intended to include regular clearing and mowing or other active maintenance. For the purposes of this subsection, maintenance is intended to include such items as removal of any accumulation of trash or waste material within the dedicated open space area, clean up of storm or other Act of God damage, or removal of diseased plant materials.
7. After approval from the Township, the developer shall record the final document with the Berrien County Register of Deeds to provide notice of the restrictions to all persons having or seeking an interest in the property contained in the Open Space Preservation Development. A copy of the recorded document shall be provided to the Township.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

- J. Any structure(s) or building(s) accessory to an approved open space use and owned and maintained by the same property owner' association as the open space area may be erected within the dedicated open space. These accessory structure(s) or building(s) shall not exceed, in the aggregate, a maximum gross floor area of 100 square feet per dwelling unit within the entire development, up to a maximum of 2,500 square feet. The size, location, design, appearance, and use of any accessory structure or building located within designated open space areas shall be compatible with the character, natural features, and intended use of the open space area. Accessory structures installed after approval of the development shall be considered a major change subject to the provisions of Section VII.C below. Barns used as an accessory to active agricultural operations shall be an exception to this requirement. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- K. Designated open space areas not intended to be used for active agricultural uses should be accessible by pedestrians and non-motorized vehicles from all dwelling units in an Open Space Preservation Development by means of public or private streets, or by pedestrian access ways in easements that have a minimum width of twenty (20) feet and an improved surface meeting specifications as approved by the Planning Commission or Township Board. To the extent possible, natural features shall be preserved within easement areas. *[Amended by Ord. No. 123, eff. March 27, 2006]*

#### **Section 20-A.08 Procedures and Approval**

- A. Review and Approval Process. Proposals for Open Space Preservation Development shall be reviewed following the same procedures required for conventional subdivisions, condominium proposals, land divisions, planned unit developments, or other conventional developments, except that the applicant shall submit a site features inventory prior to development. This inventory shall consist of maps and written analysis which shall identify, describe, and quantify the following features, at a minimum: active agriculture areas, existing vegetation, topography at two (2) foot contour intervals, water courses, drainage patterns, wildlife habitats, roads and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings) MDEQ-regulated wetlands, floodplains, woodlands and tree lines, rare and endangered habitats, and any additional features uniquely affecting the site. The information required may be modified by the Zoning Administrator based on the characteristics of the site or the scope of the development. *[Amended by Ord. No. 123, eff. March 27, 2006]*

- B. Approval of an Open Space Preservation Development shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the final approved plan or application and comply fully with any conditions. *[Amended by Ord. No. 123, eff. March 27, 2006]*
- C. Satisfactory evidence that deed restrictions, easements, and measures used to designate and protect the open space have been duly filed with the Register of Deeds of the County and copies of recorded documents presented to the Township promptly following approval of an Open Space Development Plan and prior to issuance of any building permits for construction within the development. The Township Clerk shall establish a file and maintain all records of open space, etc. *[Amended by Ord. No. 123, eff. March 27, 2006]*

**Section 20-A.09            Revising Approved Plans**

- A. Minor changes to an approved Open Space Preservation Development Plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 21 for the following:
  - 1. Reduction in density;
  - 2. Changing non-single family dwelling units to single family dwelling units;
  - 3. Realignment of roads;
  - 4. Modifications to setbacks;
  - 5. Increasing the amount of open space;
  - 6. Changes to landscaping, provided the number of plantings is not decreased;
  - 7. Change in the size of detention ponds by no more than 10%;
  - 8. Other minor changes similar to the above, as determined by the Planning Commission.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

- B. Minor changes shall be subject to the finding of all of the following:
  - 1. Such changes will not adversely affect the initial basis for granting approval;
  - 2. Such minor changes will not adversely affect the overall Open Space Preservation Development in light of the intent and purpose of such development as set forth in this Article; and
  - 3. Such changes shall not result in the reduction of open space area as required herein.

*[Amended by Ord. No. 123, eff. March 27, 2006]*

- C. Revisions to an Open Space Preservation Development that do not qualify as minor under Section A above may be revised by resubmitting the final plan and repeating the process

required for approval of the original Open Space Preservation Development Plan. *[Amended by Ord. No. 123, eff. March 27, 2006]*

**ARTICLE 21  
SITE PLAN REVIEW AND APPROVAL**

**Section 21.01 Intent.**

The site plan review procedures and standards in this section are intended to provide a consistent and uniform method of review for proposed development plans and application requests within Chikaming Township. Through the application of the following provisions, the Township will attain the goals and objectives of the Township Master Plan, the Township will develop in an orderly fashion, and the decisions on these applications will protect the health, safety, and welfare of Township citizens. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.02 When a Site Plan is Required**

A. Site plans are required for the following types of applications:

1. Any new use or expansion of an existing permitted principal use in the Commercial (C) or Light Industrial (M) zoning districts.
2. Any new special land use or physical expansion of an existing special land use in any zoning district.
3. Any non-residential permitted principal use in the Single Family Residential (R-1), Residential Rural Estate (R-2), Two-Family and Multiple-Family Residential (R-3), Agricultural (AG), Floodplain (F), and Recreation (RE) zoning districts, with the exceptions of farms, forest preserves, conservation areas, and game refuge areas in the AG or R-2 zoning districts.
4. Planned unit developments in any zoning district.
5. Subdivisions and condominium subdivisions in any zoning district.
6. Open Space Preservation developments in any zoning district.
7. Variances from provisions of this Ordinance submitted to the Zoning Board of Appeals, unless otherwise provided for in this Ordinance.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

B. Scaled Ground Plans/Drawings are required for the following types of applications:

1. Any new construction, expansion, remodeling, or change of use of a single-family or two family dwelling in a residential zoning district where such a use is permitted.
2. Variance requests involving single or two family dwellings on individual parcels in a residential or agricultural zoning district.
3. The following activities shall be exempt from the requirement to submit a ground plan/drawing:
  - a. The remodeling of the interior of a structure when the exterior is not altered.
  - b. The remodeling of the exterior of the structure as follows: new roof, new windows, painting, replacement siding or gutters, or the addition or replacement of landscape elements.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.03                    Contents of the Site Plan.**

