

# Marilla Township Zoning Ordinance



Recommended for Approval by the Marilla Township Planning Commission:  
March 13<sup>th</sup>, 2014

Adopted by the Marilla Township Board:  
April 10<sup>th</sup>, 2014

Effective Date:  
April 23<sup>st</sup>, 2014

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## **Article 1: Title, Purposes and Legal Clauses**

### **Section 1.1 Title:**

This Ordinance shall be known as the “Marilla Township Permanent Zoning Ordinance”.

### **Section 1.2 Purpose:**

- A. To promote the public health, safety and general welfare.
- B. To encourage the use of lands in accordance with their character and capabilities and to limit the improper use of the land.
- C. To conserve natural resources and energy.
- D. To meet the needs of the State’s residents for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land.
- E. To ensure the uses of land shall be situated in appropriate locations and relationships.
- F. To avoid overcrowding of population.
- G. To provide adequate light and aid.
- H. To lessen congestion on public roads and streets.
- I. To reduce hazards to life and property.
- J. To facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements.
- K. To conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and property.
- L. To reasonably consider the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.
- M. To prevent economic and ecological damages due to unwise development within the environmental areas and to prevent the degradation of the shore lands.
- N. To prevent non-compatible land uses from denying the benefits of minerals to the citizens of Marilla Twp.
- O. To prevent unwise patterns of development.
- P. To assure proper reclamation of mining sites.

### **Section 1.3 Legal Basis:**

This Ordinance is enacted pursuant to Public Act 110 of 2006, as amended (being the Michigan Zoning Enabling Act, M.C.L. 125.3101 et seq), hereafter referred to as the Zoning Enabling Act and continued administration of this Ordinance and amendments hereto shall be done pursuant to the Zoning Enabling Act.

### **Section 1.4 Effective Date:**

Public hearing having been held herein, the provisions of this Ordinance are hereby given immediate effect upon passage by the Township Board pursuant to the provisions of the Michigan Zoning Enabling Act, Act 110 of 2006 as amended.

Public Hearing Date: 3/13/2014

Marilla Township Planning Commission Recommendation for approval: 3/13/2014

Marilla Township Board Adoption: 4/10/2014

Effective Date: 4/23/2014

\_\_\_\_\_  
Terry Cholette, Planning Chairperson

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Neil Crawford, Township Supervisor

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Rebekah Johnson, Township Clerk

## **Article 2: Definitions**

### **Section 2.1 Rules of Interpretation:**

For the purpose of this Ordinance certain terms and words are herein defined. The following rules will apply when interpreting terms used in this Ordinance:

- A. Words used in the present tense include the future, words in the singular number include the plural number and words in the plural include the singular number.
- B. The word “shall” is always mandatory and not merely directory.
- C. The word “person” shall mean an individual, partnership, corporation, or other association or their agents.

- D. Terns not herein defined shall have the meaning customarily assigned to them and further reference for definition by classification in specific or general categories not defined herein may be contained in the publication, “North American Industrial Classification Manual” of 2012, as amended or updated.
- E. Questions of interpretation arising hereunder shall be decided by the Zoning Administrator whose decision may be appealed to the Board of Appeals.

**Section 2.2 Definitions:**

*Accessory Buildings or Structure:* A supplementary building or structure on the same lot or parcel of land as the main building or buildings or part of the main building, the use of which is incidental or secondary to that of the main building or structure, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.

*Abandoned Vehicle:* means any automobile or other motorized or non-motorized vehicle which has remained on the property of another for a period of forty-eight (48) continuous hours or more, with or without the knowledge and/or consent of the owner or occupant of the property, or for a period of forty-eight (48) continuous hours or more after the consent of the owner or occupant has been revoked.

*Accessory Uses:* A use naturally or normally incidental or subordinate to, and devoted exclusively to a permitted use of the land or buildings.

*Administrator:* The Zoning Administrator for Marilla Township and/or the individual authorized by the Township Board to enforce the provisions of the Township Zoning Ordinance.

*Adult Book and/or Video Store:* An establishment having, as a substantial or significant portion of its stock, in trade, books, DVD’s or videos, computer services, magazines and other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” hereinafter defined.

*Adult Live Entertainment Establishment Regardless of Whether Alcoholic Beverages May or May Not be Served:* Establishments which include a nightclub, bar, restaurant, or similar commercial establishment which features (a) person who appear nude or in a “state of nudity” or “semi-nude”; and/or (b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”.

*Adult Motion Picture Theatre:* An enclosure with a capacity of 50 or more persons used for presenting materials distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” hereinafter observation by patrons.

*Adult Mini Motion Picture Theatre:* An enclosure with a capacity for less than fifty (50) persons used for presenting materials distinguished or characterized by their emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” hereinafter observation by patrons.

*Adult Panorama:* An establishment which has substantial or significant portion of its business devoted to the viewing by patrons of films, tapes, or live entertainment showing “specified sexual activities” or “specified anatomical areas”.

*Adult Paraphernalia/Novelty Store:* An establishment having, as a substantial portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

*Agriculture:* A use of land or structure for the purpose of producing fruit, grain, vegetables, dairy products, livestock, poultry, hard and soft woods and Christmas trees, and including orchards, nurseries, greenhouses, apiary and other lawful crops and animal husbandry.

*Alter:* To change, add or modify the location, use or structure or the structural members of a building such as loadbearing walls, columns, beams, posts, girders and similar components, or in the size or location of the roof or exterior walls.

*Basement or Cellar:* A basement or cellar is that portion of a building partly below the average grade of the lot. A basement is so located that the vertical distance from the average grade to the floor is not greater than the vertical distance from the average grade to the ceiling. A cellar is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement or cellar does not include a partial or complete underground dwelling as defined by a “temporary dwelling” in this ordinance.

*Blighted Structure or Building:* means any dwelling, garage or outbuilding or any factory, shop, store, warehouse or any other structure or building, including mobile homes, travel trailers and converted vehicles intended for use as temporary or movable dwellings, or part of a structure or building which, because of fire, wind or other natural disaster or physical deterioration is no longer habitable as a dwelling, or useful for the purpose for which it was originally constructed or intended.

*Buildings:* Any structure, either temporary or permanent, having a roof and used or capable of being used for the shelter or enclosure of persons, animals, chattels, or property of any kind.

*Cabin:* Any building, tent or similar structure which is maintained, offered, or used for dwelling or sleeping quarters for transients, or for temporary residence, but shall not include what are commonly designated as hotels, motels, lodging houses or tourist homes.

*Cabin Court or Cabin Park:* Any tract or parcel of land on which two or more cabins as herein defined, are maintained offered or used for dwelling or sleeping quarters, for transients.

*Communications Tower Facilities:* A facility, which includes transmitters, antenna structures, towers, and other types of equipment necessary for, but not limited to, providing radio broadcasts, television broadcasts, dispatching wireless services and all commercial mobile services including all those that are available to the public (for-profit or not-for-profit) which give subscribers the ability to access or receive calls from the public switched telephone network. Common examples are radio and television broadcasting stations, repeater stations, radiotelephone, telegraph, cable television receiver stations, dispatching, Personal Communications Systems (PCS), cellular radiotelephone services, and paging. Also included are services that are non-licensed, but are deployed through equipment authorized by the FCC and common carrier wireless exchange services designed as competitive alternatives to traditional wireline local exchange providers. Communication tower facilities does not include antennas and their towers at a person’s home for his personal use for television and radio reception, and citizen band or HAM radio hobby activity.

*Driveway:* Access to a parcel of land.

*Dwelling:* A building, mobile home, pre-manufactured or pre-cut structure designed and used for the complete living accommodations of a family and which complies with the standards given in this ordinance.

- A. *Single-Family Dwelling:* A dwelling occupied by one (1) family, and so designed and arranged as to provide living, cooking and kitchen accommodations for one (1) family only.
- B. *Two-Family Dwelling:* A dwelling designed to provide for separate living, sleeping and kitchen facilities for two (2) families living independently of each other.
- C. *Multi-Family Dwelling:* A dwelling designed to provide for separate living, sleeping and kitchen facilities for more than two (2) families living independently of each other.
- D. *Temporary Dwelling:* Trailers, or other temporary structures, if used for human occupancy.
- E. *Partial or Complete Underground Dwelling:* Any dwelling other than a basement or cellar designed so as not to be built upon, as evidenced by how the intent for the building is shown on the plans presented with the application for the zoning permit.

Except as otherwise provided in Section 10.81 of this ordinance, all dwellings shall comply with the Michigan State Construction Code, as amended, and all applicable building, fire, mechanical and plumbing codes of the State of Michigan.

*Erect:* To build, construct, reconstruct, move upon or conduct any physical operations on the land required for the building, including excavations, fill, and drainage.

*Existing Building:* A building existing in whole or has its foundations complete, and which construction is being diligently pursued on the effective date of this ordinance.

*Family:* One or more persons living together and inter-related by bonds of consanguinity, marriage or legal adoption. A family shall be deemed to include domestic servants and gratuitous guests.

*Family Day-Care Home:* A bona fide private residential structure that is licensed by the State of Michigan and which complies with the definition of a family day-care home as that term is defined in Act 116 of the Public Acts of 1973, as amended being Section 722.111 of the Michigan Compiled Laws.

*Farms:* All of the continuous, neighboring or associated land operated as a single unit and upon which agriculture is being carried on directly by the owner, operator, manager or tenant farmer, by his own labor, or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of ten (10) acres or more in area; provided, further, that greenhouses, nurseries, orchards, apiaries, poultry hatcheries, poultry farms, and similar specialized operations may be considered as farms without regard to the aforesaid ten (10) acre limitation; but established keeping fur bearing animals or game or operating fish hatcheries, dog kennels, stockyards, slaughter houses, stone quarries, gravel or sand pits shall not be considered farms here under unless combined with and constituting a minor part of a bona fide agricultural operations on the same tract of land. Nor shall premises operated as fertilizer works, bone yards, or for the reduction of animal matter, for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

*Farm Buildings:* Any building, other than a dwelling, erected, or maintained on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

*Floor Area:* The habitable first floor area of a building or structure, exclusive of garage, breezeway, or porches.

*Forestry:* The use of land for the management and harvesting of trees from their natural setting for purposes of producing lumber, pulp or firewood.

*Garage*

- A. *Private:* Any building or part thereof, accessory or otherwise, for storage of motor vehicles, or trailer coaches, or recreational vehicles, where no servicing or storage for a fee is conducted.
- B. *Commercial:* Any building, other than a private garage, or garage operated by a municipality, use for storage, repair, greasing, washing, rental, sales, serving, adjusting, or equipping of automobiles, cats, motor driven vehicles, trailers, trailer coaches, or recreational vehicles, for recreation, hire, or sale or where any such vehicle or engine may be fueled, repaired, rebuilt, or reconstructed, and including undercoating, or over-all painting when conducted in an enclosed booth.

*Group Day-Care Home:* A bona fide private residential structure that is licensed by the State of Michigan and which complies with the definition of a group day-care home as that term is defined in Act 116 of the Public Acts of 1973, as amended, being Section 722.111 of Michigan Compiled Laws.

*Hazardous Substances:* Hazardous Substances means one or more of the following:

- A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous Substance" as defined in the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510; 94 Stat. 1767.
- C. "Hazardous waste" as defined in the Article 2 Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, MCL 324.45101 et. seq.)
- D. "Petroleum" as defined in Article 2 Chapter 8 Part 213 of P.A. 451 of 1994, as amended, (being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act, MCL 324.34101 et. seq.)

*Highway:* A roadway, street or thoroughfare, public or private, contained within the limits of a right-of-way dedicated or maintained for the operation of vehicular traffic.

*Home Occupation:* A gainful occupation or service conducted by members of a family within their place of residence; provided, that the space used is incidental or secondary to residential use, and provided, that there be no external evidence of such occupation or services except a name plate/sign not more than four (4) square feet in area, without illumination, and in character with the neighborhood; and providing further, that said occupation or service does not require nor effect any change in the external dimensions of the building. No services shall be rendered or articles displayed outside the dwelling.

*Host or Hostess Establishments:* Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee during at least four days per week with partners furnished by the establishment.

*Industrial Building:* A building or structure housing a manufacturing, assembly, chemical, or processing operation or transportation facilities.

*Institutional Building:* A building occupied by a municipal or non-profit corporation and open to the public.

*Junk:* Junk means any of the following:

- A. Old scrap ferrous or nonferrous material, rubber, cloth, paper, rubbish, refuse, litter;
- B. Materials from demolition, waste building materials;
- C. Junked, abandoned, scrap, dismantled or wrecked (including parts of, or items held for salvaging parts) automobiles, farm equipment, boats, trailers, mobile homes, appliances and all other machines.

But shall not include:

- A. Items being held for a customer while parts are being sought for repair;
- B. Items that are classic or antique kept and collected for their antique or collectible value, and
- C. Items and junk kept at a licensed Type I, II or III landfill for purposes of disposal of solid waste, incineration, recycling and resource recovery.

*Junk Automobile:* means any motor vehicle required to be licensed under the laws of the State of Michigan which is not licensed for a period in excess of sixty (60) days, except stock-in-trade of a duly licensed new or used automobile dealer, or, whether licensed or not, is inoperative for a period in excess of sixty (60) days, and is visible from roads or adjacent parcels and which because of damage or deterioration is or threatens to become a potential harm to the public health, safety or welfare by reason of the threat or presence of vermin or wild animals, leakage of fluids or gases, attractiveness to children, or other similar causes.

*Junkyard:* Junkyard means a business enterprise, or a part of a business enterprise, engaged wholly, or in part, in the purchasing, handling, storage, resale, recycling, conversion, or recovery of junk, and is a business which is included in the North American Industrial Classification Manual of 2012 prepared by the U.S. Office of Management and Budget, but shall not include any part of a landfill as defined in the solid Waste Management Act. Junkyard shall specifically include any business or operation required to have a Class C License (used vehicle parts dealer) under MCL 257.248: MSA 9.1948 as amended.

*Land Use Permit:* A standard form issued by the Marilla Township Zoning Administrator or his agent upon application by an owner or his or her agent, for the proposed construction of a building or structure and/or the use of land in compliance with the provisions of this Ordinance.

*Lodge:* A building used as a meeting place by members of private clubs, service clubs, veterans organizations, and other fraternal or religious organizations and owned or leased by such group.

*Lot:* The parcel of land having frontage along a street or right-of-way on which one principal building and its accessories are located or intended to be located together with any open spaces. Two (2) or more parcels, lots of legal record, when contiguous and when held in common ownership, may be treated together as a single lot for purpose of this Ordinance. Unless otherwise provided in this Ordinance, public and private streets and road rights-of-way, and easements for ingress and egress shall divide lots (including parcels and sites) for purposes of this Ordinance.

**Lot Lines:** The line bounding a lot or parcel that separates the lot or parcel from another lot, parcel, existing street, road or right-of-way, approved private road easement, or the ordinary high water mark. Lot lines are further defined as follows (See Figure 1 & 2):

- A. **Corner lot:** A lot which has at least two (2) contiguous sides abutting upon a street or road right-of-way for their full length.
- B. **Front lot line:** Is the lot line separating a lot or parcel from a street or road right-of-way, or in the case of a waterfront lot, the ordinary high water mark. In the case of a corner lot, both sides which abut a street or road right-of-way shall be considered front lot lines.
- C. **Rear lot line:** Is the lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a lot line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.
- D. **Side lot line:** is any lot line not a front lot line or a rear lot line.

Figure 1: Lot Lines

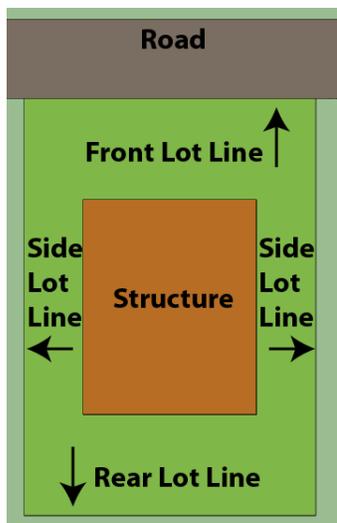
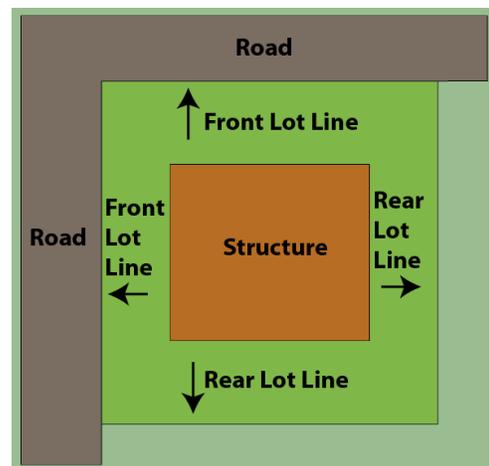


Figure 2: Corner Lot Lines



**Massage Parlor:** Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; plus three (3) references from massage therapists who are professional members of a massage association referred to in this section;
- C. Certificate of professional membership in the American Massage Therapy Association International Myomassethics Federation or any other recognized massage association with equivalent professional membership standards; or
- D. A current occupational license from another state

*Mineral:* A naturally occurring element or combination of elements that occurs in the earth in a solid state, but shall not include soil.

*Mining:* All or part of the processes involved in the extraction and processing of mineral materials.

*Mining Permit:* A special use permit for mining, whether on a regular or temporary basis, which is required by Section 86.04 of this Ordinance. It does not replace or otherwise eliminate the need to apply for any state mining permits otherwise required by law.

*Mobile Home:* A dwelling or structure, transportable in one or more sections which is designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan Public Act 419 of 1976 and administrative rules promulgated thereunder. The term “mobile home” does not include a “trailer” as defined in this article.

*Mobile Home Park:* A parcel of land upon which two (2) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose, regardless of whether a change is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

*Motel:* A building or group of buildings having units containing sleeping accommodations, which are available for temporary occupancy primarily for automobile transients.

*Non-conforming Uses:* A use which is lawfully occupied a building or land at the effective date of this Ordinance or amendments therefore, which does not conform after passage of the Ordinance or amendments thereto with the requirements of the zoning district in which it is located.

*Open Dance Hall:* An establishment where open public dancing by patrons is available at least four days per week with partners furnished by the establishment.

*Operator:* Any person or an agency either public or private, engaged or who has applied for a special use permit to engage in mining, whether individually, jointly, or through subsidiaries, agents, employees, or any person engaged in managing or controlling a mining operation.

*Parcel:* A description of land, as identified by a property tax parcel number in the Manistee County tax roll and on which one(1) principal building and its accessory buildings may be placed, together with the open spaces required by this Ordinance.

*Park:* A park is any non-commercial recreational area.

*Person:* means any natural person, firm, partnership, corporation, limited liability company, or other unincorporated association of persons, and shall include all agents, servants and employees of such persons.

*Private and Industrial Pipe Lines:* Any type of pipeline of any size used for private or industrial purposes.

*Public Meeting Place:* Buildings and outdoor areas where numbers of persons congregate from time to time for educational, religious, social or recreational purposes, including churches, schools, community buildings, clubs, lodges, theatres (indoor and outdoor), places of amusement and similar assemblages.

*Public Utilities:* Any person, firm or corporation, municipal department or board, duly authorized to furnish under government regulation, to the public, transportation, water, gas, electricity, communication, steam, or sewage disposal and other services.

*Reclamation Plan:* The operator's proposal for the reclamation of the project site which must be submitted to the Marilla Township Planning Commission for approval under this Ordinance prior to the issuance of the special use permit for mining.

*Retail, Commercial & Wholesale Stores:* A store, market, or shop in which commodities are sold, or offered for sale, in small or large quantities at wholesale or retail.

*Road:* means a public or private road, highway, street, or right-of-way which affords the means of ingress or egress to abutting property and the means of travel past a parcel.

*Roadside Stand:* A structure used or intended to be used solely by the owner or resident tenant of the land on which it is located for the sale of seasonal products of the immediate locality.

*Setback Lines:* The minimum horizontal distance between one's building, including steps and unenclosed porches, and the boundary of one's parcel of land or in the case where the parcel adjoins an established highway, then the minimum horizontal distance between the building and the closest highway right-of-way.

*Shooting Range or Hunting Preserve:* Shooting range or hunting preserve means any facility whether public or private; whether operated for profit or not; which is designed for the use of firearms for the organized/group hunting of game in confined area; target practice (including skeet) and shooting ranges.

*Solid Waste Management Act:* means the State of Michigan Solid Waste Management Act, originally enacted as 1978 PA 641 and now Part 115 of the Natural Resources and Environmental Protection Act, MCL 324.11501, *et seq.*, as amended

*Specified Anatomical Areas:* Human genitalia less than completely or opaquely covered including the pubic region, buttocks or anus; or female breasts below a point immediately above the top of the areola; or human male genitals in a discernible state of penile tumescence, even if opaquely covered.

*Specified Sexual Activities:* Includes any of the following:

- A. *The fondling or other intentional touching of human genitalia, pubic region, buttocks, anus or female breasts;*
- B. *Sex acts, actual or simulated; including intercourse, oral copulation, or sodomy;*
- C. *Masturbation, actual or simulated;*
- D. *The display of human genitalia in a state of sexual stimulation, arousal or penile tumescence;*
- E. *Excretory functions as part of or in connection with any of the activities set forth in subdivisions (A) through (D) of this definition.*

**State Licensed Residential Facility:** A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Act 287 of the Public Acts of 1972, as amended, being Sections 331.681 to 331.694 of the Michigan Compiled Laws, or Act 116 of the Public Acts 9 of 1973, as amended, being Sections 722.61 to 722.128 of the Michigan Compiled Laws, which provides services for six (6) or less persons under twenty-four (24) hour supervision or care for persons in need of such supervisions or care.

**Street:** A thoroughfare, public or private, which affords a principle means of access to abutting property.

**Sign:** An inscribed board of space serving for advertisement and information.

**Structure:** A structure is any production or pieces of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwelling, garages, buildings, signs and sign boards, towers, poles, antennas (including satellite dishes), standpipes or other like objects.

**Substantial or Significant Portion:** A business or establishment which has:

- A. Thirty-five (35%) percent or more of its stock, materials, or services provided relating to or describing “specified sexual activities”, and/or “specified anatomical areas”, and/or
- B. Thirty-five (35%) percent or more of the usable floor areas of the building is used for the sale; display; or provision of services describing or relating to specified sexual activities, specified anatomical areas, or both; and/or
- C. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment, described or relates to “specified sexual activities” and/or “specified anatomical areas.”

**Tourist Home:** Primarily a family dwelling where lodging with or without meals is furnished for compensation, chiefly on an overnight basis, and mainly to transients.

**Tourist Cabin-Court:** Is either of the following:

- A. Any building in a cabin-court which is maintained, offered or used for overnight human occupancy.
- B. Any parcel of land on which two (2) or more tourist cabins are located.

**Township:** means Marilla Township

**Trailer:** Means a vehicle which can be drawn on a highway and is used for recreational or camping purposes. Includes the terms motor home, pole trailer, trailer coach, trailer, mobile home as defined in P.A. 300 of 1949, as amended, (being the Michigan Motor Vehicle Code, M.C.L. 257.1-257.82), and including camping units, tents, or any other temporary dwellings. (The term, as used in this Ordinance, shall be synonymous with, but not limited to Camper, Travel Trailer, Motor Home, Trailer Coach, Recreational Vehicle, or Slid-in Camper.)

**Trailer Court or Park:** Any site, lot, field, tract or parcel of land on which are situated two (2) or more inhabited trailer coaches, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure located therein, and used or intended for use as a part of the equipment of such park.

**Transfer of Ownership or Control of Sexually Oriented Business:** Means and includes any of the following:

- A. The sale, lease or sublease of the business or establishment;
- B. The transfer or securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means;
- C. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

*Use:* The purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

*Waste:* All accumulation of waste mined material and overburden places on the land surface, whether above or below water.

*Water's Edge:* The surveyed property line along the shore of a body of water or the term "water's edge" in its usual and ordinary sense and usage being that area of the shoreline where land and water meet, in the event there is no surveyed property line along the shore at the water's edge.

*Wetland:* The term 'wetland' as used in this Ordinance shall have the same definition as Michigan's wetland statute, Part 303, Wetlands Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, defines a wetland as "land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh"

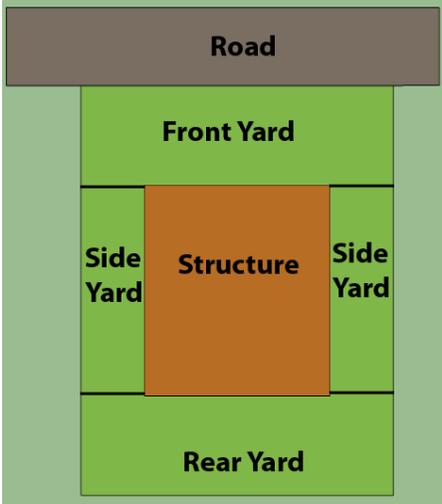
*Wind Energy Conversion System (WECSO):* Also commonly referred to as a 'wind generating tower', 'windmill', 'wind turbine', or 'wind-powered generator'. The term shall mean a combination of:

- A. The surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical or electrical generating powers; and
- B. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing devices; and
- C. The generator, alternator, other device to convert the mechanical energy of the surface area into electrical energy; and
- D. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

*Yard:* A space open to the sky, and unoccupied or unobstructed except by encroachments specifically permitted under this Ordinance, on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distances. (See Figure 3)

- A. *Front Yard (road frontage):* A yard extending across the full width of the lot or parcel between the front lot lines the nearest line of the main building
- B. *Rear Yard (Water's Edge):* A yard extending across the full width of the parcel between the rear lot line and the nearest line of the main building.
- C. *Side Yard:* A yard extending from the front yard to the rear yard between the side lot line and nearest line of the main building or of accessory building attached thereto.

Figure 3: Yards



## **Article 10: General Provisions**

### **Section 10.0 General:**

#### **Section 10.01 General Provisions:**

No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this Ordinance may be undertaken and maintained if acceptable limits as established by the following performance requirements.

- A. Fire Hazard: Any activity involving the use or storage of flammable or explosive materials shall be protected by the adequate fire-fighting and fire suppression equipment and by such safety devices and other regulations as are required and established by the Michigan State Construction Code Act of 1972, as amended, and as same may be amended from time to time and of the Michigan State Fire Marshall.
- B. Radio-Activity or Electrical Disturbance: Radio-Activity or Electrical Disturbance shall be subject to such requirements and regulations as are established by the Michigan Department of Environmental Quality, Nuclear Regulatory Commission, and Michigan Department of Public Health.
- C. Vibration: Vibration shall be subject to such requirements and regulations as established by the Michigan Department of Public Health, the Manistee County Health Department and the Michigan Department of Environmental Quality.
- D. Air Pollution: Pollution of air shall be subject to such requirements and regulations as established by the Michigan Department of Public Health, the Manistee County Health Department and the Michigan Department of Environmental Quality.
- E. Glare: No direct or reflected glare shall be permitted which is visible from any property or from any public street, road or highway.
- F. Water Pollution: Pollution of water shall be subject to such requirements and regulations as established by the Michigan Department of Public Health, the Michigan Water Resources Commission, the Manistee County Health Department of Public Health and the Michigan Department of Environmental Quality.
- G. Noise: Audible noise shall be subject to such requirements and regulations as established by the Manistee County Noise Ordinance.

#### **Section 10.02 Compliance with the State Construction Code Act of 1972, as amended:**

All construction in Marilla Township shall be done in compliance with the Nationally recognized building code as specified in Michigan Act 230 of 1972, being the Michigan Construction Code Act of 1972, as amended and as same may be amended from time to time. Further, the construction code inspector shall obtain a copy of a land use permit issued under this Ordinance as part of a construction permit application.

#### **Section 10.03 Compliance with County Sanitary Code, as amended:**

Every structure or device hereinafter erected or moved upon any premises and designed, used or intended for human habitation shall conform to the rules and recommendations of the Department of Public Health of the State of Michigan and the Manistee County Sanitary Code. The Zoning Administrator shall issue a Land Use Permit to an applicant providing the intended use is in accordance with the provisions of this Ordinance, so that a Septic/Well Permit may be

issued by the Manistee County Health Department. Applicant shall notify the Marilla Township Zoning Administrator when septic/well system has been approved by the inspector.

