

**CONWAY TOWNSHIP  
ZONING ORDINANCE**

**As amended July 17, 2021**

**Conway Township  
8015 N. Fowlerville Road  
Fowlerville, MI 48836-1157**

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## ARTICLE 1. PURPOSE

### Section 1.01 Title

This ordinance shall be known and cited as the Conway Township Zoning Ordinance and may hereinafter be referred to as “this ordinance”.

### Section 1.02 Purpose

The purpose of this ordinance is to impose certain regulations and restrictions in order to effectively implement the Conway Township Comprehensive Plan by controlling the use of land, buildings and structures to promote the public health, safety and general welfare of the residents of Conway Township. Zoning districts are established in this ordinance of such number, shape and area, and of such common unity of purpose, adaptability or use, that are deemed most suitable to provide the highest and best use of the land and protect the common rights and interests of all, while promoting wholesome, harmonious and aesthetic development of Conway Township. Regulations and restrictions within this ordinance limit the location, height, bulk, number of stories, size, use and occupancy of dwellings, structures and land for agricultural, residential, commercial or other purposes, with such minimum regulations as are deemed necessary to carry out the provisions of the ordinance.

### Section 1.03 Conflicting Regulations

- A. This ordinance shall be liberally construed in such manner as to best accomplish its purpose. The provisions of this ordinance shall be construed, if possible, in such manner as to make such provisions compatible and consistent with each other, provided that where any inconsistency or conflict cannot be avoided, then the most restrictive of such inconsistent or conflicting provisions shall control and prevail.
- B. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety and general welfare. Any conflicting laws of a more restrictive nature shall overrule the appropriate provisions of this ordinance. Whenever any provision of this ordinance imposes more stringent restrictions than those required by the provisions of any other law or ordinance, the provisions of this ordinance shall govern.

### Section 1.04 Compliance

- A. Except as otherwise provided in this Section, every building and structure erected; every use of any lot, building or structure established; every structural alteration or relocation of an existing building or structure and every enlargement of, or addition to, an

existing use, building or structure occurring after the effective date of this ordinance shall be in full compliance with the provisions of this ordinance.

- B. Hereafter, every building or structure erected, altered or moved, shall be located on a parcel of record.
- C. This ordinance shall promote the gradual elimination of uses, buildings and structures which do not conform to the regulations and standards herein.

#### **Section 1.05 Uses in District**

Permitted and special land uses allowable relative to each zoning district are listed according to that district herein. Any use not expressly listed for a district is prohibited in that district. All special land uses require approval by the Planning Commission, subject to the requirements of Special Land Uses, herein (See Article 13).

#### **Section 1.06 General Responsibility**

The Township Board or its duly authorized representative is hereby charged with the duty of enforcing the provisions within this ordinance. In addition to handling violations of this ordinance pursuant to the Conway Township Municipal Ordinance Violations Bureau Ordinance as a civil infraction, or as otherwise permitted herein, said Board is hereby empowered, in the name of Conway Township, to commence and pursue any and all necessary and appropriate action or proceedings in the District Court and Circuit Court of Livingston County, Michigan, or any other court having jurisdiction, to restrain and prevent any noncompliance with or violation of any of the provisions of this ordinance, and to correct, remedy or abate such nuisance, noncompliance, or violation. It is further provided that any person aggrieved or adversely affected by such a noncompliance or violation may institute suit or join the Township Board in such a suit to abate the same.

#### **Section 1.07 Relationship to Comprehensive Plan**

This ordinance has been developed and designed to complement the Conway Township Comprehensive Plan. The guidelines detailed in that Plan shall be considered and adhered to when zoning changes are requested and made under this ordinance.

#### **Section 1.08 Rules Applying to Text**

- A. Any particular or detailed provision or requirement shall control over any general provision or requirement.



- B. Where any difference of meaning or implication between the text of this ordinance and any caption exists, the text shall control.
- C. The word “shall” is always mandatory and not discretionary.
- D. All words used in the present tense shall include the future; all words in the masculine include the feminine; all words in the singular number include the plural number; and all words in the plural number include the singular number.
- E. Any word or term not herein defined shall have the meaning customarily assigned to them.
- F. All references to laws, rules, regulations, or procedure include any subsequent amendments to these laws, rules, regulations, or procedures.
- G. Where federal or state law conflicts with the provisions of this ordinance, the state or federal law shall govern only to the extent applicable and inconsistent, and any such conflict shall not affect the validity or applicability of the remaining provisions of this ordinance.

#### **Section 1.09 Validity and Severability Clause**

This ordinance and the various articles, sections, subsections, paragraphs and clauses thereof, are hereby declared to be severable. If any article, section, subsection, paragraph or clause is judged unconstitutional or invalid, such ruling shall not affect any other provisions of this ordinance not specifically included in such ruling.

#### **Section 1.10 Enabling Authority**

This ordinance is adopted pursuant to the authority delegated to the Township under the Michigan Zoning Enabling Act (MZEA), 2006 PA 110, MCL 125.3101 et seq., as amended, and the Michigan Planning Enabling Act (MPEA), 2008 PA 33, MCL 125.3801 et seq., as amended.

#### **Section 1.11 Certification and Effective Date**

This zoning ordinance is hereby declared and certified to have full force and effect as previously enacted, and as duly amended in 2009 by the Conway Township Board, Livingston County, State of Michigan, at a meeting of said Board duly called and held on the 18th day of August 2009, and as may be subsequently amended from time to time.



## ARTICLE 2. DEFINITIONS

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**Abandonment.** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

**Abutting.** Having a common border with, or being separated from such a common border by a right-of-way, or easement.

**Accessory Structure.** A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

**Accessory Use.** (See also Home Occupation.) A use that: a) is clearly incidental to and customarily found in connection with a principal building or use; b) is subordinate to and serves a principal building or use; c) is subordinate in area, extent, or purpose to the principal building or use served; d) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or use served; and e) is located on the same lot as the principal building or use served.

**Adult Bookstore.** See definition in Section 13.10(V)(2).

**Adult Cabaret.** See definition in Section 13.10(V)(2).

**Adult Motel.** See definition in Section 13.10(V)(2).

**Adult Novelty Shop.** See definition in Section 13.10(V)(2).

**Adult Theater.** See definition in Section 13.10(V)(2).

**Agriculture.** (See also Farm.) The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

**Agriculture Service Establishment.** Building, structures, lots, parcels or parts thereof which provide services, goods, storage, transportation or other activities directly related to the production of agricultural commodities. An Agriculture Service Establishment may include, but is not limited to: 1.) Farm machinery, sales, service, rental and repair 2.) Grain elevators for storage, drying and sales 3.) Bulk feed and fertilizer outlets and distribution centers 4.) Seed dealership outlets and distribution centers 5.) Grain and livestock truck and cartage facilities 6.) Auctions for livestock 7.) Agricultural products, production and processing operations.

**Agricultural products:** Includes, but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); and maple sap.

**Agricultural Tourism, ag-tourism and/or agri-tourism:** The practice of visiting an agribusiness, horticultural, or agricultural operation, including, but not limited to, a farm, orchard, winery, greenhouse, hunting preserve, a companion animal or livestock show, for the purpose of recreation, education, or active involvement in the operation, other than as a contractor or employee of the operation.

**Agriculturally related products:** Items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream baseddesserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promotingthe farm and agriculture in Michigan and value-added agricultural products and production on site.

**Agriculturally related uses:** Those activities that predominantly use agricultural products, buildings or equipment.

**Airport.** Any area of land, including clear zones, designed and set aside for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

**Alteration.** Any change, addition, or modification in construction of an existing structure.

**Alteration, Structural.** Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizingshall not be considered a structural alteration.

**Automobile Wrecking Yard.** (See also Junkyard.) The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehiclesor their parts.

**Bar or Cocktail Lounge.** (See also Nightclub and Tavern.) Any commercial establishment wherein the principal business is the sale of alcoholic beverages for consumption on the premises and minors are excluded therefrom by law.

**Basement.** That portion of a building that is partly or completely below grade but located so that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling (See Figure 2.4)

**Bed and Breakfast Homestay.** A house, or portion thereof, with one to three guest rooms where breakfast is provided to guests. The operator of the Bed and Breakfast Homestay shall live on the premises.

**Bedroom.** A room in a dwelling unit planned and intended for sleeping, separable from other rooms by a door.

**Billboard.** A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to premises or any use of premises wherein it is displayed or posted.

**Buffer Area.** (See also Screening.) A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

**Building.** (See also Structure.) An independent structure, having a roof supported by columns or walls. (Note: All buildings are considered structures; but all structures may not be buildings.)

**Building Coverage.** (See Lot Coverage.)

**Building Envelope.** The areas of the lot remaining after the minimum setbacks and open space requirements of the zoning ordinance have been met.

**Building Height.** (See Height.)

**Building, Principal.** (See Principal Building.)

**Bureau.** The Municipal Ordinance Violations Bureau, as established by Conway Township's Municipal Ordinance Violations Bureau Ordinance, effective July 15, 2004.

**Campground.** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

**Carry-out Restaurant.** (See Restaurant, and Restaurant, Fast-Food.)

**Cemetery.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**Child Care Center.** A facility other than a private residence for receiving one (1) or more preschool or school age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include a Sunday School, child care in a private residence, foster family home, foster family group home, family day care home, group day care home, or a facility operated by a religious organization where children are cared for while persons responsible for the children are attending religious services.

**Child Day Care Home, Family.** A private residence in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**Child Day Care Home, Group.** A private residence in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**Church or Place of Religious Worship.** A place where religious worship is conducted.

**Clear Vision Zone.** An area near any street intersection or commercial driveway in which fences, wall, shrubbery, signs or other obstructions shall not be permitted within the triangular area formed by the intersection of any street right-of-way lines and a diagonal connecting them at points twenty-five (25) feet from their intersection. (See Figure 6.1.)

**Clear Zone.** The approach surface directly above and adjacent to the approach in a runway. The clear zone extends over 1,000 feet of the runway at a slope of 20:3 feet.

**Clinic.** A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

**Club.** Buildings or facilities owned or operated by a person for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business.

**Cluster Development.** A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space or preservation of environmentally sensitive areas.

**Condominium Unit.** That portion of a condominium project which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

In condominium projects where a condominium unit(s) will consist of a building envelope, the term “condominium unit” shall be equivalent to the term “lot” for purposes of determining compliance with the provisions of this ordinance pertaining to minimum lotsize, minimum lot width, maximum lot coverage, and the like.

**Congregate Housing.** (See also Housing for the Elderly.) A structure containing two or more dwelling units and rooming units limited in occupancy and occupied by persons 55 years and older, their spouses, or surviving spouses, except for room or units occupied by resident staff personnel, providing indoor, conveniently located, shared food preparation service and major dining areas, and may include provision of common recreation, social, and service facilities for the exclusive use of all residents.

**Conservation Areas.** Environmentally sensitive and valuable lands that may be locally or state designated and protected by this entity(s) from any activity that would significantly alter the ecological integrity, balance or character of the lands, except in cases of overriding public interest.

**Conservation Easement.** An easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; or

maintaining existing land uses.

**Contractor's Yard.** A site on which equipment, tools, vehicles, building materials and other appurtenances used in or associated with building or construction are stored. A contractor's yard may include outdoor or indoor storage, or a combination of both.

**Convenience Store.** Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

**Cul-De-Sac.** A local street, one end of which is closed and consists of a circular turn around.

**Day Care Center.** (See Child Care Center.)

**Density.** The number of dwelling units per acre. Maximum density means the maximum number of dwellings permitted without exceeding the minimum lot area or size per dwelling. By way of example only, if a parcel contains 10 acres and the minimum lot area in that district for residences is 2 acres, then the maximum density for the 10 acre parcel would be 5 dwellings.

**Development.** The division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

**District.** (See Zone.)

**Drive-In Facility.** An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

**Drive-In Restaurant.** (See Restaurant, Drive-In and Restaurant, Fast-Food.)

**Driveway.** A means of access for vehicles from a street across a lot or parcel to a parking or loading area, garage dwelling or other structure or area on the same lot.

**Driveway, Shared Private.** A driveway that provides access to two (2), but not more than four (4), single family lots, site condominium units or non-residential principal buildings.

**Dwelling.** A building or portion thereof used exclusively for residential purposes, including single-family, two-family, and multiple-family dwelling, but not including hotels and boarding and lodging houses. The word "dwelling" includes "residence."

**Dwelling, Multi-Family.** A detached residential building containing three or more dwelling units, including what is commonly known as an apartment building, but not including group, row, or townhouses.

**Dwelling, Seasonal.** A dwelling not used for permanent residence and not occupied for more than six months in each year.

**Dwelling, Single-Family, Attached** (group, row, townhouses, condominiums). A building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings.

**Dwelling, Single-Family, Detached.** A residential building containing not more than one dwelling unit entirely surrounded by open space on the same lot.

**Dwelling, Two-Family.** A residential building designed for or occupied exclusively by two (2) families living independently of each other. Also known as a duplex dwelling.

**Dwelling Unit.** One or more rooms arranged as an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

**Easement.** The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

**Easement, Access.** An easement across private land granted to provide access to other land and that does not meet the definition of a private road or shared private driveway.

**Elderly Housing.** (See Housing for the Elderly.)

**Emergency Shelter.** A facility providing temporary housing for one or more individuals who are otherwise homeless.

**Essential Public Services.** (See Public Utility.) The erection, construction, alteration, or maintenance by public utilities for municipal departments, or commissions or boards of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, police call boxes, tower, poles, and other similar equipment or accessories reasonable in connection therewith (not including buildings) for the furnishing of adequate service by such public utilities or municipal departments, commissions or boards for the public health or general welfare, but not including buildings other than buildings which are primarily enclosures or shelters of the above essential service equipment. An essential service shall not include cellular telephone, radio and television towers and facilities.

**Essential Public Service Structures.** Structures necessary for the operation of essential public services. Essential Public Service Structures include but are not limited to: telephone exchange and repeater buildings and towers, electrical station and sub-station buildings, gas regulator stations and regulator buildings as well as other structures and buildings related to essential public services.

**Facade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

**Family.** A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

**Farm or Farmland.** (See also Agriculture.) A parcel of land used for growing or raising agricultural products, including related structures thereon.

**Farm Market/On-farm market:** The sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land, but not including temporary



roadside stands.

**Fast Food Restaurant.** (See Restaurant, Drive-In.)

**Feedlot.** Any tract of land or structure, pen, or corral; wherein cattle, horses, sheep, goats, and swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

**Fence.** Any artificial or natural barrier of any material or combination of materials erected to enclose or screen areas of land.

**Flea Market.** An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

**Floodplain.** Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source.

**Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point.

**Floodway Fringe.** All that land in a floodplain not lying within a delineated floodway. Land within a floodway fringe is subject to inundation by relatively low velocity flows and shallow water depths.

**Floor Area, Gross.** The sum of the gross horizontal areas of the several floors of a building or structure from the interior face of exterior walls, or from the center line of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

**Floor Area Ratio.** Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

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

**Foster Care Family Home, Adult.** A state licensed private home with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

**Foster Care Group Home.** A state licensed private home in which more than four (4) but less than seven (7) minor children, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

**Foster Care Group Home, Adult.** A state licensed facility with the approved capacity to receive not more than twenty (20) adults who shall be provided foster care.

**Foster Care Home, Family.** A state licensed private home with the approved capacity for one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage or adoption, are given care and supervision for 24 hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

**Frontage.** The length of any one (1) property line of a premise, which property line abuts a legally accessible street or right-of-way.

**Front Yard.** (See Yard, Front.)

**Funeral Home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

**Garage, Private.** A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

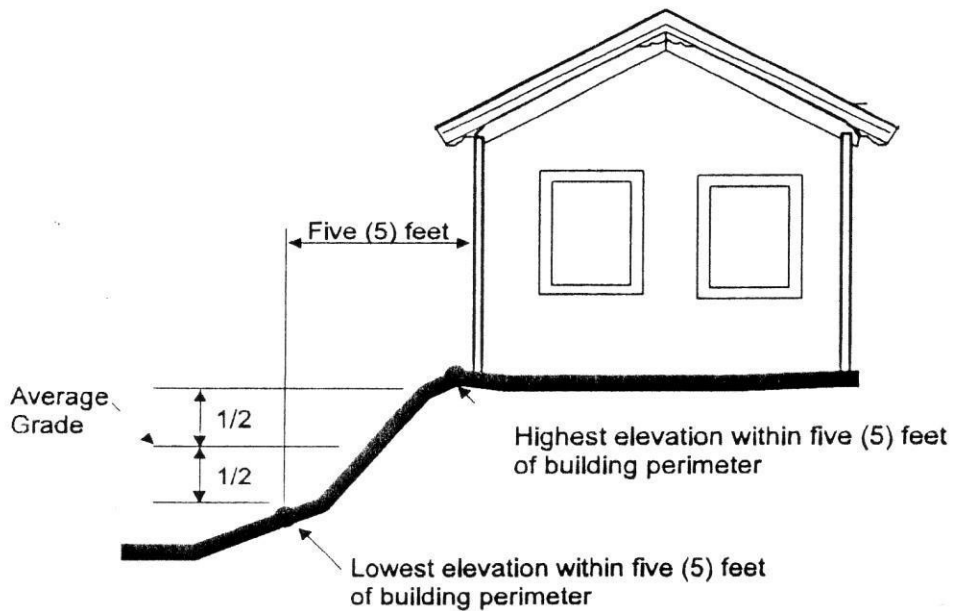
**Garage, Repair.** (See also Service Station.) A building designed and used for the storage, care, repair or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

**Gas Station.** (See Service Station.)

**Glare.** A sensation of brightness within the visual field that causes annoyance, discomfort, or loss in visual performance and visibility.

**Grade.** A ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the wall of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by the arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the building or structure perimeter (See Figure 2.1).

**FIGURE 2.1 MEASUREMENT OF GRADE**



**Gross Leasable Area.** The total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

**Ground Coverage.** (See Lot Coverage.)

**Group Home for the Handicapped.** A dwelling shared by four or more handicapped persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach their maximum potential. The term “group home for the handicapped” shall not include alcoholism or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

**Hazardous Materials.** Substances or materials in a quantity or form which, in the determination of the jurisdiction’s Fire Chief or their authorized representative, poses an unreasonable and imminent risk to the life, health or safety of persons, property or the ecological balance of the environment, and shall include, but not be limited to such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum products or

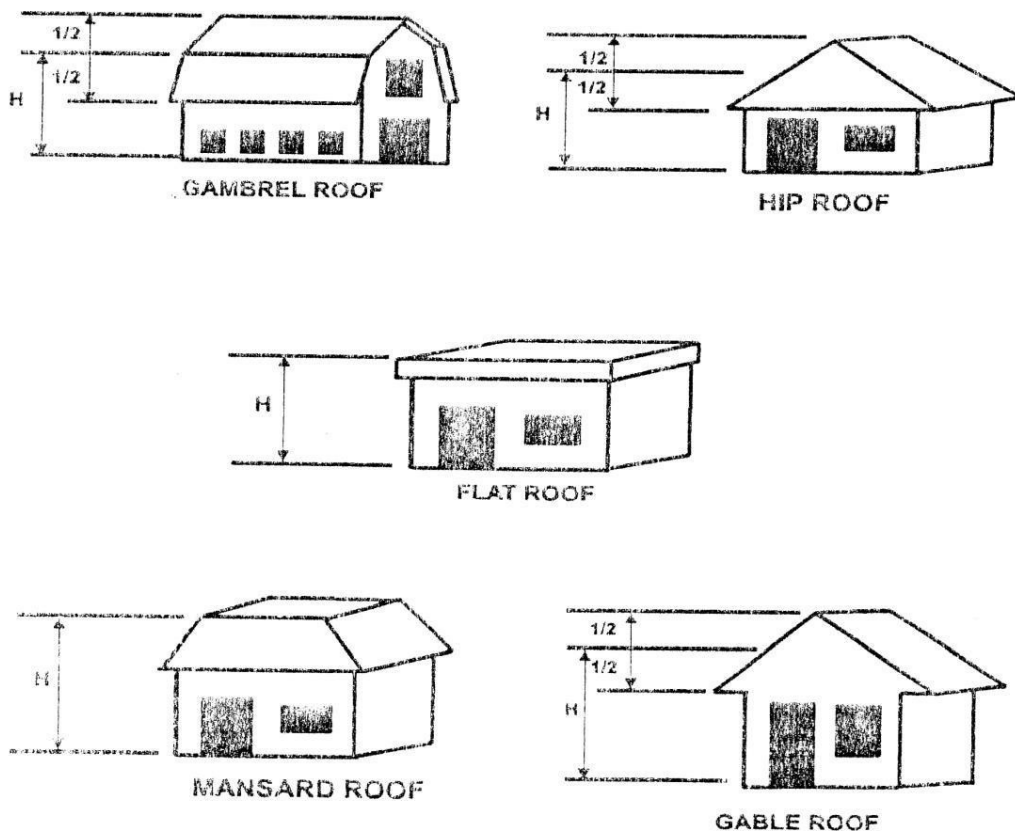
gases, poisons, etiologic (biologic) agents, flammable or corrosives.

**Health Club.** Health club means, but is not limited to, gymnasiums (except public), private clubs (athletic, health or recreational), reducing salons, and weight control establishments.

**Health/Recreation Facility.** An indoor facility including uses such as game courts, exercise equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.

**Height.** The vertical distance from the grade at the center of the front of the building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs. (See Figure 2.2)

FIGURE 2.2 HEIGHT



**Helipport, Limited Use.** Any land area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

**Helipport, Unlimited Use.** Any landing area used by helicopters which, in addition to heliport, limited uses includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie-down areas, hangars, and other necessary buildings and open spaces.

**Helistop, Limited Use.** Any landing area used for taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without prior permission.

**Helistop, Unlimited Use.** Any landing area used for the landing and taking off of helicopters for the purpose of picking up and discharging of passengers or cargo. There are no fueling, refueling, or service facilities.

**Home Occupation.** (See also Accessory Use.) An occupation, profession, activity, or use that is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

**Home Occupation, Rural.** (See also Accessory Use.) An accessory use to a customary farming operation or a nonfarm household located in a rural area designed for gainful employment involving the sale of goods and services that is conducted either from within the dwelling and/or from an accessory building located within five hundred (500) linear feet of the dwelling unit occupied by the family conducting the home occupation.

**Homeowners Association.** A formally constituted nonprofit association, corporation, or limited liability company made up of the property owners and residents of a fixed area which may take permanent responsibility for costs and upkeep of semiprivate community facilities.

**Hospital.** An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

**Hotel.** (See also Motel.) A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms and recreational facilities.

**Housing for the Elderly/Senior Apartments.** (See also Congregate Housing and Long Term Care Facility.) Multi-family dwelling units occupied by persons fifty-five (55) years or older. In the case of double occupancy of a unit, only one (1) resident is required to be at least fifty-five (55) years of age. The housing must be self-contained and physically accessible to elderly citizens.

**Impervious Surface.** Any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surface shall include graveled driveways and parking areas.

**Injection Well.** An oil or gas well from which oil or gas is no longer extracted and into which brine and its naturally occurring accompanying materials are injected in accordance with Federal Underground Injection Control permitting procedures administered by the United States Environmental Protection Agency.

**Junk.** Used machinery, unlicensed and/or inoperative motor vehicles, scrap, iron, steel, other ferrous and nonferrous metals, tool, implements or portions thereof, glass, plastic, cordage, building materials, or other waste that has been abandoned from its original use and may not be used again in its present form or in a new form.

**Junkyard.** (See also Automobile Wrecking Yard.) A parcel of land on which waste material or inoperative motor vehicles and other machinery are collected, stored, salvaged, or sold.

**Kennel, Commercial.** An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. Also any kennel where pets are not owned by the occupant of the principal dwelling unit or where the number of animals exceeds ten (10).

**Kennel, Hobby.** Any building or land designed or arranged for the care of no more than ten (10) dogs, cats or other household pets belonging to the owner or the occupant of the principal dwelling and kept for purposes of show, hunting or as pets.

**Land Division.** (See also Subdivision.) The division of land, lot, tract, or parcel into two or more lots, parcels, plats or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, map, plat, or other instrument.

**Landfill.** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

**Laundry, Self-Service.** A business that provides, home-type washing, drying, or ironing machines for hire to be used by customers on the premises.

**Long Term Care Facility.** (See also Congregate Housing and Housing for the Elderly.) A facility for the transitional residency of elderly or disabled persons, progressing from independent living in single-family units to congregate apartment living where residents share common meals and culminating in a full health and continuing care nursing home facility.

**Lot.** (See also Lot of Record.) A platted parcel of land, land separately described by meets and bounds by deed or land contract, or a condominium unit for which a master deed has been recorded pursuant to the Condominium Act, 1978 PA 59, MCL 599.101 et seq, and which is intended to be separately owned, taxed, developed, or otherwise used.

**Lot Area.** The total horizontal area within the lot lines of a lot.

**Lot, Corner.** A lot abutting on and at the intersection of two or more streets.

**Lot Coverage.** Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

**Lot Depth.** The average horizontal distance between the front and rear lot lines (See Figure 2.3).

**Lot, Interior.** An interior lot is a lot other than a corner lot.

**Lot Line.** A line dividing one lot from another lot or from a street or alley.

**Lot Line, Front.** (See also Yard, Front.) On an interior lot, the lot line abutting a street; on a corner lot, the shorter lot line abutting a street; on a through lot, the lot line abutting the street providing the primary access to the lot; on a lot with street access by a private shared driveway, the interior lot line most parallel to and nearest the street from which access is obtained (See Figure 2.3).

**Lot Line, Rear.** (See also Yard, Rear.) The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three (3) lot lines will not have a rear lot line (See Figure 2.3).

**Lot Line, Side.** (See also Yard, Side.) Any lot lines not a front or rear lot line (See Figure 2.3).

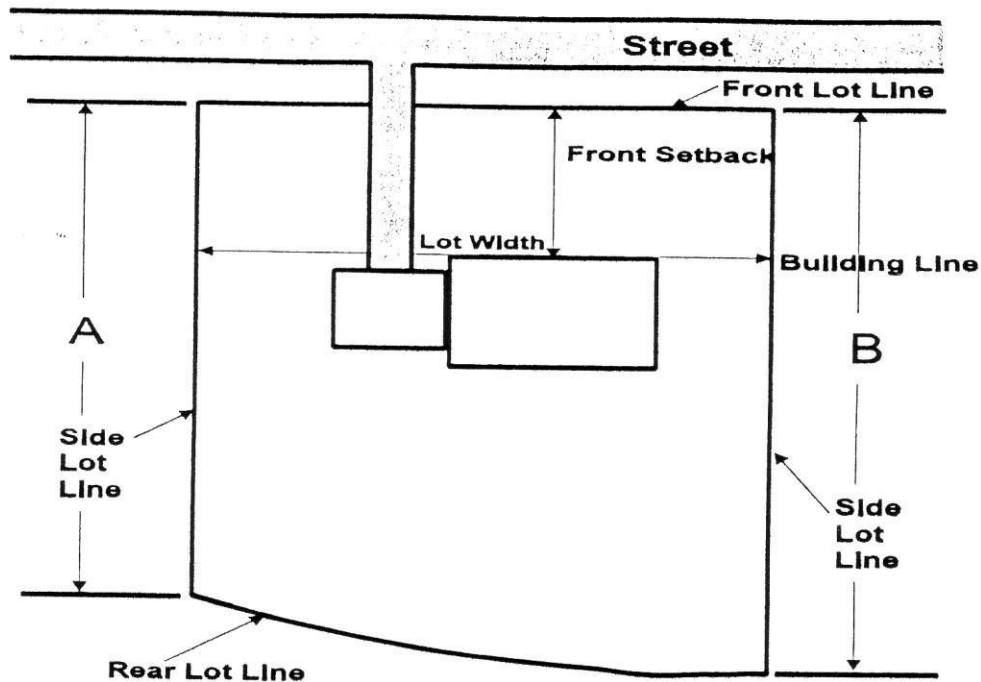
**Lot of Record.** (See also Lot.) A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

**Lot, Substandard.** A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that such lot or parcel was of record as a legally created lot on the effective date of this ordinance.

**Lot, Through.** A lot having its front and rear yards each abutting a street.

**Lot Width.** The horizontal distance between side lot lines, measured at the required front setback line (See Figure 2.3).

FIGURE 2.3 LOT AND BUILDING LINES



$$\text{LOT DEPTH} = \text{DISTANCE A} + \text{DISTANCE B} + 2$$

**Maintenance Guarantee.** (See also Performance Guarantee.) Any security, other than cash, that may be accepted by a municipality for the maintenance of any improvements required by this ordinance.

**Manufactured Home.** A structure transportable in one or more sections, which is built on a permanent chassis and 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 in the structure, or "mobile home" as defined by the Mobile Home Commission Act (MHCA), 1987 PA 96, MCL 125.2301, et seq, as amended.

**Manufactured Home Park.** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street equipment, or facility used or intended for use incident to the occupancy of a manufactured home, or "mobile home park" as defined by the MHCA, MCL 125.2301 et seq.

**Massage Parlor.** See definition in Section 13.10(V)(2).

**Mini-Warehouse.** (See Self-Storage Facility.)



**Mission.** (See Emergency Shelter.)

**Mobil Home.** (See Manufactured Home.)

**Modular Home.** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, meeting all codes and regulations applicable to conventional single-family home construction.

**Motel.** (See also Hotel.) A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one (1) unit, or a motor lodge shall be deemed a motel.

**Nightclub.** (See also Bar or Cocktail Lounge and Tavern.) A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted and includes the term “cabaret.”

**Non-agriculturally related products:** Those items not connected to farming or the farm operation, including but not limited to novelty t-shirts or other clothing, crafts and knick-knacks imported from other states or countries.

**Non-agriculturally related uses:** Activities that are part of an agri-tourism operation's total offerings but not tied to farming or the farm's buildings, equipment, or fields.

**Nonconforming Building or Structure.** Buildings and structures which were lawfully in existence at the time of enactment or amendment of this ordinance and which have been prohibited, regulated or restricted under the terms of this ordinance.

**Nonconforming Lot.** A lot which was lawfully in existence at the time of enactment or amendment of this ordinance and which has been prohibited, regulated or restricted under the terms of this ordinance.

**Nonconforming Use.** A use or activity which was lawful at the time of enactment or amendment of this ordinance and which has been prohibited, regulated or restricted under the terms of this ordinance.

**Nursery, Plant.** Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

**Office.** A building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

**Office Park.** A large tract of land that has been planned, developed, and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics and compatibility.

**Open Space.** An area that is intended to provide light and air, and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playground, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

**Outdoor Storage.** The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than twenty-four (24) hours.

**Parcel.** A continuous quantity of land in the possession of, owned by or recorded as the property of the same person or persons.

**Park.** Any public or private land available for recreational, educational, cultural or aesthetic use.

**Parking Lot.** An area not within a building where motor vehicles may be stored for the purposes of temporary, daily or overnight off-street parking.

**Parking Space.** An unobstructed space or area other than a street or alley that is permanently reserved and maintained for the parking of one motor vehicle.

**Performance Guarantee.** (See also Maintenance Guarantee.) A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

**Person.** The word “person” includes an individual, corporation, limited liability company, partnership, association, governmental entity, or other formal or informal entity.

**Photocopy Service.** (See Print Shop.) A business that reproduces drawings, plans, maps, or other copy by means of blueprinting or photocopying.

**Place of Worship.** (See Church.)

**Planned Development.** (See also Planned Unit Development.) Land under unified control to be platted and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

**Planned Unit Development (PUD).** (See also Planned Development.) A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include street, circulation ways, utilities, buildings, open spaces and other site features and

improvements.

**Principal Building.** A building in which the primary use of the lot on which the building is located is conducted.

**Principal Use.** The primary use of land or structures, as distinguished from a secondary or accessory use.

**Print Shop.** (See Photocopy Service.) A retail establishment that provides duplicating services using photocopy, blueprint and offset printing equipment, including collating of booklets and reports.

**Private Club.** (See Club.)

**Provider.** The entity which is properly licensed by the Federal Communication Commission (FCC) and other appropriate governmental authorities to provide services through wireless communications facilities.

**Public Bath.** See definition in Section 13.10(V)(2).

**Public Utility.** (See Essential Public Services.) Any person, firm, corporation, municipal department, board or commission duly authorized to furnish utilities under federal, state or municipal regulations, to the public; electricity, gas, steam communications, telegraph, transportation or water or sanitary sewer, and the like. A public utility shall not include cellular telephone, radio and television towers and facilities.

**Rear Yard.** (See Yard, Rear.)

**Recreational Vehicle (RV) Park.** Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

**Recycling Center.** A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

**Recycling Collection Point.** A collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

**Residents Association.** (See Homeowners Association.)

**Resort.** A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort shall be self-contained and provide personal services customarily furnished at hotels, including the serving of meals. Buildings and structures in a resort should complement the scenic qualities of the location in which the resort is situated.

**Restaurant.** A retail business that prepares and serves food and beverages primarily to persons seated within the building for consumption on premises. This includes cafes, tea rooms and outdoor cafes.

**Restaurant, Drive-In.** A retail business that prepares and serves food or beverages which are  
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sold to a substantial extent for consumption by customers in parked motor vehicles.

**Restaurant, Fast-Food.** A retail business that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service or prepared, fried or griddled quickly or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table and food is generally served in disposable wrapping or containers.

**Retirement Community.** (See Congregate Housing, Housing for the Elderly, and Long-Term Care Facility.)

**Right-of-Way.** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees or other special use.

**Road, Public.** Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Livingston County Road Commission.

**Road, Private.** An non-public street or road, not maintained by or dedicated to the public which serves two (2) or more separately held parcels or dwelling units and meets the requirements for private roads of this ordinance.

**Satellite Dish Antenna.** A round, parabolic antenna intended to receive signals from orbiting satellites and other sources.

**School.** A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools and high schools.

**Scenic Corridor.** A strip of land on each side of a stream or roadway that is generally visible to the public traveling on such route.

**Scenic Easement.** An easement, the purpose of which is to limit development in order to preserve a view of scenic area.

**Screening.** (See also Buffer Area.) The method by which a view of one site from another adjacent site is shielded, concealed or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

**Seating Capacity.** The actual seating capacity of an area based upon the number of seats or one (1) seat per eighteen (18) inches of bench or pew length. For other area where seats are not fixed, the seating capacity shall be determined as indicated by the Michigan Building Code.

**Self-Storage Facility.** A building or group of buildings, each of which contains one (1) or more individual storage units, each with a separate door and lock and which can be leased on an individual basis.

**Service Station.** (See also Garage, Repair.) Any premises where gasoline and other petroleum products are sold or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted. Service station includes self- service station.

**Self-Service Station.** An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

**Setback.** The required minimum horizontal distance between the building line and the related front, side, or rear property line (See Figure 2.3).

**Shelter.** (See Emergency Shelter.)

**Side Yard.** (See Yard, Side.)

**Site Condominium Project.** A plan or project consisting of not less than two (2) single family units established in conformance with the Condominium Act, 1978 PA 59, MCL 559.101 et seq., as amended

**Site Plan.** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures uses, and principal site development features proposed for a specific parcel of land.

**Slope.** (See Grade.)

**Solar Energy Collector:** A panel or panels and/or other devices or equipment, or any combination thereof, that collect, store, distribute and/or transform solar, radiant energy into electrical, thermal or chemical energy for the purpose of generating electric power or other form of generated energy for use in or associated with a principal land use on the parcel of land on which the solar energy collector is located and, if permitted, for the sale and distribution of excess available electricity to an authorized public utility for distribution to other lands.

1. **Building-Mounted Solar Energy Collector:** A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall or window or other element, in whole or in part, of a building.
2. **Ground-Mounted Solar Energy Collector:** A solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located.
3. **Commercial Solar Energy System:** A utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Commonly referred to as solar farms.

**Special Use.** A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare.

**Specified Anatomical Areas.** See definition in Section 13.10(V)(2).

**Specified Sexual Activities.** See definition in Section 13.10(V)(2).

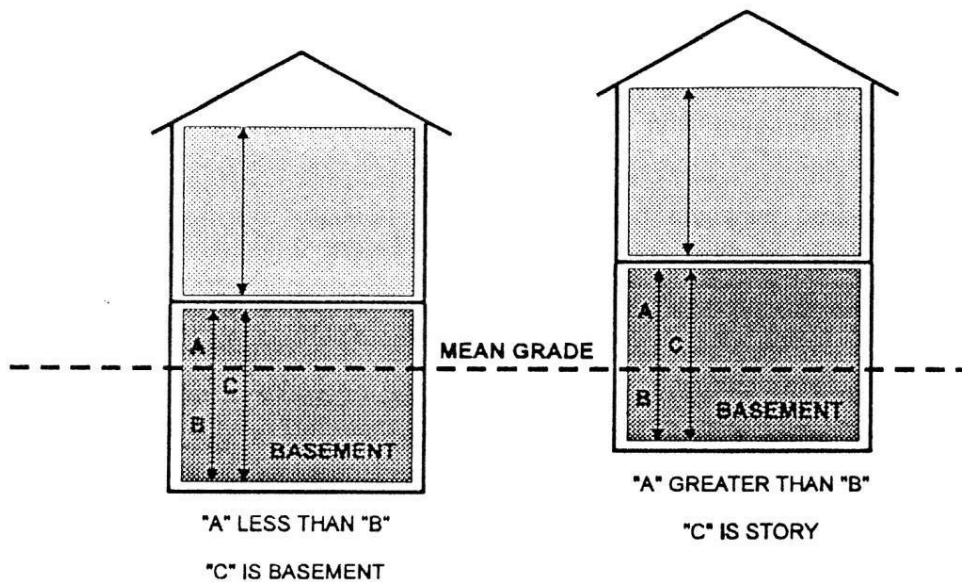
**Stable, Private.** An accessory building in which horses are kept for private use and not for boarding, hire, or sale.

**Stable, Commercial.** A structure or land use where horses are bred, reared, leased, sold,

trained or boarded for remuneration.

**Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling above it. When the distance from the average established grade to the ceiling of a basement partially below grade exceeds the distance from the average established grade to the floor of the basement, the basement partially below grade shall be counted as a story. (See Figure 2.4)

FIGURE 2.4 STORY AND BASEMENT



**Street.** A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform.

- a) Residential access streets have the sole purpose of providing frontage for service and access to private lots. These streets carry only traffic having either destination or origin on the street itself. The elimination of through traffic and the geometric design of the street are means to promote safety and to create a desirable residential neighborhood.
- b) Residential sub collectors are access streets that provide frontage for residential lots and may carry a small amount of residential through traffic collected only from tributary residential access streets.
- c) Residential collectors are streets that conduct and distribute traffic between other residential streets of lower order in the streets hierarchy and higher order streets or major activity centers. This is the highest corner of street appropriate to a residential neighborhood and residential frontage along it should be prohibited or severely restricted.

Higher order streets exist that do not belong within a residential area and should be excluded. These include:

- a) Arterials, which are interregional roads conveying traffic between towns, boroughs, and other urban centers. Efficient movement is the primary function of arterial roads; hence, private access and frontage should be controlled and limited to high volume generators of vehicle trips.
- b) Expressways which are limited access interregional arterial routes (superhighways).

Higher order streets are designed exclusively for unrestricted movement, have no private access, and intersect only with selected arterial highways or major streets by means of interchanges engineered for free-flowing movement.

**Structure.** (See also Building.) Anything constructed or erected, the use of which requires location on the ground or attachment to something having a permanent location on the ground, excepting driveways, concrete slabs, patios, children's play sets, light poles, and flag poles.

**Taxi Dance Hall.** See definition in Section 13.10(V)(2).

**Tavern.** (See also Bar or Cocktail Lounge and Nightclub.) Any commercial establishment wherein the principal business is the sale of beer and wine for consumption on the premises and minors are excluded therefrom by law.

**Temporary Sale.** (See Flea Market.)

**Through Lot.** (See Lot, Through.)

**Value-added agricultural product:** the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to marketing, agricultural processing, transforming, or packaging, education presentation, activities and tours.

**Warehouse.** A building used primarily for the storage of goods and materials.

**Wetlands.** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Yard.** A required open space on a lot adjoining a lot line, containing only landscaping or other uses as provided by this ordinance.

**Yard, Front.** (See also Lot Line, Front.) A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth.

**Yard, Rear.** (See also Lot Line, Rear.) A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. Rear yard depth shall be measured at right angles to the rear line of the lot.

**Yard, Side.** (See also Lot Line, Side.) A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side yard width shall be measured at right angles to side lines of the lot.

**Zone.** A mapped area within which certain uses of land, premises, and buildings are not permitted and within which certain yards and open spaces are required and certain height limits are established for buildings.



## **ARTICLE 3. ADMINISTRATION AND ENFORCEMENT**

### **Section 3.01 Administration and Administrator**

The provisions of this ordinance shall be administered by the Planning Commission and the Township Board in accordance with the MZEA, 2006 PA 110, MCL 125.3101 et seq., as amended, and the MPEA, 2008 PA 33, MCL 125.3801 et seq., as amended..

The Township Board shall employ a Zoning Administrator or such other official or officials to act as its officer to effect proper administration of this ordinance.

### **Section 3.02 Duties of Zoning Officials**

#### **A. Zoning Administrator.**

1. The Zoning Administrator shall receive and review all applications for land use permits and approve or disapprove such applications based on compliance or non-compliance with the provisions of this ordinance and issue land use permits when there is compliance with this ordinance.
2. The Zoning Administrator shall have the power to make inspection of buildings or premises necessary to carry out their duties in the enforcement of this ordinance.
3. The Conway Township Board may assign the Zoning Administrator with the task of recording all nonconforming uses existing at the effective date of this ordinance for the purpose of carrying out the provisions of Article 18, Nonconforming Structures and Uses.
4. The Zoning Administrator shall receive all applications for site plan review and special use permits which the Planning Commission is required to decide under this ordinance; conduct field inspections and investigations or prepare other informational materials when necessary or desirable so as to assist the Planning Commission in formulating recommendations. The Zoning Administrator shall then implement the decisions of the Planning Commission.
5. The Zoning Administrator shall maintain a map or maps showing the current zoning classifications of all land in the Township, which will conform to the true copy.

6. The Zoning Administrator shall receive all applications for appeals, variance, or other matters which the Zoning Board of Appeals (“ZBA”) is required to decide under this ordinance; conduct field inspections and investigations or prepare other informational materials when necessary or desirable, and otherwise process applications so as to formulate recommendations; refer such applications with recommendations to the ZBA for determination.
7. Under no circumstances is the Zoning Administrator permitted to make changes to this ordinance or to vary the terms of this ordinance in carrying out the duties of the Zoning Administrator.

**B. Township Clerk and Township Board.**

1. The Township Clerk shall notify all applicants requesting site plan review or a special use permit in writing of any decision of the Planning Commission.
2. The Township Board shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, discontinuance of any illegal construction or shall take any other lawful action authorized by this ordinance to ensure compliance with or prevent violations of its provisions.

**C. Planning Commission.**

1. The Planning Commission shall function as the zoning commission for the Township with all of the powers and duties of a zoning commission pursuant to the MZEA, MCL 125.3101 et seq., as amended, and MPEA, MCL 125.3801 et seq., as amended.
2. The Planning Commission shall have such other authority, power, and duties otherwise assigned to it by the Township Board.

**Section 3.03 Land Use Permits**

**A. Permit Required.**

1. The following actions shall not commence until a land use permit has been issued by the Township Zoning Administrator;
  - a. The excavation, alteration or filling of land, except for the conduct of agricultural activity.

- b. The new use or change in use of land, except for the conduct of agricultural activity.
  - c. The new use or change in use of an existing building or structure.
  - d. Construction or expansion of a permanent structure, including parking lots.
2. Except upon a written order of the ZBA, no land use permit shall be issued for any building or structure where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this ordinance.
  3. No building permit shall be issued until the Zoning Administrator has determined that the building, structure or use of land, if constructed or used as planned and proposed, will conform to the provisions of this ordinance, as evidenced by issuance of a land use permit.

**B. Applications for Permits.**

1. Land Use Permits. Applications for land use permits shall be filed with the Zoning Administrator upon forms furnished and approved by the Township Board. The application shall be printed in ink or typewritten, and shall be submitted with information required. Applications shall be accompanied by bankable funds as herein required payable to the Conway Township.
2. Special Land Use Permits. Applications for special land use permits shall be filed with the Zoning Administrator upon forms furnished and approved by the Township Board. The form shall be completed and submitted, along with other materials, to the Planning Commission. The Planning Commission reviews the application and related documents in accordance with Article 13. If the request for a special land use is approved, the Planning Commission shall instruct the Zoning Administrator to issue a special land use permit once all conditions have been satisfied.

**C. Application Requirements.**

1. All applications for land use permits under the provisions of this ordinance shall be accompanied by the signature of the owner(s) of all property affected by the coverage of the permit.

2. Applications for land use permits must be accompanied by the following items, as applicable:
  - a. Attached scale drawing (scale not smaller than 1" to 100') showing the following; dimensions of property, all roads adjacent to property (indicate private or county); easements; lakes and streams; all structures; existing or proposed septic tank and field; existing or proposed well; dimensions from buildings to property line; dimensions of proposed building.
  - b. Include three (3) sets of blueprints. Blueprints must be stamped by the Zoning Administrator prior to submitting to the Livingston County Building Department. This stamp is to state the Township has received a copy of the blueprint, not an approval.
  - c. For signs, attach a drawing showing the dimensions of the sign, and for a wall sign, show the facade to which it will be attached.
  - d. Attach proof of ownership of property.
3. Five (5) copies of a plot plan shall be submitted. The plot plan shall be drawn to scale and shall contain the following:
  - a. The actual shape, location and dimensions of the lot.
  - b. The shape, size and location of all buildings or other structures to be erected, altered or moved, and of any buildings or other structures already on the lot.
  - c. The existing and intended use of the lot and of all such structures upon it, with the number of dwelling units the building is intended to accommodate.
  - d. The signature of the owner of the premises concerned.
  - e. A scale of not less than one (1) inch equal to fifty (50) feet if the subject property is less than three (3) acres in size; and one (1) inch equal to one hundred (100) feet if three (3) acres or more.
  - f. Location of proposed septic fields and wells.
  - g. The location of all existing and proposed parking areas and driveways, with evidence that proper site distance requirements can be met per requirements of the Livingston County Road Commission.

- h. The location and right-of-way widths of all intersecting and abutting roads and public easements.
- i. Dimensions of all lot and property lines showing relationship of subject property to abutting properties
- j. Date prepared, scale and north point.
- k. Name, address and professional title (if any) of person responsible for the preparation of the plot plan.

**D. Voiding of Permit.**

Any land use permit granted under this Section shall become null and void unless the permitted use has been constructively undertaken within six (6) months of the granting of the permit. A six (6) month extension may be granted when requested by the applicant in writing prior to the expiration date and when in the opinion of the Township Board a finding that conditions or circumstances so warrant.

**E. Application Fee.**

The Township Board shall, by resolution, determine and set the application fee to be charged for a land use permit. This fee shall be paid at the time of filing the application. The purpose of the fee is to cover any necessary administrative and inspection costs incurred in connection with the application.

**F. Inspections.**

It shall be the duty of the Zoning Administrator to inspect all properties with land use permits to assure conformance with the intent of the permits.

**G. Certificate of Occupancy.**

A Certificate of Occupancy issued by the Livingston County Building Department may be accepted by the Zoning Administrator as proof of compliance with all structural requirements of the use permit.

**H. Records.**

A complete record and copy of each application for a certificate or permit, and each permit or certificate issued pursuant to the provisions of this ordinance, shall be filed with the Township Clerk and be a part of the township records. Copies of all applications and permits shall be furnished to any person having a proprietary or tenancy interest on the payment of a fee as determined by the Township Board.

### Section 3.04 Enforcement

- A. For interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this ordinance to repeal, invalidate, annul or in any way to impair or interfere with any action taken, offense committed or right to interfere with any action taken, offense committed or right accruing under any existing provision of law or ordinance, other than the above described zoning ordinance or with any rule, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises.
- B. Where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this ordinance shall control.
- C. Nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein. Uses, districts, zoning classifications and permissible activities are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

### Section 3.05 Violations

- A. **Violation a Nuisance.** A use of land or a dwelling, building, or structure, including a tent or recreational vehicle, used, erected, altered or converted in violation of this ordinance or any other ordinance is a nuisance per se, and may be abated by order of any court of competent jurisdiction. The owner or person in charge of the dwelling, building, structure, tent, recreational vehicle, or land is liable for maintaining a nuisance per se.
- B. **Communications.** Any and all buildings or land use activities considered possible violations of this ordinance shall be reported to the Zoning Administrator.
- C. **Separate Offense.** The owner of record or tenant of any building structure, premises or part thereof and any architect, builder, contractor, agent or person who commits, participates in, assists in or maintains any condition in violation of this ordinance, shall be liable for a civil infraction as herein provided. Each day during which a violation continues shall be deemed to be a separate offense. The imposition of any fine or other penalty shall not exempt the violator from compliance with the provisions of this ordinance.

- D. **Civil Infraction.** The Township has enacted The Conway Township Municipal Ordinance Violations Bureau Ordinance which establishes the Bureau for the purposes of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines and costs for such violations. The Zoning Administrator shall handle any violation of this ordinance according to the policies and procedures of the Township and the Bureau then in effect.
- E. **Civil Fines and Costs.** A schedule of civil fines and costs has been established by the Conway Township Ordinance Violations Bureau Ordinance for those persons served with a municipal ordinance violation notice and who admit responsibility. The Township may be entitled to other fines, costs, and attorney fees otherwise provided by law or by this ordinance.
- F. **Remedies.** The Township Board or any interested party may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use. The rights and remedies herein provided are civil in nature, cumulative, and in addition to any other legal remedy.

**Section 3.06 Performances Guarantee; Refund**

- A. To ensure compliance with the provisions of this Ordinance and any conditions imposed by the Township Board, Zoning Board of Appeals, Planning Commission or Zoning Administrator, the Township may require that a deposit, in an amount established by the Township Board, be placed with the Township to ensure faithful compliance.
- B. The amount of the deposit determined by the Board shall be sufficient to cover the estimated cost of the improvements associated with a project for which site plan approval is sought, to ensure compliance, or as otherwise determined by the Board to be necessary to further the health, safety, and welfare of the community, including but not limited to the costs of completing or removing the improvement, administrative expenses, legal fees, and court costs. If applicable, the applicant shall provide an itemized schedule of estimated costs to complete all improvements or otherwise ensure compliance.
- C. The deposit may be in the form of a cash deposit, irrevocable letter of credit, certified check, cash escrow, or similar instrument acceptable to the Township. If the applicant posts a letter of credit, the credit shall require only that the Township present the credit with a sight draft and an affidavit signed by the Township Attorney attesting to the Township's right to draw funds under the credit. If the applicant posts

a cash escrow, the escrow instructions shall provide that the escrow agent shall have a legal duty to deliver the funds to the Township whenever the Township Attorney presents an affidavit to the agent attesting to the Township's right to receive funds whether or not the applicant protests that right.