- A.     An application for site plan review shall be submitted to the Zoning Administrator and shall consist of the following:
1.     Application form, signed by the applicant and the property owner, if a different entity or individual, and containing the following information:
    - a.     Name, address, and telephone and fax numbers of the property owner, applicant, and individual or company responsible for the preparation of the plan.
    - b.     Relationship between owner and applicant if not the same.
    - c.     Location, street address, parcel identification number of the property, and present zoning district.
    - d.     Description of the project or use change.
    - e.     Signatures of the property owner and applicant.
  2.     Application fee, as determined by the fee schedule adopted by resolution of the Township Board.
  3.     Proof of ownership of the subject property (or evidence of contract to acquire land) by the individual or entity signing the application form.
  4.     A scaled ground plan/drawing or site plan as required in Section 21.02 and containing the information required below.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- B.     Scaled Ground Plan/Drawing. In the case of proposals subject to submittal of a Scaled Ground Plan/Drawing, a simple but accurate ground plan or drawing shall be submitted at a scale appropriate to the dimensions of the project (no less than one inch equals one hundred feet (1"=100') if site is larger than 3 acres, no less than one inch equals fifty feet (1"=50') if site is 3 acres or less), containing the following, where appropriate:
1.     A site plan application.
  2.     The boundary lines of the parcel including dimensions and lot size, a north arrow, and a scale.
  3.     The location and size of all structures presently on the parcel and those proposed to be built. Dimensions of structures and distances to property lines and structures are to be shown.
  4.     General location and information regarding significant natural features existing on the site.
  5.     Proposed method of providing water and sanitary sewer service to the site and locations of connections to public systems or locations of on-site systems, as applicable.
  6.     Adjoining and/or proposed street(s) and driveway(s).
  7.     Existing and proposed topography of the site expressed in contours with an interval of no greater than five (5) feet.



8. Any other information (for example, front and side elevations) unique to the site or development proposal necessary to understand the project and establish compliance with this and any other ordinances.
9. The signature and seal, if applicable, of the person who prepared the scale drawing.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

C. Site Plan. For all other application requests requiring a full site plan, a more complete and detailed

site plan with supporting materials is required. Two levels of site plan are provided. Some applications will require only one level of review, in which case they will only need to submit a Final Site Plan. Other applications require two levels of review and therefore require a Preliminary Site Plan and a Final Site Plan. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

1. Preliminary Site Plan. For those developments requiring a two-step development review process or for those applicants wishing to opt for a two-step review process, the first step is completion of a preliminary site plan. This preliminary site plan may be based on broad-brush engineering design and a level of detail sufficient to indicate the purpose of the development and its general design and layout. For a preliminary site plan, the following shall be required:
  - a. An application form.
  - b. A small scale vicinity map showing properties, streets, and uses of land within ¼ mile of the site (½ mile in the AG district) or twice the greatest dimension of the subject property, whichever is greater.
  - c. A site plan at a scale of not less than one inch equals one hundred feet (1"=100') for sites larger than 3 acres or not less than one inch equals fifty feet (1"=50') or less for sites 3 acres or smaller showing the following:
    - (1) Name of the proposed development, property dimensions, property size, north arrow, and scale.
    - (2) Significant natural features and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets. The total area of any submerged areas or wetlands within the lot shall be provided. Also, areas to be preserved and areas to be cleared shall be noted on the plan.
    - (3) Arrows or other graphic icons indicating the general topographic conditions and drainage patterns of the site.
    - (4) Existing adjacent streets and driveways and proposed streets and driveways.
    - (5) Existing public rights-of-way, street pavements, and public or private easements on the property or within 100 feet. Dimensions shall be provided as well as the total area of right of way included within the subject parcel.
    - (6) Existing and proposed water and sewer service (municipal or private), storm drainage, electric, gas, and other utilities either on or adjacent to the site.
    - (7) Existing and proposed uses, buildings and structures, parking areas, and access driveways. Dimensions shall be provided for all structures as well as the distance from property lines. Any structures to be removed or relocated shall be noted.
    - (8) Zoning classification of abutting properties.

- (9) Name, signature, professional seal (if applicable), address, and phone and fax numbers of the person and firm responsible for the plan and the date on which it was prepared.
- d. A narrative describing the following:
- (1) The specific means the applicant will employ to address the goals and objectives of the Township Master Plan.
  - (2) The overall objectives of the requested application.
  - (3) Area allocated to each proposed use and the gross area in building, structures, parking, public and/or private streets and drives, and open space.
  - (4) Dwelling unit densities by type, if applicable.
  - (5) Proposed method of providing sewer and water service, as well as other public and private utilities.
  - (6) Proposed method of providing storm drainage.
  - (7) Estimated effect on existing traffic capacity of streets leading to the site.
  - (8) The impact of the application request on adjacent properties.
  - (9) The services provided by the Township or other public agencies that are required to service the application request.
  - (10) The impact of the application request on natural features on or around the subject property.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

2. Final Site Plan. For those applications requiring or opting to undergo a two-step review process, a final site plan is required after the preliminary site plan has been approved. For those applications that require a one-step review process, only a final site plan is required. The final site plan shall include the following information:
- a. An application form.
  - b. Legal description of the property.
  - c. Small scale vicinity map of the properties, streets, and uses of land within ¼ mile of the site (½ mile for applications in the AG district) or twice the greatest dimension of the subject property, whichever is greater.
  - d. A site plan at a scale of not less than one inch equals one hundred feet (1"=100') for sites larger than 3 acres or not less than one inch equals fifty feet (1"=50') or less for sites 3 acres or smaller showing the following:
    - (1) Boundary lines of the area included in the site plan, including angles, dimensions and reference to a section corner, quarter corner, or point on a recorded plat; scale; north arrow; proposed project name; and the individual lot areas, with lot lines, bearings, and dimensions, within the development.
    - (2) Existing and proposed topography of the site expressed in contours with an interval of no greater than 2 feet.
    - (3) All natural features such as woodlots, trees of more than 1 foot in diameter, streams, lakes, ponds, State-regulated wetlands, critical dune areas, and floodplains. The total area of any submerged areas or wetlands within the lot shall be provided. Also, areas to be preserved and areas to be cleared shall be noted.
    - (4) Existing man-made structures such as buildings, roads, drives, and paths, with indication as to which features are to be retained and which