**Section 10.1: Junk and Blight<sup>1</sup>**

- A. It shall be unlawful for a person to maintain or permit to be maintained any blighted structures or building.
- B. It shall be unlawful for a person to store or accumulate junk except in the following manner:
  - 1. So that no more than two large items of junk, as herein defined, are on the parcel;
  - 2. So that junk is consolidated on one part of the parcel;
  - 3. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building; and
  - 4. So that it is not a nuisance
- C. Section 10.1.B of this Ordinance shall not apply to farms, provided the storage of junk on a farm meets the following standards:
  - 1. So that the junk is not visible from a road or from adjacent parcels or so that the junk is inside an enclosed building;
  - 2. All junk from the operation of the farm is being kept on the premises for possible future use of the farm;
  - 3. The depositing of junk is not a violation of the Michigan Solid Waste Management Act or does not constitute fill in violation of any other State or local law; and
  - 4. So that it is not a nuisance.

**Section 10.2 Environmental, Water:**

**Section 10.20 Underground Storage Tanks:**

Underground storage tanks shall be removed from the ground or certified as having been pumped dry when use of the tank is terminated for thirty (30) days or longer. For purposes of this section terminated means the enterprise or land use, to which the underground storage tank is accessory to, is no longer in business, is no longer occupied, the aspect of the land use or enterprise no longer uses the underground storage tank; but shall not include a dwelling which is seasonally left vacant for less than one year.

**Section 10.21 Hazardous Substance Groundwater Protection:**

- A. All businesses and facilities which use or generates hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a gallon, or smaller, prepackaged sealed containers and is for purposes of resale and located inside a retail establishment):
  - 1. In quantities greater than one hundred (100) kilograms (approximately two-hundred twenty (220) pounds) per month or ninety-five (95) liters (approximately twenty-five (25) gallons) per month, whichever is less, or
  - 2. Stores greater than one-hundred (100) kilograms (approximately two-hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons), whichever is less,shall comply with the following groundwater protection requirements.
- B. Groundwater Protection Requirements:
  - 1. Groundwater Protection, generally:

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<sup>1</sup> Amended Section 10.1 Junk and Blight; *Add Date of Adoption*

- a. The project and related improvements shall be designed to protect the natural environment, including lakes, streams, wetlands, floodplains, groundwater, steep slopes, natural and man-made drainage systems.
  - b. Storm-water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
  - c. General purpose floor drains and storm drains shall be:
    - 1) Connect to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with State, County and Municipal requirements, or
    - 2) Authorized through a State groundwater discharge permit, or
    - 3) Connected to a public sewer system.
  - d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
  - e. In determining conformance with the standards in this Ordinance, the Administrator or Commission, whichever one is applicable, shall take into consideration the publication titled "Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials" published by the Clinton River Watershed Council, May 1990, and other references.
  - f. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the District 10 Health Department.
  - g. If the site plan includes territory within a Wellhead Protection Overlay Zone submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Administrator, county and state officials.
2. Above-ground Storage
    - a. Primary containment of hazardous substances shall be product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
    - b. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:
      - 1) Sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances, or
      - 2) Shall be at least as great as volumes required by state or county regulations, or
      - 3) Shall, if not protected from rainfall, contain a minimum of
        - i. 110 percent of the volume of the largest storage container within the dike of the secondary containment area, plus
        - ii. The volume that is occupied by all other objects within and below the height of the dike of the secondary containment area plus
        - iii. The volume of a six inch (6') rainfall.

- c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
  - d. Areas and facilities for loading/unloading
  - e. At a minimum, State of Michigan and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
  - f. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.
3. Underground Storage
- a. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshall Division and the Michigan Department of Environmental Quality.
  - b. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

**Section 10.22 Stormwater Requirements:**

- A. Stormwater and Site Drainage
- 1. All development outside of single-family and two-family (duplexes) homes, and structures built for the sole purpose of agricultural use must conform to the stormwater requirements of the Manistee County Drain Commission.
  - 2. At no time for any parcel of land shall stormwater be directed onto a neighboring parcel.

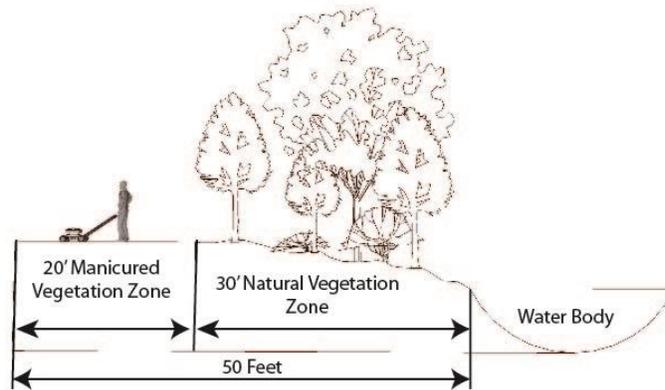
**Section 10.23 Streamside Buffer Requirements:**

- A. No structure shall be built, located or constructed closer than one hundred (100) feet measured on a horizontal plane to the water's edge. In the event the water's edge recedes (moves landward), the setback line shall also be construed as to have moved landward a distance equal to the water's edge recession. In cases where parcels are smaller than the minimum parcel size allowed in the particular district so that applicable setbacks given here and in a particular district result in a building envelope less than 25 by 40 feet the Appeals Board shall grant a further reduction of side yard setback and/or a front yard setback prior to reducing the required water front setback.
- B. A fifty (50') buffer shall be maintained along all intermittent and perennial streams located within the Township. The fifty (50') buffer shall be comprised of a thirty (30') foot natural vegetation zone extending from the top of the stream bank landward measured horizontally where vegetation shall not be removed unless noxious, non-native invasive species or dead and/or chronically diseased vegetation exists as identified by a landscape architect, horticulturalist, professional forester, or other professional as approved by the administrator; the additional twenty (20') foot manicured zone measured horizontally from the furthest landward extent of the thirty (30') foot natural vegetation zone shall consist of manicured natural vegetation or groundcover, excluding all impervious surfaces ( See Figure 4). It shall be the landowner's responsibility to maintain this buffer in a healthy state.
- C. The Planning Commission may approve the placement of limited impervious surfaces within the buffer and the removal of trees and other vegetation to allow access or an improved view shed to a stream or lake; pending the following requirements:
- 1. The DEQ has issued a permit or a notification of no permit needed allowing for the removal of vegetation adjacent to a lake or stream.
  - 2. The removal of vegetation will not impair or otherwise cause detriment to the stream or lake and the aquatic species contained within.

3. There is a true need of access or visual improvement for the property owner.
  4. The placement of an impervious surface is a necessity for the utilization of the natural resource.
  5. The placement of an impervious surface is mitigated through measures to control runoff or erosion caused by the placement of the impervious surface.
- D. The property owner or their representative shall provide a description and sketch of the area of buffer to be removed, which includes:
1. The lake or stream bank location.
  2. The location of the existing vegetative area.
  3. The location of any presently constructed principle structures within two-hundred (200') feet of the stream or lake on the parcel.
  4. The area of vegetation to be removed, including a sound estimation of width.
  5. How the soil and stream bank will be stabilized once vegetation is removed.
  6. The type and dimensions of impervious surface to be placed within the designated buffer area.
- E. Upon issuance of approval by the Planning Commission for the placement of an impervious surface or the removal of trees or vegetation from the buffer, the approval shall contain:
1. The expressly approved provisions for removal; this includes:
    - a. What trees/vegetation may be removed.
    - b. The total area from which the trees or vegetation shall be removed, as outlined at the site by the Administrator.
    - c. The type and specific dimensions allowed for the placement of impervious surface within the buffer area.
    - d. How the site shall be stabilized after the vegetation is removed from the buffer.
- F. Penalties for unapproved removal of vegetation or placement of impervious surfaces within the streamside buffer.
1. Trees are to be replaced on a basis of two (2) trees planted for each tree removed, as determined by the administrator.
  2. Shrubs or other low lying brush shall be replaced on a basis of one (1) shrub planted for each shrub removed.
  3. Trees must be at least 8 feet tall at time of planting.
  4. All replanting must take place within the thirty (30') foot no touch buffer zone.
  5. Impervious surfaces placed within the buffer area must be removed.
  6. Other penalties contained within Article 98 may apply at the discretion of the Planning Commission.

- G. No building or structure shall be built, located or constructed within a 100-year floodplain, wetland, water course or water body in any land use district as may be determined by the Michigan Department of Environmental Quality (DEQ).

Figure 4: Streamside Buffer



### Section 10.3 Environmental, Solid Waste: [Reserved]

### Section 10.4 Environmental, Land/Other:

#### Section 10.40 Big Manistee River Adjacent Lands Supplemental Requirements

- A. Area Affected: Every parcel of land along the Big Manistee River downstream from the Hodenpyle Dam to the southern boundary of Marilla Township as shown on the official Marilla Township Zoning Map is subject to these regulations. These regulations are in addition to any specific regulations of the underlying zoning district. However, these regulations supersede all conflicting regulations of the underlying land use districts to the extent of such conflict and no further.
- B. Permitted uses by permit authorized under Article 84:
1. One pump house per parcel.
  2. A single dock per parcel.
  3. Bank protection structures designed and installed in accordance with a valid permit issued by the Department of Natural Resources.
  4. Signs less than two (2) square feet in size for the purpose of preventing trespass and/or hunting on private property, provided they appear no closer than twenty-five (25) feet to one another.
  5. Fences, provided the same are erected on the landward side of the natural vegetation strip.
  6. Non-motorized trails and pathways.
  7. Parks, picnic areas and interpretive nature centers.
  8. Non-commercial camping and other recreational activities which do not require the construction of permanent facilities.
  9. Fishing, trapping and hunting in compliance with current laws and regulations.
  10. Agricultural pasture land, livestock raising, cropland, and cultivated tree farms provided the same are on the landward side of the natural vegetation strip.
  11. Agricultural uses and farming provide the same on the landward side of the natural vegetation strip.

12. Forestry uses and operation provided the same are on the landward side of the natural vegetation strip.
- C. Special uses authorized by permit authorized pursuant to Article 86:
    1. Single-family dwellings which serve as the principle residence of the owner or operator of a farm or forestry operation, or single-family dwellings or accessory structures, provided however, that such structures are permitted or special uses in the underlying land use district and provided further that such structures comply with the size, setback and all other regulations of the underlying land use district and provided further that such structures shall be designed to be compatible and harmonious with the wild, scenic, and provided further that such structures shall be designed and located so they are not seen by boaters and other users of the surface waters of the Big Manistee River except that a filtered view from a dwelling structure to the river may be cleared so the view is oriented to look downstream, and provided further that such structures shall be located landward of the natural vegetation strip.
  - D. Natural Vegetation Strip: A natural vegetation strip shall be maintained on each parcel between the river's edge and a line each part of which is two-hundred (200) feet horizontal from and perpendicular to the river's edge. Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for harvest of merchantable timber to achieve a filtered view of the river or body of flowing water from the principle structure and for reasonable private access to the river. Said pruning and removal activities (1) shall ensure that a live root system stays intact to provide for stream bank stabilization and erosion control, and (2) shall ensure that any path to the river or body of flowing water is no greater than three (3) feet in width, which shall meander down to the edge of the river in a manner which protects the soil and vegetation from erosion while also screening the principle structure and vehicles from a direct view of the river. Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac and poison oak, and other plants regarded as common nuisance in Section 2 of Act 359 of the Public Acts of 1941, as amended, may be removed.
  - E. Removal of Logs and Debris from the River: The owner of lands applicable through this section may clean dead, fallen logs and other debris from the river or body of flowing water to maintain a safe, clean and free-flowing river or body of flowing water when, after consultation and approval by the Michigan Department of Environmental Quality, Michigan Department of Natural Resources and the United States Forest Service has been received. Removal is to be undertaken in a manner which will least disrupt fish and wildlife habitat, shore vegetation and limit sediment disruption on the river.
  - F. Earth Changing Activities: All earth changes, including dredging, cutting, filling, and grading within five-hundred (500) feet of the river's edge shall be done in accordance with the requirements of a permit issued by the Manistee County Planning Department pursuant to Act 347 of the Public Acts of 1972, as amended; provided, however, that no commercial mining or extraction of topsoil or subsurface sand, gravel or minerals shall take place within these applicable areas.
  - G. Dredge and Fill Activities: The provisions of Act 346 of the Public Acts of 1972, as amended, shall apply to all dredge and fill activities and construction of permanent structures, including docks, lying below the ordinary high water mark of the Manistee River.
  - H. Use of Pesticides, Herbicides and Fertilizers: The use, application or other utilization of pesticides, herbicides and fertilizers is prohibited.

**Section 10.41 Removal of Soil, Sand, Clay, Gravel, and Other Material or Resources:**

- A. Except for the purpose of accessory excavation of buildings to be located upon land in Marilla Township, top soil, sand, clay, gravel, or other materials or resources, except oil and gas, shall not be removed from any premises in any Zoning District except under a Special Land Use Permit issued by the Marilla Township Planning Commission, subject to conditions as specified under Section 86.01 et. seq. of this Ordinance, which may be issued in appropriate cases upon filing of an application and payment of fee accompanied by a suitable agreement or bond that such removal will not cause stagnant water to collect, or leave the surface of the land at the expiration of such permit in an unstable condition or unfit for the growing of turf or for other land uses permitted in the District in which such removal occurs.
- B. In addition to the Special Land Use Permit, a Soil Erosion and Sedimentation Control Permit, obtainable from the Manistee County Planning Department, is required whenever construction of a new building or structures involves any earth movement change over one (1) acre in size, or any earth movement change within five hundred (500) feet of a body of water.

**Section 10.42 Gas, Oil, and Mineral Resources:**

Notwithstanding the provisions of this Ordinance, the extraction of subterranean natural resources shall be permitted provided:

- A. That disruption of the surface of natural vegetation as a consequence of the exploration or production of such resource shall be restored to a state similar to that existent before such exploration or production was begun within thirty (30) days of termination of such exploration or production.

Structures used to produce or store subterranean resources shall, if located on a site for more than ninety (90) days, be concealed or painted to harmonize rather than contrast with the natural surroundings.

- B. All engines, motors, pumps, or related equipment shall be so situated as to reduce noise nuisance factor to acceptable levels.

**Section 10.50 Landscaping, Screening and Buffering:**

**Section 10.51 Landscaping: [Reserved]**

**Section 10.52 Screening: [Reserved]**

**Section 10.53 Buffering:**

A. Buffers

- 1. A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line. A buffer contains specified plantings and/or a wall or berm where additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is separate from a “yard” or “setback” in definition.
- 2. District Boundary Buffers
  - a. Perimeter compatibility is required along the boundaries of all incompatible zoning districts (i.e. Residential Zoned Parcel abuts Industrial Zoned Parcel). The following table shall be used to determine the required buffer

classification between adjacent districts. The owner of the subject property shall be responsible for the establishment of the buffer.

| Subject Property District | Adjacent Property District |      |      |      |
|---------------------------|----------------------------|------|------|------|
|                           | R-1                        | RR-1 | CR-1 | RP-1 |
| R-1                       | --                         | --   | A    | A    |
| RR-1                      | --                         | --   | A    | --   |
| CR-1                      | B                          | --   | --   | B    |
| RP-1                      | A                          | --   | B    | --   |

b. Credit for existing planting material located in an established buffer area as shown on site plans shall be allocated on a two-for-one basis for canopy trees, understory trees or shrubs. The existing plantings must be in good health and be of sufficient size to provide appropriate buffering.

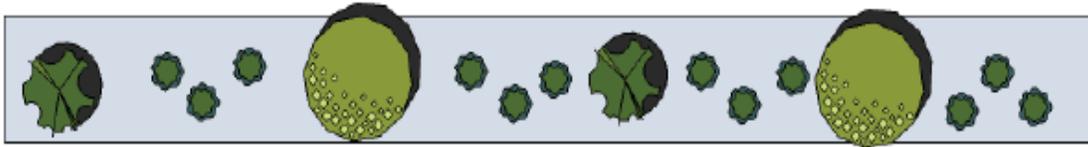
3. Buffer Classifications

a. The following tables establish the specific width and plant material for a variety of buffer classifications. The applicant is free to choose from each alternative (1, 2 or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree.

- b. As determined by the Administrator, a wall or berm meeting the standards of this section may be substituted in lieu of some of the required shrubs in buffer types A and B. A wall or berm is required in alternative 1 or 2 in type C buffers.

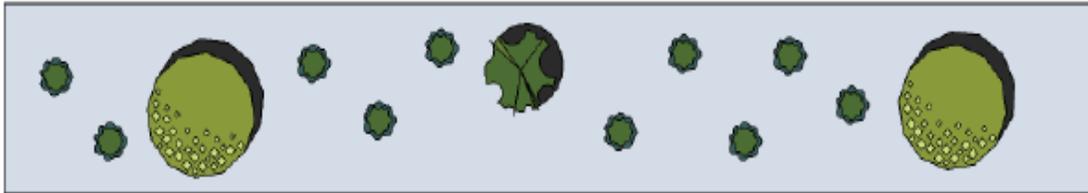
### Class A Buffer

Alternative 1  
100' length  
10' wide



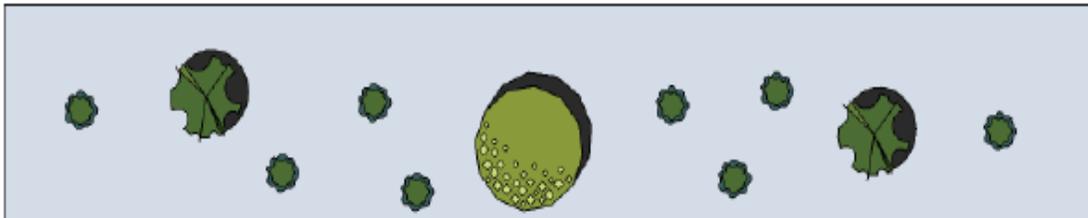
2 canopy trees  
2 understory trees  
12 shrubs

Alternative 2  
100' length  
15' wide



2 canopy trees  
1 understory tree  
10 shrubs

Alternative 3  
100' length  
20' wide



1 canopy tree  
2 understory trees  
8 shrubs

### Class B Buffer

Alternative 1  
100' length  
10' wide



1 evergreen tree  
1 canopy tree  
3 understory trees  
20 shrubs

Alternative 2  
100' length  
15' wide



1 evergreen tree  
1 canopy tree  
2 understory trees  
16 shrubs

Alternative 3  
100' length  
20' wide



1 evergreen tree  
1 canopy tree  
1 understory trees  
12 shrubs

## Class C Buffer

Alternative  
1

100' length  
10' wide



1 Wall  
1 evergreen tree  
1 canopy tree  
3 understory trees  
12 shrubs

Alternative  
2

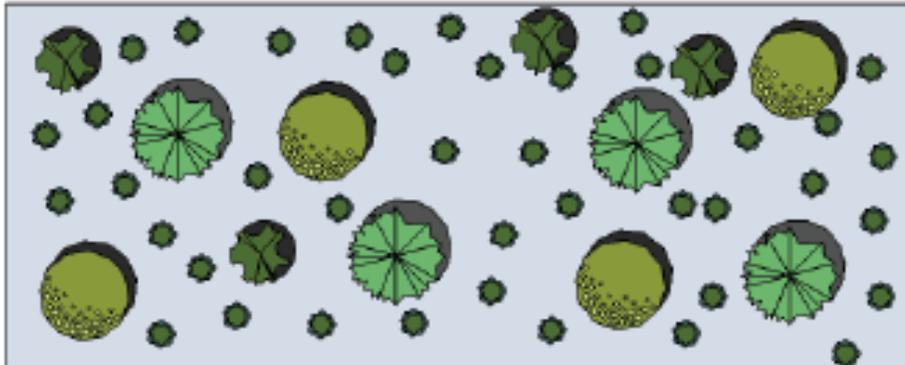
100' length  
20' wide



1 Wall or Berm  
1 evergreen tree  
1 canopy tree  
1 understory tree  
12 shrubs

Alternative  
3

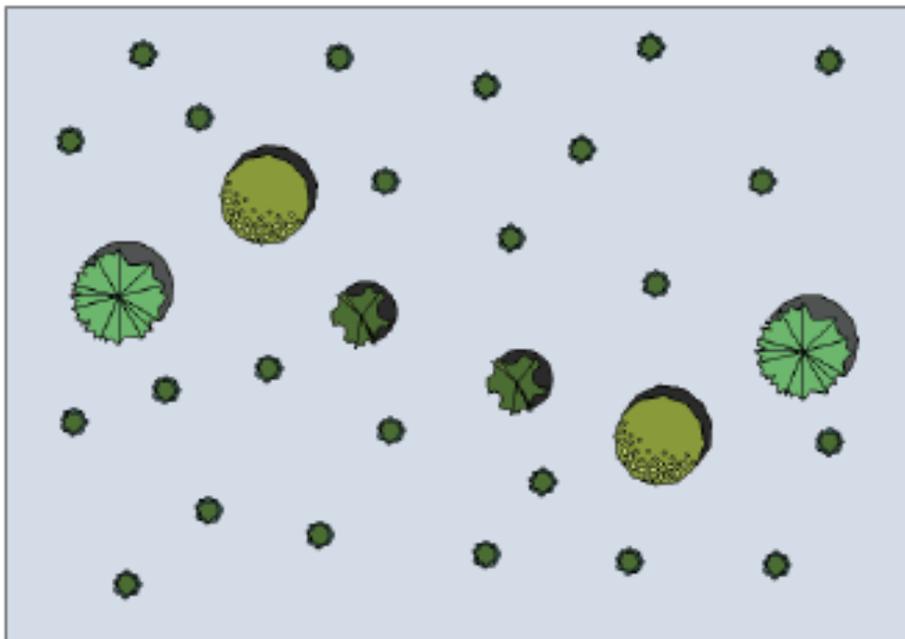
100' length  
40' wide



4 evergreen trees  
4 canopy trees  
4 understory trees  
48 shrubs

Alternative  
4

100' length  
70' wide



2 evergreen trees  
2 canopy trees  
2 understory trees  
24 shrubs

4. Location of Buffer

- a. Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private road or right-of-way.
- b. The required buffer shall be provided along the entire frontage abutting the district boundary or project boundary as applicable. Buffers utilized for industrial districts must also be placed along any dedicated or reserved public or private road right-of-way where a residential or commercial district abuts the road adjacent to the industrial site.
- c. A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public roads.

5. Plant and Structure Location within Buffer

- a. Plants shall be located as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 linear feet.
- b. Sufficient distance should be provided for the placement of plantings from structures.
- c. Where a fence or wall is used as part of a buffer, the plantings accompanying the fence or wall shall be located between the fence or wall and the adjacent property line. Sufficient space shall be provided by the owner of the buffer to access the planting materials from their property for maintenance and care.
- d. Where walls are placed within buffers they shall be a minimum of three (3') feet and maximum of six (6') feet in height. They must also meet the following conditions.
  - i. Walls shall be constructed of stucco over concrete block, brick, stone, split-faced block or glass block in s a structurally safe and attractive condition.
  - ii. No wall shall be located in any required drainage, utility or similar easement.
- e. Where fences are placed within buffers they shall be a minimum of three (3') feet and a maximum of six (6') in height. They must also meet the following conditions.
  - i. Fences shall be constructed of high quality materials including wood, plastic or metal (excluding chain link and barb wire).
  - ii. No fence shall be located in any required drainage, utility or similar easement.

6. Additional Provisions

- a. Buffers may if approved by the Planning Commission, be utilized for the treatment and infiltration of stormwater. As long as the following conditions are met:
  - i. The design of the area allows for infiltration of water, resulting in ponding for less than seventy-two (72) hours during average storm events.

- ii. Any and all ponding of water from the site that was directed to the buffer area, remains a minimum of five (5') from the adjacent property line.
  - iii. Water may not cross onto the adjacent property.
- b. The buffer shall remain in the ownership of the property owner.

**Section 10.6 Parcel & Setback Regulations:[Reserved]**

**Section 10.70 Fences:**

Fences not exceeding six (6) feet in height may be considered on any portion of a lot except that portion of a front yard between the actual front setback line of the main dwelling unit and the front lot line of the lot. For any fence in excess of six (6) feet, the side yard setback requirements shall apply. Fences located in the front yard portion of a lot shall be limited to a height of four (4) feet and be of a decorative type. This section shall not apply to fences constructed or maintained in association with agricultural or forestry uses.

**Section 10.8 Vehicle Access/Roads/Parking:**

**Section 10.81 Driveways:**

All buildings and structures shall provide access to an adjoining highway, street or road by means of a driveway not less than sixteen (16) feet in width and unobstructed by bordering trees or other natural growth.

**Section 10.81 Access to Public Roads:**

In all land use districts every use, building, or structure established after the effective date of the amendment which added this section, shall be on a parcel which adjoins a public or a private easement providing access to a public road. Such public road, right-of-way, or private easement shall be at least sixty-six (66) feet in width, unless a lesser width was duly established of record prior to the effective date of the amendment which added to this section.

**Section 10.82 Private Roads:**

Every private road which provides or may provide access to and from a public road for two (2) or more dwelling units or principal buildings shall meet the following conditions:

- A. Be constructed in a good and workmanlike manner upon, and parallel to the centerline of an easement which is fully established of record and which is not less than sixty-six (66) feet in width.
- B. Be constructed so as to sufficiently control stormwater runoff and permit effective stormwater drainage by such means as two foot deep ditches constructed parallel to and on either side of the road, by sloping the sides of the road from the center thereof, or by other effective methods.
- C. Have a sand and gravel base of not less than eighteen (18) inches in depth of which not less than the top six (6) inches in depth shall be only processed road gravel.
- D. Have a road bed not less than twenty (20) feet wide.
- E. Be constructed over adequate culverts where necessary to ensure the continuance of existing stormwater flow courses.
- F. Other standards as may be adopted by the Manistee County Road Commission.

**Section 10.83 Vehicular Parking Space, Access and Lighting:**

- A. For each dwelling, commercial, industrial, manufacturing, retail or service business or establishment hereafter erected or altered and located on a public highway, road or street in any land use district, including buildings and structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the

public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown as follows. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance.

| Use   | Required Parking Spaces  |
|---|--|
| Dwellings   | Two (2) spaces for each family unit occupying the permit   |
| Motels, Hotels, Similar Lodging Establishments  | One (1) space for every three (3) spaces of legal sleeping capacity  |
| Hospital, Rest Home, Convalescent Homes, Institutions of a Similar Nature   | One (1) space for each four (4) beds, plus one (1) space for each doctor   |
| Theaters, Churches, Auditorium, Public & Private Halls, Amusement & Recreation Establishments and all places of Public Assembly | One (1) space for each four (4) seats of legal capacity  |
| Offices and Professional Buildings  | One (1) space for every two-hundred (200) ft <sup>2</sup> of floor area, provided however that doctor's offices and clinics shall be provided with three (3) spaces for each doctor on staff |
| Restaurants & Other Public Food Service Establishments  | One (1) space for each three (3) seats of legal capacity   |
| Retail Stores & Shops   | One (1) space for each one-hundred (100) ft <sup>2</sup> of floor area   |
| Personal Service Shops, including Barber/Beauty Shops   | One (1) space for each two-hundred (200) square feet of floor area   |
| Taverns   | One (1) space for every sixty-six (66) ft <sup>2</sup> of floor area   |

- B. In addition to the above requirements, parking space in the proportion of one (1) space for every two (2) persons employed at the establishment shall be provided. Where no specific requirement is designated for other businesses, parking space which is adequate according to the above standards shall be provided for employees and patrons.
- C. The maximum number of parking spaces allowed shall be no greater than fifteen (15%) percent additional spaces above the minimum required through this section.
- D. A minimum of one-hundred (180) square feet which is nine (9) by twenty (20) feet in shape shall comprise one (1) automobile parking space, at no time shall an individual parking space be larger than two-hundred (200) square feet which is ten (10) by twenty (20) feet. Center aisles shall be twenty (20) feet wide; on angled parking, fifteen (15) feet wide. (See figure 4 & 5)
- E. All parking space required in this section, except that required for a dwelling, shall be provided with adequate artificial lighting between the time from one-half (1/2) hour after sunset, to one-half (1/2) hour before sunrise, when the use of such space is open to the public.
- F. Approval for location of all exits and entrances shall be obtained from the Michigan Department of Transportation for all state trunk line highways and from the County Road Commission for all other roads, streets or highways in the Township. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements.