- D.** The applicant shall sign an affidavit holding the Township harmless against any claim for damages should the actions or inactions of the applicant cause the Township to subsequently use the performance guarantee to remove any structure or discontinue any use pursuant to the provisions of this ordinance or any permit issued.
- E.** The Township shall refund any deposit held under this section upon the determination by the Zoning Administrator, or such other official designated by the Board, that the permittee or petitioner is in compliance.



## ARTICLE 4. AMENDMENTS

### Section 4.01 Initiation of Amendments

The Township Board may amend, modify, supplement or revise the zoning district boundaries shown on the official zoning map or the provisions of this ordinance. An amendment to the zoning district boundaries contained on the official zoning map may be initiated by the Township Board, the Planning Commission or by the owner or owners of property which is the subject of the proposed amendment. Amendments to the provisions of this ordinance may be initiated by the Township Board, the Planning Commission or by petition of one or more property owners in Conway Township. All proposed amendments shall be referred to the Planning Commission for review and recommendation before the Township Board may take action.

### Section 4.02 Application Procedure and Fees

The procedures, requirements, and provisions for amending this ordinance shall be in accordance with the MZEA, MCL 125.3101 et seq, as amended. Except those initiated by the Township Board or Planning Commission, all proposed amendments shall require submission of a completed application (Petition) to the Zoning Administrator on a form supplied by the Township and payment of an application fee. The Township Board shall establish fees for zoning amendment petitions. The fee shall be paid at the time the petition is filed and no part of such fee shall be returnable to the petitioner. Fees shall not be required for amendments requested by a government agency or body.

### Section 4.03 Amendment Petition

- A. Map Amendments.** If a petition involves an amendment to the official zoning map or rezoning, the petitioner shall submit the following information to the Zoning Administrator:
1. A legal description of the property, including a street address and the tax code number(s).
  2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
  3. The name and address of the petitioner.
  4. The petitioner's interest in the property. If the petitioner is not the owner of record, the name and address of the owner(s) of record, and that owner(s) signed consent to the petition.
  5. Signature(s) of the petitioner(s) and owner(s), certifying the accuracy of the information.

6. Identification of the zoning district requested and the existing zoning classification of the property.
7. A vicinity map showing the location of the property and adjacent land uses and zoning classifications.
8. A written description of how the requested rezoning meets the Criteria for Amendment (Section 4.06).
9. Any additional information deemed appropriate by the Planning Commission.

**B. Text Amendments.** If a petition involves a change in the text of the zoning ordinance, the petitioner shall submit the following information to the Zoning Administrator:

1. A detailed statement of the petition, clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
2. Name and address of the petitioner.
3. Reasons for the proposed amendment, including how the amendment meets criteria the Township has established for such purposes.

#### **Section 4.04 Public Hearing and Notice**

Upon initiation of an amendment, a public hearing on the proposed amendment shall be scheduled before the Planning Commission. Notice shall be given in accordance with the MZEA, MCL 125.3103, as amended. The Township Board may hold additional hearings it deems necessary in accordance with the MZEA, MCL 125.3103, as amended.

#### **Section 4.05 Action Procedures**

- A.** Following the conclusions of the public hearing or hearings, the Planning Commission shall identify and evaluate all factors relevant to the petition and shall make a recommendation on the amendment petition based on its consideration of the criteria contained in Section 4.06, or any other applicable criteria. The recommendation shall be sent to the Livingston County Planning Commission for review pursuant to the MZEA, MCL 125.3103, as amended.
- B.** Upon receipt of findings and recommendation from the Planning Commission and the County Planning Commission, the Township Board shall consider the proposed amendment.

- C. In the case of an amendment to the text of this ordinance, the Township Board may modify or revise the proposed amendment as recommended by the Planning Commission, prior to enactment. In the case of an amendment to the official zoning map, the Township Board shall approve or deny the amendment, based on its consideration of the criteria contained in Section 4.06.

#### **Section 4.06 Criteria for Amendment of the Official Zoning Map**

In reviewing a petition for an amendment to the official zoning map, the Planning Commission and Township Board shall consider the following criteria in making its findings, recommendations and decision.

- A. Whether or not the proposed zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
- B. The precedents and the possible effect of such precedents, which might result from approval or denial of the petition.
- C. The capacity of Conway Township or other government agencies to provide any services, facilities, or programs that might be required if the petition were approved.
- D. Effect of approval of the petition on the condition and value of property in Conway Township or in adjacent communities.
- E. Compatibility of the site's physical, geological, and hydrological and other environmental features with the host of uses permitted in the proposed zoning district.
- F. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, density, nature of use, traffic impacts, aesthetics and infrastructure.
- G. Relationship of the petition to the adopted Conway Township Comprehensive Plan.
- H. Where a rezoning is reasonable given the above criteria, a determination that the requested zoning district is more appropriate than another district or amending the list of permitted or special uses within a district.

All findings of fact shall be made a part of the public records of the meetings of the Planning Commission.

#### **Section 4.07 Notice of Amendment**

Following Township Board approval of a petition to amend under this Article, notice of the amendment shall be published in accordance with the MZEA,

MCL 125.3103 et seq, as amended.

**Section 4.08 Conformance to Court Decree**

An amendment for the purpose of conforming to a provision of a decree issued by a court of competent jurisdiction as to any specific lands in the Township may be adopted by the Township Board and the notice of amendment published without referring the amendment to any other board or agency.

**Section 4.09 Conditional Rezoning.**

**A. Intent.**

It is recognized that there are certain instances where it would be in the best interests of Conway Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the MZEA (MCL 125.3405), by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

**B. Application and Offer of Conditions.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this ordinance.
5. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this ordinance.

that would require site plan approval under the terms of this ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this ordinance.

7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

**C. Planning Commission Review.**

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 4.06 of this ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

**D. Township Board Review.**

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 4.06 of this ordinance. If the Township Board considers amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board may, in accordance with Section 401 of the MZEA (MCL 125.3401), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

**E. Approval.**

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall: (a) be in a form recordable with the Livingston County Register of Deeds or, in the alternative, be

accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board; (b) contain a legal description of the land to which it pertains; (c) contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land; (d) incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions (if any such documents are incorporated by reference, the reference shall specify where the document may be examined);

(e) contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded with the Livingston County Register of Deeds; and (f) contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the official zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Livingston County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

**F. Compliance.**

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this ordinance and the Township shall have all available remedies including declaring a nuisance per se and seeking judicial abatement as provided by law.
2. No permit or approval shall be granted under this ordinance for any

use or development that is contrary to an applicable Statement of Conditions.

3. The approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (a) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (b) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.
4. If approved development and/or use of the rezoned land does not occur within the time frame specified, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
5. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the MZEA, MCL 125.3101, et seq.
6. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Livingston County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

**G. Amendment.**

During the time period for commencement of an approved development or use or during any extension granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

**H. Failure to Offer Conditions.**

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this ordinance.



## ARTICLE 5. ZONING BOARD OF APPEALS

### Section 5.01 Purpose of Board

The Zoning Board of Appeals (“ZBA”) is established to ensure that the objectives of this ordinance may be more fully and equitably achieved, that a means be provided for competent interpretation of this ordinance, that reasonable flexibility be provided in the application of this ordinance, and that the public health, safety and welfare is protected.

### Section 5.02 Establishment of Board

There is hereby established a ZBA, which shall perform its duties and exercise its power as provided for in the MZEA, MCL 125.3101 et seq, as amended.

### Section 5.03 Membership, Terms of Office

**A. Membership.** The ZBA shall consist of three (3) members, as follows:

1. The first member shall be a member of the Planning Commission;
2. The remaining two (2) members shall be representative of the population distribution and of the various interests present in the Township. These members shall be appointed by the Township Board.

An employee or contractor of the Township Board shall not serve as a member or employee of the ZBA. A member of the Township Board may serve as a member of the ZBA, but shall not serve as a chairperson.

**B. Tenure.** The term of the first member of the ZBA shall be limited to that person’s tenure of office on the Planning Commission. The remaining members shall be appointed for a term of three (3) years. When members are first appointed, the appointments may be for less than three (3) years to provide staggered terms. If a member of the Township Board is appointed to the ZBA, the term of that person to the ZBA shall be limited to his or her term on the Township Board.

**C. Vacancies.** Any vacancy for an unexpired term shall be filled within one (1) month after the vacancy occurred and the new appointee shall fill out the remainder of the unexpired term. When a member’s term expires, a successor shall be appointed not more than one (1) month after the expiration of the term.

- D. **Alternate Members.** The Township Board may appoint not more than two alternate members for the same term as regular members to the ZBA. The alternate member may be called to sit as regular members of the ZBA in the absence of a regular member if a regular member is absent from or unable to attend 1 or more meetings of the ZBA. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the ZBA.
  
- E. **Performance of Duty.** Members of the ZBA shall be removable by the Township Board for non-performance of duty or misconduct in office, upon filing of written charges and after public hearing before the Township Board. 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 shall constitute misconduct of office.
  
- F. **Business.** The ZBA shall not conduct business unless a majority of the members of the ZBA are present.
  
- G. **Conflict of Interest.** The ZBA member who is also a member of the Planning Commission, and any ZBA member who is also a member of the Township Board, shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or the Township Board; however, the member may consider the vote on other unrelated matters involving the same property.

**Section 5.04 Powers, Duties**

The ZBA possesses the limited and specific powers and duties specifically stated in this Section, and as prescribed by the MZEA, MCL 125.3101 et seq, as amended, which include:

- A. **Administrative Review.** To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator, Planning Commission or any other administrative official in carrying out or enforcing any provisions of this ordinance.
  
- B. **Interpretation of Zoning Ordinance.** To make any interpretation involving the zoning text and map, including but not limited to, the defining of ambiguous words and phrases and determination of boundaries.
  
- C. **Variances.**

1. To authorize a variance from the construction, structural

changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other non-use related standard of this ordinance where the strict application of the regulations enacted would result in practical difficulties to the owner of such property.

2. To grant a variance, the ZBA must find that practical difficulties exist, the intent and purpose of this ordinance will be observed, public safety will be secured, and substantial justice will be done. For practical difficulties to exist, the ZBA must make the following findings:
  - a. There are exceptional characteristics of the property that make compliance with the dimensional or other requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district.
  - b. The characteristics that make compliance with the dimensional or other requirements difficult are related to the premises for which the variance is sought, and not some other location.
  - c. There is not a lesser relaxation of the requirements than that applied for that would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
  - d. The characteristics that make compliance with the dimensional or other requirements difficult have not been created by the current or previous owner.
  - e. The proposed variance will not be harmful to or alter the essential character of the area in which the property is located.
3. The ZBA may attach conditions regarding the location, character, and other features as it may deem reasonable in furtherance of the purposes of this Ordinance. The ZBA shall state the grounds upon which it justifies the action.
4. Prior to granting a variance, all other existing infractions of this ordinance or other Township ordinances relating to the property shall be resolved.

The ZBA shall not have jurisdiction over appeals of decisions affecting special land uses, planned unit developments, and open space communities.

## Section 5.05 Terms of Appeals

- A. **Who May Appeal.** An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, and board of bureau of the township, county or state affected by a decision of the Zoning Administrator or Planning Commission.
- B. **Time; Notice of Appeal.** Appeals shall be taken within such times as shall be prescribed by the ZBA by general rule, by filing with the Zoning Administrator, the ZBA, and the body or officer from whom the appeal is taken, a "Notice of Appeal" specifying the grounds thereof. The ZBA may require the appellant, or applicant requesting special action by the ZBA, to submit all necessary surveys, plans or other information necessary for the ZBA to thoroughly investigate the matter before it. The Zoning Administrator or the Planning Commission shall transmit to the ZBA the record upon which the action being appealed was taken.
- C. **Fee for Appeal.** The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the ZBA. At the time the notice for appeal is filed, said fee shall be paid to the Township Clerk.
- D. **Appeal Stays Proceedings.** An appeal shall stay all proceedings in furtherance of the action unless the Zoning Administrator certifies to the ZBA after Notice of Appeal is filed that by reason of the facts stated in such certification, a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. If a stay would cause imminent peril to life or property, the proceedings shall not be stayed except by the issuance of a restraining order by a court of record.

## Section 5.06 Procedures

- A. **Meetings.** The ZBA shall adopt its own rules of procedure as may be necessary to conduct its meetings properly. All meetings of the ZBA shall be held at the call of the chairman, and at such times as the ZBA may determine. All meetings of the ZBA shall be open to the public.
- B. **Majority Vote.** The concurring vote of a majority of members of the ZBA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or Planning Commission or to decide in favor of the applicant any matter upon which they are now required to pass under this ordinance or to effect any variation in this ordinance.
- C. **Records.** The ZBA shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote indicating such fact, and shall keep records of its findings proceedings and other official actions. Meeting minutes shall be attached to the

standard forms required of persons appealing, and this information shall be promptly filed in the office of the Township Clerk as a public record. A copy of each ZBA decision shall be sent promptly to the applicant or appellant and to the Zoning Administrator.

**D. Secretary and Counsel.** The Township Clerk shall be responsible for providing secretarial services for the ZBA. Legal consultation is available to the ZBA through the Township Board, upon request and subject to Township Board approval and action.

**E. Hearings; Notice.**

1. When a Notice of Appeal has been filed in proper form with the ZBA, the Township Clerk shall immediately place the said request for appeal upon the calendar for hearing, and shall cause notices to be sent in accordance with the requirements of the MZEA, MCL 125.3101 et seq. as amended.
2. The ZBA may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. At the hearing, a party may appear in person or by agent or attorney. The Township Board shall be given notice of such hearing by the Township Clerk.

#### **Section 5.07 Decisions of the Zoning Board of Appeals**

**A. Determinations.** The ZBA may reverse or affirm, wholly or partly, or may modify the order requirement, decision, or determination as in its opinion ought to be made in the premises. To that end, the ZBA shall have all the powers of the officer or body from whom the appeal was taken and may issue or direct the issuance of a permit. The ZBA may impose such conditions or limitations in granting such appeal or application as it may deem necessary to comply with the spirit and purpose of this ordinance.

**B. Return.** The ZBA shall return a decision upon each case within thirty (30) days after a request or appeal is filed, unless further time is agreed upon by the parties concerned.

**C. Finality.** Any decision of the ZBA shall not become final until the expiration of five (5) days from the date of entry of such order, unless the ZBA shall find immediate effect is necessary for the preservation of property or personal rights, and shall so certify for the record.

**D. Approval Period.**

1. Exceptions, variances, and other determinations shall be vested in the affected property, and shall pass with title to such

property. No time limit shall be made a part of such determinations.

2. Where the determination of the ZBA provides for the issuance of a land use permit, such permit shall be obtained within six (6) months of ZBA approval. If no permit is obtained within the six (6) month period, the approval shall become void and of no effect.

**E. Resubmittal.** An application for a variance which has been denied wholly or in part by the ZBA shall not be re-submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.

**F. Appeal.** The decision of the ZBA shall be final. A person having an interest affected by the zoning ordinance; however, may appeal to the circuit court pursuant to the requirements of the MZEA, MCL 125.3101 et seq, as amended.

## ARTICLE 6. GENERAL AND SUPPLEMENTARY REGULATIONS

### Section 6.01 Establishment of Districts

For the purpose of the ordinance, Conway Township is hereby divided into the following zoning districts:

<u>Zoning District</u>	<u>Article</u>
AR Agricultural Residential District	7
R Residential District	8
MHP Manufactured Housing Park District	9
C Commercial District	10
I Industrial District	11

For purposes of innovative and flexible residential development, Conway Township has established the following overlay district applicable to the AR Agricultural Residential District and the R Residential District:

<u>Overlay District</u>	<u>Article</u>
Open Space Community	12

### Section 6.02 Boundaries of Districts

- A. Boundaries.** The boundaries of the districts listed above are established as shown on Map 1, Zoning Ordinance Map, Article 20 of this ordinance. The map shall bear the date adopted or amended and hereby made a part of this ordinance. The official zoning map shall be maintained by the Zoning Administrator or appointed staff. Unless otherwise shown, the boundaries of the districts are property lines, section lines, the center lines of streets and roads or such lines extended, and the limits of the Township of Conway.
- B. Street Rights-of-Way.** All street rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such street right-of-way. Where the centerline of a street serves a district boundary, the zoning of such street, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.
- C. Zoning of Vacated Areas.** Whenever any street, road or other public way within Conway Township is vacated by official governmental action, the lands within the boundaries thereof attach to and become a part of lands adjoining such street, road, or public way. These lands shall automatically and without further governmental action be classified in the same zoning district as the property to which it attaches.
- D. Zoning of Filled Lands; Use of Waters.** Whenever any fill is placed

in any water body (subject to MDEQ approval, if applicable), the lands thus created shall automatically and without further governmental action be subjected to the same zoning regulations as are applicable to adjoining lands, and shall be used for the same purposes as are permitted under this ordinance for such adjoining lands.

**Section 6.03 Districts and Uses**

- A. Use of Land.** Land contained within any zoning district in Conway Township shall not be used for any purpose other than those uses specifically set forth in the zoning districts, except as otherwise permitted by the Nonconforming Uses regulations in Article 18.
- B. Permitted Principal Uses.** Uses shall be permitted by right only if specifically listed as permitted principal uses in the various zoning districts. All other uses are prohibited. In addition, certain permitted principal uses shall be subject to specific additional requirements as noted in the Supplementary Regulations Section of this Article.
- C. Accessory Uses and Buildings.** Accessory uses are permitted if they are customarily incidental to a principal use that is permitted in the various zoning districts. Such accessory use shall be clearly incidental to the permitted principal use. Certain accessory uses shall be subject to additional restrictions contained herein.
- D. Special Land Uses.** Special land uses are permitted as listed in the various zoning districts. All special land uses are subject to the provisions of Article 13 Special Land Uses and Article 14 Site Plan Review Requirements.
- E. Principal Building, Structure or Use.** No zoning lot may contain more than one (1) principal building, structure or use unless specifically provided for elsewhere in this ordinance as in the case of a single family attached development or multiple family development.
- F. Required Street Frontage.**
  - 1. Any parcel of land which is to be occupied by a use or building, shall have frontage on and direct access to either a public street, public road, or private road easement, except waterfront lots which shall have direct access to either a public street, public road, or private road easement and as otherwise permitted by the shared driveway provisions of this ordinance.
  - 2. Developments which result in parcels fronting on cul-de-sacs shall limit the splits so that all parcels are contiguous to the road right-of-way and are the minimum width at the front building line. All parcels fronting on a cul-de-sac shall have a minimum frontage of sixty-six (66) feet at the front lot line.



so as to interfere with the temporary use of any property as a voting place in connection with a township or other public election.

#### **Section 6.04 Supplemental Regulations Pertaining to All Buildings**

- A. Means of Ingress and Egress From a Building.** Each principal building shall have at least two (2) means of ingress and egress, consisting of doors, one of which shall be at the front and the other at the rear or side of the structure.
- B. Restoring Unsafe Buildings.** Nothing in this ordinance shall prevent the strengthening or restoration to a safe condition of any part of any building or structure that is declared unsafe by the County building official or is required to comply with a lawful order regarding such building condition.
- C. Construction and Construction Time Limit.**
  - 1. All construction work including electrical, structural, plumbing, heating and cooling must be installed in conformance with the standards of materials and methods as set forth by the State of Michigan Construction Codes.
  - 2. All buildings for which a permit for construction is issued shall be completed within one (1) year from the date of issuance of the building permit. If an application for extension of this time limit is filed with the Township Clerk, the Township Board may grant an extension of time at its discretion.
- D. Unlawful Building.** If any building or part thereof is used, erected, altered, abandoned or occupied contrary to law or the provisions of this ordinance, such building shall be declared a nuisance and may be required to be vacated or removed.
- E. Occupied Spaces.** Outside stairways, fire escapes, fire towers, porches, platforms, balconies, boiler flues and other projections shall be considered as part of the building and not as part of the yards or courts of unoccupied spaces.
- F. Classification of Moved Buildings.** Any building moved within a district and placed upon a foundation, or any building moved into a district from outside the district, shall be considered new construction and shall be subject to all the limitations and requirements relating to uses, building size, construction, type, permits and certificates.
- G. Building Grades.**
  - 1. Any building shall be located at such an elevation that a sloping grade shall be maintained to cause the flow of surface water to run away from the building. This shall not prevent the grading of a yard space to provide sunken or terraced areas, provided

proper means are constructed and maintained to prevent the runoff of surface water onto adjacent properties.

2. Yards surrounding buildings shall be graded in such a manner so as to meet existing codes and finished grade requirements and to preclude an increase in volume or intensity of normal runoff of surface water onto adjacent property.

**Section 6.05 Supplemental Regulations Pertaining to Residential Dwelling Units in the Agricultural Residential and Residential Districts**

**A. Construction Compliance.**

1. All dwelling units in Conway Township shall be constructed according to the construction, fire, health and safety codes enforced by the Livingston County Building and Health Departments, and the State of Michigan.
2. The size of each dwelling unit shall conform to the minimum floor space requirement of the district in which it is located. Garage space whether in an attached or detached garage shall not be considered as part of a dwelling for meeting area requirements.
3. The site shall conform to all the zoning requirements of the district in which it is located.
4. No more than one (1) principal building may be permanently established on a lot or parcel, unless specifically provided for elsewhere in this ordinance as in the case of single family attached development or multiple family development.
5. The minimum width of any front, side or rear horizontal dimension shall not be less than twenty-four (24) feet (excluding porches, breezeways and garages).
6. The dwelling shall have a roof with at least a four (4) in twelve (12) pitch; roof over-hang of not less than six (6) inches on all sides; and a roof drainage system concentrating roof drainage along the sides of the dwelling.
7. In the event the dwelling unit is a mobile home, it shall also meet the following additional requirements:
  - a. It shall only be located in a Manufactured Housing Park District as defined in Article 9 of this ordinance.
  - b. It shall conform to all of the requirements for units located in Manufactured Housing Park Districts as defined in Article 9 of this ordinance.

- c. It shall conform with all construction, and all electrical, fire, safety, heating and plumbing requirements contained in the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as amended, and it shall bear a label or certificate stating compliance to that standard. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- d. Where a dwelling located in a manufactured housing park district is required by law to comply with any Federal or State standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the building code in effect in the Township, then in that event, the Federal or State standard shall apply.
- e. Compliance to the above U.S. standard does not waive compliance to any of the zoning requirements in Conway Township including but not limited to mobile homes being located only in Manufactured Housing Park District.
- f. The towing assembly, wheels and any undercarriage used for transporting the unit shall be removed and the attachment areas treated to blend with the exterior surface of the unit.
- g. The exterior covering material shall extend to the ground except that, when a solid concrete or masonry perimeter foundation is used, the exterior covering material need not extend below the top of the foundation.
- h. The unit shall be anchored according to manufacturer's recommended practices. If no specifications are available, the anchorages required by the Michigan Mobile Home Commission shall be used.
- i. The dwelling shall contain 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.

- j. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
- k. The dwelling shall be connected to a public sewer and water supply or to private facilities approved by the Livingston County Health Department.

8. Each dwelling unit shall be connected to separate individual water and sewage facilities, or available public sewer and/or water systems. Multiple family dwelling units, single family attached dwelling units, senior housing complexes and other residential developments containing densely arranged dwelling unit configurations shall use appropriately sized water and sewage systems following the requirements in the Livingston County Sanitary Code.

**B. Dwellings Without Basements.** Any dwelling without a basement shall provide a room for the housing and maintenance of household utilities such as heating, ventilation and air handling mechanical systems.

**C. Outdoor Storage.** Except where expressly permitted in other provisions of this ordinance, the outdoor storage or parking of any aircraft, semi-truck cab or trailer, antique or racing automobile, boat, float, raft trailer, trailer coach, camping trailer, motorized home, demountable travel equipment of the type adaptable to automobiles or light duty trucks, and other equipment or vehicles of a similar nature shall be prohibited for a period greater than forty-eight (48) hours unless the following minimum conditions are met:

- 1. All such vehicles or equipment shall be placed within a completely enclosed building or located behind the front face of the principal building and no closer than five (5) feet to any side or rear lot line.
- 2. Storage or parking shall be limited to a lot or parcel of land upon which located an inhabited dwelling unit is located and the vehicle or equipment is owned by the occupant.
- 3. Trailer coaches and other vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water or gas.
- 4. No more than three (3) trailers, one of which is a travel trailer, may be parked on a lot of record which is zoned and used

for residential purposes. Trailers shall not be any closer than five (5) feet to any side or rear lot line. Ownership of said apparatus must be in a name of a member of the immediate family of the lot's owner, tenant or lessee.

5. Parked or stored campers, travel trailers, snowmobiles trailers, boats and the like shall be located only in the rear yard and the side yard, and addition, shall conform to the required yard space requirements for accessory buildings in the zoning district where located.
6. All campers, travel trailers, boats and the like shall be locked or secured at all times when not in use.
7. All recreational equipment which normally requires a license or registrations must be kept in good repair.
8. The parking or storage of a mobile home on property not located in a licensed mobile home park is specifically prohibited.

**Section 6.06 Supplemental Regulations Pertaining to Accessory Buildings and Structures**

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

- A. Relation to Principal Building.** Accessory buildings, structures and uses are permitted only in connection with, incidental to and on the same lot with a principal building, structure or use which is permitted in the particular zoning district, except an accessory building or structure may be permitted on a separate lot in conjunction with activity of a permitted use under same ownership in the AR Agricultural Residential District. On parcels of two (2) acres or less, the accessory gross floor area cannot exceed one hundred fifty percent (150%) of the total square footage of the gross floor area in the principal residence.
- B. Permit Required.** Any accessory building of two hundred (200) square feet or more shall require a building permit from the Livingston County Building Department.
- C. Structurally Attached to Main Buildings.** Where the accessory building is attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building.
- D. Yard Locations.** Detached accessory buildings and structures shall be located in the rear yards outside of the minimum required yard area except:

1. Private residential garages may be allowed in the side yard, adjacent to the residential structure, but not forward of the front building.
  2. Detached parking garages or carports may be permitted in the non-required front yard of attached residential dwelling complexes provided that the Planning Commission approves the site plan, elevation drawings and construction material. In reviewing such structures, the Planning Commission shall consider the impact of headlights and views from nearby public streets and adjacent properties.
  3. Where the lot dimensions make rear yard locations impossible, the Planning Commission may waive restrictions on front yard placement of detached accessory buildings and structures.
- E. Number of Accessory Structures.** On AR Agricultural Residential and R Residential zoned lots of two (2) acres in area or less, only one attached garage or accessory building or structure and one detached garage or accessory buildings and structures shall be permitted. On AR Agricultural Residential and R Residential zoned lots of greater than two (2) acres, the number of accessory buildings and structures shall be regulated by the maximum coverage requirements of Section 6.06(I) unless accessory buildings and structures are for active agricultural conduct and are eligible for an agricultural waiver under 6.06(F) below.
- F. Number of Agricultural Accessory Structures.** On AR Agricultural Residential zoned lots of twenty (20) acres or greater with active agricultural pursuits, the number of accessory buildings and structures shall be regulated by agricultural waiver. Such waiver may be obtained from the Conway Township Zoning Administrator. A waiver shall be obtained from said Administrator prior to building construction. All other applicable requirements of this ordinance shall apply to AR Agricultural Residential zoned lots of twenty (20) acres or greater.
- G. Height of Non-Farm Accessory Structures.** No accessory non-farm building or structure shall exceed the maximum heights permitted in the R Residential District (See Section 8.04), except for antennas as noted in Section 6.17.
- H. Height of Farm Accessory Structures.** No accessory farm building or structure shall exceed the maximum heights permitted in AR Agricultural Residential District (See Section 7.04).
- I. Maximum Coverage.** On all R Residential zoned lots and AR Agricultural Residential zoned lots of greater than two (2) acres, the combined square footage of all accessory buildings, structures and uses, excluding swimming pools, may occupy a maximum of twenty percent (20%) of the total yard area.

- J. Required Setbacks for Detached, Accessory Residential Buildings and Structures (over 200 square feet total floor area).** Detached accessory residential buildings and structures over two hundred (200) square feet of floor area shall be at least ten (10) feet from the principal building to which they are accessory, at least twenty-five (25) feet from any public street right-of-way line, at least fifteen (15) feet from any side or rear lot line, at least twenty-five (25) feet from any shoreline or drain easement, at least twenty-five (25) feet from the edge of any wetland, and at least forty (40) feet from any principal building on an adjacent property. In no instance shall any accessory building or structure be located within a dedicated easement or road right-of-way.
- K. Required Setbacks for Detached Accessory Residential Buildings and Structures (less than 200 square feet total floor area).** Detached accessory residential buildings and structures less than two hundred (200) square feet of floor area shall be at least ten (10) feet from the principal building to which they are accessory, at least ten (10) feet from any public street, right-of-way line, at least ten (10) feet from any side or rear lot line, at least twenty-five (25) feet from any shoreline or drain easement, and at least twenty-five (25) feet from the edge of any wetland. In no instance shall an accessory building or structure be located within a dedicated easement or road right-of-way.
- L. Required Setbacks for Detached Accessory Farm Buildings and Structures.** Regardless of size or use, an accessory farm building or structure shall be setback a minimum of one hundred (100) feet from the principal building to which they are accessory. Accessory farm buildings or structures shall also be set back at a distance equal to one hundred (100) feet from the center line of a secondary roadway and one hundred ten (110) feet from the center line of a primary roadway. In addition, an accessory farm building or structure shall be setback at least fifty (50) feet from any shoreline or drain easement and at least twenty-five (25) feet from the edge of any wetland. In no instance shall an accessory building or structure be located within a dedicated easement or road right-of-way.
- M. Waterfront Lots.** Where a residential lot abuts a water body, docks and boat storage buildings and structures for the use of the individual residential property owners are permitted as an accessory use to a residential use. Such docks and boat storage buildings or structures may be located in the water but not nearer than twenty-five (25) feet from any side lot line.
- N. Accessory Structures Constructed Prior to or Without a Principal Building.** Notwithstanding any provision to the contrary in Section 6.06(A), an accessory building and/or structure may be constructed prior to or without a principal building or dwelling provided that a plot

plan is submitted to the Zoning Administrator that demonstrates to the Zoning Administrator's satisfaction that such proposed accessory building or structure will not inhibit the future construction of a principal building in compliance with the requirements of this Zoning Ordinance. No commitment to build any future principal building shall be required. If an approval is obtained for an accessory building or structure to be constructed prior to or without a principal building, the location of the accessory building or structure must allow for a future principal building to be located in front of the accessory building or structure, unless otherwise permitted by this ordinance, and shall meet the required setbacks.

- O. Occupancy of Accessory Structures or Basements.** Buildings erected after the effective date of this ordinance such as garages or accessory buildings shall not be used or occupied for dwelling purposes at any time.
  
- P. Design Standards.** Accessory buildings in the R Residential district shall be harmonious with the height, character and scale of surrounding buildings and topography. Exterior surfaces shall also be similar to that of surrounding structures. Metal pole barns or structures with agricultural or industrial metal finishes may not be permitted if they are not compatible with the surface finish materials of surrounding structures.

#### **Section 6.07 Supplemental Regulations Pertaining to Yards**

##### **A. Permitted Yard Encroachments.**

- 1. Paved terraces, patios and uncovered porches shall not be subject to yard requirements, provided the following minimum conditions are met:
  - a. The paved area is unroofed and without walls or other forms of solid continuous enclosure that links the paved area to the principal building.
  - b. The highest finished elevation of the paved area is not over three (3) feet above the average surroundings finished grade area. No portion of any paved area is closer than five (5) feet to any lot line or projects into any minimum required front yard area.
  - c. Such paved areas may have constructed wind breaks or walls not over six (6) feet high and not enclosing more than one-half (1/2) the perimeter of the paved area.
  
- 2. Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area provided the porch is not higher



than one (1) story and is erected on supporting piers. The porch shall not be closer than eight (8) feet to any side or rear lot line.

3. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.
4. Special structural elements such as cornices, sills, chimneys, gutters and similar structural features may project into any minimum required yard up to a maximum of two and one-half (2 ½) feet.
5. Fire escapes, outside stairways, and balconies, if of open construction, may project into minimum required yard areas up to a maximum of five (5) feet.
6. Swimming pools shall not be subject to yard requirements, provided the following minimum conditions are met:
  - a. Yard areas with a swimming pool, spa, hot tub or similar device (below ground or above ground) shall erect and maintain a fence or enclosure approved by the Zoning Administrator.
  - b. Fencing is to be a minimum of four (4) feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of three (3) feet above the ground. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured. Above ground swimming pools with sides of four (4) feet or more above grade, do not require fencing but do require a removable access ladder that lifts for safety. A spa or hot tub with a locking cover shall not require a fence.
  - c. Swimming pools, spas, hot tubs, similar facilities and surrounding decks, walks or similar accessories with an elevation measured from the mean grade at any point adjacent to such facility of two (2) feet or less shall be at least ten (10) feet from any lot line. Where the elevation is greater than two (2) feet above grade at any point, the setback shall be at least fifteen (15) feet from any public street right-of-way or lot line.
  - d. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard or in any easement.
  - e. No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner

as to create an annoyance to surrounding properties.

f. No overhead wiring shall be above a swimming pool.

- B. Yard Exceptions.** In cases where less than the full required future right-of-way width of a street has been deeded or dedicated, the minimum required yard on any properties abutting thereon shall be measured from the future required right-of-way line. The street width used for calculating the right-of-way shall meet Livingston County Road Commission requirements.

## **Section 6.08 Supplemental Regulations Pertaining to Height**

- A. Permitted Exceptions for Structural Appurtenances.** The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses.

1. Appurtenances that are ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers and flagpoles provided that such structural elements do not exceed twenty (20) percent of the gross roof area.
2. Appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwells, penthouses, ventilators, aerials and fire and base towers, provided the total height of the structure or the building and appurtenance are one hundred twenty-five (125) feet or less from the ground. The foregoing permitted exceptions shall not be for human occupancy or dwelling.
3. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above the district's height limitation, provided that such structural extensions shall have no window openings.
4. Solar energy systems shall be exempted from the computation of a building's height.

- B. Permitted Exceptions for Non-Residential Structures.** The following kinds of non-residential structures shall be permitted to exceed the height limitations for authorized uses.

1. Grain elevator and silo structures for agricultural operations are permitted up to one hundred twenty-five (125) feet. Farm structures are permitted up to forty-five (45) feet.
2. Wind power electrical generating towers, provided each front, side and rear yard minimum is increased one (1) foot for each one (1) foot of additional height above the district requirement.

3. Public utility structures, but not including communication towers, except upon receipt of a special use permit.
4. Other non-residential permitted structures may be erected to a height in excess of that specified provided each front, side and rear yard minimum increases one (1) foot for each one (1) foot of additional height above the district requirement.

## **Section 6.09 Temporary Uses and Buildings**

All temporary uses and buildings permitted by this Section are allowed in all districts unless otherwise provided. Such uses and buildings shall be authorized by a temporary land use permit issued by the Zoning Administrator unless otherwise provided.

### **A. Temporary Uses and Buildings for Non-Dwelling Purposes.**

Temporary uses and buildings not to be used for dwelling purposes may be placed on a lot or parcel of record and occupied only under the following conditions.

1. **Natural Disasters or Fire Damage.** A temporary building may be occupied for non-dwelling purposes during renovation of a permanent building damaged by a fire or natural disaster, such as a tornado, flood, or severe storm. The temporary building must be removed when repair of the damage is complete. The Zoning Administrator may issue a temporary land use permit for up to ninety (90) days. The Board may renew the permit up to ninety (90) additional days upon the applicant's showing of substantial progress towards completion of the repair and the submission of an appropriate compliance bond. Thereafter, the permit may be renewed at the discretion of and upon conditions set by the Board.
2. **New Construction.** Temporary buildings incidental to construction work, except for instances where one (1) single-family residence is being constructed. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed for more than one (1) year.
3. **Temporary Real Estate Offices.** Temporary real estate offices are permitted within approved development projects. No cooking or sleeping accommodations shall be maintained. The permit shall be valid for not more than one (1) year, but is renewable. The office shall be removed upon completion of the development. A model home may be used as a temporary real estate office.

4. Roadside Stands. The display and sale of agricultural produce, excluding farm market or on-farm markets, shall be considered a temporary use within the AR Agricultural Residential District permitted by a temporary land use permit renewable on an annual basis, subject to the following conditions:
  - a. The stand shall be located no closer than fifty (50) feet from the nearest roadway right of way line.
  - b. The area between the stand and the roadway shall be reserved exclusively for parking. Parking shall not interfere with through traffic.
  - c. The structure shall not be more than one (1) story in height.
  - d. The floor plan shall not be larger than twenty (20) feet by twenty (20) feet.
  - e. Signs used in connection with the roadside stand shall be temporary and shall be removed when the stand is not in use. No sign shall be placed within a public right-of-way.
  - f. The seasonal nature of the use shall result in closure of the stand during the portion of the year that produce raised on the lot is not available for sale. Other goods such as imported produce, arts and crafts, greenhouse plants or salvage materials shall not be sold from the roadside stand during the “closed” season nor may they compose a major portion of the goods sold from the stand during its operational season.
  - g. Upon closure of the seasonal use, any temporary structures shall be removed.
5. Garage Sales. Garage sales, rummage sales, yard sales, moving sales, and similar activity shall be considered temporary uses within the AR Agricultural Residential and R Residential Districts subject to the following conditions:
  - a. Any sale under this Section shall be allowed without a temporary land use permit for a period not to exceed four (4) days within a six (6) month period. Such activities in operation for a period of time in excess of four (4) days shall require a temporary land use permit from the Zoning Administrator.
  - b. In no instance shall more than four (4) sales under this Section be held in any one location within any twelve (12) month period.

- c. Goods or merchandise offered at such sale shall not be stored overnight.
  - d. All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
  - e. No signs advertising a garage sale or similar activity shall be placed upon public property. Two (2) signs advertising a sale are permitted to be placed upon private property with the consent of the owner of said property and shall be removed within twenty-four (24) hours of the conclusion of said sale.
6. Auctions. The public sale of property to the highest bidder shall be permitted without a temporary land use permit for not more than four (4) days. No sales activity shall occur within thirty (30) feet of any road right-of-way.
  7. Firewood Sales. Storage of firewood for sale and use by persons off the premises shall be restricted to the side and rear yards.
  8. Agricultural Tourism
    - a. General and specialized farming of agricultural products and agricultural activities, including the raising or growing of crops, livestock, poultry, bees and other farm animals, products and foodstuffs are permitted by right. Any building or structure may be located thereon and used for the day-to-day operation of such activities, for the storage or preservation of said crops or animals, products and collection, distribution, or processing, and for the incidental sale of crops, products and foodstuffs raised or grown on said parcel or in said building or structure. The following additional agricultural uses shall be permitted:
      - (1) Storage, retail or wholesale marketing, or processing of agricultural products into a value-added agricultural product in a farming operation if more than 50 percent of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately

preceding 5 years.

- (2) Direct marketing of produce in a farm market or on-farm market provided that any building, or combination of buildings used for such purposes contain a total of not more than 2,500 square feet. A temporary roadside stand that does not qualify as a farm market or on-farm market shall be permitted as a temporary use provided it complies with all regulations set forth in Section 6.09(A)(4).
- (3) Seasonal U-pick fruits and vegetables operations.
- (4) Food sales/processing, processing any fruits/produce.
- (5) Uses 2 through 4 listed above may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as a temporary land use permit is obtained, the general agricultural character of the farm is maintained and the income from these ancillary activities represents less than 50 percent of the gross receipts from the farm.
  - i. Cider mills or wineries selling product, in a tasting room, derived from crops grown primarily on site for at least 3 of the immediately preceding 5 years, provided that the premises is otherwise compliant with state law.
  - ii. Seasonal outdoors mazes of agricultural origin such as straw bales or corn.
  - iii. Value-added agricultural products or activities such as education tours or tours of processing facilities.
  - iv. Bakeries selling baked goods containing produce grown primarily on site.
  - v. Playgrounds or equipment typical of a school playground, such as slides and swings (not including

- motorized vehicles or rides).
  - vi. Petting farms, animal display, and pony rides.
  - vii. Small-scale entertainment (e.g., music concert, car show, art fair), family-oriented animated barns (e.g., fun houses, haunted houses or similar) and small mechanical rides.
  - viii. Wagon, sleigh and hayrides.
  - ix. Nature trails.
  - x. Open air or covered picnic area with restrooms.
  - xi. Educational classes, lectures, seminars.
  - xii. Historical agricultural exhibits.
  - xiii. Gift shops for the sale of agricultural products and agriculturally related products.
  - xiv. Gifts shops for the sale of non-agriculturally related products such as antiques or crafts, limited to 25 percent of gross sales.
- b. Ancillary agricultural related uses and non-agriculturally related uses listed in section 5 above must obtain a temporary land use permit in accordance with the following:
- 1) A temporary land use permit shall be obtained from the Zoning Administrator. A fee may be charged for said permit.
  - 2) Said use shall be permitted only for one (1) period per year, the duration of which will be determined by the Zoning Administrator.
  - 3) Applicant must provide evidence of liability insurance coverage, acceptable to the Township, of not less than \$1,000,000.
  - 4) Inspections shall be conducted by the Livingston County Building Department, and other departments as may be required, prior to the period of use. Evidence of approval in the form of an inspection certificate shall be provided to the Zoning Administrator prior to the issuance of a temporary land use permit. A

fee may be charged covering the cost of such inspection(s) and certificate(s).

5) The applicant may need to submit additional information at the request of the Zoning Administrator, dependent upon the requested use.

6) Notwithstanding other provisions of this ordinance, the uses outlined in section 5 need not be accessory to a bona fide farm or agricultural use provided that:

- i. it is located on a parcel of not less than five (5) acres, and
- ii. It has been in existence, has been lawfully approved by the Township, and has been operated for at least one (1) season prior to the effective date of this ordinance provision.

**B. Temporary Dwellings.** Temporary dwellings will not be permitted in Conway Township except as allowed by this subsection. All temporary dwellings shall use the sewage system and water supply of the primary residence.

1. **Natural Disasters or Fire Damage.** A temporary building may be occupied for dwelling purposes during renovation of a permanent building rendered uninhabitable for dwelling purposes by a fire or natural disaster, such as a tornado, flood, or severe storm. The temporary building must be removed when repair of the damage is complete. The Zoning Administrator may issue a temporary land use permit for up to ninety (90) days. The Board may renew the permit up to ninety (90) additional days upon the applicant's showing of substantial progress towards completion of the repair and the submission of an appropriate compliance bond. Thereafter, the permit may be renewed at the discretion of and upon conditions set by the Board.

2. **Visitors.** Recreational vehicles or motor homes that are not located in an approved recreational vehicle park or campground may be occupied as a temporary dwelling for a period not to exceed thirty (30) days in one (1) year, provided they are a visitor to a residence.

**C. Application.** Applications for temporary land use permits shall be available from the Zoning Administrator and shall be filed with the Zoning Administrator upon forms furnished and approved by the Conway Township Board of Trustees. A temporary land use permit may be approved, modified, conditioned or denied by the Zoning Administrator. The Zoning Administrator may refer the application to



the Planning Commission for a recommendation.

**D. Conditions of Approval.**

1. The nature and intensity of the temporary use and the size and placement of any temporary building shall be planned so that the temporary use or building will be compatible with existing development.
2. The parcel shall be of sufficient size to adequately accommodate the temporary use or building.
3. The location of the temporary use or building shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or building.
4. Off-street parking areas shall be of adequate size and properly located for the particular temporary use or building. The entrance and exit drives shall be laid out so as to prevent traffic hazards and nuisances.
5. Signs shall conform to the provisions of the ordinance (see Article 17).
6. Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
7. The Zoning Administrator may impose conditions with the issuance of the permit which is designed to insure compliance with the requirements of this ordinance. The Zoning Administrator may revoke a permit at any time for nonconformance with the requirements of this Section and a permit issued hereunder.

**E. Permits.** A written temporary land use permit is required for all temporary uses and buildings as required by this ordinance and shall contain the following information:

1. The applicant's name.
2. A written statement from the applicant describing the reasons and need for the temporary land use permit.
3. The locations and effective dates of the temporary use or building.
4. Conditions specified, if any, by which the permit was issued, such as:

- a. Use and placement of signs.
  - b. Provision for security and safety measures.
  - c. Control of nuisance factors.
  - d. Submission of performance guarantee.
5. Effective date and expiration date.
  6. Signature of the Zoning Administrator on the permit.
- F. Performance Guarantee.** As a condition of a temporary land use permit, the Township Board or the Zoning Administrator may require a performance guarantee in the form set forth in Section 3.06 and in an amount equal to the estimated cost of removing any temporary building, discontinuing any use, and any associated legal fees. The amount of the performance guarantee shall be set by the Township Board. The performance guarantee shall be returned when all the terms and conditions of the temporary land use permit have been met and the temporary use or building has been removed.
- G. Renewals.** Permits which are renewable shall have an application filed for renewal at least thirty (30) days prior to the expiration date of the current permit. Exceptions to this time requirement are those renewable permits that were issued for a time duration of less than fifteen (15) days, in which case a renewal or extension may be applied for no later than three (3) days prior to the expiration date of the current permit.
- H. Revocation.** Upon expiration or revocation of a temporary land use permit, the temporary use shall cease and all temporary buildings shall be removed from the property. A temporary land use permit may be revoked or modified by the Zoning Administrator if any one of the following findings can be made:
1. Circumstances have changed which frustrates the purposes for when the permit was issued.
  2. The temporary land use permit was obtained by misrepresentation or fraud.
  3. One (1) or more of the conditions of the temporary land use permit have not been met.
  4. The use is in violation of any statute, ordinance, law or regulation.
- I. Appeal.** An appeal of a decision denying a temporary land use permit may be taken to the ZBA pursuant to Article 5 of this ordinance.

## Section 6.10 Excavations

The construction, maintenance or existence within the Township of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited; provided, however, that this Section shall not prevent any excavation under a permit issued by an appropriate governmental authority and where such excavations are properly protected and warning signs are posted as appropriate for the protection of the general health, safety, and welfare of the public.

The construction of structures and contouring of land to these structures shall be done in such a manner as to prevent an increase in volume or intensity of normal runoff of surface water onto adjacent properties.

### **Section 6.11 Driveway Access; Equivalent Grades**

- A. Driveway Access for Public Roads and Private Roads.** All driveways or access to public or private roads shall be located to meet the sight distance requirements of the Livingston County Road Commission and other location requirements in this ordinance. Driveways accessing public roads require a driveway permit from the Livingston County Road Commission having jurisdiction of the public road. Approvals of driveway accesses to private roads shall be performed by a road inspector designated by the Township Board (See also Section 16.04 C).
- B. Equivalent Grades at Road Intersections.** The road surface of a new public street or road, or a private street or road or driveway where said road, street or driveway intersects with an existing public road shall have a finished grade within the approach zone the same elevation at the existing road. Road surface drainage shall be designed so that all storm water runoff is directed off the road surface into approved ditches instead of flowing into the road intersection. The Planning Commission may waive the requirements of this Section whenever topographic relief or other extenuating conditions prevent compliance (See also Section 16.02 D)

### **Section 6.12 Preservation of Environmental Quality**

In any zoning district, a river, stream, watercourse, drainage way or wetland, whether filed or partly filed with water or whether it is dry in certain seasons, shall not be obstructed or altered in any way, except when done in conformance with state and federal law and standards.

- A.** A person shall not alter, change, transform or otherwise vary the edge, bank or shore of any lake, river, stream, or wetland, except as provided in Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, MCL 324.101 et seq, as amended.
- B.** A person shall not drain, remove, fill, change, alter, transform or otherwise vary the area, water level, vegetation or natural conditions of a marsh, swamp or wetland except after receiving approval in

accordance with the NREPA.

### **Section 6.13 Sanitary Facilities**

The use of permanent outside privies is not allowed, however, licensed portable sanitary facilities conforming to NREPA may be used for the temporary uses and time periods listed below. Such temporary uses of portable sanitary facilities must also comply with provisions in the Livingston County Sanitary Health Code.

- A. New Construction.** During new construction, licensed sanitary facilities may be used up to five (5) days after the Certificate of Occupancy has been issued for the newly constructed structure.
- B. Festivals.** During fairs, festivals or sporting events of temporal duration, licensed sanitary facilities must be used. The minimum number of such sanitary facilities required to service the estimated group of people must be stated as terms of the temporary land use permit. Also, a performance deposit to ensure compliance, proper maintenance, and removal may be required. Licensed sanitary facilities shall be removed within five (5) days after the termination of the festival.
- C. Seasonal Use.** Licensed sanitary facilities must be used for supplemental use, in addition to permanent facilities, for seasonal recreational and agricultural purposes under special approval of the Township Board. Proof of maintenance by an approved operator must be furnished to the Township for the specified period of use. A performance deposit to ensure compliance, proper maintenance, and removal may be required. Licensed facilities shall be removed within five (5) days after the termination of the seasonal use.

### **Section 6.14 Storage and Dumping of Waste, Junk, Motor Vehicles and Garbage**

It shall be unlawful to store, collect, accumulate or dump waste, junk, unlicensed or inoperable motor vehicles and garbage outside of a building on any property.

- A. Unlawful Accumulation or Dumping.** The use of the land for the storage or collection or accumulation of used lumber and other used materials or for the dumping or disposal of scrap iron, junk, garbage or other refuse, or of ashes, slag or other industrial wastes or by-products shall not be permitted in any district except as allowed in this ordinance and shall constitute a violation subject to action and penalties as proved by this ordinance. This Section does not apply to normal agricultural organic waste material. It shall be unlawful for any person to dump rubbish or waste material except in or on licensed public or private solid waste disposal facilities.
- B. Litter as an Illegal Nonconforming Use.** It is hereby specifically provided that any promiscuous litter or unsightly accumulation of junk equipment, machinery, machine parts, or used materials located either

in the proximity of a dwelling or on any lot, parcel or tract of land in Conway Township shall not be permitted in any district except as allowed in this ordinance and shall constitute a violation subject to action and penalties as provided by this ordinance.