- are to be altered or removed, dimensions of all structures, existing and proposed uses, and distances from structures to adjacent property lines.
- (5) Existing and proposed streets (showing widths, grades, curb cuts, loading spaces, surface materials, the presence of curbs and/or gutters, and the inside radius of all curves), rights-of-way, sidewalks, and public or private easements. Dimensions shall be provided including the area of any right of way included in the lot.
  - (6) Location, screening, dimensions, and heights of proposed buildings and structures, including but not limited to trash receptacles, utility pads, accessory buildings, and rooftop or outdoor appurtenances, and proposed methods of screening such equipment, including fences, walls, and landscaping.
  - (7) Location and dimensions of parking areas, including computations of parking requirements and typical parking space dimensions, including handicapped spaces and aisle widths. Surface materials, curb location and design, and any parking blocks shall also be identified.
  - (8) Location and dimensions of all access drives, including driveway dimensions, pavement markings, traffic control signs or devices, and service drives. Existing driveways on the subject property and adjacent properties shall also be indicated.
  - (9) Existing and proposed water and sewer service (municipal or private), storm drainage, electric, gas, and other utilities either on or adjacent to the site, including locations of manholes, valves, cleanouts, hydrants, and sizing and slopes of pipes. If connecting to public water and sewer systems, location of proposed connections shall be shown. If proposing to provide on-site water and/or sanitary service, location of well and/or septic facilities shall be shown. Adjacent wells and/or septic facilities within 100 feet of the property shall be shown.
  - (10) Proposed site drainage patterns, including necessary drainage structures and, where applicable, the location and elevation(s) of the 100 year floodplain.
  - (11) A drainage plan prepared and sealed by a licensed professional engineer, identifying measures to be used for control and disposal of storm water runoff from the site. The drainage plan shall identify sizes and dimensions of all drainage structures, and the method, assumptions, and calculations used in the design of drainage facilities and control of runoff.
  - (12) Proposed common open spaces and recreation facilities, if applicable. The total area of open space shall be provided with a ratio of open space area to total lot area.
  - (13) Proposed landscaping, including quantity, size at planting (height or spread), species of plant materials (both scientific and common name), ground cover, and location, *etc.*
  - (14) Signs, including locations, size, heights, method of illumination, and elevations.
  - (15) Exterior lighting showing pole height, area of illumination, and the type of fixture to be used.
  - (16) Elevation sketches of proposed buildings and structures to be built or expanded on site, if applicable.
  - (17) Name, signature, professional seal (if applicable), address, and phone and fax number of person or firm responsible for the preparation of the plan, and date on which the site plan was prepared and/or revised.

- e. A Site Features Inventory. This inventory shall consist of maps and written analysis which shall identify, describe, and quantify the following features, at a minimum: active agriculture areas, existing vegetation, topography at two (2) foot contour intervals, water courses, drainage patterns, wildlife habitats, roads

and road rights-of-way, easements, soils (based on U.S. Soil Conservation Survey or soil borings) MDEQ-regulated and nonregulated wetlands, floodplains, woodlands and tree lines, rare and endangered habitats, and any additional features uniquely affecting the site.

- f. Outside Agency Approvals. Prior to approval of a final site plan, the applicant shall submit documentation indicating that the final site plan has been reviewed and approved by any and all required outside agencies, as applicable, and that the plan has been amended as necessary to satisfy any conditions of said approval. Outside agencies for approval may include but are not limited to the following:
  - (1) Berrien County Drain Commissioner (BCDC)
  - (2) Berrien County Road Commission (BCRC)
  - (3) Berrien County Health Department (BCHD)
  - (4) Berrien County Planning Commission
  - (5) Michigan Department of Environmental Quality (MDEQ)
  - (6) Federal Emergency Management Agency (FEMA)
- g. A narrative responding to the following:
  - (1) The statements contained in Section 21.03.C.1.c
  - (2) Any changes from the preliminary plan to the final plan.
  - (3) How the final plan satisfies any conditions of approval attached to approval of the preliminary plan.
  - (4) If the development is being completed in phases, the narrative shall describe how this final site plan is incorporated into the overall development plan and what phases will remain.
- h. The Zoning Administrator may waive any of the required preliminary or final site plan requirements which are not applicable to the site under consideration or the application request.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.04                      Review Procedure.**

- A. Applications for site plan review shall be reviewed and approved by the Township as follows:
  - 1. Scaled Ground Plans/Drawings, shall be reviewed and approved by the Zoning Administrator.
  - 2. Site Plans, submitted for permitted principal uses in the Commercial (C) or Industrial (I) district or for permitted non-residential uses in the residential or agricultural districts on a single parcel or lot, shall require Planning Commission approval of a Final Site Plan.
  - 3. Site Plans, submitted for special land uses on a single parcel or lot, shall require Township Board approval of a Final Site Plan.
  - 4. Site Plans, submitted for a PUD, site condominium, open space preservation development, or other complex, multi-parcel development, shall require Township Board approval of both a Preliminary Site Plan and a Final Site Plan.
  - 5. In any instance, the Zoning Administrator may refer an application for his/her approval to the Planning Commission for approval. Also, the Planning Commission may refer an application for their approval to the Township Board for a decision.

6. At his/her option, an applicant may select to submit a Preliminary Site Plan for approval when only a Final Site Plan is required. The same decision-making body charged with the authority to approve the Final Site Plan will make the determination on the Preliminary Site Plan. Upon approval of the Preliminary Site Plan, the applicant will then have to submit a Final Site Plan for final approval.
7. Specific procedures for development reviews or applications may exist elsewhere in this Ordinance (*e.g.* variances, PUD, *etc.*) with requirements particular to those applications or activities. Where differences exist, the standards for the specific application shall apply.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

B. The following number of site plan applications and required attached materials must be submitted:

1. Applications subject to Zoning Administrator review and approval shall submit two (2) complete copies of all application materials.
2. Applications subject to Planning Commission and Township Board approval shall submit fifteen (15) complete copies of all application materials with each application.
3. Applications subject to approval by the Zoning Board of Appeals shall submit seven (7) complete copies of all application materials.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

C. In the case of applications subject to review and approval by the Zoning Administrator, within 30 days after receipt of the application, the Zoning Administrator shall notify the applicant in writing of the approval or disapproval of the application.