Figure: 5

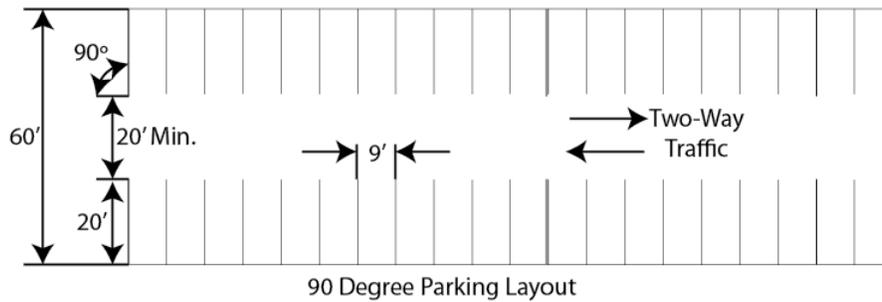
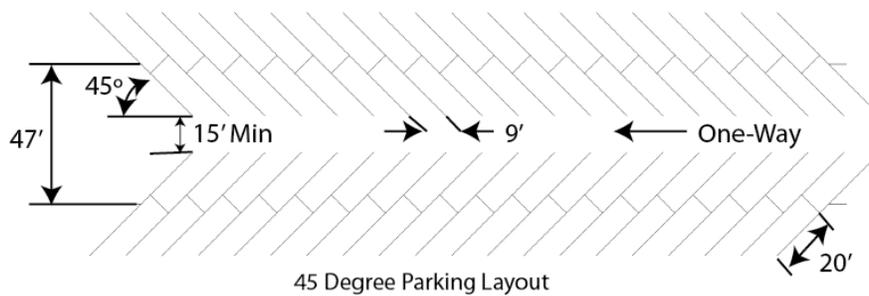


Figure: 6



**Section 10.9 Aesthetics, Signs and Lighting:**

**Section 10.90 Advertising Signs:**

- A. Advertising signs, billboards, advertising displays, outdoor displays and other advertising media may be permitted within a setback area provided that they comply with the following conditions:
  1. The advertising sign or display complied with all statutes and regulations of the State of Michigan.
  2. The advertising sign or display shall not be more than twenty-four (24) square feet in area and shall not be erected within five-hundred (500) feet of any dwelling existing at the time said sign or display is erected or moved to such locations, provided such dwelling is used exclusively for residential purposes and, provided further, should a dwelling be erected at any time within the five-hundred (500) feet limitations, the permit shall be revoked and the owner of the sign, or his or her authorized agent, shall be notified of the revocation and such sign shall then be removed within ninety (90) days.
  3. The advertising sign or display, except directional signs within one hundred (100) feet of intersection, shall not be erected within three-hundred (300) feet of an existing sign or display.
  4. The advertising sign or display, except directional signs within one-hundred (100) feet of intersection, shall not be erected within three-hundred (300) feet of an existing sign or display.
  5. The advertising sign or display shall not be less than fifty (50) feet from the highway right-of-way line measured by a line perpendicular to the highway right-of-way line.
- B. The provisions of Section 10.80.A shall not apply to:

1. Temporary sale, lease or rent signs, provided:
  - a. No more than two (2) signs are displayed.
  - b. Such signs are located on the lot or structure for sale, lease or rent.
  - c. Such sign does not contain an area of more than ten (10) square feet.
  - d. Such sign is removed following the sale, renting or leasing of the property within ten (10) days.
2. Temporary signs on residential premises, provided:
  - a. Such temporary signs (non-illuminated) shall be limited to the lease, hire, or sale of the building of premises and provided further that such signs shall be removed as soon as the premises are leased, hired or sold.
  - b. Such signs shall not exceed six (6) square feet in area and shall not be located on the front half of the required yard as measured from the front lot line or right-of-way.
3. Bulletin boards of churches, schools, libraries, and public buildings, provided:
  - a. Such bulletin board is located on the premises thereof.
  - b. Such board is not located as to obstruct the view of traffic from the sidewalks, driveways, roadways and adjoining property.
4. Roadside stands, agricultural displays and other sales stands, provided:
  - a. Such display is located on a farm and limited to the sale of products thereof.
  - b. Such display or stand is temporary and will not be located for more than six (6) consecutive months of any one (1) year.
  - c. Such displays or stand is located at least twenty-five (25) feet from the highway right-of-way line.
  - d. A parking area is available for prospective customers off the highway right-of-way line.
5. Advertising signs and displays of commercial enterprise, business, industry or professional person, provided:
  - a. Such sign is located on the premises or premises rented or leased for such purposes.
  - b. Such sign or display is limited to the products or services of the enterprise.
  - c. Such sign does not obstruct the view of traffic from the sidewalks, roadway, driveways or exits and adjoining property.
  - d. The operation of such sign does not constitute a nuisance to an adjacent residential district or residential neighborhood, by reason of glare, intermittent action, or other action.
6. Signs which support or oppose a candidate for public office or a ballot proposal, provided:
  - a. The candidate for public office or ballot proposal is included on the special ballot for the next upcoming election, including primary elections.
  - b. Such sign does not obstruct the view of traffic from the sidewalks, roadway, driveways or exits of adjoining property.
  - c. All such signs are removed within thirty days of the election at which the candidate for public office or ballot proposal is finally determined.
7. Sign Illumination:
  - a. Signs may not flicker, flash, strobe, pulse or operate in similar erratic fashion.
  - b. Signs may be internally lit (upon Planning Commission approval), but may not emit a direct beam of light projecting outward from the sign.

- c. Signs may be externally lit (upon Planning Commission approval), but all lights shall be focused solely on the sign.
  - d. At no point can an approved lighted sign allow light to cross or shine onto neighboring property or public road right of way.
  - e. Illuminated sign requests must be outlined in the special land use permit required under Section 10.90.B.8. Requests must include:
    - i. Reason for necessity of illuminated sign.
    - ii. Type of illumination to be utilized on the sign.
    - iii. Hours of operation of the illuminated sign.
    - iv. Description of how illuminated sign will function, and not provide a detriment and/or nuisance to neighboring property owners, residents or the Township.
8. Sign Approval: Advertising signs, billboards, advertising display, outdoor displays, and other advertising may be erected and maintained within the Township only by first obtaining a special land use permit outlined in Article 88 Such approval shall be for an initial period of one (1) year and may be extended thereafter upon the approval of the Zoning Administrator. The fee for the permit shall be set by resolution of the Township Board. Any state or federal regulations to the contrary shall supersede any determination or rules of the Zoning Administrator concerning signs, and any contrary provision of this Ordinance.
9. Illuminated Sign Approval Criteria: The Planning Commission upon receiving a request for an externally or internally illuminated sign under Section 10.90.B.7 and through a special land use permit outlined in Section 10.90.B.8 shall use the following criteria for determining approval:
- a. Is the illuminated sign necessary for increased economic opportunities for a commercial industry?
  - b. Is the request for an illuminated sign located in the commercial district?
  - c. Will the illuminated sign provide a nuisance or detriment to neighboring parcels, residents or the Township?
  - d. Will the illuminated sign be operated strictly during business hours, or hours of operation?

**Section 10.91 Outdoor Lighting:**

**A. Applicability**

- 1. All existing and proposed developments for which medium or detailed site plan is required for construction, renovation or redevelopment of a site as outlined in Article 94.
- 2. Buildings and structures lawfully existing as of the effective date of this ordinance may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance of this section as long as the increase in usable floor area or parking area is no greater than 25%.

**B. Prohibited Light Sources**

- 1. Searchlights or other high intensity narrow-beam fixtures
- 2. Lighting that flickers, flashes, strobes, pulses or operates in similar erratic fashion

**C. Design Requirements**

- 1. Fixtures
  - a. The light source shall be concealed and shall not be visible from any road right-of-way or adjacent properties. In order to direct light downward and

minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be full cutoff fixtures.

Lighting fixtures shall be a maximum of thirty (30) feet in height within parking areas and shall be a maximum of fifteen (15) feet in height within non-vehicular pedestrian areas.

2. Light Source

- a. The same light source type shall be used for the same or similar type of lighting on any one site throughout the development.

D. Excessive Illumination

1. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.
2. Lighting shall not be oriented so as to direct glare or excessive illumination onto roads in a manner that may distract or interfere with the vision of drivers.

E. Lighting Plan

1. Medium and detailed site plans shall display the location and arrangement of lighting on the site.

F. Additional Provisions

1. The Planning Commission may waive certain requirements of this section if the applicant can display that the lighting arrangement, fixtures and/or design meet the intent of this section.

**Section 10.100 Structure Regulations:**

**Section 10.101 Accessory Buildings:**

- A. All accessory buildings and structures shall be in the rear yard of the principle structure, except when built as part of the main building, or built in a district where land abuts water bodies, in which case said structure shall only be in side yards.
- B. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.
- C. An accessory building and structure, unless attached and made part of the principal building as provided, shall not be closer than ten (10) feet to the principal building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used.
- D. In the Residential and Commercial Districts, if the accessory building or structure is accessory to a dwelling or a duplex, it shall not be larger than seven-hundred twenty (720ft<sup>2</sup>) square feet and shall not be higher than eighteen (18) feet high at the eaves.
- E. No land use permit for an accessory building or structure shall be issued for any parcel which does not already have a principal structure, unless the land use permit for the principal is issued simultaneously with the land use permit for the accessory building or structure.

**Section 10.102 Height:**

Except for Wind Energy Conversion System (WECS) for which a special use permit has been granted, no building or structure or part thereof shall be erected or altered to a height exceeding two and one-half (2 1/2) stories, or thirty-five (35) feet. Non-dwelling buildings or structures other than accessory buildings or structures, (other than approved Wind Energy

Conversion Systems), may be erected or altered to a height not exceeding fifty (50) feet in approved by the Zoning Board of Appeals, pursuant to its power to grant variances, or the Township Planning Commission in connection with an application being sought pursuant to Section 86.01.

**Section 10.103 Communication Tower Facilities (Permitted Use):**

- A. Wireless Communication Facilities may locate in any zoning district, as a permitted use, if:
  - 1. Located on an existing building or structure, or is otherwise hidden from view by being incorporated in an existing building, or if it co-locates on an existing tower, and the purposed height does not require lighting by FCC and/or FAA regulations, and;
  - 2. Shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used):
  - 3. Shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines and further the operation of any such facilities shall not interfere with normal radio/television reception in the area.
- B. Any other private or individual television/radio reception/transmitter tower shall be so constructed and placed that there is no danger of the structure falling on adjacent properties or off premises electric power lines and further the operation of any such facilities shall not interfere with normal radio/television reception in the area.

**Section 10.104 Dwelling/Residential Standards:**

No single or multi-family dwelling, no building, use or structure accessory thereto, and no home occupation shall be located on any parcel which does not border on a county road which receives year-round maintenance and the rear line of such dwelling, accessory building, use or structure shall not be more than three-hundred and thirty-three (333) feet from the centerline of such county road.

**Section 10.105 Dwelling Standards:**

No person shall use, occupy or permit the use of occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated mobile home park, and except as hereinafter provided. All dwelling structures shall comply with the following minimum standards:

- A. No dwelling or duplex shall hereinafter be erected which shall have less than six-hundred (600 ft<sup>2</sup>) square feet and an area of the structure which is at least twenty (20) by twenty (20) feet.
- B. Dwellings or duplex shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under provisions of Public Act 230 of 1972, as amended being M.C.L. 125.1501 *et seq.* Including a minimum height 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 Michigan building code, then and in that event such federal or state standard or regulation shall apply.
  - 1. Foundations: It shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter dimensions of the dwelling, except cantilevers, and constructed of such materials and type as required in the said State Construction Code for dwellings,

or, in the case of mobile homes, that dwelling shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis;

2. Framing, structural, and insulation shall comply with the State Construction Code, or in the case of mobile homes, shall comply with the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a IIUD seal or certification by a certified inspector signifying inspection and compliance with the same;
  3. Final finished; shall comply with the said State Construction Code.
- C. 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 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 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.
- D. Every dwelling hereinafter erected shall have a roof slope of at least three (3) inches of vertical rise for each one (1) foot of a horizontal distance (three (3) on the twelve (12) pitch), or steeper. In no case, however, shall the pitch be less steep than the manufacturer's recommendation for the shingles used on the roof. The Appeals Board may grant a variance to slope requirements here, Section 82.04.A notwithstanding, if compatible architecturally with the existing neighborhood.
- E. It shall contain only additions or rooms or other areas which are constructed with similar quality and workmanship to, or of better quality, than the original structure. Further, it shall include permanent attachment to the principal structure as long as such attachment does not include a bearing load on a mobile home.
- F. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to, or of better quality than, the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one-hundred (100) square feet, whichever shall be less.
- G. 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 this Ordinance pertaining to such parks.

All construction required by this section shall be commenced only after a construction permit has been obtained in accordance with the applicable construction code provisions and requirements.

### **Section 10.106 Temporary Dwellings:**

No person shall use or permit the use of any temporary dwelling, or accessory building as defined in this Ordinance as a principal or seasonal dwelling except after full compliance with Section 10.03, compliance with County Sanitary Code, and further, except:

- A. As a temporary dwelling quarters during the construction and installation of any dwelling with the provisions of this Ordinance, when the following conditions are met:
  1. The location of the temporary dwelling shall comply with all setback requirements of this Ordinance.

2. The physical condition of the temporary dwelling, shall not deteriorate to the extent that its continued use threatens the public health, safety or welfare.
  3. The use of the temporary dwelling shall be limited to one (1) year, beginning with the issuance of a land use permit in accordance with Section 84.01. The permit may be renewed for not more than two (2) additional one (1) year terms upon approval of the Zoning Administrator for good cause shown.
  4. The land use permit for the temporary dwelling is issued only in addition to, or as part of, a land use permit which is also issued for the simultaneous construction of a principle use or special use. Upon completion of the construction, the temporary dwelling shall be removed from the site and/or the use of the accessory building for human habitation shall end.
- B. As part of a campground licensed and operated in accordance with the rules and regulations of the Michigan Department of Public Health. In addition to temporary dwellings, tent and motor homes may also be used for camping as permitted in this subsection.
- C. Trailers or hunting cabins for use in connection with temporary recreation on non-commercial/no rental basis by tourists, campers and sportsmen on land owned by the user. Trailers shall not require a permit and shall not be left unoccupied on the property. The time period (of occupancy) for any trailer or hunting cabin shall not exceed eight (8) weeks in a calendar year to qualify as a temporary dwelling.

**Section 10.107 Mobile Home Dwellings:**

No person shall use, occupy or permit the use or occupancy of a mobile home as a dwelling within any district within the Township not designated as a mobile home park, unless such mobile home has a minimum width across any front, side or rear elevation of twenty (20') feet and otherwise complies with the Dwelling Standard prescribed in Section 10.105. Compliance with the Dwelling Standards shall be shown prior to the issuance of a special use permit by a certificate or affidavit of inspection by a certified or licensed building inspector in the case of the Michigan State Construction Code or by a HUD seal affixed to the mobile home in the case of the "mobile home construction and safety standards." If a mobile home is required by law to comply with the aforementioned deferral standards then such standards shall apply. All construction required by this section shall be commenced only after a building permit has been obtained in accordance with the applicable construction code provisions and requirements.

**Section 10.108 Seasonal Help Housing:**

Dwellings for the use of seasonal and itinerant farm employees and migratory workers shall be exempt from the minimum lot size and minimum floor area requirements of this section and Article 30, but shall comply with all provisions of the Michigan Public Health Codes and all federal regulations and shall be located not less than two-hundred (200') feet from any adjoining highway right-of-way.

**Section 10.109 Hunting Cabin Regulations:**

- A. Minimum Floor Area: All hunting cabins shall have a minimum of four-hundred and eighty (480) square feet ground floor area and in addition, shall be not less than twelve (12) feet wide.
- B. Green Belt Area: A hunting cabin shall be concealed from view from all neighboring parcels or adjoining county roads which receive year-round maintenance. Such concealment shall be accomplished by existing trees and foliage or if none, by the planting of trees and foliage of sufficient quantity to create a visual barrier between the county road and the hunting cabin, as determined by the administrator.
- C. Temporary Dwellings: Hunting cabins shall be deemed to be temporary dwellings and subject to Section 10.1002 of this ordinance.

**Section 10.110 Dwelling Access Requirements:**

No single or multiple family dwelling, no building, use or structure accessory thereto, and no home occupation shall be located on any parcel which does not border on or provide access to a county road which receives year-round maintenance.

**Section 10.111 Single-Family Cluster Development:**

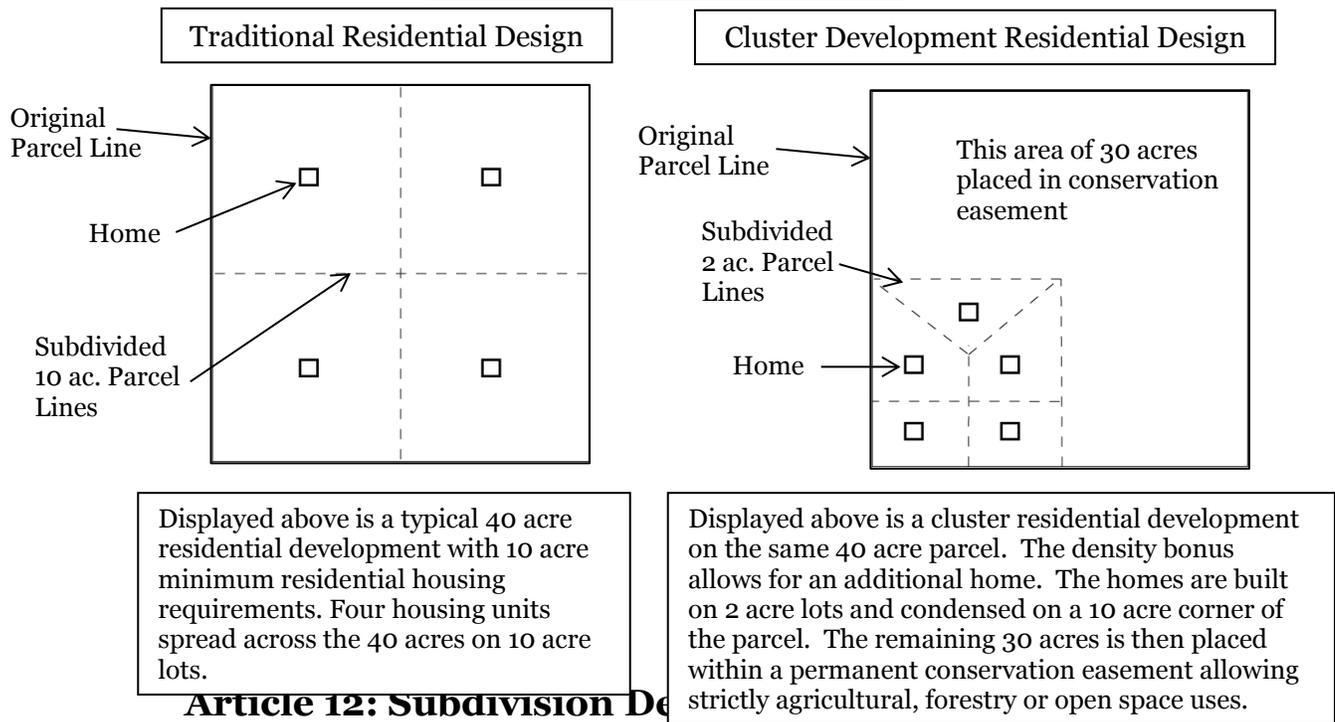
- A. The intent of this section is to encourage the development of single-family residential patterns that, through design innovation, will introduce flexibility so as to provide for a more appropriate development encouraging the preservation of open space through site planning.
- B. The Commission may approve the clustering of single-family dwelling units on residentially and agriculturally zoned parcels of land ten (10) acres or more in size, under single ownership and control.
- C. The Commission shall provide for a density bonus of twenty-five (25%) percent for lands within the Rural Residential District (RR-1) and a density bonus of one-hundred (100%) percent for lands within the Resource Preservation District (RP-1).
- D. The land may be subdivided according to the provisions of this zoning ordinance, as long as the approval for the lands to be developed through cluster development provisions and the lands to be protected permanently by conservation easement are determined prior to the subdivision of the parcel. A legal binding note will be required stating the intent to develop an identified portion of the site, while placing a permanent easement on the remaining land of the parent parcel.
  - 1. The note shall include:
    - a. A legal description of the developed portion and easement portions of the parent parcel and subdivided parcels.
    - b. Make note that the easement portions of the parent parcel are to be preserved permanently and the permanent easement runs with the land.
    - c. No future development or uses shall take place on the parcel under permanent easement, except those uses associated with timber, agriculture or passive undeveloped open space (not to include golf courses).
- E. The Commission shall convene a public hearing held in accordance with the Michigan Zoning Enabling Act (PA 110 of 2006), as amended, as part of its review, study, and approval of an application for the cluster housing option.
- F. The minimum yard setbacks, heights, and minimum lot sizes per unit as required by the by this ordinance may be waived and the attaching of dwelling units may be accomplished subject to the following:
  - 1. The minimum floor area for all units constructed under this option shall be at least equal to the minimum floor area requirements for the District in which the cluster is to be constructed.
  - 2. The attaching of single-family dwelling units, one to another, may be permitted when said homes are attached by means of one or more of the following:
    - a. Through a common party wall which does not have over seventy-five (75%) percent of its area in common with an abutting dwelling unit wall.
    - b. By means of an architectural wall detail which does not form interior room space.
    - c. Through a common party wall in only the garage portion of an abutting structure.
  - 3. The attachment of more than two (2) units in the above described manner shall not be permitted.
  - 4. In a single-family cluster housing development, the dwelling unit density shall be no greater than if the gross land area were to be developed in the minimum

square foot lot areas as required for the single-family district in which the development is proposed. Exception in the form of a determined percentage density bonus may be granted by the Commission.

5. At least fifty (50%) percent of the site is retained as permanent open space or in agricultural activity. In the case of agricultural activity, the method of open space protection shall specifically state that the property shall revert to permanent open space when and if the agricultural activity ceases. The details of the conversion and the maintenance of the open space shall also be provided.
- G. Yard requirements shall be provided as follows:
1. Spacing between any group of two (2) or fewer one-family units and another grouping of such structures shall be equal to at least twenty (20') feet, measured between the nearest points of the two groupings. A grouping may include a single, freestanding unit.
  2. All such groupings shall be situated so as to have one side of the lot abutting onto a common open space.
  3. That side of a building adjacent to a dedicated street shall not be closer to said street than twenty-five (25') feet.
  4. This nature of development, when abutting a front yard of an existing recorded subdivision which is not a part of the site plan submitted under this section, shall cause all dwelling units facing such subdivision to relate through its front or entrance façade and shall treat said side of the grouping as a front yard.
  5. No building shall be located closer than thirty (30') feet to the property line of the site.
  6. Each building or grouping of buildings shall rest on a minimum of two (2) acre lots. This requirement may be waived by the Commission in lieu of information (such as soil tests or plans for combined septic fields and/or wells, as approved by the District 10 Health Department) which would allow for smaller lot sizes.
- H. Access to the entire cluster development including all structures shall consist of no more than two access drives or roads which intersect any adjacent public roads.
- I. The building height shall not exceed two and one-half (2 1/2) stories or thirty-five (35') feet. In computing the building height of an individual unit in a cluster on a slope in excess of ten (10) percent and when the unit is constructed on posts, the first ten (10') feet of the height of the posts shall not be computed. Application of the definition of "Building Height" shall apply over and above the ten (10') feet of post height.
- J. A buffer in conformance with a class A buffer as displayed in Section 10.53 shall be provided along the exterior property lines of the residentially utilized parcels abutting a major thoroughfare or where adjoining the Resource Preservation District. This buffer may be included within a required side or rear yard. A natural buffer, if one exists, may satisfy all or part of this requirement, as determined by the zoning administrator.
- K. In submitting a proposed layout under this section, the sponsor of the development shall include at the Commission's discretion, along with the site plan, typical building elevations and floor plans, topography drawn at two (2') foot contour intervals, main floor grade elevations relative to the existing topography, all computation relative to acreage and density, details relative to the proposed buffer and any other details which will assist in reviewing the proposed plan.
- L. Site plans submitted under this option shall be accompanied by information regarding the following:
1. The proposed manner of holding title to open land.
  2. The proposed method of regulating the use of open land.
  3. The proposed method of maintenance of property and financing thereof.

- M. All land not intended to be conveyed to individual dwelling unit owners shall be set-aside:
1. For the use of all occupants of the development and under common ownership, or
  2. Be placed in permanent easement from future development which is recorded with the deed and running with the land.
- N. All such lands shall be protected by restrictions or covenants running with the land and must be approved by the Township Attorney to assure the following:
1. That title to the open land has included a recording of a permanent conservation easement which limits further development of the parcel, except for timber, agriculture and unimproved open space.
  2. That title to open land, if kept in the original parcel, is held in common by the owners of all dwelling units in the detached single-family cluster development.
  3. A permanent organization for maintenance and management of all such areas shall be assured by legal documents prior to issuance of the building permit.

Figure 7: Cluster Development



**Article 12: Subdivision De**

**12.01 Subdivision Traffic ways, Streets and Roads:**

- A. Intent: The standards set forth in this Ordinance are for the guidance of sub-dividers and represent desirable and acceptable practices. The required standards for streets, roads and intersections shall be the standards adopted by the Manistee County Road

Commission for this Township. Generally, all streets shall be dedicated to public use. Arterial streets shall be dedicated to public use in all cases.

B. General

1. Street Location and Arrangement: When a major street plan has been adopted, subdivision streets shall be required to conform to the plan.
2. Local or Minor Streets: Such streets should be so arranged as to discourage their use by through traffic.
3. Street and Continuation and Extension: The arrangement of streets should provide for the continuation of streets from adjoining areas into new subdivisions, unless otherwise approved by the Township Street Administrator.
4. Stub Streets: Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions should be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.
5. Relation to Topographic: Streets should be arranged in proper relationship to topography so as to result in usable lots, safe streets, and reasonable gradients.
6. Alleys: Alleys are not desirable in areas of detached single or two-family residences. Alleys shall be provided in multiple dwellings or commercial subdivisions unless other provisions are made for service access, off-street loading, and parking.
7. Marginal Access Streets: Where a subdivision abuts or contains an arterial street, the Township may require:
  - a. Marginal access streets approximately parallel to and on each side of the right-of-way.
  - b. Such other treatment as it deems necessary for the adequate protection of residential properties and to afford separation of through and local traffic.
8. Cul-De-Sac Streets: Cul-de-sac streets should not be more than six hundred (600') feet in length. Longer cul-de-sac streets under certain topographic conditions or other unusual situations will be permissible if approved by the Township Street Administrator. Cul-de-sac streets should terminate with an adequate turnaround with a minimum radius of seventy five (75) feet for right-of-way and fifty (50) feet for pavement. Cul-de-sac streets are discouraged unless emergency access is provided to all property in the event the street is blocked for any reason.
9. Private Streets: Private streets and roads will be permitted where desirable and acceptable to the Commission. All such streets shall be marked, at owner's expense, by a sign, stating the street or road is private. Private streets shall be

designed with a sixty-six (66) foot right of way with twenty-four (24) feet of hard surface.

C. Specifications

1. Street Right-of-Way Widths: Street and road right-of-way widths shall conform to the rules of the Manistee County Road Commission and the State Department of Highways with the following exception:
  - a. Private roads and driveways serving less than five (5) residential lots do not need to be hard surfaced. The addition of a fifth lot shall require that the entire roadway be hard surfaced to Manistee County Road Commission standards.
  - b. In subdivision or condominium developments, the street or road does not have to be hard-surfaced to Road Commission standards until 90 percent of the residential construction has been completed.
2. Street Gradients:
  - a. Maximum Grades: Street grades shall not exceed five (5) percent on either local streets or collector streets.
  - b. Minimum Grades: No street grade shall be less than zero point five (0.5) percent.
3. Street Alignment:
  - a. Horizontal Alignment: When street lines deflect from each other by more than ten (10) degrees in alignment, the centerlines should be connected by a curve with a minimum radius of five hundred (500') feet for arterial streets, three hundred (300') feet for collector streets and one hundred (150') feet for local or minor streets. Between reverse curves, on minor streets, there should be a minimum tangent distance of one hundred (100') feet, and on collector and arterial streets, two hundred (200') feet.
  - b. Vertical Alignment: Minimum sight distances should be two hundred (200') feet for minor streets and three hundred (300') feet for collector streets.

D. Street Name

1. Street names shall not duplicate any existing street name in the County, except where a new street is a continuation of an existing street.
2. Street names that may be spelled differently but sound similar shall also be prohibited.

**12.02 Subdivision Intersections:**

A. Angle of Intersection

1. Streets should intersect at ninety (90) degrees or closely thereto and in no case at less than eighty (80) degrees.

B. Sight Triangles

1. Minimum clear sight distance at all minor street intersections should permit vehicles to be visible to the driver of another vehicle when each is one hundred twenty-five (125) feet from the center of the intersection.

C. Number Of Streets

1. No more than two (2) streets should cross at any one intersection.

D. "T" Intersections

1. Except on arterials and certain collector streets, "T" intersections should be used where practical.

E. Vertical Alignment of Intersection

1. A nearly flat grade with appropriate drainage slopes is desirable within intersections. This flat section should be carried back fifty (50') feet to one hundred (100') feet each way from the intersection. An allowance of two (2)

percent maximum intersection grade in rolling terrain and four (4) percent in hilly terrain is desirable.