**C. Motor Vehicle Accumulation or Wrecking.**

1. Unless otherwise authorized by this ordinance, no person shall park, store, or place upon any public right-of-way or public property, or upon any premises within the Township, any motor vehicle, house trailer, or tractor trailer, or new or used parts of junk, unless the same is wholly contained within a fully enclosed building and does not violate any zoning or building laws of the Township, County, or State of Michigan, except for the following:
  - a. Duly licensed, insured, and operable vehicles or trailers with substantially all main component parts attached.
  - b. Vehicles or trailers that are temporarily inoperable, because of minor mechanical failure, but which are not, in any manner, dismantled and have substantially all main component parts attached, which may remain upon such private property for not to exceed 14 days.
  - c. Not more than one vehicle in fully operating condition, such as a stock car or modified car that has been redesigned or reconstructed for a purpose other than that for which it was manufactured, provided no building or garage is located upon the premises in which the same could be parked or stored. In no event shall any such vehicle be parked in the front or side street yard area of any such residential premises.
2. No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle or trailer or parts thereof upon any public right-of-way or public property or on any property primarily used or zoned for any type of residential purpose for a period in excess of 24 hours except such as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provision of the Conway Township Zoning Ordinance. Any such work within such 24-hour period heretofore allowed shall not, however, consist of any major repair, re-designing, modifying or dismantling work, but only such occasional minor work as may frequently be required to maintain a vehicle or trailer or parts thereof in normal operating condition.
3. In the event the foregoing regulations create any special or peculiar hardship beyond the control of the particular

violator thereof because of unforeseen circumstances, the Zoning Administrator is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereof for a limited period of not to exceed 14 days provided no adjoining property owner or occupant is unreasonably adversely affected thereby and the spirit and purpose of the ordinance are still substantially observed

- D. Public and Private Landfills.** A public or private landfill shall not be located, used or maintained in any district in Conway Township except those areas specifically designated and provided for by the Livingston County Solid Waste Management Plan and Michigan Department of Natural Resources pursuant to the requirements of the NREPA (Part 115, Solid Waste Management), MCL 324.11501 et seq, as amended. A public or private landfill shall not be located in an area that would violate any FAA or other requirement applicable to the safe operation and use of any airport located within the Township.

## **Section 6.15 Fences**

A fence shall not obstruct the light and air rights of any neighboring household or property owner. Additionally, a fence shall not affect the sight distance requirements of the Livingston County Road Commission at any road intersection nor any sight distance requirements of this ordinance (See Section 6.16 (I)).

Fences are permitted or required, subject to the following requirements.

### **A. Residential Fences.**

1. Except as otherwise provided, Fences on all lots of record in the AR Agricultural Residential and R Residential District that enclose property or are within a required front, side or rear yard, shall not exceed six (6) feet in height above the grade of the surrounding ground. The placement of fences shall not be within a road right-of-way. Fences shall not contain barbed wire, electric current or a charge of electricity. Spikes, nails or other sharp instruments of any kind on top or on the sides of any fence are prohibited.
2. For fences on residential lots of record of two (2) acres or more containing farm animals, fences shall not exceed ten (10) feet in height above the grade of the surrounding ground and shall not be placed within a road right -of-way. Barbed wire or electrical current or charges in said circumstances are permitted.

- B. Commercial Fences.** Fences on commercially used or zoned property shall be of an ornamental nature or shall be standard commercial fencing not to exceed six (6) feet in height. Barbed wire, spikes, nails or any other sharp point or instrument of any kind on top or on the

sides of any fence or electric current or charge in said fences, is prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility and industrial buildings and TV and telecommunication facilities and such fences may exceed six (6) feet in height and be located in a front yard wherever deemed necessary in the interests of public safety, provided that shrubs or evergreens are planted which will eventually screen such barbed wire cradles.

**C. Public and Institutional Fences.** Fences enclosing public or institutional parks, playgrounds or public landscaped areas shall not exceed eight (8) feet in height above the grade of the surrounding land.

**D. Planning Commission Discretion.** The Planning Commission may, at its discretion and upon application by the property owner, modify the height of the fence that is intended to enclose property and is within a required yard, subject to the following conditions:

1. The height shall in no instance exceed ten (10) feet, as measured from the surrounding grade;
2. The modification shall not obstruct the light and air rights of any neighboring household;
3. The modification shall not obstruct the sight distance requirements of any road intersection;
4. The modified fence shall not be built in any side yard;
5. In a swimming pool patio, terrace and similar private areas, the modified fence shall be required to offer privacy;
6. The Planning Commission shall be furnished with photographs clearly portraying the area to be fenced, as well as the abutting properties affected.

#### **Section 6.16 Required Landscaping and Screening**

**A. Frontage and Screening Landscaping.** One of the following landscaping and screening options is required for any nonresidential use (with the exception of airports, heliports and related uses due to federal clear zone requirements) or any residential use for which site plan review is required. The landscaping and screening options are required both for that portion of the site abutting a public road right-of-way and where the use is adjacent to a residential district or use. These requirements are intended to maintain the rural character of the community.

1. Greenbelt. A greenbelt meeting the following standards;
  - a. Minimum width of fifteen (15) feet. The Planning Commission may permit the width of the greenbelt to

be reduced in cases where existing conditions do not permit a fifteen (15) foot width.

- b. At least one (1) deciduous tree (minimum 2.5 inch caliper) and four (4) minimum eighteen inch (18") high shrubs per each forty (40) lineal feet of street frontage. The Planning Commission may approve substitution of evergreen trees for up to fifty percent (50%) of the required trees. Additional deciduous trees may be provided in lieu of the requirements for shrubs at the rate of one additional deciduous tree for every four required shrubs. Landscaping shall be arranged to simulate a natural setting such as staggered rows or massing.
  - c. The greenbelt area shall contain grass, ground cover, six-inch (6") deep wood chips or six-inch (6") deep crushed stone and curbed or edged as necessary. Edging shall be used for any planting beds.
  - d. Where headlights from parked vehicles will shine into the roadway or adjacent uses, the Planning Commission may require use of a totally obscuring hedge including evergreens.
2. Berms. A combination of a raised earth berm and plantings meeting the following standards:
- a. Minimum height of two (2) feet with a crest at least three (3) feet in width. The height of the berm may meander if the intent of this Section 6.16 is met.
  - b. The exterior face of the berm shall be constructed as an earthen slope, with a slope not to exceed one (1) foot of vertical rise to three (3) feet of horizontal distance one to three (1:3). The interior face of the berm may be constructed as an earthen slope or retained by means of a wall, terrace or other means acceptable to the Planning Commission.
  - c. At least one (1) deciduous tree (minimum 2.5 inch caliper) shall be provided for each thirty (30) lineal street berm length.
  - d. At least one (1) minimum eighteen inch (18") high shrub shall be provided for each one hundred (100) square feet of berm surface area (calculated from a plan view).
  - e. Berm slopes shall be protected from erosion by



sodding or seeding. If slopes are seeded, they shall be protected, until the seed germinates and a permanent lawn is established by a straw mulch, hydro mulching or netting specifically designed to control erosion.

f. The base of any signs placed within the berm shall be at or below the average grade along the berm.

3. Buffer Strip. A buffer strip may be required, particularly where adjacent uses are less intense than the use of the subject site. The intent of the buffer strip is to have a minimum five (5) foot high obscuring area. A buffer strip shall meet the following requirements:

a. Minimum width of fifteen (15) feet.

b. All trees shall be evergreens a minimum five (5) feet high at planting.

c. The buffer planting area shall contain grass, ground cover, six-inch (6") deep crushed stone and curbed or edged as necessary.

**B. Parking Lot Landscaping.** Landscaped island(s) shall be provided in all off-street parking lots with twenty (25) or more spaces.

1. Landscaped islands shall be provided at a ratio of at least one hundred fifty (150) square feet of island for every ten (10) parking spaces or fraction thereof.

2. For every three hundred (300) square feet of landscaped island, at least one (1) deciduous tree (minimum 2.5" inch caliper) shall be planted and at least one (1) deciduous tree shall be planted for each island.

3. All islands shall be planted and maintained with landscape materials and kept free of debris. Each landscaped island shall be provided with a ground cover of low growing woodyshrubs, deciduous or evergreen plants, perennials plants, vines, or grass, or any combination. Shredded bark, woodchips, other similar mulch or landscaping stones shall be required on all landscaped islands.

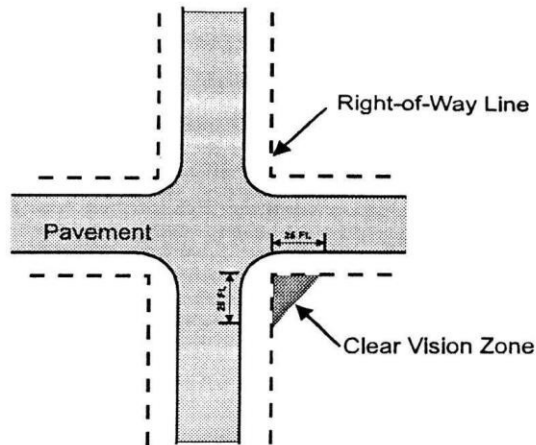
4. Landscaped islands shall be curbed and designed to protect landscaping from damage by vehicles. Islands shall be located to aid the flow of traffic, control speeds and break visual monotony of large expanses of parking area.

**C. Minimum Plant Material Standards.** All plant material shall be hardy to Livingston County, be free of disease and insects and conform to the American Standard for Nursery Stock of the American

Association of Nurserymen.

- D. **Mixing of Species.** The overall landscape plan shall not contain more than thirty-three (33%) percent of any one plant species. The use of trees native to the area and mixture of trees from the same species associations is encouraged.
- E. **Installation and Maintenance Provisions.** All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be removed and replaced within six (6) months.
- F. **Time of Completion.** All tree plantings and planting screens required by this ordinance shall be installed prior to occupancy or commencement of use. Where compliance is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay but shall issue no permanent zoning compliance certificate until completion of all required planting.
- G. **Performance Guarantee.** The Planning Commission, upon approval of the Township Board, may require a performance guarantee of sufficient amount to insure the installation of all required landscaping pursuant to the provisions of 3.06.
- H. **Residential Entranceway.** Entranceway structures, including but not limited to, walls, columns and gates marking entrances to single family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in Section 6.16(I) Clear Vision Zone. Such entranceway structures shall be adequate to permit unobstructed access by all emergency equipment and shall comply with all codes and ordinances of the township and county. Sight distance shall be approved by the Livingston County Road Commission and a driveway permit obtained. The structure shall also be approved by the Livingston County Building Department.
- I. **Clear Vision Zone.** A fence, wall, shrubbery, sign or other obstruction to vision above a height of thirty (30) inches from the established street grades shall not be permitted within the triangular area formed by the intersection of any street right-of-way lines and a diagonal connecting them at points twenty-five (25) feet from their intersection (see Figure 6.1).

FIGURE 6.1 CLEAR VISION ZONE



- J. **Exterior Lighting.** All lighting for parking areas, external illumination of buildings or grounds, or illumination of signs, shall be directed away from and shall be shielded from, adjacent residential districts. It shall also be so arranged as to not affect driver visibility adversely on adjacent roads. Light shall not exceed more than 0.5 foot candle at a R Residential zoned property line. Light shall not exceed more than 1.0 foot candle at an AR Agricultural-Residential zoned property line.
- K. **Solid Waste Receptacles.** All solid waste receptacles for nonresidential uses or residential uses for which site plan review is required, shall be enclosed by a wooden or masonry wall equal to the height of the receptacle and not less than five (5) feet high with an opaque lockable gate to prevent unsightly collection of refuse, prevent animal intrusions into this area, and to keep children from entering these areas. Whenever possible the receptacle shall be located at the rear of the site and/or where it will be less visible from the public right-of-way and adjacent properties.
- L. **Incentives to Preserve Existing Trees.** The township encourages the preservation of quality and mature trees by providing credits toward the required trees for greenbelts berms and/or buffer strips required in Section 6.16. Trees intended to be preserved shall be indicated with a special symbol on the site plan and be protected during construction through use of a fence around the drip line. To obtain credit, the preserved trees shall be of a high quality and at least two and one half inches (2.5") caliper. Trees to be preserved shall be counted for credit only if they are located in a required buffer area. Tree preservation outside of the required buffer area may receive credit if the preserved trees are found to contribute to the required buffer area by the Planning Commission.

The credit for preserved trees shall be as follows. Any preserved trees receiving credit which are lost within two (2) years after construction shall be replaced by the land owner with trees otherwise required.

<b>Caliper of Preserved Trees</b>	<b>Number of Trees Credited</b>
Over 12 inches	3
8" – 11.9"	2
2.5 – 7.9"	1

Note: Caliper measurement for existing trees is the diameter at a height of four and one-half (4.5) feet above the natural grade (Diameter at Breast Height. D.B.H.)

**M. Waiver From Landscaping and Screening Requirements.** The Planning Commission during site plan review may determine that existing landscaping or screening intended to be preserved would provide adequate landscaping and screening. The Planning Commission may also determine dimensional conditions unique to the parcel would prevent development of required buffer zones, off- street parking area landscaping, greenbelts, berms or required buffer zones. If such determination is made, the Planning Commission may waive, in whole or in part, the landscaping provisions of this Section. Criteria which shall be used when considering a waiver include, but shall not be limited to:

1. existing natural vegetation;
2. topography;
3. existing wetland, floodplain, and poor soils areas;
4. existing and proposed building placement;
5. building heights;
6. adjacent land uses;
7. distance between land uses;
8. dimensional conditions unique to the parcel;
9. traffic sight distances;
10. traffic operational characteristics on and off site;
11. visual, noise and air pollution levels;
12. health, safety and welfare of the Township.

#### **Section 6.17 Satellite Dish Antennas and Amateur Antennas**

**A. Ground mounted.** In all zoning districts, ground-mounted antennas or other similar devices including satellite dish antennas up to twelve (12) feet in diameter may be permitted subject to the following criteria:

1. Antennas shall not be located between the principal building and the front lot line.
2. Dish antennas shall not exceed twelve (12) feet in height above existing grade. Other antennas shall not exceed ten (10) feet in height above maximum building height. If the

operator is licensed by the Federal Communication Commission, the limitation may be exceeded upon approval from the Planning Commission if the antenna height does not exceed the restrictions of the Tall Structures Act, 1959 PA 259, MCL 125.321 et seq, as amended.

3. All installations shall be located to prevent obstruction of a dish antenna's reception window by potential permitted development on adjoining properties.

**B. Roof Mounted.** Business and commercial establishments may be permitted roof-mounted antenna or other similar devices including satellite dish antennas up to twenty four (24) feet in diameter at the discretion of the Planning Commission subject to the following criteria:

1. The height of the proposed installation does not exceed the maximum height restriction imposed for principal uses within the district; except that existing buildings that are built up to their maximum height may be permitted a roof-top installation so long as the diameter of the antenna does not exceed twenty four (24) feet or thirty-three percent (33%) of the existing height of the building, whichever is less.
2. All applications must include certification by a registered engineer that the proposed installation complies with those standards listed in the Michigan Building Code, Sections 614.0 and 615.0, or other appropriate sections of this code. Written documentation of such compliance, including load distributions within the building's support structure, shall be furnished.

**C. Multiple Dwellings.** Any single building containing three or more dwelling units shall receive planning commission approval for the installation of more than two (2) antennas of any size.

**D. Excluded.** Except for subsection 6.17(C), the provisions of this section do not apply to antennas under three (3) feet in height.

**Section 6.18 Reserved.**

**Section 6.19 Fire and Explosive Hazards**

Storage and handling of flammable liquids, liquid petroleum, gases, explosives and other flammable and explosive hazardous materials shall comply with the state rules and regulations as established by The Fire Protection Code, 1941PA 207, MCL 29.1 et seq, as amended.

**Section 6.20 Condominium Project**

**A. Initial Information.** Concurrently with the notice required to be given to Conway Township pursuant to Section 71 of The Condominium Act, 1978 PA 59, MCL 559.101 et seq, a person, firm or corporation intending to develop a condominium project shall provide the following information with respect to the project. The information shall be furnished to the Zoning Administrator and shall be kept updated until such time as a Certificate of Occupancy is issued.

1. The name, address and telephone number of:
  - a. All parties with an ownership interest in the land on which the condominium project will be located together with a description of the nature of each party's interest (for example, fee owner, optionee, or land contract vendee).
  - b. All engineers, attorneys, architects or registered land surveyors associated with the project.
  - c. The developer or proprietor of the condominium project.
2. The legal description of the R Residential zoned land on which the condominium project will be developed together with appropriate tax identification numbers.
3. The acreage content of the R Residential zoned land on which the condominium project will be developed.
4. Approximate number of condominium units to be developed on the subject parcel.
5. Whether or not a community water system is contemplated.
6. Whether or not a community septic system is contemplated.

**B. Site Plans.**

1. New Projects. Prior to recording of the master deed required by Section 72 of the Condominium Act, the condominium project shall undergo site plan review and approval pursuant to the site plan review requirements of this ordinance.
2. Expandable or Convertible Projects. Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval pursuant to the site plan review requirements of this ordinance.

- C. Master Deed, Restrictive Covenants and “As Built” Survey to Be Furnished.** The condominium project developer or proprietor shall furnish the Zoning Administrator with the following: One (1) copy of the recorded master deed, one (1) copy of all restrictive covenants, one (1) copy of the site plan, and two (2) copies of an “as built survey”. The “as built survey” shall be reviewed by the Township Engineer for compliance with Township ordinances. Fees for this review shall be established by resolution of the Township Board.
- D. Compliance with Federal, State and Local Law.** All condominium projects shall comply with Federal and State Statutes and local ordinances.
- E. State and County Approval.** The developer or proprietor of the condominium project shall establish that appropriate state and county approvals have been received with regard to the fresh water system for the proposed project and with regard to the waste water disposal system for the proposed project.
- F. Monuments Required – All Condominium Projects.** All condominium projects shall be marked at their boundaries with monuments made of solid iron or steel bars at least one-half (1/2) inch in diameter and thirty six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
- H. Monuments Required – Site Condominium Projects.** All condominium projects which consist in whole or in part of condominium units which are building sites, mobile home sites, or recreational sites shall be marked with monuments as provided in this subsection.
1. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium projects if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
  2. All monuments used shall be made of solid iron and steel bars at least one-half (1/2) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.
  3. Monuments shall be located in the ground at all angles in the boundaries of the condominium project, at the intersection lines of streets, at the intersection of the lines of streets with the boundaries of the condominium project, and at the intersection of alleys with the boundaries of the condominium project; at all points of curvature, points of tangency, points of

compound curvature, points of reverse curvature, and angle points in the side lines of streets and alleys; at all angles of an intermediate traverse line and at the intersection of all limited common elements and all common elements.

4. If the required location of a monument is an inaccessible place or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof is clearly indicated on the plans and referenced to the true point.
5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least one-half (1/2) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
6. All required monuments shall be placed flush with the ground where practicable.
7. All unit corners shall be monumented in the field by iron or steel bars or iron pipes at least eighteen (18) inches long and one-half (1/2) inch in diameter or other approved markers.
8. The Conway Township Board may waive placement of any of the required monuments and markers for a reasonable time, not to exceed one (1) year, on the condition that the proprietor deposits with the Township Clerk cash or a certified check or irrevocable bank letter of credit running to Conway Township, which the proprietor selects, in an amount not less than twenty-five (\$25.00) dollars per monument and not less than one hundred (\$100.00) dollars intotal. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.

#### **H. Single Family Detached and Attached Condominium.**

1. Bulk and Area Requirements. Single Family condominiums shall be subject to all requirements and standards of the R Residential District including minimum floor area requirements and minimum lot size.
2. Roadway Requirements. All streets and roads in a single family condominium project shall, at a minimum, conform to the standards and specifications for private roadways in this ordinance.



- I. **Temporary Occupancy.** The Zoning Administrator may allow occupancy of the condominium project before all improvements required by this ordinance are installed provided that a performance guarantee is submitted sufficient in amount and type according to Section 3.06 to provide for the installation of improvements before the expiration of the Temporary Occupancy Permit without expense to the township.

## Section 6.21 Child Care: Family Day Care Home and Group Day Care Home

It is the intent of this Section to provide for family day care and group day care activities, as defined in this ordinance, as accessory uses, subject to the following conditions. The conditions intend to allow a choice in child care situations for parents, protect neighboring uses from adverse impacts, maintain and protect residential character, ensure the compatibility of child care uses with other uses permitted in the AR Agricultural Residential and R Residential Districts, and ensure that the child care uses remain clearly incidental to the main permitted residential use.

- A. **License.** Both family day care and group day care activities shall obtain and maintain a valid license from the State Department of Social Services.
- B. **Permitted Structure.** Activities associated with child care shall not be permitted in any building or structure other than the principal dwelling unit, and not in any attached or detached garage. Buildings and lots so used shall conform to all state and local ordinances except that such uses shall be permitted in buildings and lots which are defined as legal nonconforming buildings and lots under this ordinance.
- C. **Uses.** Family day care or group day care uses shall not generate noise, odor, vibration, or electrical interference beyond that level normally associated with residential land use.
- D. **Interior Area.** Operation of a family day care or group day care use shall not involve alteration or construction not customarily found in a dwelling. A minimum of thirty five (35) square feet of interior play area shall be provided for each child. Play area shall be computed exclusively of bathrooms, kitchens, storage areas, porches, closets, utility rooms and similar spaces. The required play area shall not exceed twenty five (25) percent of the total floor area of the dwelling, exclusive of porches, garages, and similar areas.
- E. **Exterior Play Areas.** Group day care uses shall provide a fenced exterior play area which is no less than four hundred (400) square feet and which is available on the premises or within a reasonable walking distance of the home. The material used to fence the exterior play area shall be a minimum height of forty-eight (48) inches.

- F. Parking Demand.** Parking demand generated by the conduct of a family day care or group day care use shall be met off the street and other than in a required front, side, or rear yard. For family day care uses, such parking shall not exceed two (2) parking spaces, exclusive of parking required herein for the residential use of the dwelling. For group day care uses, such parking shall not exceed four (4) parking spaces, exclusive of the parking required herein for the residential use of the dwelling.
- G. Advertising.** Parking or storage of any vehicle bearing any advertising for, or identification of, the family day care or group day care center on the premises is prohibited.
- H. Location.** A group day care shall not be located closer than 1,500 feet to any of the following:
1. Another licensed group child care home.
  2. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
  3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections

**Section 6.22 Keeping of Animals** (last amended July 2021)

- A. Farm Animals.** The raising and keeping of farm animals may be conducted on a parcel of two (2) acres or larger in the AR Agricultural Residential and R Residential Districts. The number of farm animals allowed on the designated site acreage, is provided in the following table. Farm animal shall mean a domestic animal that is typically kept on farms or is typically associated with farms or farming operations. This definition includes, but is not limited to, such animals as cows, pigs, horses, goats, llamas, buffalo, sheep, chickens, pigeons, rabbits, geese and ducks. This definition does not include a wild animal as described in this Section.

<u>Site Acreage</u>	<u># of Animal Units Permitted</u>
Less than 2 acres	0
2 to 5 acres	2
5 to less than 10 acres	2 + 1 additional animal per acre over 5 acres to a maximum of 7
10 to less than 20 acres	8 + 1 additional animal per acre over 10 acres to a maximum of 17
20 or more**	

\*\*The number of animals kept on twenty (20) acres or more in the AR Agricultural Residential and R Residential Districts may be determined by each individual land owner based upon the carrying capacity of the land and subject to meeting all other applicable requirements of this ordinance.

One (1) animal unit is equivalent to:

- 1 horse or donkey or mule or cow,
- or alpaca,
- or llama,
- or 3 pigs,
- or 5 sheep or goats,
- or 30 fowl,
- or 4 ostrich or related large bird species,
- or 4 emus,
- or related ratites.

This section is intended to comply with the Michigan Right to Farm Act (“RTFA”), MCL 286.471 et seq., 1981 PA 93, and does not apply to farms or farm operations as defined in the RTFA . If an animal is not specifically enumerated, but is determined to be a farm animal otherwise by this ordinance or the Michigan Right to Farm Act, then for the purposes of determining the animal unit equivalent, the closest animal in character, size, and use of land as determined by the Planning Commission shall apply.

The following additional requirements apply to the keeping and raising of farm animals:

1. Within the R Residential District, animals must be housed and maintained on the land of the owner or lessee of the principal residence. Land cannot be leased to increase the size of the primary parcel, thereby allowing for more animals than would be allowed on the primary parcel.
2. Within the R Residential District, animals shall be owned and managed by the occupants of the premises.

3. The occupants of the premises shall keep the odor, sounds and movement of the animals from becoming a nuisance to adjacent properties.
4. Paddocks or pastures shall be suitably fenced areas that preclude animals from approaching nearer than twenty (20) feet of any dwelling on adjacent properties.
5. No storage of manure, odor or dust producing materials or use shall be permitted within one hundred (100) feet of any adjoining lot line.
6. Raising and keeping or killing and dressing of animals upon residential premises shall be for the use or consumption by the occupants of the premises.

**B. Stables.** Private or commercial stables for breeding, rearing and housing of horses, mules and similar domestic animals are subject to the following conditions:

1. Breeding, rearing and housing of horses, mules and similar domestic animals on a commercial basis is allowed in conformity with Michigan Right to Farm Act, MCL 286.471 et seq., 1981 PA 93.
2. An accessory building used as a stable shall not be located nearer than one hundred (100) feet to any dwelling.
3. Stables shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.

**C. Household Animals.** Household animal (also called a household pet) shall mean a domesticated animal that is typically found in residential dwellings and is not typically disruptive to the residential character of an area. This definition would include, by way of example and not by way of exclusion, such animals as domesticated dogs, cats, gerbils, hamsters, turtles, tropical fish, parrots, canaries and parakeets. This definition does not include a farm animal or wild animal as described in this section. Subject to the kennel provisions of Section 13.10, household pets owned by the occupant of a dwelling unit may be possessed and cared for by the occupant of that dwelling unit as an accessory use to a residential use in the Township, provided that:

1. The number of household pets does not exceed three (3) dogs or cats six months of age or older, in any combination, and no more than a total of five (5) household pets for any one dwelling unit; and
2. An animal does not become excessively noisy, excessively

odorous, dangerous, or in any way disruptive to the character of the area in which it is possessed or otherwise become a public nuisance.

Any occupant of a dwelling unit possessing more than three (3) dogs that are owned by the occupant of the dwelling unit must comply with the requirements of Section 13.10(I) for hobby kennels.

**D. Wild and Exotic Animals.**

1. Defined. Wild animal (also called an exotic animal) shall mean an animal that is not typically domesticated or found on farms, but typically exists in the wild and is typically found in zoos, circuses, wildlife sanctuaries, or nature preserves. This definition includes, but is not limited to, such animals as elephants, rhinoceroses, camels, lions, tigers, leopards, panthers, cheetahs, cougars, jaguars, lynx, mountain lions, puma, badgers, bears, bobcats, coyotes, deer, antelope, elk, moose, otters, ostriches, snakes, crocodiles, alligators, seals, sharks, and whales, wolves and primates such as baboons, orangutans, chimpanzees, monkeys and gorillas.
2. Permitted. Certain wild animals that are traditionally nonpredatory and/or non dangerous may be possessed and cared for in the Township. These include, but are not limited to, nonpoisonous snakes that will not exceed three (3) feet in length at maturity, quails, pheasants, peacocks and turkeys. These wild animals may only be possessed and cared for if all of the following conditions are met:
  - (a) That any and all appropriate state and federal permits and/or licenses are obtained and currently maintained;
  - (b) That the animals possessed and cared for are properly caged, penned, housed or secured so as not to be able to leave the property upon which they are possessed;
  - (c) That the animals possessed are kept and cared for under sanitary conditions; and
  - (d) That the animals possessed and cared for do not become excessively noisy, excessively odorous, dangerous, or in any way be disruptive to the character of the area in which they are possessed or otherwise become a public nuisance.
3. Prohibited. Unless otherwise expressly allowed, a wild animal shall not be possessed in the Township under any other conditions or circumstances.

4. Exceptions. Notwithstanding other provisions of this Section, it shall not be considered a violation for a person.
  - (a) Licensed by the State of Michigan to temporarily harbor and treat injured animals or animals designated as belonging to an endangered species until release into a permanent habitat is possible; and
  - (b) In lawful possession of any animal to travel through the township on a public highway for a destination out of the township.

### **Section 6.23 Airports, Heliports and Related Uses**

**A. Location requirements.** Airports, heliports and related uses are permitted in the Industrial District. These regulations shall not apply to private air strips that are used only by the owner or lessee of the premises for the maintenance of aircraft.

**B. Site Requirements.**

1. Minimum lot size shall be twenty (20) acres.
2. The parcel shall abut a paved, county thoroughfare and public ingress and egress shall be provided from that thoroughfare.

**C. Performance Standards.**

1. Plans shall be approved by the FAA and the Michigan Department of Transportation, Bureau of Aeronautics, prior to submittal to the Township for review and approval.
2. The “clear zone” (as defined by the FAA) shall be owned by the owner of the airport.
3. Paved parking shall be provided for the airport and all accessory uses, with a minimum of two (2) parking spaces per hanger.
4. Heliports shall be clearly defined outside of parking lots. Outdoor routine maintenance of helicopters shall be prohibited from dusk to dawn. Heliport landing approaches shall be clearly noted on a site plan as being clear of vertical obstructions.
5. There shall be no landing nor take off of aircraft (excluding balloons) except at federally approved sites.

**D. Conway Township Airport Zoning Act.**

1. Definitions; Airport Zoning. For the purpose of the Airport Zoning Act (“this Act”), the words, terms and phrases set forth in this Act shall have the meanings prescribed herein.
  - a. Airport. Any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft or for receiving or discharges passengers or cargo and all appurtenant areas used or acquired for airport buildings or other airport facilities and all appurtenant rights-of-way, either heretofore or hereafter established.
  - b. Airport hazard. Any structure or tree or use of land or of appurtenances thereof which obstructs the air space required for the safe flight of aircraft in landing or taking off at an airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft.
  - c. Airport hazard area. Any area of land or water or both upon which an airport hazard might be established if not prevented as provided in this Act, including any such area which has been declared to be an airport hazard area” by the Michigan Aeronautics Commission in connection with any airport approach plan adopted by said commission.
  - d. Commission. The Michigan Aeronautics Commission or any successor thereto established by law.
  - e. Person. Any individual, homeowner, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic; and includes any trustee, receiver, assignee or other similar representative thereof.
  - f. State. The State of Michigan.
  - g. Structure. Any object constructed or installed by man, including, but without limitation, buildings, tower, smoke stacks and overhead transmission lines, but not including highways and their appurtenances.
  - h. Tree. Any object of natural growth.
2. Airport hazard declared nuisance; prevention. It is hereby found that an airport hazard endangers the lives and property of the general public, of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in

effect reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport. Accordingly, it is hereby declared; (a) That the creation or establishment or maintenance of an airport hazard is a public nuisance and an injury to the community served by the airport in question; and (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that, where airport hazards exist, they must be eliminated, removed, altered, mitigated, or abated as necessary, and they should not be either marked or lighted.

3. Airport approach plan; adoption by Aeronautics Commission, Conway Township, considerations. The Commission has formulated and adopted an airport approach plan for the airport located in Conway Township. The plan indicates and determines the circumstances in which structures and trees are or would be an airport hazard, the airport hazard area within which measures for the protection of the airport's aerial approaches should be taken and what the height limits and other objectives of such measures should be. In adopting or revising in the future, the Commission considered among other things, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport and the possibility of lowering or removing existing obstructions.
4. Airport hazard area; determination; zoning regulations/development defined.
  - a. In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area wholly or partly within its territorial limits or jurisdiction may make an official determination that the area is in fact an airport hazard area and may thereupon adopt, administer and enforce, in the interest of public safety and in the manner and upon the conditions prescribed in this Act, airport zoning regulations for that part of the airport hazard area which is within its territorial limits or jurisdiction. The regulations may divide the area into zones, and within those zones, may specify the land use permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.



- b. A political subdivision in which is wholly or partially located an airport hazard area, may adopt, administer, and enforce zoning regulations for that part of an airport hazard area within the political subdivision's territorial limits or jurisdiction to protect public health and safety. The political subdivision may divide the area into zones and specify within the zones the land uses or developments permitted. As used in this subsection, "development" means an activity which materially alters or affects the existing conditions or use on any land.
5. Airport zoning regulations; incorporation into zoning ordinance. In the event that a political subdivision has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations and may be administered and enforced as an integral part thereof.
6. Airport zoning regulations; amendment. Every airport zoning regulation for an airport hazard area existing in connection with an airport shall be designed to effectuate the Commission's airport approach plan, as amended by it, whenever necessary, for such airport, and said regulations shall likewise be amended, when necessary to conform to any revision of the applicable airport approach plan that may be made by the Commission.

It is hereby resolved that Conway Township adopts the airport approach protection plan for Maple Grove Airport (65G) located in Conway Township as presented and adopted by the Commission on July 17, 2002. The approach protection plan consists of height protection for the FAR Part 77 surfaces surrounding the airport and land use protection using standards shown on the enclosed material. See Map at the end of this Section. Zone 1 establishes a height restriction of fifteen (15') feet, Zone 2 establishes a height restriction of thirty-five (35') feet, Zone 3 establishes a height restriction one hundred twenty-five (125') feet, and Zone 4 establishes a height restriction of two hundred (200') feet.

7. Airport zoning regulations; conflict, determination by Commission. In the event of conflict between any airport zoning regulation applicable to the same area, whether such other regulations were adopted by the political subdivision which adopt the airport zoning regulations or by some other political subdivision, and whether the conflict be with respect

to the height of structures or trees, the use of land, or any other matter, those limitations or requirements which may be determined by the Commission to be most conducive to airport and air travel safety shall govern and prevail.

8. Airport zoning regulations; construction permits required. For all structures, uses, and trees subject to this Act, the airport zoning regulations adopted under this Act shall require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or substantially repaired. All such regulations shall further provide that before any non-conforming structure or tree may be replaced, substantially altered or substantially repaired, rebuilt, allowed to grow higher or replanted, a permit authorizing such replacement, change or repair must be secured from the Township. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made, become higher, or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for permit is made.

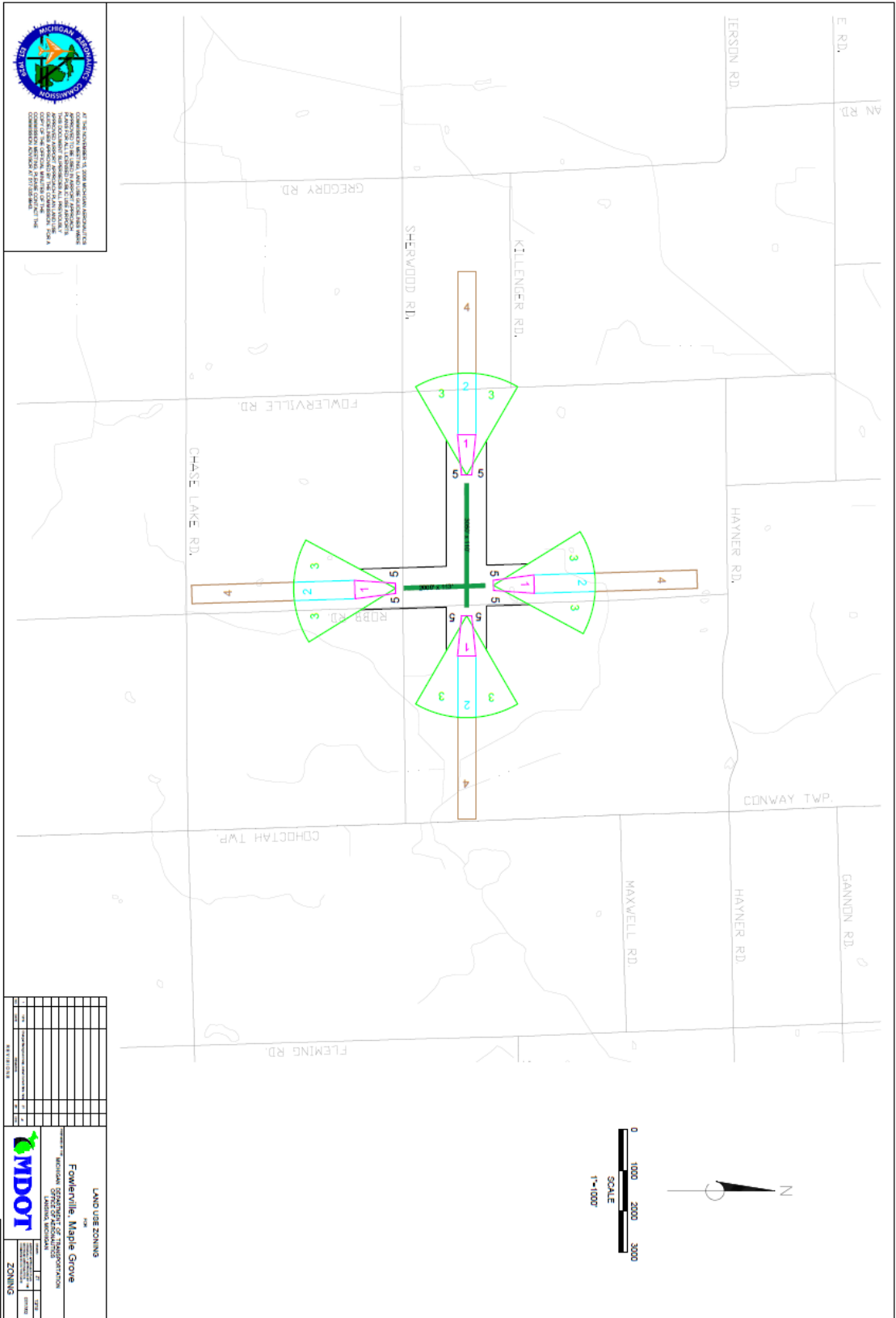
Whenever the Township determines that a non-conforming use or non-conforming structure or tree has been abandoned or more than eighty (80%) percent torn down, destroyed, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

9. Airport zoning regulations; variance. A person desiring to erect a structure or increase the height of a structure or permit the growth of trees or otherwise use property in violation of the airport zoning regulations adopted under this Act, may apply to the Board of Appeals. The Board of Appeals will make their decision with the help of the airport manager or the Commission or both. A variance shall not conflict with a general zoning ordinance or regulation of Conway Township.
10. Airport zoning regulations; variance, markers and lights required. In granting any variance under this subsection, if the Board of Appeals deems such action advisable to effectuate the purpose of this Act and reasonable in view of the surrounding circumstances, the Board of Appeals may condition such variance as to require the owner of the structure or tree in question to permit Conway Township, as the case may be, at the owners expense, to install, operate and

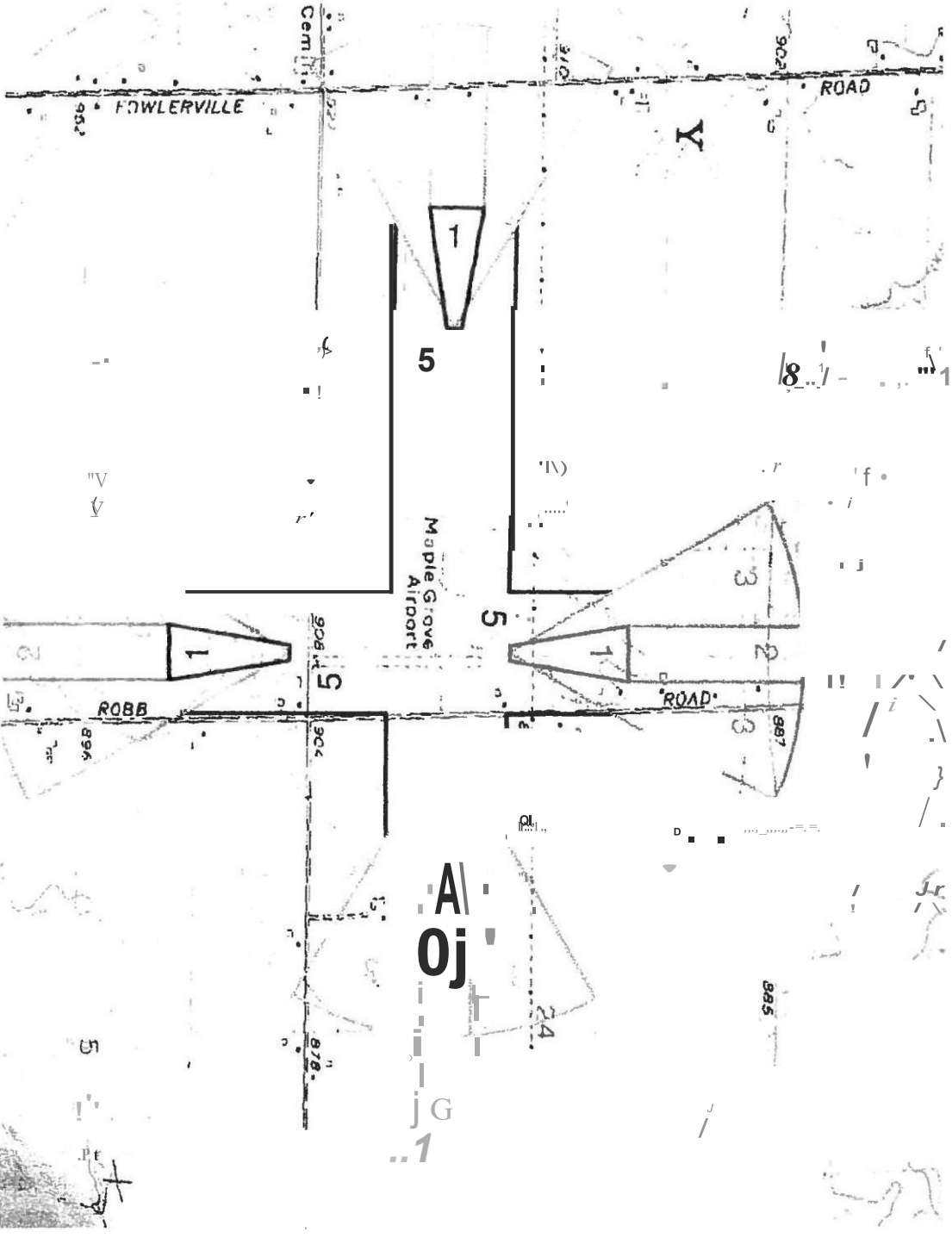
maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

11. Airport zoning regulations; administration and enforcement. All airport zoning regulations adopted under this Act shall be administered and enforced by Conway Township.
12. Approach protection; acquisition of property by Aeronautics Commission. In any case in which: (a) it is desired to remove, lower or otherwise terminate a non-conforming structure, tree or use; (b) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Act; (c) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the Commission, on behalf of or in the name of the State, within the limitation of available appropriations, or each political subdivision within which the property or non-conforming uses is wholly or partly located, or the political subdivision is served by the airport may acquire by purchase, grant or condemnation in the manner provided by the law, under which the Commission on behalf of and in the name of the State or political subdivisions are authorized to acquire real property for public purposes, such as air right, aviation easement or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purposes of this Act.









## Section 6.24 Wind Energy

### A. Purpose and Intent.

The purpose of this section is to establish guidelines for sighting Wind Energy Turbines (WET(s)). The goals are as follows: (1) To promote the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity; (2) Preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WET; and (3) To establish standards and procedures by which the sighting, design; engineering, installation, operation and maintenance of a WET shall be governed.

### B. Definitions.

1. Ambient Sound Level is the amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dba weighted scale as defined by the American National Standards Institute.
2. Anemometer is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
3. Condominium Development is defined as a development that is created under the Condominium Act, 178 PA 59, MCL 599.101 et seq.
4. General Common Element is defined as an area designated for use by all owners within condominium development.
5. Decibel is defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dba weighted scale as defined by the American National Standards Institute.
6. Decommissioning is the process of terminating operation and completely removing a WET (s) and all related buildings, structures, foundations, access roads, and equipment.



7. Large Wind Energy Turbine (LWET) is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The LWET has a nameplate above two hundred fifty (250) kilowatts, and the main purpose of the LWET is to supply electricity to off- site customers.
8. Medium Wind Energy Turbine (MWET) is a tower mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The Total Height does not exceed one hundred and fifty (150) feet.
9. Nacelle refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.
10. Net-Metering is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.
11. Occupied Building is a residence, school, hospital, church, public library, business, or any other building used for public gatherings.
12. Operator is the entity responsible for the day-to-day operation and maintenance of a Wind Energy Turbine (WET).
13. Owner is the individual or entity, including their respective successors and assigns, that have an equity interest or own the Wind Energy Turbine (WET) in accordance with this ordinance.
14. Rotor Diameter is the cross-sectional dimension of the circle swept by the rotating blades of a WET.
15. Shadow Flicker is the moving shadow, created by the sun shining through the rotating blades of a Wind Energy Turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

16. Small Tower-Mounted Wind Energy Turbine (STMWET) is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts. The Total Height does not exceed one hundred twenty (120) feet.
17. Structure is any building or other structure, such as a municipal water tower that is a minimum of twelve (12) feet high at its highest point of roof and is secured to frost-footings or a concrete slab.
18. Small Structure-Mounted Wind Energy Turbine (SSMWET) converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The SSMWET has a nameplate capacity that does not exceed ten (10) kilowatts. The Total Height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
19. Total Height is the vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the Wind Energy Turbine (WET).
20. Tower is a freestanding monopole that supports a Wind Energy Turbine (WET).
21. Upwind Turbine is a Wind Energy Turbine (WET) positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.
22. Wind Energy Turbine (WET) is any structure-mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a Wind Generator and includes the nacelle, rotor, tower, and pad transformer, if any.

- C. Applicability.** This Ordinance applies to all WET(s) proposed to be constructed after the effective date of this Ordinance. All WET(s) constructed prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; however, any

physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this Ordinance.

**D. Temporary Uses.** The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, the applicable WET regulations, and Section 6.09 of this Ordinance for Temporary Uses.

1. Anemometers.

a. The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.

b. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety requirements, and decommissioning that correspond to the size of the WET that is proposed to be constructed on the site.

c. An anemometer shall be permitted for no more than Twelve (12) months for a SSMWET, STMWET, or LWET.

**E. Small Wind Turbines** A Small Structure-Mounted Wind Energy Turbine (SSMWET) and a Small Tower Mounted Wind Energy Turbine (STMWET) shall be considered a Special Use in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this Ordinance unless a building permit has been issued to the Owner of the property and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communication, and FAA requirements. In addition to the materials required for all special land uses, all SSMWET's and STMWET's are subject to the following minimum requirements:

1. Sighting and Design Requirements:

a. Upwind turbines shall be required.

b. Visual Appearance

i. A SSMWET or STMWET, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.

- ii. A SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
  - iii. SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
- c. Ground Clearance: The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty (30) feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET or STMWET.
- d. Noise: Noise emanating from the operation of a SSMWET or STMWET shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a SSMWET or STMWET shall not exceed, at any time, the lowest ambient noise level plus 5 dba that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.
- e. Vibration: Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWET or STMWET is located.
- f. Guy Wires: Guy wires shall not be permitted as part of the SSMWET or STMWET.
- g. In addition to the Sighting and Design Requirements listed previously, the SSMWET shall also be subject to:
  - i. Height: The height of a SSMWET shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. The SSMWET shall adhere to all airport

zoning height requirements.

- ii. Setback: The setback of the SSMWET shall be a minimum of twenty five (25) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of twenty five (25) feet. The setback shall be measured from the furthest outward extension of all moving parts.
  - iii. Location: The SSMWET shall not be affixed to the wall on the side of a structure facing a road.
  - iv. Quantity: No more than three (3) SSMWET's shall be installed on any parcel of property.
  - v. Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.
- h. In addition to the Sighting and design Requirements listed previously, the STMWET shall also be subject to the following:
- i. Height: The Total Height of a STMWET shall not exceed one hundred twenty (120) feet. The STMWET shall adhere to all airport zoning height requirements.
  - ii. Location: The STMWET shall only be located in a rear yard of a property that has an occupied building.
  - iii. Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty five (25) feet measured from the base of the Tower.
  - iv. Other Setbacks: The setback shall be equal to the Total Height of the STMWET, as measured from the base of the Tower, from the property line, public right-of-way, public

easement, or overhead public utility lines.  
This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend with a distance or zone shorter than the height of the wind turbine.

v. Quantity: No more than one (1) STMWET shall be installed on any parcel of property.

vi. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.

2. Permit Application Requirements:

- a. Name of property owner(s), address, and parcel number.
- b. A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) or STMWET, property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.
- c. The proposed type and height of the SSMWET or STMWET to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- d. Documented compliance with the noise requirements set forth in this Ordinance.
- e. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications and FAA requirements.
- f. Proof of applicant's liability insurance.

- g. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
  - h. Other relevant information as may be reasonably requested.
  - i. Signature of the Applicant.
  - j. In addition to the Permit Application Requirements previously listed, the SSMWET Application shall also include the total proposed number of SSMWET(s), and a description of the methods that will be used to perform maintenance on the SSMWET(s) and the procedures for lowering or removing the SSMWET (s) in order to conduct maintenance.
  - k. In addition to the Permit Application Requirements previously listed, the STMWET Application shall also include a description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.
3. Safety Requirements:
- a. If the SSMWET or STMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
  - b. The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
  - c. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET or STMWET.
  - d. The structural integrity of the SSMWET or STMWET

shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, “Wind Turbine Safety and Design” IEC 61400-2, “Small Wind Turbine Safety”, IEC 61400-22, “Wind Turbine Certification”, and IEC 61400-23 “Blade Structural Testing”, or any similar successor standards as recommended by the State of Michigan.

4. Signal Interference: The SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
5. Decommissioning:
  - a. The SSMWET or STMWET Owner(s) or Operator(s) shall complete decommissioning within thirty (30) days after the end of the useful life. Upon request of the owner(s) or assigns of the SSMWET or STMWET, and for a good cause, the Conway Township Board may grant a reasonable extension of time. The SSMWET or STMWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of ninety (90) days. All decommissioning expenses are the responsibility of the Owner(s) or Operator(s).
  - b. If the SSMWET or STMWET Owner(s) or Operator(s) fails to complete decommissioning within the period prescribed above, the Conway Township board may designate a contractor to complete the decommissioning with the expense thereof to be charged to the violator and will become a lien against the premises. If the SSMWET or STMWET is not owned by the property owner(s), a bond must be provided to the Township of Conway for the cost of decommissioning for each SSMWET or STMWET.
  - c. In addition to the Decommissioning Requirements listed previously, the STMWET shall also include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. The site and any disturbed earth shall also be stabilized, graded, and cleared of any debris by the owner(s) of the facility or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.



6. Public Inquiries and Complaints: Should an aggrieved property owner allege that the SSMWET or STMWET is not in compliance with the noise requirements of this Ordinance, the procedure shall be as follows:

a. Noise Complaint

- i. Notify the Conway Township Board in writing regarding concerns about noise levels.
- ii. If the complaint is deemed sufficient by the Conway Township Board to warrant an investigation, the Conway Township Board will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this Ordinance.
- iii. If the test indicates that the noise level is within Ordinance noise requirements, the Conway Township Board will use the deposit to pay for the test.
- iv. If the SSMWET or STMWET Owner(s) is in violation of the Ordinance noise requirements, the Owner(s) shall reimburse the Township of Conway for the noise level test and take immediate action to bring the SSMWET or STMWET into compliance which may include ceasing operation of the WET until Ordinance violations are corrected. The Township of Conway will refund the deposit to the aggrieved property owner.

**F. Medium and Large Wind Turbines.** A Medium Wind Energy Turbine (MWET) shall be a special use in the Agricultural Residential, Commercial, and Industrial districts. A Large Wind Energy Turbine (LWET) shall be a special use in the Commercial and Industrial districts only and must comply with the Airport Zoning requirements. In addition to the materials required for all special land uses, the application shall include the following for MWET and LWET:

1. Sighting and Design Requirements:

- a. Upwind turbines shall be required.
- b. The design of a MWET or LWET shall conform to

all applicable industry standards.