1. If the scaled ground plan/drawing is approved, the Zoning Administrator may issue a building permit immediately.
2. If the scaled ground plan/drawing is denied, the reasons of denial shall be cited.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

D. In the case of site plans subject to review and approval by the Planning Commission, the Zoning Administrator shall conduct a preliminary review of the plan as soon as practicable after its submission to determine if it is in proper form and the content is in conformity with this Article. If the Zoning Administrator determines that the form and content of the plan are not in conformity with the application requirements contained herein, he/she shall promptly notify the applicant of the deficiencies. If the application is in proper form and contains the information required by this Article, the Zoning Administrator may schedule the application for review by the Planning Commission. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

E. If the proposed development requires a special land use permit or involves a PUD or Open Space Development, the Zoning Administrator shall follow procedures as provided in Articles 19, 20, or 20-A, respectively. This includes furnishing the applicant with the forms required and forwarding the completed papers, together with his/her findings as described in Paragraph D above, to the Planning Commission for their review. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

F. If the proposed development requires a variance, the Zoning Administrator shall follow procedures as provided in Article 23, including furnishing the applicant with the form required

and forwarding the completed papers, together with his/her findings as described in Paragraph D above, to the Zoning Board of Appeals. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- G. A complete application must be submitted at least 14 days prior to the next scheduled meeting in order to be placed on the next agenda, provided the application does not require public notice. If a notice does need to be published, the application must be submitted at least 30 days prior to the meeting to allow adequate time to meet the publication deadlines. If a complete application is not submitted within that time period, it will not be guaranteed placement on the next agenda. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- H. Pre-Application Conference. Prior to the submission of an application for site plan review, the applicant may meet with the Planning Commission for the purpose of preliminary discussion and review regarding the concept, appropriateness, general content and design approach of a proposed application. An applicant desiring a pre-application conference must submit to the Zoning Administrator a written request that the conference be placed on the Planning Commission's agenda. The request must be submitted at least 14 days prior to the Planning Commission meeting at which the conference is to take place. The applicant shall present at such conference or conferences, at minimum, a sketch plan of the proposed development, plus a legal description of the property; the total number of acres in the project; a statement regarding the proposed uses, the number of acres for each use, and the number of residential units proposed (as applicable); the number of acres of open space to be preserved or put to active use (such as recreation space); all known natural resources or features to exist on the site as well as those being preserved; and the existing conditions on the site. If multiple meetings are desired, a fee, established by the Township Board, shall be charged for each meeting after the first. No formal action shall be taken at a pre-application conference. Statements made by any person during the course of a pre-application conference shall not be deemed to constitute legally binding commitments. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- I. For applications requiring approval of both a preliminary and final site plan (e.g. PUDs, Open Space Preservation Development, site condominiums, or applicants selecting to submit both a preliminary and final site plan for approval), the Planning Commission shall review the preliminary plan and make a recommendation to approve, approve with conditions, or deny the plan, based on its compliance with the criteria for approval contained in this Article. The Planning Commission Secretary will forward the recommendation of the Commission along with the minutes of the meeting to the Township Board for their review and the ultimate decision. If a public hearing is required, the Planning Commission shall host the Public hearing before making a recommendation.
  - 1. If denied, the Planning Commission/Township Board shall cite reasons for the denial.
  - 2. If a preliminary site plan is approved or approved with conditions, the Planning Commission/Township Board shall cite reasons for the approval. The applicant may then proceed with preparation of a final site plan, taking into consideration the imposed conditions, if any.
  - 3. Approval of a preliminary site plan, with or without conditions, does not obligate the Planning Commission/Township Board to approve the final site plan if it does not meet the criteria for approval contained in this Article.
  - 3. Approval of the preliminary site plan is valid for a period of 12 months. If a final site plan for the development, or any phase of the development, has not been submitted during that period, the approval of the preliminary site plan shall expire and be null and void. This time limit may be extended by the Planning Commission, upon written request submitted by the applicant prior to the date of expiration of the approval. Only one such extension may be granted for a maximum of six (6) months. A preliminary site plan for which the approval has expired must be resubmitted and will be processed as an original proposal. In the case of a phased development, continual progress must be made

towards completion of the project, which must be achieved within seven (7) years from the date of approval of the preliminary plan, or the approval of the preliminary plan will become void.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- J. For applications requiring only a final site plan, the Planning Commission shall review the plan and approve, approve with conditions, or disapprove the plan, based on its compliance with the criteria for approval contained in this Article. If the Township Board has the final authority on the application, then the Planning Commission shall make a recommendation to the Township Board. The Planning Commission Secretary shall forward the recommendation of the Planning Commission along with the minutes of the meeting to the Township Board for their review. If a public hearing is required, the Planning Commission shall hold the hearing before making a recommendation. If the subject site plan has been submitted in conjunction with a planned unit development or special land use permit request, the Commission's action on the site plan shall be taken as an integral part of its decision regarding the planned unit development or special land use permit. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

#### **Section 21.05 Criteria for Granting Site Plan Approval**

In the review of all site plans, the Zoning Administrator and the Planning Commission shall approve a site plan only if it conforms to each of the following standards: *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- A. The application request satisfies the goals and objectives of the Chikaming Township Master Plan. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. The application request conforms to all provisions of the Zoning Ordinance. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. The application request is harmonious with existing uses in the immediate area and the community. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. The necessary infrastructure improvements, such as roads, driveways, drainage, non-motorized pathways, utilities, and parking and loading spaces, required to serve the site and any proposed uses are provided and are adequately coordinated with the current and future use of adjacent properties to ensure safe and convenient movement of vehicular and pedestrian traffic into, out of, within, through, and/or around the proposed development site. The application request conforms to the requirements of the Berrien County Road Commission, Township private road standards, and emergency service providers, as applicable. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- E. The applicable requirements of Township, County, and State agencies are met regarding grading and surface drainage and for the design and construction of storm sewers, storm water holding facilities, water mains, sanitary sewers, and on-site systems for providing water or sanitary sewer service. The application request shall comply with the standards and conditions of the Berrien County Drain Commissioner, Berrien County Health Department, the Township Utility Board, and the Michigan Department of Environmental Quality (MDEQ). *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- F. The proposed development preserves the natural topography to the maximum extent possible by minimizing the amount of cutting, filling, and grading required and reducing the potential for soil erosion or sedimentation. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- G. Natural resources are preserved to the maximum extent possible in the site design by developing in a manner that will not detrimentally affect or destroy natural features such as

lakes, ponds, streams, wetlands, steep slopes, floodplains, and woodlands. Where applicable, the application request satisfies the standards and conditions of the Michigan Department of Environmental Quality and the Federal Emergency Management Agency. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- H. Landscaping, including trees, shrubs and other vegetative material, is provided to maintain, improve, and/or restore the aesthetic quality of the site. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- I. Uses, activities, processes, materials and equipment, or conditions of operation that would be hazardous or detrimental to the natural environment, adjacent properties, or the public health, safety, or welfare through excessive production of traffic, noise, smoke, odor, fumes, glare, or other public nuisance are not included in the proposed development. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- J. An adequate level of essential public facilities and services such as, but not limited to, roads, police and fire protection, drainage structures, municipal water and sewer (where appropriate), and schools, are available to serve the proposed development, or the applicant demonstrates that the proposed development will continually and adequately be provided with such essential public facilities and services without detriment to the health, safety, and welfare of the persons at the subject property or adjacent properties. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.06                      Conditions of Approval.**