**12.03 Subdivision Non-motorized Ways:**

- A. Crosswalks: Right-of-ways for non-motorized crosswalks in the middle of long blocks may be required where necessary to obtain convenient pedestrian circulation to schools, parks or shopping areas. A right-of-way should be at least ten (10') feet wide and extend entirely through the block.
- B. Sidewalks: Sufficient rights-of-way should be provided so that sidewalks may be installed on both sides of all streets.

**12.04 Subdivision Easements Location:**

- A. Easements shall be provided along rear lot lines for utilities and also alongside lot lines when necessary. The total width shall not be less than six (6) feet along each lot, or a total of not less than twelve (12') feet for adjoining lots.

**12.05 Subdivision Drainage Way:**

- A. The sub-divider shall provide drainage way easements as required by the rules of the Manistee County Drain Commissioner.

**12.06 Subdivision Blocks:**

- A. Arrangements: A block should be so designed as to provide two (2) tiers of lots where practical, except where lots back onto an arterial street, natural feature or subdivision boundary.
- B. Minimum Length: Blocks should not be less than four hundred (400') feet long in the R-1 and less than six hundred (600') feet in all other residential districts.
- C. Maximum Length: The maximum length allowed for residential blocks shall be one thousand three hundred twenty (1,320) feet from center of street to center of street.

**12.07 Subdivision Lots:**

- A. Conform to Zoning: The lot width, depth, and area shall not be less than the particular district requirements of the Ordinance, unless cluster development provisions are being followed.
- B. Lot Lines: Side lot lines shall be essentially at right angles to straight streets and radial to curved streets.
- C. Corner Lots: Corner lots shall have extra width to permit appropriate building setback from both streets.
- D. Uninhabitable Areas: Lands subject to flooding or otherwise deemed by the Commission to be uninhabitable shall not be platted for residential purposes, or for uses that may in the judgment of the Commission increase the danger to health, life, or property or increase the flood hazard. Such land within a subdivision may be set aside for other uses, such as parks or other open space.
- E. Lot Frontage: All lots shall front upon a street or road. Exceptions may be permitted for lots on lakes, rivers or streams. The front line shall be the street or road unless otherwise shown on the plat.

**12.08 Subdivision Lot Division:**

The division of a lot in a recorded plat is prohibited, unless approved following application to the Zoning Administrator. The application shall be filed with the Commission and shall state the reasons for the proposed division. No lot in a recorded plat shall be divided into more than four (4) parts and the resulting lots shall be not less in area than permitted by the Zoning Ordinance. No building permit shall be issued, or any building construction

commenced, unless the division has been approved by the Zoning Administrator. The division of a lot resulting in a smaller area than prescribed herein may be permitted but only for the purpose of adding to an existing lot in the subdivision. The application shall so state and shall be in affidavit form.

**12.09 Subdivision Reserve Strips:**

- A. Reserve Strips - Private: Privately-held reserve strips controlling access to streets shall be prohibited.
- B. Reserve Strip - Public: A one (1') foot reserve may be required to be placed at the end of "stub" or "dead-end" streets which terminate at subdivision boundaries and between half-streets. These reserves when required shall be deeded in fee simple to the Township for future street purposes.

**12.10 Subdivision Required Public Improvements:**

- A. Every sub-divider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:
  - 1. Monuments: Monuments shall be set in accordance with the Land Division Act, PA 591 of 1996 , as amended and the State.
  - 2. Streets and Alleys: All streets and alleys shall be constructed of a bituminous surface in accordance with Manistee County Road Commission standards and specifications, except as provided in Section 12.01.C, of this Ordinance.
  - 3. Installation of Public Utilities: Public utilities and driveways shall be located in accordance with the rules of the Manistee County Road Commission. All utilities must be installed below ground. Underground work for utilities shall be stubbed to the property line.
  - 4. Driveways: All driveway openings in curbs shall be as specified by the Manistee County Road Commission or the State Department of Highways.
  - 5. Storm Drainage: An adequate storm drainage system shall be required in all subdivisions. The minimum requirements for each particular subdivision shall conform to the Manistee County Stormwater Guidelines. All drainage shall be on land contained in the plat. Construction shall follow the specifications and procedures established by the Manistee County Stormwater Guidelines. All proposed storm drainage construction plans for proposed plats shall be prepared by the sub-divider.
  - 6. Water Supply System: When a proposed subdivision is to be serviced by a public water supply system, a sub-divider may be required to provide fire hydrants and other required water system appurtenances.
  - 7. Individual Wells: Individual wells may be permitted in accordance with the requirements of the District #10 Health Department.
  - 8. Sanitary Sewer System: When a proposed subdivision is to be serviced by a public sanitary sewage system, the sub-divider shall provide sanitary sewers and other required appurtenances thereto. Sewer systems shall comply the requirements of P.A. 98 of 1913, as amended.
    - a. If there is no existing or accessible public sewer system, the sub-divider may be required to provide a sewer system for the common use of the lot owners, if feasible, in the judgment of the Commission with the advice of the District #10 Health Department and shall comply with the requirements of P.A. 98 of 1913, as amended.
    - b. Where in the judgment of the Commission, with the advice of the District #10 Health Department, it is determined that a subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, then septic tanks and disposal

- fields may be approved so long as they shall comply with the requirements of the District #10 Health Department.
- c. However, where studies by an engineer selected by the Township indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears probable within a reasonably short time (up to three (3) years), sanitary sewer mains and house connections shall be installed and capped.
  9. Street Name Signs: Street name signs shall be required to be installed in the appropriate locations at each street intersection in accordance with the requirements of the Manistee County Road Commission.
  10. Buffers: It is desirable for the protection of residential properties to have buffers or landscaped screen plantings located between a residential development and adjacent major arterial streets, businesses, commercial areas, agricultural uses, and railroad rights-of-way. Where a sub-divider desires to protect his development in this respect, a proposed subdivision plat shall show the location of the buffers. A class A buffer shall be required around residential developments in the Rural Residential and Rural Preservation districts, in conformance with Section 10.53, when neighboring uses are agricultural in nature.
  11. Street Trees: Street trees of a variety and size approved by the Commission may be planted between the street curb and sidewalk. The location of street trees shall be approved by the Township Zoning Administrator so as not to interfere with clear vision areas. It is the intention of the Township that development shall result in no net tree loss, when possible.
  12. Street Lighting: Streetlights may be required to be installed, at intersections only, throughout the subdivision. In these cases, a sub-divider shall conform to the requirements of the Commission and a public utility providing such lighting.
  13. Maintenance Program: If streetlights, sewers, water systems, parks or buffer areas are contained within a plat either by requirement or desire of the sub-divider, a permanent maintenance program must be set up before the sale of the fifth (5th) lot.
  14. Dead End Roads: Dead end roads may be permitted if cul-de-sacs meet or exceed Manistee County Road Commission standards, and if the road is no longer than one hundred fifty (150') feet.
  15. Connection To Future Roads: All streets, drives, roads, etc. abutting undeveloped or un-platted land must be shown to be capable of connecting to future roads.

**12.11 Subdivision Guarantee of Completion of Improvements Required By the Township:**

- A. Financial Guarantee Arrangements, Exceptions: In lieu of the actual installation of required public improvements, the Township Board upon recommendation of the Commission may permit the sub-divider to provide a financial guarantee of performance in one or a combination of the following arrangements for those requirements which are over and above the requirements of the Manistee County Road Commission, Manistee County Drain Commissioner or any other agency responsible for the administration, operation and maintenance of the applicable public improvement. The Township Board may waive financial guarantees of performance under this Ordinance for sidewalks, streetlights, or street trees. In case these

improvements are specified, completion may be required prior to the issuance of land use permits.

**B. Performance or Surety Bond:**

1. **Accrual:** The bond shall accrue to the Township, covering construction, operation and maintenance of the specific public improvement.
2. **Amount:** The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvement, including contingencies, as estimated by the Commission or there designee.
3. **Term Length:** The term length in which the bond is in force shall be a period to be specified by the Township Board for the specific public improvement.
4. **Bonding Or Surety Company:** The bond shall be with a surety company authorized to do business in the State of Michigan, acceptable to the Township Board.

**C. Cash Deposit or Certified Check:**

1. **Treasurer, Escrow Agent Or Trust Company:** A cash deposit or certified check qualifies as surety acceptable by the Township Board. This surety shall be accepted as sufficient surety by the Township Board and shall accrue to the Township. These deposits shall be made with the Township Treasurer, or deposited with a responsible escrow agent, or trust company, subject to the approval of the Township Board.
2. **Dollar Value:** The dollar value of the cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvement including contingencies, as estimated by the Commission.
3. **Escrow Time:** The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period to be specified by the Township Board.
4. **Progressive Payment:** In the case of cash deposits or certified checks, an agreement between the Township and the sub-divider may provide for progressive payment out of the cash deposit or reduction of the certified check, negotiable bond or irrevocable bank letter of credit, to the extent of the cost of the completed portion of the public improvement, in accordance with an agreement previously entered.

**12.12 Subdivision Inspection of Public Improvements Under Construction:**

- A. Before final approval of a plat, an agreement between the sub-divider and the Township Board shall be made to provide for checking or inspecting the construction of public improvements and conformity to plans.

**12.13 Subdivision Public Improvement; Penalty; Failure to Complete:**

- A. In the event the sub-divider shall, in any case, fail to complete such work within the period of time required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. To accomplish this, the Township Board shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, irrevocable bank letter of credit, or negotiable bond which the sub-divider shall have

- deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company.
- B. The Township is not responsible for the enforcement of plat restrictions.

## **Article 16: Specific Use Standards**

### **Section 16.01 Mining:**

In the case of a special use permit for mining, whether on a regular or temporary basis, will result in no very serious consequences, which may be shown by meeting or exceeding the standards listed below, in addition to the required findings listed above:

- A. The Planning Commission may approve an application for a regular mining special use permit when the application, in addition to all other requirements, demonstrates that no very serious consequences would result from the extraction of minerals, which may be shown by meeting or exceeding the following standards listed below:
1. That the establishment, maintenance, or operation of the special use will not substantially affect the existing use of adjacent property, and will not have a substantially adverse effect on the long-term future use of the adjacent property;
  2. That the special use shall conform to all governmental regulations pertaining to the activity itself;
  3. That the mining operation shall conform to applicable air and water quality standards;
  4. That the noise, vibration, and dust levels at the property lines shall be within the levels determined by the Planning Commission;
  5. That an undeveloped buffer zone, commencing not less than twenty (20) feet from the property line of the mining site or such other distance as the Planning Commission finds necessary for the protection and safety of adjacent property from mining, with a stable angle of slope repose shall be provided along property lines;
  6. Where deemed practicable and necessary by the Planning Commission, an earth bank or vegetative screen shall be erected and/or maintained to screen the mining operation from view from any residential district located within one half (1/2) mile of the operation;
  7. Where deemed necessary by the Planning Commission, each mining operation shall be enclosed by at least a single-strand barbed wire fence, maintained at all times, with warning signs spaced no more than two-hundred (200) feet apart to indicate the presence of a mining area.
  8. That an application shall not be of a speculative nature, nor shall the mining cause harm to adjacent property.

### **Section 16.02 Shooting Range and Hunting Preserve:**

For a shooting range and hunting preserve, the following provisions shall apply:

- A. Location and minimum Size Requirements:
1. Minimum parcel size shall be one-hundred sixty (160) acres.
- B. Buffering Requirements:

1. The setback area shall contain conifer plantation and/or an earthen berm to create a sight, sound and safety barrier adequate for the location as determined by the Planning Commission.
- C. The operation shall comply with all federal, state and local statutes and regulations and accepted design and safety standards including installation of a bullet trap in the target area(s) including but not limited to Parts 415, 417, 419 of P.A. 451 of 1994, as amended, (being the Public Shooting and Hunting Grounds, Private Shooting Preserves, Hunting Area Control parts of the Michigan Natural Resources and Environmental Protection Act, MCL 324.41501 *et. Seq.*, 324.41701 *et. Seq.*, and 324.41901 *et. Seq.*).
- D. Hours of operation shall be between 8 a.m. and dusk for target practice (including skeet) and shooting ranges. Hours of operation shall be the same as required by the administrative rules promulgated under part 435 of P.A. 451 of 1994, as amended (being the Hunting and Shooting License part of the Michigan Natural Resources and Environmental Protection Act, MCL 324.43501 *et. Seq.*) for hunting. Intensity of noise shall not exceed reasonable levels.

**Section 16.03 For Second Dwelling on a Parcel:**

- A. The purpose of this section is to provide for placement of a second dwelling on a parcel that would not otherwise be allowed by this Ordinance – recognizing a need for extended members of a family to take residence near their home, but in separate living quarters – due to age, illness or handicap such that they cannot care for themselves; while at the same time protecting the character of a single family neighborhood.
- B. A second dwelling may be placed on the same parcel where a dwelling already exists if the following conditions are met:
  1. The application for a special use permit shall include a site plan.
  2. The second dwelling shall comply with all applicable construction, height, yard and setback regulations of this Ordinance.
  3. The distance between the principal and second dwelling shall be equal to twice the side yard setback required in the respective district.
  4. The second dwelling shall be located in the side or rear yard.
  5. The second dwelling is on a parcel with frontage on a public road, with a driveway adequate to provide off-road parking for two dwellings (at least, but not limited to, three parking spaces), which has access to public road or alley.
  6. Occupancy of one of the two dwellings shall be only by family members of extended family members who are over sixty-five (65) years old or handicapped and not able to fully care for themselves.
  7. The design of the second dwelling shall be a moveable structure and shall be temporary, to be removed within ninety (90) days when no longer occupied by qualified resident. Before a permit is issued, the applicant shall provide security to cover removal cost. Such security shall be in the form specified in this Ordinance.
  8. The application shall include a medical doctor’s written statement that the individual is handicapped or elderly and not able to fully take care of one’s self. The permit, when issued, shall indicate it is a temporary permit and not transferable to another individual.

**Section 16.04 Sexually Oriented Businesses:**

In the case of sexually oriented businesses, they must meet or exceed all of the following standards, in addition to the required findings:

- A. Purpose: It is recognized that sexually oriented businesses have a deleterious effect upon adjacent areas, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of

life in adjacent areas, especially when such uses are concentrated in the same general area, it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal throughout the commercial and industrial zones of the Township to thereby minimize their adverse impact to the best extent possible on any other permitted uses.

- B. Conditions: In order to obtain and retain a special use permit for operation of a sexually oriented business regulated use as defined by this Zoning Ordinance, the following conditions must be met, in addition to all other standards set forth herein for special use permits:
1. A special use permit must be acquired through the special use procedures as described in Article 86;
  2. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as defined by this section shall not be located within one-thousand (1,000) feet of any other such regulated uses as defined by this section, nor within five-hundred (500) feet of any residentially zoned district or preexisting residential use prior to enactment of the zoning districts, school, daycare center, church or other religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective properties;
  3. The regulated uses, as defined by this section, shall only operate between the hours of 8 a.m. and 10 p.m.
  4. There shall be a manager on the premises at all times;
  5. No one under the age of 18 shall be allowed onto the premises by the on-site manager of the regulated use;
  6. If a transfer of ownership or control occurs, the existing special use permit shall be considered void. A new permit shall be applied for in advance of the proposed transfer;
  7. No product or service for sale or gift, or any picture or other representation thereof, which relates in any way to “specified sexual activities” or “specified anatomical areas,” shall be displayed so as to be visible from the street or exterior of the building of the regulated use;
  8. Once a special use permit has been issued, the regulated use shall not be expanded in any manner without first applying for and receiving approval of the Planning Commission as provided in this Ordinance;
  9. If a regulated use is discontinued, the use may not be re-established without first applying for and receiving the approval of the Planning Commission as provided in this Ordinance;
  10. The designated parking area for the sexually oriented business shall be lighted during all hours of operation and one (1) hour after closing in the evening and/or nighttime with overhead lamps providing a minimum of five (5) foot candles as measured five (5) feet above the parking area surface.
  11. A secure and well-lighted entrance, separate from that provided for patrons, will be provided for all employees, regardless of their job descriptions.

**Section 16.05 Communication Tower Facilities:**

- A. Communication Tower Facilities may be permitted by special use pursuant to section 86.01 *et. Seq.* of this Ordinance provided said use:
1. Shall be located centrally on a contiguous parcel of not less than one (1) times the height of the tower measured from the base of said tower to all points on each property line or leased area boundary. The setback standard may be reduced by up to fifty percent (50%) if the construction plan, the tower, and its

- guying/anchoring system are certified by a registered professional engineer as being safe from the hazard of falling onto public roads or adjoining properties.
2. All guy wires/cables and anchors shall meet the zoning setback standards of the district.
  3. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.
  4. The following standards will be required for all Communication Tower Facilities:
    - a. Wireless Communication Facilities may be permitted if it is found that there is no reasonable opportunity for them to be built as a permitted use in compliance with Section 10.72 of this Ordinance. Information must be submitted to show efforts made to screen, co-locate or place such facilities on an existing structure.
    - b. The proposed height meets FCC and/or FAA regulations.
    - c. Towers must be equipped with devices to prevent unauthorized climbing or the base enclosed by a fence to prevent unauthorized access to the tower.
    - d. All reasonable measures are taken to blend the tower into the landscape, including greenbelt planting and/or screening, painting and/or concealing the tower in a "stealth" design.
    - e. All new towers shall be constructed in such a manner so as to provide co-location of at least five (5) additional antennas. Depending on tower height, additional co-located antennae may be required by the Commission. These antenna sites shall be made available at a fair market value on a need for basis to anyone wanting to mount commercial communication equipment. This commitment shall be reflected as a condition in the special use permit for the tower. No new construction will be approved, unless it can be demonstrated that space on existing towers is unavailable or unsuitable.
    - f. Protective fencing and screening may be required to be placed around all guy wire anchor points as appropriate to the site.
    - g. All communication tower facilities shall be removed and the site restored to its original condition by the property owner or lessee within ninety (90) days of being abandoned (no longer used).

**Section 16.06 Wind Energy Conversion Systems:**

- A. Purpose: The purpose of this Section 16.06 is to establish standards and procedures by which the installation and operation of a WECS shall be governed within the Township as a special use within specified zoning districts.
- B. Definitions:
  1. Interconnected WECS: A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
  2. Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS in unattended operation (not necessarily producing power) is designed to survive without damage to any structural equipment or loss of the ability to function normally.
  3. WECS Height: The distance between the ground (at normal grade) and the highest point of the WECS, as measured from the ground (at normal grade), plus the length by which the rotor blade on a horizontal mounted WECS exceeds the structure which supports the rotor blades (normally, the tower),. Or put another

way, the distance between the ground (at normal grade) and the highest point of the WECS (being the tip of the blade, when the blade is in the full vertical position).

4. Wind Farm: Clusters of two (2) or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
  5. Single WECS for Commercial Purposes: A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
  6. WECS Testing Facility or Testing Facility: A structure and equipment used to determine the potential for the placement of a WECS.
  7. Applicant: The person, firm, corporation, company, limited liability corporation or other entity which applies for Township approval under this section, as well as the applicant's successor(s), assign(s) and/or transferee(s) as to any approved WECS or Testing Facility. An applicant must have the legal authority to represent and bind the landowner or lessee who will construct, own, and operate the WECS or Testing Facility. The duties and obligations regarding a zoning approval for any approved WECS or Testing Facility shall be with the owner of the WECS or Testing Facility, and jointly and severally with the owner and operator or lessee of the WECS or Testing Facility if different than the owner.
- C. Single WECS Intended for On-Site Service Only: A single WECS intended primarily to service the needs of the property upon which it is located, including WECS Testing Facilities may be approved in any zoning district as a Special Use, provided the property upon which the system is to be located is at least five (5) acres in size and subject to the review and approval procedures and standards/criteria of Article 86 of this Ordinance, the Site Plan requirements under part (E) below, as well as all of the following:
1. The tower shall not exceed a height of 80 feet.
  2. The blade diameter (tip to tip) shall not exceed 100 feet.
  3. The height of the overall WECS (with the blade in the vertical position) shall not exceed one-hundred thirty (130) feet above ground level (at normal grade).
  4. There shall be a minimum vertical blade tip clearance from the ground of twenty (20) feet.
  5. Guy Wires: If the WECS is supported by guy wires, such wires shall be covered with a highly visible material so as to make it visible to a height of at least six (6) feet above the ground.
  6. Setbacks: The distance of the structure from all property lines shall be at least two (2) times the WECS height.
  7. The WECS shall not cause a sound pressure level in excess of fifty-five (55) db(A) or in excess of five (5) db(A) above the background noise, whichever is greater, as measured at the nearest property line.
  8. The WECS shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel on which it is located.
  9. The WECS shall not cause interference with television, microwave, navigational or radio reception in the neighboring area.
  10. The WECS shall not cause shadow flicker upon any structure on a neighboring property.
  11. The potential ice throw or ice shedding for the wind turbine generator shall not cross the property lines of the site nor infringe on any right-of-way or overhead utility lines.

12. The WECS shall have an automatic system to prevent uncontrolled rotation.
  13. Other Regulations: The WECS shall comply with all applicable State construction and electrical codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures (P.A. 259 of 1959, as amended) and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
- D. Wind Farms, Single WECS for Commercial Purposes, and WECS Testing Facilities: A wind farm, a single WECS for commercial purposes, and WECS Testing Facilities associated with the commercial application of a WECS may be allowed as a Special Use only within the Resource Preservation District, subject to the regulations and requirements in this section and also the general special use review procedures and standards/criteria of Article 86 of this Zoning Ordinance, the Site Plan requirements under part (E) below and the following:
1. Height: The permitted maximum total height of ta WECS (i.e., WECS height) shall be four-hundred (400) feet including the blade in vertical position.
    - a. State and federal regulations may require lesser height.
    - b. As a condition of approval, the Township may require a lesser height for a WECS if reasonably necessary to comply with the standards contained in within this section.
    - c. A WECS shall be constructed with a tubular tower, not a lattice tower.
  2. Height of Test Tower Facility: Unless a different height is approved by the Planning Commission, the WECS Testing Facility height shall be no greater than three-hundred (300) feet from the ground (i.e., from normal grade to the test tower top) and shall comply with design standards.
    - a. A WECS Testing Facility which is not in use for 6 months or more shall comply with subsection (1) hereof regarding abandonment.
  3. Setbacks: No part of a WECS or WECS Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. The setback for placement of a WECS or a WECS Testing Facility shall be equal to the required setbacks for the zoning district in which the WECS is located plus the WECS height. Furthermore, no WECS or WECS Testing Facility shall be located within sixteen-hundred (1600) feet, measured horizontally, of the high water mark of the Big Manistee River.
  4. Rotor or Blade Clearance: Bade arcs created by a WECS shall have a minimum of seventy-five (75) feet of clearance over and from any structure, adjoining property or tree. The minimum blade or rotor clearance above ground level shall be at least twenty (20) feet.
  5. Rotor or Blade Safety: Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds within 80% of design limits of the rotor.
  6. Tower Access: To prevent unauthorized climbing, WECS and Testing Facilities must comply with at least one fo the following provisions:
    - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
    - b. A locked anti-climb device shall be installed and maintained.
    - c. A tower capable of being climbed shall be enclosed by a locked, protective fence at least ten (10) feet high with barbed wire fence.
  7. Signs: Each WECS and Testing Facility shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower. The sign shall contain at least the following:
    - a. Warning high voltage.

- b. Manufacturer's name.
    - c. Emergency numbers (list more than one number)
    - d. Emergency shutdown procedures.
    - e. FAA regulated sign with precise description with latitude and longitude and shall also contain both the applicant's current telephone number and the current telephone number for the FAA's regional office having jurisdiction over Marilla Township.
    - f. If fenced, place signs on fence.
  8. Lighting: A lighting plan for each WECS and WECS Testing Facility shall be approved by the Planning Commission. Such plan must describe all lighting that will be utilized including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and whether any lights will be flashing. Strobe lights are discouraged and must be shielded from the ground if such lights are allowed by the Planning Commission.
  9. Electromagnetic Interference: Each WECS and WECS Testing Facility shall be designed, constructed and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.
  10. Noise Emissions: Noise emissions from the operation of a WECS and WECS Testing Facility shall not exceed fifty-five (55) decibels on the db(A) scale as measured at the nearest property line or road.
    - a. A baseline noise emission study of the proposed site and impact upon all areas within one (1) mile of the proposed WECS location must be done (at the applicant's cost) prior to any placement of a WECS and submitted to the Township. The applicant must also provide estimated noise levels to property lines at the time of the Special Use application.
  11. Utility Company Interconnection (Interconnected WECS): All distribution lines from the WECS to the electrical grid connection shall be located and maintained underground (both on the property line where the WECS will be located and off-site). The Planning Commission may waive the requirement that distribution lines for the WECS which are located off-site (i.e., are not located on or above the property where the WECS will be located) be located and maintained underground if the Planning Commission determines that to install, place, or maintain such distribution lines underground would be practical or unreasonably expensive.
- E. Site Plan Drawing: All applications for a WECS or WECS Testing Facility special use approval shall be accompanied by a detailed site plan drawn to scale and dimensioned displaying all of the following information:
  1. All requirements for a site plan contained in Article 84 shall also be met.
  2. All lot lines and dimensions, including a legal description.
  3. Location and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
  4. Location and height of all adjacent buildings, structures and above ground utilities located within three-hundred (300) feet of the exterior boundaries of the lot or parcel where the proposed WECS and/or WECS Testing Facility will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided. The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown, whether

to be utilized or not with the WECS or WECS Testing Facility, located on the lot or parcel involved, as well as within one-thousand (1,000) feet of the boundaries of such parcel or lot.

5. Existing and proposed setbacks for the WECS from all structures located on the property where the WECS will be located.
  6. Elevation of the premises accurately depicting the proposed WECS location and its relationship to the elevation of all existing and proposed structures within three-hundred (300) feet of the proposed WECS.
  7. Access driveway to the WECS and the WECS Testing Facility together with a detailed narrative regarding dimensions, composition and maintenance of the proposed driveway. The Township shall require the construction of a private road to serve a WECS or WECS Testing Facility if it is determined by the Township Board that said road is necessary to protect the public health, safety or welfare or to offer an adequate means by which the Township or other governmental agency may readily access the site in the event of an emergency. All private roads shall be constructed to Manistee County Road Commission private road standards.
  8. Planned security measures to prevent unauthorized trespass and access.
  9. WECS and WECS Testing Facility Maintenance Programs: The applicant shall provide to the Township a written description of the maintenance program to be used to maintain the WECS and WECS Testing Facility, including removal when determined to be obsolete or abandoned. The description shall include maintenance schedules, the types of maintenance to be performed, and removal procedures and schedules should the WECS or WECS Testing Facility become obsolete or abandoned.
  10. Additional detail(s) and information as requested by the Planning Commission.
  11. A copy of the manufacturer's installation instructions and blueprints shall be provided to the Township. Included as part of, or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
  12. A digital data file in ArcGIS Shapefile format with the location of each WECS, WECS Testing Facility and all accessory structures and utility lines shall be provided to the Manistee County Planning Department.
    - a. The attribute database for each GIS point shall include the following:
      - i. The X and Y coordinates or latitude and longitude of each turbine.
      - ii. The erection date of each turbine.
      - iii. The expected life span of each turbine
      - iv. The height of each turbine.
      - v. Regular maintenance interval.
- F. Approval Standards: In addition to the other requirements and standards contained in this section, the Planning Commission shall not approve any WECS or WECS Testing Facility unless it finds that all of the following standards are met:
1. The general special use standards contained in Article 86 of this Ordinance; and
  2. The WECS or WECS Testing Facility will not pose a safety hazard or unreasonable risk of harm to the occupants of any adjoining properties or area wildlife.