- c. Visual Appearance: Each MWET or LWET, including accessory buildings and other related structures shall be mounted on a tubular tower and a non-reflective, non-obtrusive color (e.g. white, gray, black). The appearance of turbines, towers and buildings shall be maintained throughout the life of the MWET or LWET. Each MWET or LWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. Each MWET or LWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for reasonable identification of the turbine manufacturer or operator(s).
- d. Vibration: Each MWET or LWET shall not produce vibrations humanly perceptible beyond the property on which it is located.
- e. Shadow Flicker: The MWET or LWET owner(s) or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the MWET or LWET. The analysis shall identify the locations of the shadow flicker that may be caused by the project and the expected durations of the flicker at these locations where shadow flicker may affect the occupants of the buildings for more than thirty (30) hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow Flicker on a building shall not exceed thirty (30) hours per year.
- f. Guy Wires: Guy wires shall not be permitted as part of the MWET or LWET.
- g. Electrical System: All electrical controls, control wiring, grounding wires, power lines, and all other electrical system components of the MWET or LWET shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.
- h. In addition to the Sighting and Design Requirements listed previously, the MWET shall also be subject to the following:

- i. Location: If a MWET is located on property that has an occupied building it shall only be located in the rear yard. The MWET shall only be located in a General Common Element in a Condominium Development.
- ii. Height: The total Height of a MWET shall not exceed one hundred and fifty (150) feet.
- iii. Ground Clearance: The lowest extension of any blade or other exposed moving component of a MWET shall be at least fifteen (15) feet above the ground (at the highest point of the grade level within fifty (50) feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human occupancy, such as balconies or roof gardens, that are located directly below the MWET.
- iv. Noise: Noise emanating from the operation of a MWET shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a MWET(s) shall not exceed, at any time, the lowest ambient noise level plus 5 dba that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.
- v. Quantity: No more than one (1) MWET shall be installed for every two acres of land included in the parcel.
- vi. Setback and Separation:
  - 1. Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty five (25) feet measured from the base of the Tower.
  - 2. Property Line Setbacks: With the exception of the locations of public roads (see (3) below), drain rights-of-way and parcels with occupied buildings (see (1) above), the internal property line setbacks shall be equal to

the Total Height of the MWET as measured from the base of the Tower. This setback may be reduced to a distance agreed; upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.

3. Public Road Setbacks: Each MWET shall be set back from the nearest public road a distance equal to the Total Height of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.
4. Communication and Electrical Lines: Each MWET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the Total Height of the MWET, as measured from the base of the Tower, determined from the existing power line or telephone line.
5. Tower Separation: MWET tower separation shall be based on industry standard and manufacturer recommendations.

i. In addition to the Sitting and Design Requirements listed previously, the LWET shall also be subject to the following:

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- i. Ground Clearance: The lowest extension of any blade or other exposed moving component of a LWET shall be at least fifty (50) feet above the ground (at the highest point of the grade level within one hundred fifty (150) feet of the base of the tower).
- ii. Noise: Noise emanating from the operation of a LWET shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property

line of parks, schools, hospitals, and churches. Noise emanating from the operation of a LWET(s) shall not exceed, at any time, the lowest ambient noise level plus 5 dba that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.

iii. Quantity: The numbers of LWETs shall be determined based on setbacks and separation.

iv. Setback and Separation: Each LWET shall be set back from the nearest Occupied Building that is located on the same parcel as the LWET a minimum of two (2) times its Total Height, or one thousand (1000) feet, as measured from the base of the Tower, whichever is greater. With the exception of the locations of Public roads, drain rights-of-way and parcels with Occupied Buildings, the internal property line setbacks shall be a minimum of one and one-half (1.5) times the Total Height, as measured from the base of the Tower.

This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET. Each LWET shall be set back from the nearest public road a minimum distance no less than five hundred (500) or one and one-half (1.5) times its Total Height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such public road. Each LWET shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than five hundred (500) feet or one and one-half (1.5) times its Total Height, whichever is greater, determined from the existing power line or telephone line. Turbine tower separation shall be based on industry standards and manufacturer recommendations. Each LWET shall require the construction of a private road to offer an adequate means by which the Township may readily access the site in the event of an

emergency. All Private roads shall be constructed to the Conway Township private road standards.

2. Safety Requirements:
  - a. If the MWET or LWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
  - b. The MWET or LWET shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
  - c. Security measures need to be in place to prevent unauthorized trespass and access. Each MWET or LWET shall not be climbable up to fifteen (15) feet above the ground surfaces. All access doors to MWET's or LWET's and electrical equipment shall be locked and fenced as appropriate, to prevent entry by non-authorized person(s).
  - d. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner and in a manner prescribed by the Federal Government.
  - e. Each MWET or LWET shall have one sign, not to exceed two (2) square feet in area, posted at the base of the tower and on the security fence. The sign shall contain at least a warning high voltage, Manufacturer's and owner/operators name, and Emergency contact numbers. (list more than one number).
  - f. The structural integrity of the MWET or LWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design", IEC 61400-22 "Wind Turbine Certification", and IEC 61400-23 "Blade Structural Testing".
3. Signal Interference: The MWET or LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication

systems.

4. Decommissioning:

- a. The MWET or LWET Owner(s) or Operator(s) shall complete decommissioning within thirty (30) days after the end of the useful life. Upon request of the owner(s) or the assigned of the MWET or LWET, and for a good cause, the Conway Township board may grant a reasonable extension of time. Each MWET or LWET will presume to be at the end of its useful life if no electricity is generated for a continuous period of ninety (90) days. All decommissioning expenses are the responsibility of the owner(s) of the parcel and the operator(s).
- b. Decommissioning shall include the removal of each MWET or LWET, buildings, electrical components, and roads to a depth of sixty (60) inches, as well as any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade. Following removal, the location of any remaining wind turbine foundation shall be identified on a map as such and recorded with the deed to the property with the Livingston County Register of Deeds.
- c. All access roads to the MWET or LWET shall be removed, cleared, and graded by the MWET or LWET Owner(s), unless the property owner(s) requests, in writing, a desire to maintain the access road. The Township or County will not be assumed to take ownership of any access road unless through official action of the Conway Township Board.
- d. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the owner(s) of the MWET or LWET or its assigns. If the site is not to be used for agricultural practices following removal, the site shall be seeded to prevent soil erosion.
- e. In addition if the MWET Owner(s) or Operator(s) fails to complete decommissioning with in the period prescribed above, the Township of Conway may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and to become a lien against the premises. If the MWET is not owned by the property owner(s), a bond must be provided to the Township of Conway for the cost of decommissioning each MWET.
- f. In addition the LWET shall also be subject to the

following.

- i. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning (Decommissioning Costs) with no regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment (Net Decommissioning Costs). When determining this amount, the Township of Conway may also require an annual escalator or increase based on the Federal Consumer Price Index (or equivalent or its successor). Said estimates shall be submitted to the Conway Township Board after the first year of operation and every fifth year thereafter.
- ii. The LWET Owner(s) or Operator(s) shall post and maintain Decommissioning Funds in an amount equal to Net Decommissioning Costs; provided, that at no point shall Decommissioning Funds be less than one hundred percent (100%) of the Decommissioning Costs. The Decommissioning Funds shall be posted and maintained with a bonding company or Federal or State chartered lending institution chosen by the Owner(s) or Operator(s) and participating landowner(s) posting the financial security. The bonding company or lending institution authorized to conduct such business and shall be approved by the Township of Conway.
- iii. Decommissioning Funds shall be in the form of a performance bond made out to the Township of Conway.
- iv. A condition of the bond shall be notification by the bond company to the Conway Township Board when the bond is about to expire or be terminated.
- v. Failure to keep the bond in effect while a LWET is in place will be a violation of the special land use permit. If a lapse in the bond occurs, Conway Township may take action up to and including requiring ceasing operation of the WET until the bond is reposted.



vi. The escrow agent shall release the Decommissioning Funds when the Owner(s) has demonstrated and the Township of Conway concurs that decommissioning has been satisfactorily completed, or upon written approval of the Conway Township Board in order to implement the decommissioning plan. If neither the Owner(s) or Operator(s), nor the landowner(s) complete decommissioning within the periods addressed previously (Decommissioning Requirements 1 and 2), then the Township of Conway may take such measures as necessary to complete decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Township of Conway shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors and assigns that the Township of Conway may take such action as necessary to implement the decommissioning plan.

5. Site Plan Requirements:

a. Site Plan Drawing: All applications for a MWET or LWET special land use permit shall be accompanied by a detailed site plan map that is drawn to scale with dimensions and displaying existing property features to include the following:

i. Property lines, physical dimensions of the property, land use, zoning district, contours, setback lines, right of way, public and utility easements, public roads, access roads (including width), sidewalks, non-motorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within three hundred (300) feet of the property.

ii. Location and height of all proposed MWET(s) or LWET(s), buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with the proposed MWET or LWET.

iii. Additional details and information as required

by the Special Use requirements of the Zoning Ordinance or as requested by the Conway Township Planning Commission.

b. Site Plan Documentation: The following documentation shall be included with the Site Plan:

- i. The contact information for the Owner(s) and Operator(s) of the MWET or LWET as well as contact information for all property owners on which the MWET or LWET is located.
- ii. A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed MWET or LWET. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the special use permit, if approved.
- iii. Identification and location of the properties on which the proposed MWET or LWET will be located.
- iv. In the case of a Condominium Development, a copy of the Condominium Development's Master Deed and Bylaws addressing the legal arrangement for the MWET or LWET.
- v. The proposed number, representative types and height of each MWET or LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
- vi. Documents shall be submitted by the developer/manufacturer confirming specifications for MWET or LWET tower separation.
- vii. Documented compliance with the noise, and shadow flicker requirements set forth in this Ordinance.
- viii. Engineering data concerning construction of the MWET or LWET and its base or foundation, which may include, but not be limited to, soil boring data.

- ix. A Certified registered engineer shall certify that the MWET or LWET meets or exceeds the manufacturer's construction and installation standards.
- x. Anticipated construction schedule.
- xi. A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the MWET or LWET to conduct maintenance, if applicable.
- xii. Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The MWET or LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Conway Township Airport Zoning, Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- xiii. Proof of applicant's liability insurance.
- xiv. Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off- grid systems shall be exempt from this requirement.
- xv. Other relevant information as may be requested by the Conway Township Board and Planning Commission to ensure compliance with the requirements of this Ordinance.
- xvi. Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the Special Use Permit.
- xvii. A written description of the anticipated life of each MWET or LWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and

removal and restoration procedures and schedules that will be employed if the MWET(s) or LWET(S) become inoperative or non-functional.

xviii. The applicant shall submit a decommissioning plan that will be carried out at the end of the MWET(s) or LWER(s) useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.

xix. The Township of Conway reserves the right to review all conditions of the permit to ensure that they are being followed.

xx. Signature of the Applicant.

xxi. In addition to the Site Plan Requirements listed previously, the LWET shall be subject to the following:

1. A site grading, erosion control and storm water drainage plan will be submitted to the Conway Township Board prior to issuing a special use permit for a LWET. At the Township of Conway's discretion, these plans may be reviewed by the Township's engineering firm. The cost of this review will be the responsibility of the applicant.
2. A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, (including dust control) and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET. The cost of which will be the responsibility of the owner(s) or operator(s).
3. A statement indicating what hazardous materials will be used and stored on the site.
4. A study assessing any potential impacts on

the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds and other wildlife, wetlands and fragile ecosystems). The study shall conform to state and federal wildlife agency recommendations based on local conditions.

**G. Certification and Compliance.**

1. The Township of Conway must be notified of a change in ownership of a SSMWET, STMWET, MWET or LWET or a change in ownership of the property on which the SSMWET, STMWET, MWET or LWET is located.
2. The Township of Conway reserves the right to inspect any SSMWET, STMWET, MWET, or LWET, in order to ensure compliance with the Ordinance. Any cost associated with the inspections shall be paid by the owner/operator of the WET.
3. In addition to the Certification and Compliance requirements listed previously, the LWET shall also be subject to the following: (a.) A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any LWET to demonstrate compliance with the requirements of the Ordinance. Proof of compliance with the noise standards is required within ninety (90) days of the date the LWET becomes operational. Sound shall be measured by a third-party, qualified professional. The cost shall be paid by the owner/operator of the WET. (b.) The LWET Owner(s) or Operator(s) shall provide the Township of Conway Board a copy of the yearly maintenance inspection. (c.) The special use permit shall be reviewed annually by the Conway Township Board for all WET(s).

**H. Public Inquiries and Complaints.** Should an aggrieved property owner allege that the MWET or LWET is not in compliance with the noise and shadow flicker requirements of this Ordinance, the procedure shall be as follows:

1. For a noise complaint, notify the Conway township board in writing regarding concerns about noise levels. If the complaint is deemed sufficient by the Township of Conway to warrant an investigation, the Conway Township board will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this Ordinance. If the MWET or LWET Owner(s) is in violation of the Ordinance noise

requirements, the Owner(s) shall reimburse the Township of Conway for the noise level test and take immediate action to bring the MWET or LWET into compliance which may include ceasing operation of the WET until Ordinance violations are corrected. The Township of Conway will refund the deposit to the aggrieved property owner.

2. For a Shadow Flicker Complaint, notify the Conway Township Board in writing regarding concerns about the amount of shadow flicker. If the complaint is deemed sufficient by the Conway Township Board to warrant an investigation, the Township of Conway will request the Owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance of the requirements of this Ordinance. If the MWET or LWET Owner(s) is in violation of the Ordinance shadow flicker requirements, the Owner(s) shall take immediate action to bring the MWET or LWET into compliance which may include ceasing operation of the WET until the Ordinance violations are corrected.

## **Section 6.25 Medical Marijuana Uses**

**A. Findings.** These requirements for Medical Marijuana Uses are based on the following findings of fact:

1. Voter Approved. Voters in the State of Michigan approved Initiated Law 1 of 2008 authorizing the use of marijuana for certain medical conditions, resulting in the passage of the Michigan Medical Marijuana Act, MCL 333.26421 et seq., as amended (“the Act”).
2. Intent. The intent of the Initiated Law was to enable certain persons specified in the Act who comply with the registration provisions of the Act to legally obtain, possess, cultivate/grow, use, and distribute marijuana, and to assist specific registered individuals identified in the Act without fear of State law criminal prosecution under limited, specific circumstances set forth in the Act.
3. Controlled Substance. Despite the specifics of the Act and the permitted activities set forth therein, marijuana remains a controlled substance under Michigan and Federal law. Obtaining, possession, cultivation/growth, use, and distribution of controlled substances has a potential for abuse that should be closely monitored and regulated, to the extent permissible under the Act, by local authorities. Given the effect of the Act on municipalities, it is in the best interest of municipalities to use their zoning authority to adopt reasonable regulations to mitigate and/or prevent harmful secondary effects that could negatively affect health, safety, welfare, and quality of life of their residents.

**B. Purpose.** It is the purpose of this Section to impose specific requirements for those individuals registering with the State of Michigan as a “qualifying patient” or a “primary caregiver” as those terms are defined in the Act, and to regulate the

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conduct of activity pursuant thereto in the Township so as to protect the health, safety and welfare of the general public. Conway Township is not legalizing or permitting the use of controlled substances within its borders, whether that substance is medical marijuana or any other identified as a controlled substance. Rather, Conway Township is establishing locations and regulations for uses set forth in the Act to comply with the Act. If after adoption, any portion of the Act is repealed, or any portion of the Act is deemed unconstitutional by the Michigan Supreme Court or a lower Michigan court decision chosen not to be heard by the Michigan Supreme Court, any activities or uses within this Ordinance applicable to the repealed or unconstitutional portion of the Act are immediately repealed as well.

It is further intended that nothing in this Section be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, possession or control of marijuana for nonmedical purposes or allow activity relating to cultivation/growing, distribution or consumption of marijuana that is otherwise illegal under State law.

**C. Definitions.** For purposes of this Ordinance, the words and phrases contained herein shall have the meanings set forth in the Act and the regulations adopted by the State of Michigan, Department of Community Health, pursuant to authority conferred by Section 5 of the Act, inclusive of all amendments to the Act. For the purposes of this Ordinance, the terms “marijuana” and “marihuana” as used here, in the Act, and elsewhere, shall be synonymous.

1. Drug Paraphernalia means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, prepackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as defined in Section 7104 of the Michigan Public Health Code (Act 368 of the MI Public Acts of 1978, as amended) in violation of the laws of the State of Michigan.
2. Medical Marijuana Caregiver Operation or Caregiver Operation means any registered primary caregiver who cultivates produces, sells, distributes, possesses, transports, or makes available marijuana in any form to a qualifying patient for medical use in accordance with the Act. The term “caregiver operation” shall not include the private possession, production, or medical use of marijuana by a registered qualifying patient in compliance with the restrictions of this ordinance.
3. Medical Marijuana Collective, Cooperative, or Dispensary means any facility, structure, dwelling, or other location where medical marijuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver, or registered qualifying patient. The term “collective” or “cooperative” or “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marijuana for medical use exclusively to his/her five or fewer

designated qualifying patients in strict accordance with the Act and the Administrative Rules of the Michigan Department of Community Health. A marijuana collective, cooperative, or dispensary shall not include the following uses that are in compliance with this Ordinance and all laws and rules of the State of Michigan, and intended for on- site patient use only: a State-licensed health care facility, a state-licensed residential care facility for the elderly or infirm, or a residential hospice care facility.

4. Medical Use of Marijuana, also known as Marihuana, also known as Cannabis, has the meaning given to it in Section 7601 of the Michigan Public Health Code, as it is referred to in Section 3(d) of the Act. Any other term pertaining to marijuana used in this Section shall have the meaning given to it in the Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with the Act.
5. Primary Caregiver or Registered Primary Caregiver is defined as set forth in the Act.
6. Qualifying Patient or Registered Qualifying Patient is defined as set forth in the Act.

**D. Compliance Required.** “Qualifying patients” or “primary caregivers” as those terms are defined in the Act, shall comply with the requirements of Section 6.25(F) for qualifying patients, and the requirements of Section 6.25(G) for primary caregivers. The medical use of marijuana shall comply at all times and in all circumstances with the Act and the General Rules of the Michigan Department of Community Health. Caregiver operations shall be available for inspection, during business hours, by the Zoning Administrator, to confirm the operation is operating in accordance with State laws and Township ordinances.

**E. Marijuana Collectives, Cooperatives and Dispensaries Prohibited.** It shall be unlawful to establish or operate a for-profit or nonprofit Medical Marijuana Collective, Cooperative, or Dispensary in Conway Township.

**It is the express intent of Conway Township not to allow the operation of any kind of marijuana facility pursuant to 2016 PA 281, MCL 333.27205(1), 2016 PA 282, and 2016 PA 283, within the boundaries of the Township.**

**F. Requirements for Qualifying Patients.** Any person who has been issued and possesses a valid registry identification card as a qualifying patient as set forth in the Act shall comply with the following requirements:

1. Consumption. Consumption of marijuana by a qualifying patient may not occur at a medical marijuana caregiver operation, at any place of business, in any public place, or at a primary caregiver’s dwelling unit, except that a qualifying patient who resides in the same dwelling unit as his/her caregiver may consume at that dwelling unit.
2. Growing for Personal Use. Growing of marijuana by a qualifying patient for his or her own personal use, as set forth in the Act, is permitted in



any location within the Township, subject to the following requirements:

- a. Patient Control. The site must be under the control, through written lease, contract, or deed, in favor of the qualifying patient.
- b. Enclosed, Locked Facility. Such growing, indoors and outdoors, shall only be allowed as set forth by the Act and subject further to the requirements of Sections 6.25(G)(2).
- c. Lighting. Artificial lighting is permitted for the purposes of growing marijuana as set forth in Section 6.25(G)(3).

**G. Requirements for Caregiver Operations.** Any person who has been issued and possesses a valid registry identification card as a primary caregiver as set forth in the Act is a “medical marijuana caregiver operation” for the purposes of this Ordinance, and shall comply with the requirements identified below.

1. Where Permitted. A primary caregiver shall conduct his or her growing operation and/or provide services to a qualifying patient only in the AR District as a special land use. The site must be under the control, through written lease, contract, or deed, in favor of the primary caregiver or registered qualifying patient associated with that facility.
2. Growing. Growing of marijuana shall only be allowed as set forth in the Act, including the requirement that plants must be located within an enclosed, locked facility. An enclosed locked facility means:
  - a. For marijuana grown indoors, a closet, room or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by the registered primary caregiver or registered qualifying patient associated with that facility.
  - b. For marijuana grown outdoors:
    - i. An area that is not visible to the unaided eye from an adjacent property when viewed by an individual standing at ground level or from a permanent structure; and
    - ii. Are grown in a stationary structure that is enclosed on all sides, except for the base, by six foot high chain link fencing, wooden slats, or similar fencing/wall material that prevents access by the general public and that is anchored, attached or affixed to the ground; and
    - iii. Located on land that is owned, leased, or rented by either a registered primary caregiver or the registered qualifying patient for whom the marijuana plants are grown; and
    - iv. Equipped with functioning locks and other security devices that restrict access to only the associated qualifying

patient or caregiver.

The required fencing or wall shall be of new, high quality material, shall meet all County and Township Code requirements, and is subject to Township inspection at any time to insure that it remains in proper and functioning condition.

2. Lighting. Lighting used for the purposes of growing marijuana is permitted subject to the following:
  - a. For marijuana grown outdoors: Lighting shall not be illuminated from 7:00 pm to 7:00 am the following day. All lights shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
  - b. For marijuana grown indoors: Lighting shall not be visible outside the building from 7:00 pm to 7:00 am the following day. All lights shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.

Lighting cast by exterior light fixtures other than for the purposes of growing marijuana shall comply with the provisions of Section 6.16(J).

3. One Caregiver per Approved Caregiver Operation. The structure and location from which a primary caregiver grows, cultivates, or otherwise provides services to his or her qualifying patients shall not be used by more than one primary caregiver for that primary caregiver's services as allowed under the Act.
4. Delivery Required. Transfers of medical marijuana from the primary caregiver to his or her qualifying patient(s) shall be accomplished only by the delivery of medical marijuana by the primary caregiver to the home of the qualifying patient. No onsite transfer to a qualifying patient is permitted.
5. Location. Caregiver operations shall comply with the following location requirements:
  - a. Separation Measurement. The distances set forth below shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest points of the property lines of the protected use and the caregiver operation, or between the nearest point of the zoning district boundary from which the caregiver operation is to be separated to the nearest point of the property line of the caregiver operation.
  - b. Separation from Schools. The location shall not be located within 1,000 feet of any public or private school having a curriculum including kindergarten or any grades between 1 and 12, or any state-licensed child care or day care facility, to insure community

compliance with Federal “Drug-Free School Zone” requirements.

- c. Separations. The location from which a primary caregiver grows for service to a qualifying patient shall not be within 1000 feet of any of the following:
  - i. Caregiver to caregiver;
  - ii. A church, place of worship, or other religious facility;
  - iii. A public library, public park, or public playground;

Additional separation requirements may be recommended by the Planning Commission and approved by the Township Board.

- 6. Operation in Conjunction with Other Uses. To facilitate monitoring, and to comply with the limited access requirements of the Act, a caregiver operation must be located in a single use building with an outside entrance separate from any other use, except for a permitted single family residential dwelling or permitted single family accessory structure. No other commodity, product or service shall be available on the same lot.
- 7. Sales of Paraphernalia Prohibited. No sales of drug paraphernalia as defined herein are permitted, except to the qualifying patients of that caregiver.
- 8. Consumption. Consumption of marijuana by a qualifying patient may not occur at a caregiver operation, at any place of business, in any public place, or at a primary caregiver’s dwelling unit. In the case where a registered caregiver is also a registered qualifying patient, consumption exclusively by the caregiver/patient at the caregiver/patient’s dwelling unit is permitted. Also a qualifying patient who resides in the same dwelling unit as his/her caregiver may consume at the same dwelling unit.
- 9. Special Land Use and Site plan Approval Required. Special land use and site plan approval shall be required for any Medical Marijuana Caregiver Operation prior to its establishment in Conway Township. The requirements and procedures of Article 13 Special Land Uses and Article 14 Site Plan Review of this Ordinance shall apply.
- 10. Special Land Use Permit Fee and Annual Renewal Required. To ensure compliance with the Act and the requirements set forth herein, all Medical Marijuana Caregiver Operation special land use permits shall require payment of an annual fee as set forth by the Township Board, and shall expire one (1) year after issuance. Renewal of the special land use permit shall be granted upon successful completion of a Township inspection of the caregiver operation site, confirming the Primary Caregiver remains legally registered with the State of Michigan, the caregiver operation complies with the requirements set forth in the Act, and the caregiver operation complies with Section 6.25.

**I. Security.** Qualifying patients and primary caregivers shall provide secure locations, consistent with the Act, for cultivation and storage of medical marijuana. Primary caregivers shall submit a security plan and a floor plan identifying the number of

plants, storage locations for chemical and growing materials, and other critical aspects of the layout, and how they intend to secure the facility, with the special land use application. Security measures for primary caregiver operations shall include, but are not limited to, security cameras installed to monitor all areas of the premises where persons may gain or attempt to gain access to marijuana or cash. Security cameras shall have at least 120 concurrent hours of digitally recorded documentation. In addition a monitored alarm system shall be provided. The recorded data shall be made available to law enforcement personnel and the Conway Township Zoning Administrator or other Township designee upon request to allow confirmation of compliance with these regulations. The Township may require additional security measures such as fencing, security lighting, and other measures as conditions of the special land use approval. The security plan shall be considered a confidential document by the Township and exempt from disclosure under the Freedom of Information Act.

- J. Building Approvals.** Any building or structure used for cultivation of marijuana shall obtain all necessary building, plumbing, electrical, and any other necessary permits and approvals to ensure the facility meets current code standards. In addition, the facility shall be subject to inspection to ensure compliance with applicable fire code and the security requirements of the Act.
- K. Taxes Paid.** No special land use shall be approved by the Township unless the property taxes are paid and up-to-date at the time of approval.
- L. Signage.** A primary caregiver operation shall not bear any sign or emblem that would indicate the presence of the MMMA related activity.
- M. MMMA Amendments.** The regulations herein pertaining to MedicalMarijuana use shall at all times refer to and comply with Initiated Law 1 of 2008, inclusive of any and all amendments to the Act, and any and all related regulations and their amendments. If any section of these regulations is found to be inconsistent with or in violation of the Act, only that section shall cease to have effect; all other sections shall remain in full force and effect.

## **Section 6.26 Solar Energy Collectors**

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

Conway Township promotes the effective and efficient use of solar energy collection systems. It is the intent of the Township to permit these systems by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy collectors. Building-mounted and ground-mounted solar energy collectors, as defined in this Ordinance, shall comply with the provisions of this Section.

### **B. Criteria For the Use of All Solar Energy Equipment.**

1. Solar energy equipment shall be located in the least visibly obtrusive location where panels would be functional.

2. Solar energy equipment shall be repaired, removed, or replaced within six (6) months of becoming nonfunctional.
3. All solar energy equipment must conform to all County, State, and Federal regulations and safety requirements as well as applicable industry standards.

**C. Application to Zoning Administrator.**

An applicant who seeks to install building-mounted solar energy equipment or certain ground-mounted solar energy collector systems shall submit an application to the Zoning Administrator upon forms furnished and approved by the Conway Township Board of Trustees.

The application must be approved in writing by the Zoning Administrator. The application shall include the following:

1. Photographs of the property's existing conditions.
2. Renderings or catalogue cuts of the proposed solar energy equipment.
3. Certificate of compliance demonstrating that the system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency.
4. Plot plan to indicate where the solar energy equipment is to be installed on the property.
5. Description of the screening to be provided for ground mounted solar energy equipment.
6. In addition to the criteria contained in this subsection, applicants seeking approval of a ground-mounted solar energy collector system that is accessory to a residence and does not exceed 250 square feet, must also demonstrate that it meets all requirements of subsection (F).

**D. Exclusions from Administrative Review.**

1. The installation of one (1) solar panel with a total area of less than eight (8) square feet.
2. Repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.

**E. Building-Mounted Solar Energy Collector Requirements.** A building-mounted solar energy collector shall be a permitted accessory use in all zoning districts, subject to the following requirements:

1. Administrative review as set forth in subsection (C) above is

required of all building-mounted solar energy collectors permitted as an accessory use, subject to the exclusions in subsection (D).

2. Solar energy collectors that are mounted on the roof of a building shall not project more than five (5) feet above the highest point of the roof but, in any event, shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.
3. Solar energy collectors mounted on the roof of a building shall be only of such weight as can safely be supported by the roof. Proof thereof, in the form of certification by a professional engineer or other qualified person, shall be submitted to the Zoning Administrator prior to installation; such certification shall be subject to the Zoning Administrator's approval.
4. Solar energy collectors that are roof-mounted, wall-mounted or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Zoning Administrator prior to installation; such proof shall be subject to the Zoning Administrator's approval.
5. Solar energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.
6. Solar energy collectors shall not be mounted on a building wall that is parallel to an adjacent public right-of-way.
7. The exterior surfaces of solar energy collectors that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be generally neutral in color and substantially non-reflective of light.
8. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the Zoning Administrator prior to installation. The Zoning Administrator may inspect the completed installation to verify compliance with the manufacturer's directions.
9. Solar energy collectors, and the installation and use thereof, shall comply with the County construction code and the electrical code.

**F. Ground-Mounted Solar Energy Collector Requirements.** A ground-mounted solar energy collector system shall be permitted as a special land use, subject to the approval of the Planning Commission under Article 13, and subject to the following requirements:

1. Special land use approval is required of all ground-mounted solar energy collectors except those which are accessory to a residence

and do not exceed 1000 square feet in total area. For those ground-mounted solar energy collectors which are accessory to a residence and do not exceed 1000 square feet, administrative review as set forth in subsection (C) is required.

2. Commercial solar energy systems are permitted as a special land use in the Agricultural Residential, Industrial and Commercial Districts only.
3. Ground-mounted solar energy collectors shall be located only as follows:
  - a. They may be located in the rear yard and the side yard, but not in the required rear yard setback or in the required side yard setback unless permitted by the Planning Commission in its approval of the special land use.
  - b. They may be located in the front yard only if permitted by the Planning Commission in its approval of the special land use but, in any event, they shall not be located in the required front yard setback.
4. Ground-mounted solar energy collectors shall not exceed sixteen (16) feet in height, measured from the ground at the base of such equipment.
5. The total area of ground-mounted solar energy collectors shall not be included in the calculation of the maximum permitted lot coverage requirement for the parcel of land. For any parcel of land two (2) acres or less, a ground-mounted solar energy collector shall not be deemed an accessory building or structure for purposes of Section 6.06(E).
6. Solar energy collectors shall be permanently and safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted with the special land use application and shall be subject to the Planning Commission's approval.
7. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted with the special land use application. The special land use, if granted, may be subject to the Zoning Administrator's inspection to determine compliance with the manufacturer's directions.
8. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light.
9. Ground-mounted solar energy collectors, and the installation and use thereof, shall comply with all applicable construction codes and electric codes.

10. The special land use may include terms and conditions in addition to those stated in this subsection.
11. Ground mounted solar energy collectors must be fenced in with at least a six (6) foot chain link fence. The Planning Commission shall have the discretion to substitute a greenbelt screening or decorative fence on any ground mounted solar energy system that is not also a solar farm to screen from adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non- invasive plant species that provide a visual screen.
12. All power transmission lines from the ground mounted solar energy collectors to any building or other structure should be located underground.
13. In the event that a ground mounted solar energy system has been abandoned (meaning not having been in operation for a period of one year without a waiver from the Planning Commission), the system shall be removed by the applicant or the property owner and the site shall be stabilized and re- vegetated as necessary to minimize erosion. If the abandoned system is not removed or repaired, amongst other available remedies, the Township may pursue legal action against the applicant and property owner to have the system removed and assess its cost to the tax roll of the subject parcel. The applicant and property owner shall be responsible for the payment of any costs and attorney's fees incurred by the Township in securing removal of the structure. The Township may utilize the benefit of any financial security being held under this Section to offset its cost. As a condition of approval, the applicant and property owner shall give permission to the Township to enter the parcel of land for this purpose.
14. Additional provisions applicable to a Commercial Solar Energy System shall be as follows:
  - a. Minimum setbacks shall be one thousand (1,000) feet from any property with a residence and one hundred twenty-five (125) feet from all other properties. This requirement may be waived by the Planning Commission.
  - b. The applicant shall provide a copy of the application to the local Fire Chief for review and approval.
  - c. The applicant shall provide the Planning Commission with an operations agreement, which sets forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation. It shall be a condition of approval that the Zoning Administrator shall be notified and provided copies of any changes.



- d. The site plan shall include property lines and physical features of the site, including roads; proposed changes to the landscape, grading vegetation clearing and planting, exterior lighting, screening vegetation and structures; distance between proposed solar collector and all property lines and existing on-site buildings and structures; and the height of all structures.
- e. The site plan shall include information on where and how the solar farm will connect to the power grid. No solar farm shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to allow the applicant to install an interconnected customer-owned generator to the grid or the applicant otherwise has a means for the wholesale or retail sales of generated electricity.
- f. Financial security guaranteeing removal of the system must be posted at the time of receiving a construction permit for the system. The security shall be in the form of a cash bond, irrevocable bank letter of credit, or performance bond in a form approved by the Township. The amount of such guarantee shall be no less than the estimated cost of removal and may include a provision for inflationary cost adjustments. The estimate shall be prepared by the engineer for the applicant and shall be subject to approval by the Township.

**G. Solar Access Requirements.** When a solar energy collection system is installed on a lot, accessory structures or vegetation on an abutting lot shall not be located so as to block the solar collector's access to solar energy. The portion of a solar collector that is protected is the portion which is located so as not to be shaded between the hours of 10:00am and 3:00pm by a hypothetical twelve (12) foot obstruction located on the lot line.

**H. Solar Access Exemptions.** Structures or vegetation existing on an abutting lot at the time of installation of the solar energy collection system, or the effective date of this ordinance, whichever is later is exempt from subsection (G). above. Said subsection described in subsection (G) above controls any structure erected on, or vegetation planted in, abutting lots after the installation of the solar energy collection system.



**ARTICLE 7. AR AGRICULTURAL RESIDENTIAL DISTRICT** (last amendment July 2021)

**Section 7.01 Intent**

The AR Agricultural Residential District is established to preserve and protect lands best suited for agricultural uses, while also designating land area for rural residential living that does not alter the general agricultural character of the district.

In this district non-farm uses shall be permitted upon a minimum lot size of two (2) acres and farm uses shall be permitted upon a minimum lot size of twenty (20) acres. A farm use shall be defined by the permitted uses listed in

7.2 (B) and by the definition of farm and farm operation in Michigan's Right to Farm Act, 1981 PA 93, MCL 286.472, et seq, as amended.

**Section 7.02 Permitted Uses**

**A.** The following non-farm uses of land are permitted in this district upon a minimum lot size of two (2) acres unless otherwise specified by provisions of this ordinance:

1. Single family detached dwellings (see Section 6.05);
2. Two family dwellings (see Section 6.05);
3. Private stables (see Section 6.22);
4. Family day care and group day care (see Section 6.21);
5. Family foster care homes and adult foster care family homes;
6. Public parks, playgrounds, and recreational grounds;
7. Churches, schools, public buildings, clubs and lodges;
8. Signs as provided in Article 17, Sign Standards;
9. Off-street parking as required and allowed according to Article 15, off-street parking and loading-unloading standards;
10. Keeping of animals as provided in Section 6.22;
11. Home Occupation Class I;
12. Qualifying Patient (see Section 6.25);
13. Building-Mounted Solar Energy Collector (See Section 6.26).

**B.** The following farm uses of lands are permitted in this district upon a minimum lot size of twenty (20) acres unless otherwise specified by provisions of this ordinance:

1. Agricultural farms;
2. Dairy farms;
3. Livestock farms;
4. Poultry farms;
5. Feedlots;
6. Truck farming;
7. Tree and sod farms;
8. Greenhouses;
9. Plant nursery;
10. Farm buildings;
11. Farm drainage and irrigation systems;
12. Storing, packaging and processing of on-site agricultural commodities;
13. Commercial stables (see Section 6.22);
14. Keeping of animals as provided by Section 6.22;
15. Grazing and forage;
16. Conservation area and forest preserve.

### **Section 7.03 Special Uses**

**A.** The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13, Special Land Uses:

1. One (1) additional single family home or dwelling unit on parcels of twenty (20) acres or more, for use by persons or a family that are employed by the agricultural pursuits of the operating farm located on-site. The additional home must meet requirements of Michigan's Construction Code;
2. Home Occupation Class II;
3. Bed and breakfast home stay;

4. Commercial and Hobby kennels;
5. Veterinary hospital and clinics;
6. Agriculture service establishments;
7. Commercial composting operations and centers;
8. Injection wells;
9. Commercial recreation;
10. Child care centers;
11. Long term care facilities;
12. Foster care group home;
13. Adult foster care group home;
14. Cemeteries;
15. Wireless communication support structures and radio and television broadcast towers;
16. Essential public services of public utilities, municipal departments, and utility boards or commissions;
17. Open Space Community (See Article 12);
18. Small and Medium Wind Energy Turbines (see Section 6.24);
19. Medical Marijuana Caregiver Operation (see Section 6.25);
20. Ground-Mounted Solar Energy Collector (See Section 6.26);
21. Commercial Solar Energy System (See Section 6.26).

#### **Section 7.04 Area, Height and Bulk Regulations**

Area, height and bulk regulations for the AR Agricultural Residential District are set forth in the following Schedule of Area, Height and Bulk Requirements.

## SCHEDULE OF AREA, HEIGHT AND BULK REQUIREMENTS

District	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Front Lot Line (feet)	Minimum Yard Setback (feet)			Max. Building Height Stories	Feet	Floor Area Requirement (sqft/unit)
				Front	Side	Rear			
AR									
Agricultural	20 acres (farm)	150(f)	150(g)	100/110 (a)	25(b)	25(b)	3	45(c)	1,040 (d,e)
Residential	2 acres (non-farm)	150(f)	150(g)	100/110 (a)	25(b)	25(b)	3	40	1,040 (d,e)

- NOTES
- (a) The front yard setback shall be one hundred (100) feet from the center line of a secondary roadway and 110 feet from the center line of a primary roadway.
  - (b) If side yard abuts a roadway, the minimum side yard setback shall follow the same requirements for front yard setbacks. For accessory structures, the side yard and rear yard setbacks shall be fifteen (15) feet subject to the provisions of Section 6.06.
  - (c) The maximum building height for a residential structure shall be forty (40) feet. The maximum building height for farm structures shall be forty-five (45) feet, with the exception of grain elevators and silos which shall not exceed a maximum building height of one hundred twenty-five (125) feet. Farm structures over forty-five (45) feet shall be set back from the lot line a distance equal to one and one-half (1 ½) times the total height of the structure.
  - (d) One story single family and two family structures shall have a minimum floor area requirement of 1,040 square feet per dwelling unit. Multi-level dwelling units shall have a minimum floor area requirements of 750 square feet at the first floor level. In no such case shall minimum floor area include area in an attached garage, open porch or other open attached structure. (See Article 2 for definition of floor area requirement computation and Section 6.05 for supplemental regulations pertaining to residential dwelling units).
  - (e) The minimum floor area requirement for each type of single family attached dwelling unit and multiple family dwelling unit shall be as follows:
    - \* Efficiency 450 square feet
    - \* One Bedroom 600 square feet
    - \* Two Bedroom 750 square feet
    - \* Three Bedroom 900 square feet
    - \* Each additional bedroom 150 square feet
  - (f) Any access easement cannot be included in the one hundred fifty (150) foot minimum lot width.

- (g) Any access easement cannot be included in the one hundred fifty (150) foot minimum front lot line.

**Section 7.05 Additional Dimensional Requirements**

**A. Minimum Lot Size.**

1. Lots and parcels shall not exceed a 1 to 4 (1:4) width-to- depth ratio.
2. The minimum lot areas specified in Section 7.04 Schedule of Area, Height and Bulk Requirements, are for all uses in the AR Agricultural Residential District unless otherwise specified in Article 6 General and Supplementary Regulations or Article 13 Special Land Uses.

**B. Rights of Way.** Power lines, pipelines and structures within existing public rights of way (not including buildings) of public utility companies shall be exempt from the area, placement and height regulations of this district.

**C. Accessory Buildings.** Accessory buildings, structures and uses (with the exception of an automobile garage) are prohibited in the minimum required yard area. Where the accessory structure is attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building. (See Section 6.06 for Supplemental Regulations Pertaining to Accessory Buildings and Structures.)

**Section 7.06 Additional Site Development Requirements**

**A. Provisions of Article 6:** General and Supplementary Regulations.

**B. Site Plan Review.** For all special uses and principal non-residential buildings or structures permitted in the AR Agricultural Residential District, with the exception of farm buildings, a site plan shall be submitted to the Planning Commission and no land use permit shall be issued until after the Planning Commission has reviewed and approved the site plan in accordance with Article 14 Site Plan Review.

**C. Provisions of Article 15:** Off Street Parking and Loading-Unloading Standards.

**D. Provisions of Article 16:** Private Roads, Driveways, and Access Management.

**E. Provisions of Article 17:** Sign Standards.





## ARTICLE 8. R RESIDENTIAL DISTRICT

### Section 8.01 Intent

The R Residential District is established to promote low density, single family residences as the predominant form of development within the district, with appropriate land areas designated for the accommodation of multiple family use.

### Section 8.02 Permitted Uses

- A. The following uses of land are permitted in this district:
1. Single family detached dwellings (see Section 6.05);
  2. Two family dwellings (see Section 6.05);
  3. Family day care and group day care (see Section 6.21);
  4. Family foster care homes and adult foster care family homes;
  5. Public parks, playgrounds, and recreational grounds;
  6. Churches, schools, public buildings, clubs and lodges;
  7. Commercial stables (see Section 6.22);
  8. Keeping of animals as permitted in Section 6.22 herein;
  9. Signs as provided in Article 17, Sign Standards;
  10. Off-street parking as required and allowed according to Article 15, Parking and Loading-Unloading Standards;
  11. Home Occupation Class I;
  12. Qualifying Patient (see Section 6.25);
  13. Building-Mounted Solar Energy Collector (See Section 6.26).

### Section 8.03 Special Uses

- A. The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13, Special Land Uses.
1. Multiple family dwellings;

2. Single family attached dwellings;
3. Senior housing complexes
4. Bed and breakfast homestay;
5. Home Occupation Class II;
6. Child care centers;
7. Long term care facilities;
8. Cemeteries;
9. Open Space Community (See Article 12);
10. Essential public services of public utilities, municipal departments, and utility boards of commissions;
11. Small Wind Energy Turbines (See Section 6.24);
12. Ground-Mounted Solar Energy Collector (See Section 6.26).

**Section 8.04 Area, Height and Bulk Regulations**

Area, height, and bulk regulations for the R Residential district are set forth in the following Schedule of Area, Height and Bulk Requirements.

**SCHEDULE OF AREA, HEIGHT AND BULK REQUIREMENTS**

District R	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Front Lot Line (feet)	Minimum Yard Setback (feet)			Maximum Building Height Stories	Floor Area Requirement (sq. ft/unit)	
				Front	Side	Rear		Feet	
Residential	2 acre	150(f)	150(g)	100/110(a)	25 (b)	25(b)	3	40(c)	1040 (d,e)

**NOTES:**

- (a) The front yard setback shall be one hundred (100) feet from the center line of a secondary roadway and one hundred ten (110) feet from the center line of a primary roadway.
- (b) If side yard abuts a roadway, the minimum side yard setback shall follow the same requirements for front yard setbacks. For accessory structures, the side yard and rear yard setbacks shall be fifteen (15) feet subject to the provisions of Section 6.06.

- (c) The maximum building height for an accessory structure shall also be forty (40) feet.
- (d) One story single family and two family structures shall have a minimum floor area requirement of 1,040 square feet per dwelling unit. Multi-level dwelling units shall have a minimum floor area requirement of seven hundred fifty (750) square feet at the first floor level. In no such case shall minimum floor area include area in an attached garage, open porch or other open attached structure (See Article 2 for definition of floor area requirement computation and Section 6.05 for supplemental regulations pertaining to residential dwelling units).
- (e) The minimum floor area requirement for each type of single family attached dwelling unit and multiple family dwelling unit shall be as follows:
 

* Efficiency	450 square feet
* One Bedroom	600 square feet
* Two Bedroom	750 square feet
* Three Bedroom	900 square feet
* Each additional bedroom	150 square feet
- (f) Any access easement cannot be included in the one hundred fifty (150) foot minimum lot width.
- (g) Any access easement cannot be included in the one hundred fifty (150) foot minimum front lot line.

**Section 8.05 Additional Dimensional Requirements**

**A. Minimum Lot Size**

1. Lots and parcels shall not exceed a 1 to 4 (1:4) width-to-depth ratio.
2. The minimum lot areas specified in Section 8.04 Schedule of Area, Height and Bulk Requirements are for all uses in the R Residential District unless otherwise specified in Article 6 General and Supplementary Regulations or Article 13 Special Land Uses.

**B. Rights of Way.** Power lines, pipelines and structures within existing public rights of way (not including buildings) of public utility companies shall be exempt from the area, placement and height regulations of this district.

**C. Accessory Buildings.** Accessory buildings, structures and uses (with the exception of an automobile garage) are prohibited in the minimum required yard area. Where the accessory structure is attached to a main building, it shall be subject to and must conform to all regulations of this ordinance applicable to the main building (See Section 6.06 for Supplemental Regulations Pertaining to Accessory Buildings and Structures).

**Section 8.06 Additional Site Development Requirements** (Last amended July 2021)

- A. Provisions of Article 6:** General and Supplementary Regulations.
- B. Site Plan Review.** For all special uses and principal non-residential buildings or structures permitted in the R Residential District, a site plan shall be submitted to the Planning Commission and no land use permit shall be issued until after the Planning Commission has reviewed and approved the site plan in accordance with Article 14 Site Plan Review.
- C. Provision of Article 15:** Off Street Parking and Loading-Unloading Standards.
- D. Provisions of Article 16:** Private Roads, Driveways, and Access Management.
- E. Provisions of Article 17:** Sign Standards.

## ARTICLE 9. MHP MANUFACTURED HOUSING PARK DISTRICT

### Section 9.01 Intent

The Manufactured Housing Park (MHP) District is intended to provide for the location and regulation of manufactured housing parks (also known as “mobile home parks”), as defined by the Mobile Home Commission Act (MHCA), 1987 PA 96, MCL 125.2301 et seq, as amended, and the Manufactured Housing Commission’s Rules. It is intended that manufactured housing parks be provided with necessary community and recreational facilities that serve the residents in the district in a setting that provides a high quality of life for residents as limited by state law. In accordance with the purpose of this district, manufactured housing parksshall be located in areas where they will be compatible with and not adverselyimpact adjacent land uses.

The regulations and rules established by the State of Michigan MHCA and the Manufactured Housing Commission govern all manufactured housing parks. Where regulations in this Article and ordinance exceed the state law or general rules, they are intended to promote the health, safety and welfare of the community’s residents, and to ensure that manufactured housing parksare developed and maintained in a manner equivalent to the standards established by this ordinance for comparable residential developments in the community.

It is recognized that under the law manufactured housing parks are designed and developed at standards, typology and density that are at significantvariance from other residential developments in Conway Township. The Township’s comprehensive plan recognized the quality of the Township’s countryside and its rural landscape, most prominently visible along its roadsides and road view sheds to a depth of three hundred (300) feet. The Conway Township C Commercial and I Industrial Districts also require a three hundred foot (300) setback from planned public right-of-ways, as do multiple family projects within the R Residential District. It is the intent of this district to continue preserving view sheds in the manufactured housing district also.

Further, the district is intended to meet the needs of the different age and family groups in the community, to provide for standards that ensure adequate light and air to windows and for privacy and open spaces to serve the residents of these districts, to prevent congestion on the public streets, and to reduce hazards to life and property.

### Section 9.02 Principal Uses and Structures

In the MHP District, no building shall be erected, used or structurally altered, nor shall the land or premises be used in whole or in part, except for the following principal permitted use: single family detached manufactured dwellings.

### Section 9.03 Accessory Uses and Structures

The following uses and structures accessory to principal uses and structures in the MHP District shall be permitted, subject to the standards below:

- A. Clubhouses, private swimming pools and fitness facilities for the exclusive use of residents and their guests.
- B. In a new housing development, temporary use of a residence as a model during the period of construction and selling or leasing of homes in the development.
- C. Private garages, carports, community garages, or parking lots.

### Section 9.04 Use Standards

Manufactured housing parks shall be subject to all the rules and requirements of the MHCA, the Manufactured Housing Commission Rules, and the following minimum requirements:

- A. **Plan Review.** A preliminary plan for a manufactured housing park shall be submitted to the Township and reviewed by the Planning Commission in accordance with the application requirements and procedures specified in Section 11 of the MHCA. The Planning Commission shall take action to approve or deny the preliminary plan or approve the preliminary plan subject to conditions, within sixty (60) days after the Township officially receives a complete and accurate application. The Planning Commission may table an application for further study or to obtain additional information, provided that final action is taken within the sixty (60) day review period. A copy of the state-approved final construction plan shall be submitted to the Township prior to the start of construction on the site.
- B. **Minimum Area and Setback for a Manufactured Housing Park.** The minimum parcel size for manufactured housing parks shall be fifteen (15) acres and the setback from public right-of-way for development shall be three hundred (300) feet.
- C. **Minimum Area of Manufactured Housing Unit.** Manufactured housing parks shall be developed with a minimum manufactured housing site area of five thousand five hundred (5,500) square feet. Individual site area may be reduced to as small as four thousand four hundred (4,400) square feet, provided that for every square foot of land gained through such reduction, at least an equal amount of land shall be dedicated as open space for the collective use and enjoyment of all manufactured housing park residents. This open space shall be in addition to the minimum open space required under the Manufactured Housing Commission rules.
- D. **Unit Setbacks.** Manufactured housing units shall comply with the

following minimum setbacks:

1. For a unit not sited parallel to an internal road, twenty feet (20) from an adjacent unit, including an attached structure that may be used for living purposes for the entire year.
  2. For a unit sited parallel to an internal road, fifteen feet (15) from an adjacent unit, including an attached structure that may be used for living purposes for the entire year, if the adjacent unit is sited next to the unit on and parallel to the same internal road or an intersecting internal road.
  3. Ten (10) feet from an attached or detached structure or accessory of an adjacent unit that may not be used for living purposes for the entire year.
  4. Fifty (50) feet from any permanent building.
  5. One hundred (100) feet from any baseball, softball or similar recreational field.
  6. Seven (7) feet from the back of curb or edge of pavement for an internal hard surfaced road.
  7. Seven (7) feet from an adjacent unit site's parking space or off-site parking bay.
  8. Seven (7) feet from a common sidewalk.
  9. All manufactured units, accessory buildings and parking shall be set back not less than twenty (20) feet from any manufactured housing park boundary line, except that a minimum setback of 320 feet shall be provided from the planned right-of-way of public streets abutting the park.
- E. Maximum Height.** The maximum height of any community or similar building in a manufactured housing park shall not exceed two (2) stories or thirty-five (35) feet, whichever is less. Storage or service buildings shall not exceed one (1) story or fifteen (15) feet.
- F. Park Roads.** Park roads shall satisfy the minimum dimensional, design and construction requirement in the Manufactured Housing Commission rules. The main entrance to the park shall have access to a public road by a permanent easement that shall be recorded by the developers. All internal roads shall be hard-surfaced.
- G. Parking.** Each manufactured housing site shall be provided with two (2) parking spaces per the Manufactured Housing Commission Rules.
- H. Common Storage Areas.** If boats, boat trailers and utility trailers are

permitted to be parked within the manufactured housing park, adequate parking spaces for such vehicles shall be provided in a central or collective parking area. This area shall be in addition to the automobile parking requirements of this Section and shall be adequately locked, fenced and permanently buffered.