- A. As part of an approval to any site plan, the Planning Commission or Township Board may impose any additional conditions or limitations as in its judgment may be necessary for protection of the public health, safety, and welfare. Such conditions shall be related to and ensure that the criteria for approval of a site plan contained in this Article are met. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. Approval of a site plan, including conditions made as part of the approval, is attached to the property described in the application and not to the owner of such property. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved by the Planning Commission or Township Board, in the case of site plans subject to approval of the Township Board. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. A record of the decision of the Planning Commission, the reason for the decision reached, and any conditions attached to such decision shall be kept and made a part of the minutes of the Planning Commission. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- E. The Zoning Administrator or another appropriately appointed designee of the Township may make periodic investigations of developments for which site plans have been approved. These investigations or inspections shall be used to confirm compliance with site plan approval and any conditions thereof prior to occupancy of the structure. Non-compliance with the requirements and conditions of the approved site plan shall constitute grounds for the Township Board to terminate said approval following a public hearing. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.07                      Performance Guarantees.**

The Planning Commission may require that a performance guarantee, in the form of a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the applicant to ensure the completion of certain improvements associated with development authorized in an approved site plan. The improvements for which such a guarantee may be required shall be limited to those features associated



with the development project which are considered necessary to protect the natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including, but not limited to, roadways, utilities, sidewalks, landscaping, revegetation, screening, and drainage. The term "improvements" does not include the entire project which is the subject of the site plan approval, or improvements for which a performance guarantee has been deposited pursuant to the State Land Division Act (P.A. 288 of 1967, as amended). Performance guarantees shall be processed in the following manner: *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- A. The performance guarantee shall be deposited with the Township Clerk at the time of issuance of a building permit for the construction included in the approved site plan. The amount of the performance guarantee shall be equal to one hundred percent (100%) of the estimated cost of the required improvements covered by the guarantee, and shall be based upon an itemized cost estimate submitted by the applicant, and reviewed and approved by the Zoning Administrator as to its accuracy. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. The Zoning Administrator, upon the written request of the applicant, shall authorize the Township Clerk to rebate portions of the performance guarantee upon a determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. When all of the required improvements have been completed, the applicant shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall authorize approval, partial approval, or rejection of the improvements, with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement rejected shall be set forth. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. The Zoning Administrator shall notify the applicant in writing of the approval, partial approval, or rejection of the improvements within 30 days after receipt of the notice from the applicant of the completion of the improvements. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- E. A record of performance guarantees and the status of the improvements guaranteed thereunder shall be maintained by the Zoning Administrator. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21.08 Amendments to Approved Site Plans.**

- A. Any person who has been granted site plan approval shall notify the Zoning Administrator if he/she would like to make an amendment to such an approved plan. If the amendment is a major amendment, the filing and review procedures will be the same as the original approval. A minor amendment may be approved by the Zoning Administrator. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. Major changes to an approved preliminary site plan prior to final site plan approval must go back through the original preliminary site plan review and approval procedures. However, minor changes to an approved preliminary site plan need only be reviewed by the Zoning Administrator to confirm that the changes are "minor." *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. Minor amendments to a site plan or minor changes to a preliminary site plan shall be limited to the following activities:

1. For residential buildings, the size of structures may be reduced by five percent (5%) or increased by five percent (5%), provided that there shall be no increase in the number of dwelling units.
2. Gross floor area of non-residential buildings may be reduced by five percent (5%) or increased by five percent (5%), or no greater than 5,000 square feet, whichever is less.
3. Floor plans may be revised, if consistent with the character of the use, excluding multifamily dwellings.
4. Horizontal and vertical elevations may be altered up to five percent (5%).
5. Building footprints may be relocated by up to five (5) feet, unless a specific setback or separation distance is imposed as a condition of approval. However, no building shall be relocated into a required yard area.
6. Areas designated as "not to be disturbed" may be increased in area.
7. Plant materials included on the site plan may be substituted by similar types of landscaping on a one to one (1:1) or greater basis.
8. Changes in exterior materials may be made, provided that any changes are for materials of equal or higher quality than those originally approved, as determined by the Zoning Administrator.
9. Signs may be reduced in size, and sign setbacks may be increased.
10. Parking spaces in a parking lot may be internally rearranged, if the total number of parking spaces provided is not changed and circulation hazards or congestion are not created by the redesign.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

#### **Section 21.09 Appeals of Final Site Plans.**

- A. Any person aggrieved by the decision of the Planning Commission in approving or disapproving a site plan shall have the right to appeal the decision to the Township Board. The aggrieved party must allege and prove to the satisfaction of the Township Board that he/she has suffered some special damages not common to other property owners similarly situated. The mere increase in traffic in the area, proof of general economic and aesthetic losses, or the mere fact that the appellant owns adjacent property are not sufficient to show special damages. The appeal shall state the aggrieved parties' grounds for appeal and shall be filed with the Zoning Administrator within 15 days of the decision of the Planning Commission. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. The filing of such an appeal shall act to stay implementation of the development proposal. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. On hearing such appeal, the Township Board shall review the record before the Planning Commission and shall determine whether it supports the original decision. The appellant shall not have the right to present new evidence, but shall be bound by the record before the Planning Commission. The Township Board shall approve the site plan if the requirements of this chapter and other applicable Township ordinances are met. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- D. An appeal of a Township Board decision concerning a site plan shall be to the Circuit Court of Berrien County. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**ARTICLE 21-A  
SITE PLAN REVIEW AND APPROVAL FOR  
SITE CONDOMINIUM DEVELOPMENTS**

**Section 21A.01 Intent.**

The site plan review procedures and standards in this section are intended specifically for site condominium developments, a form of land development enabled by the State Condominium Act (P.A. 59 of 1978, as amended). These standards provide for this tool to be used in Chikaming Township and for site condominium applications to be reviewed in a consistent and uniform manner while resulting in a high quality of development consistent with the goals and objectives of the Township Master Plan. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21A.02 General Provisions.**