- G. **Inspection:** The Township shall have the right upon issuing any WECS and WECS Testing Facility special land use permit to inspect the premises on which the WECS or WECS Testing Facility is located at all reasonable times. The Township may hire a consultant to assist with any such inspections at the applicant's cost.
- H. Each WECS and WECS Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious action to correct the situation.
- I. The applicant shall keep a maintenance log on each WECS which the Township can review on a monthly basis.
- J. **Abandonment:** Any WECS or WECS Testing Facility which is not used for six (6) successive months or longer shall be deemed to be abandoned and shall be promptly dismantled and removed from the property. All above and below ground materials must be removed. The ground must be restored to its original condition within sixty (60) days of abandonment.
- K. **Security:** If a special use is approved pursuant to subsection D. of this section, the Planning Commission shall require security in the form of a cash deposit, surety bond, or irrevocable letter of credit (in a form, amount, time duration and with a financial institution deemed acceptable to the Township), which will be furnished by the applicant to the Township in order to ensure full compliance with this section and any conditions of approval. When determining the amount of such required security, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor). Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction commences upon a WECS or WECS Testing Facility. At a minimum, the financial security shall be in an amount determined by the Township to be sufficient to have the WECS or WECS Testing Facility fully removed (and all components properly disposed of and the land returned to its original state) should such structure or structures become abandoned, dangerous, or obsolete, or not in compliance with this ordinance or the special use approval. Such financial security shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place. Such financial security shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least thirty (30) years from the date of the special use approval. Failure to keep such financial security in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the special use approval.
- L. **Road Repair:** Any damages to a public road located within the Township resulting from the construction, maintenance or operation of a WECS or WECS Testing Facility shall be repaired at the applicant's expense.
- M. **Liability:** The applicant for a special use permit under subsection D of this section shall insure each WECS at all times for at least one-million (\$1,000,000.00) (in 2008 dollars based on the federal CPI) for liability to cover the applicant, Township and land owner.
- N. **Color:** A WECS shall be painted a non-obtrusive (light environmental color such as beige or gray) color that is non-reflective. The wind turbine base and blades shall be of a color consistent with all other turbines in the area. No striping of color or advertisement shall be visible on the blades or tower.
- O. **Strobe Effect/Shadow Flicker:** All efforts shall be made not to affect any resident with any strobe effect.

- P. Under no circumstances shall a WECS or WECS Testing Facility produce vibrations or wind currents humanly perceptible beyond the property boundaries of the lot or parcel on which the WECS or WECS Testing Facility is located.
- Q. The applicant shall be responsible for compensation to persons damaged due to any stray voltage caused by a WECS.
- R. At the Township's request, an applicant for a special use permit under subsection D shall fund an environmental assessment or impact study and/or other relevant reports(s) or studies (including, but not limited to, assessing the potential impact on endangered species, eagles, birds, and/or other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed. Each such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the special use request.
- S. The applicant shall show proof of a minimum wind rating of three (3) from the proposed WECS when applying for a Special Use Permit.
- T. At the Township's request, the applicant for a permit under subsection D, shall find a financial impact study for review by the Township of the area affected by the WECS. Such study or report shall be provided to the Township prior to the time when the Planning Commission makes its final decision regarding the special use request.
- U. An escrow account shall be set up when the applicant applies for a Special Use Permit for a WECS or WECS Testing Facility under subsection D. The monetary amount filed by the applicant with the Township shall be in an amount estimated by the Township to cover all costs and expenses associated with the special use zoning review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township/County Planner and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. Such escrow amount shall be in addition to regularly established fees. At any point during the zoning review process, the Township may require that the applicant place additional monies into escrow with the Township should the existing escrow amount filed by the applicant prove insufficient. If the escrow account needs replenishing and the applicant refuses to do so promptly, the zoning review and approval process shall cease until and unless the applicant makes the required escrow deposit. Any applicable zoning escrow resolution or other ordinances adopted by the Township shall also be applicable.

**Section 16.07 Home Occupations/Cottage Industries:**

Home occupations and Cottage Industries are allowed in all residential districts as long as the following provisions are met:

- A. The primary use of the structure is for residential purposes.
- B. The home occupation is a secondary use of the structure and wholly contained within the structure.
- C. Signs for home occupations are limited to four (4) square feet, and may not at any time be illuminated.
- D. No services (equipment, work) shall be rendered or displayed outside of the home.
- E. Parking space for at least two (2) vehicles outside of those owned by the residents of the structure shall be made available on site.
- F. Hours of operation for customer visits shall be limited to 8am to 6pm Monday through Saturday.
- G. The home occupation shall not be detrimental to neighboring property owners, residents or the Township.
  - a. Detriments shall include:
    - i. Audible noise generated from the home occupation which is discernable beyond the property line.

- ii. Odor generated from the home occupation which is discernable beyond the property line.
- iii. Parking of vehicles generated from the home occupation that are not contained within the property boundaries.
- iv. The storage of materials for the home occupation stored or kept outside of the structure.

### **Section 16.08 Junkyards<sup>2</sup>**

It shall be unlawful for any junkyard to accept business or to do business unless it is:

- A. Permitted within this Zoning Ordinance in effect for areas by land use permit, special use permit, or certified as a non-conforming use;
- B. Meets all of the following conditions:
  1. Has a Michigan Sales Tax License;
  2. If applicable to the junkyard in question, has records of sales and other transactions which are required by 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, *et seq.* as amended;
  3. If applicable to the junkyard in question, has a valid Class C (used vehicle parts dealer) license issued by the Michigan Department of State, under MCL 257.248, as amended.
- C. Is constructed, designed and operated according to all of the following standards:
  1. It is screened from view of all roads and from all adjacent parcels by means of an opaque fence or earth berm not less than eight (8) feet in height, or another form of screening, or a combination of the above;
  2. It is set back from parcel boundaries at least one-hundred (100) feet, and is set back one-hundred (100) feet from all road right-of-way or one-hundred and thirty-three feet from the centerline of any road, whichever is greater;
  3. It is designed and operated so that noise, under normal operational circumstances, does not exceed sixty (60) decibels at the boundary of the parcel and at the nearest road;
  4. It is operated so that burning or incineration of junk or any other material does not result in smoke;
  5. It is designed and operated to meet or exceed all applicable State and Federal air pollution, surface and ground water quality standards, and otherwise is in compliance with all other State and Federal laws intended for the protection of the environment or the protection of the public health, safety, welfare and morals.
  6. It complies with 1966 PA 219, the Control of Junkyards Adjacent to Highways Act, being MCL 252.201 *et seq.* as amended; 1917 PA 350, the Second Hand Junk Dealers Act, being MCL 445.401, *et seq.* as amended; the Solid Waste Management Act; and if applicable, 1949 PA 300, licensing of dealers in vehicles, etc. being MCL 267.248, as amended.
  7. No part of it is a landfill, as defined in the Solid Waste Management Act, even as an accessory function or use of the junkyard.
  8. It is more than one-thousand (1,000) feet from a school, campground, or park.
  9. It is not otherwise adverse to the public health, safety, morals and welfare of the Township.

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<sup>2</sup> Amended Section 16.08 Junkyards; March, 2016

## **Article 18: Land Use Districts**

### **Section 18.01 Land Use Districts:**

The unincorporated portion of the Township of Marilla is hereby divided into six (6) land use districts, as follows:

- A. Forest Recreation (FR)
- B. Wetland District (W-1)
- C. Resource Preservation District (RP-1)
- D. Rural-Residential District (RR-1)
- E. Residential District (R-1)
- F. Commercial Residential District (CR-1)

### **Section 18.02 Identification of Official Zoning Map:**

The land use districts are bounded on the map titled “Official Zoning Map of Marilla Township”, which zoning map and the contents thereof are incorporated herein by reference. The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words: “This is to certify that this is the Official Zoning Map referred to in the “Marilla Township Permanent Zoning Ordinance”, together with the effective date of this Ordinance.

### **Section 18.03 Authority of Official Zoning Map:**

Regardless of the existence of 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 Marilla Township Hall, shall be the final authority as to the location of all land use district boundaries.

### **Section 18.04 Amendment or Replacement of Official Zoning Map:**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may adopt a new or amended Official Zoning Map which shall supersede the prior Official Zoning Map. The new or amended Official Zoning Map may correct drafting or other errors or omissions on the prior Official Zoning Map, but no such correction shall have the effect of amending this Ordinance or the prior Official Zoning Map, unless it shall have been adopted in accordance with Act 184 of the Public Acts of 1943, as amended. The new or amended Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, under the following words: “This is to certify that this is the Official Zoning Map referred to in the Marilla Township Permanent Zoning Ordinance adopted on April 10<sup>th</sup>, 2014, which replaces and supersedes the Official Zoning Map which was adopted on June 20<sup>th</sup>, 1984.” The Township Board shall, by resolution, appoint the Township Official or Board or other public official charged with drafting the new or amended Official Zoning Map.

### **Section 18.05 Rules of Interpretation:**

- A. All questions concerning the exact location of boundary lines of any land use district not clearly shown on the Official Zoning Map shall be determined by the Zoning Board of Appeals, consistent with the purposes of this Ordinance and the following rules of interpretation.
- B. Unless otherwise indicated, the boundary lines of land use districts shall be interpreted in accordance with the following rules of interpretation.
  - 1. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such centerline as it existed on the date of enactment of this Ordinance.

2. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line as it existed on the date of enactment of this Ordinance.
3. A boundary indicated as approximately following the corporate boundary line of a city, village, township or county shall be construed as following such line as it existed on the date of enactment of this Ordinance.
4. A boundary indicated as following the water's edge shall be construed as following such water's edge, and in the event of change in the location of the water's edge, shall be construed as following the actual water's edge at the time of interpretation.
5. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline as it exists at the time of interpretation.

A boundary indicated as parallel to, or an extension of, a feature indicated in Paragraphs 1 through 5 above shall be so construed.

### **Section 18.06 Table of Land Uses:**

The Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

#### A. Key to the Use Table

- a. 2012 NAICS Sector and Codes Column: This first column in the table provides the listing of NAICS codes organized by the sector in which they are contained. The codes contained in this column are listed for the uses which are allowed by right or by special use permit or disallowed in the established zoning districts. If a use is not contained within the table or contained within the lower hierarchy of a listed NAICS code then that use is not allowed within the Township.
- b. 2012 NAICS Use Title Column: The uses displayed in the "NAICS Use Title" column provide the reference use name for the NAICS code provided.
- c. Zoning District Column: The Zoning Districts established through this ordinance are displayed in the first row at the top of the last five columns of the table.
- d. Permitted Uses: A "P" indicates that a use is permitted in the respective district subject to the general provisions of Article 10 and the specific use standards in Article 16. Such uses are also subject to all other applicable requirements of this Ordinance.
- e. Special Uses: An "S" indicates a use that may be permitted in the respective general use district only where approved by the Planning Commission in accordance with Article 86 of this ordinance. Special uses are subject to all other applicable requirements of this Ordinance, including the specific use standards contained in Article 16.
- f. Uses Not Permitted: A blank cell in the use table indicates that a use is not permitted in the respective district.

#### B. Uses Not Displayed in the Table

- a. If a use is not displayed in the use table then that use is not permitted within the Township of Marilla

#### C. Utilization of the Use Table

- a. To properly utilize the Use Table provided below. Identify a use by NAICS Code or Use Name, and then move across the row to see if the use is permitted, a special use or not permitted within a respective zoning district. After determining the status of the use, reference Article 10 for general standards, Article 16 for specific use standards, and Articles 20, 25, 30, 35, 40 and 50 for specific standards for the established zoning districts.

D. Table of Land Uses

| 2012 NAICS Sector and Code                                      | 2012 NAICS Use Title  | W-1 | RP-1 | RR-1 | R-1 | CR-1 |
|---|---|-----|------|------|-----|------|
| <b>Residential Uses</b>   |   |     |      |      |     |      |
| N/A   | Dwelling  |     | P    | P    | P   | S    |
| N/A   | Duplex  |     |      | S    | P   |      |
| N/A   | Mobile Homes <sup>3</sup>   |     |      |      | S   |      |
| N/A   | Acc. Buildings/Uses   |     | P    | P    | P   | P    |
| N/A   | Home Occupations  |     | P    | P    | P   | P    |
| N/A   | Public Utility  | P   | P    | P    | P   | P    |
| <b>Sector 11: Agriculture, Forestry, Fishing and Hunting</b>    |   |     |      |      |     |      |
| 11  | Agriculture, Forestry, Fishing and Hunting                            | P   | P    | P    |     |      |
| <b>Sector 21: Mining, Quarrying, and Oil and Gas Extraction</b> |   |     |      |      |     |      |
| 211   | Oil and Gas Extraction  | S   | S    | S    |     |      |
| 212312  | Crushed and Broken Limestone Mining and Quarrying                     | S   | S    | S    |     |      |
| 212313  | Crushed and Broken Granite Mining and Quarrying                       | S   | S    | S    |     |      |
| 212319  | Other Crushed and Broken Stone Mining and Quarrying                   | S   | S    | S    |     |      |
| 21232   | Sand, Gravel, Clay & Ceramic & Refractory Minerals Mining & Quarrying | S   | S    | S    |     |      |
| 212321  | Construction Sand and Gravel Mining                                   | S   | S    | S    |     |      |
| 213111  | Drilling Oil and Gas Wells  | S   | S    | S    |     |      |
| 231112  | Support Activities for Oil and Gas Operations                         | S   | S    | S    |     |      |
| 213115  | Support Activities for Nonmetallic Minerals (except fuels) Mining     | S   | S    | S    |     |      |
| <b>Sector 22: Utilities</b>                                     |   |     |      |      |     |      |
| 221111  | Hydroelectric Power Generation  | S   | S    | S    |     |      |
| 221114  | Solar Electric Power Generation                                       | S   | S    | S    |     |      |
| 221115  | Wind Electric Power Generation  | S   | S    | S    |     |      |
| 221116  | Geothermal Electric Power Generation                                  | S   | S    | S    |     |      |

<sup>3</sup> Mobile homes with a single side width less than twenty (20') feet are only allowed within an approved mobile home park under a special use permit per regulations found in section 10.107 of this ordinance.

| 2012 NAICS Sector and Code                          | 2012 NAICS Use Title                                      | W-1 | RP-1 | RR-1 | R-1 | CR-1 |
|---|---|-----|------|------|-----|------|
| <b>Sector 22: Utilities (cont.)</b>                 |   |     |      |      |     |      |
| 221117  | Biomass Electric Power Generation                         | S   | S    | S    |     |      |
| 22112   | Electric Power Transmission, Control and Distribution     | S   | S    | S    |     |      |
| 221121  | Electric Bulk Power Transmission and Control              | S   | S    | S    |     |      |
| 2212  | Natural Gas Distribution                                  | S   | S    | S    |     |      |
| 221131  | Water Supply and Irrigation Systems                       | P   | P    | P    |     |      |
| 22132   | Sewage Treatment Facilities                               | S   | S    | S    |     |      |
| 22133   | Steam and Air-Conditioning Supply                         | S   | S    | S    |     |      |
| <b>Sector 23: Construction</b>                      |   |     |      |      |     |      |
| 2361  | Residential building construction                         |     | P    | P    | P   |      |
| 2362  | Nonresidential building construction                      |     | P    | P    | P   | P    |
| 237   | Heavy and Civil Engineering Construction                  |     | P    | P    | P   | P    |
| 238   | Specialty Trade Contractors                               |     | S    | S    | S   | S    |
| <b>Sector 44-45: Retail Trade</b>                   |   |     |      |      |     |      |
| 44413   | Hardware Store  |     |      |      |     | P    |
| 4442  | Lawn and Garden Equipment & Supply Stores                 |     | S    |      |     | P    |
| 445   | Food and Beverage Stores                                  |     |      |      |     | P    |
| 44611   | Pharmacies and Drug Stores                                |     |      |      |     | P    |
| 44711   | Gasoline Stations with Convenience Stores                 |     |      |      |     | P    |
| 448   | Clothing and Clothing Accessories Stores                  |     |      |      |     | P    |
| 451   | Sporting Goods, Hobby, Musical Instrument and Book Stores |     |      |      |     | P    |
| 452   | General Merchandise Stores                                |     |      |      |     | P    |
| 453 (except 45393)                                  | Miscellaneous Store Retailers                             |     |      |      |     | P    |
| <b>Sector 48-49: Transportation and Warehousing</b> |   |     |      |      |     |      |
| 4861  | Pipeline Transportation of Crude Oil                      | S   | S    | S    |     |      |
| 4862  | Pipeline Transportation of Natural Gas                    | S   | S    | S    |     |      |
| 487   | Scenic and Sightseeing Transportation                     |     |      | S    |     | S    |
| 48839   | Other Support Activities for Water Transportation         |     |      | S    |     | S    |

| 2012 NAICS Sector and Code  | 2012 NAICS Use Title  | W-1 | RP-1 | RR-1 | R-1 | CR-1 |
|---|---|-----|------|------|-----|------|
| <b>Sector 48-49: Transportation and Warehousing (cont.)</b>       |   |     |      |      |     |      |
| 48841   | Motor Vehicle Towing  |     |      |      |     | S    |
| 48849   | Other Support Activities for Road Transportation                                |     |      |      |     | S    |
| 49313   | Farm Product Warehousing and Storage  |     | S    |      |     |      |
| <b>Sector 53: Real Estate and Rental and Leasing</b>              |   |     |      |      |     |      |
| 53 (except 5323, 5324, 533)                                       | Real Estate and Rental & Leasing  |     |      |      |     | S    |
| <b>Sector 54: Professional, Scientific and Technical Services</b> |   |     |      |      |     |      |
| 54  | Professional, Scientific and Technical Services                                 |     |      |      |     | S    |
| <b>Sector 61: Educational Services</b>                            |   |     |      |      |     |      |
| 611110  | Elementary and secondary schools  |     |      | S    | S   |      |
| 611710  | Educational Support Services  |     |      | S    | S   |      |
| <b>Sector 62: Health Care and Social Assistance</b>               |   |     |      |      |     |      |
| 6233  | Continuing Care Retirement Communities & Assisted Living Facilities for Elderly |     |      | S    |     | S    |
| 6244  | Child Day Care Services   |     |      | S    |     | S    |
| <b>Sector 71: Arts, Entertainment and Recreation</b>              |   |     |      |      |     |      |
| 712   | Museums, Historical Sites, and Similar Institutions                             | S   | S    | S    |     | S    |
| 71391   | Golf Courses and Country Clubs  |     |      | S    |     |      |
| <b>Sector 72: Accommodation and Food Services</b>                 |   |     |      |      |     |      |
| 721191  | Bed and Breakfast Inns  |     |      | S    |     | S    |
| 721211  | RV (Recreational Vehicle) Parks and Campgrounds                                 |     |      | S    |     |      |
| 7213  | Room and Boarding Houses  |     |      | S    |     |      |
| 7224  | Drinking Places (Alcoholic Beverages)   |     |      |      |     | S    |
| 7225  | Restaurants and Other Eating Places   |     |      |      |     | S    |
| <b>Sector 81: Other Services (except Public Admin.)</b>           |   |     |      |      |     |      |
| 81 (except 8113, 81121)   | Other Services (except Public Administration)                                   |     |      |      |     | S    |

| 2012 NAICS Sector and Code                                     | 2012 NAICS Use Title | W-1 | RP-1 | RR-1 | R-1 | CR-1 |
|--|----------------------|-----|------|------|-----|------|
| <b>Sector 81: Other Services (except Public Admin.)(cont.)</b> |                      |     |      |      |     |      |
| 814  | Private Households   |     | P    | P    | P   | P    |
| <b>Sector 92: Public Admin.</b>                                |                      |     |      |      |     |      |
| 92212  | Police Protection    |     |      |      |     | S    |
| 92216  | Fire Protection      |     |      |      |     | S    |

## **Article 20: Forest Recreation (FR)**

### **Section 20.01 District Description:**

This district is intended to be a holding zone for lands owned and managed for the public trust by the United States Forest Service and the State of Michigan. The Township shall not regulate these lands under zoning provisions and should support the forest management plans created and incorporated by both State and Federal agencies. Uses promoted within these lands should be primarily passive recreation in the form of camping, hiking, fishing, hunting and other similar type activities. In the event of the sale or trade of a public land within this district, the Planning Commission shall waive an application fee for the re-zoning of the property to a zoning district which aligns itself with neighboring districts and land uses.

### **Section 20.02 Permitted Uses:**

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### **Section 20.03 Special Uses:**

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### **Section 20.04 Regulations and Standards: [Reserved]**

Due to the public ownership of the property and the forest management plans produced by either the United States Forest Service or the Michigan Department of Natural Resources, regulation of these properties is not governed by the Township.

## **Article 25: Wetland (W-1)**

### **Section 25.01 District Description:**

The wetland district is to provide protection to unique wetlands five (5) acres in size or larger, or which are connected to a riparian system or lake within the Township. Uses within the district should be limited to agricultural and forestry activities as well as passive recreational interests such as hiking, fishing and hunting. No dwellings, structures or earth altering activities should be allowed for within the district without proper permitting by the State Department of Environmental Quality.

### **Section 25.02 Permitted Uses:**

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### **Section 25.03 Special Uses:**

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### **Section 25.04 Alteration of Terrain:**

In connection with any permitted use, no filling, dredging, channeling, draining, dam construction or earth changing activities will be allowed without prior approval of the Michigan Department of Environmental Quality (MDEQ). All permits issued by MDEQ shall be shown to the Zoning Administrator as site plan material required by Article 94.

### **Section 25.05 Wetland Delineation:**

In the event that an area contained within this zoning district is contested as not being a wetland as defined by the State. The property owner shall be responsible for contacting and making payment for wetland delineation by the MDEQ for the property in question. If the property or a portion of the property is shown to not be wetland as defined by the State and certified by the MDEQ, the area in question shall be re-zoned fee free to the most compatible zoning district, taking into account neighboring districts and land uses.

### **Section 25.06 Structure Placement on Multi-Zoned Parcels:**

Due to the irregular and undulating nature of the boundaries of wetlands within the Township, certain parcels may be covered by more than one zoning district. In cases such as these, development of the parcel must follow the guidelines of the respective district in which the development is taking place on the parcel.

## Article 30: Resource Preservation (RP-1)

### Section 30.01 District Description:

The resource preservation district is intended to protect the rural character, open spaces and agricultural areas of the Township. Lands contained within the district are typically large parcels of forested or open lands located off of seasonal roads or greater than 300 feet from a maintained road right-of-way. Lands in agricultural and forestry use are also captured within this district. Uses associated with agricultural practices, including feed/machinery stores, silos and accessory structures to agriculture should be allowed within the district, as well as roadside stands or other means for the seasonal selling of agricultural products. Recreational land uses are also permitted which should allow provisions for low density hunting cabins or structures. Residential development shall be very limited with very low densities, without allowance for suburban type development in the district. Allowance for cottage industries and home occupations shall be allowed within this district.

### Section 30.02 Permitted Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.03 Special Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.04 Regulations and Standards:

The following regulations shall apply to all Permitted Uses and Special Uses in this district:

#### A. Quick Reference Table of Residential, RP-1 District Requirements

| Use   | Lot                          |                   | Max. Height | Bulk                     |                                      |  | Setbacks          |       |       |            |
|---|------------------------------|-------------------|-------------|--------------------------|--------------------------------------|--|-------------------|-------|-------|------------|
|   | Min. Density(1 dwelling per) | Min. Parcel Width |             | Building Floor Area Min. | Max. Lot Building Coverage Allowance | Max. Lot Impervious Coverage Allowance | Front & Road Yard | Side  | Rear  | Water Yard |
| Those allowed in Section 18.06  | 40 acres                     | 1,200 ft          | 35 ft       | 600 ft <sup>2</sup>      | 1%                                   | 2%                                     | 50 ft             | 20 ft | 20 ft | 100 ft     |
| Agriculture & Forestry (if structure for such use is or is proposed to be located | 5 acres                      | 300 ft            | 35 ft       | 600 ft <sup>2</sup>      | 10%                                  | 10%                                    | 50 ft             | 20 ft | 20 ft | 100 ft     |

#### B. General Standards:

1. All structures and uses shall meet the standards of Article 10.

#### C. Minimum Density:

1. No building, structure or use shall be established on any parcel less than forty (40 ac.) acres; unless the intended use is for agricultural or forestry purposes and a structure is or is intended to be located on the parcel, then the minimum parcel area shall be five (5 ac) acres. Unless utilizing cluster development standards of Section 10.111 for residential development.

D. Minimum Parcel Width:

1. Parcel width shall be no less than twelve-hundred (1200') feet; except in the case of agriculture and forestry purposes on a five (5 ac) acre parcel then the minimum width shall be three-hundred (300') feet.

E. Maximum Structure Height:

1. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line, with agricultural buildings exempt.

F. Minimum Setback Requirements:

1. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than fifty (50') feet from the front property line.
  - ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20') feet;
  - iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.
  - iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.

G. Buffer Requirements:

1. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in Section 10.53.

H. Bulk Building Requirements:

1. Bulk building requirements shall meet the provisions established in Section 10.105.
2. No dwelling shall be constructed in this District which contains less than six-hundred (600 ft<sup>2</sup>) square feet of floor area.
3. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than one (1%) percent lot coverage, except for agricultural and forestry uses on five (5 ac.) lots which shall be allowed ten (10%) percent lot coverage.
4. The total allowance for impervious surfaces for an individual lot shall not exceed two (2%) percent, except for agricultural and forestry uses on five (5 ac.) lots which shall be allowed 10 (10%) percent impervious coverage.

I. Accessory Buildings:

1. Must conform to the requirements of Section 10.101.
2. No accessory building shall be constructed in this District which contains more than seven-hundred twenty (720 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall at the eaves, or not taller than the dwelling (principal structure), whichever is less.
3. Agricultural buildings are exempt from these standards.

J. Utility Easement Preservation:

1. All lots are subject to a six (6') foot utility easement. The easement is measured perpendicular to the property line, six (6') feet on each side and running parallel to the property line.
2. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.

## Article 35: Rural Residential (RR-1)

### Section 35.01 District Description:

The rural residential district is intended to provide for medium to low density land use for residential development. Allowable uses within the district shall include cottage industries and home occupations in addition to residential development. Protection of rural character within the district is sought after, so the utilization of cluster development within the rural residential district is a priority when planning for subdivision development. The district shall provide minimum lot widths along roadways in order to hinder higher density linear residential development along roadways; while excluding the development of residences in subdivisions which conform to cluster development requirements.

### Section 30.02 Permitted Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.03 Special Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.04 Regulations and Standards:

The following regulations shall apply to all Permitted Uses and Special Uses in this district:

#### A. Quick Reference Table of Residential, RR-1 District Requirements

| Use               | Lot                          |                   |             | Bulk                     |                                      |  | Setbacks          |       |       |            |
|-------------------|------------------------------|-------------------|-------------|--------------------------|--------------------------------------|--|-------------------|-------|-------|------------|
|                   | Min. Density(1 dwelling per) | Min. Parcel Width | Max. Height | Building Floor Area Min. | Max. Lot Building Coverage Allowance | Max. Lot Impervious Coverage Allowance | Front & Road Yard | Side  | Rear  | Water Yard |
| See Section 18.06 | 10 acres                     | 330 ft            | 35 ft       | 600 ft <sup>2</sup>      | 2%                                   | 5%                                     | 50 ft             | 20 ft | 20 ft | 100 ft     |

#### B. General Standards:

1. All structures and uses shall meet the standards of Article 10.

#### C. Minimum Density

2. No building, structure or use shall be established on any parcel less than ten (10 ac.) acres. Unless utilizing cluster development standards of Section 10.111.

#### D. Minimum Parcel Width:

1. Parcel width shall be no less than three-hundred thirty (330') feet.

#### E. Maximum Structure Height:

1. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line, with agricultural buildings exempt.

#### F. Minimum Setback Requirements:

1. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than fifty (50') feet from the front property line.
  - ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20') feet.
  - iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.

- iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.

G. Buffer Requirements:

1. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in Section 10.53.

H. Bulk Building Requirements:

1. Bulk building requirements shall meet the provisions established in Section 10.105.
2. No dwelling shall be constructed in this District which contains less than six-hundred (600 ft<sup>2</sup>) square feet of floor area.
3. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than two (2%) percent lot coverage.
4. The total allowance for impervious surfaces for an individual lot shall not exceed five (5%) percent.

I. Accessory Buildings:

1. Must conform to the requirements of Section 10.101.
2. No accessory building shall be constructed in this District which contains more than seven-hundred twenty (720 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall at the eaves, or not taller than the dwelling (principal structure), whichever is less.
3. Agricultural buildings are exempt from these standards.

J. Utility Easement Preservation:

1. All lots are subject to a six (6') foot utility easement. The easement is measured perpendicular to the property line, six (6') feet on each side and running parallel to the property line.
1. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.

## Article 40: Residential (R-1)

### Section 40.01 District Description:

The intent of the residential district is to create a district which facilitates the creation of higher density residential areas. These areas are suitable for typical subdivision type development, but can also follow the principles of a cluster development. Allowable uses shall include cottage industries and home occupations.