- I. **Sidewalks.** Concrete sidewalks having a minimum width of three (3) feet shall be provided on at least one side of internal manufactured housing park roads. In addition, a five (5) foot wide concrete sidewalk shall be constructed one (1) foot inside the right-of-way line for the entire frontage along any public road abutting the manufactured housing park.
  
- J. **Accessory Buildings and Facilities.** If provided, accessory buildings and structures, including park management offices, storage buildings, laundry facilities or community facilities, shall be designed and operated for the exclusive use of park residents.
  - 1. Site-built buildings and structures within a manufactured housing park, such as a management office or clubhouse, and any addition to a manufactured house that is not certified as meeting the standards of the U.S. Department of Housing and Urban Development (HUD) for manufactured houses, shall be constructed in compliance with applicable state building, electrical and fire codes and shall be subject to approval of appropriate permits and certificates of occupancy by the Township.
  
  - 2. A storage shed with a maximum area of one hundred forty-four (144) square feet may be placed upon any individual manufactured home site for the storage of personal property. Storage sheds shall be of wood construction and be vinyl or wood sided. Except as otherwise noted in this Section, no personal property (including tires) shall be stored outside or under any manufactured home or within carports which are open on any side. Bicycles and motorcycles may be parked in carports. Seasonal outdoor storage of outdoor cooking grills is permitted, so long as they are kept on a finished wooden deck, a concrete or asphalt patio or equivalent type of surface associated with the home.
  
- K. **Open Space.** A community or home condominium that contains fifty (50) or more home sites shall have not less than two (2%) percent of the community's gross acreage dedicated to designated open space, or twenty-five thousand (25,000) square feet, whichever is greater.
  
- L. **Perimeter Screening.** Where a manufactured housing park abuts an existing residential development, screening shall be provided along the boundary abutting the existing residential development.



- M. **Screening Along Public Right-of-Way.** Screening along public right-of-way shall be in accordance with Article 6, General and Supplementary Regulations, and Section 6.16, Required Landscaping and Screening.
- N. **Alternative Screening.** Alternative screening devices may be utilized if they conceal the manufactured housing park as effectively as the required landscaping elements described above.
- O. **Parking Lot Landscaping.** Parking lot landscaping shall be in accordance with Article 6, General And Supplementary Regulations, and Section 6.16 Required Landscaping and Screening.
- P. **Trash Disposal.** The proposed method(s) and locations(s) of trash storage and disposal shall conform to the requirements of Part 5 of the Michigan Department of Environmental Quality (MDEQ) Manufactured Home Park Standards, as amended, and shall be identified on the preliminary plan.
- Q. **Awnings.** Awnings may be attached to any manufactured unit. Awnings shall comply with the setback and distance requirements set forth in this Section and shall require a permit.
- R. **Sewer Service.** Public sewer systems shall be required in a manufactured housing park, if available within two hundred (200) feet of the park boundaries at the time of preliminary plan approval. If a public sewer system is unavailable, the development shall connect to a state-approved sewage system.
- S. **Water Service and Storm Drainage systems.** Water supply and drainage systems shall conform to the requirements of Part 2 – 4 of the Michigan Department of Environmental Quality (MDEQ) Manufactured Home Park Standards.
- T. **Telephone and Electric Service.** All electric, telephone, cable TV and other lines within the park shall be underground per the Manufactured Housing Commission Rules.
- U. **Fuel Oil and Gas.** Any fuel oil and gas storage shall be located in underground tanks at a safe distance from all manufactured housing sites. All fuel lines leading to manufactured housing sites shall be underground and designed in conformance with the Manufactured Housing Commission Rules and other applicable local, county and state regulations.
- V. **Operational Requirements.**
  - 1. Permit. It shall be unlawful for any person to operate a manufactured housing park unless that individual obtains a

license for such operation in compliance with the requirements of the Mobile Home Commission Act. The Township's Zoning Administrator shall communicate recommendations regarding the issuance of such licenses to the Director of the Bureau of Construction Codes and Fire Safety, Michigan Department of Labor and Economic Growth.

2. Violations. Upon inspection of any manufactured housing park, whenever the Township's Zoning Administrator finds that conditions or practices exist which violate provisions of this Section, the Zoning Administrator shall give notice in writing by certified mail to the director of the Bureau of Construction Codes and Fire Safety, Michigan Department of Labor and Economic Growth, including the specific nature of the alleged violations and a description of possible remedial action necessary to effect compliance. This process shall be governed by Sections 17(2) and 36 of the MHCA. The notification shall include such other information as is appropriate in order to fully describe the violations and potential hazards to the public health, safety and welfare resulting from the violation. A copy of such notification shall be sent by certified mail to the last known address of the park owner or agent.
3. Inspections. The Zoning Administrator or other authorized Township agent is granted the authority, as specified in the Mobile Home Commission Act, P.A. 96 of 1987, as amended, to enter upon the premises of any manufactured housing park for the purpose of determining compliance with the provisions in this Section.
4. License. A manufactured housing park shall not be operated until a license has been issued by the State of Michigan.

**W. Sale of Manufactured Homes.** The business of street selling new or preowned manufactured homes as a commercial operation in connection with the operation of a manufactured housing community shall be prohibited. The operator of a manufactured housing community, or designee, who is an authorized licensed manufactured home retailer or broker, is permitted to feature and sell in-park model homes to be located on a variety of sites within the manufactured housing community.

New or pre-owned manufactured houses located on sites within the manufactured housing park, to be used and occupied on that site may be sold by the authorized licensed manufactured home retailer or broker, or by a resident of the manufactured housing park, provided the park's regulations permit such sale.

- X **Mailbox Clusters.** The United States Postal Service may require that manufactured housing parks be served by clusters of mailboxes serving several sites rather than individual mailboxes serving individual sites. If mailbox clusters are required, they shall be safely located.

**Section 9.05 Severability**

Should any section, subdivision, clause or phrase of this Ordinance be declared to be invalid by a court of competent judgment, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so invalidated.



## ARTICLE 10. C COMMERCIAL DISTRICT (Last amended July 2021)

### Section 10.01 Intent

The C Commercial District is established to accommodate limited commercial development to serve the requirements of the community. All commercial uses shall be designed in a way that avoids negatively impacting adjacent uses. This district is intended for the formation of a cluster of commercial uses rather than an undesirable strip commercial pattern of development.

### Section 10.02 Permitted Uses

- A. The following uses of land are permitted in this district:
1. Airports, Heliports and Related Uses (See Section 6.23);
  2. Public buildings;
  3. Vocational and technical training facilities;
  4. Convenience stores;
  5. Retail establishments for the sale of alcoholic beverages, baked goods, bicycles, books, confections, drugs, flowers, groceries, hardware, hobby equipment, jewelry, music, notions, plants, periodicals, small household articles, tobacco; and similar establishments;
  6. Photography studios;
  7. Furriers, dressmaking and tailoring establishments;
  8. Medical or dental clinics not including veterinarian hospitals or any type of medical facility permitting overnight patients;
  9. Carry-out restaurants without a drive through window;
  10. Eating and drinking establishments when food or beverage is consumed within a completely enclosed building;
  11. Executive, administrative, professional, accounting, banking, writing, clerical, stenographic and drafting offices or establishments;
  12. Personal service establishments performing services on the premises, such as barber and beauty shops; watch, radio, television, clothing and shoe repair, tailor shops, locksmith, taxidermy, and similar establishments;
  13. Churches and other places of worship, public schools, public

libraries, private schools and education institutions;

14. Nursery school, day nurseries or day care centers;
15. Building-Mounted Solar Energy Collector (See Section 6.26).

### **Section 10.03 Special Uses**

**A.** The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13 Special Land Uses:

1. Business services such as mailing, copying and data processing;
2. Construction and farm equipment sales and service establishments;
3. Self-storage facility;
4. Contractor's yard;
5. Service stations;
6. Essential public services of public utilities, municipal departments and utility boards or commissions;
7. Adult regulated uses (See Section 13.05(V));
8. Small, Medium, and Large Wind Energy Turbines (See Section 6.24);
9. Ground-Mounted Solar Energy Collector (See Section 6.26);
10. Commercial Solar Energy System (See Section 6.26).

### **Section 10.04 Area, Height and Bulk Regulations**

Area, height, and bulk regulations for the C Commercial District are set forth in the following schedule:

**SCHEDULE OF AREA, HEIGHT AND BULK REQUIREMENTS.**

District	Minimum Lot Area (acres)	Minimum Lot Width (feet)	Minimum Front Lot Line (feet)	Minimum Yard Setback (feet)			Maximum Building Height		Maximum Lot Coverage
				Front	Side	Rear	Stories	Feet	
C									
Commercial	1 acre	150(c)	150(d)	100/110(a)	35(b)	50	3	40	40%

NOTES:

- (a) The front yard setback shall be one hundred (100) feet from the center line of a secondary roadway and one hundred ten (110) feet from the center line of a primary roadway.
- (b) If side yard abuts a roadway, the minimum side yard setback shall follow the same requirements for front yard setbacks. Where a lot abuts a residential zoning district, the minimum required side yard shall be fifty (50) feet and screening shall be provided in accordance with Section 6.16.
- (c) Any access easement cannot be included in the one hundred fifty (150) foot minimum lot width.
- (d) Any access easement cannot be included in the one hundred fifty (150) foot minimum front lot line.

**Section 10.05 Additional Dimensional Requirements**

**A. Minimum Lot Size.**

- 1. Lots and parcels shall not exceed a 1 to 4 (1:4) width-to-depth ratio.
- 2. The minimum lot areas specified in Section 10.04 Schedule of Area Height, and Bulk Requirements, are for all uses in the C Commercial District unless specified in Article 6 General and Supplementary Regulations or Article 13 Special Land Uses.

**B. Height.** No commercial uses in the C Commercial District shall be permitted or specially permitted at a height that compromises the “clear zone” (as defined by the FAA) of any public and private airport, heliport or related use.

**C. Accessory Buildings.** Accessory buildings, structures and uses are prohibited in the minimum required yard area. Where the accessory structure is attached to a main building, it shall be subject to and must conform with all yard requirements of this ordinance

## Section 10.06 Additional Site Development Requirements

### A. Performance Standards.

1. Storage of materials or goods shall be enclosed entirely within a building or shall be enclosed so as not to be visible to the public from any abutting residential district or public street.
2. Material which is normally and reasonably discarded from commercial uses of property may be stored outside of an enclosed building for a reasonable time provided that such storage areas are completely screened by an opaque fence of not less than five (5) feet in height.
3. No lighting shall in any way impair the safe movement of traffic on any transportation corridor.
4. Vehicle ingress and egress points shall not be closer than seventy-five (75) feet to the intersection of any two (2) public streets or closer than fifty (50) feet to an adjacent driveway.
5. Each separate use, groupings of buildings or grouping of uses as a part of a single planned development shall not have more than two (2) access ways from a public road.
6. Parking lots, driveways and service roads shall be surfaced with concrete or bituminous materials and maintained in a usable, dirt-free condition.
7. Service roads and driveways shall have a paved width of twenty-four (24) feet and shall comply with all other commercial driveway standards of the Livingston County Road Commission.
8. Commercial sites shall abut a paved, county thoroughfare and public ingress and egress shall be provided from that thoroughfare.
9. Landscaping and screening subject to the requirements of Section 6.16.

**B. Site Plan Review.** For all uses permitted in the C Commercial District, a site plan shall be submitted to the Planning Commission, and no land use permit shall be issued until after the Planning Commission has reviewed and approved the site plan in accordance with Article 14 Site Plan Review.

**C. Provisions of Article 6:** General and Supplementary Regulations.



- D. **Provisions of Article 15:** Off Street Parking and Loading-Unloading Standards.
- E. **Provisions of Article 16:** Private Roads, Driveways, and Access Management.
- F. **Provisions of Article 17:** Sign Standards.



## ARTICLE 11. I INDUSTRIAL DISTRICT (last amended July 2021)

### Section 11.01 Intent

The intent of the I Industrial District is to permit certain industries which are of a light manufacturing character to locate in planned areas of the Township. So that such uses may be integrated with nearby land uses, such as commercial uses; limitations are placed upon the degree of noise, smoke, glare, waste and other features of industrial operations so as to avoid adverse effects. Aviation facilities and certain commercial uses which are desirable to service the employees and visitors of the industrial uses are also permitted in this District.

### Section 11.02 Permitted Uses

The following uses shall be permitted uses in the I Industrial District when the manufacturing compounding or processing is conducted entirely within a completely enclosed building

- A. Wholesale and Warehousing.** The sale at wholesale or warehousing of automotive equipment, dry goods and apparel, groceries and related products; raw farm products except livestock; computer hardware and software; electrical goods; hardware, plumbing, heating equipment and supplies; machinery and equipment; tobacco and tobacco products; paper and paper products; furniture and home furnishings, and any commodity the manufacture of which is permitted in this district; excluding transportation terminals and petroleum product bulk stations and terminals.
- B. Industrial Establishments.**
  - 1. The assembly, fabrication, manufacture, packaging or treatment of such products as food products (excluding butchering, animal slaughtering), candy, pharmaceuticals, cosmetics and toiletries, musical instruments, office equipment, optical goods, toys, novelties, electrical instruments, and appliances; electronics, radio and phonographs; scanners, pottery and figurines or other ceramic products using only previously pulverized clay.
  - 2. The assembly, fabrication, manufacture, packaging, or treatment of such products from the following previously prepared materials; bone, canvas, cellophane, cloth, cork, felt, fiber, glass, leather, paper, plastics, precious or semi-products metals or stones, sheet metal (excluding large stampings such as automobile fenders or bodies), shell, textiles, wax, wire, wood (excluding saw and planing mills) and yarns.

3. Tool and die shops; metal working machine shops involving the use of grinding or cutting tools; manufacturing of tools, dies, jugs and fixtures; publishing, printing or forming of box, carton and cardboard products.
4. Laboratories – research and testing.
5. Central dry cleaning plants and laundries.

**C. Industrial Parks.** Subject to the following provisions:

1. Permitted uses shall include all principal permitted uses in this I- Industrial District.
2. The minimum site area for an industrial park shall be five (5) acres.
3. All industrial parks shall be so located as to have at least one (1) property line abutting a major thoroughfare. All ingress and egress shall be directly onto a county primary or paved county local road.
4. No main or accessory building shall be situated less than fifty (50) feet from any residential property line.
5. No parking access or service area may be located less than twenty-five (25) feet from any residential property line.
6. Parking, loading or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park and shall be in accordance with Article 15, Off-Street Parking and Loading-Unloading Standards.
7. A planting strip of at least ten (10) feet wide shall be provided around the entire perimeter of the site except for driveways onto the public road system. A wall or barrier of suitable material not less than five (5) feet high shall be constructed along these property lines which abut residential districts.
8. A landscape plan which includes the entire site shall be submitted for approval to determine compliance with screening and planting strips.
9. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors. These facilities will be arranged in such a manner so as to protect abutting street and adjacent properties from unreasonable glare or hazardous interference of any kind.

- D. Accessory buildings and uses customarily incidental to the above principal permitted uses.
- E. Airports and heliports.
- F. Building-Mounted Solar Energy Collector (See Section 6.26).

### **Section 11.03 Special Approval**

- A. The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the Planning Commission pursuant to the standards of Article 13 Special Land Uses.
  - 1. Public Utility Uses. Electric transformer station and substation; electric transmission towers; municipal buildings and uses; gas regulator and municipal utility pumping stations.
  - 2. Retail and Service. The following retail and service establishments may be permitted provided that such establishments are clearly ancillary to the permitted industrial uses and are in keeping with the intent of this district:
    - a. Eating and drinking establishments, when food or beverage is consumed, within a completely enclosed building. Establishments with a character or drive-in or open front store are prohibited.
    - b. Barber and beauty shops.
    - c. Truck, tractor, construction equipment, agricultural implement and trailer sales, rental and repair.
    - d. Motels.
    - e. Service stations and self-service stations.
  - 3. Dog Kennels, Rabbitries and the Raising of Fur-bearing Animals.
  - 4. Drive-in Theaters. Drive in theatres may be permitted provided that any such site is adjacent to a major thoroughfare, that there shall be no vehicular access to any residential street; that suitable screening is provided to insure that there shall be no high light tower or other illumination directed upon any residentially zoned or developed property; and so that the picture is not visible from a major thoroughfare; and that any such drive-in theaters shall be located no closer than five hundred (500) feet to any residentially zoned or developed property.

5. Junkyards.
6. Adult regulated uses (See Section 13.05(V));
7. Small, Medium, and Large Wind Energy Turbines (See Section 6.24).
8. Ground-Mounted Solar Energy Collector (See Section 6.26).
9. Commercial Solar Energy System (See Section 6.26).

#### **Section 11.04 Industrial Performance Standards**

Any use established in the I Industrial District shall not be permitted to carry on any activity, operation, use of land, building or equipment that produces irritants to the sensory perceptions greater than the measures herein established which are hereby determined to be the maximum permissible to humans or human activity.

- A. Noise.** No operation or activity shall be carried out in the I Industrial District which causes or creates measurable noise levels exceeding the maximum sound intensity levels prescribed below, as measured on or beyond the boundary lines of said district.

A sound level meter (that measures decibels or sound levels) and an octave band analyzer (that measures the decibels or sound levels for each of a set of octave bands) shall be used to measure the intensity and frequency of the sound or noise levels encountered. Sounds of very short duration, which cannot be measured accurately with the sound level meter, shall be measured by an impact noise analyzer (that measures decibels or sound levels of sounds with a very sharp attack, such as a hammer or punch press) and the measurements so obtained may be permitted to exceed the maximum levels provided in Table A by no more than five (5) decibels. For purposes of this ordinance, impact noises shall be considered to be those noises whose peak values are more than seven (7) decibels higher than the values indicated on the sound level meter.

Where street traffic noises directly adjacent to the property line exceed these maximum permitted levels, the intensity levels permitted may then exceed those levels specified in the table but may not exceed the level of the subject adjacent street traffic noises.

In addition, sound of an intermittent nature or characterized by high frequencies which the building inspector deems to be objectionable in adjacent districts, shall be controlled so as not to generate a nuisance in adjacent districts even if the decibel measurement does not exceed that specified in the table.

<b>TABLE A</b>	
<b>MAXIMUM PERMITTED SOUND INTENSITY LEVELS IN DECIBELS</b>	
<b>Cycle Frequency (Cycles Per Second)</b>	<b>Decibels</b>
31.5	72
63.0	68
125.0	62
250.0	57
500.0	50
1,000.0	46
2,000.0	39
4,000.0	32
8,000.0	28

**B. Smoke, Dust, Dirt and Fly Ash.** The emission of smoke, dust, dirt and fly ash shall in no manner be unclean, destructive, unhealthful, hazardous or deleterious to the general welfare. Such emission shall be in strict conformance with all applicable state and county health laws as pertaining to air pollution and smoke abatement.

A person shall not discharge into the atmosphere, from any single source of emission, any smoke of a density equal to, or greater than the density described as No. 2, on the Ringelmann Chart as published by the United States Bureau of Mines, provided that the following exceptions to the provisions of this rule shall be permitted:

1. Smoke the shade or appearance of which is equal to but not darker than No. 2 on the Ringelmann Chart for a period or periods aggregating four (4) minutes in any thirty (30) minutes.
2. Smoke the shade or appearance on which is equal to, but not darker than No. 3 on the Ringelmann Chart for a period or periods aggregating three (3) minutes in any fifteen (15) minutes when building a new fire or when breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable.

**C. Glare and Heat.** Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely unperceivable from any point beyond the lot lines of the lot upon which the source of glare or heat is located.

**D. Odor.** The emission of noxious, odorous matter in such quantities as to be readily detectable at a point along any property line, when diluted in the ratio of one volume of odorous air to four (4) or more

volumes of clean air, so as to produce a public nuisance or hazard beyond lot lines is prohibited.

- E. Vibration.** Machines or operations that cause vibration shall be permitted, but no operation shall be permitted to produce ground transmitted oscillations which cause a displacement exceeding that specified in the following Table B and C as measured at the property line. These vibrations shall be measured with a seismograph or accelerometer, preferably the former.

For purposes of the Ordinance, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than sixty (60) per minute. Discrete impulses that do not exceed sixty (60) per minute shall be considered impact vibrations.

<b>TABLE B</b>	
<b>MAXIMUM PERMITTED STEADY STATE VIBRATION IN INCHES</b>	
<b>Cycle Frequency (Cycles Per Second)</b>	<b>Permitted Vibration</b>
10 and below	0.0010
10 to 19	0.0008
20 to 29	0.0005
30 to 39	0.0003
40 and above	0.0001

<b>TABLE C</b>	
<b>MAXIMUM PERMITTED IMPACT VIBRATION IN INCHES</b>	
<b>Cycle Frequency (Cycles Per Second)</b>	<b>Permitted Vibration</b>
10 and below	0.0020
10 to 19	0.0015
20 to 29	0.0010
30 to 39	0.0005
40 and above	0.0002

Between the hours of 8:00 p.m. and 6:00 a.m., all of the above maximum vibration levels, as measured on or beyond the boundary line of residentially used areas adjacent to an I Industrial District, shall be reduced to one-half (1/2) the indicated permissible values.

- F. Fire and Safety Hazards.** The storage and handling of flammable liquids, liquefied petroleum gases and explosives shall comply with all state rules and regulations and regulations as established by the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1 et seq, as



amended. Further, all storage tanks for flammable liquid materials above ground shall be located at least one hundred fifty (150) feet from all property lines and shall be completely surrounded by earth embankments, dikes or other types of retaining walls which will contain the total capacity of all tanks so enclosed. Bulk storage tanks of flammable liquids below ground shall be located not closer to the property line than the greater depth to the bottom of the buried tank.

- G. Gases.** The escape of or erosion of any gas that is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated. Sulphur dioxide gas, as measured at the property line at ground elevation, shall not exceed an average of 0.3 p.p.m., hydrogen sulfide shall not exceed 0.1 p.p.m., nitrous fumes shall not exceed five (5) p.p.m., and carbon monoxide shall not exceed fifteen (15) p.p.m., all as measured as the average intensity during any twenty-four (24) hours sampling period.
- H. Electromagnetic Radiation.** Applicable rules and regulation of the Federal Communications Commission in regard to propagation of electro-magnetic radiation are hereby made a part of this Ordinance.
- I. Drifting and Airborne Matter, General.** The drifting or airborne transmission beyond the lot line of dust, particles or debris from any open stock pile shall be unlawful and shall be summarily caused to be abated.

#### **Section 11.05 Compliance with County and State Regulations**

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

#### **Section 11.06 Site Plan Approvals Required**

For all uses permitted in an I Industrial District, a site plan shall be submitted to the Planning Commission, and no land use permit shall be issued until after the Planning Commission has reviewed and approved the site plan in accordance with Article 14 Site Plan Review.

#### **Section 11.07 Area, Height, Bulk, and Placement Requirements**

All uses permitted in this District including structures, outdoor storage, outdoor placement, outdoor operations or activity (except periodic activity of ingress or egress) shall be located a minimum of 100 feet from center line of a secondary roadway and 110 feet from the center line of a primary roadway. Unless otherwise provided, all other area, height, bulk, and placement requirements are as provided in the Schedule of Regulations.



## **ARTICLE 12. OPEN SPACE COMMUNITY**

### **Section 12.01 Intent**

The intent of the Open Space Community Overlay District is to permit residential development that results in an enhanced living environment through the preservation of open space. The provisions set forth in this Article offer an alternative to traditional subdivision and encourage innovative and livable housing environments through both permanent dedication of open space and a planned reduction of individual lot area requirements. The Open Space Community district is established as an overlay district applicable to the AR Agricultural Residential and R Residential Districts and is approved through the special use permit process (Article 13) and site plan approval process (Article 14). The overall density remains the same as would be found in a traditional development in the underlying zone unless certain benefits to the Township are provided in which case the development would qualify for heightened clustering and density bonus allowances. The Open Space Community Overlay District is enabled by planned unit development (PUD) legislation, as authorized by MZEA, MCL 125.3101 et seq.

### **Section 12.02 Scope**

For purposes of this Article, an Open Space Community is defined as a predominately single family residential development in which dwelling units are placed together in one or more clusters within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is permanently protected from development.

### **Section 12.03 Objectives**

The following objectives shall be considered in the review of any application for an Open Space Community:

- A.** To provide a more environmentally sensitive residential environment by preserving the natural character of open fields, stands of trees, ponds, streams, hills and similar natural features.
- B.** To preserve a traditional rural character to the land use pattern in the Township and protect environmentally sensitive lands from the disruptive effects of traditional subdivision developments.
- C.** To provide a more efficient and aesthetic use of open space by allowing developers to reduce lot sizes, while maintaining the residential density required in the underlying zoning district.

- D. To allow a more flexible and economical residential layout, street and utility design.
- E. To assure the permanent preservation of open space, agricultural land, rural lands and natural resources.

**Section 12.04 Eligibility Criteria**

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

- A. **Recognizable Benefits.** An Open Space Community shall result in a recognizable and substantial benefit, both to the resident of the community and to the overall quality of life in the Township.
- B. **Minimum Project Size.** The minimum size of an Open Space Community shall be ten (10) acres of contiguous land.
- C. **Open Space.** The proposed development shall contain a minimum fifty percent (50%) of the gross area of the site as dedicated open space held in common ownership, with evidence of a plan for perpetually preserving the open space. Documents shall be presented that bind all successors and future owners in fee title to open space commitments made as a part of the proposal.
- D. **Road Access.** Ingress and egress to the proposed development must meet Livingston County Road Commission Standards.
- E. **Unified Control.** The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, or deed restrictions that indicate that the development will be completed in its entirety as proposed. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the Open Space Community plan.
- F. **Master Plan.** The proposed development shall be consistent with and further the implementation of the Township's master or comprehensive plan.

**Section 12.05 Principal Permitted Uses**

- A. Detached single family residential units and two family residential dwelling units. Two family residential dwelling units shall number no more than twenty five (25) percent of the total number of dwelling

units.

- B. In developments of twenty-five (25) acres or more, up to fifty (50) percent of the dwelling units may be attached, single family residential dwelling units or multiple family residential dwelling units. Attached single family residential dwelling units and multiple family residential dwelling units shall not exceed four (4) dwelling units in one (1) building.
- C. Agriculture, horticulture or floriculture excluding farm based agribusiness and intensive livestock raising operations, stables or veterinary hospital or clinics.
- D. Accessory uses and buildings incidental to the principal permitted uses including recreational activities which occur on common open space lands only

### Section 12.06 Design Standards

A proposed Open Space Community shall comply with the following project design standards:

- A. **Location of Development.** An Open Space Community may be approved upon any Township land that is zoned AR Agricultural Residential or R Residential.
- B. **Base Zoning Regulations.** Unless specifically waived or modified by the Planning Commission, all Zoning Ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations shall remain in full force.
- C. **Open Space Requirements.**
  1. An Open Space Community shall maintain a minimum of fifty percent (50%) of the gross area of the site as dedicated open space held in common ownership.
  2. The dedicated open space in a proposed community shall not include any land area that is devoted to a residential unit, minimum lot size, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement or any land that has been or is to be conveyed to a public agency.
  3. Dedicated open space may include any land area that is devoted to recreation, conservation, agricultural uses, secondary emergency vehicle access or that is preserved in an undeveloped state. Dedicated open space should consist of the land area on the parcel that contains the most significant natural features. Significant wildlife habitats, sensitive environmental lands and scenic vistas are to be protected

through dedicated open space. Determination of open space significance is based upon a combination of factors including soil type, topography, existing vegetation and habitat historic use of the land, size of parcel, use of land for agricultural purposes and character of the surrounding area. If open space areas of significance are determined by the Planning Commission, a condition of approval may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

4. Any structure or building accessory to a recreation, conservation or an approved agricultural use may be erected within the dedicated open space. These accessory structure or building shall not exceed, in the aggregate, one percent (1%) of the required open space area.
5. Open space intended for recreation or use by the residents shall be easily accessible to pedestrians. Accessibility shall meet the needs of the handicapped and older citizens.
6. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:
  - a. Recorded deed restrictions;
  - b. Covenants that run perpetually with the land; or
  - c. A conservation easement established per NREPA, 1994 PA 451 (Part 21, subpart 11), MCL 324.101 et seq.

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

- a. Indicate the proposed allowable use(s) of the dedicated open space.
- b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
- c. Provide standards for scheduled maintenance of the open space.
- d. Provide for maintenance to be undertaken by the Township of Conway in the event that the dedicated open space is inadequately maintained or is determined by the

Township to be a public nuisance, with the assessment of cost upon the property owners.

**D. Dwelling Density.**

1. The total number of dwelling units permitted in an Open Space Community shall be determined by submittal of a conventional subdivision plan that identifies buildable land areas and residential lots that are based on the minimum lot sizes of the underlying zoning designation. Planning Commission review of the conventional subdivision plan will determine the maximum number of residential lots for the Open Space Community. Unless otherwise permitted by this section, the maximum residential density specified for the underlying zoning district shall not be increased.
2. Lots not served by a public or common sanitary sewer shall be at least 21,780 square feet in area (one-half acre). Lots served by public or common sanitary sewers shall have a minimum lot area of 10,890 square feet (one-quarter acre).
3. Lots may vary in size shall not consume, on average, more than two (2) acres per dwelling including roads. The front, rear and side yard setbacks of a lot may be staggered to provide for maximum variety in the size of such yards.
4. Dwelling units shall be grouped so that open space within a development is at least fifty percent (50%) of the gross area of the site. Whenever possible, dwelling units should contain rear yards that are contiguous to the open space.
5. No more than ten (10) dwelling units per cluster shall be permitted within a development in order to maintain rural character.
6. Open spaces between clusters, including those spaces used as recreation areas, shall be at least one hundred (100) feet wide and shall be protected with an irrevocable conveyance that is found acceptable to the Planning Commission.
7. Notwithstanding the above, if the community is constructed with a deceleration lane on the public highway, hard surface roads with curbs and gutters, sidewalks and/or open space between the public highway and the community of three hundred (300) or more feet, the community may have more than ten (10) dwelling units per cluster and a bonus density up to twenty-five (25) percent. Permitted clustering and appropriate density bonuses shall be determined by the Planning Commission based on the number, extent, and

quality of additional benefits provided under this subsection.

**E. Location of Lots.**

1. Residential lots shall be laid out to the greatest extent feasible to achieve the following objectives:
  - a. On the most suitable soils for subsurface septic disposal.
  - b. Within the edge of woodland contained on the parcel or along the far edge of open fields adjacent to any woodland.
  - c. In locations least likely to block or interrupt scenic vistas, as seen from public roadways(s).

**F. Regulatory Flexibility.** To encourage flexibility and creativity consistent with the Open Space Community concept, the Planning Commission may grant specific departures from the requirements of the Ordinance for yard, lot and bulk standards as a part of the approval process. These departures from the requirements shall not increase the number of dwelling units per cluster unless otherwise permitted by this section. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the ZBA. No part of the Open Space Community plan may be appealed to the ZBA.

**G. Roadway.**

1. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).
2. Construction of private roads or private access drives as a means of providing internal road access and circulation is encouraged. Private roadways within an Open Space Community shall meet the design requirements of Article 16, Access Management and Private Road Standards.

**H. Landscaping and Buffering.**

1. Buffer zones at least one hundred (100) feet in width shall be required between residential and agricultural areas and shall be planted with fast growing native shrubs and trees to create an effective barrier separating yards from fields and pastures.



2. All dwellings, accessory structures and roadways shall be no less than one hundred (100) feet from lakes, ponds, streams and wetlands. The one hundred (100) foot area shall be part of the dedicated open space and shall not be in private ownership.
3. Existing county roadway frontage shall be preserved by a one hundred (100) foot buffer of native plants and trees located between the roadway and any dwellings and accessory structures in the development.
4. Landscaped or natural vegetative cover shall provide a screened buffer between Open Space Community dwellings and neighboring properties.

### **Section 12.07 Project Standards for Approval**

In considering any application for approval of an Open Space Community site plan, the Planning Commission shall make their determinations on the basis of the standards for special uses set forth in Article 13 and site plan approval set forth in Article 14, as well as the following standards and requirements:

- A. The overall design and land uses proposed in connection with an Open Space Community shall be consistent with the intent of the Open Space Community concept, as well as with specific design standards set forth in this Article.
- B. The proposed Open Space Community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that illustrate the relationship of the proposed development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, considerations shall be given to:
  1. The bulk and placement of proposed structures.
  2. Vehicular and pedestrian circulation.
  3. The location and screening of proposed dwelling units from neighboring property.
  4. The provision of landscaping and other site amenities.
- C. The usefulness of open space intended for recreation, conservation or agricultural purposes shall be determined by the size, shape, topographic and location requirements of the particular purpose for the open space.

- D. Open space shall include irreplaceable natural features located on the parcel, such as, but not limited, to stream beds, wetlands, significant stands of trees and individual trees of significant size. The protection of these natural features shall comply with all applicable environmental protection laws and regulations.
- E. The suitability of open space intended for scenic value purposes shall be determined by its visibility from a significant number of units or buildings.
- F. Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land.
- G. The Open Space Community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- H. The proposed Open Space Community shall comply with all applicable federal, state and local regulations.

**Section 12.08 General Requirements**

- A. An Open Space Community shall require the submission of a conventional subdivision concept plan (a conceptual drawing, not a full site plan) that identifies buildable land area and residential lots that are based on the minimum lot sizes of the underlying zoning designation. Planning Commission review of the conventional subdivision concept plan will determine the maximum number of residential lots for the Open Space Community.
- B. Final approval of an Open Space Community proposal shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the approved Open Space Community site plan and comply fully with any conditions.
- C. The applicant shall record an affidavit with the Livingston County Register of Deeds containing the full legal description of the project site, specifying the date of final Township approval and declaring that all improvements will be carried out in accordance with the approved Open Space Community plan unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the county register of deeds and copies of recorded documents presented to the Township.
- D. In addition to final approval of the Open Space Community site plan in accordance with Article 14, a special land use permit shall be obtained in the accordance with Article 13. When reviewing an

application for special use permit for an Open Space Community, the Planning Commission shall hold the public hearing. It shall be the responsibility of the applicant to obtain all other applicable township, county, state or federal permits.

- E. If construction has not commenced within twelve (12) months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Planning Commission for an extension, not to exceed twelve (12) months. A maximum of two (2) extensions may be allowed.
- F. Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the penalties for same.
- G. The Planning Commission may require that a performance guarantee, in accordance with Section 3.06, be deposited with the Township to insure completion of improvements.

#### **Section 12.09 Scheduled Phasing**

- A. When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the Open Space Community and the residents.
- B. Each phase of the project shall be commenced within twelve (12) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void, subject to the requirements of Article 14, Site Plan Review.

#### **Section 12.10 Revision of Approved Plans**

- A. Approved plans for an Open Space Community may be revised in accordance with the procedures set forth in Article 14, Site Plan Review.
- B. Notwithstanding subsection (A), minor changes to an approved Open Space Community plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Article 14, Site Plan Review, subject to the finding of all of the following:
  - 1. Such changes will not adversely affect the initial basis for granting approval;
  - 2. Such minor changes will not adversely affect the overall Open

Space Community in light of the intent and purpose of such development as set forth in this Article; and

3. Such changes shall not result in the reduction of open space area as required herein.

## **ARTICLE 13. SPECIAL LAND USES**

### **Section 13.01 Intent**

This Article is intended to provide regulations for special land uses which may be necessary or desirable in certain districts, but have an actual or potential impact on neighboring uses that needs to be carefully regulated for the protection of Township residents. This Article provides standards for the Planning Commission to determine the appropriateness of a given special land use based upon factors such as: compatibility with adjacent zoning and uses, location, design, size, intensity of use, impact on traffic operations, potential impact on the environment, demand on public facilities and services, equipment used and processes employed. A special land use permit is required for each use listed in the zoning districts as a special land use and this Article specifies the procedures and standards to be followed in granting such permits. A special land use shall not commence until a special land use permit is issued in accordance with this ordinance.

### **Section 13.02 Authority to Grant Permits**

The Township Planning Commission, after review and consideration of the special land use application and site plan according to the standards contained in this ordinance, shall either approve, reject, or approve with conditions the proposed special land use. Only the Planning Commission may direct the Zoning Administrator to issue a special land use permit.

### **Section 13.03 Permit Procedures**

An application for a special land use permit for any use or structure permitted under this Article shall be submitted and processed under the following procedures:

#### **A. Application.**

1. Application for any special land use permit permissible under the provisions of this ordinance shall be made to the Zoning Administrator by filling in the official special land use permit application form, submitting required data and depositing the required fee at the time of filing the permit application. The applicant shall pay a fee set by the Township Board, except that no fee shall be required of any governmental body or agency. The fee shall cover the costs of processing the application and no part of such fee shall be returnable to the applicant. The property owner or petitioner shall submit the permit application to the Zoning Administrator at least twenty one (21) days prior to the meeting at which the application is to be reviewed. The Zoning Administrator

shall forward the official special land use permit application form and all related materials to the Township Planning Commission within five (5) days of receipt and acceptance of a completed application.

2. Every application shall be accompanied by the following information and data:
  - a. A special land use permit application form supplied by the Zoning Administrator and filled out by the applicant.
  - b. A full statement that declares the requested use and the district under which the special land use permit is sought. It shall be the obligation of the applicant to furnish evidence in support of the proposed use and its present and future compliance with the provisions of this ordinance. An application made without full compliance with this ordinance shall be returned to the applicant.
  - c. A statement of cause that justifies the special land use based on surrounding land uses.
  - d. The applicant(s) signature(s) and the owner(s) signature(s) if different from the applicants.
  - e. Where an agent represents an applicant, a letter signed by the applicant designating agent authority shall accompany the special land use permit application.
  - f. A detailed site plan that satisfies all requirements set forth in Article 14, herein.
  - g. Any additional information that the Planning Commission deems necessary to make a determination of the request.

**B. Review.** The Township Planning Commission shall review the proposed development as presented on the submitted plans and specifications in accordance with the established standards set forth in this ordinance.

**C. Public Hearing and Notices.**

1. The Planning Commission shall hold a public hearing on an application for a special land use permit within sixty (60) days of receipt of the application. The public hearing may be scheduled for the same date as the Planning Commission's

regular meeting, provided that the meeting date does not conflict with the notice requirements in the following paragraph.

2. Notice and contents of notice must be given, as required by the MZEA, MCL 125.3103, as amended.

**D. Issuance of a Special Land Use Permit.** Until a special land use permit has been issued there shall be neither construction nor excavation on any land, nor shall there be made any use of land related to the request for the special land use permit.

#### **Section 13.04 Basis of Determination**

**A. Decision.**

1. The Planning Commission may approve, deny, or approve with conditions a request for a special land use based on the planning standards and findings and the site design conditions presented herein.
2. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration. The statement shall specify the basis for the decision, and any conditions imposed.

**B. Imposition of Conditions.**

1. Any conditions imposed with respect to the approval of a special land use or activity shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of conditions which are changed.
2. Any conditions imposed shall meet all of the following requirements:
  - a. Be designed to protect natural resources, the health, safety and welfare and social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b. Be related to the valid exercise of the statutory power and purposes which are affected by the proposed use or activity.
  - c. Be necessary to meet the intent and purpose of the

zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

### **Section 13.05 Required Planning Standards and Findings**

The Planning Commission shall review the circumstances and facts concerning each special land use in terms of the required planning standards and findings listed below. The Planning Commission shall find and make a matter of public record adequate data, information and evidence showing that the proposed use on the lot in question meets all required standards. The Planning Commission will review each proposal in order to determine that the use(s) envisioned:

- A.** Will be harmonious with, and in accordance with, the general objectives of the Conway Township Comprehensive Plan, also known as the Master Plan, and will be consistent with the intent and purpose of this ordinance;
- B.** Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area;
- C.** Will not be hazardous or disturbing to existing or future neighboring uses or detrimental to the economic welfare of the community;
- D.** Will be compatible with the natural environment and existing and future land uses in the vicinity;
- E.** Will be served adequately by essential public facilities and services, such as streets, police and fire protection, drainage structures, refuse disposal, or that persons or agencies responsible for the establishment of the proposed use(s) shall be able to provide them and that such proposed use(s) will not create excessive additional requirements at public cost for public facilities and services; and
- F.** Will not involve uses, activities, processes, materials, equipment, or conditions of operation which will be detrimental to any persons, property or the general welfare by reason of excessive smoke, noise, fumes, glare, vibration, odor, or handling or storage of hazardous materials and supplies.

### **Section 13.06 Permits**

- A. Voiding of Permit.** Any special land use permit granted under the provisions of this Article shall become null and void if the permitted use has not been constructively undertaken within six (6) months of the granting of the permit, and a written application for extension of



the approval has not been filed as provided below. Any use for which a special land use permit has been granted and which ceases to continuously operate for a six (6) month period shall be considered abandoned, and the special land use permit shall become null and void.

- B. Permit Extension.** Upon written application filed prior to the termination of the six (6) month period as provided above, the Zoning Administrator may authorize a single extension of the time limit for a further period of not more than six (6) months. Such extension shall only be granted based on evidence from the applicant that the special land use has a reasonable likelihood of commencing construction within the six (6) month extension.
- C. Validity of Permit.** Once the special land use is established and the conditions of the permit fulfilled, the special use permit shall be valid until such time that there is a change of conditions or use related to the permit. Any use, for which a special land use has been granted, shall be deemed a use specially permitted in the district in which it is located and is not to be considered a non-conforming use.
- D. Permit Compliance.** In authorizing any special use permit, the Planning Commission may require a performance guarantee pursuant to Section 3.06 to insure compliance with the requirements, specifications and conditions imposed. All special use permits shall be subject to an annual review by the Zoning Administrator for compliance purposes. The Zoning Administrator shall report any non-compliance findings to the Planning Commission for further action.
- E. Permit Revocation.** The Planning Commission shall have the authority to revoke any special use permit following a hearing, after it has been proved that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this ordinance.

### **Section 13.07 Amendments to Special Land Use Permits**

Any person or agency who has been granted a special land use permit shall notify the Zoning Administrator of any proposed amendment to the approved site plan of the special land use permit. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the determination standards for all site plans in accordance with Article 14. A major amendment to a special land use permit shall comply with the application and review procedures contained in this Article.

### **Section 13.08 Reapplication**

No application for a special use permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will have to begin again.

### **Section 13.09 Appeals**

An appeal on a special use permit decision may be taken to the Circuit Court.

### **Section 13.10 Site Design Conditions**

The special land use general review standards of Section 13.05 are the basis for all uses authorized by special land use approval. The following sections identify specific requirements which individual special land uses shall comply with, in addition to the general standards of the zoning district in which the special use is proposed, Section 13.05 and the site plan design requirements of Article 14.

#### **A. Agriculture Service Establishments.**

1. Location Requirements. Agriculture service establishments may be permitted by special use permits in the AR Agricultural Residential District.
2. Site Requirements.
  - a. The proposed site shall have at least one (1) property line abutting a county primary roadway. All ingress and egress shall be from that roadway.
  - b. Minimum lot size shall be five (5) acres and have a minimum lot frontage of three hundred (300) feet.
3. Performance Standards.
  - a. All principal and accessory structures or uses shall be located a minimum of five hundred (500) feet from existing principal and accessory structures on adjoining lots and a minimum of one hundred ten (110) feet from the road right of way.
  - b. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Sections 6.15 and 6.16 herein.
  - c. No storage or loading activities shall be permitted within one hundred (100) feet of any lot line in order

to minimize disturbance to adjacent uses.

- d. Off street parking as required in Article 15 and signs as required in Article 17 shall be maintained.

**B. Bed and Breakfast Homestay.**

1. Location requirements.

Bed and breakfast homestay establishments are permitted by special use permits in the AR Agricultural Residential and R Residential Districts.

2. Site Requirements.

- a. One (1) parking space per guest room shall be provided on site. Parking shall be located off-street and shall be arranged to the side or rear of the establishment other than in a required side or rear yard setback.
- b. The parcel on which the establishment is to operate must meet or exceed the minimum lot area requirements of the zoning district in which it is located.
- c. No bed and breakfast homestay shall be located closer than three hundred (300) feet to another bed and breakfast homestay.

3. Performance Standards.

- a. The bed and breakfast homestay must be a single-family dwelling which is operated and occupied by the owner of the dwelling.
- b. No more than three (3) guest rooms shall be permitted per home stay establishment.
- c. The applicant shall provide a scaled floor plan of the premises as part of the special land use application.
- d. The exterior appearance of the structure shall not be altered from its single-family character.
- e. The impact of the bed and breakfast homestay on the neighborhood shall be no greater than that of a private home with weekend guests.

- f. Signage is permitted according to the home occupation sign standards set forth in Article 17.
- g. No transient occupant shall reside on the premises for more than fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
- h. No separate or additional kitchen facilities shall be provided for the guest.
- i. Meals or other services provided on the premises shall only be available to residents, employees and overnight guests of the homestay.
- j. Retail sales are not permitted beyond those activities serving overnight patrons.
- k. Exterior solid waste facilities beyond what might normally be expected for a single-family dwelling shall be prohibited.

**C. Cemeteries**

1. Location Requirements.

Public and private cemeteries are permitted as a special use in the AR Agricultural Residential and R Residential Districts.

2. Site Requirements.

- a. Minimum lot size shall be three (3) acres, with at least three hundred (300) feet of public road frontage. Ingress and egress to the cemetery shall be provided along the public road frontage.
- b. Cemeteries containing any structures, such as a church and associated structures, chapel, mausoleums, crypts or business office for the sale of burial lots and/or tombstones, shall have direct access on a primary county road. Structures shall not be located nearer than one hundred (100) feet from any property line.
- c. Cemeteries where the only structure is a shed or garage for storage of maintenance vehicles or machinery need not have direct access on a primary county road.
- d. No more than ten (10) percent of the site area may be

occupied by buildings.

- e. Burial plots shall be set back no less than fifty (50) feet from any lot line of adjoining properties.
- f. Adequate parking shall be provided on the site, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any county roadway.

3. Performance Standards.

- a. All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Livingston County Health Department and the State of Michigan.
- b. A buffer zone containing screening plant materials approved by the Planning Commission is to be provided adjacent to all interior lot lines pursuant to the requirements of Section 6.16, Required Landscaping and Screening.

**D. Child Care Centers.**

1. Location Requirements.

Child care centers are permitted as a special use in the AR Agricultural Residential and R Residential Districts.

2. Site Requirements.

- a. No portion of a child care center shall be located within three hundred (300) feet of any gasoline pumps, underground storage tanks or any other explosive materials.
- b. Parking demand and drop off/pick up demand generated by a childcare center shall be met off the street and other than in a required front, side or rear yard setback. Parking and drop off/pick up areas shall not impede circulation within the parking area or access to the site during peak hour traffic. The drop off/pick up area shall provide adequate stacking or parking spaces to serve a number of vehicles equal to one quarter (1/4) of the number of children served by the childcare center at its peak hour of operation, Parking and drop off/pick up areas shall be constructed of concrete or asphalt materials. One (1) parking space per employee shall be provided.

- c. On-site traffic circulation shall be restricted to a one-way traffic pattern, where possible.
  3. Performance Standards.
    - a. The operator shall obtain and maintain a valid license from the Michigan Department of Social Services.
    - b. Any child care center lot lines that abuts property which is residentially used or zoned shall be screened according to the applicable provisions of Section 6.16.
    - c. Child care centers with children in attendance for five (5) or more continuous hours a day shall provide a minimum of one thousand two hundred (1200) square feet of fenced, exterior play area.
    - d. Child care centers shall provide a minimum of thirty five (35) square feet per child (2 ½ to 5 years of age) and fifty (50) square feet per child (2 weeks to 2 ½ years of age) of indoor activity space. Indoor activity space shall be exclusive of:
      - Hallways
      - Bathrooms
      - Receptions and office areas
      - Kitchens
      - Storage areas and cloakrooms
      - Areas used exclusively for resting, sleeping or eating (can be included for children ages 2 weeks to 2 ½ years of age)
    - e. All other applicable standards as set forth in Section 2 of 1973 PA 116, MCL 722.111 et seq, as amended.

**E. Commercial Composting Operations and Centers.**

1. Location Requirements.

Commercial composting operation and centers are permitted as a special use in the AR Agricultural Residential District.

2. Site Requirements.

- a. The minimum lot size shall be two (2) acres.
- b. Commercial composting operations and centers shall be at least five hundred (500) feet from any adjacent residential dwelling.

- c. All composting operations shall be at least two hundred (200) feet from the boundary of any lake, street, drain, wetland or other surface water body.
- d. Composting operations shall not be sited on parcels with a high water table as documented on U.S.D.A. soil survey maps.
- e. Access to a composting operation shall be provided solely on a primary county roadway.

3. Performance Standards.

- a. A landscaped buffer shall be provided along all lot lines abutting an R Residential District (according to the applicable provisions of Section 6.16).
- b. All storage areas shall be enclosed in a building.
- c. Offensive, noxious or foul odors shall not be allowed to escape into the atmosphere in concentrations which are offensive, which produce a public nuisance or hazard on adjoining property or which could be detrimental to human, plant, or animal life. The applicant shall describe acceptable details on control of odors.

**F. Commercial Recreation.**

1. Location Requirements.

Public and private commercial recreation facilities are permitted as a special use in the AR Agricultural Residential District.

2. Use Conditions. The following uses shall only be allowed upon compliance with the following requirements.

a. Golf courses.

- The principal and accessory buildings, including maintenance sheds, shall be set back at least seventy-five (75) feet from all property and street lines.
- Accessory buildings, structures and storage areas shall be screened on all sides from adjacent residential areas and public street rights-of-way.

- Operational hours for maintenance vehicles, course maintenance and irrigation may be restricted by the Planning Commission to protect nearby residential districts.

b. Golf driving ranges, miniature golf courses.