- A. The site plan for any condominium consisting of detached single-family homes or two-family dwellings or any other permitted dwelling unit (hereinafter referred to as "site condominiums") shall be subject to review and approval by the Township prior to initiating construction and prior to the recording of a master deed. This section shall also be applicable to an amendment to an existing condominium master deed, including an amendment which creates additional condominium units by addition of land to an expandable condominium or conversion of convertible area to additional condominium units, or which alters the horizontal dimensions of a condominium unit. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. Each condominium unit shall contain appurtenant limited common element for the exclusive use of the condominium unit owner which complies with the applicable provisions of this Ordinance concerning minimum lot area, minimum lot frontage, and required front, side, and rear yards. For purposes of determining compliance with these provisions, the condominium unit and its appurtenant limited common element shall be considered the equivalent of a lot. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. All public and private utility system distribution lines shall be placed underground. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. Public easements shall be dedicated as necessary to Chikaming Township, Berrien County, or other appropriate governmental entities to provide public utility services to the development for the purposes of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipes, mains, conduits, and other installations of a similar character necessary for the purpose of providing public utility services. Easements for public utilities shall have a minimum width of 20 feet, provided that the Township Engineer may require that a greater width be provided where deemed necessary due to topographic or other physical conditions. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21A.03 Preliminary Review and Approval of Site Condominium Plan.**

- A. Application for preliminary approval of a site condominium plan shall be made by submittal of 15 copies of the following information to the Zoning Administrator:
  - 1. A preliminary site plan satisfying the requirements of Section 21.03.C.1, plus the following additional information:
    - a. The number of condominium units to be created.
    - b. The approximate horizontal boundaries, dimensions, and area of each condominium unit, including limited common area appurtenant to each condominium unit.

- c. The approximate horizontal boundaries, dimensions, area, and intended use of general common elements within the condominium development.
  - d. The proposed width, alignment, and grade of proposed access roads, including information as to whether such roads are to be dedicated public roads or private roads.
  - e. If the condominium is to be served by public water and/or sewer facilities, a utility plan shall be submitted which shows all sanitary sewer, water and storm sewer lines, and all easements to be granted to the Township for the installation, repair and maintenance of such utilities.
- 2. A narrative describing the items listed in Section 21.03.C.1.d.
  - 3. An application fee, in accordance with the fee schedule established by resolution of the Township Board.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- B. The Planning Commission shall review the preliminary site condominium plan and shall make a recommendation to the Township Board to approve the plan, deny the plan, or approve it with conditions. The Planning Commission Secretary shall forward the recommendation of the Planning Commission with the minutes of the meeting to the Township Board for their review. Within a reasonable time thereafter, the Township Board shall consider the preliminary site condominium plan and Planning Commission recommendation. The Township Board shall approve the plan, deny its approval, or approve it with conditions. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. See Section 21.09 for the procedures to appeal a decision of the Township. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21A.04 Final Review and Approval of Site Condominium Plan.**

- A. Application for final approval of a site condominium plan shall be made by submittal of 15 copies of the following information to the Zoning Administrator:
  - 1. A final site plan, satisfying the standards of Section 21.03.C.2, and containing the additional items required by Section 21A.03.1.
  - 2. The proposed Master Deed intended to be recorded to establish the site condominium, including all items attached as exhibits and incorporated by reference, such as the Bylaws of the condominium.
  - 3. The condominium subdivision plan, as that term is defined by and meeting the specifications of the Condominium Act (P.A. 59 of 1978, as amended).
  - 4. An application fee, in accordance with the fee schedule established by resolution of the Township Board.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- B. The final site condominium plan must be largely consistent with the preliminary site condominium plan. See Section 21.08 if there are changes to be made between preliminary and final site plan approval. To be considered largely consistent, any differences between the preliminary and final plans must satisfy the standards of a minor amendment in Section 21.08. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- C. The Planning Commission shall review the final site condominium plan and Master Deed (with attachments), and make a recommendation to the Township Board to approve the plan, deny the plan, or approve it with conditions. The Planning Commission Secretary shall forward the recommendation of the Planning Commission with the minutes of the meeting to the Township Board for their review. Within a reasonable time thereafter, the Township Board shall consider the final site condominium plan and Planning Commission recommendation. The Township Board shall approve the plan, deny the plan, or approve it with conditions. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. Upon approval of the final site condominium plan, the applicants must record the approved master deed and condominium subdivision plan with the Berrien County Register Deeds. A stamped copy of each must be returned to the Township after they have been registered so that the Township has an official final copy of the condominium documents. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- E. See Section 21.09 for the procedures to appeal a decision of the Township. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 21A.05 Criteria for Approval**

Approval of a Preliminary Site Condominium Plan and a Final Site Condominium Plan shall only be recommended by the Planning Commission or granted by the Township Board when the following criteria have been satisfied: *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- A. The criteria in Section 21.05 have been satisfied. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. Each condominium unit shall be subject to all other applicable requirements of the subject zoning district, including but not limited to use regulations, minimum floor area of dwelling units, and maximum building height. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. The site condominium subdivision shall have provided all required infrastructure improvements and easements and obtained the necessary approvals from local, County, State, and/or Federal agencies to proceed with the development. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. The draft condominium documents (master deed and by-laws) have been reviewed and have been found to contain no standards that conflict with the Township Zoning Ordinance nor any participation by the Township in the installation or maintenance of any common elements within the development. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**ARTICLE 22  
ADMINISTRATION AND ENFORCEMENT**

**Section 22.01           Zoning Administrator.**

- A.     An administrative official who shall be known as the Zoning Administrator shall be designated by the Township Board to administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the Township Board may direct.
  
- B.     If the Zoning Administrator shall find any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

**Section 22.02           Duties and Limitations of the Zoning Administrator.**

- A.     The Zoning Administrator shall have the authority to grant building permits and certificates of occupancy and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of the ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue a building permit for any excavation or construction or use until he has inspected such plans in detail and has found them in compliance with this Ordinance. To this end, the Zoning Administrator shall require application for a building permit for every excavation, construction, moving, alteration or change in type of use or type of occupancy, where required by Article 21.
  
- B.     If the proposed excavation, construction, moving or alteration or use of land as set forth in the application is in conformity with the provisions of this Ordinance and all other applicable Township, county and state regulations, the Zoning Administrator shall issue a building permit. If an application for such permit is not approved, the Zoning Administrator shall state in writing on an appropriate denial form the cause for such disapproval.
  
- C.     The Zoning Administrator may accept a preliminary application and a lesser number of submitted documents than those listed above in situations where a basic clarification is desired ahead of proceeding with further technical work; the Zoning Administrator may on such preliminary submittal indicate tentative denial or tentative approval.
  
- D.     Issuance of a building permit shall in no case be construed as waiving any provision of this Ordinance. The Zoning Administrator under no circumstances is permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in the ordinance to any person making application to excavate, construct, move, alter or use either buildings, structures or land. The Zoning Administrator under no circumstances is permitted to make changes in this Ordinance or to vary the terms of this Ordinance in carrying out his duties.
  
- E.     The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Ordinance and all other applicable Township, county and state regulations. Violations of contracts, such as covenants or private agreements, which may result upon the granting of said permit are not cause for refusal to issue a permit.