### Section 30.02 Permitted Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.03 Special Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.04 Regulations and Standards:

The following regulations shall apply to all Permitted Uses and Special Uses in this district:

#### A. Quick Reference Table of Residential, R-1 District Requirements

| Use               | Lot                    |                   | Max. Height | Bulk                     |                                      |  | Setbacks          |       |       |            |
|-------------------|------------------------|-------------------|-------------|--------------------------|--------------------------------------|--|-------------------|-------|-------|------------|
|                   | Min. Parcel Area       | Min. Parcel Width |             | Building Floor Area Min. | Max. Lot Building Coverage Allowance | Max. Lot Impervious Coverage Allowance | Front & Road Yard | Side  | Rear  | Water Yard |
| See Section 18.06 | 40,000 ft <sup>2</sup> | 150 ft            | 35 ft       | 600 ft <sup>2</sup>      | 30%                                  | 40%                                    | 50 ft             | 20 ft | 20 ft | 100 ft     |

#### B. General Standards:

1. All structures and uses shall meet the standards of Article 10.

#### C. Minimum Parcel Area

1. No building, structure or use shall be established on any parcel less than forty-thousand (40,000 ft<sup>2</sup>) square feet.

#### D. Minimum Parcel Width:

1. Parcel width shall be no less than one-hundred fifty (150') feet.

#### E. Minimum Road Frontage:

1. Parcel shall front a minimum of one-hundred fifty (150') feet along a roadway constructed to MDOT and Manistee County Road Commission Standards.

#### F. Maximum Structure Height:

1. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line, with agricultural buildings exempt.

#### G. Minimum Setback Requirements:

1. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than fifty (50') feet from the front property line. For parcels adjoining more than one road, front setbacks shall apply to both road frontages.
  - ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20') feet.
  - iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.

- iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.

H. Buffer Requirements:

1. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in Section 10.53.

I. Bulk Building Requirements:

1. Bulk building requirements shall meet the provisions established in Section 10.105.
2. No dwelling shall be constructed in this District which contains less than six-hundred (600 ft<sup>2</sup>) square feet of floor area.
3. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than thirty (30%) percent lot coverage.
4. The total allowance for impervious surfaces for an individual lot shall not exceed forty (40%) percent.

J. Accessory Buildings:

1. Must conform to the requirements of Section 10.101.
2. No accessory building shall be constructed in this District which contains more than seven-hundred twenty (720 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall at the eaves, or not taller than the dwelling (principal structure), whichever is less.
3. Agricultural buildings are exempt from these standards.

K. Utility Easement Preservation:

1. All lots are subject to a six (6') foot utility easement. The easement is measured perpendicular to the property line, six (6') feet on each side and running parallel to the property line.
1. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.

## Article 50: Commercial Residential (CR-1)

### Section 50.01 District Description:

This district is intended to focus commercial land uses in the historically located commercial area along Marilla Road between 9 Mile Rd. and Beers Rd. The district shall provide for commercial uses which are above and beyond the scope of cottage industries or home occupations. Residential land uses shall also be allowed within the district though protection for residences is a priority from potentially intensive allowable commercial uses.

### Section 30.02 Permitted Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.03 Special Uses:

Please refer to the Table of Land Uses, Article 18 Section 18.06.

### Section 30.04 Regulations and Standards:

The following regulations shall apply to all Permitted Uses and Special Uses in this district:

#### A. Quick Reference Table of Residential, CR-1 District Requirements

| Use               | Lot                    |                   |             | Bulk                     |                                      |  | Setbacks          |       |       |            |
|-------------------|------------------------|-------------------|-------------|--------------------------|--------------------------------------|--|-------------------|-------|-------|------------|
|                   | Min. Parcel Area       | Min. Parcel Width | Max. Height | Building Floor Area Min. | Max. Lot Building Coverage Allowance | Max. Lot Impervious Coverage Allowance | Front & Road Yard | Side  | Rear  | Water Yard |
| See Section 18.06 | 40,000 ft <sup>2</sup> | 150 ft            | 35 ft       | 600 ft <sup>2</sup>      | 50%                                  | 70%                                    | 50 ft             | 20 ft | 20 ft | 100 ft     |

#### B. General Standards:

1. All structures and uses shall meet the standards of Article 10.

#### C. Minimum Parcel Area

1. No building, structure or use shall be established on any parcel less than forty-thousand (40,000 ft<sup>2</sup>) square feet.

#### D. Minimum Parcel Width:

1. Parcel width shall be no less than one-hundred fifty (150') feet.

#### E. Minimum Road Frontage:

1. Parcel shall front a minimum of one-hundred fifty (150') feet along a roadway constructed to MDOT and Manistee County Road Commission Standards.

#### F. Maximum Structure Height:

1. No building or structure shall be taller than thirty-five (35') feet in height measured from top of roof line, with agricultural buildings exempt.

#### G. Minimum Setback Requirements:

1. The following requirements shall apply to every parcel, building, structure or use:
  - i. Front Yard - The minimum front setback shall not be less than fifty (50') feet from the front property line. For parcels adjoining more than one road, front setbacks shall apply to both road frontages.
  - ii. Side Yards - The minimum setback of either side yard shall not be less than twenty (20') feet.

- iii. Rear Yard - The minimum rear setback shall not be less than twenty (20') feet.
- iv. Waterfront Yard – The minimum waterfront yard setback shall not be less than one-hundred (100') feet.

H. Buffer Requirements:

- 1. The parcel owner of any proposed use shall establish a buffer in conformance with the district boundary buffer standards established in Section 10.53.

I. Bulk Building Requirements:

- 1. Bulk building requirements shall meet the provisions established in Section 10.105.
- 2. No dwelling shall be constructed in this District which contains less than six-hundred (600 ft<sup>2</sup>) square feet of floor area.
- 3. No dwelling or accessory building or combination of all structures permitted on a lot shall provide greater than fifty (50%) percent lot coverage.
- 4. The total allowance for impervious surfaces for an individual lot shall not exceed seventy (70%) percent.

J. Accessory Buildings:

- 1. Must conform to the requirements of Section 10.101.
- 2. No accessory building shall be constructed in this District which contains more than seven-hundred twenty (720 ft<sup>2</sup>) square feet of building area and is not more than eighteen (18') feet tall at the eaves, or not taller than the dwelling (principal structure), whichever is less.
- 3. Agricultural buildings are exempt from these standards.

K. Utility Easement Preservation:

- 1. All lots are subject to a six (6') foot utility easement. The easement is measured perpendicular to the property line, six (6') feet on each side and running parallel to the property line.
- 1. All easements must be displayed on site plans, and made a matter of record on deeds, boundary surveys and recorded plats.

## **Article 80: Non-Conforming Uses, Buildings & Structures**

### **Section 80.01 Continuance:**

The lawful use of any parcel of land, building or structure existing at the time of the enactment of this Ordinance or, in the case of an amendment of this Ordinance, then at the time of such amendment, although it does not conform with the provisions thereof, may be continued as hereinafter provided. If the non-conforming use of any building, structure or land or premise is changed to a conforming use, such use shall not thereafter be reverted to any non-conforming use.

### **Section 80.02 Non-Conforming Uses and District Boundary Change:**

When district boundaries are changed, resulting in a new non-conforming use, then such non-conforming use may still be continued, but shall be subject to all other provisions of this section.

### **Section 80.03 Involuntary Destruction:**

No buildings or structure damaged by fire or other causes to the extent of more than seventy-five percent (75%) of its appraised value shall be repaired or rebuilt except in conformity with the provisions of this Ordinance. Such reconstruction, repair or restoration shall be diligently pursued and, in all cases, commenced within one (1) year following the damage. Resumption of use shall take place within ninety (90) days of completion of such reconstruction, repair or restoration.

### **Section 80.04 Discontinuance:**

Any non-conforming use, building or structure which has not been occupied or which has not been used for such non-conforming purposes for a period of one (1) year or more shall not thereafter be used or occupied unless it conforms to the provisions of this Ordinance.

### **Section 80.05 Extension:**

- A. Residential (Single-Family, Multi-Family Dwellings and Accessory Buildings):
  - a. A non-conforming building or structure may be extended, reconstructed or structurally altered during its life with up to an increase of seventy-five (75%) percent of the existing usable floor area.
  - b. Extension or reconstruction of a non-conforming building or structure shall not encroach any further into established setbacks within the district it is located.
  - c. Nothing contained in this Section 80.05 shall be construed as prohibiting the erection of a detached accessory building or structure which is accessory to a non-conforming single-family residence provided the detached accessory building or structure meets all of the requirements of this Section 80.05 of this Ordinance.
- B. Commercial & Industrial:
  - a. A non-conforming building or structure may be extended, reconstructed or structurally altered during its life with up to an increase of fifteen (15%) percent of the existing usable floor area.
  - b. Extension or reconstruction of a non-conforming building or structure shall not encroach any further into established setbacks within the district it is located.
- C. If the non-conformity of a building is that it fails to comply with the setbacks required in a respective zoning district, any additions added to the building shall be built in such a location so the addition does not increase the encroachment into any setbacks required by this Ordinance.

**Section 80.06 Grandfathering Parcel Size:**

If the only non-conformity of the parcel of land is that it fails to comply with the minimum parcel size required in a respective zoning district, the zoning administrator may issue a land use permit for single-family dwelling and accessory building(s) without issuance of a variance from the Appeals Board if each of the following conditions are met:

- A. The parcel existed prior to June 20, 1984, 12:01 a.m., as shown by instruments recorded in the Manistee County Register of Deeds office,
- B. The parcel has, after June 20, 1984, 12:01 a.m., not been divided into smaller parcels,
- C. The parcel is not smaller than ten (10) acres,
- D. All required setbacks for the respective zoning district are complied with, and
- E. The parcel has frontage on a year-round-maintained county road.

**Section 80.07 Non-Conforming Uses (Record Of):**

Immediately after the effective date of this Zoning Ordinance or amendments thereto, the Zoning Administrator shall prepare a record of all non-conforming uses and occupations of lands, buildings, and structures in Marilla Township, including tents, and mobile homes, existing at the time of such Ordinances or Amendments. Such record shall contain the names and addresses of the owners of such non-conforming use and of any occupant, other than owner, the legal description of the land and the nature and extent of use. The Planning Commission shall review the record and submit its report to the Township Board as they deem advisable for the maintenance of the public health, safety and general welfare. The record of non-conforming uses prepared for the Planning Commission shall be filed in the Office of the Township Clerk and the Zoning Administrator, which record shall constitute prima facie evidence of the number and extent of the non-conforming use on the effective date of this Ordinance or any amendment thereto. A copy of non-conforming use report shall be furnished by the Zoning Administrator to the property owner and occupant. The record of non-conforming uses shall be reviewed and revised on a continuing basis.

## **Article 82: Administration**

### **Section 82.01 Marilla Township Zoning Administrator:**

- A. The provisions of this Ordinance shall be administered by the Zoning Administrator, who shall be appointed by the Marilla Township Board for such term, subject to such conditions, and at such rate of compensation as said Board shall determine, and the duty of the enforcement thereof shall rest with such Zoning Administrator as shall be authorized by law. The Zoning Administrator shall, for the purpose of this Ordinance, have the power of police officers.
- B. In issuing an order, requirement, decision or determination on any discretionary matter referred to him or upon which he is required to pass under this Ordinance, it shall be sufficient for the proposed order, requirement, decision or determination is compatible with the present uses of adjacent land, is consistent with and promotes the intent and purposes of this Ordinance, is compatible with the natural environment, is consistent with the compatibilities of public services and facilities affected by such order, requirement, decision or determination and protects the public health, safety and welfare.
- C. In the event of the Zoning Administrator's absence from the Township, conflict of interest or disability, the Township Board may appoint a temporary Zoning Administrator to discharge the duties of the Zoning Administrator during the regular Zoning Administrator's absence, conflict of interest or disability.

### **Section 82.02 Township Board of Appeals:**

- A. There is hereby established the Marilla Township Board of Appeals as provided for by Act 181, Public Acts of 1943, as amended, of the State of Michigan. The membership qualifications, terms of office, duties and responsibilities of the Board of Appeals shall at all times be in conformance with the statutes in such case made and provided.
- B. A Township Zoning Board of Appeals shall be appointed by the Township board as prescribed by statute with all the powers and authority prescribed by law or delegated to it under specific provisions of the Ordinance. The Board of Appeals shall consist of three (3) members; one (1) member shall be a member of the Township Planning Commission, one (1) member may be a member of the Township Board (though an elected officer of the Township shall not serve as chairperson of said Board and an employee or contractor of the Township Board may not serve as a member or an employee of said Board of Appeals), one (1) other member shall be appointed from the citizenry of the Township. The Township Board may also provide for the appointment of such alternate members of the Zoning Board of Appeals as it determines are needed to provide for the effective administration of this Ordinance.
- C. The term of each member shall be three (3) years, except as provided by statute, and until a successor has been appointed and qualified, which successor must be appointed not more than one (1) month after the expiration of the preceding term. Staggered terms shall be effected by the first two (2) appointed members serving for two (2) years and the remaining for three (3) years.
- D. 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.

### **Section 82.03 Duties of the Marilla Township Board of Appeals:**

- A. The Marilla Township Board of Appeals shall have such powers and shall perform such duties as provided by Statute and as may be set forth in this Ordinance including:
  1. The power to hear and decide questions that arise in the administration and interpretation of this Ordinance.

2. The power to hear and decide questions that arise in the interpretation of zoning maps.
  3. The authority to grant variances from the strict requirements of this Ordinance, consistent with the standards prescribed in Section 82.04.J of this Ordinance.
  4. The power to adopt rules governing its procedures sitting as the Board of Appeals.
- B. Procedures shall be established by the Board of Appeals whereby systematic review of all variances granted is made to ascertain the compliance or default and procedures whereby Revocation of Variance Notices will be made.
- C. Dates and times of regularly scheduled meetings shall be determined by the Board of Appeals and published and posted.
- D. The Board of Appeals shall keep detailed records and follow procedures as adopted per paragraphs (A.4) or (B) above.

**Section 82.04 Appeals:**

- A. Appeals to Appeals Board: A demand for a zoning appeal is received by the Zoning Administrator. Appeals can be filed by:
1. Any aggrieved person (including any applicant); or
  2. An officer, department, board, or bureau of the state or local unit of government.
- B. The Appeals Board shall have the authority to:
1. Grant requests for variances under the standards prescribed in 82.04.J.
  2. Hear appeals concerning:
    - a. All questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map.
    - b. All administrative orders, requirements, decision or determination made by the Zoning Administrator or other official or body charged with enforcement of this Ordinance.
    - c. All decisions of the Zoning Administrator.
    - d. All decisions concerning site plan review.
    - e. All decisions of the Planning Commission concerning the approval (with or without conditions) or denial of a Special Use Permit.
- C. Upon receipt of a request for variance or demand for appeal, the Zoning Administrator will review the request or demand for appeal to ensure it is complete and the appropriate fee is paid.
1. If the request for variance or demand for appeal is not complete, the Zoning Administrator shall return the request for variance or demand for appeal to the party filing the demand with a letter that specifies the additional material required.
  2. If the request for variance or demand for appeal is complete the Zoning Administrator and the Chairperson of the Board of Appeals shall establish a date to hold the hearing on the request for variance or appeal.
- D. The filing of an appeal stays all proceedings in furtherance of the action appealed, unless the Zoning Administrator or other body from which the appeal is taken certifies to the Board of Appeals that, by reason of facts stated in the certification, a stay would cause imminent peril of life or property, in which case proceedings may only be stayed by a restraining order issued by the Board of Appeals or the 19<sup>th</sup> Circuit Court.
- E. The notice of hearing regarding the appeal or variance request shall be published in a newspaper of general circulation within Marilla Township and shall be sent to the person requesting a variance or demanding an appeal not less than fifteen (15) days before the date of the hearing on such appeal. In the case of a request for variance, or where the subject of the appeal involves a specific parcel, notice of the hearing will also be sent not less than fifteen (15) days before the date of the hearing to:

1. The owner(s) of the property affected by the decision or action that is the subject of the appeal or variance request, if different.
  2. The owners of real property within three-hundred (300) feet of the boundary of the property involved in the decision or action that is the subject of the appeal or variance request, as shown by the latest assessment roll, regardless of whether the owner and property is located in Marilla Township or not.
  3. Occupants of any structures within three-hundred (300) feet of the boundary of the property involved in the decision or action that is subject of the appeal or variance request regardless of whether the owner and property is located in Marilla Township or not. Notification need not be given to more than one (1) occupant of a structure, except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  4. The notice to specific persons shall be mailed or personally delivered. If the name of the occupant of any property required to be given notice is not known, the term "occupant" may be used in making notifications under Section 82.04.E.
- F. The notice required under Section 82.04.E shall include:
1. The nature of the appeal or variance being requested.
  2. The property(ies) for which the appeal or variance request has been made.
  3. A listing of all existing street addresses (if any) within the property(ies) which is(are) subject of the appeal, or variance request.
  4. The location where the demand for appeal or variance request can be viewed and copies prior to the date the request or appeal will be considered.
  5. The date, time and location of the hearing before the Board of Appeals.
  6. The address at which written comments should be directed prior to the hearing.
  7. For members of the Board of Appeals, a copy of the demand for appeal or variance, the entire record on the case, the staff report and the supporting documents in the record.
- G. The Zoning Board of Appeals may require the applicant, for any variance to submit such surveys, plans, or other information in addition to such information already contained in the record as is necessary for the Zoning Board of Appeals to investigate thoroughly the matters before it.
- H. The Board of Appeals shall hold a hearing on each request for variance or demand for appeal.
1. Representation at hearing: Any party or parties may appear in person or by agent or attorney at the hearing.
  2. Following the hearing on any quest for variance or any appeal, the Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed and may issue or direct the issuance of a permit. A majority vote of the membership of the Board of Appeals is necessary to grant a dimensional variance and rule on any appeal. The decision of the Board of Appeals shall be in writing and reflect the reasons for the decision.
  3. Record of Hearing: At a minimum the record of decision shall include:
    - a. A formal determination of the facts.
    - b. The conclusions derived from the facts and reasons for the decision.

- c. The decision.
  4. Within eight (8) days of the decision, the record of the decision shall be certified and a copy delivered by first class mail to the person requesting the variance or demanding the appeal, the Zoning Administrator and other applicable parties.
- I. Any person having an interest affected by the decision of the Board of Appeals shall have a right to appeal the decision to the 19<sup>th</sup> Circuit Court within thirty (30) days after the Board of Appeals certifies its decision in writing or approves the minutes of its decision, as provided by law.
- J. Standards for Variance Decisions by the Board of Appeals: The Board of Appeals shall base its decision on variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured and substantial justice done based on the following standards.
  1. A dimensional variance may be granted by the Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
    - a. That the need for the requested variance is due to unique circumstances or physical conditions of property involved, such as narrowness, shallowness, shape, water or topography and is not due to the applicant's personal or economic difficulty.
    - b. That the need for the requested variance is not the result of actions of, or conditions created by the applicant, the current property owner or previous owners of the property.
    - c. That strict compliance governing area, setback, frontage, height, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render compliance with those dimensional requirements unnecessarily burdensome.
    - d. That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
    - e. That the requested variance will not cause an adverse impact on surrounding property values, or the use and enjoyment of property in the neighborhood or district.
  2. In deciding a request for a minimum parcel area dimension variance for a single-family residence in the Resource Preservation District (RP-1), the Zoning Board of Appeals shall consider the following factors in addition to any other factors it deems relevant in determining whether there are practical difficulties or unnecessary hardships in carrying out the strict letter of this Ordinance.
    - a. The parcel in question was owned by the applicant prior to the effective date of this Ordinance.
    - b. The parcel in question is not presently used for active farming or forestry activities, or, if so used, not more than one (1) acre will be devoted to the single-family residence and the remaining portion of the parcel will continue in active farming or forestry either by the applicant or under voluntary agreement with the owner or operator of a neighboring farming or forestry use.
    - c. There is no land adjoining the parcel in question available for purchase.
    - d. The parcel in question is not less than 10 acres in size; and
    - e. The parcel in question was established in accordance with the Subdivision Control Act 288 P.A. 1967 being MCL. 560.101 *et.seq.*: MSA 26.430(101) *et.seq.*, as amended.

**Section 82.05 Variance and Appeal Fees:**

The Township Board is hereby authorized to establish by resolution, fees for application for appeals or application for a variance to the Zoning Board of Appeals to be paid to the Township with such application or appeals to help defray the cost to the Township of such proceedings. Such fees may be altered by subsequent resolution of the Township Board in the discretion of said Board.

**Section 82.06 Interpretation of Ordinance Text:**

- A. Interpretation: Nothing contained herein shall be construed as prohibiting the Zoning Board of Appeals from interpreting the text of this Ordinance in such fashion that will allow in a land use district buildings, uses, and structures which are sufficiently similar to the specifically delineated permitted or special land uses in the land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the ordinance text.
- B. Standards: In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Zoning Board of Appeals shall consider the relevant policies for the land use district in question as set forth in the Future Land Use Section of the Marilla Township Master Plan, the nature, use and purpose of the proposed building, use or structure whether or not the proposed building, use or structure is a permitted or special use in any other land use district in the Township.
- C. Precedent: An earlier determination under this section shall be considered a precedent for other applications proposing and identical building, use or structure in the same land use district, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the land use district and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered as a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a special use permit in that land use district, but shall otherwise be subject to all requirements of Article 86 of this Ordinance.

## Article 84: Permits

### Section 84.01 Land Use Permits:

- A. No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this section until a permit authorizing the same shall be issued by the Zoning Administrator.
- B. The Zoning Administrator shall require that the application include the form, copies of plans, specifications and such other information as he/she may deem necessary. Such other information shall include, but not be limited to:
  1. A site plan, drawn to the specifications of Section 94.04 or 94.05 of this Ordinance.
  2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
  3. A concise statement of all operations and uses which will be conducted on the land and buildings.
  4. A concise statement of the services, if any, to be offered to the public, if applicable.
  5. Any other information required by this Ordinance.
  6. A non-refundable fee. The fee shall be established from time to time by the Township Board.
  7. An escrow, if applicable, for complex applications in an amount which shall be collected in escrow to pay for all costs of professional review expenses of engineers, community planners, lawyers and any other professionals whose expertise the Planning Commission values and hires to review the application. The amount of escrow shall be established from time to time by the Township Board, or the amount shall be estimated by the Administrator for the particular application. The applicant shall receive a copy of the statement of fees for those professionals who worked on the application. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any permit. If any unexpected balance remains in the escrow it shall be returned to the applicant.
  8. A copy of any other necessary permits required prior to a Construction Code Permit or a copy of a written agreement for, or written intent for concurrent approval for those permits.
- C. No permit shall be issued under this section for any use which fails to conform to any relevant provisions of Articles 10, 16 and 18 when applicable; or which fails to conform to any minimum requirements established for the land use district in which the proposed use is to be located, or which fails to conform to any standard set forth in the definition of the proposed use, as defined in this Ordinance.
- D. No new use shall be established or excavation or construction begun before such permit is issued.
- E. No permit or fee is needed under this section for:
  1. Exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner.
  2. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this Ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.

3. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, or water distribution or transmission systems, collection, communication, supply, disposal or sewer systems, including mains, drains, sewers, wires, cables, traffic signals, hydrants, towers, pools, electrical substations, gas regulation stations, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law or other ordinances of the Township, in any land use district, or being the intention hereof to exempt such erection, construction, alteration and maintenance from the application of this Ordinance; provided, however, that the erection or construction of any or all new above-grade construction is designed and erected to conform harmoniously with the general architecture and plan of such district in which it is to be located.
  4. Open Space
  5. Individual recreational uses such as boating, hiking, hunting, fishing and trapping.
  6. Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation.
  7. Harvesting of timber as part of a forest management activity when part of a forest management plan.
  8. Hedges, arbors, trees, gardens, plants and shrubs.
  9. Sidewalks and driveways to dwellings.
  10. Household domestic animal shelters.
  11. Accessory structures to dwellings which are constructed by minors or children for purposes of play by the same minors or children, including but not limited to, playhouses, doll houses, tree houses, forts, hideouts, and similar type structures, provided such accessory structures adhere to the setback requirements of the Land Use District in which they are located.
  12. Barbecues, gazebos, and other lawn ornamentation provided the same adhere to the setback requirements of the Land Use District in which they are located.
- F. A permit issued under this section is void if the use is not commenced within one (1) year. A renewal may be granted by the Zoning Administrator after a restudy of the permit at no cost to the applicant.
- G. A violation of any condition of specification in a permit issued under this section shall void permit.
- H. Any improper or incorrect information contained in the application for permit issued under this section shall void the permit until properly corrected upon the permit application: provided that, as corrected, the applicant continues to meet all requirements for a permit.
- I. A non-refundable fee shall accompany each application for a permit under this section. The fee shall be as established from time to time by the Marilla Township Board.

## **Article 86: Special Use Permits**

### **Section 86.01 Introduction:**

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this section until a permit authoring the same shall be issued by the Township Planning Commission following an application for review and approval pursuant to the requirements of this section, and any applicable special requirements prescribed under Article 88 of this Ordinance.

### **Section 86.02 Application:**

- A. An application for the occupation or use of lands for the erection, alteration or relocation of any building or structure shall be made in writing to the Township Zoning Administrator and, in addition to the fee to accompany the site plan, shall be accompanied by the payment of a nonrefundable fee set by the Township Board to cover the cost of processing the application.
- B. No application for a special use permit shall be submitted to the Township Planning Commission for review and approval until a site plan therefore has been reviewed for completeness and accuracy by the Township Zoning Administrator. To accomplish this purpose, the Zoning Administrator may request assistance from other governmental agencies or any educational institution.
- C. Authority to Grant Permits:
  1. The Township Planning Commission may deny, approve or approve with conditions the request for special land use approval. Any conditions imposed shall be in accordance with the requirements of the Michigan Zoning Enabling Act, as amended.
  2. In the case of a special use permit for mining on a regular basis, the permit shall be for an initial term of not more than five (5) years and the applicant shall commence significant development of mining operations within two years of the date of issuance of the permit. In the case of a special use permit for mining on a temporary basis, the permit shall be for an initial term of not more than six (6) months and, subject to the requirements of Section 86.06, the Planning Commission may extend the effectiveness of a temporary permit for an additional six (6) month period upon request of the applicant.
  3. Upon disapproval of the application, the Planning Commission shall notify the applicant in writing stating the reasons for disapproval as well as the necessary action, if any, that the applicant may take to complete the application in an acceptable form. No application which has been denied, in whole or in part, may be resubmitted for six (6) months from the date of denial, except for new evidence, change of conditions or other such reason as the Planning Commission may accept.

### **Section 86.03 Information Required in Application:**

- A. An application for Special Use Permit shall include:
  1. The applicant's name and address.
  2. A signed affidavit that the applicant is the owner, or has an ownership interest, or is acting on the owner's behalf.
  3. The address and legal description of the property.
  4. A specific statement and supporting information regarding the required findings for the Special use Permit, as stated in Section 88.01 *et.seq.*, if applicable.
  5. A detailed site plan as specified in Section 94.06 of this Ordinance.
  6. A complete description of the proposed development including: Areas of the site, the number of parcels or units; and the number and characteristics of the

- population impact such as density, elderly persons, school children, tourists, family size, and related material as applicable.
7. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to groundwater reserves or community system capacity, change in traffic volume on adjacent roads and other factors that may apply to the particular development.
  8. Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.
  9. Evidence of having received or having an agreement for, or concurrent approval for any other necessary permits required prior to the Construction Code Permit.
  10. The names and addresses of all owners of property which is assessed within three-hundred (300) feet of the boundary of the property involved in the application, and the names of all occupants of all structures within three-hundred (300) feet of the boundary of the property involved in the application.
- B. In addition, the applicant may be required to furnish:
1. Elevations on all buildings, including accessory buildings.
  2. An environmental assessment.
  3. Measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties.
- C. The applicant shall certify that the information included is correct and that measures proposed to mitigate adverse impacts will be completed in a timely fashion, if the Special Use Permit is approved.