- All traffic ingress and egress shall be from a primary road, as classified by the Livingston County Road Commission.
- Any lot line abutting a residential district shall provide a fifty (50) foot wide landscaped buffer as set forth in Section 6.16.
- A minimum twenty-five (25) foot wide greenbelt, as described in Section 6.16, shall be provided along any public street or highway.
- Site size shall be adequate to retain all golf balls within the site by means of a fence no more than six (6) feet high.
- The Planning Commission may restrict the hours of operation in consideration of the adjacent land uses and zoning.
- Pro-shops, refreshment stands, retail shops selling golf-related items and maintenance buildings shall be permitted as part of the principal use and shall be subject to the dimensional requirements of principal buildings.

c. Golf domes.

- (1) Dome height shall not exceed sixty (60) feet at its highest point. The Planning Commission shall review and approve the height and material of the dome. The Planning Commission may permit a greater height based on documentation by the applicant that a taller dome is necessary to shed snow.
- (2) The outer membrane of the dome shall be flame resistant and construed of a material that does not emit excessive interior lighting to the exterior. The Planning Commission may require domes to install an outer membrane



that is partially or totally opaque when adjacent to residential districts.

- (3) All repairs or patches to the outer membrane of the dome shall match the original material and color of the membrane and shall not be generally discernible from the exterior.
- (4) All outdoor mechanical equipment shall be screened from view and noise reduced by a continuous obscuring wall, fence or evergreen hedge as appropriately determined by the Planning Commission. Accessory buildings, structures, and storage areas shall be screened on all sides visible from adjacent residential districts and public street rights-of-way.

d. Commercial outdoor recreation establishments  
(excluding golf related uses)

- (1) Such uses shall include, but need not be limited to, the following: recreational fields, rinks or courts, including football, softball, soccer, tennis, basketball, ice skating, and similar activities, swimming pools open to the general public or operated by a private non-profit organization, archery and shooting ranges, animal racing, go-cart, automobile or motorcycle tracks, music concert pavilions and bandshells, amusement parks and uses accessory to the above uses, such as refreshments stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and services areas, including locker rooms and restrooms.
- (2) The site shall be adequate to accommodate the intended uses, parking and adequate buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust or blowing debris, as determined by the Planning Commission. The applicant shall provide documentation that the site size is adequate using national facility standards.
- (3) The site shall be located on a paved street which is classified as a primary route by the Livingston

County Road Commission.

- (4) No building or spectator seating facility shall be located within one hundred (100) feet of the property line.
  - (5) The site shall be periodically cleared of debris.
- e. Indoor commercial recreation, such as bowling alleys, ice arenas, skating rinks, cinemas, theaters, etc.
- (1) The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential district or permitted use.
  - (2) All uses shall be conducted completely within a fully enclosed building.
- f. Private, non-commercial institutional or community recreation facilities.
- (1) The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a county primary road, and the site shall be so planned as to provide all ingress and egress directly onto or from said primary road.
  - (2) Front, side and rear yards shall be at least eighty (80) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts. Any such site shall have a minimum area of at least forty (40) acres.
  - (3) Off-street parking shall be provided so as to accommodate not less than one-half of the member families and individual members. The Planning Commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas, and will therefore be pedestrian. Prior to the issuance of a building

permit or zoning compliance permit, by-laws of the organization shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases where the proposed use or organization does not have by-laws or formal membership, the off-street parking requirements shall be determined by the Planning Commission on the basis of usage.

- g. Mud bogs and other off-road vehicle courses, including all uses of motor vehicles, motorcycles, tractors, mechanized equipment, and any self-propelled, wheeled conveyance of any kind that does not run on rails.
  - (1) The minimum site size shall be eighty (80) acres with a minimum width of six-hundred sixty (660) feet. The site shall be located on, or shall take principal access from a major thoroughfare. The site may only abut land that is also zoned Agricultural Residential.
  - (2) No existing dwelling unit shall be located within five-hundred (500) feet of any property line, except that dwellings located on the same parcel as the proposed use and dwellings that have clearly been abandoned shall be excluded from this requirement. Measurements shall be determined by the straight line distance taken from the nearest point on the property line of the parcel upon which the proposed use is to be located to the nearest point on the exterior wall of the existing dwelling (including attached garage).
  - (3) All points of entrance (ingress) or exit (egress) shall be no closer than two-hundred (200) feet from the intersection of any two (2) streets.
  - (4) Any point of entrance or exit shall be no closer than seventy-five (75) feet from any other such point. There shall be a maximum of two (2) entrance or exit points (2 in total).
  - (5) All parking shall be off-street.
  - (6) No more than two (2) events shall be held in any one calendar month. Events shall be held only

during the period beginning May 1st and ending October 31st. The hours of operation shall be limited from 12 noon to 9 p.m. or dusk if it occurs earlier. Sufficient lighting, as determined necessary by the Planning Commission based on the anticipated hours of operation, shall be provided. Any lighting shall not shine or reflect beyond the boundaries of the event area.

- (7) The design of the facility shall clearly show that safety and security of persons on and off the site have been taken into consideration to the greatest extent reasonably possible. The safety and security of persons on-site shall be the responsibility of the operator and owner of the site. A safety and security plan shall be submitted for review and approval of the Planning Commission at the time of site plan review which should address potential fire safety, pedestrian and vehicular traffic expectation and management, and emergency transport and/or access.
- (8) The Planning Commission shall require adequate means of noise control, which may include but are not limited to, any of or combination of the following: buffering, use of berms, fences or walls, increased setbacks, or any other reasonable means to ensure adequate protection and enjoyment of neighboring properties (e.g. residences, livestock, parks). Any loudspeakers shall be directed only toward the interior of the site. Failure by the applicant to demonstrate the adequate provision of means to control noise shall be grounds to deny special land use approval.
- (9) Other environmental requirements.
  - i. An adequate and safe supply of potable water, sufficient restroom facilities, and a sanitary method for disposing of solid waste shall be shown.
  - ii. All parking areas, drives, tracks, and display areas shall be kept dust-free at all times so as not to become a safety hazard or a nuisance to any adjoining property.

- iii. Waste, including but not limited to, trash generated by the proprietor, organizers, sponsors, participants or spectators; human waste; disabled vehicles, vehicle parts or components; and any and all other debris, shall be removed from the property and properly disposed of within 24 hours after each event.
  - iv. The site plan shall show all existing and proposed drainage, and sufficient soil and erosion control. Any drainage from the bog, track, or display area(s) shall be contained on site.
- (10) Accessory retail or commercial facilities, such as food and beverage facilities or equipment shops, may be permitted but shall be designed to serve only the patrons of the mud bog or motorized off-road vehicle facility and adequate storage, handling, and servicing methods must be shown. No alcoholic beverages of any kind or form may be sold on the site or provided to participants or spectators with or without charge.
  - (11) Vehicles with muddy wheels and/or bodies must be washed adequately before exiting the site to prevent tracking of mud or other debris onto any off-site roads.
  - (12) In the case where the use is proposed to be located on land abutting an unpaved road, the Planning Commission shall review the proposed use for the necessity of off-site dust control.
  - (13) The Planning Commission may require the operator to establish an escrow account with the Township sufficient to cover any expense related to the special use, including but not limited to, traffic control, crowd control, any chloride applications to unpaved roads leading to the use from the nearest paved roads in each direction. Said escrow account shall be required to be replenished annually prior to each season of use.
  - (14) The applicant shall present a plan to the Planning Commission demonstrating how all applicable requirements will be met. Along with the application, the applicant shall provide the following:

- i. Copies of approval letters and/or applicable permits from the Michigan Department of Environmental Quality, Livingston County Health Department, Livingston County Road Commission, Livingston County Building Department, Livingston County Drain Commissioner, Livingston County Sheriff Department, and Fowlerville Area Fire Authority.
  - ii. Evidence of a general liability insurance policy satisfactory to the Township covering each event and naming the Township as an additional insured in an amount not less than one million dollars (\$1,000,000).
  - iii. A statement that the applicant agrees to reimburse the Township and/or any other governmental agency for any costs for mitigation services provided relative to the special use, including but not limited to, emergency services, traffic control, crowd control, removal of structures, trash, or equipment, attorney fees, and court costs, which are not otherwise covered by funds held in escrow.
  - iv. The maximum number of employees and/or persons working the event at any one time, anticipated number of participants, and anticipated number of spectators per event.
- (15) The Zoning Administrator may make periodic inspections to ensure that the originally approved special land use and site plan review requirements are being complied with. Failure to comply with originally approved requirements may provide grounds for revocation of special land use approval.
- h. Campgrounds for travel trailers, tent-campers, motor homes and tents which may or may not be operated for profit, subject to the following conditions:
    - (1) Minimum lot size shall be twenty (20) acres.

- (2) All ingress and egress shall be along a county primary road or a roadway with a minimum right-of-way of eighty-six (86) feet.
  - (3) Development features including the principal and accessory buildings and structures shall be located and related to minimize adverse affects on adjacent properties. Minimum setbacks for any buildings, structures or use areas shall be two hundred (200) feet from any property line abutting a residential district, one hundred twenty-five (125) feet from any other district or surface water body, including wetlands. Where topographic conditions are such that they provide a screen and shield, the Planning Commission may modify these requirements in its site plan review.
  - (4) Each camp site shall be at least two thousand (2,000) square feet in size.
  - (5) Each camp site shall be provided with individual water and sewer hookups approved by the Health Department or have convenient access to approved service buildings.
- i. Carnivals, fairs, commercial cider mills and amusementparks.
- (1) Minimum lot size shall be ten (10) acres.
  - (2) A site plan shall be provided clearly defining activity areas using fences, buildings, walkways or other suitable barriers.
  - (3) All buildings, structures and parking shall be at least three hundred (300) feet from anydwelling unit excluding any dwelling unit on the site.
  - (4) The Planning Commission may require placement of a six (6) foot high fence around all or part of the site.
  - (5) Access shall be provided onto a primary road, as designated by the Livingston County Road Commission. Access shall be controlled, with capability to accommodate at least three (3) lanes of ingress traffic. At least three hundred (300) feet on stacking (queuing) area shall be

provided on site before parking fee collection.

- (6) The amount of on-site parking shall be deemed sufficient by the Planning Commission.
  - (7) Maximum coverage by buildings and structures must be found to be twenty percent (20%).
  - (8) The Planning Commission may require posting of a performance guarantee. The guarantee shall be in an amount determined by the Planning Commission as necessary to cover any potential damage or clean-up on the site or adjacent properties and otherwise subject to the provisions of Section 3.06.
  - (9) The Planning Commission may establish limits on hours of operation, time limits on validity of special use permit, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.
  - (10) Prior to issuance of a Special Land Use Permit, the applicant shall provide evidence of public liability insurance and property damage insurance to cover potential liability for death or injury to persons, or damage to property, which may result from the conduct of the activity.
3. Site requirements. Unless otherwise specified, the following requirements shall apply:
- a. The minimum lot size shall be two (2) acres.
  - b. The proposed site shall have at least one property line abutting a paved thoroughfare. All access shall be directly to said thoroughfare.
  - c. Front minimum yard setbacks shall follow the requirements of the AR Agricultural Residential District. Side and rear minimum yard setbacks shall be at least one hundred (100) feet and shall be landscaped in trees, shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yard setbacks, except required entrance drives.



4. Performance Standards. Unless otherwise specified, the following requirements shall apply.
  - a. The size, layout, and use of the site shall be adequate to accommodate the intended uses, and parking without significant impact on nearby properties in terms of noise, traffic, lighting glare, odors, trespassing, dust or blowing debris, as determined by the Planning Commission.
  - b. Whenever a swimming pool is constructed under this ordinance, said pool area shall be provided with a protective fence at least six (6) feet in height and entry shall be provided by means of a self-latching, controlled gate. The Planning Commission may require perimeter fencing for uses that may potentially jeopardize the health, safety and welfare of the Conway Township community.
  - c. The site shall be periodically cleared of debris.
  - d. The Planning Commission may restrict the hours of operation in consideration of the adjacent land uses and zoning.

**G. Wireless Communication Support Structures and Radio and Television Broadcast Towers.**

1. Location Requirements. Wireless communication support structures and radio and television broadcast towers may be permitted as a special use in the AR Agricultural Residential District subject to the issuance of a special use permit, to the extent one is required as provided in this Section, and subject to the conditions specifically set forth herein. No tower except wireless internet towers under eighty-five (85') feet shall be located closer than one thousand feet from the boundary of any R Residential District, including a PUD District incorporating residential uses, and shall not be in violation of the airport zoning height restrictions.
2. Site Requirements.
  - a. Minimum lot size shall be two (2) acres.
  - b. The tower base shall be setback from all lot lines a minimum distance equal to one and one half (1.5) times the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the zoning district.
  - c. Where possible, joint use of tower facilities, including

Township storage tanks, shall be required in order to minimize the number of separate towers and individual locations throughout the Township. As a condition of approval, the applicant shall agree to permit future users to share the tower facility and shall demonstrate that it is not feasible to locate the proposed tower on public lands, or co-locate on an existing tower.

- d. No signs, except warning or other cautionary signs shall be permitted on the site.

3. Permitted Uses.

- a. Notwithstanding the foregoing provisions, wireless communications equipment is a permitted use of property and is not subject to special land use approval or any other approval under this Ordinance if all of the following requirements are met:

- i. The wireless communications equipment will be collocated (See Section 13.10(G)(4) for definition of “Collocation”) on an existing wireless communications support structure or in an existing equipment compound or requires the removal of transmission equipment or replacement of transmission equipment.
- ii. The existing wireless communications support structure or existing equipment compound is in compliance with the Zoning Ordinance or was approved by the Township.
- iii. The proposed collocation will not do any of the following:
  - 1. Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
  - 2. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.

3. Increase the area of the existing equipment compound to greater than 2,500 square feet.
- iv. The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the Township.
- v. Upon a showing that all conditions contained in subsections (a)(i)-(a)(iv) herein have been met, the Zoning Administrator shall confirm in writing that no special land use permit is required.
- b. Wireless communications equipment that meets the requirements of subsection (a)(i) and (ii) but does not meet the requirements of subsection (a)(iii) or (iv) is a permitted use of property if it receives special land use approval under subsections (c) to (f).
- c. Unless otherwise in conflict with this Subsection 3, a request for special land use approval of wireless communications equipment described in subsection (b) shall also satisfy the requirements of subsection 5(b), 5(d) and 6.
- d. After a request for special land use approval is filed with the Zoning Administrator, as outlined in subsection (b), the Zoning Administrator shall determine whether the request is administratively complete. Unless the Zoning Administrator proceeds as provided under subsection (e), the request shall be considered to be administratively complete when the Zoning Administrator makes that determination or 14 business days after the Zoning Administrator receives the request, whichever is first.
- e. If, before the expiration of the 14-day period under subsection (d), the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14 day period under subsection (d) is tolled until the applicant submits to

the Zoning Administrator the specified information or fee amount due. The notice shall be given in writing or by electronic notification. A fee required to accompany any application shall not exceed the Township's actual, reasonable costs to review and process the application or \$1,000.00, whichever is less.

- f. The Planning Commission shall approve or deny the application not more than 60 days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve, approve with conditions, or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

4. Definitions.

- a. "Collocate" means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound such that the physical dimensions of the tower or base station are not substantially changed. A substantial change is anything that meets any of the following criteria:
  - i. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
  - ii. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other types of support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

- iii. For any support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
  - iv. It entails any excavation or deployment outside the current site; and
  - v. It would defeat the concealment elements of the support structure.
- b. “Collocation” has a corresponding meaning, i.e., to collocate.
  - c. “Equipment Compound” means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.
  - d. “Transmission Equipment” Equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
  - e. “Wireless Communications Equipment” means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures. Wireless Communication Facility has a corresponding meaning. Not

included in this definition are citizens band radio facilities, shortwave facilities, ham or amateur radio facilities, satellite dishes for residential use, and governmental facilities which are subject to State or Federal law or regulations which preempt municipal regulatory authority.

- f. “Wireless Communications Support Structure or Tower” means structures erected or modified to support Wireless Communications Equipment. Support structures within the definition include, but are not limited to monopoles lattice towers, light poles, wood poles, and guyed towers, or other structures which appear to be something other than a mere support structure.

5. Special Land Use Permit

- a. When Required. A special land use permit is required for all wireless communications equipment that does not meet the requirements of subsection 3(a)(i)- (a)(iv), herein, and for all other wireless communications support structures. Conway Township has 90 days to approve, approve with conditions, or deny the request once it is administratively complete under Section 13.10(G)(3)(d).

- b. Information Required.

The following information is required for a special use permit under subsection (a):

- i. Each applicant shall provide an inventory of its existing towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of Conway Township or within one (1) mile of the border thereof, including specific information about the location, height, type of equipment including model number and design of each tower. Such information may be shared with other applicants applying for approvals under this ordinance or other organization seeking to locate towers or antennas within the jurisdiction of Conway Township; provided, however, that the sharing of such information in no way constitutes a representation or warranty by the Township that such sites are available or suitable.
- ii. A scaled site plan clearly indicating the location,

type and height of the proposed tower or site land uses and zoning, adjacent land uses and zoning; land use plan classification of the site and all properties within the applicable separation distances set forth above; adjacent roadways, proposed means of access; setbacks from property lines, elevation drawings of the proposed tower, specifications of the transmitter and model numbers and any other structures, topography, parking and any other information deemed by Conway Township to be necessary to assess compliance with this ordinance.

- iii. Legal description of the property and proof of ownership, and evidence of lease interest, if applicable.
- iv. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- v. A landscape plan showing specific landscape materials.
- vi. Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- vii. If requesting a wireless support structure, a notarized statement by the applicant indicating that construction of the proposed tower will accommodate a minimum of five (5) additional antenna arrays equal to the one submitted by the applicant, allowing a minimum total of six (6) antennas.
- viii. For wireless communication systems, identification of the relationship between the backhaul network (i.e., the lines that connect a provider's structures/cell sites to one or more cellular telephone switching offices, and/or long distance providers, and/or the public switched telephone network) and tower(s) described in the application and other cellular sites owned or operated by the applicant in the Township.

- xi. If requesting a wireless support structure, a description of the suitability of the use of existing towers, and other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower. The applicant shall provide an affirmative statement as to the need for the proposed tower and why no existing structure will meet the needs of the proposed new tower.
- x. A map showing the locations(s) of future towers, structures or antennae proposed or anticipated by the applicant within Conway Township based on existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
- xi. An environmental impact assessment disclosing any potential impact on local wetland, flood plains, wilderness areas, wildlife preserves, endangered species, historical sites or other environmental considerations.
- xii. Name and location of communication tower manufacturer.
- xiii. A technical analysis setting forth the minimum height necessary for reasonable communication by the applicant and an evaluation of alternative designs which might result in lower tower heights.
- xiv. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long term, continuous maintenance to a reasonable prudent standard.
- xv. All tax related information as requested by the Conway Township Assessor for appraisal purposes.
- xvi. The name, address and phone number of the person to contact for engineering,



maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.

- c. Conditions of Approval. In granting a special land use permit under subsection 5, the Planning Commission may impose conditions that the Planning Commission determines are necessary to further the purposes of this ordinance and/or to minimize any adverse impact of the proposal on adjoining or nearby properties.

The Township may employ specialized experts to review information and materials submitted by the applicant. The applicant shall incur all costs associated with such review, not to exceed \$1,000.

- d. Factors to Consider in Granting a Special Use Permit. The Planning Commission shall consider all provisions of this ordinance, including the following factors, as well as any other Township ordinances not in conflict with this ordinance, in determining whetherto issue a special land use permit, although the Planning Commission may waive or reduce one (1) or more of the following criteria if the Planning Commission determines that the goals of this ordinance are better served thereby:
  - i. Height of the proposed tower.
  - ii. Proximity of the tower to residential structures and residential district boundaries.
  - iii. Nature of uses on adjacent and nearby properties.
  - iv. Surrounding topography.
  - v. Surrounding tree coverage and foliage.
  - vi. Design of the tower with particular reference to design characteristics that have the effectof reducing or eliminating visual obtrusiveness.
  - vii. Proposed ingress and egress.
  - viii. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.
  - ix. The design of the proposed structure and its ability to accommodate co-location of additional users.

- x. A bond of \$15,000 on towers will be maintained while the tower is up with Conway Township. The bond shall be posted before work begins and returned when the tower is taken down.
  
- e. Availability of Suitable Existing Towers, Other Structures or Alternative Technology. No new wireless support structure shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower or structure or alternative technology which does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - i. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - ii. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - v. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
  - vi. The applicant demonstrates there are other

limiting factors that render existing towers and structures unsuitable.

- vii. The applicant demonstrates that an alternative technology which does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system is unsuitable. Costs of alternative technology that exceed the new tower or antenna development shall not be presumed to render the technology unsuitable. New technology, which does not require the use of a tower, shall be preferred, regardless of cost.

6. General Regulations and Design Standards.

- a. Wireless communication support structures or towers shall be subject to the following regulations:
- b. Access. Unobstructed access, constructed in accordance with all provisions of this ordinance, shall be provided to the tower and apparatus building to ensure service by police, fire and emergency vehicles. Roads used for ingress and egress must be constructed according to specifications set forth by the Livingston County Road Commission.
- c. Structural Design and Installation
  - i. The plans for the tower construction shall be certified by a State of Michigan licensed professional engineer, and the applicant shall submit verification that the installation is in compliance with all applicable codes.
  - ii. All towers or structures must meet or exceed current standards and regulations of the FAA, the FCC and other agencies for the state or federal government with the authority to regulate towers, structures, and antennas. If such standards and regulations are changed, then the owners of the towers, structures, and antennas governed by this ordinance shall bring such towers, structures, and antennas into compliance with such revised standards and regulations within six

(6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers, structures, and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- iii. To ensure the structural integrity of towers or structures, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers or structures that are published by the Electronic Industries Association, as amended, and shall supply Conway Township with a yearly report of such maintenance. If upon inspection Conway Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- iv. Antennae and metal towers or structures shall be grounded for protection against a direct strike by lightning. The electrical wiring and connections on all towers and structures shall comply with all applicable local, state and federal statutes, regulations, and standards.
- v. Towers or structures with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
- vi. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower of antennae and a structure, or between towers, shall be at least eight (8) feet above the ground at all

points, unless buried underground.

- vii. The base of the tower shall occupy no more than five hundred (500) square feet.
  - viii. The use of guyed wires is prohibited unless the applicant demonstrates that the prohibition of guyed wires is not feasible for the proposed tower.
  - ix. All communications tower operators shall be required to prove compliance with all federal and state emission regulations as requested by Conway Township.
  - x. Lighting towers or structures shall not be artificially illuminated if under one hundred fifty (150) feet, except as required by the FCC, FAA or local building codes. Anything over one hundred (150) feet shall be illuminated.
- d. Height. Height shall be measured from the finished grade of the parcel to the highest point on the tower or other structure including the base pad and any antenna, but shall not include the height of a whip, which whip may not exceed fifteen (15) feet in height. In no case shall the tower or structure plus the whip exceed two hundred sixty five (265) feet in height.
- e. Design.
- i. Except as otherwise provided herein, all towers shall be of monopole design and shall be constructed of or treated with corrosive resistant material.
  - ii. The antennae shall be painted to match the exterior treatment of the tower. The paint scheme of the tower and antennae shall be designed to minimize off-site visibility of the antennae and tower.
  - iii. Landscaping shall be utilized to blend the tower or structure into the natural setting and surrounding buildings.

- iv. If an antenna is installed on a structure other than a tower (such as a clock tower, bell steeple or light pole), the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- v. All utility wiring going to the tower shall be placed underground.
  
- f. **Fencing and Landscaping.** The tower and appurtenant apparatus building shall be secured by fencing a minimum of ten (10) feet in height and at least three (3) strands of barbed wire at the top facing out. All towers must be equipped with an anti-climbing device to prevent unauthorized access. The fencing and apparatus building shall be screened with a landscape strip at least twenty (20) feet wide along each side of such fencing or building. Specifications for spacing landscape plant materials shall be as set forth by the Planning Commission. The landscape strip shall be maintained in good condition at all times so as to continue its effectiveness. Existing mature on-site vegetation and natural land forms shall be preserved to the maximum extent feasible.

In some cases, such as towers or structures sited on large wooded lots, natural growth around the property perimeter may provide sufficient buffer, in which case the Planning Commission may waive the landscaping requirements of this paragraph.

- g. **Employees.** No employees shall be located on the site on a permanent basis to service or maintain the antennae. Occasional or temporary repair and service activities are excluded from this restriction.
- h. **Franchises.** Owners and/or operators of towers structures or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system have been obtained and shall file a copy of all required franchises with the Zoning Administrator prior to final plot plan approval.

- i. Not Essential Services. Towers, structures and antennae shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.
- j. Cessation of Operation. The Planning Commission shall condition approval of any new tower subject to the removal of said tower, including all structural components of the tower above and below ground within one hundred and eighty (180) days of cessation of operations. The Planning Commission reserves the right to request evidence of ongoing operation at any time after construction of an approved tower. Any antenna or tower, whether approved under this ordinance or existing at the time of adoption of this ordinance, that is not operated for a continuous period of one hundred eighty (180) days shall be deemed abandoned. Failure to remove an abandoned antenna or tower within sixty (60) days of receipt of a notice from Conway Township requesting such removal shall be grounds for Conway Township to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, this provision shall not take effect until all users cease using the tower.

**H. Essential Public Service Structures.**

- 1. Location Requirements: Essential public service structures are permitted as a special use in all districts.
- 2. Site Requirements:
  - a. The minimum lot size shall be two (2) acres
  - b. All yard area requirements and spacing requirements of the district shall be met.
- 3. Performance Standards:
  - a. All structures shall be fenced or screened or both at the discretion of the Planning Commission.
  - b. The structure shall display a sign on the building, not to exceed two (2) square feet in area, containing an address and telephone number to contact in the event of damage or lack of service of the structure.

## **I. Home Occupations.**

### **1. Location Requirements.**

Home occupations which are clearly incidental to the principal residential use may be permitted in both the Agricultural Residential (AR) District and the Residential (R) District. Home occupations which meet the requirements of Home Occupation Class I shall be exempt from the requirement of obtaining a special use permit and are to be administratively approved by the Zoning Administrator. Home occupations that meet the requirements for Home Occupation Class II may be permitted as a special use and must obtain a special use permit as specified herein. The Zoning Administrator shall direct applicants for home occupations to provide supplemental application information as directed by the Township Board.

### **2. Home Occupation Class I.**

The regulation of Home Occupation Class I is intended to secure flexibility in the application of the requirements of this Ordinance. Home Occupation Class I is permitted as an accessory use to the principal residential use of a lot without the requirement of a special use permit. Such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home Occupation Class I shall satisfy the following conditions. These regulations do not apply to occupations protected by Michigan's Right to Farm Act, 1981 PA 93, MCL 286.472, et seq, as amended.

- a. The Home Occupation Class I shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- b. Home Occupation Class I shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation Class I based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.
- c. A resident of the dwelling on the lot shall be actively



and personally engaged in and responsible for all Home Occupation operations. No employees shall be permitted, other than members of the immediate family residing in the dwelling unit.

- d. All of the activities on the property related to the occupation, except those occupations that are protected by Michigan's Right to Farm Act, 1981 PA 93, MCL 286.471, et seq, as amended, shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment or products related to the occupation.
- e. Traffic generated by the combined home and Home Occupation Class I shall be no greater in volume than would normally be expected in a residential district, and such traffic shall be limited to passenger vehicles and similarly sized vehicles. Any need for parking used by such Home Occupation Class I shall be met off the street and motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created. Home Occupation Class I shall not generate any traffic from customers coming to or from the residence.
- f. A Home Occupation Class I may be permitted in both the dwelling unit and accessory structure. The Home Occupation Class I shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement, but may encompass the entire accessory structure. Accessory structures shall conform to the requirements of Section 6.06, Supplemental Regulations Pertaining to Accessory Buildings and Structures.
- g. No hazardous chemicals shall be stored on site. No process, chemicals, or materials shall be used which are contrary to any applicable state or federal laws. Refuse generated by the Home Occupation Class I shall be safely and properly disposed of.
- h. The Home Occupation Class I shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment. Home Occupation Class I approval is not transferable with the sale, rental or lease of the dwelling unit.

- i. Signage shall be permitted in accordance with Article 17.

3. **Home Occupations Class II**

- a. The Home Occupation Class II shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- b. All of the activities on the property, except those performed pursuant to Michigan's Right to Farm Act, 1981 PA 93, MCL 286.471, et seq, as amended, related to the occupation shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment or products related to the occupation.
- c. Refuse generated by the occupation shall be safely and properly disposed of.
- d. No equipment or process shall be used in such Home Occupation Class II, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site.
- e. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all home occupation operations. The home occupation shall employ no more than three (3) persons on the premises during the ordinary course of business, excluding the resident owner, other employees residing in the dwelling, and employees who do not physically report to the site or perform occupational duties on the site.
- f. The Home Occupation Class II shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- g. Home Occupation Class II approval is not transferable with the sale, rental or lease of the dwelling unit.

- h. Signage shall be permitted in accordance with Article 17.
- i. Home Occupation Class II may be permitted in both the dwelling unit and accessory structure. The Home Occupation Class II shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement, but may encompass the entire accessory structure. Accessory structures shall conform to the requirements of Section 6.06, Supplemental Regulations Pertaining to Accessory Buildings and Structures.
- j. Visitors, customers and deliveries shall not exceed a cumulative total of twelve (12) during a single day. The Planning Commission may modify this standard in the case where the Planning Commission determines that the operation of the Home Occupation Class II will not unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the Home Occupation Class II in volumes in excess of that which is normally associated with a single family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly sized vehicles. The Planning Commission may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the lot, the proximity of nearby residences, and road and dust conditions, nor unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by the subsection below
- k. All parking needs of the Home Occupation Class II shall conform to the requirements of Article 15, Off Street Parking and Loading-Unloading Standards. The Planning Commission may require screening of parking areas to minimize negative impacts on neighboring properties.
- l. Review Standards.
  - i. The Planning Commission shall determine that the proposed Home Occupation Class II is compatible with existing land uses in the area and would not be detrimental to the safety or

convenience of vehicular or pedestrian traffic.

ii. For a Home Occupation Class II, an informal site plan or plot plan must be submitted for review and recommendation by the Planning Commission. The site plan does not need to comply with the strict requirements found in Article 14, Site Plan Review. The site plan or plot plan shall be to scale and need only illustrate the following:

1. Owner's name, parcel identification (tax ID#) and address.
2. Property lines with dimensions.
3. Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the Home Occupation Class II.
4. Location of driveways, off-street parking areas & delivery and storage areas
5. Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties.
6. The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the Home Occupation Class II.
7. Lot or parcel identification (address and tax ID#), size of lot or parcel dimension of lot lines, location of structures on adjacent lots or parcels within two hundred feet, abutting streets or roads.

iii. In addition to the information above, the applicant shall submit a detailed description of the nature of the Home Occupation Class II, which shall clearly specify the following minimum features:

1. A detailed description of the character of

the Home Occupation Class II including but not limited to the service or product offered and the typical daily schedule of activities of such business.

2. The type and frequency of vehicular traffic to be generated by the Home Occupation Class II. The maximum number of vehicles to be parked or otherwise located outdoors including vehicles owned or used by residents of the dwelling and employees of the Home Occupation Class II.
3. The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.
- iv. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.
- v. Any approval of a Home Occupation Class II, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, and related operational features.

## **J. Injection Wells.**

### **a. Location Requirements.**

Injection wells may be permitted as a special use in the AR Agricultural Residential District.

### **b. Site Requirements.**

Minimum lot size shall be two (2) acres. All other area, height and bulk requirements shall be in conformance with Article 7 provisions for the AR Agricultural Residential District.

### **c. Performance Standards.**

- i. Applicants shall submit documentation showing either approval or tentative approval for any permits necessary from the U.S. Environmental Protection Agency, Michigan Department of Environmental Quality or any other federal, state or local agency from which approval is necessary for the installation and operation of any injection well. Permit approval from other agencies does not obligate Conway Township to grant special use permit approval unless all provisions of this ordinance are complied with. Site plans submitted as part of the special use permit application shall show any changes or modifications required for approval by regulating agencies. Site plan changes required after Conway Township issues a special use permit shall be changed in accordance with provisions for site plan changes provided in this ordinance. Copies of approved permits shall be filed with the Zoning Administrator within thirty (30) days of their approval.
- ii. Injection of hazardous material as defined and prohibited by the U.S. Environmental Protection Agency or Michigan Department of Environmental Quality shall not be permitted.
- iii. A Pollution Incident Prevention Plan shall be developed in conjunction with the County Health Department and filed with the Planning Commission as part of the special use permit application and be approved by the following:
  1. The Village of Fowlerville Fire Chief
  2. Livingston County Emergency Program Manager
  3. Livingston County Department of Public Health
- iv. No more than one injection well shall be sited per parcel.
- v. Portions of the site used for parking, driveways and injection activities shall be

fenced with cyclone fencing eight (8) feet in height. Entrances and exits shall be locked when the site is not in use.

- vi. Hours of operation not to exceed 6:00 a.m. to 7:00 p.m. shall be established for the special use permit.
- vii. Days of operation are not to exceed Monday through Saturday excluding holidays. This restriction shall be established by the special use permit. The following are recognized Township holidays: President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving Day and Christmas Day.
- viii. Parking spaces and facilities and lighting of parking areas shall be provided in conformance with the provisions of this ordinance.
- ix. Signage on-site shall direct traffic flow and direction.
- x. Signage shall include one four (4) foot by four (4) foot sign attached to the fence facing the roadway identifying the name of the owner of the company, the address and phone number. Lettering shall be at least four (4) inches in height.
- xi. Additional signage may be permitted at the discretion of Planning Commission.
- xii. The area encompassing the injection well shall be provided with a spill containment structure of compacted clay, impervious synthetic liner or concrete designed to prevent the migration of liquids into the earth in the event of a spill. The design of said spill containment structure shall be approved by the Livingston County Health Department.
- xiii. At the time the special use permit application is submitted, the applicant shall submit the following information regarding

traffic to and from the site:

1. Number of vehicles per day
  2. Size and hauling capacity (in barrels and gallons)
  3. Direction of traffic
  4. Roadway access routes
  5. Haul routes to and from the site
- xiv. Underground tanks or other underground storage containers other than the injection well shall not be installed on the site.
- xv. The applicant shall submit to the Zoning Administrator copies of any reports or other documentation they are required to file with any regulatory agency.
- xvi. The special use permit shall be granted for a period of three (3) years and will be subject to renewal every three (3) years. Permit renewals shall be granted based on compliance with the provisions of the ordinance and compliance with regulatory agency requirements.

a. **Long Term Care Facilities.**

d. Location Requirements.

Long term care facilities may be permitted as a special use in the AR Agricultural Residential and R Residential Districts.

e. Site Requirements.

- i. Minimum lot size shall be five (5) acres or two thousand (2,000) square feet per bed, whichever is greater, to provide for landscaping, parking, service drives, yards, recreational areas and accessory uses.
- ii. There shall be a minimum of one thousand five hundred (1,500) square feet of open site area for each bed in the facility to provide for landscaping, parking, service drives, yards, recreational areas and accessory uses.
- iii. The site shall be served by a primary county roadway. Ingress and egress shall be provided directly from said roadway.



- iv. The main and accessory buildings shall be set back at least one hundred (100) feet from all property lines.
- v. No more than twenty-five (25) percent of the site shall be covered by buildings.
- vi. Parking areas shall not be located within fifty (50) feet of an adjacent residential use.
- vii. Area for access of emergency vehicles shall be provided for each primary building entrance.

f. Performance Standards:

- i. All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.
- ii. A landscaped buffer shall be provided along all lot lines abutting a residential use according to the applicable provisions of Section 6.16.

b. **Self-Storage Facilities.**

g. Location Requirements.

Self-storage facilities may be permitted as a special use in the C Commercial District.

h. Site Requirements.

- i. Self-storage facilities shall not be permitted on parcels less than five (5) acres in size.
- ii. Self-storage facilities shall abut a paved, county thoroughfare and public ingress and egress shall be provided from the thoroughfare.
- iii. A minimum distance of twenty-five (25) feet shall be provided between self-storage buildings.

i. Performance Standards.

- i. All areas intended for vehicle travel shall be paved with concrete or bituminous materials and shall be maintained in a usable, dirt-free condition.
- ii. Storage of materials or goods shall be enclosed entirely within self-storage facilities.
- iii. A six (6) foot fence shall be constructed around the perimeter of the development, as approved by the Planning Commission.
- iv. A landscaped buffer shall be provided along all lot lines abutting a single family residential use according to the applicable provision of Section 6.16.
- v. No lighting shall in any way impair the safe movement of traffic on any transportation corridor.
- vi. There shall be no storage of any hazardous materials (See Article 2 definition).

c. **Multiple Family Dwellings.**

j. Location Requirements.

Multiple family dwellings may be permitted as a special use in the R Residential District.

k. Site Requirements.

- i. Multiple family dwelling units shall be permitted at a density no greater than two (2) units per acre.
- ii. All multiple family dwellings shall have direct access to a paved county roadway.
- iii. No dwelling unit shall have its principal access more than one hundred fifty (150) feet from either an access drive or a public street and the required off- street parking area.

- iv. The distance between any two (2) residential structures which occupy the same lot shall not be less than thirty (30) feet, if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations; provided, however, a greater separation may be required where any structure exceeds (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures.
- v. Maximum lot coverage for a multiple family development shall cover no more than thirty (30) percent of the parcel.
- vi. There shall be provided easily accessible and useable open space in the development in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater.

l. Performance Standards.

- i. A landscaped buffer shall be provided along all lot lines abutting a single family residential use according to the applicable provisions of Section 6.16.
- ii. Provisions shall be made for safe and efficient egress and ingress to public streets serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
- iii. All street and driveways in the development shall be constructed and maintained with an all-weather road surface.
- iv. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- v. All off-street parking areas shall be adequately lighted during hours of darkness.
- vi. In addition to multiple family residential units, only the following land or building

uses shall be permitted:

1. One (1) office space for conducting the business of the development.
2. Utility areas for laundry facilities and auxiliary storage for tenants.
3. Recreation area such as community buildings, playgrounds, and open space for tenants.

d. **Senior Housing Complexes.**

m. Location Requirements.

Senior Housing Complexes may be permitted as a special use in the Residential district.

n. Site Requirements.

- i. Senior dwelling units shall be permitted at a density no greater than two (2) units per acre.
- ii. All senior dwellings shall have direct access to a paved county roadway.
- iii. No dwelling unit shall have its principal access more than one hundred fifty (150) feet from either an access drive or a public street and the required off-street parking area.
- iv. The distance between any two (2) residential structures which occupy the same lot shall not be less than thirty (30) feet, if both of the walls facing each other contains windows or other openings, and not less than twenty (20) feet for all other situations; provided however, a greater separation may be required where any structure exceeds (30) feet in height and the location of such structure will tend to obstruct light to adjacent residential structures.
- v. Maximum lot coverage for a senior housing development shall cover no more than thirty (30) percent of the parcel.
- vi. There shall be provided easily accessible and useable open space in the development

in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater.

o. Performance Standards.

- i. A landscaped buffer shall be provided along all lot lines abutting a single family residential use according to the applicable provision of Section 6.16, herein.
- ii. Provisions shall be made for safe and efficient egress and ingress to public streets serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
- iii. All streets and driveways in the development shall be constructed and maintained with an all-weather road surface.
- iv. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- v. All off-street parking areas shall be adequately lighted during hours of darkness.
- vi. In addition to senior housing units, only the following land or building uses shall be permitted:
  - 1. One (1) office space for conducting the business of the development.
  - 2. Utility areas for laundry facilities and auxiliary storage for tenants.
  - 3. Recreation area such as community buildings, playgrounds, and open space for tenants.

e. **Single Family Attached Dwellings.**

p. Location Requirements.

Single family attached dwellings are permitted as a special use in the R Residential District.

q. Site Requirements.

- i. Dwelling units shall be permitted at a density no greater than two (2) units per acre.
- ii. Dwellings shall have direct access to a paved county roadway.
- iii. No dwelling unit shall have its principal access more than one hundred fifty (150) feet from either an access drive or a public street and the required off- street parking area.
- iv. Maximum lot coverage for a single family attached housing development shall cover no more than thirty (30) percent of the parcel.
- v. There shall be provided easily accessible and useable open space in the development in an amount of ten (10) percent of the site area or two thousand (2,000) square feet per four (4) dwelling units, whichever is greater.

r. Performance Standards.

- i. A landscaped buffer shall be provided along all lot lines abutting a single family detached residential dwelling use according to the applicable provisions of Section 6.16, herein.
- ii. Provisions shall be made for safe and efficient egress and ingress to public streets serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
- iii. All streets and driveways in the development shall be constructed and maintained with an all weather road surface.
- iv. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.

v. All off-street parking areas shall be adequately lighted during hours of darkness.

vi. In addition to single family attached dwelling units, only the following land or building uses shall be permitted:

1. One (1) office space for conducting the business of the development.
2. Utility areas for laundry facilities and auxiliary storage for tenants.
3. Recreation area such as community buildings, playgrounds, and open space for tenants.

vii. All single family attached dwellings following the condominium form of ownership for dwelling units shall follow the standards set forth in the Condominium Act, 1978 PA 59, MCL 559.101 et seq, as amended.

r. **Veterinary Hospitals and Clinics.**

s. Location Requirements.

Veterinary hospitals and clinics may be permitted as a special use in the AR Agricultural Residential District.

t. Site Requirements.

i. Establishments with dog kennels must also meet the requirements for commercial kennels, Section 13(S).

ii. Buildings with dog runs or exercise areas or buildings wherein animals are kept, shall not be located nearer than one hundred fifty (150) feet to any adjacent property lines and two hundred (200) feet from the road right of way in order to minimize nuisance to adjoining property owners.

u. Performance Standards.

i. All veterinary hospital and clinics shall be operated in conformance with all applicable county and state regulations.

s. **Contractor's Yard.**

v. Location Requirements.

Contractor's yards are permitted as a special use in the C Commercial District.

w. Site Requirements.

- i. The minimum lot area required for such uses shall be two (2) acres.
- ii. The minimum lot width required for such uses shall be one hundred fifty (150) feet.
- iii. The minimum front setback required for such uses shall be one hundred (100) feet from the center line of a secondary roadway and one hundred ten (110) feet from the center line of a primary roadway.
- iv. Outside storage shall comply with the front, side, and rear setback requirements for the District. Furthermore, outside storage shall extend no closer to any road than the principal building on the site, and no closer than three hundred (300) feet to any R Residential District.
- v. The entire site, exclusive of access drives, shall be enclosed with a fence or wall, constructed in accordance with Section 6.15.
- vi. Outside storage shall not exceed fourteen (14) feet in height.
- vii. Outside storage shall be completely screened with a screen that is opaque through all seasons from the ground to a minimum height of eight (8) feet. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, existing vegetation or a combination.
- viii. The Planning Commission may waive or modify these requirements for screening upon determining that:



1. Outside storage will be adequately screened from view by existing or proposed buildings, trees or shrubs, or other physical features in accordance with Section 6.16.
2. Screening would serve no useful purpose because of the characteristics of adjacent land use (for example, the presence of unscreened outside storage on adjacent land). The planned use of undeveloped sites shall dictate screening requirements.
  - ix. Outdoor lighting shall be shielded and directed downward. In no case shall outdoor lighting trespass onto an abutting lot.
  - x. Outside storage areas shall be paved and properly drained. The Planning Commission may waive the requirements for paving to allow direct infiltration of storm water and reduce requirements for storm water retention or detention where the applicant submits sufficient evidence that a paved surface would not support heavy machinery used on the site or would not otherwise be appropriate for the intended use of the site. Paved, gravel, crushed concrete or other surfacing shall be subject to review and approval by the Township engineer. Unpaved open storage shall be permitted only where it is not visible from the perimeter of the site and all public roads. Pavement shall be required if there is any risk of ground or surface water contamination as a result of a spill or leakage.
  - xi. All yards shall be located with direct access to paved roads.
- x. Performance Standards.
  - i. Heavy construction equipment, such as bulldozers and front-loaders, shall not be stored or used on the site, unless approved as part of a special use.
  - ii. No truck or trailer shall be parked outside longer than seven (7) calendar days, except

that trucks, trailers and other equipment accessory to the principal building or use may be parked for longer periods, subject to prior Township approval of a site plan illustrating the location and method of screening such parking from roads and residential uses.

- iii. Outside storage may be used only to store materials to be used on a timely basis in the inside industrial operations or for storage of finished product prior to shipment. In no case shall outdoor storage areas be used to store junk, construction, debris, obsolete machinery or materials no longer used or intended to be used in the operation.
- iv. No individual product or material shall be stored outside for more than one (1) year.
- v. Open storage structures shall be enclosed on three (3) sides with a roof and the open side shall not be visible from the public or private road.

t. **Service Stations.**

y. Location Requirements.

Service Stations, including self-service stations, are permitted as a special use in the C Commercial District.

z. Site Requirements.

- i. The minimum lot area required for such uses shall be two (2) acres.
- ii. The minimum lot width shall be one hundred fifty (150) feet.
- iii. The minimum front setback required for such uses shall be one hundred (100) feet from the center line of a secondary roadway and one hundred (110) feet from the center line of a primary roadway.

iv. Repair garages or other buildings shall comply with the setback requirements for the district in which the use is located. However, a minimum setback of forty (40) feet shall be maintained on all sides which abut lots zoned or used for residential purposes. Pump islands and canopies shall comply with the following requirements:

Minimum Setback:

- Nearest edge of pump island 30 feet from setback line.
- Nearest edge of unenclosed canopy 30 feet from setback line.
  
- v. Circulation aisles and parking stalls are not permitted in front setback.
  
- vi. Ingress and egress drives shall be a minimum of thirty (30) feet and a maximum of forty (40) feet in width. The total number of ingress and egress drives shall not exceed two (2). No more than one (1) such drive or curb opening shall be permitted for every seventy-five (75) feet of frontage (or fraction thereof) along any street. The nearest edge of any such drive shall be located at least twenty-five (25) feet from the nearest point of any property zoned or used for residential purposes.
  
- vii. Curb openings for drives shall not be permitted where the drive would create a safety hazard or traffic nuisance because of its location in relation to other ingress and egress drives, its location in relation to the traffic generated by other buildings or uses or its location near vehicular or pedestrian entrances or crossings.
  
- viii. A curb of at least six (6) inches in height shall be installed to prevent vehicles from being driven onto or parked with any part of the vehicle extending within two (2) feet of abutting landscaped areas, sidewalks, public or private streets, public or private buildings, or adjoining property.
  
- ix. The site shall be heavily screened from a

private or public road or driveway in accordance with Section 6.16.

- x. The canopy shall have fully recessed lighting fixtures and the total initial lamp output under the canopies shall be limited to forty (40) lumens per square foot of canopy. All canopies shall have pitched roofs.
- xi. Outdoor lighting shall be shielded and directed downward. In no case shall outdoor lighting trespass onto an abutting property.

aa. Performance Standards.

- i. The servicing and repair of vehicles shall be limited to those which may be serviced during a normal workday.
- ii. Outside parking of vehicles overnight is prohibited except for the operable vehicles of the employees working at the station and up to two (2) services vehicles utilized by the service station.
- iii. There shall be no outside display of parts or products.
- iv. All lubrication equipment, automobile wash equipment, hoists and pits shall be enclosed entirely within a building. Gasoline pumps shall be located so that motor vehicles do not park on or extend over abutting landscaped areas, sidewalks, streets, buildings, or adjoining property while being served.
- v. Inoperable, wrecked or partially dismantled vehicles shall not be stored or parked outside for a period exceeding two (2) days, provided such vehicles are stored in the rear yard within a masonry screening wall that is not less than six (6) feet in height.
- vi. The storage, sale, or rental of new or used cars, trucks, trailers, motorcycles, recreational vehicles, boats, tractors, and

any other vehicles on the premises are prohibited.

u. **Commercial Kennels**

bb. Location Requirements:

Commercial kennels are permitted by special use permit in the Agricultural Residential and Commercial Districts.

cc. Site Requirements:

- i. A commercial kennel shall be on a lot with a minimum lot size of five (5) acres of usable land for the first eleven (11) dogs and an additional one-third (1/3) acre of usable land for each additional animal thereafter. Only dogs six months of age or older shall be counted.
- ii. Buildings with dog runs or exercise areas or buildings wherein animals are kept, shall not be located nearer than one hundred fifty (150) feet to any adjacent property lines and two hundred (200) feet from the road right of way in order to minimize nuisance to adjoining property or uses.

dd. Performance Standards:

- i. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
- ii. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
- iii. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited. The intensity level of sounds shall not exceed seventy-five (75) decibels at the lot line of industrial uses, sixty-five (65) decibels at the lot line of commercial uses, and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- iv. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
- v. During the hours between 7:00 a.m. until 10:00 p.m.,

animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.

- vi. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only.
- vii. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Section 6.16.
- viii. The outside perimeter of the run and exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top to prohibit the escape of dogs. In addition, concrete to a depth of 24 inches and width of 4 inches shall be used underneath the length of the fence to prevent the escape of dogs by digging underneath the fence.
- ix. All dogs must be licensed and maintained in a healthful and careful manner.
- x. Outdoor runs and breeding areas shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system or municipal sewer connection as approved by the Livingston County Health Department.
- xi. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
- xii. Dog odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- xiii. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
- xiv. The Zoning Administrator will review the construction and maintenance of a kennel annually if the kennel is not associated with a veterinary hospital or clinic. The inspection will include sanitation, size of runs, exercise areas, fencing, means used to prevent the escape of dogs, and general appearance. All fees for inspection by county or state agencies or approved kennel associations will be paid by the owner/operator.

v. **Hobby Kennels**

ee. Location Requirements:

Hobby kennels are permitted by special use permit in the AR Agricultural Residential District.

ff. Site Requirements:

- i. A hobby kennel shall be on a lot with a minimum size of two (2) acres of usable land for the first three (3) dogs and one-third (1/3) acre of usable land shall be required for each additional dog with a limit of ten (10) dogs. Only dogs six months of age or older shall be counted.
- ii. Accessory buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred fifty (150) feet to any adjacent property lines and two hundred (200) feet from the road right of way in order to minimize nuisance to adjoining property or uses.

gg. Performance Standards:

- i. Hobby kennels shall only house dogs owned by the occupant of the dwelling unit.
- ii. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
- iii. Habitual barking or unusual noise from the kennel, which results in a nuisance to neighboring landowners or residents, is prohibited. The intensity level of sounds shall not exceed seventy-five (75) decibels at the lot line of industrial uses, sixty-five (65) decibels at the lot line of commercial uses, and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- iv. All dogs must be licensed and maintained in a healthful manner.
- v. Dogs shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
- vi. Runs and/or exercise areas, and buildings where the animals are maintained, shall be located in the rear yard only. Kennel runs shall be screened by a solid fence,

evergreen screen or wall, which is at least six (6) feet in height. The wall of the principle building or an accessory structure may be substituted for the required screening wall if such wall screens the view of the kennel run from adjacent property. In addition, concrete to a depth of 24 inches and width of 4 inches shall be used underneath the length of the fence to prevent the escape of dogs by digging underneath the fence.