**Section 22.03            Zoning Compliance.**

- A.     It shall be unlawful to commence the excavation for or the construction of any building or other structure including an accessory building or structure, or to commence the moving, alteration or repair of any structure including an accessory building or structure, until the Zoning Administrator has issued for such work a building permit in conformity with the building requirements and procedures specified in the Michigan Construction Code promulgated pursuant to Act 230, P.A. 1972 as amended, including a certification of his opinion that plans, specifications and intended use of such structure do in all respects conform to the provisions of this Ordinance.
  
- B.     It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use, until the Zoning Administrator has determined such change to be in compliance with applicable provisions of this Ordinance.
  
- C.     When the Zoning Administrator receives an application which requires Township Board special land use permit or other approval, he shall so inform the applicant and provide the necessary forms therefor.

**Section 22.04            Penalties for Violations.**

- A.     Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or special land use permits, shall constitute being responsible for a municipal civil infraction, subject to payment of a civil fine of not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00), plus costs and other sanctions, for each infraction. Repeat offenses shall be subject to an increased civil fine as follows:

- 1.     the fine for any offense which is a first repeat offense shall be not less than Two Hundred and Fifty Dollars (\$250.00), plus costs and other sanctions.
  
- 2.     The fine for any offense which is a second repeat offense shall be not less than Five Hundred Dollars (\$500.00), plus costs and other sanctions.

A repeat offense means a second (or any subsequent) violation of this Ordinance (i) committed by a person within any 6 month period and (ii) for which the person admits responsibility or is determined to be responsible. Each day on which any violation of this Ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.

- B.     The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found responsible for a separate civil infraction offense and suffer the penalties herein provided.
  
- C.     Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation of this Ordinance.

**Section 22.05            Fee Schedule Established by Township Board.**

- A.     The Township Board shall by resolution establish a schedule of fees, charges and expenses and a collection procedure for permits and certificates of occupancy, appeals, requests for special land use permits and variances, rezoning applications and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be amended only by the Township Board.



- B. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

**ARTICLE 23  
APPEALS**

**Section 23.01            Zoning Board of Appeals: Membership and Terms of Office; Procedure.**

- A.     The Zoning Board of Appeals is established in accordance with P.A. 110 of 2006, as amended, and consists of five members appointed by the Township Board. The first member of the Board of Appeals shall be a member of the Township Planning Commission, and his term of office shall be concurrent with his term of office on the Planning Commission. The second member of the Board of Appeals shall be a member of the Township Board, and his term of office shall be concurrent with his term of office on the Township Board. The second member shall not serve as chairman of the Board of Appeals. The third, fourth and fifth members of the Board of Appeals shall be selected and appointed from among the electors residing in the unincorporated area of the Township. Their terms of office shall be 3 years, and they shall not serve simultaneously as a member or employee of the Board of Appeals while employed by the Township Board or as an elected officer of the Township. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
  
- B.     The Zoning Board of Appeals as constituted on the effective date of this Ordinance shall continue and, upon completion of current terms, appointments by the Township Board shall be made in the manner and for terms as specified in Paragraph A above.
  
- C.     When a vacancy occurs on the Zoning Board of Appeals, the Township Board shall appoint a successor at its next regular meeting. All vacancies for unexpired terms shall be filled for the remainder of such term. Likewise, expired terms of office on the Zoning Board of Appeals shall be filled by reappointment of either the incumbent or by a successor at the next regular meeting of the Township Board.
  
- D.     The Township Board may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called by the chairman to serve as a regular member of the Zoning Board of Appeals if a regular member is absent from or will be unable to attend one or more meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than 30 consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member so appointed shall serve in the case until a final decision is reached. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
  
- E.     The Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and hearings shall be open to the public.
  
- F.     The Board of Appeals shall keep minutes of the proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Township Clerk.
  
- G.     The Zoning Board of Appeals shall not conduct business unless a majority of the regular members of the Board is present.
  
- H.     A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges after a public hearing.

A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 23.02 Zoning Board of Appeals: Powers and Duties.**

The Board of Appeals shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the administration and enforcement of this Ordinance.
2. The Board of Appeals may authorize, upon written application in specific cases variances from the provisions of this Ordinance where, owing to special conditions and circumstances, there are practical difficulties in the way of carrying out the strict letter of this Ordinance.
3. To interpret zoning district boundaries as provided in Article 3.
4. To hear and decide any other matter referred to it by this Ordinance.
5. The Zoning Board of Appeals shall not have the authority to consider appeals from decisions of the Planning Commission or Township Board with regard to special land use permits or planned unit developments.

**Section 23.03 Application and Hearing Procedures.**

- A. Appeals to the Board of Appeals concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by an officer, department, board, or bureau of the state may be taken by any person aggrieved or by an officer, department, board, or bureau of the state or township. Such appeals shall be taken within a reasonable time of the aggrieved action, not to exceed sixty (60) days, by filing with the Zoning Administrator a Notice of Appeal specifying the grounds thereof, and a fee, which shall be established by Resolution of the Township Board. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- B. The Zoning Administrator shall fix a reasonable time for a hearing, and shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- C. Upon receipt of a written request seeking an interpretation of the zoning ordinance, a request for a variance from ordinance standards, or an appeal of an administrative decision, a notice stating the time, date and place of the public hearing shall be published in a newspaper of general circulation within the township and shall be sent to the person requesting the hearing not less than 15 days before the public hearing. In addition, if the request involves a specific parcel, written notice stating the nature of the application and the time, date, and place of the public hearing shall be sent by first-class mail or personal delivery to the owner and occupant of the property and to all persons to whom real property is assessed within the 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question, regardless of whether the owner or property is located in Chikaming Township or not. If a tenant's name is not known, the term "occupant" may be used. The notice shall include the nature of the request, the propert(ies) for which the application has been filed (including specific street addresses or means of identification), the location where the application can be viewed, the date and time of the hearing, the location of the hearing, and the address at which written comments should be directed prior to the meeting. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- D. An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Appeals after the Notice of

Appeal is filed with him that, by reason of facts stated in the Certificate, a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