**Section 86.04 Information for Specific Land Uses:**

In addition to the above, the following specific land uses shall also include the following information in a special use permit application:

- A. For special uses in the Resource Preservation District (RP-1):
1. Location of past and present mining and land areas held for future extraction by operators.
  2. The presence, location, extent and quality of potentially valuable mineral deposits both known and inferred.
- B. For a special use permit for mining on a regular basis, the following additional information:
1. A map and/or aerial photograph of the property which shall indicate:
    - a. Boundaries of the affected and adjacent lands;
    - b. Surface drainage of the affected land;
    - c. Location and names of all streams, roads, railroads, utility lines, and pipelines on or immediately adjacent to the area;
    - d. Location of all structures within one-thousand (1000) feet of the outer perimeter of the area, present owner and occupants of such structures, and purposes for which each structure is used;
    - e. Proposed location, aerial extent, and depth of intended mine excavation;
    - f. Proposed location of the mine, waste dumps, tailing ponds, sediment basins, stockpiles, structures, roads, railroad lines, utilities or other permanent or temporary facilities used in mining.
    - g. Estimated depth to groundwater.
  2. A description of the mining and processing equipment to be used;

3. A description of measures to be taken to control noise and vibrations from the operation;
  4. A description of measures to be taken to screen the operation from view;
  5. Proposed primary travel routes to be used to transport the mined material to processing plants or markets away from the property;
  6. A description of the plans for topsoil storage;
  7. A reclamation plan which shall include:
    - a. A map or plan and description of the proposed reclamation including grading, final slope angles, high wall reduction, benching and terracing of slopes, slope reduction, slope stabilization and revegetation where applicable, and erosion control, and alternative future land uses;
    - b. Description of topsoil striping and conservation during storage and replacement;
    - c. Plan and description of anticipated final topography, water impoundments, and artificial lakes on the property;
    - d. Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining;
    - e. A plan for disposal or treatment of any harmful or toxic materials found in any formations penetrated by the mining operation or produced during the processing of minerals on the affected land, and of chemicals or materials used during the mining or processing operations;
    - f. The estimated cost of completing the Reclamation Plan within one (1) year of cessation of mining operations based on the anticipated costs for the year in which the reclamation would take place.
    - g. A statement of the proposed form of the performance guarantee, equal to two (2) times the estimated cost of the Reclamation Plan, which may be required by the Planning Commission.
  8. A statement in writing and adequate evidence to indicate the duration of the lease in years;
  9. A timetable of the commencement, duration and cessation of mining operations;
  10. Any and all mining permits held by the applicant within the state;
- C. For a special use permit for mining on a temporary basis:
1. As may be required by the Planning Commission a map and/or aerial photograph of the land with any or all of the information as listed in Section 86.04.B., relating to requirements for maps and/or aerial photographs for regular mining special use permits:
  2. As may be required by the Planning Commission any or all of the information listed in Section 86.04.B, inclusive of this section, relating to requirements for information for regular mining special use permits.
- D. For a special use Permit for central production facility, sweetening plant or bulk storage plant, the following additional information:
1. A map and/or aerial photography of the property which shall indicate:
    - a. Boundaries of the proposed project site.
    - b. Surface drainage of the project site.
    - c. Location and names of all streams, roads, railroads, utility lines and pipelines on or immediately adjacent to the project site.
    - d. Location of all buildings and structures within two-thousand six-hundred forty (2,640) feet of the boundary of the project site.
    - e. Estimated depth to groundwater.
  2. A description of the production, sweetening or storage machinery and equipment to be used.

3. A description of the measures to be taken to control noise, vibrations, and odors from the operations.
4. A description of the measures to be taken to screen the project from view.
5. Proposed primary travel or transmission routes to be used to transport the raw materials to the property and the processed materials away from the property, including the proposed location of all pipelines.
6. A description of the plans for topsoil storage if the project will disturb the topsoil on the property.
7. A Pollution Incident Prevention Plan which has been approved by the Michigan Department of Environmental Quality, the fire chief of the Fire Department which services the respective area in Marilla Township, and the Manistee County Emergency Coordinator and which sets forth in reasonable detail, the applicant's contingency plans in the event of fire, plans for the evacuation of surrounding areas and neighborhoods, the communication and warnings to be given in the event of a fire or pollution incident and the procedure to be following for periodic updating of such plan in consultation with the respective Fire Department and the Manistee County Emergency Coordinator. In addition, such plan shall include all other information required by the Department of Environmental Quality or other governmental agencies having jurisdiction over the project.
8. A letter showing (a) approval, (b) tentative approval, or (c) an understanding for the concurrent approval of the project by the Department of Environmental Quality, the Manistee County Planning Department Soil and Erosion Control Agent and any other governmental agency whose approval is required.
9. A statement of any changes or modifications in the project required for approval by a governmental agency whose approval is required.
10. A reclamation plan which shall include:
  - a. A statement of the maximum life expectancy of the project and all plant and equipment associated with the project.
  - b. Plans for the disassembly, removal, or other disposition of all plant and equipment, including pipeline, at the project site at the expiration of the operations.
  - c. Plans for the replacement of topsoil and restoration of the property to its original grade and contours.
  - d. Plans for the restoration of all access roads to original condition unless at the time of reclamation an agreement is reached among the Planning Commission, the owner/operator of the project and the affected landowner(s) for some other disposition.
  - e. Plans for the identification, disposal or treatment of all harmful or toxic materials found on the property, including any contaminated topsoil.
  - f. The estimated cost of completing the Reclamation Plan within one (1) year of cessation of operations on the property based on anticipated costs for the year in which the reclamation would take place.
  - g. A statement of the proposed form of the performance guarantee, equal to two (2) times the estimated cost of the Reclamation Plan, which may be required by the Planning Commission.

**Section 86.05 Receipt and Transmittal to Township Planning Commission:**

- A. All applications for Special Land Use Permits shall be filed with the Zoning Administrator, in quadruplicate, and shall include all of the documents or information required, as set forth above or in Article 88, together with the fee, in accordance with the Schedule of fees adopted by the Township Board, to cover the cost of processing the application.

- B. If the application is complete and in the proper form, and, upon completion of review of the site plan by the Zoning Administrator, the Zoning Administrator shall transmit the same to the Township Planning Commission.

**Section 86.06 Hearing Requirements:**

- A. The Zoning Administrator shall notify the following persons of the application being considered, so that notice is sent not less than fifteen (15) days before the date the application will be considered and the notices sent to:
  - 1. The applicant.
  - 2. The owner of the property, if different.
  - 3. The owners of all real property within three-hundred (300) feet of the boundary of 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 Marilla Township or not.
  - 4. Occupants of any structures within three-hundred (300) feet of the boundary of the property for which the approval has been requested, regardless of whether the owner and property is located in Marilla Township or not. Notification need not be given to more than one (1) occupant of a structure, except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  - 5. The general public by publication in a newspaper which circulates in Marilla Township.
  - 6. The members of the Planning Commission.

Except as provided in paragraph 5 above, the notice to other persons shall be mailed or personally delivered. If the name of the occupant of any property required to be given notice is not known, the term "occupant" may be used in making notification under Section 86.03.C.

- B. The notice required under Section 86.03.C. shall include:
  - 1. The nature of the Special Land Use Permit being requested.
  - 2. The property(ies) for which the request has been made.
  - 3. A listing of all existing street addresses (if any) within the property(ies) which is(are) the subject of the Special Land Use.
  - 4. The location where the application documents can be viewed and copies prior to the date the application will be considered.
  - 5. The date, time and location of the public hearing on the application.
  - 6. The address at which written comments should be directed prior to the Planning Commission's consideration of the Special Land Use Permit request.
  - 7. For members of the Planning Commission only, a complete copy of the Special Land Use Permit application and supporting documents in the record.
- C. Following such hearing, the Planning Commission shall either grant or deny a permit for such Special Land Use and shall place its decision in writing which includes a statement of findings and conclusions relative to the Special Land Use that specifies the basis for the decision and any conditions imposed. All conditions upon which any such permit is granted shall be specified in detail by the Planning Commission in its decision and shall be filed with the Zoning Administrator of the Township. Any conditions upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well-being of the owners and

occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of the zoning ordinance; designed to insure compatibility with adjacent uses of land and the natural environment; and designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

- D. The Planning Commission shall have the right to limit the duration of a Special Land Use where the same is of temporary nature and may reserve the right of annual review of compliance with the conditions imposed upon such use. Any use failing to comply with such conditions may be terminated by action of said Planning Commission after hearing upon application of any aggrieved party.
- E. The plot plan and specifications and all conditions imposed by the Planning Commission shall be recorded with the Township and shall be incorporated as a part of the Special Land Use permit. Violations of any of these at any time shall cause revocation of said permit and said special land use shall cease to be a lawful use.
- F. Any property which is the subject of a Special Land Use Permit which has not been used for a period of sixty (60) days (without just cause being shown, which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes from which such Special Land use Permit was granted, shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special land use shall thereupon terminate.
- G. To insure compliance with the zoning ordinance and any conditions imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project of project area, the Planning Commission may require a cash deposit, certified check, or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition which is conditioned upon the faithful completion of the project. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

**Section 86.07 Required Standards:**

No permit for a special land use shall be issued for any use, building or structure which:

- A. Fails to conform to any applicable provisions of Section 10.01 *et.seq.*; or
- B. Fails to conform to any minimum requirements established for the land use district in which the proposed special land use is to be located; or
- C. Fails to conform to any standard set forth in the definition of the proposed special land use, as defined in this Ordinance.

**Section 86.08 Required Findings:**

The Township Planning Commission shall review the particular facts and circumstances of each proposed special land use and shall find and record adequate data, information and evidence, showing that such proposed use:

- A. Will be consistent with and promote the intent and purpose of this Ordinance;
- B. Will be designed, constructed, operated, maintained and managed so as to be compatible with adjacent uses of land and harmonious and appropriate in appearance with the existing or intended character of the general vicinity;

- C. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, and solid and liquid waste disposal methods;
- D. Will not disrupt the orderly and proper development of the district as a whole or be in conflict with or discourage the principle permitted uses of adjacent or neighboring lands or buildings;
- E. Will not unnecessarily diminish land used to meet the needs of the States citizens for food, fiber, energy and use of other natural resources;
- F. Will not be more objectionable to nearby properties by reason of traffic, noise, vibrations, dust, fumes, smoke, glare, flashing lights or disposal of waste, than the operation of any principle permitted use.

**Section 86.09 Other Informational Considerations:**

The Township Planning Commission, in reviewing an application for special use permit, may consider:

- A. The present use of land involved in the application;
- B. The number and location of similar uses in the land use district in which the proposed special use will be located; and
- C. The comments received following the public notice and hearing; provided however, that such information shall be considered only as it may affect the standards and findings required in Sections 86.07 and 86.08 and shall not, along, be sufficient grounds for the denial of a special use permit.

**Section 86.10 Voiding of Permits:**

Any improper or incorrect information contained in the application for a special use permit or the site plan submitted in connection therewith or the violation of any condition or standard imposed by the Township Planning Commission in the issuance of a special land use permit or by this Ordinance shall immediately void the special use permit. A special use permit is also void if the use is not commenced or construction is not begun within one (1) year of the date of issuance.

**Section 86.11 Performance Guarantees:**

- A. In granting a special use permit, the Township Planning Commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township Planning Commission and covering the estimated cost of improvements associated with a special use project and/or the estimated cost of reclamation of all areas disturbed by mineral extraction operations be furnished by the applicant to ensure compliance with an approved site plan and special use requirements. Such bond shall be deposited with the Township Clerk at or before the time of the issuance of the special use permit.
- B. In fixing the amount of such bond for non-mining special use permits, the Township Planning Commission shall limit it to reasonable improvements required to meet the standards of this Ordinance and 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, lighting, public utilities, sidewalks, screening, waste disposal, and drainage. The term "improvements" does not include the entire project or improvements for which a performance guarantee has been deposited pursuant to Act 288 of the Public Acts of 1967, as amended. The Township Planning Commission and the applicant shall establish an agreeable procedure for the rebate of any bonds required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progressed. Said agreement shall be written as an element of the conditions of approval of the special use permit.

- C. In the case of a special use for mining on a regular or temporary basis:
1. Any operator who obtains a mining permit from the Planning Commission for two or more project sites within Marilla Township may elect, at the time the second or any subsequent site is approved, to post a single bond in lieu of separate bonds on each site. Any single bond so posted shall be in an amount equal to the estimated cost of reclaiming all sites the operator has under each of his mining permits issued in Marilla Township less that amount deposited for the particular sites with the appropriate governmental agencies. When an operator elects to post a single bond in lieu of separate bonds previously posted on individual sites, the separate bonds shall not be released until the new bond has been accepted by the Planning Commission.
  2. At the termination of each bonding period, the Planning Commission shall review the bond amount on mining and reclamation progress and shall either maintain the existing bond, return all of the a portion of the existing bond, or request the operator to increase the amount of the bond.
  3. The operator may file with the Planning Commission a request for release of bond at such time as the operator feels that all reclamation has been satisfactorily completed or is in progress in accordance with the approved reclamation plan on any or all of the affected lands. Such request for release of bond shall include the name and address of the operator, the permit number, a legal description of the area, and a final reclamation report on the area for which the release of bond is requested. The final reclamation report shall contain the following information:
    - a. Name and address of the operator, permit number, and legal description of the land;
    - b. A map and/or aerial photograph on which the operator shall indicate the final contours, slope angles of the affected land, surface water drainage and ponds, and the locations of any remaining structures and roads;
    - c. A description of reclamation activities leading to completion of the approved reclamation requirements including: topsoil disposition and thickness, revegetation practices, disposition of waste dumps, tailing ponds, and surface structures, haulage and access roads, sediment control practices, and maximum depth of artificial lakes or ponds;
    - d. Operators of all underground mineral extraction operations shall also submit a complete plan of all entries, workings, and levels as well as a description of the sloping and ground support methods at the cessation of operations;
    - e. For underground mining operations, a description of the stability of lands overlaying the underground workings and a description of methods to be used for sealing all shafts, adits, inclines, and other mine entries;
    - f. Such other pertinent information and maps as may be required to evaluate the completion of reclamation and the advisability of returning the operator's bond.
      - 1) Final release of the bond shall not occur until the operator files a final reclamation plan under the terms of this ordinance.
  4. Upon receipt of a request for release of the bond, the Planning Commission shall:
    - a. Inspect the designated lands;
    - b. Public, in accordance with Section 86.06 notice that the release of bond application is pending and specify a 30-day period for filing of complaints with the Planning Commission against the release of bond.
    - c. Publish, in accordance with Section 86.06 notice of a public hearing at such time and place as the Planning Commission determines to consider

the request for release of bond and make a determination on the validity of complaints. The notice required in (b) of this subsection and this subsection may be published at the same time, but in all cases the public hearing shall be held at least 30 days after the first notice required in (b) of this subsection.

- d. In the case of a special use permit for mining, if the reclamation is found to be satisfactory and all valid complaints have been satisfied, the Planning Commission shall release the appropriate amount of bond thirty (30) days after the public hearing. If the reclamation is found to be unsatisfactory, so notify the operator by registered mail setting forth the reason for denial of release of bond and the corrective action necessary for release of bond.
  - e. In the case of non-mining special use permits, if the Planning Commission finds that the applicant has faithfully performed its agreement established under this Ordinance, it shall release the appropriate amount of bond thirty (30) days after the public hearing, otherwise it shall so notify the applicant by registered mail setting forth the reasons for denial of release of bond and the corrective action needed to be taken.
5. Nothing in this section shall be construed to infringe upon the Planning Commission's authority to take appropriate action on bonds, including forfeiture of all or part of the bond for cause. Forfeiture shall not be approved by the Planning Commission unless there has been publication of notice and a public hearing held consistent with the terms of this Ordinance.

**Section 86.12 Changes, Renewals and Transfer of Special Use Permits:**

- A. The holder of a special use permit may at any time apply to the Planning Commission for amendment, cancellation, renewal, transfer, or change in the special use permit including a reclamation plan, provided that this section shall not include an expansion of a mining operation, a removal of mined lands from the aerial extent of the approved permit, a release of a bond or other security mechanism, or the removal of mined lands from the aerial extent of the approved permit, a release of a bond or other security mechanism, or the renewal of a temporary mining special use permit.
- B. The application for the amendment, cancellation, or change shall be submitted to the Planning Commission which shall approve, approve conditionally, or deny the application subject to the standards set forth in this ordinance.
- C. A regular mining special use permit shall be renewed at the end of the permit term for successive five-year terms after public hearing and notice so long as the operator continues to produce mineral materials from the property, conforms to the approval reclamation plan, and conforms to the provision of this Ordinance and is within the timetable of operations as established by Section 86.04.B.9.
- D. No holder of a special use permit shall assign, sell, lease or transfer in any manner any rights granted under the special use permit until his successor or assigns have complied with all the requirements of this ordinance, including all requirements of a reclamation plan associated with a special use permit for mining and the filing of a bond of like amount with the Planning Commission. Upon compliance with the requirements of this ordinance, the Planning Commission shall release the first holder from the requirements of this ordinance, including any bond, and transfer the permit to the successor.
- E. Any application granted with conditions attached under the terms of this section shall have the conditions attached in writing to the document of approval. Such conditions may cover any standard or requirement listed in this ordinance. A violation of the

conditions shall constitute a violation of this ordinance, subject to penalties listed in this ordinance.

**Section 86.13 Inspections:**

- A. Upon issuance of a special use permit, the Planning Commission or its approved agents may inspect the project site to determine compliance with the requirement of this ordinance. Inspections may also include the required records of a mining operation.
- B. Such inspection shall be at reasonable times with notice provided to operator.

**Section 86.14 Penalties:**

- A. Whenever the Planning Commission finds a violation of this ordinance including unapproved deviation from a site plan or reclamation plan, it shall be recorded and the Planning Commission shall send the holder of a special use permit, by registered mail, an order specifying the nature of the violation, time of violation, and corrective steps necessary to achieve compliance with this ordinance.
- B. The Planning Commission shall cancel the special use permit of any holder who fails to comply with the order within thirty (30) days after the order is served, unless the holder named therein, within ten (10) days after notice, requests in writing a hearing before the Planning Commission. Failure to show just cause for the continued violation and lack of compliance with the order shall result in permit cancellation and immediate cessation of all activities in/on the affected property.
- C. The penalties provided for herein shall be in addition to the penalties provided in Section 98.03 of this Ordinance.

## **Article 88: Planned Unit Developments**

### **Section 88.01 Intent:**

The planned unit development provisions of this Ordinance are intended to allow flexibility in the design of residential neighborhoods to encourage the conservation of natural features such as, but not limited to, woodlots, slopes, meadows, floodplains, and wetland areas and achieve economies of design related to vehicular and pedestrian circulation ways, utility construction, and dwelling unit siting. This section provides incentives and opportunities for a mix of housing types provided that the overall project density does not exceed the density permitted by the underlying zoning district, based on the formula provided by this section. Further, under certain circumstances and based on a comprehensive plan for the entire development, this section allows for a mix of residential and compatible non-residential uses oriented toward the planned unit development residents but not exclusively for the residents of the planned unit development.

### **Section 88.02 Application of Planned Unit Development Provisions:**

- A. **Minimum Parcel Criteria:** The provisions of this section may be applied to any parcel of land fifteen (15) acres or greater, located in any residential district and under single ownership and for which an application for a planned unit development is made as provided herein. In addition to the required residential land area, property zoned for commercial use, which is under the same ownership as the aforementioned residentially zoned property, may be included as a part of the overall planned unit development proposal.
- B. **Exceptions to Minimum Parcel Criteria:** Notwithstanding the provisions of paragraph 1, an application for a planned unit development on a parcel of land of less than fifteen (15) acres may be submitted if the Commission finds, based upon information provided by the landowner, that the minimum area requirement should be waived because a planned unit

development is in the public interest and that one or more of the following conditions exists:

1. The parcel of land, or the neighborhood in which it is located, has an unusual physical feature(s) that will be conserved by employing the provisions of this article;
  2. The parcel of land has a historical character of importance to the Township that will be protected by employing the provisions of this article; or
  3. The parcel of land is adjacent to, or across the road from, a parcel which has been developed as a planned unit development and such will contribute to the maintenance of the amenities and values of the neighboring development.
- C. Application Criteria: An applicant for planned unit development must demonstrate all of the following:
1. Application of the planned unit development provisions will result in one of the following:
    - a. A recognizable and material benefit to the future residents of the project as well as the community, where such benefit would otherwise be unfeasible or unlikely without application of the planned unit development provisions; or
    - b. The long-term conservation of natural features and the environmental character to the Township will be achieved; or
    - c. A nonconforming use shall be rendered more conforming to the zoning district in which it is situated.
  2. The proposed type and density of use shall not result in an unreasonable increased burden upon public services, facilities, and/or utilities in comparison to the use or uses otherwise permitted by the underlying zoning district.
  3. The proposed planned unit development shall not result in any unreasonable negative economic impacts on the surrounding properties.

### **Section 88.03 Design Standards:**

A planned unit development proposal shall be consistent with the statement of purpose of this article as well as the following general standards for the use of land, the type, bulk, design, and location of buildings, the density of use, common open space and public facility requirements, and the development of geographic divisions of the site.

- A. Residential Dwellings: The plan may provide for a variety of permanent housing types, including both detached and attached single-family dwellings, manufactured homes, and multiple-family dwellings, but not mobile homes, as herein defined. Single-family attached and cluster housing may be incorporated as a means of conserving natural features and providing additional common open space.
- B. Permitted Residential Density: The permitted residential density shall be determined based on the maximum density permitted by the underlying zoning district and through density bonuses if the cluster development provisions are utilized, and as modified by the following formula:
  1. Gross parcel area less the entire area occupied by proposed or existing dedicated public right-of-ways, and less eighty (80) percent of the area occupied by any wetlands, and floodplain areas. The resulting land area shall be divided by the minimum lot size of the underlying zoning district to establish the maximum number of permitted dwelling units.
- C. The minimum permitted lot size for a detached single-family dwelling in areas not served by public sewer and water shall be determined by the District 10 Health Department standards. The minimum permitted lot size for a detached single-family dwelling in areas

served by public sewer and water shall not be less than eleven thousand (11,000) square feet.

- D. Common Open Space: All planned unit developments shall maintain a minimum of thirty (30) percent of the parcel as common unimproved open space which is readily accessible and available to the residents of the planned unit development. Up to twenty five (25) percent of the open space requirement may be fulfilled by wetland, floodplain, and/or open water areas.
- E. Educational and Recreational Uses: Both public and private nonresidential uses of an educational or recreational nature, including but not limited to golf courses, tennis clubs, swim clubs, riding stables, non-motorized trails, and necessary accessory uses and structures, designed as an integral part of the overall planned unit development, may occupy appropriate portions of the site. The area so occupied may be applied, at the discretion of the Commission to satisfy a percentage of the total common open space requirement. Developed recreational uses such as tennis clubs, swim clubs, riding stables, and the like, may be used to satisfy twenty-five (25) percent of the common open space requirement. Golf courses may be used to satisfy up to sixty (60) percent of the common open space requirement, provided such use is integrated into the overall development.
- F. Commercial Uses: Commercial uses together with such other uses deemed consistent with the overall development plan, may occupy up to ten (10) percent of the gross area of a parcel greater than twenty (20) acres.
  - 1. The following commercial uses may be permitted within a planned unit development:
    - a. Professional offices including but not limited to the offices of a lawyer, accountant, insurance agent, real estate broker, architect, engineer, doctor, dentist or similar occupation.
    - b. Banks, credit unions, savings and loan associations, and similar financial institutions.
    - c. Retail businesses which supply commodities on the premises such as but not limited to groceries, meats, dairy products, baked goods, drugs, dry goods, clothing, notions, hardware, books, and similar establishments.
    - d. Personal service establishments which perform services on the premises such as but not limited to repair shops (watches, electronics, shoes, etc.), tailor shops, beauty parlors, barber shops, photographic studios, and dry cleaners.
  - 2. Adjacent property which is zoned commercial shall not be applied to this provision.
  - 3. Planned commercial uses shall be accessed by public roads and sited in such a manner as to discourage through traffic within the planned unit development or adjacent residential areas.
- G. Off-Street Parking and Loading: Off-street parking and loading/unloading spaces shall be provided in accordance with Section 10.83. of this Ordinance.
- H. Other Site Improvements: Signage, lighting, landscaping, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features.
- I. Perimeter Setback and Buffering: The proposed location and arrangement of structures shall not be materially detrimental to existing or prospective adjacent uses or to existing or prospective development of the neighborhood. There shall be a perimeter setback and landscaping and/or berming as displayed in Section 10.53, as recommended by the Commission, for the purpose of buffering the adjacent properties from the planned unit

development. The setback distance and buffering treatment need not be uniform at all points on the perimeter of the development.

1. However, in cases where nonresidential uses in the planned unit development are adjacent to residentially zoned property, such uses shall be visually screened by a class B Buffer as displayed in Section 10.53.
- J. Phasing: Each residential development phase shall be designed to stand alone and provide a residential environment which is compatible with the surrounding existing development. Deviations from the number of dwelling units per acre established for the entire planned unit development may be permitted within certain development phases as long as the number of dwelling units authorized per acre is not affected. Further, each development phase shall be designed to provide a proportional amount of common open space in each proposed phase.
- K. A minimum of fifty (50) percent of the total number of residential dwelling units in any planned unit development must be constructed and be ready for sale prior to the construction of any commercial portion of the planned unit development, except that site grading, road construction, and utility installations related to the commercial portions of the planned unit development may be undertaken concurrent with the development of residential units and public or private recreation uses. However, based on supportive evidence provided by a professional market study, the Commission may authorize the construction of commercial uses prior to the completion of fifty (50) percent of the total number of residential dwelling units.
- L. Planned Unit Development Agreement: The plan shall contain such proposed covenants, deed restrictions, easements, and other provisions relating to the bulk, location, and density of such residential units, nonresidential uses and public facilities, and provisions for the ownership and maintenance of the common open space as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the Township. The covenants, deed restrictions, easements, and other provisions, which are a part of the plan as finally approved, may be modified, removed, or released only with the approval of the Commission..
- M. The applicant shall make such easements, covenants and other arrangements, and shall furnish such performance guarantees, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of proposed development before completion.
- N. Land Division Requirements: All portions of the planned unit development, including single-family lots, multiple-family dwellings, commercial areas, and public and private recreational uses, and common open space areas shall be platted in conformance with the requirements of the state of Michigan Land Division Act, PA 591 of 1996 (formerly Subdivision Control Act, PA 288 of 1967), as amended, or prepared in conformance with the requirements of the state of Michigan Condominium Act, PA 59 of 1978 and the subdivision provisions of this Ordinance.

**Section 88.04 Procedure for Review and Approval:**

- A. Optional Conceptual Planned Unit Development Submittal: An applicant for planned unit development approval may prepare a conceptual planned unit development submittal to provide the Commission with a general overview of the proposed planned unit development. The conceptual submittal shall be processed in accordance with the following procedures.
- B. The applicant shall provide twelve (12) copies of the conceptual submittal to the Zoning Administrator at least twenty one (21) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is

complete, the Zoning Administrator shall place the conceptual submittal on the Commission's agenda.

- C. The following minimum information must be provided as part of the concept submittal.
  1. Statement of purpose, objectives, and development program including:
    - a. Discussion of the rationale for employing the planned unit development provisions rather than developing the project conventionally.
    - b. Total project area.
    - c. Description of existing site characteristics.
    - d. Description of proposed character of the development.
    - e. Densities, areas and setbacks for various residential types.
    - f. Area and percent of developed and undeveloped open spaces.
    - g. Discussion of proposed means of serving the development with water, sanitary waste disposal, and storm water drainage.
    - h. Proposed project phasing and estimated timing schedule by phase to completion.
    - i. Statement of anticipated impact on natural features, public facilities and services such as but not limited to police and fire protection, roads, and schools.
  2. Generalized development plan and program, including:
    - a. Overall map at a minimum scale of one (1") inch equals two thousand (2,000) feet showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.
    - b. Generalized graphic depiction at a scale of one (1") inch equals two hundred (200') feet showing the following:
      - i. Major access roads serving the site, including right-of-way widths, and existing and proposed road surfacing.
      - ii. Existing utility lines including sanitary sewer, storm sewer, water main, and gas and electric service.
      - iii. Existing adjacent land uses, zoning and structures within 200 feet of the proposed planned unit development boundary.
      - iv. Proposed internal pedestrian and vehicular circulation system.
      - v. Areas to be developed for residential, commercial, recreational, and common open space uses and structure locations.
      - vi. Areas to be preserved in a natural state.
    - c. Other data or graphics which will serve to further describe the proposed planned unit development.
- D. The Planning Commission shall review the concept plan with the applicant, shall inform the applicant of the Township's development policies, and shall make comments and suggestions about the proposed concept plan. The Commission may refer appropriate portions of the submittal to the Township Attorney, Engineer, Planner and/or appropriate county agencies for review and comment, prior to making comments and suggestions to the applicant.
- E. Preliminary Planned Unit Development Submittal: A preliminary planned unit development submittal shall be processed in accordance with the following procedures:
  1. The applicant shall provide twelve (12) copies of the preliminary planned unit development submittal to the Zoning Administrator at least twenty one (21) days prior to the meeting at which the submittal is to be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the

- Zoning Administrator shall place the preliminary submittal on the Commission's agenda.
2. The following minimum information must be provided by the preliminary planned unit development submittal. If the applicant did not prepare a conceptual submittal, the preliminary planned unit development submittal shall also include the information required by Section 8804.C. of this Ordinance.
    - a. Existing Site Features
      - i. Physical development plan prepared at a minimum scale of one (1") inch equals one hundred (100') feet.
      - ii. Boundaries of proposed planned unit development, section or corporation lines within or adjacent to the tract, and overall property dimensions.
      - iii. Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the proposed planned unit development site, including those of areas across abutting roads.
      - iv. Location, widths, and names of existing or prior platted streets and private streets, and public easements within or adjacent to the proposed planned unit development site, including those located across abutting roads.
      - v. Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the proposed planned unit development site.
      - vi. Topography drawn at a two (2') foot contour interval. Topography must be based on USGS datum and be extended a minimum distance

of two hundred (200') feet outside the proposed planned unit development boundaries.