- vii. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
- viii. Dog odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- ix. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.
- x. Exercise yards, when provided for training or exercising, shall not be used between the hours of 10:00 p.m. and 7:00 a.m. During the hours between 7:00 a.m. and 10:00 p.m., dogs shall be permitted in outdoor runs or pens. Dogs shall be kept confined and not allowed to run at large on the property, except as part of supervised training.
- xi. The Zoning Administrator will review the construction and maintenance of a kennel annually if the kennel is not associated with a veterinary hospital or clinic. The inspection will include sanitation, size of runs, exercise areas, fencing, means used to prevent the escape of dogs, and general appearance. All fees for inspection by county or state agencies or approved kennel associations will be paid by the owner/operator.

## U. **Junkyards**

1. Location requirements.

Junkyards are permitted as a special use in the I Industrial District.

2. Site Requirements.

The minimum lot size shall be 20 acres.

3. Performance Standards.

- a. Junkyards shall be established and maintained in accordance with all applicable statutes of the State of Michigan



- b. Maintain a landscaped greenbelt for the entire length of road frontage and a distance along side lot lines necessary to screen the junk in a junkyard from the traveling public and along the entire common property lines with residential properties and along side lot lines across which junk in junkyards is visible from any residential structure in the surrounding area.
- c. The protective screening and greenbelt designed to screen the junk in junkyards from the traveling public and adjacent and nearby homes shall be at least 20 feet wide and no junk shall exceed the height of the screening.
- d. The protective screening and greenbelt shall preserve any existing natural tree and shrub vegetation in the planting strip, and, if sufficient to meet the requirements of Subsection A.6 of this Section, shall not be required to meet those requirements the planting strip lacks.
- e. The protective screening and greenbelt plantings shall be comprised of 50 percent deciduous trees and shrubs and 50 percent evergreens interspersed and planted in spacing so as to provide a visually impenetrable planting screen between the traveling public on public roads adjacent and nearby homes. The plants shall be chosen from the following:
  - i. All trees and shrubs both deciduous and evergreen recommended for planting in Michigan by the American Nursery and Landscape Association.
  - ii. Evergreen trees and shrubs shall be chosen from, but not limited to, the following: (1) Trees: spruce, pines, cedars and firs; (2) Shrubs: juniper, yew and cedars.
  - iii. Deciduous trees and shrubs shall be chosen from, but not limited to, the following: (1) Trees: crabapple, thornapple, dogwood, birch, and fruit; (2) Shrubs: honeysuckle, viburnum, mock orange, forsythia, and lilac.
- f. Evergreen trees shall be spaced no more than ten feet apart with at least three evergreen shrubs located on the road or home site of the planting strip and spaced no more than three feet apart.
- g. The trees and shrubs planted shall be of sufficient height and size so as to establish a permanent planting screen at least 6 1/2 feet in height within two years from the date of planting.

- h. All of the trees and shrubs shall be maintained in a continuous healthy and growing state and, if any trees die or fail to grow, they shall be replaced as soon as practicable during the next growing season during which plant materials become available.
- i. In lieu of a planting strip, an earth berm at least 6 1/2 feet in height, stabilized with a combination of ground cover, trees and shrubs to prevent its being lowered by erosion, or a combination of a berm and plantings which meet the requirements of Subsection A.7 of this Section and result in a permanent screen at least 6 1/2 feet in height.
- j. In lieu of a planting strip, a solid screen fence or wall, approved by the Township Planning Commission, at least 6 1/2 feet in height and constructed to meet the standards which will ensure its permanency as to remaining in its original alignment and appearance.
- k. No required protective screening and greenbelt shall be located in the required front, side or rear yard setback.
- l. The requirements of this Section shall be presented on a site plan prepared by a competent professional or landscape contractor. The site plan shall be submitted to the Township Planning Commission for its approval.
- m. Access to public roads:
  - i. Access to a junkyard shall be only by a curb cutout approved by the County Road Commission.
  - ii. All driveways providing access to a junkyard and located between the protective screening and greenbelt and traveled lanes of the public road upon which the junkyard fronts shall be paved with a hard surface constructed of either asphaltic or Portland cement concrete.
  - iii. The requirements of this Subsection A.10 shall be presented on a site plan prepared by a competent professional or pavement contractor.
- n. No fence, wall, hedge, screen, sign, berm, structure, vegetation or planting shall obstruct the view of any motor vehicle operator where a public road and the driveway(s) providing access to junkyards within the triangular areas formed by the intersecting road right-of-way lines, and each edge of each driveway which are located 30 feet from their points of intersection as measured along the road right-of-way line and along each edge of the driveway.

V. **Adult Regulated Uses.**

1. Intent and Rationale. There are some uses which, because of their very nature, are recognized as having serious objectionable characteristics, particularly when several of them are concentrated under certain circumstances, thereby having deleterious effect upon adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting, deterioration, or devaluing of the nearby areas. The regulations aim to prevent overcrowding of such areas into a particular location and dispersal of uses throughout the allowable zoning districts to minimize their adverse impact on any specific neighborhood. The prohibition against establishment of more than one adult regulated use within 1,000 feet of each other and other in compatible uses serves to avoid the clustering of such uses, the deleterious effects of blight, devaluation of residential and commercial property values, and devaluation of recreational, educational, and religious uses.
2. Definitions. The term “adult regulated use” shall include, but is not limited to, the following:
  - a. Adult book store. An establishment partly or wholly devoted to the display, sale or rental of books, magazines or other periodicals, video tapes, electronic media, photographs or motion picture films which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas as defined herein, where the floor area or shelf space made available for the display or sale of such material exceeds the lesser of one thousand (1,000) square feet or fifteen percent (15%) of the total floor area or shelf space made available for display or sale purposes.
  - b. Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment where the provision of beverages or food by servers, or where live entertainment such as, but not limited to, dance comedy or theater is provided, presented, permitted or performed and is distinguished or characterized by their emphasis on the depiction, description, or relation to specified sexual activities or specified anatomical areas, for observation by or participating of patrons.
  - c. Adult motel. A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmission, films, motion pictures, video tapes, electronic media, slides, or other photographic reproductions, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, and has a sign visible from the public road right-of-way that advertises the availability of this adult type of entertainment; or

(2) Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than twenty-four (24) hours.

d. Adult novelty shop. Any establishment where the floor area or shelf space devoted to the sale of devices that are distinguished or characterized by their use in association with specified sexual activities or the sexual stimulation of specified anatomical areas exceed the lesser of one thousand (1,000) square feet or fifteen percent (15%) of the total floor area or shelf space made available for display or sale purposes.

e. Adult theater. Any establishment where, for any form of consideration:

(1) Films, motion pictures, video tapes, electronic media, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(2) Regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

f. Massage parlor. An establishment in which a substantial or significant portion of the business conducted involves the administration of non-therapeutic massage or touching of specified anatomical areas. The term “massage parlor” does not include medical or therapeutic massage services or any state licensed practitioners or medical or related services such as chiropractors or physical therapists.

g. Public bath. An establishment providing common

bathing facilities or hot tubs for use for a fee. Shower facilities, swimming pools, saunas and similar facilities intended as accessory uses in a school, health club, motel, or similar facility not otherwise defined as an adult entertainment business, are not “public baths.”

h. Specified anatomical areas:

(1) Less than completely and opaquely covered human genitals, pubic regions, buttocks, or any portion of the female breast below a point immediately above the top of the areola.

(2) Human genitals in a discernibly turgid state, even if completely and opaquely covered.

i. Specified sexual activities. Human genitals in a state of stimulation or arousal; acts of human or animal masturbation, sexual intercourse (homosexual or heterosexual), or sodomy; and/or fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

j. Taxi dance hall. An establishment which provides dance partners for one or more dances as the direct or indirect result of payment of a fee.

3. Requirements and Standards.

a. It shall be unlawful to establish any adult regulated use without Township approval.

b. The adult regulated use shall be located only in the Industrial and Commercial Districts and shall not be located within 400 feet of the property line of any other zoning district.

c. Any adult regulated use or building shall be at least 1,000 feet from any of the following except as otherwise provided:

- (1) Another existing adult regulated use
- (2) Any school whether public, private, or parochial
- (3) Library
- (4) Any government building
- (5) Park, playground, or other recreation facility which admits minors
- (6) Daycare center or nursery schools
- (7) Church, convent, monastery, synagogue or other similar place of worship
- (8) Any Class C establishment licensed by the

Michigan Liquor Control Commission

- (9) Pool or billiard halls
- (10) Arcades
- (11) Pawn shops
- (12) Hotels, motels, or bed and breakfast inns
- (13) Dance clubs catering primarily to teenagers, ice or roller skating rinks, movie theaters, and other similar uses which typically cater to teenagers
- (14) Any residential district

d. The measurement used to determine the application of any of the above restrictions shall be made from the nearest boundary line of the proposed adult regulated use on a plane to the nearest boundary line of the use in connection with which the measurement is being taken.

e. No person shall reside in or permit any person to reside in or on the premises of an adult entertainment business.

f. Any adult regulated use or building offering material described in this ordinance shall comply with the following performance standards:

- (1) Any display of adult oriented material shall be shielded from public view either placed behind a counter, or by providing a separately established room which would have restricted access controlled by the owners or employees;
- (2) The counter or room where the material is located shall be away from the main entry;
- (3) All access to adult oriented material shall be restricted to persons 18 years old and older;
- (4) Signage shall be posted restricting this type of material.

g. Site and building requirements.

- (1) Building size shall not exceed 4,000 square feet of gross floor area.
- (2) The building and site shall be designed, constructed, and maintained so material such as a display, decoration or sign depicting, describing, or relating to specific sexual activities or specified anatomical areas cannot be observed by pedestrians or motorists on a public right of way or from an adjacent land use. No exterior door or window on the

premises shall be kept open at any time while the business is in operation.

- (3) Use shall be located within a freestanding building. A shared or common wall or shopping center shall not be considered a freestanding building.
- (4) The building shall provide sufficient sound absorbing insulation so noise generated inside said premises shall not be audible anywhere on any adjacent property or public right of way.
- (5) The Planning Commission may require a wall, fence, or berm in conjunction with landscaping to provide an appropriate screen in consideration of views from public streets, distance, and surrounding land uses.
- (6) The hours of operation shall be approved by the Planning Commission.
- (7) Access shall be from a major thoroughfare.
- (8) Any adult regulated use, which allows customers to remain on the premises while viewing live, filmed, or recorded entertainment or while using or consumer the products or services supplied on the premises, shall provide at least one security guard on duty outside the premises. Security guard provided shall patrol the grounds and parking areas at all times while the business is in operation.
- (9) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, at an illumination of not less than one (1) foot candle measured at floor level.

h. The Planning Commission may waive the location provision requiring minimum distances between adult regulated uses and those use identified in subsection (c) above if all of the following findings are made after a public hearing:

- (1) The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this ordinance will be observed.
- (2) The proposed use will not contribute to, create, enlarge, or encourage a blighted or deteriorated area.
- (3) All applicable regulations of this ordinance will be observed.

- (4) There is no other reasonable location in the Township at which the use is suited.
- (5) For waivers from the location requirements relative to any residential zoning district, public, private, or parochial school, or church, convent, monastery, synagogue or other similar place of worship, a validated petition requesting such waiver signed by 51% of those persons owning, residing, or doing business within 1,000 feet of the proposed location has been submitted. The circulator of the petition requesting a waiver shall subscribe to an affidavit attesting to the fact that the circulator personally witnessed the signatures on the petition, those signatures are of the person whose names appears on the petition, and the petition was circulated in accordance with any rules set by the Planning Commission. The Planning Commission may adopt additional rules governing the required procedure from time to time.

i. Prior to granting a permit for any adult regulated use, the Planning Commission may impose any such conditions or limitations authorized by law in connection with the grant of special uses.

j. An adult regulated use granted pursuant to the terms of this ordinance may not be re-established after discontinuance for a period of 90 consecutive days without a new grant of approval by the Township.



## **ARTICLE 14. SITE PLAN REVIEW**

### **Section 14.01 Intent**

Site plan review procedures are incorporated into the zoning process to ensure that the Planning Commission is afforded an opportunity to review and evaluate proposed uses of sites in regard to such considerations as drainage capacity and design, pedestrian and vehicular circulation, parking, structural relationship, provision of public utilities, landscaping, accessibility and other site design elements that may have an adverse impact upon the public health, safety and general welfare if improperly or inadequately addressed.

If a land use for which a site plan was submitted and approved is to be expanded or altered, all changes to previously approved site design elements must be submitted as a new site plan. The new site plan shall be reviewed by the Planning Commission. The Planning Commission shall have the authority to waive any site plan requirements they consider to be clearly unnecessary for substantial review.

### **Section 14.02 Site Plan Review Required**

A site plan shall be submitted to the Planning Commission for review and approval for the following:

1. All special land uses;
2. Open space communities;
3. A building containing three (3) or more dwelling units;
4. Group daycare facilities;
5. A principal non-residential building or structure permitted in the AR Agricultural Residential or R Residential Districts except for farm buildings in the AR Agricultural Residential District, which are exempt from site plan review;
6. Buildings and structures for essential services;
7. Private Road (See Section 16.5(B) for required information on site plan);
8. Any off-street parking lot or addition to contain five (5) or more parking spaces as part of a development that does not otherwise require site plan review and approval.

## Section 14.03 Required Information

### A. General Information.

1. The name, address and telephone number of the applicant and owner, if different.
2. Name, address and profession of person who prepared the site plan.
3. Date of plan preparation, north arrow, and scale of plan, which shall not be less than one (1) inch equals twenty feet (1" = 20') for property under three (3) acres, and not less than one inch equals one hundred feet (1" = 100') for sites three (3) acres or more.
4. The name of the development and full legal description of parcel and dimensions of all lot and property lines, including building lines, showing the relationship to abutting properties, and in which district the subject property and abutting properties are located.
5. Area map showing the relationship of the parcel to the surrounding area within one-half mile.
6. The location and description of all existing structures within five hundred feet (500') of the property boundary lines.
7. Project description, including but not limited, to the type of development, the total number of structures, units, square feet, gross and useable floor area, carports or garages, employees by shift, the total area involved, the percent of area being developed, the percent of area used for structures, the percent of area left undeveloped, the amount and type of recreational and open space and related information as pertinent or otherwise required by this ordinance.

### B. Physical Information.

1. Proposed plans for site grading, surface drainage, water supply and sewage disposal.
2. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas, parking space, unloading areas, easements and open space recreation areas.
3. Vehicular and pedestrian circulation features within and adjacent to the development site shall be shown.

4. The location of all existing and proposed landscaping, greenbelts, separation berms, fences and walls shall be shown. In cases where protective screening is required, the initial and long term effect of the screening shall be identified. If there are no adjoining residential structures, this requirement may be waived.
5. The size and location of existing and proposed utilities, including proposed connections to public sewer or water supply system.
6. The location and pavement width and right-of-way width of all abutting roads, streets or easements.
7. The location and size of all existing and proposed surface water drainage features. The data shall include the percent coverage of impervious surfaces and the means to control storm water flow.
8. The location, finished floor and grade line elevations, size and height of all existing and proposed structures.

**C. Environmental Information.**

1. Map of existing topography shown at two (2") foot contour intervals with existing surface drainage patterns indicated.
2. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service in "Soil Survey of Livingston County, Michigan."
3. Location of existing drainage courses, including lakes, ponds, rivers and streams and all elevations.
4. Location of existing wetlands. A Michigan Department of Environmental Quality (MDEQ) permit shall be required for activities in a regulated wetland or an inland lake or stream. A copy of any correspondence with and application to the MDEQ shall be submitted with the site plan application. The Planning Commission shall not grant final site plan approval until all necessary permits have been obtained.
5. Location and type of natural vegetation on-site and plans to retain these natural features.

**D. Additional Requirements for Manufactured Housing Parks and Open Space Community Developments.**

1. A manufactured home park shall require the submission of a preliminary site plan according to the manufactured housing

park standards of Article 9. The preliminary site plan shall be submitted prior to the submission of a site plan that contains the information required in this Article.

2. An Open Space Community shall require the submission of a conventional subdivision concept plan (a conceptual drawing, not a full site plan) that identifies buildable land areas and residential lots that are based on the minimum lot sizes of the underlying zoning designation. Planning Commission review of the conventional subdivision concept plan will determine the maximum number of residential lots for the Open Space Community.

#### **Section 14.04 Standards for Site Plan Review**

A site plan submitted to the Planning Commission shall meet the following standards. In reviewing the site plan, the Planning Commission shall determine that the following standards are observed.

- A. Complete Application.** All required information is provided.
- B. Legal Applicant.** The applicant may legally apply for site plan review.
- C. Zoning.** The proposed development conforms to all regulations of the zoning district.
- D. Spirit of Ordinance.** The proposed site plan is in accord with the spirit and purpose of this ordinance and is not contrary to or inconsistent with the objectives sought to be accomplished by this ordinance and principles of sound planning.
- E. Harmonious Development.** The proposed development will be harmonious with existing and future uses in the immediate area and the community.
- F. Emergency Services.** The plan meets the specifications of Conway Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
- G. Soils.**
  1. Soils not suited to development will be protected or altered in an acceptable manner.
  2. The proposed development will not cause soil erosion or sedimentation problems.
  3. The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion

and environmentally deleterious surface runoff.

**H. Drainage and Watercourses.**

1. The proposed development respects floodways and/or floodplains on or in the vicinity of the subject property.
2. The drainage plan for the proposed development is adequate to handle anticipated storm water runoff and will not cause an increase in volume or intensity of normal runoff of surface water onto adjacent property or overloading of water courses in the area.
3. Grading or filling will not destroy the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties.
4. The development will not substantially reduce the natural retention storage capacity of any watercourse thereby increasing the magnitude and volume of flood at other locations.

**I. Coordinated Development.** The proposed development is coordinated with improvements serving the subject property and with other development in the general vicinity.

**J. Lighting.** Outside lighting will not adversely affect adjacent or neighboring properties or traffic on adjacent streets.

**K. Refuse and Storage.** Outdoor storage of garbage and refuse is contained, screened from view, and located so it is not a nuisance to the subject property or to neighboring properties.

**L. Traffic and parking**

1. The movement of vehicular and pedestrian traffic within the site and in relation to access streets and sidewalks will be safe and convenient.
2. Parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets and adjacent properties.
3. The plan provides for the proper expansion of existing public streets serving the site, where applicable.

**M. Interagency Coordination.** The plan meets the standards of other government agencies, where applicable, and that the approval of these agencies has been obtained or is assured.

**N. Phased Development.** All phased developments are ordered in a

logical sequence so that any individual phase will not depend in any way upon a subsequent phase for adequate access, public utility services and drainage or erosion control.

**O. Fencing and Buffers.**

1. Landscaping, fencing and walls are provided and maintained in accordance with the objectives of this ordinance.
2. The Planning Commission shall have some latitude in specifying the walls, fences, greenbelts and other buffers as they apply to a phased development if the particular phase of development and construction work is far enough removed from adjacent properties to afford the screening and buffers as otherwise required.

**P. Natural Features.**

1. Adequate assurances are received that clearing the site of topsoil, trees and other natural features before the commencement of building operations will occur only in those areas approved for the placement of physical improvements.
2. The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, hillsides or wooded areas, but will preserve and incorporate such features into the development's site design.

**Section 14.05 Action on Site Plans**

- A. Submission of Site Plan.** Twelve (12) copies of the site plan and related information shall be presented to the Zoning Administrator by the property owner or petitioner at least twenty one (21) days prior to the meeting at which the site plan is to be reviewed.
- B. Planning Commission Action.** The Planning Commission shall disapprove, approve, or approve with conditions the site plan contingent upon the site plan review standards being met. Any conditions required by the Planning Commission, together with the reasons for those conditions, shall be provided in writing to the applicant.
- C. Approval of Site Plans for Special Uses.** The Planning Commission, after review of a site plan prepared for a special use permit, shall reject or grant approval and regulate any conditions for special use permits. Provisions regulating approvals of site plans prepared for special use permits are presented in Article 13.
- D. Notification of Approval or Disapproval.** The Planning Commission shall review and communicate its approval, disapproval or recommend site plan modifications to the applicant within forty-

five (45) days after receipt of the site plan.

- E. Site Plan Modifications.** Any modifications to the site plan desired by the Planning Commission shall be recorded in the minutes of the Planning Commission meeting and a copy of the minutes shall be furnished to the applicant. In cases where modifications have been recommended, the applicant shall resubmit a site plan incorporating these modifications to the Planning Commission for their review.
- F. Modified Site Plan Approval or Disapproval.** Upon receipt of the modified site plan, the Planning Commission shall evaluate the changes which have been made and if deemed acceptable, shall communicate its approval of the site plan to the applicant within forty-five (45) days after receipt of the modified site plan. Such modified site plan may be disapproved for any inadequacy found to be detrimental to the public health, safety or the general welfare.

#### **Section 14.06 Appeal**

The decision of the Planning Commission with respect to the site plan may be appealed to the Township Board. Written request by the property owner or petitioner for a hearing before the Township Board shall be filed within sixty (60) days after the decision is rendered by the Planning Commission. If no appeal is filed, the decision of the Planning Commission becomes and remains final.

#### **Section 14.07 Approval Expiration and Revocation**

The approval of a site plan shall expire one (1) calendar year from the date of such approval unless construction has begun in accordance with the plan. Any site plan approval may be revoked when the construction of said development is not in conformance with the approved plans, in which case the Township shall give the applicant notice of intention to revoke such land use permit at least ten (10) days prior to review hearing of the permit by the Planning Commission. After conclusion of such review the Township may revoke its approval of the development if the Planning Commission feels that a violation in fact exists and has not been remedied prior to such hearing.

#### **Section 14.08 Amendment of an Approved Site Plan**

- A. Request.** A developer may request a change in an approved site plan. A change in an approved site plan which results in a major change as defined in this Section shall require a plan amendment. Amendments shall follow the procedures and conditions required for original plan submittal and review. A change that results in a minor change, as defined in this Section, shall not require a revision to the plan.
- B. Content of Request.** A request to change an approved site plan shall be made in writing to the Planning Commission. The request shall state clearly the reasons for the change. The reasons may be based upon

considerations such as changing social or economic conditions, potential improvements in layout or design features, unforeseen difficulties or advantages mutually affecting the interest of Conway Township and the applicant or developer, such as technical causes, site conditions, state of federal projects and installations and statutory revisions.

The Planning Commission, upon finding such reasons and request reasonable and valid, shall notify the applicant in writing whether the change proposed is major or minor. If the change is deemed major, the applicant shall pay an appropriate fee and the plan amendment process shall follow the procedures and conditions required for original site plan submittal and review.

**C. Major Changes.** Site plan changes considered major include one or more of the following:

1. A change in the original concept of the development.
2. A change in the original use or character of the development.
3. A change in the type of dwelling unit as identified on the approved site plan.
4. An increase of two (2) or more dwelling units.
5. An increase in nonresidential floor area of over five (5) percent.
6. Movement of a building or buildings by more than ten (10) feet.
7. An increase of five (5) or more off-street parking or loading spaces.
9. A change in the character or function of any street.
10. A reduction in the amount of land area set aside for common open space or the relocation of such area(s).
11. An increase in building height.

**D. Minor Changes.** If the Planning Commission rules that a proposed change to a site plan is a minor change as defined by this Section, the change request is considered by the Planning Commission for approval. If the changes are approved, the Planning Commission shall notify the Township Board, the Township Zoning Administrator and other applicable agencies. As the revised site plan drawings are approved, each shall be signed by the applicant or developer and the owner (s) of said property in question. Minor changes shall include the following:



1. A change in residential floor area as long as floor area is not reduced below the minimum required for the zoning district in which the property is located.
2. An increase of one (1) dwelling unit.
3. An increase in nonresidential floor area of five (5) percent or less.
4. Movement of a building or buildings by no more than ten (10) feet.
5. Minor design variations in site layout which do not constitute major changes.
6. Improvements to site access or circulation such as deceleration lanes, boulevards, curbing, pedestrian/bicycle paths, etc.
7. Changes of building materials to another of higher quality, as determined by the Zoning Administrator.
8. Changes in floor plans which do not alter the character of the use.
9. Slight modification of sign placement or reduction of size.
10. Changes required or requested by the Township, county, state or federal agency for safety reasons.
11. Plantings approved in the landscape plan may be replaced by similar types and sizes of landscaping which provides a similar screening effect on a one-to-one (1:1) or greater basis.
12. Trees to be preserved that were damaged or lost during construction may be replaced by trees of a similar species with a minimum caliper of two and one-half (2 ½) inches, with two new trees required for each tree replaced.

**E. Zoning.** Amended site plans shall conform to all regulations of the zoning district in which the project is proposed.

#### **Section 14.09 Modification of Site Plan During Construction**

All site improvements shall conform to the approved site plan including engineering drawings approved by the Township Planning Commission. If the applicant makes any changes during construction in the development in relation to the approved site plan, such changes shall be made at the applicant's risk without any assurances that the Planning Commission will approve the changes. It shall be the responsibility of the applicant to notify the Planning Commission. Upon investigation, the applicant may be required to correct the changes so as to conform to the approved site plan.

### **Section 14.10 As Built Drawings**

At its discretion the Planning Commission may require submission of “as-built” drawings at project completion. The applicant shall be notified at the time of site plan approval if “as built” drawings are required.

### **Section 14.11 Inspection**

- A. Responsibility of Zoning Administrator.** The Zoning Administrator shall be responsible for inspecting all improvements for conformance with the approved site plan. All building construction, site and sub-grade improvements such as utilities, sub-base installations for drives and parking lots and similar improvements shall be inspected and approved by the County’s Building Department, Environmental Health Department, and the Township engineer or agent prior to covering. The Zoning Administrator shall obtain inspection assistance at the applicant’s cost, from the local Fire Marshal or professional consultants where appropriate.
- B. Responsibility of Applicant.** The applicant shall be responsible for requesting the necessary inspections.
- C. Notice of Inspection.** The Zoning Administrator shall notify the Planning Commission in writing when a development for which a site plan is approved has passed inspection with respect to the approved site plan. The Zoning Administrator shall notify the Planning Commission in writing of any development for which a site plan was approved but has not passed inspection with respect to the approved site plan, and shall advise the Planning Commission of steps necessary to achieve compliance. In such case, the Zoning Administrator shall periodically notify the Planning Commission of progress toward compliance with the approved site plan and when compliance is achieved.

### **Section 14.12 Performance Guarantee**

A performance guarantee, pursuant to Section 3.06, may be required by the Planning Commission to insure the complete construction of structures and development of the land area as proposed and approved. Such guarantee may be up to an amount equal to the estimated cost of the site improvement, and may be reduced in proportion to the amount of work accomplished and accepted by the Zoning Administrator or the amount of land left undisturbed.

### **Section 14.13 Fee and Expert Consultation**

Any application for site plan approval shall be accompanied by a fee determined by the Township Board. Such a fee may be utilized by the Planning Commission to obtain services of one or more expert consultants qualified to

advise whether the proposed development will conform to the applicable Township ordinances, policies and standards, and investigate and report on elements of concern to the Planning Commission.



## ARTICLE 15. OFF-STREET PARKING AND LOADING – UNLOADING STANDARDS

### Section 15.01 Statement of Purpose

It is the intent of this ordinance that parking spaces shall be provided and adequately maintained by each property owner in every zoning district for the off-street storage of motor vehicles for the use of occupants, employees and patrons of each building and premise constructed, altered or enlarged under the provisions of this Ordinance. Off-street parking and loading areas are to be designed, maintained and operated in a manner that will ensure their efficient use, promote public safety, improve aesthetics and, where appropriate, protect surrounding uses from undesirable impacts.

### Section 15.02 General Parking Requirement: All Districts

#### A. Use.

1. Off-street parking spaces shall be used only for the parking of vehicles by its occupants, employees, visitors and patrons.
2. Under no circumstances shall off-street parking spaces be rented, used for other than parking purposes or allowed to become unusable (except for temporary repairs).
3. The storage of merchandise, motor vehicles for sale, trucks, wrecked or junked vehicles or the repair of vehicles is prohibited in off-street parking areas.

#### B. Joint Use of Parking Areas. The joint use of parking facilities by two (2) or more uses may be granted by the Planning Commission whenever such use is practical and satisfactory to each of the uses intended to be served, and when all requirements for location, design and construction are met.

1. Computing Capacities. In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced by up to twenty (20%) percent below the sum total of the individual space requirements.
2. Record of Agreement. A copy of an agreement between joint users shall be filed with the application for a land use permit.

The agreement shall include a guarantee for continued use of the parking facility by each party.

**C. Location.**

1. All off-street parking shall be provided on the same lot or within lots under the same ownership and within three hundred (300) feet of the principal building. This distance shall be measured from the nearest building entrance to the nearest parking space of the off-street parking area.
2. Off-street parking areas shall not be permitted within the minimum required front, rear or side yards.

**D. Maintenance.**

1. All off-street parking and loading facilities shall be maintained free of accumulated snow, debris or other materials which prevent full use and occupancy of such facilities, except for temporary periods of no more than five (5) days in the event of heavy rainfall or snowfall.
2. Off-street parking area shall be surfaced with gravel, concrete, bituminous asphalt or other surface materials prior to building occupancy and shall provide adequate surface drainage facilities to collect and properly dispose of storm water runoff. Off-street parking with gravel surfaces shall be maintained in a dust and weed free manner.
3. All surfaces, directional devices and protective equipment, landscaping and other equipment furnished or required on the parking facility shall be maintained to insure safe pedestrian movement, vehicular operation, adequate protection of adjoining properties and to present a neat and attractive appearance of the facility.
4. The visibility of pavement markings delineating parking spaces and directional control shall be maintained.

**E. Identification of Need.**

1. The amount of required off-street parking spaces shall be stated on an application for a land use permit or site plan to build a new building or enlarge an existing one. A Certificate of Occupancy will not be issued upon completion of any building or the extension or addition thereto, unless and until all off-street parking and loading space requirements shown on the plans or made a part of the building permit shall be in place and ready for use.

2. Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this Section are provided elsewhere or the parking requirements of the site change.
3. Whenever there is a change in use, change in number of employees, an increase in floor area or a change in any other unit or measurement specified in Section 15.4 that creates a need for an increase of more than ten (10) percent in off- street parking facilities as determined by that Section, off- street facilities shall be provided on the basis of the new total floor area or on the basis of the total units of measurement of the new use or of the altered or expanded existing use.
4. Off-street parking existing at the effective date of this ordinance shall not be reduced to an amount less than that required for a similar new building or new use.
5. Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this Article is retained as open space. The site plan shall note the area where parking is being deferred, including dimensions and parking lot layout. The owner agrees to construct any additional parking, at the direction of the Planning Commission, based on observed usage. Any additional parking shall be constructed within six (6) months of being informed of such request in writing by the Zoning Administrator.
6. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is more similar to the use not listed shall apply. The Planning Commission shall make this determination and a record of the rationale applied in a file established for that purpose. An appeal may be taken to the ZBA.

**F. Off-Street Parking Provisions for the Physically Handicapped.**

1. Barrier-free parking space requirements shall be in accordance with the Michigan Department of Labor, Construction Code Commission, and Barrier-Free Design Division. Barrier-free parking requirements are subject to change; please refer to most recent Michigan Building Code for updated requirements. The provision of barrier free parking spaces must currently comply with the following requirements:

Total Parking Spaces in Lot	Required Barrier Free Parking Spaces
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-700	14
701-1000	1 per 50 spaces provided or fraction thereof
Over 1000	20 plus 1 per 100 spaces provided over 1000 or fraction thereof

2. Parking spaces for the physically handicapped shall be located as close as possible to accessible walkways and entrances. When a building has multiple accessible entrances, the accessible parking spaces must be dispersed among the building's accessible entrances. Signs shall be provided when necessary indicating the direction of travel to an accessible entrance.
3. Each barrier free parking space shall have a minimum width of ninety-six (96) inches with an adjacent access aisle of a minimum sixty (60) inches in width. An access aisle may be shared by two (2) accessible parking spaces. The minimum length of each barrier free parking space shall be twenty (20) feet.
4. For each eight (8) or fraction of eight (8) accessible parking spaces provided, a minimum of one (1) van accessible space is required. A van accessible space requires an access aisle of a minimum ninety-six (96) inches in width and a minimum length of twenty (20) feet.
5. The surface slope of accessible parking spaces, access aisles and passenger loading zones cannot exceed one to forty-eight(1:48) in any direction. Any access aisle which serves accessible parking spaces and passenger loading zones must be at the same level as the accessible parking spaces and passenger loading zones which are served.
6. Signage for barrier free parking spaces shall be a minimum twelve (12) inches wide by eighteen (18) inches in height. If signage is post mounted, the bottom edge of the sign shall not be less than eighty (80) inches above. If signage is wall mounted, the bottom edge of the sign shall not be less than sixty (60) inches above grade. In addition, van accessible spaces shall be designated "Van Accessible" on the face of the sign



or shall have an additional sign, “Van Accessible” mounted below the required sign at the minimum eighty (80) or sixty (60) inches above grade, whichever is applicable.

7. Where a curb exists between a parking lot surface and a sidewalk surface, an inclined approach or a curb cut with a gradient of not more than one to twelve (1:12) and minimum width of sixty (60) inches is required. A built-up curb ramp must not protrude into a vehicular traffic lane or a parking space access aisle. The flared sides of the ramps must not exceed a slope of one to ten (1:10).

### **Section 15.03 Parking Units of Measurement**

- A. **Fractional Space.** When units of measurement determining the number of required parking spaces result in a fractional space, any fraction to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- B. **Carports and Garages.** Residential carports and garages shall be calculated as parking spaces on a one to one (1:1) basis.
- C. **Legal Capacity.** Legal capacity is the use occupancy allowed under fire, health or building codes, whichever is greatest.
- D. **Seating Calculations.** In calculating seating for places of assembly, each twenty-four (24) inches of benches, pews, spectator seating or other such seating shall be counted as one (1) seat.

## Section 15.04 Parking Space Requirements

Off-street parking spaces shall be required in all districts based upon the following permitted and specially permitted uses:

Type of Use	Required Number of Spaces
Agriculture Service Establishments, Construction and Farm Equipment Sales and Service	One (1) space for each three hundred (300) square feet of gross floor area provided for sales purposes, plus one (1) space for each employee on the largest work shift
Agricultural Tourism	One (1) space for each 500 square feet of retail area and one (1) space for each 1,000 square feet of outdoor related activities such as agricultural mazes, petting farms, outdoor play equipment. Parking may be located on grass or gravel area for seasonal uses. For agricultural tourism uses which require a temporary land use permit, additional parking may be required as determined by the Zoning Administrator.
Airports, Heliports and Related Uses	Two (2) spaces per hanger
Bed and Breakfast Homestays	One (1) space for each guest room, plus two (2) additional spaces for the owner/operator
Business Services	One (1) space for each three hundred (300) square feet of gross floor area provided for sales purposes, plus one (1) space for each employee on the largest work shift
Cemeteries	Cemeteries containing church and/or chapel structures shall provide one (1) space per four (4) seats of assembly space. If business and/or sales offices are contained within cemetery, one space (1) per employee on the largest work shift shall be provided
Child Care Centers	One (1) space for each employee on the largest work shift, plus paved, unobstructed parking spaces for pick-up and drop-off of children equal to one quarter (1/4) of the number of children served at the peak hour of operation
Churches	One (1) space per each four (4) seats of the sum total of all worship and/or auditorium seating
Clubs and Lodges	One (1) space for each six (6) potential members based on the capacity of the facility
Commercial Composting Operations and Centers	One (1) space for each employee in the largest working shift

Type of Use	Required Number of Spaces
Commercial Recreation	One (1) space per employee on the largest work shift, plus parking spaces shall be provided to accommodate a minimum fifty (50) percent of all member families and individual members, plus one (1) space per four (4) seats of spectator seating
Family Day Care and Group Day Care	One (1) space per employee on the largest work shift, plus one space per occupant
Home Occupation Class II	Two (2) spaces for the occupants of the dwelling unit, plus a maximum two (2) additional spaces for customers/clients of home occupation
Injection Wells	One (1) space for each employee in the largest working shift
Long Term Care Facilities	One (1) space for each six (6) beds, plus (1) space for each employee on the largest work shift
Manufactured Home Parks	Three (3) spaces for each manufactured home dwelling unit, plus one (1) space per five (5) dwelling units for guest parking
Multiple-Family Dwellings	Three (3) spaces for each multiple-family dwelling unit, plus one space per five (5) units for guest parking
Open Space Communities	Two (2) spaces for each single family attached or detached dwelling unit. In developments where multiple-family housing is included, three (3) spaces shall be provided for each multiple-family dwelling unit and one (1) space per five (5) multiple-family dwelling units for guest parking
Public Buildings	One (1) space for each four (4) potential users based on the capacity of the facility, plus one (1) space for every employee on the largest work shift
Public Parks, Playgrounds and Recreational Grounds	Eight (8) spaces per acre of recreational area. If spectator seating is provided an additional one (1) space per four (4) seats shall be provided. If golf facilities are provided, an additional six (6) spaces per golf hole shall be provided. If swimming facilities are provided, an additional one (1) space per seven (7) persons of legal capacity
Senior Housing Complexes	One (1) space for each senior housing dwelling unit, plus one (1) space per five (5) units for guest parking

Type of Use	Required Number of Spaces
Schools and Vocational and Technical Training Facilities	One (1) space per employee, plus one (1) space for each five (5) students based on the legal capacity of the facility, plus one (1) space per each four (4) seats of auditorium and gymnasium
Single and Two-Family Dwellings	Two (2) spaces for each dwelling unit
Single Family Attached Dwellings	Three (3) spaces for each dwelling unit, plus one (1) space per five (5) units for guest parking
Veterinary Hospital, Clinics, and Commercial Kennels	One (1) space for each three hundred (300) square feet of gross floor area, plus one (1) space per employee on the largest work shift

If a particular use is not specifically listed, the Planning Commission, in its discretion, may choose the closest similar use to the use not specifically listed and apply or deviate from the requirements to fit the new use.

#### Section 15.05 Site Development Requirements

- A. **Ingress and Egress.** A suitable means of ingress and egress shall be provided by clearly defined driveway and maneuvering lanes that are located to minimize traffic congestion and interference with pedestrian movement.
- B. **Parking in Public Right-of-Way Prohibited.** Parking spaces shall be designed so that no vehicle shall be permitted at any time to wait or stand within a public right-of-way.
- C. **Directional Signs and Controls.** Necessary directional signs and controls as are required by the Planning Commission and the Livingston County Road Commission shall be established and maintained by the owner or lessee of the parking spaces.
- D. **Illumination.** All illumination of parking lots or display areas shall be designed, installed and shielded to prevent spillover onto adjacent properties, and shall be arranged to prohibit adverse affect on motorist visibility on adjacent public roadways. The maximum height of parking lot light fixtures shall be twenty (20) feet.
- E. **Curbing, Wheel Blocks and Bumper Blocks.** Curbing, wheel blocks or bumper blocks shall be provided where parking spaces abut landscaping, property lines, sidewalks or required setback areas to minimize pedestrian/vehicular conflicts.
- F. **Surfacing Requirements for Larger Capacity Parking Lots.** Off-street parking with a capacity of eight (8) or more vehicles and related service aisles or drives must be paved with concrete, bituminous

asphalt or similar material prior to building occupancy, and shall provide adequate drainage facilities to collect and properly dispose of storm water.

- G. Waiver of Surface Requirements.** The Planning Commission shall have the authority to waive hard surface requirements for parking areas of eight (8) or more spaces and related service aisles for uses other than multiple families residential. Such waivers shall be evaluated based on the daily and seasonal use characteristics of the parking area and service aisles or drives, drainage characteristics and other factors related to maintenance of safe healthful and convenient access.
- H. Parking Space Dimensions.** A parking space shall not have dimensions of less than nine (9) feet by eighteen (18) feet. Parallel parking spaces shall be a minimum nine (9) feet wide and twenty- three (23) feet in length.
- I. Parking Spaces Abutting a Sidewalk.** Where a parking space abuts a sidewalk, the minimum parking space depth shall be measured from the edge of the curb, except a two (2) foot credit for vehicle overhang shall be permitted where the sidewalk is at least eight (8) feet wide.
- J. Prohibited Use of Street For Maneuvering.** Parking lots shall be designed to prevent vehicles from backing into the street or requiring use of the street for maneuvering between parking rows.
- K. Dimensions of Maneuvering Lanes.** Maneuvering lanes designed for one-way traffic shall not be less than twelve (12) feet in width. Maneuvering lanes designed for two-way (by-directional) traffic shall not be less than twenty-four (24) feet in width.
- L. Parking Lot Setbacks from Residential Zoning Districts.** Parking lots shall not be permitted within the required minimum front, rear and side yard setback. This yard setback shall service as a buffer area when parking areas abut residential zoning districts. The buffer area shall include berming, landscaping and/or wall to screen headlights. Additional setback requirements may be imposed for certain special land uses in accordance with Article 13 Special Land Uses.
- M. Required Landscaping for Setback-Buffer Areas.** Where required off-street parking abuts a residential zoning district, a minimum of one (1) trees for each thirty (30) lineal feet or one (1) bush of vine for each ten (10) lineal feet of setback or buffer area is required. In lieu of a landscaped area, an opaque, solid decorative masonry wall or decorative wooden fence between four (4) and six (6) feet in height may be located along the common boundary at the discretion of the Planning Commission.

## Section 15.06 Loading and Unloading Space Requirements

- A. When Required.** Uses involving the receipt or distribution by vehicles of materials or merchandise shall provide and permanently maintain adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and thus, help relieve traffic congestion. Loading space as required shall not be construed as supplying off-street parking spaces.
- B. Dimensions and Number.** Every building of a commercial, office or industrial nature with over five thousand (5000) square feet of gross floor area shall provide at least one (1) truck standing, loading and unloading space. The space shall be not less than twelve (12) feet in width, thirty (30) feet in length, and fourteen (14) feet in height. One (1) additional truck space of these dimensions shall be provided for every additional twenty thousand (20,000) square feet or fraction thereof of gross floor area in the building. Loading and unloading spaces or areas shall not be located in the minimum required front yard.
- C. Site Development.** Off-street loading space and access drives shall be paved, drained, lighted and shall have appropriate bumper of wheel guards, where needed. Any light used for illumination shall be arranged to reflect the light away from adjoining premises and streets.
- D. Collective Provision.** The collective provision of off-street loading space for two (2) or more structures or uses is permitted provided that the loading space collectively is not less than the sum of the requirements for the various individual uses.
- E. Signage.** Loading spaces required under this ordinance shall be signed as such and shall be kept free from refuse and storage, off-street parking or other activities.

## ARTICLE 16. PRIVATE ROADS, DRIVEWAYS, AND ACCESS MANAGEMENT

### Section 16.01 Intent, Applicability and Definition

- A. **Intent.** The intent of this Article is to establish procedures, design standards and ensure proper maintenance for roads and driveways which are not intended to be dedicated to the public. These procedures and standards are intended to protect public health and safety and to insure that adequate roadway access to all parcels and lots is maintained.
- B. **Applicability.** The procedures and standards of this Article shall apply to all private roads and driveways, including those regulated by the Condominium Act, 1978 PA 59, MCL 559.101 et seq. For purposes of interpretation, private roads in a condominium development or multiple family development shall not include parking lot aisles or drives connecting parking lots to internal roads. The standards of this chapter shall also apply to access points and drives along public roadways.
- C. **Construction.** All private roads or roadways and driveways shall be constructed according to the standards of this Article and any requirements of the Livingston County Road Commission or State of Michigan.

### Section 16.02 Required Dimensions for Private Roadway

- A. **Right-of-Way.**
  - 1. Minimum right-of-way width shall be sixty-six (66) feet in accordance with Livingston County Road Commission public road right-of-way dimensions in the event that a private road shall become public in the future.
  - 2. Road intersections shall have a minimum radius of twenty (20) feet at the right-of-way line.
  - 3. To provide adequate emergency vehicle access, fifteen (15) feet of overhead tree clearance shall be provided within the width of the gravel.
  - 4. Easement for utilities must be included.
- B. **Centerline.** The centerline of the road shall be constructed on the centerline of the right-of-way.

**C. Sight Distance.**

1. To protect motorists and pedestrians, minimum sight distance required at all internal private roadway intersections shall be three hundred (300) feet.
2. Minimum sight distance at all intersections of existing public streets and private roadways shall be six hundred (600) feet.
3. Sight distance shall otherwise be measured consistent with the current Livingston County Road Commission standards.

**D. Grade.**

1. Minimum grade on any private roadway shall be 0.5 percent.
2. Maximum grade on any private roadway shall be 5.0 percent.
3. The vertical curve shall be used at all changes in grade. No vertical curve of less than one hundred (100) feet or less than forty (40) times the algebraic difference in percent of grades will be used.
4. All proposed roads shall have a horizontal curve at the centerline, not less than two hundred (200) feet radius.

**E. Surface Width.**

1. A private road with curb and gutter shall have a paved surface with the minimum width based on the following:

<u>Vehicle Trips/Day</u>	<u>Surface Width</u>
Under 250	20-24 feet
Between 250 – 1500	26 feet
Above 1500	36 feet

Minimum surface widths shall be based upon a measurement from back of curb to back of curb. The Planning Commission will consider private road surface width on a case by case basis based upon estimated vehicle trips per day and based upon consideration of the following conditions:

- a. The road will provide access to only one (1) parcel of land without public street frontage.
- b. The road is unlikely to become a public street in the future.



- c. It is unlikely that the road has the potential to serve additional lots in the future.
  - d. It is determined that a reduced width will preserve significant natural features and there is no alternative design that will preserve the natural features and meet the regular width standard.
2. Paved roads with ditches shall meet the surface width requirements of this Section, measured from edge of pavement to edge of pavement, and shall require three (3) foot wide shoulders.
  3. A gravel road with or without ditches shall have a minimum twenty-two (22) foot width. A gravel road with ditches shall also require four (4) foot shoulders on each side.
- F. Dwelling Units Served.** For adequate emergency vehicle access, a maximum fifty-four (54) lots or dwelling units shall be served by a single means of access.
- G. Cross Section.**
1. The roadway cross section shall have a minimum of seven (7) inches of 22A gravel or equivalent of compacted surface.
  2. The roadway cross section shall have a minimum of six (6) inches of compacted porous sub-base.
- H. Slopes and Ditches.**
1. Back slopes shall be three to one (3:1) or flatter.
  2. Roadside slopes shall be four to one (4:1).
  3. Ditches shall have a minimum depth of twenty-four (24) inches below shoulder grade and minimum bottom width of twenty-four (24) inches.
- I. Cul-De-Sac.**
1. All dead end roads must have some type of cul-de-sac at its terminus.
  2. A private road shall provide a turn-around for vehicles by either a cul-de-sac or a continuous loop street layout. Turn-arounds shall have a fifty (50) foot radius or larger if a center

landscaped island is included. A larger turn-around may also be required for commercial private roads. These standards may be modified by the Planning Commission in particular cases, with input from the fire department and Township staff or consultants.

3. All setback, side and back lot lines must be met. These parcels are not required to meet the four to one (4:1) ratio.
4. Developments which result in parcels fronting on a cul-de-sac shall limit the splits so that all parcels are contiguous to the road right-of-way and are the minimum width at the front building line. All parcels fronting on a cul-de-sac shall have a minimum frontage of sixty-six (66) feet at the front lot line.
5. For adequate emergency vehicle access, the right-of-way radius shall be a minimum of seventy-five (75) feet.

#### **Section 16.03 Drainage and Culverts**

- A. Easements.** Drainage easements shall be provided to accommodate all storm water from road right-of-way.
- B. Storm Water Run-Off.** Drainage facilities shall be constructed such that no additional storm water drains directly onto adjacent property or any public road or an MDNR regulated wetland without an MDNR permit. Use of runoff containment or control shall be required.
- C. Drainage Culverts.** All culvert pipes shall meet Livingston County Drain Commission standards.
- D. Post Construction Surface Conditions.** Drainage facilities shall be top soiled, fertilized, seeded and mulched or sodded and shall meet Livingston County Drain Commission specifications.

#### **Section 16.04 Shared Private Driveways.**

- A.** A shared private driveway shall be provided within a sixty-six (66) foot wide access easement that is recorded in the chain of title of the maximum four (4) parcels that access the driveway. A proposed shared private driveway exceeding one thousand (1,000) feet in length or accessing more than one (1) lot must be built with a minimum of twenty (20) foot width, topsoil removed to a solid base and County specifications, gravel top coat of at least six (6) inches put down, because of its increased potential for access management problems, and must be inspected by the Township. A fee for this service is set by the Township.

1. In accordance with Livingston County Road Commission standards, the minimum finish surface width of the shared private residential driveway shall be twenty (20) feet and the maximum width shall be thirty (30) feet. A cul-de-sac turnaround may not be required if the length of the shared private driveway is three hundred (300) feet or less. In addition to any Livingston County Road Commission Standard, any cul-de-sac turnaround shall meet the specifications of 16.02(I). For longer shared private driveways, a circular turnaround shall be required depending on the length of the private driveway and the recommendation of the fire department.
  2. A shared private commercial driveway shall be constructed to the Livingston County Road Commission standards of a two-way commercial driveway.
- B.** An interior lot with street access by a shared private driveway that does not abut a private or public road, but which can be accessed by a sixty six (66) foot wide (minimum width) ingress and egress easement shall be permitted as set forth below:
1. Each interior lot shall contain the minimum area established in the applicable zoning district and have a width to depth ratio no greater than four to one (4:1).
  2. Each interior lot shall maintain the required road frontage for the district. The required road frontage shall be determined by the interior lot line most parallel to and nearest the street from which access is obtained.
  3. The ingress and egress easement providing access to interior lots intersecting a public road or private road, shall be separated by a minimum distance of two hundred (200) feet as measured from center line of stem to centerline of stem along the centerline of the public or private road.
  4. The minimum width of the ingress and egress easement serving the interior lot(s) shall be sixty six (66) feet.
  5. The address of the dwelling occupying an interior lot shall be clearly marked at (a) the intersection of the dwelling driveway with the shared private driveway; and (b) the intersection of the shared private driveway with the private or public road.

## Section 16.05 Access Management Standards

### A. Design Standards.

1. Private roads which intersect with existing or proposed private roads or public street right-of-ways should intersect at a ninety (90) degree angle. Where constrained by environmental features, a reduced angle may be allowed by the Planning Commission, but in no case shall the angle be less than seventy (70) degrees.
2. Proposed intersections shall align directly across from public streets, private roads or non-single family residential driveways or be off-set at least two hundred fifty (250) feet measured centerline to centerline. This will hold true regardless of their orientation to one another (i.e., same side or opposing). This standard may be reduced if approved by the Livingston County Road Commission.
3. All private roads shall conform to the Livingston County Road Commission specifications for private road approaches.
4. Street names shall be required by the Planning Commission for any private road. The applicant shall inform the Township of address numbers as assigned by the Livingston County Register of Deeds.
5. All signs within the private road or access easement shall be identified on the site plan and shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, unless the Planning Commission approves another type of design for consistency with the character of the development. Street signs shall be provided at all intersections. These signs shall contrast in terms of color with public street signs and shall indicate the road is private. The Township may require the posting of “No Parking” signs.
6. Sidewalks or bike paths may be reasonably required by the Planning Commission if they provide for the health, safety or welfare of the Township.
7. While not required to be dedicated to the public, no structure or land use activity shall be established within approved rights-of-way or easements.