**Section 23.04                      Decisions of the Board of Appeals.**

- A. Findings and Decision: The minutes of the Board of Appeals shall record all relevant findings of fact, conditions and other relevant factors, including the vote of each member upon each question. To this end, the Board of Appeals shall prepare an official record for all appeals and base its decision on this record. The official record shall include the following:
  - 1. the relevant administrative records and orders issued relating to the appeal.
  - 2. the application for appeal or variance and the public notice of the application.
  - 3. such documents, exhibits, photographs or written reports as may be submitted to the Board of Appeals for its consideration.
  - 4. a written record of findings of the Board of Appeals, stating the facts of the appeal, the decision, the reasons for reaching the decision, and any conditions imposed.
- B. The Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The Board of Appeals may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the official from whom the appeal is taken.
- C. The concurring vote of 3 members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in the application of this Ordinance.
- D. A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless the Board finds there would be a practical difficulty satisfying the terms of the Ordinance based on evidence submitted by the applicant showing that all of the following conditions exist:
  - 1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
  - 2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome.
  - 3. The unique circumstances do not result from the actions of the applicant.
  - 4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building or structure.
  - 5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety and welfare.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- E. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zoning district.
- F. The Zoning Board of Appeals shall not hear or decide an appeal or request for variance from the provisions of this Ordinance which is (1) identical to or substantially the same as one affecting the same lot upon which the Board has rendered a decision within the previous 12 months, except on grounds of new evidence or proof of changed conditions relevant to the Board's decision, or (2) that involves property that is presently subject to litigation in which the Township, any of its boards, commissions or employees is a party.
- G. A nonconforming use of neighboring lands, structures or buildings in the same zoning district, or a permitted or nonconforming use of lands, structures or buildings in other zoning districts shall not be considered grounds for the issuance of a variance.
- H. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable as provided in Article 22.

**Section 23.05 Appeals from the Zoning Board of Appeals.**

Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Berrien County Circuit Court. An appeal shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of the decision. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

**Section 23.06 Duties of Zoning Administrator, Board of Appeals and Township Board on Matters of Appeal.**

- A. It is the intent of this Ordinance that all questions under appellate jurisdiction shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator. Requests for variances, constituting matters under original jurisdiction of the Board of Appeals, shall be filed with the Board of Appeals via the Zoning Administrator and shall not be construed as an appeal from the decision of the Zoning Administrator. Recourse from the decisions of the Board of Appeals shall be to the courts as provided by the laws of the State of Michigan.
- B. It is further the intent of this Ordinance that the duties of the Township Board in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Ordinance. Under this Ordinance, the Township Board shall have only the duties of:
  - 1. considering the adoption or rejection of proposed amendments, issuance of special land use permits or the repeal of this Ordinance, as provided by law.
  - 2. establishing a schedule of fees and charges as stated in Article 22, and
  - 3. appointing members of the Board of Appeals and the Zoning Administrator.

## **ARTICLE 24 AMENDMENTS**

### **Section 24.01 Intent.**

Amendment to this Ordinance may be initiated by the Township Board on its own motion or, in the manner and pursuant to the procedure hereinafter set forth, may be initiated by any person, firm or corporation filing an application therefor with the Township Board. The Planning Commission may, at its discretion, also initiate amendments to this Ordinance and recommend the same to the Township Board for adoption.

### **Section 24.02 Amendment Procedure.**

- A. Filing of Applications: All petitions for amendments to this Ordinance shall be in writing, signed and filed in triplicate with the Township Clerk for presentation to the Township Board.
- B. All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:
  - 1. The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
  - 2. The nature and effect of the proposed amendment.
  - 3. If the proposed amendment would require a rezoning of land, a legal description of such land, the present zoning classification of the land, the zoning classification of all abutting zoning districts, all public and private right-of-way and easements bounding and intersecting the land under consideration.
  - 4. If the proposed amendment would require a rezoning of land, the names and addresses of the owners, according to the current tax roll, of all land within 300 feet of the area to be changed by the proposed amendment.
  - 5. The alleged error in this Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons the proposed amendment will correct the same.
  - 6. The changed or changing conditions in the area or in the Township which make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
  - 7. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- C. The Township Board, upon receipt of the petition to amend, and after having it examined and approved as to form and content by the Township Clerk, shall refer the same to the Township Planning Commission for study and report.
- D. Public Hearing: Before submitting its recommendations of the petition to amend, the Planning Commission shall hold at least one public hearing. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- E. The notice for the public hearing shall be given not less than 15 days before the date of the hearing on a proposed zoning amendment and notices shall be sent to:
1. The applicant.
  2. The owner (or other owners) of the property, if different.
  3. If the zoning amendment is for less than 11 adjacent properties: the owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
  4. If the zoning amendment is for less than 11 adjacent properties: occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.
  5. The general public by publication in a newspaper which circulates in the Chikaming Township.
  6. Members of the Planning Commission, or legislative body and Planning Commission if the hearing is being held by the legislative body.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- F. The notice shall include:
1. The nature of the zoning amendment being requested.
  2. The property(ies) for which the zoning amendment has been made.
  3. If the zoning amendment is for less than 11 adjacent properties, also a listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
  4. The location where the application documents can be viewed and copied prior to the date the zoning amendment hearing.
  5. The date, time and location of when the hearing on the zoning amendment will take place.
  6. The address at which written comments should be directed prior to the hearing on the zoning amendment.
  7. For members of the Planning Commission only, a copy of the request for the zoning amendment, the draft of the zoning amendment, and supporting documents in the record.

*[Amended by Ord. No. 125, eff. Oct. 30, 2006]*

- G. Following the public hearing, the Planning Commission shall submit the proposed amendment to the County Planning Commission for approval. The approval of the County Planning Commission shall be conclusively presumed unless the County Planning Commission within 30 days of receipt notifies the Township Clerk of its disapproval.
- H. The Township Planning Commission shall at its next regular meeting then refer the proposed amendment to the Township Board along with its written recommendations for approval or disapproval and reasons therefor.
- I. A public hearing conducted by the Township Board shall not be necessary unless a request is made in writing by a property owner.
- J. Thereafter at any regular meeting or at any special meeting called therefor, the Township Board may adopt and enact the proposed amendment, in accordance with Act 110, P.A. 2006, as amended, being the Zoning Act. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*
- K. Upon enactment of the amendment said amendment shall be published in a newspaper of general circulation within the Township within 10 days after enactment.
- L. Within 7 days after publication, the amendment shall be filed in the Official Ordinance Book of the Township with a certification of the Township Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, such change shall be made on the map in conformity with provisions of Article 3 of this Ordinance within 10 days after enactment of the amendment.

**Section 24.03                      Comprehensive Review.**

The Planning Commission shall, from time to time at intervals of not more than one year, examine the provisions of this Ordinance and the locations of zoning district boundary lines and shall submit a written report to the Township Board recommending changes and amendments, if any, which are desirable in the interest of the public health, safety and general welfare. *[Amended by Ord. No. 125, eff. Oct. 30, 2006]*