F. Proposed Development Features

1. Layout of internal roads indicating proposed road names, right-of-way widths, and connections to adjoining platted roads, and also the widths and location of alleys, easements, and pedestrian ways.
2. Layout, numbers, and dimensions of single-family lots, including building setback lines.
3. Layout of proposed multiple-family dwellings, including setbacks, buildings, drives, parking spaces, pedestrian ways, and landscaping.
4. Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included on developed open spaces.
5. Depiction of major wooded areas and description of means to be employed to preserve them.
6. An indication of ownership, and existing and proposed use of any parcels identified as "excepted."
7. An indication of the proposed sewage, water supply, and storm drainage system. Stormwater drainage must conform to the stormwater guidelines of the County Drain Commission Office.
8. Conceptual site grading and conceptual landscaping plans
9. Depiction of proposed development phases.
10. Architectural renderings of typical structures and landscape improvements, in detail sufficient to depict the basic architectural intent of the improvements.

G. Tabulations

1. Total site acreage and percent of total project in various uses, including developed and undeveloped open space.
2. Total site density of single-family and multiple-family dwellings and percent of ground area covered by structures other than detached single-family dwelling units.
3. Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.

H. Planned Unit Development Agreement

1. Legal description of the total site.
2. Statement of developer's interest in the land proposed for development.
3. Statement regarding the manner in which open space is to be maintained.
4. Statement regarding the developer's intentions regarding sale and/or lease of all or portions of the planned unit development, including land areas, units, and recreational facilities.
5. Statement of covenants, grants of easements (including easements for public utilities), and other restrictions to be imposed upon the uses of the land and structures.
6. Statement of required modifications (variances) to the regulations which are otherwise applicable to the site.
7. Schedule indicating the time within which applications for final approval of each phase of the planned unit development are intended to be filed.

I. The Commission shall accept the submittal and refer the appropriate portions to the Township Attorney, Engineer, Planner, and appropriate county agencies for review and recommendation.

J. The Commission shall review the preliminary planned unit development submittal as well as the comments from the Township Attorney, Engineer, Planner and appropriate state and county agencies and then set a public hearing to receive citizen input on the proposed

planned unit development. Notice of such public hearing shall be given in accordance with the requirement of the Michigan Zoning Enabling Act, 2006 PA 110, as amended.

- K. The Commission shall hold a public hearing.
- L. The Commission shall either approve, approves with modification, or deny the preliminary planned unit development submittal.
- M. Following approval of the preliminary planned unit development submittal, the Commission shall authorize the developer to prepare the planned unit development agreement and the final planned development submittal.
- N. The developer shall prepare a planned unit development agreement which shall be reviewed by the Township Attorney, Planner, and Engineer.
- O. The Commission shall review the planned unit development agreement and either approve, approve with conditions, or deny the planned unit development agreement.
- P. A final planned unit development submittal for some portion of the planned unit development must be submitted within twenty-four (24) months following approval of the preliminary planned unit development. If no final planned unit development submittal is accepted within that period, approval of the preliminary planned unit development is automatically rescinded and the underlying zoning will take effect. However, the Commission, upon written application by the developer, may extend the designation for successive two (2) year periods; except that no more than two (2) such twenty-four (24) month extensions may be granted.
- Q. Final Planned Unit Development Submittal
  - 1. The final planned unit development submittal for all or a portion of the total planned unit development shall be reviewed by the Commission and acted upon by the Commission to assure substantial compliance with the preliminary planned unit development submittal.
- R. The final planned unit development submittal must be prepared as one of the following:
  - 1. Subdivision Plat as defined by the Land Division Act
    - a. The final planned unit development submittal must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.
    - b. Construction of the initial phase of the planned unit development shall be completed within two (2) years following final preliminary plat or subdivision plan approval by the Commission. This limit may be extended for a reasonable period to be determined by the Commission, upon written application by the developer for cause shown. If, however, this time limit is not met and an extension is not granted, the planned unit development agreement is automatically rescinded.
  - 2. Condominium Plan as defined by the Condominium Act
    - a. The final planned unit development submittal must be prepared in the form of a condominium plan pursuant to the requirements of the Condominium Act in detail sufficient to be granted approval in conformance with the subdivision provisions of this Ordinance and the conditions established in the preliminary

- planned unit development submittal and planned unit development agreement.
3. The following minimum information must be provided by the developer at the time of filing of a final planned unit development submittal for all or a portion (phase) of a planned unit development:
    - a. Detailed grading plan.
    - b. Detailed landscaping plan.
    - c. Detailed utilities layout.
    - d. Tabulations showing:
      - i. Total phase acreage and percent of total planned unit development.
      - ii. Acreage and percent of portion of phase and total planned unit development occupied by single-family, multiple-family, and developed and undeveloped open space.
      - iii. Total phase density and percent of total planned unit development.
      - iv. Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom).
      - v. Percent of ground area covered by structures other than detached single-family dwelling units.
    - e. Supporting materials
      - i. Legal description of the total phase, each use area, and dedicated open space.
      - ii. Copies of covenants, easements, and other restrictions to be imposed
      - iii. Proposed dates of construction start and completion of phase.
  4. The final planned unit development submittal shall not:
    - a. Vary the proposed gross residential density or intensity of use in any portion of the planned unit development by ten (10) percent or greater as determined by the Commission; or
    - b. Involve a reduction of the area set aside for common space; or
    - c. Increase by more than ten (10) percent the floor area proposed for nonresidential use; or
    - d. Increase by more than five (5) percent the total ground area covered by buildings.
  5. The final planned unit development submittal shall be processed in accordance with the following procedures:
    - a. The applicant shall provide twelve (12) copies of the final planned unit development submittal to the Zoning Administrator at least twenty one (21) days before the meeting at which the submittal will be presented. The Zoning Administrator shall review the submittal to determine that all the required information has been provided. Upon finding that the submittal is complete, the Zoning Administrator shall place the preliminary submittal on the Commission's agenda.
    - b. The Commission shall accept the submittal and refer the appropriate portions of the submittal to the Township Attorney, Engineer, Planner as well as the appropriate state and county agencies for review and recommendation.
    - c. The Commission shall review the final planned unit development submittal to assure conformance with the approved preliminary planned unit development submittal and planned unit development agreement. Within thirty (30) days following receipt of the final planned unit development submittal, the Commission shall approve or, if the final planned unit development submittal deviates from the preliminary planned unit development submittal by more

- than the limits prescribed in this Ordinance, require modifications to assure conformance.
6. Before the Commission grants final approval to any planned unit development, the Commission shall determine that:
    - a. Provisions, satisfactory to the Commission have been made to provide for the financing of any improvements shown on the plan for open spaces and common areas which are to be provided by the applicant, and that maintenance of such improvements is assured by a means satisfactory to the Commission.
    - b. The cost of installing all streets and necessary utilities has been assured by a means satisfactory to the Commission and/or Township Board.
    - c. The final plan for any phase is in conformity with the overall comprehensive plan of the entire neighborhood acreage. Any changes or amendments requested shall terminate the overall planned unit development approval until such changes and/or amendments have been reviewed and approved as in the instance of the preliminary submittal.
  - S. Following approval of a final planned unit development submittal by the Commission, the developer may begin processing the plat through the Township Board in conformance with the Land Division Act or the condominium plan through the Commission and Township Board in conformance with the Condominium Act and subdivision provisions of this Ordinance.

**Section 88.05 Appeals:**

The decision of the Commission to approve, approve with conditions or deny a planned unit development application shall be final. No decision or condition related to a planned unit development submittal shall be taken to the Board of Appeals.

**Section 88.06 Fees:**

Fees for the review of a conceptual, preliminary or final planned unit development submittal shall be in accordance with the schedule of fees adopted by resolution of the Township

Board. Before final approval is granted, the cost of review fees shall be paid for by the applicant/developer.

## **Article 94: Site Plan**

### **Section 94.01 Purpose:**

It is recognized by this ordinance that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets: that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this ordinance requires site plan review by the Commission under the provisions of a Special Use Permit and provides for the option of site plan review by the administrator.

### **Section 94.02 Site Plan Review:**

- A. Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. A demand for appeal before the Appeals Board shall include a site plan drawn according to the specifications of this article. The administrator shall review the site plan prior to issuing a land use permit, or the administrator shall transmit the site plan to the Commission for their review.
- B. There shall be three levels of site plans, for different complexities of proposed land uses:

1. A Basic Site Plan (Section 94.04), for dwellings, additions to dwellings, and construction of accessory structures to dwellings. These site plans shall only be subject to review by the Administrator.
  2. A Medium Site Plan (Section 94.05), for any permitted use – which is not a dwelling. These site plans shall be reviewed by the Administrator and the Commission.
  3. A Detailed Site Plan (Section 94.06), for any Special Use or Planned Unit Development. These site plans shall be reviewed by the Administrator and the Commission.
- C. Whenever possible site plan review by the administrator and Commission shall be coordinated and done simultaneously with other reviews by the Administrator and Commission on the same application.

**Section 94.03 Optional Sketch Plan Review:**

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the administrator and/or commission. The sketch plan shall be superimposed on an aerial photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission’s agenda if the sketch is to be reviewed by the Commission.

**Section 94.04 Required Data for a Basic Site Plan**

The Basic Site Plan shall be a sketch, drawn to scale, or superimposed on an aerial photo, or superimposed on a survey, of the parcel. The following shall be shown on the Basic Site Plan:

- A. The property, identified by parcel lines and location and size.
- B. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
- C. The scale, north arrow
- D. Natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over twenty-five (25%) percent, beach, sand dunes, drainage, and similar features.
- E. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings, and square footage of floor space.
- F. The proposed driveway, if any.
- G. Show any changes or modifications required for any applicable regularity agencies approvals.

(Site plan or design plan changes required after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this ordinance for minor adjustments or amendments to Special Use Permits.)

**Section 94.05 Required Data for a Medium Site Plan:**

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use.

- A. All the data required for a Basic Site Plan, spelled out in Section 94.04 of this ordinance.
- B. The parcel’s legal description.

- C. Boundary dimensions of natural features such as woodlot, water bodies, wetlands, high-risk erosion areas, slopes over twenty-five (25%) percent, beach, sand dunes, drainage and similar features.
- D. Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage, and retention lines.
- E. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size, and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking and snow storage areas.
- F. Any proposed alterations to the topography and other natural features shall be indicated.
- G. Any proposed location of connections to existing utilities and proposed extensions thereof.
- H. A description of the proposed development.
- I. A vicinity map showing the location of the site in relation to the surrounding street system.

**Section 94.06 Required Data for a Detailed Site Plan:**

A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet, nor less than one (1) inch equals two-hundred(200) feet, and of such accuracy that the commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The commission, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor or community planner (or, if acceptable to the commission, owner or other qualified individual). Unless so waived, all site plans shall include the following information:

- A. All the data required for a Basic Site Plan, spelled out in Section 94.04 of this ordinance and for a Medium Site Plan, spelled out in Section 94.05 of this ordinance.
- B. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
- C. The location, proposed finished floor and grade line elevations.
- D. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
- E. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site;
- F. Topography information based on USFS datum, or selected on-site elevations. More detailed information may be required where the commission determines that the site and use warrant a more critical review of topography.
- G. Generalized soil analysis data, which may include data prepared by the Manistee County Soil Conservation District or Manistee County Planning Department regarding the soil and their adaptability to the use. More detailed information may be required where the commission determines that the site and use warrant a more critical review of soils.
- H. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.

**Section 94.07 Required Data for Site Plan Involving Special Groundwater Protection Provisions:**

- A. Applicability of this additional site plan content for groundwater protection: Facilities which use or generate hazardous substances (except (1.)) fuel stored in a fuel tank which is part of a motor vehicle for purpose of use by that vehicle’s motor, (2.) materials in a five (5) gallon, or smaller, pre-packaged sealed container and is for purposes of resale and located inside a retail establishment):
  - 1. In quantities greater than one-hundred (100) kilograms (approximately two-hundred twenty (220) pounds) per month or ninety-five (95) liters (approximately twenty-five (25) gallons) per month, whichever is less, or
  - 2. Stores greater than one-hundred (100) kilograms (approximately two-hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons), whichever is less shall be subject to site plan review requirements.
- B. In addition to all the data required for a Basic Site Plan set forth in Section 94.04, a Medium Site Plan set forth in Section 94.05, or a Detailed Site Plan set forth in Section 94.06, whichever is applicable; the following shall also be shown in the site plan:
  - 1. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
  - 2. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste of storage, collection of contaminated stormwater or wash water, and all similar uses.
  - 3. Location of exterior and interior drains, on-site sewage systems, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
  - 4. Location of all water wells on the site and within one-hundred fifty (150) feet surrounding the parcel’s property boundaries.
  - 5. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
  - 6. Submission of the “Hazardous Substances Reporting Form for Site Plan Review.”
  - 7. Submission of the “State/County Environmental Permits Checklist.”
  - 8. If the area covered by the site plan includes territory within a Wellhead Protection Overlay Zone submit a site plan review prepared by a Manistee County Groundwater Staff Review Group (c/o Manistee County Planning Department). The site plan review report shall be a written document reporting on a county review of the same site plan prepared for this section. If the area covered by the site plan does not include territory within a Wellhead Protection Overlay Zone, a site plan review report prepared by the Manistee County Groundwater Staff Review Group may be submitted at the option of the applicant or may be required at the option of the commission or administrator, which is applicable.

**Section 94.08 Submission of a Site Plan:**

Three (3) copies of a site plan shall be submitted with a zoning permit application to the administrator. In the case where a committee of the commission or the commission is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the administrator.

**Section 94.09 Review for Completeness:**

The administrator shall review the site plan received to insure it is complete, and contains all the elements required by this ordinance. Such findings shall be done concurrently with similar required findings that a zoning application is complete.

- A. If the site plan is not found to be complete, the administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.

- B. If the site plan is found to be complete, the administrator shall:
1. Only as applicable, forward copies of the site plan to the Township's engineer, County Road Commission, County Planning & Soil and Erosion Control Department, County Drain Commissioner, District 10 Health Department and the Michigan Department of Transportation, for their recommendations to be subsequently forwarded with the site plan, and
  2. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
  3. Determine if the site plan is to be reviewed and acted upon by the Appeals Board, and then forward the copies of the site plan to each member of the Appeals Board a week prior to their meeting, or
  4. Determine if the site plan is to be reviewed and acted upon by the Commission or a committee of the commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of the commission (or a committee of the commission) a week or more prior to the commission's meeting.

**Section 94.10 Standards for Site Plan Review:**

The following standards shall be used by the commission and administrator to review site plans:

- A. All applicable regulations of this ordinance which apply generally to all districts, and all applicable regulations of this ordinance which apply to the specific zoning district, to any conditions imposed with the granting of a special use permit or variance, shall be shown on the site plan as being complied with.
- B. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the administrator, commission or appeals board upon review of the site plan.
- C. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Township and designed in compliance with any applicable federal and state statute, Township and county ordinance.

**Section 94.11 Approval and Compliance:**

- A. In cases where the administrator reviews the site plan pursuant to Section 94.02; within seven (7) days of the site plan being found complete, as specified in Section 94.09, the commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- B. The action shall be recorded in a record of the zoning application and shall be filed with the administrator. The administrator or commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or commission mutually agrees, the time limit may be extended.

**Section 94.12 Conditions of Site Plan Approval:**

- A. A site plan can be approved with conditions necessary to comply fully with the intent of this ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.
- B. Reasonable conditions may include conditions necessary to:

1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
  2. Protect the natural environment and conserve natural resources and energy,
  3. Insure compatibility with adjacent uses of land, and
  4. Promote the use of land in a socially and economically desirable manner.
- C. Conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity, and the community as a whole.
  2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

**Section 94.13 Security Requirement:**

- A. To insure compliance with the site plan and ordinance and any conditions, limitations or requirements imposed by the administrator or commission as necessary to protect 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, the administrator or the commission may require:
1. A cash deposit,
  2. Certified check,
  3. Irrevocable bank letter of credit or
  4. Surety bond
- In an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the administrator or commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the estimated cost of the required conditions, requirements for which the security is designed to insure compliance with.

**Section 94.14 File Copies:**

At least two (2) copies of the site plan, all accompanying documents, record of approval, list of conditions, and security shall be kept by the Township for its records.

**Section 94.15 Land Use Permits:**

No land use permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 *et.seq.* shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

**Section 94.16 Amendment of Site Plan:**

An application may be considered to amend an existing site plan, and shall be handled in the same manner for the initial site plan review prescribed by Section 94.01 *et.seq.* of this ordinance. By mutual agreement between the Township and applicant, minor substantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the special use permit.

## **Article 98: Amendments, Validity and Penalties**

### **Section 98.01 Amendments:**

#### **A. Imitating Amendments, Fee**

1. The Township Board may, from time to time, on recommendations from the Planning Commission, amend, modify, supplement or revise the district boundaries or the provisions and regulations established in this ordinance whenever the public necessity or convenience or the general welfare require such amendment.
2. Amendments may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment.

3. Fees: Except for the Township Board, or the Planning Commission, the petitioner or petitioners requesting an amendment shall, at the time of requesting an amendment, pay a filing fee in an amount set from time to time by resolution of the Township Board.
4. Request for Zoning Amendment: Any request for adoption of a zoning amendment initiated by one or more property owners shall include the following information:
  - a. The name and address of the applicant and of the owner(s) (if different) of the land(s) proposed to be re-zoned (if applicable).
  - b. The street address(es) or other common description of the land(s) proposed to be re-zoned (if applicable).
  - c. Legal description(s) of the land(s) proposed to be re-zoned (if applicable).
  - d. A description of the amendment proposed:
    - i. Present zoning classification of the land(s) proposed to be re-zoned and the requested zoning classification of the land(s) proposed to be re-zoned; or
    - ii. The present text of the specific section(s) of the ordinance proposed to be amended and the requested text amendment(s) to the specific section(s) of the ordinance.

#### B. Amendment Procedure

1. The procedure for making amendments to this ordinance shall be in the manner prescribed by Public Act 110 of 2006, as amended.
2. The Planning Commission shall consider each proposal for amendment in terms of the factors authorized by the Michigan Zoning Enabling Act, including but not limited to compliance with the current Township adopted plans, the particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Planning Commission may recommend additions or modification to the amendments as originally proposed.
3. When a request for amendment (including a PUD which is handled as an amendment) is initiated and has been initially reviewed by the Planning Commission, the Zoning Administrator shall cause notification of the request and a public hearing to be given in accordance with Section 98.02.B.4 and the Michigan Zoning Enabling Act.
4. Notice requirements for text amendment to Zoning Ordinance:
  - a. Not less than fifteen (15) days before the date for the public hearing set by the Planning Commission to consider the proposal for amendment of this Ordinance, the Planning Commission shall:
    - i. Publish notice of the hearing in a newspaper of general circulation in Marilla Township.
    - ii. Mail notice of the public hearing, by regular first class mail to each electric/pipeline public utility company, telecommunication service provider and railroad operating with the Township, and manager of each airport within the Township, which has registered with the Township Clerk for the purpose of receiving notice of public hearings regarding zoning matters.
    - iii. Mail notice of the public hearing, by regular first class mail, to the clerk, and chief elected officials or supervisor of any township, village or county government having property within one (1) mile of the property where the text change will have effect.
  - b. Post notice of the public hearing at the Marilla Township Hall at least eighteen (18) hours before the scheduled time of the public hearing if the

- public hearing is not set for the Planning Commission's regular meeting date.
- c. The form of notice published, mailed and/or posted under Section 98.02B.4. shall:
    - i. Describe the nature of the proposed text amendment and that the final outcome of the amendment may be different from that which is being requested.
    - ii. State the time and place for the hearing at which the proposed text amendment will be considered.
    - iii. Indicate the time and place written comments on the proposed text amendment will be received.
    - iv. State the times and places copies of the proposed text amendment may be examined.
    - v. For members of the Planning Commission only, a copy of the request for the zoning amendment, the draft of the zoning amendments and supporting documents in the record.
  - d. The affidavits of publication, mailing and posting for all notices shall be filed with the Township Clerk and copies of the same maintained by the Planning Commission.
5. Notice Requirements for Amendment to Re-Zone Property:
- a. Not less than fifteen (15) days before the date set for the public hearing set by the Planning Commission to consider the proposal for amendment of this Ordinance, the Planning Commission shall:
    - i. Publish notice of the hearing in a newspaper of general circulation in Marilla Township.
    - ii. Mail notice of the public hearing, by regular first class mail, to each of the following:
      - 1) The applicant requesting the re-zoning
      - 2) The owner(s) of the property(ies) to which the re-zoning applies, if different
      - 3) If the re-zoning is for less than eleven (11) adjacent properties: The owners of all real property within three-hundred (300') feet of the property(ies) for which the re-zoning has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in Marilla Township or not.
      - 4) If the re-zoning is for less than eleven (11) adjacent properties: The occupants of any structures within three-hundred (300) feet of the property(ies) for which the re-zoning has been requested, regardless of whether the owner and property is located in Marilla Township or not. Notification need not be given to more than one (1) occupant of a structure, except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the

- structure who shall be requested to post the notice at the primary entrance to the structure.
- iii. Mail notice of the public hearing, by regular first class mail to each electric/pipeline public utility company, telecommunication service provider and railroad operating within the Township, and manger of each airport within the Township, which has registered with the Township Clerk for the purpose of receiving notice of public hearings regarding zoning matters.
  - iv. Mail notice of the public hearing, by regular first class mail, to the clerk and chief elected officials or manger of any township, village or county government having property within one (1) mile of the property where the text change will have effect.
- b. Post notice of the public hearing at the Marilla Township Hall at least eighteen (18) hours before the scheduled time of the public hearing if the public hearing is not set for the Planning Commission's regular meeting date.
  - c. Form of notice published, mailed and/or posted under Section 98.02.B.4, shall:
    - i. Describe the nature of the proposed zoning amendment (re-zoning) and that the final outcome of the amendment may be different from that which is being requested.
    - ii. State the time and place for the hearing at which the proposed amendment (or re-zoning) will be considered.
    - iii. Indicate the time and place written comments on the proposed amendment (or re-zoning) will be received.
    - iv. State the times and places copies of the proposed amendment (or re-zoning) may be examined.
    - v. For members of the Planning Commission only, a copy of the request for the zoning amendment (or re-zoning), the draft of the zoning amendments, and supporting documents in the record.
  - d. The affidavits of publication, mailing and posting for all notices shall be filed with the Township Clerk and copies of the same maintained by the Planning Commission.
6. Any person receiving notice pursuant to Section 98.02.B.4, or B.5 may choose to submit material to the Planning Commission. Such submission shall be delivered to the Planning Commission at or before the hearing on the zoning amendment. Such submissions shall be considered comments and advice to the Planning Commission.
  7. [Conditional Re-Zoning: Reserved]
  8. Hearing and Findings
    - a. The Planning Commission shall hold a public hearing to receive input on the proposed zoning amendment.
    - b. Following the hearing, the Planning Commission shall consider each proposal for amendment to the ordinance (including a re-zoning). The Planning Commission may recommend any additions or modifications to the original amendment proposed. The Planning Commission will review each proposed amendment to determine if:
      - i. It is consistent with the Township Master Plan upon which this Ordinance is based.

- ii. Whether all of the uses allowed under the proposed re-zoning would be compatible with other zones and uses in the surrounding area.
  - iii. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested re-zoning.
  - iv. Whether the uses allowed under the proposed re-zoning would be equally or better suited to the area than uses allowed under the current zoning of the land; and
  - v. Any other relevant standards set forth in the Michigan Zoning Enabling Act.
9. Submit Recommendation to County Planning Commission: After the Planning Commission holds its public hearing and makes its findings, as described in Section 98.02.B.8, the Planning Commission shall submit to the County Planning Commission the:
  - a. Text of the proposed amendment to the Zoning Ordinance; and
  - b. Any proposed amendment to the zoning map(s);For advisory review and recommendation.
10. Submit Recommendation to the Township Board: After the Planning Commission holds its public hearing and makes its findings, as described in Section 98.02.B.8, and after receipt of any recommendations from the County Planning Commission (or after the expiration of thirty (30) days following the County Planning Commission's receipt of the Township Planning Commission's recommendation if no comments or recommendations from the County Planning Commission are received), the Planning Commission shall submit to the Township Board the following:
  - a. A summary of the comments received at, or prior to, the public hearing,
  - b. The text of the proposed amendment to the Zoning Ordinance,
  - c. Any amendment to the Zoning map,
  - d. Any recommendations from the County Planning Commission.
11. Action by the Township Board: After receiving the Planning Commission's recommendation for any amendment to the Zoning Ordinance or zoning map, the Township Board shall, at a regular or special meeting called for that purpose, consider the recommendations submitted by the Planning Commission and will vote upon the adoption of the proposed amendment(s). The Township Board may, on its own initiative, elect to hold an additional public hearing regarding any proposed amendment(s) and shall be required to hold such a public hearing upon request of any property owner requesting the same by certified mail to the Township Clerk. Notice of any such public hearing shall be given in the manner as required by Section 98.02.B.4 or B.5, as appropriate. If no additional public hearing is requested or required, the Township Board shall either:
  - a. Disapprove the proposed amendment, with no further action by the Planning Commission;
  - b. Approve the proposed text, in ordinance form, with or without permissible amendments;
  - c. Refer proposed change(s) or departure(s) from the proposed text of the amendment back to the Planning Commission for further consideration.
12. Referral Back to Planning Commission: In the event the Township Board refers any changes or alterations to the text or substance of the amendments recommended by the Planning Commission back to the Planning Commission, the Planning Commission shall have thirty (30) days after receipt of the proposed

change or departure to consider the Township Board's recommendations and send its second report to the Township Board. Upon receiving the second report from the Planning Commission, the Township Board may adopt, adopt with modifications, or not adopt the proposed amendment.

13. Any vote by the Township Board to adopt any amendment(s) shall be by roll call vote of the majority of the members of the Township Board.

### **Section 98.02 Ordinance Severability:**

This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more sections, subsections, phrases, sentences or clause be declared invalid.

### **Section 98.03 Penalties:**

- A. Nuisance Per Se: Any building or structure which is erected, reconstructed, altered, converted, demolished, maintained, or used to any use of land or premises which is begun, maintained or changed in violation of any provisions of this Ordinance is hereby declared to be a nuisance per se. Each day that a violation exists shall be considered a separate offense.
- B. Authorized Local Official: The Township Zoning Administrator is hereby designated as the authorized local official to issue municipal civil infraction citations.
- C. Violations, Civil Infractions: Any person, including, but not limited to, an individual, partnership, corporation, limited liability company, or other incorporated or unincorporated voluntary association, who violates any provision of this Ordinance and its penalties shall be judicially enforced through the 85<sup>th</sup> Judicial District Court. Enforcement for violations of this Ordinance shall be as follows:
  1. Unless immediate action is necessary upon the determination by the Township Zoning Administrator that there is a danger to the public health, safety, or welfare, the person violating this Ordinance shall be served personally or through first class mail with a notice of violation requiring that the violation be corrected within thirty (30) days of the notice;
  2. Upon failure to correct the violation or in cases when immediate action is necessary, a person violating this Ordinance shall be issued a citation requiring their appearance in the 85<sup>th</sup> Judicial District Court. A person who violates this Ordinance shall be guilty of a civil infraction and shall be fined not less than one-hundred fifty (\$150.00) dollars nor more than five-hundred (\$500.00) dollars, plus costs, per each day of the recurring violation.
- D. Violations, Civil Action: The Township Board, the Township Zoning Administrator, the Board of Appeals, the Attorney for the Township, or any owner or owners of real estate within the Land Use District in which such building, structure or land is situated, may institute a nuisance injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings, to prevent, enjoin, abate, or remove any building or structure or use, which has been erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance.
- E. Cumulative Remedies: The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this Ordinance in a civil infraction proceeding shall not bar a civil action seeking equitable

relief beyond the jurisdiction of the 85<sup>th</sup> Judicial District Court under Subsection C, hereof, arising from the same violation.

**Section 98.04 Conflicting Provisions:**

All Ordinances or parts of Ordinances conflicting with the provisions of this Ordinance are hereby repealed insofar as the same affect this Ordinance.

**Section 98.05 Effective Date:**

The effective date of this Ordinance shall be April 21<sup>st</sup>, 2014.