### B. Driveway.

1. In accordance with Livingston County Road Commission standards, one (1) residential driveway is allowed for residential property with frontage that is one hundred fifty (150) feet. One additional residential driveway may be permitted where

frontage exceeds one hundred fifty (150) feet. Two (2) residential driveways may be permitted, in lieu of the above requirement, to serve a circle driveway if the frontage of the property is one hundred fifty (150) feet or more.

2. The design, location, driveway's surface, geometrics and clear vision requirements for all driveways shall follow the Livingston County Road Commission specifications and administrative rules regulating driveways.

- C. **Access Easement.** Any access easement from any road right-of-way shall be a minimum width of sixty-six (66) feet. An easement width cannot be included in the one hundred fifty (150) feet minimum road frontage.

### Section 16.06 Approval Process

- A. **Submission of Site Plan.** Submission and Planning Commission approval of a site plan for a private roadway shall be required. Twelve (12) copies of the site plan and related information shall be presented to the Zoning Administrator by the property owner or petitioner at least twenty-one (21) days prior to the meeting at which the site plan is to be reviewed.

- B. **Content of Site Plan.**

1. Name, address and telephone number of the applicant, and name, address and profession of person who prepared the site plan.
2. Date of preparation, north arrow, and scale of plan, which shall not be less than one inch equals twenty feet (1" = 20') for property under three (3) acres, and not less than one inch equals one hundred feet (1" = 100') for sites three (3) acres or more.
3. Profile drawings and cross sections.
4. Identification of the roadway or driveway location including legal description, dimensions of all lot and property parcel lines including building lines, the relationship to abutting properties, right-of-way lines, deed restrictions, county drains, pipelines, easements, turn around and provisions and other important features.
5. The location and pavement width, right-of-way and grade of all abutting roads, streets and easements.
6. The location and description of all existing structures within five hundred feet (500') of the proposed roadway location.

7. Existing land conditions which influence roadway citing.
8. Existing and proposed topography shown at two foot (2') contour intervals with existing and proposed surface drainage features indicated. The data shall include the percent coverage of impervious surfaces and the means to control storm water flow.
9. The location of existing drainage courses and wetlands within five hundred feet (500') of the proposed roadway location.
10. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service in "Soil Survey of Livingston County, Michigan".
11. Vehicular and pedestrian circulation features within and adjacent to the development site shall be shown.
12. The location of all existing and proposed landscaping, greenbelts, separation berms, fences and walls shall be shown. In cases where protective screening is required, the initial and long term effect of the screening shall be identified. If there are no adjoining residential structures, this requirement may be waived.

**C. Public Hearing.** A public hearing shall be required for any private road proposed where the access would be within forty (40) feet of the property line of an adjacent existing residential lot or residence. The public hearing shall be held prior to the Planning Commission's consideration of the site plan or site condominium plan. Notice by mail shall be provided to all adjacent lot or home owners generally describing the location of the proposed private road and providing the date and time of the public hearing. Notice by mail shall be deemed to have been given when deposited in the U.S. Post Office addressed to the respective property owner shown on the last assessment roll of the Township. A notice shall appear in a newspaper of general circulation announcing the public hearing at least eight (8) days, but not more than fifteen (15) days prior to the public hearing.

**D. Approval by Planning Commission.**

1. The Planning Commission shall review and communicate its approval, disapproval or recommend site plan modifications to the applicant within sixty (60) days after receipt of the site plan. The time limit may be extended by mutual consent of the applicant and Planning Commission.
2. The Planning Commission shall not approve the private road site plan until design and construction plans for the approach of the private road are approved by the County Road

Commission.

- E. Expiration of Approval.** A developer shall start and complete all land development and road construction, in accordance with the approved site plan or site condominium plan on file, within one year from the date of approval.

Development inactivity or incompleteness shall void the approval and plan and a new site plan shall be required subject to any new or subsequent changes in standards, regulations or specifications of this ordinance. A one year extension may be granted when requested by the developer in writing prior to the expiration date and when in the opinion of the Planning Commission, a finding that conditions or circumstances so warrant.

**F. Land use Permit.**

1. Roads. After approval of the site plan, the Planning Commission shall instruct the Zoning Administrator to issue a land use permit for private road construction. Land use permits for any dwelling or building on any parcel served by a new private road shall not be issued until the developer's licensed engineer certifies to the Township that the private road was constructed according to the approved plan. Where a parcel has the required frontage on a public street, this provision may be waived
2. Shared Driveways. The Zoning Administrator shall issue a land use permit for a shared private driveway once all Ordinance requirements have been met. Land use permits for any dwelling or building on any parcel served by a new shared private driveway shall not be issued until the developer certifies to the Township that the shared private driveway was constructed according to the approved plan.

**G. Inspection.**

1. Roads. During and after private road construction, inspections shall be made by a Township designated engineer or other appointed representative.
2. Shared Driveways. During and after shared private driveway construction, inspections shall be made by the Zoning Administrator or other appointed representative. The Zoning Administrator may elect to have inspection made by a Township designated engineer.
3. Fees. Any and all inspection fees shall be charged to the developer.

- H. Driveway Permits.** Driveways accessing public roads require a driveway permit from the Livingston County Road Commission having jurisdiction of the public road.

## Section 16.07 Easement and Maintenance Agreements

### A. Private Roads.

1. Easement Agreement. A Private Road Easement Agreement in recordable form shall be required in substantial compliance with the Model Private Road Easement Agreement maintained by the Township. Upon approval by the Township Board, the Easement Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of any land use permit. The Easement Agreement shall be signed by all owners of lots abutting the private road or all owners served by the private road. It shall meet the following minimum requirements:
  - (a) Legal description. A detailed legal description of the private road easement shall be submitted with its application.
  - (b) Emergency and public vehicle access. The easement shall provide for unrestricted access for emergency and public vehicles used in performance of necessary public services.
  - (c) Non-interference. The terms of the easement shall prohibit any property owner served by the road from the restricting or interfering with the normal ingress and egress of other property owners, their families, guests, invitees, licensees, or others traveling to or leaving any of the properties served by the private road.
  - (d) Future connections. The terms of the easement shall provide consent that the Township may permit future abutting private roads or public roads be connected to the easement or private road.
  - (e) Initial costs of construction. The easement shall describe the method by which initial construction will be funded. If more than one user will share in the cost of initial construction, then the easement shall specify the formula that will be used to apportion the costs.
  - (f) Setback from existing structures. New private road easements shall be located to provide a sufficient distance from all existing conforming structures and legally nonconforming structures so that such structures comply with the minimum setback requirements for the zoning district in which they are located.
2. Maintenance Agreement. Continued maintenance of private roads and road drainage facilities shall be the responsibility



of the property owners served by the private roads. Prior to issuance of land use permits for construction of any structure, property owners served by the private road shall enter into a legally binding Easement Maintenance Agreement, which shall be in substantial compliance with the Model Private Road Easement Maintenance Agreement maintained by the Township and subject to review and approval by the Township Attorney. The Private Road Easement Maintenance Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Easement Maintenance Agreement shall bind all existing or future owners of property served by the private road to the Agreement. At a minimum, the Easement Maintenance Agreement shall contain the following:

- (a) Maintenance costs. The Easement Maintenance Agreement shall acknowledge that the road surface and easement area are privately owned and therefore all construction and improvements within the easement will be contracted and paid for by the signatories to the Agreement or their successors and assigns.
- (b) Method of apportioning maintenance costs. The agreement shall describe the method by which maintenance costs and costs of improvements will be apportioned among the original users. The Agreement shall indicate that the method of apportioning costs applies whether the new users are a result of: (1) extension of the private road beyond its initial length, or (2) connection to another private road, or (3) division of property that is served by the private road. The apportionment formula shall be designed to apportion costs in relation to the benefit to be derived from the private road, and therefore shall include two variables: (1) the number of parcels to be served, and (2) the amount of frontage that each parcel has along the private road (For example, the formula could apportion fifty (50) percent of the costs on the basis of the number of parcels being served, and apportion the remaining fifty (50%) percent of cost on the basis of frontage for each parcel). The apportionment formula may include provisions to reduce the cost for parcels that have existing access to another public or private road, and therefore would not derive full benefit from the private road.
- (c) Township not responsible. The provisions in the Easement Maintenance Agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary

repairs or maintenance. The Agreement shall provide a notice that no public funds are used to build, repair or maintain the private road.

- (d) Special assessment provision. The Easement Maintenance Agreement shall contain a provision to permit the Township Board to authorize the repair or maintenance of any private road which is not being maintained adequately to permit safe access by users or emergency vehicles, and to assess the cost of such repair, including the costs of engineering and administration, to the signatories to the Agreement on an equitable basis. The decision to authorize repair of a private road shall be at the Township Board's sole discretion in accordance with its legislative powers. The Easement Maintenance Agreement should provide notice that the Township may proceed with a special assessment district in order to accomplish such repairs and maintenance.
- (e) Maintenance needs. The Easement Maintenance Agreement shall acknowledge the responsibility of the signatories to the Agreement to maintain the following: surface grading and resurfacing at regular intervals; snow and ice removal; repair of potholes; maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another private road or with a public road; annual dust control; and regular cutting of weeds and grass within the easement.
- (f) Continuing obligation. The Easement Maintenance Agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the private road, and shall be binding upon the owners of such land and their heirs, successors, and assigns.
- (g) Liability. By applying for and securing a permit for a building that utilizes the private road and by utilizing the private road, the applicant for private road approval, all owners of the private road and lots or units thereon, all those who utilize the shared private driveway or private road, and all persons securing a building permit to construct a building served by the private road shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage regarding the private road. This language shall be set forth in the Easement Maintenance Agreement and shall run with the land and shall bind all purchasers of property benefited by the private road.

## **B. Shared Private Driveways.**

1. Easement Agreement. A Shared Driveway Easement Agreement in recordable form shall be required in substantial compliance with the Model Shared Driveway Easement Agreement maintained by the Township. Upon approval by the Planning Commission, the Easement Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Easement Agreement shall be signed by the owners of lots served by the shared driveway. It shall meet the following minimum requirements:
  - (a) Legal description. A detailed legal description of the shared driveway easement shall be submitted with its application.
  - (b) Emergency and public vehicle access. The shared driveway easement shall provide for unrestricted access for emergency and public vehicles used in performance of necessary public services.
  - (c) Non-interference. The terms of the easement shall prohibit any property owner served by the shared driveway from the restricting or interfering with the normal ingress and egress of other property owners, their families, guests, invitees, licensees, or others traveling to or leaving any of the properties served by the shared driveway.
  - (d) Initial costs of construction. The shared driveway easement shall describe the method by which initial construction will be funded. If more than one user will share in the cost of initial construction, then the easement shall specify the formula that will be used to apportion the costs.
  - (e) Setback from existing structures. Shared driveway easements shall be located to provide a sufficient distance from all existing conforming structures and legal nonconforming structures so that such structures comply with the minimum setback requirements for the zoning district in which they are located.
2. Maintenance Agreement. Continued maintenance of shared driveway easements shall be the responsibility of the property owners served by the shared driveway. Prior to issuance of land use permits for construction of any structure, said property owners shall enter into a legally binding Easement Maintenance Agreement, which shall be in substantial compliance with the Model Shared Driveway Easement Maintenance Agreement maintained by the Township and subject to review and approval by the Township Attorney. The Shared Driveway Easement

Maintenance Agreement shall be recorded by the applicant at the Office of the Livingston County Register of Deeds and a recorded copy shall be submitted to the Township prior to issuance of a land use permit. The Shared Driveway Easement Maintenance Agreement shall bind all existing or future owners of property served by the shared driveway to the Agreement. At a minimum, the Shared Driveway Easement Maintenance Agreement shall contain the following:

- (a) Maintenance costs. The Shared Driveway Easement Maintenance Agreement shall acknowledge that the driveway surface and easement area are privately owned and therefore all construction and improvements within the easement will be contracted and paid for by the signatories to the Agreement or their successors or assigns.
- (b) Township not responsible. The provisions in the Easement Maintenance Agreement shall in no way be construed to obligate the Township to perform regular inspections of the easement area or to provide necessary repairs or maintenance. The Agreement shall provide a notice that no public funds are used to build, repair or maintain the shared driveway.
- (c) Maintenance needs. The Easement Maintenance Agreement shall acknowledge the responsibility of the signatories to the Agreement to maintain the following: surface grading and resurfacing at regular intervals; snow and ice removal; repair of potholes; maintenance of road drainage systems; maintenance of unobstructed vision at any intersection with another road; annual dust control; and regular cutting of weeds and grass within the easement.
- (d) Continuing obligation. The Easement Maintenance Agreement shall specify that the obligation to maintain the easement shall be an obligation running with the land to be served by the shared easement, and shall be binding

upon the owners of such land and their heirs, successors, and assigns.

- (e) Liability. By applying for and securing a permit for a building that utilizes the shared driveway and by utilizing the shared driveway, the applicant for shared driveway approval, all owners of the shared driveway and lots or units thereon, all those who utilize the shared driveway, and all persons securing a building permit to construct a building served by the shared driveway shall indemnify and will save and hold the Township (as well as its officers, agents, and employees) harmless for, from, and against any and all claims, causes of action, costs, and damages for personal injury and/or property damage regarding the shared private driveway. This language shall be set forth in the Easement Maintenance Agreement and shall run with the land and shall bind all purchasers of property benefited by the shared private driveway.

#### **Section 16.08 Registration**

All private road or shared private drive development and road maintenance agreements shall, upon approval by the Planning Commission, be recorded with the Livingston County Register of Deeds prior to the issuance of an occupancy permit, with a copy of such registration filed with the Township Clerk.

#### **Section 16.09 Fees**

The Township Board shall establish by resolution the fees for review and inspection of private roads and shared private drives.

#### **Section 16.10 Existing Nonconforming Private Roads and Access Easements**

- A. Intent. It is recognized that there exist private roads, service roads and access easements which were lawful prior to the adoption of this ordinance and are now inconsistent with the standards herein. Such roads are declared to be legal, non-conforming roads and easements. The intent of this Section is to allow legal, non-conforming roads and easements to continue and undergo routine maintenance for safety purposes as determined by the Township. However, this Section of the ordinance is also intended to discourage the extension of non-conforming roads or increase the number of lots or building sites served by such a road, except in platted subdivisions, divisions of land or site condominium projects existing at the adoption date of this ordinance, unless provisions are made to upgrade such road to comply with the standards herein. Any reconstruction, widening or extension

of a non-conforming private road or access easement shall be in conformity with this ordinance.

**B. Existing Lots on Private Roads or Access Easements.** For purposes of determining whether a lot along a private road or access easement qualifies as an existing lot as used in this ordinance, at least one of the following conditions must have existed at the time of ordinance adoption:

1. The lot consists of a “condominium unit” for which a master deed has been recorded with the Livingston County Register of Deeds in accordance with the requirements of the Michigan Condominium Act and other applicable laws and ordinances.
2. The lot consists of a parcel that was described by metes and bounds as recorded by a deed or as a land contract and registered with the Livingston County Register of Deeds.
3. The plot has been assigned a unique number by the Livingston County Register of Deeds and was individually assessed and taxed on that basis.

## **ARTICLE 17. SIGN STANDARDS** (Last approved July 2021)

### **Section 17.01 Purpose**

The purpose of this Article is to provide a framework for the display of signs to accommodate the legitimate identification, advertising, and informational needs of all land uses and to ensure free speech rights guaranteed by the First Amendment to the U.S. Constitution, including the expression of personal, religious, political, and ideological views. It is the purpose of this Article to provide such signage needs and opportunities in a manner that is balanced with the desired stability and enhancement of residential and non-residential areas including property values, the safety of the Township's road corridors, and the Township's prevailing desired visual character. It is recognized that unrestricted or unregulated signage does not support the desired character of the Township nor benefit private enterprise of the community-at-large. Unrestricted signage encourages traffic safety hazards, visual clutter, confusion for vehicle drivers, visual blight, and decreased property values, and undermines the desired visual character of the Township. This Article recognizes that certain activities and uses of land are temporary in nature and, although temporary, have reasonable signage needs, and this Article is intended to permit temporary signage consistent with the regulatory framework described above.

### **Section 17.02 Definitions**

The following terms, phrases, words and their derivatives shall have the meaning given herein:

- A. Awning/Canopy Sign.** A sign part of or otherwise affixed to a sheet of canvas, plastic or other non-rigid material stretched on a frame so as to be roof-like in function for coverage of the ground area below and/or for architectural purposes. An awning/canopy sign may be in a permanently extended position or may be retractable.
- B. Electronic Message Center (EMC) Signs.** A sign that is capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. An EMC sign may be a free-standing sign or wall sign.
- C. Freestanding Sign (FS).** A sign that is erected upon or supported by the ground, including yard signs and ground signs as defined herein and signs supported by one or more poles, columns, or similar supports.
- D. Ground Sign (GS).** A self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message is painted, posted, or otherwise affixed. A ground sign may also consist of a base-mounted cylindrical structure upon which a message is affixed, and a sign that is supported by one (1) or more posts that are less than two (2) feet in height.
- E. Illumination/Illuminate.** The act of highlighting the visual presence and/or impact of a sign by the use of artificially created light, such as through electrical devices.

- a. “Internal illumination” refers to the incorporation of the light source behind the sign face intended to be highlighted and enclosed within the framing of the sign. For the purposes of this Article, an EMC sign shall be construed to be an internally illuminated sign.
  - b. “External illumination” refers to the placement of the light source in front, above, below, and/or to the side of the sign face intended to be highlighted. External illumination is not enclosed within the framing of the sign but may be attached to the sign.
- F. Marquee Sign.** A sign affixed to a permanent rigid roof-like structure that extends from a building for coverage of the ground or entrance area below, and/or for architectural purposes, and which is not supported by columns, posts or other similar features.
- G. Permanent Sign.** A sign designed and/or intended to last indefinitely in the same location, structurally attached to the ground, or a wall or other structure, in such manner that the sign cannot be easily removed and/or relocated. A permanent sign shall be construed to be the same permanent sign despite modifications to the message of such sign.
- H. Projecting Sign.** A sign, other than a wall sign, that projects more than eighteen (18) inches from the face of the building or structure upon which it is located, irrespective of the direction from which the sign is intended to be viewed.
- I. Sign.** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, banner, flag, pennant, trade names or marks, or other representation, or combination thereof, designed for the purpose of directing or attracting attention to, advertising, identifying, expressing, or making known something. Unless otherwise indicated, the definition of “sign” includes interior and exterior signs that are visible from any public street, sidewalk, alley, park, or public or private property, but not signs that are primarily directed at persons within the premises upon which the sign is located. Words, lettering, parts of letters, figures, or other representations, or combinations thereof, placed on multiple structures or other supports that are each no greater than two (2) square feet in area but exceeds two (2) square feet in total cumulative area, and are intended to be read or viewed together as a single message, shall constitute a sign.
- a. Exception: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, banner, flag, pennant, trade names or marks, or other representation, or combination thereof, that do not exceed two (2) square feet in area, are permanent in nature, and designed for the purpose of directing or attracting attention to, advertising, identifying expressing, or making known something, shall not be construed as a sign.
- J. Temporary Sign.** A sign designed to be moved periodically or displayed for a limited and comparatively short period of time only, without foundation, footing or similar permanent underground, wall, or structure anchoring system, such as in the case of a “grand opening” sign, a sign announcing an upcoming community event, or signs



mounted on wheeled trailers. A temporary sign shall be construed to be the same temporary sign despite modifications to the location or message of such sign during the period the sign is displayed.

- K. Swinging Sign.** A sign installed on an arm, mast, spar or building overhang that is not rigidly attached to such arm, mast, spar or building overhang.
  
- L. Wall Sign.** A sign that is attached directly to a building wall that is flat against or generally parallel to the building wall and not extending more than eighteen (18) inches from the face of the wall, including signs painted on a building wall, and including signs on a marquee, canopy, or awning-type structure. A wall sign shall not be construed to include a sign attached to or otherwise part of a roof, a sign attached to a wall but which extends above the lowest portion of a roof, or a projecting sign.
  
- M. Window Sign.** A sign that is attached to the interior or exterior of any window. Permanent window signs that are not affixed directly to a window or are positioned within twelve (12) inches of a window so that they are visible from the outside, shall be considered wall signs.
  
- N. Yard Sign.** A temporary freestanding sign placed on private property within a street-facing yard for the purpose of notification of events, activities or expression. A temporary yard sign may consist of a frame or skeleton made of steel, wood or similar sturdy material placed into the ground, that resists bending or movement and is capable of withstanding wind turbulence while supporting a sign of permitted size. A temporary yard sign may also typically consist of a fairly pliable “H”-shaped metal frame, one end of which is typically inserted into a plastic sign and the other end is inserted into the ground.

### **Section 17.03 Application and Permit Requirements**

#### **A. Permits and Review.**

1. Required Permit and Review. All signs shall require a land use permit prior to placement, erection, replacement, or alteration unless exempted by subsection (2) below. If site plan review is required for a proposed project that a proposed sign shall be part of, the proposed signage shall be reviewed as part of the site plan review procedure for the entire project, pursuant to Article 14, and a separate sign application shall not be necessary. If the proposed signage is to be part of an existing development for which site plan approval has already been granted or was not necessary, the Zoning Administrator shall review the sign application to ensure all applicable ordinance standards have been met prior to issuing a permit for the sign.
2. Signs Exempt from Permit and/Review. The following signs are exempt from the provisions of subsection (1) above but shall conform to all other regulations and standards of this Article including area and height.
  - i. Signs erected by a governmental entity.
  - ii. Indoor signs affixed to or covering windows.
  - iii. Temporary signs authorized under Section 17.07 that do not require a permit.
  - iv. The maintenance or replacement of sign information on a previously approved sign.

- v. Signs less than six (6) square feet in area.

**B. Application Information.** Application for a land use permit for a sign shall include the following minimum information, as applicable, which shall be submitted to the Zoning Administrator.

1. Name, address, and telephone number of the applicant.
2. A copy of the approved or proposed site plan for the lot on which the sign is to be placed.
3. Construction specifications including dimensions, materials, height, ground clearance if applicable, total display area, method of attachment to the wall or ground, and in the case of an EMC sign, the manufacturer's sign brightness specifications according to nit level.
4. Location of the sign on the building and, in the case of a ground sign, its location on the lot and in relation to nearby buildings, structures, and property lines, and setbacks from lot lines, right-of-ways, and access drives.
5. The height and width of the building if the sign is a wall sign.
6. Lot area and frontage.
7. Elevational view of sign including proposed sign copy.
8. Information concerning required electrical connections.
9. Certification by the manufacturer that the sign complies with the Michigan Construction Code.
10. Written consent of the owner or lessee of the premises upon which the sign is to be erected, if different than the applicant.
11. Other information as may be required to ensure compliance with all applicable laws and regulations.

**C. Completeness.** Within fourteen (14) days of receiving a request for a land use permit for a sign, the Zoning Administrator shall review it for completeness. If the Zoning Administrator finds that it is complete, the permit request shall then be processed. If the Zoning Administrator finds that it is incomplete, the Zoning Administrator shall, within such fourteen (14) day period, send to the applicant a notice of the specific ways in which the permit request is deficient, with appropriate references to the applicable sections of this Ordinance.

**D. Action.** Within thirty (30) days of the submission of a complete request for a land use permit for a sign, the Zoning Administrator shall either:

1. Issue the sign permit, if the sign that is the subject of the request conforms in every respect with the requirements of this Ordinance; or
2. Reject the request for a permit if the sign that is the subject of the request fails in any way to conform to the requirements of this Ordinance. In case of a rejection, the Zoning Administrator shall specify in the rejection the sections of the Ordinance with which the sign is inconsistent.

**E. Sign Permit – Continuing.** The owner of a lot containing signs requiring a permit under this Ordinance shall at all times maintain in force a sign permit for such property. An issued land use permit for a sign shall remain valid until such time as a sign

requires substantial modification or becomes obsolete.

- F. Lapse of Sign Permit.** A continuing sign permit shall lapse automatically if the sign requires substantial modification or if any approval relating to use of the sign lapses, is revoked, or is not renewed. A land use permit for a sign shall also lapse if the activity on the premises is discontinued for a period of thirty (30) days or more and is not renewed within ten (10) days of a notice from the Township to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

## **Section 17.04 Design and Construction Standards**

### **A. Materials, Construction, and Maintenance.**

1. All signs shall be constructed and maintained in a manner consistent with building code provisions and maintained in good structural condition at all times, free of hazards to the general public. Signs shall not be constructed from materials that are remnants or manufactured for a different purpose. All signs shall be kept neatly painted, stained, sealed, or preserved including all metal parts and supports. Signs shall be maintained free of peeling material, fading, rust, rot, insect infestation or other conditions reflective of a state of disrepair.
2. A sign shall be integrally designed so that its elements are of a unified character versus comprised of an assemblage of different sign types and materials. In the case where two (2) opposing sign faces are of differing shapes or sizes, resulting in the back of one (1) face not being fully obscured by the opposing face of the sign, the exposed backing shall be of a finished material and designed and constructed to appear as an integral part of the entire sign and of a similar character. No pole, column, or similar support shall be used to accommodate more than one (1) sign serving the same business, tenant, or occupant of a lot.
3. All signs shall be designed so that the supporting framework, other than the supporting poles of a freestanding sign, is contained within or behind the face of the sign or within the building to which it is attached so as to be totally screened from view.

### **B. Wall Sign Dimensions and Heights for Non-Residential Uses.** Wall signs in association with commercial, industrial, and other non-residential uses shall comply with the following:

1. Wall Sign Vertical Dimension. The maximum vertical dimension of any wall sign shall not exceed one third (1/3) of the building height.
2. Wall Sign Horizontal Dimensions. The maximum horizontal dimension of any wall sign shall not exceed three-fourths (3/4) of the width of the building.
3. Wall Sign Height. The top of a wall sign shall not be higher than the lowest of the following:
  - a. Twenty-five (25) feet.
  - b. The top of the sills on windows above the first story.
  - c. The height of the building wall on which the sign is located.

### **C. Lighting.**

1. Authorized Lighting. Signs may be illuminated internally or externally, unless specified otherwise.
2. Moving Illumination. No sign shall include flashing, blinking, intermittent, moving, or variable intensity illumination except as authorized in association with an electronic message center (EMC) sign.
3. Exterior Illumination. Exterior illumination of a sign shall not result in reflected light that exceeds a brightness level of 0.3 foot candles above ambient light as measured according to the same specifications for EMC signs in Section 17.09(A). Use of glaring undiffused lights or bulbs is prohibited. Sign illumination shall not distract motorists or otherwise create a traffic hazard.
4. Interior Illumination. Within Agricultural Residential, Residential, and Manufactured Housing Park Districts, sign illumination shall be external, unless the interior illumination is limited to individual letters, lettering, symbols and logos on a sign, and all other sign elements are opaque or otherwise not illuminated. This subsection shall not apply to temporary signs authorized by Section 17.07.
5. Source and Projection of Illumination. The source of sign illumination shall be shielded from traffic and adjacent properties and shall not be visible beyond the property line of the lot on which the sign is located. All externally lit signs shall be illuminated by lights affixed to the sign and only directed downward on the sign face. This subsection shall not apply to neon lights and exposed bulbs, including marques signs, provided such lights and bulbs shall not exceed fifteen (15) watts.
6. EMC Signs. See Section 17.09(A) regarding lighting requirements for EMC signs.

### **D. Measurements.**

1. Sign Area. The area of the sign shall be computed by calculating the square footage of a sign face as measured by enclosing the most protruding points or edges of all sign faces of the sign within a parallelogram, rectangle, triangle, circle, cylinder, cone, or combination thereof, including any framing.
  - a. Where a sign has two (2) or more similarly shaped faces placed back-to-back, and at no point are less than eighteen (18) inches apart from one another, the area of the sign shall be the area of one (1) face. Where a sign has two (2) or more similarly shaped faces placed back-to-back, and are greater than eighteen (18) inches apart from one another at any point, the area of the sign shall be the combined area of each face.
  - b. Where a sign has two (2) faces placed back-to-back, and at no point are less than eighteen (18) inches apart from one another, but the signs are of differing sizes, the size area shall be that of the larger sign.
  - c. In the case of a sign with three or more faces, the area of the sign shall be the areas of all faces combined.
2. Sign Setbacks.
  - a. The distance between two signs shall be measured along a straight horizontal line that represents the shortest distance between the nearest parts of the two signs as viewed from above in plain or bird's eye view.
  - b. The distance between a sign and a property line, parking lot, or building shall be measured along a straight horizontal line that represents the shortest distance

between the property line or outer edge of the parking lot or building, and the leading edge of the sign as viewed from above in plain or bird's eye view.

3. **Sign Height.** The height of a sign shall be measured from the highest point of the sign, including all frame and structural members of the sign, to the ground elevation directly below the sign face. The height of a sign placed upon a berm or other artificially raised area shall be measured from the base elevation of the berm or artificially raised ground area.

### **Section 17.05 Nonconforming Signs**

- A. **General.** Nonconforming signs shall be subject to the provisions of Article 18 except as otherwise provided by the following:
  1. **Destruction:** A nonconforming sign that is destroyed to an extent greater than thirty percent (30%) of the sign's replacement cost, exclusive of the foundation, shall not be reconstructed.
  2. **Maintenance:** Normal sign maintenance is permitted including painting of chipped or faded signs, replacement of faded or damaged surface panels, and repair or replacement of electrical wiring or electrical devices.
  3. **Change of Copy:** The sign copy of a nonconforming sign may be changed provided that the change does not create any greater nonconformity or otherwise alter the sign's framing and structural features.

### **Section 17.06 Prohibited Signs**

- A. **Signs Prohibited.** The following signs are prohibited, whether temporary or permanent, except where expressly authorized elsewhere in this Article.
  1. Signs that, due to location, design, color or lighting, encourage confusion among drivers due to unauthorized traffic signs, signals or devices, or signs that make use of the words "stop," "look," "danger" or any word, phrase, symbol or character in such manner as to interfere with, mislead, or confuse drivers or pedestrians.
  2. Signs that obstruct free and clear vision of approaching, intersecting, or merging traffic as required by Section 16.16(I).
  3. Signs greater than fifteen (15) square feet in area, affixed to a parking vehicle or truck trailer, where such vehicle or trailer is being used principally for advertising purposes due to its parked location, rather than for transportation purposes.
  4. Signs that extend higher than the surface of a roof, and signs that extend above the top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, and similar minor projections.
  5. A sign, other than a flat wall sign, that projects more than eighteen (18) inches from the face of the building or structure upon which it is located.
  6. Signs that obstruct ingress or egress from a required door, window or other required point of access.
  7. Signs comprising of banners except as otherwise expressly authorized in association with a temporary sign according to Section 17.07.
  8. Signs placed in, upon, or over any public right-of way, alley, or other public place, except upon approval of the governmental entity having jurisdiction over such right-of-way.

9. Signs that have moving or flashing lights, signs that revolve or have any visible moving parts, revolving parts of visible mechanical movement of any type, or signs that have other apparent visible movement irrespective of the cause of the movement.
  - a. Banners, pennants, festoons, spinners and streamers, and similar devices, that move due to wind or mechanical devices and that are intended to draw attention to a location are considered moving signs and are prohibited except as otherwise expressly authorized in association with a temporary sign according to Section 17.07. This limitation shall not be construed to prohibit EMC signs or signs that rely on light-emitting diodes (LEDs) provided such signs are in compliance with Section 17.09(A).
10. Signs that have any words, lettering, photographs, silhouettes, drawings, or pictorial representations of a sexually explicit character including any sign elements portraying specified anatomical areas or specified sexual activities as defined in Section 13.10(V)(2).
11. Signs that constitute a temporary sign as defined in this Article, except as authorized according to Section 17.07.
12. All other signs not expressly authorized by this Ordinance.

#### **Section 17.07 Permitted Temporary Signs**

- A. Authorization.** Temporary signs are permitted according to the requirements and limitations of this Section. Signs permitted by this Section shall not be applied toward the permissible sign areas authorized by other sections of this Article.
- B. Purpose.** A temporary sign may be used for any purpose including, but not limited to, announcements pertaining to a grand opening, an upcoming special event, or the availability of a dwelling or real estate for sale or rent; seasonal celebrations; signs erected during construction activities; and expressions of political, religious, and ideological views.
- C. Limitations.** Temporary signs shall comply with the standards of Table 17.07-1 and 17.07-2.

**Table 17.07-1**

**Table Of Sign Standards For Signs That Do Not Require A Permit**

<b><u>Sign Types, Districts Permitted</u></b>	<b><u>Site Restrictions</u></b>	<b><u>Additional Restrictions</u></b>
<p align="center"><b><u>Temporary Freestanding Commercial and Industrial Yard Signs and Swinging Signs.</u></b></p> <p align="center">Permitted in the Commercial and Industrial Districts</p>	<p><b><u>Number.</u></b> Total number of signs shall not exceed an aggregate side face of twenty (20) square feet.</p> <p><b><u>Sign Area.</u></b> The total sign's surface for a single sign shall not exceed eight (8) square feet.</p> <p><b><u>Height.</u></b> No sign shall exceed a maximum height of four (4) feet.</p>	<p>No sign shall be in place for a period exceeding six (6) consecutive months. Swinging signs may be wall or ground mounted. No sign shall be placed in a public right-of-way. Illumination is prohibited.</p>
<p align="center"><b><u>Temporary Freestanding Residential Yard Signs and Swinging Signs.</u></b></p> <p align="center">Permitted in the Agricultural Residential, Residential, and Manufactured Housing Park Districts</p>	<p><b><u>Number.</u></b> Total number of signs shall not exceed an aggregate side face of eighteen (18) square feet.</p> <p><b><u>Sign Area.</u></b> The total sign's surface for a single sign shall not exceed six (6) square feet.</p> <p><b><u>Height.</u></b> No sign shall exceed a maximum height of four (4) feet.</p>	<p>No sign shall be in place for a period exceeding three (3) consecutive months. Swinging signs may be wall or ground mounted. No sign shall be placed in a public right-of-way. Illumination is prohibited.</p>

**Table 17.07-2**

**Table Of Sign Standards For Signs Subject To A Permit Unless Otherwise Specified**

<b><u>Sign Types, Districts Permitted</u></b>	<b><u>Site Restrictions</u></b>	<b><u>Additional Restrictions</u></b>
<p align="center"><b><u>Temporary Banners</u></b></p> <p align="center">Permitted in all Districts subject to a land use permit for a sign.</p>	<p><b><u>Number.</u></b> One (1) per street front.</p> <p><b><u>Sign Area.</u></b> Shall not exceed and</p>	<p>Shall be permitted to be displayed for up to thirty (30) days. Signs are limited to no more than three (3) events per calendar year. If mounted to the ground, a two-sided sign is permitted but shall not exceed the maximum</p>

	area of thirty two (32) square feet.	sign dimensions.
<p><b><u>Temporary Event Signs.</u></b></p> <p>Permitted in all Districts</p>	<p><b><u>Number.</u></b> One (1) per event.</p> <p><b><u>Sign Area.</u></b> Shall not exceed an area of twelve (12) square feet. Signs in the right-of-way may not be more than four (4) feet tall or four (4) feet wide.</p>	<p>The temporary signs noted in this section may not be displayed more than ten (10) consecutive days in any thirty (30) day period. If mounted to the ground, a two-sided sign is permitted but shall not exceed the maximum sign dimensions.</p>

**Section 17.08 Permitted Permanent Signs by District**

Table 17.08-1 identifies authorized permanent signs in each district according to the limitations specified in the Table regarding sign type, number, area, height, and setbacks. Nothing in this Table shall be construed as authorizing a sign, sign area, sign height, or sign setback that is otherwise regulated by other sections of this Article. The signs authorized by this Section are permitted in addition to other signs authorized by the Article, and the signs permitted by this Section shall not be applied toward the permissible sign areas.



**TABLE 17.08-1**

**FS = Free-Standing Sign    WS = Wall Sign**

<u>District</u>	<u>Authorized Signs and Number</u>	<u>Maximum Area of Signs</u>	<u>Maximum Height of Signs</u>	<u>Maximum Sign Setback from Lot Lines</u>
<b><u>Agricultural Residential District</u></b>	<p><b><u>FS:</u></b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.</p> <p><b><u>WS:</u></b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.</p>	<p><b><u>FS:</u></b> 32 square feet.</p> <p><b><u>WS:</u></b> 32 square feet.</p>	<p><b><u>FS:</u></b> 6 feet if part of a planting bed; 5 feet otherwise.</p> <p><b><u>WS:</u></b> Top of wall to which it is attached, but no higher than the roof eave.</p>	<p><b><u>FS:</u></b> 15 feet, except 50 feet from an adjacent yard if such yard is in the Agricultural Residential or Residential District.</p>
<b><u>Residential, and Manufacture d Housing Park Districts</u></b>	<p><b><u>FS:</u></b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.</p> <p><b><u>WS:</u></b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.</p>	<p><b><u>FS:</u></b> 20 square feet.</p> <p><b><u>WS:</u></b> 32 square feet.</p>	<p><b><u>FS:</u></b> 5 feet if part of a planting bed; 4 feet otherwise.</p> <p><b><u>WS:</u></b> Top of wall to which it is attached, but no higher than the roof eave.</p>	<p><b><u>FS:</u></b> 15 feet, except 25 feet from an adjacent yard if such yard is in the Agricultural Residential or Residential District.</p>

<b><u>Commercial and Industrial Districts</u></b>	<b>FS:</b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.	<b>FS:</b> 2 square feet per 1 feet of building length, measured as a straight line between building corners, but no single sign shall exceed 48 square feet.	<b>FS:</b> 6 feet if part of a planting bed; 5 feet otherwise. If not a ground sign, the maximum height shall be 12 feet.	<b>FS:</b> 15 feet, except 50 feet from an adjacent yard if such yard is in the Agricultural Residential, or Residential District.
	<b>WS:</b> 1 per road frontage provided the frontage dimension meets a minimum of 50% of the District's required frontage dimension.	<b>WS:</b> 10% of the vertical surface area of the building façade to which the sign is attached, but not to exceed 48 square feet.	<b>WS:</b> Top of wall to which it is attached, but no higher than the roof eave.	

**Table 17.08-1: Special Provisions**

**A. Dwellings.** Permanent signs on a lot on which the principal use is one (1) or more dwelling units shall comply with the following:

1. Single and Two-Family Dwellings: One (1) sign may be erected for each dwelling unit on a lot where such lot is used for single-family or two-family dwelling purposes, each not to exceed three (3) square feet in area and shall be setback a minimum distance of five (5) feet from all lot lines.
2. Multiple Family Dwelling: One (1) sign may be erected within ten (10) feet of a building entrance within a multiple family dwelling development. Such sign shall not exceed six (6) feet in height and six (6) square feet in area, and shall comply with the setback standards of Table 17.08-1.
3. Postal Address: The limitations of subsections (a) and (b) shall not prohibit the display of an additional non-illuminated address identification sign, part of a mailbox or mailbox support, to facilitate identification of the property for postal, emergency, and other vehicles. Such sign shall not exceed one (1) square foot in area.

**B. Driveway/Entrance Signs.** The following permanent signs are permitted, excluding on lots used for single and two-family dwelling purposes:

1. One (1) sign is permitted at the intersection area of a public road and an access drive to a parking lot. Such sign shall not exceed four (4) square feet in area and three (3) feet in height and shall be located within ten (10) feet of the edge of the driveway and the road right-of-way.
2. One (1) sign is permitted at an entrance to a residential or non-residential development consisting of a platted subdivision, condominium subdivision, multiple family development, manufactured housing community, or other unified

development consisting of at least five (5) dwelling units or at least three (3) buildings used for commercial or industrial purposes. Such sign shall not exceed thirty-two (32) square feet in area and six (6) feet in height, and shall comply with the setback standards of Table 17.08-1.

3. One (1) sign is permitted at a door of a building. Such sign shall have a maximum height of six (6) feet and shall not exceed six (6) square feet in area. The sign shall not be farther than ten (10) feet from such door and shall comply with the setback standards of Table 17.08-1.

## **Section 17.09 Additional Provisions for Specific Signs**

**A. Applicability.** The following provisions shall apply in addition to other provisions of this Article:

1. Window Signs. Temporary and permanent window signs shall be permitted in the Commercial and Industrial Districts only, and only on the inside of first story windows.
  - a. The total combined area of all temporary and permanent window signs shall not exceed thirty percent (30%) of the total first-floor window area.
  - b. The total sign area of permanent window signs shall not exceed ten percent (10%) of the total first-floor window area. The area of permanent window signs shall be counted in determining compliance with standards for total area of wall signage.
  - c. Temporary window signs shall not exceed ten percent (10%) the total first-floor window area. The area of temporary window signs shall not be counted in determining compliance with standards for total area of wall signs.
2. Electronic Message Center (EMC) Signs.
  - a. That portion of a sign comprised of an EMC sign shall not exceed sixteen (16) square feet in area.
  - b. That portion of a sign comprised of an EMC sign shall not exceed a height of eight (8) feet.
  - c. One (1) EMC sign may be erected on a lot, irrespective of the number of road frontages along the lot.
  - d. Lighting:
    - i. An image of an EMC sign, and any portion of an image on an EMC sign, shall stay constant for a minimum of fifteen (15) seconds, without any change in movement, light intensity, or color. Message scrolling and similar moving messages, including animation and animation-like imaging, are prohibited.
    - ii. Any change or transition in display on an EMC sign shall not exceed one (1) second in duration.
    - iii. An EMC sign shall be equipped with an automatic dimming technology that automatically adjusts the sign's brightness in direct correlation with ambient light conditions. No EMC sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle meter at a distance determined by the square root of the sign's square foot area multiplied by 100. An example of such a determination in the case of a 12 square feet sign is:  
 $\sqrt{\text{of the product of } (12 \times 100) = 34.6 \text{ feet measuring distance.}}$

3. Marquee Signs. Marquee signs shall be permitted according to the following provisions:
  - e. Marquee signs shall be permitted only in the Commercial District.
  - f. Marquee signs shall be constructed of hard, noncombustible materials,
  - g. The written message shall be affixed flat to the vertical face of the marquee structure.
  - h. A minimum vertical clearance of ten (10) feet shall be provided beneath any marquee structure.
  - i. Marquee signs shall comply with the setback requirements for the district in which they are located.
  - j. No portion of a marquee sign shall be higher than the roof.
  - k. One (1) marquee sign shall be permitted per road frontage.
  - l. The area of any permanent information on a marquee sign shall be counted in determining compliance with the standards for total area of permanent wall signs permitted on the lot according to Table 17.08-1.
  - m. The area of any temporary information on a marquee sign shall be counted in determining compliance with the standards for total area of permanent wall signs permitted on the lot according to Table 17.07-1.
4. Awning/Canopy Signs. Awning/canopy signs shall be permitted according to the following provisions:
  - a. Awning/canopy signs are only permitted in Agricultural Residential, Commercial, and Industrial Districts.
  - b. The total area of the sign shall not exceed twenty-five percent (25%) of the total area of the awning or canopy that is visible from beyond the lot.
  - c. The area of awning/canopy signs shall be counted in determining compliance with the standards for total area of permanent wall signs permitted on the lot according to Table 17.07-1.
  - d. Awning/canopy signs shall comply with the setback requirements for the district in which they are located.

## **ARTICLE 18. NONCONFORMING STRUCTURES AND USES**

### **Section 18.01 Intent**

It is the intent of this Article to provide regulations governing lots, buildings structures and the uses thereof, which were lawful prior to the enactment of this ordinance, or amendment thereto, but which are prohibited, regulated or restricted under the provisions of this ordinance. It is the intent of this Article to permit these buildings, structures and uses to continue but not to encourage their prolonged existence. It is further the intent of this Article that non-conformities shall not be enlarged upon, expanded, or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district. Therefore, an intent of this Article is to gradually eliminate nonconforming uses or decrease their nonconforming status.

### **Section 18.02 Nonconforming Lots, Uses, Buildings and Structures**

Lots, uses, buildings and structures, which were lawfully in existence at the time of enactment or amendment of this ordinance and which have been prohibited, regulated or restricted under the terms of this ordinance are hereby recognized as nonconforming lots, uses, buildings and structures. The burden shall be on the person claiming a lawful nonconformity to prove that the nonconformity was in existence at the time of enactment or amendment.

### **Section 18.03 Survey and Record of Nonconforming Lots, Uses, Buildings and Structures**

Upon enactment or amendment of the text and/or map of any use district provided in this ordinance, the Zoning Administrator shall submit to the Planning Commission a list of existing nonconforming lots, uses, buildings and structures in such district. In preparing the list the Zoning Administrator shall conduct a survey of the affected area and shall list the general property description, the name of the property owner and the nature of the non-conforming specifying uses and measurements. The Zoning Administrator shall maintain a record of such nonconforming lots, uses, buildings and structures which shall be organized by survey sections. Periodic review shall be made of this record and abandonment of any nonconforming lot, use, building or structure shall be reported to the Planning Commission and the Township Board.

### **Section 18.04 Structures Under Construction at Ordinance Adoption**

To avoid undue hardship, nothing in this Article shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building

construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position, except that where demolition or removal of an existing building has substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

#### **Section 18.05 Use of Nonconforming Lots**

- A. In any zoning district in which single family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected upon any parcel of land which was a single lot of record at the effective date of this ordinance. This provision shall apply even though such lot of record fails to meet the requirements of this ordinance for minimum lot area, minimum lot width, or both, of the zoning district in which it is located. Yard dimensions and other requirements not involving area or width, or both, of the lots shall conform to the regulations for the district in which such lot is located. Variance to yard requirements may be obtained through approval of the Board of Appeals.
- B. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portions of said parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this ordinance.

#### **Section 18.06 Nonconforming Uses of Land**

On land where no building is located or where a conforming building is located and an existing lawful use is no longer permissible under the terms of this ordinance, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Such nonconforming use shall not be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy additional land area.
- B. Such nonconforming use shall not be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.

- C. If such nonconforming use of land ceases for any reason for a period of more than one hundred twenty (120) days, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such and is located.

### **Section 18.07 Non-Conforming Buildings and Structures**

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

- A. Such structure may not be enlarged or altered in a way which increases its nonconformity.
- B. Should a nonconforming structure be altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.
- C. Should such structure be damaged or destroyed by any means, to an extent that the estimated cost of reconstruction exceeds fifty percent (50%) of the appraised replacement cost of the structure at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- D. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

### **Section 18.08 Permitted Expansion, Repairs and Maintenance of Non-Conforming Buildings**

- A. **Permitted Expansion of Residential Buildings.** A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setback and height (e.g., a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming), provided that the following criteria are met for the subject building:
  - 1. The cost of such work shall not exceed fifty percent (50%) of the market value of such residential building prior to the time such work is started.
  - 2. The only nonconforming situation on the parcel shall be

dimensional ones related to the house and/or garage.

Any other expansion shall be prohibited unless a variance is granted by the ZBA.

- B. Permitted Expansion of Nonresidential Non-Conforming Buildings.** A building necessary for an existing agricultural activity may be enlarged, altered, or rehabilitated if the purpose is to maintain or improve the agricultural activity. All other nonresidential nonconforming buildings shall not be expanded except to the extent permitted by the ZBA pursuant to the authority granted in Article 5.
- C. Repairs and Maintenance.** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## Section 18.09

### Nonconforming Uses of Structures and Land

If a lawful use of a structure, or of structure and land in combination, exist at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A.** An existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered, except in changing the use of the structure to a use permitted in the district in which it is located, provided that all such changes are also in conformance with the requirements of the district in which it is located.
- B.** A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C.** Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations of the district in



which such structure is located, and the nonconforming use may not thereafter be resumed.

- D. When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it located. Structures occupied by seasonal uses shall be excepted from this provision.
- E. Where nonconforming use status is applied to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

### **Section 18.10 Non-Conforming Parking Facilities**

Notwithstanding contrary provisions of this ordinance, nonconforming off-street parking facilities may be continued for as long as the off-street parking facilities are used in conjunction with a building or land use which complies with the permitted use requirements of the district in which it is located.

### **Section 18.11 Non-Conforming Signs**

- A. Signs existing at the time of enactment of this ordinance and not conforming to its provisions but which were constructed in compliance with previous regulations shall be regarded as non-conforming signs which may be continued if properly repaired and maintained as provided in this code and continue to be in conformance with other ordinances of this municipality.
- B. Non-conforming signs which are structurally altered, relocated, or replaced, shall comply immediately with all provisions of this ordinance.
- C. Any building or land use not conforming to the zoning ordinance provisions for the zone in which it is located shall, nevertheless, comply with all the provisions of the sign ordinance for the applicable zoning district.

### **Section 18.12 Abandonment and Notice to Property Owners**

Abandonment of a non-conforming building structure, sign, or use shall be reported to the Planning Commission and the Township Board by the Zoning Administrator. The Township Clerk shall notify the property owner of record of the Township's intention to classify a non-conformance as discontinued or no longer in existence. The notice shall be provided by certified mail, thirty (30) days before the date the Township intends to classify the non-

conformance as discontinued.

### **Section 18.13 Change in Tenancy or Ownership**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises provided there is no change in the nature or character of such nonconforming uses, except as provided for herein.

### **Section 18.14 Change in District**

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district classification the provisions of this Article shall also apply to any existing uses that become non-conforming as a result of the boundary changes.

### **Section 18.15 Uses Allowed as Special Uses**

Any use for which a general exception, conditional approval, or special approval is permitted as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

### **Section 18.16 Elimination of Non-Conforming Uses and Structures**

- A.** By authority of applicable state legislation, the Township Board, through its designated agents, may acquire properties on which nonconforming buildings or uses are located by condemnation or other means, and may remove such uses or structures. The resultant property may be leased or sold for a conforming use or may be used by the township for a public use. The net cost of such acquisition may be assessed either against a special district as a public improvement or may be paid from general funds.
- B.** The Township Board also has the right to condemn or purchase an interest in private property. The Township Board may purchase or condemn the right to conduct a particular nonconforming use, but leave the property owner with the property itself. The property may be used only for uses allowed in that zoning district.

**ARTICLE 19. [RESERVED]**



## ARTICLE 20. ZONING ORDINANCE MAP

### A. Zoning Map

The official zoning map shall be identified by the signature of the Township Supervisor, as attested to by the Township Clerk. A record is to be kept by the Zoning Administrator of all changes in district boundaries or location lawfully made, to include the date of official action, district boundaries or location change description, and names of property owners involved. One

(1) copy of the official zoning map and above-mentioned record shall be maintained and kept up to date by the Zoning Administrator, accessible to the general public, and same shall be the final authority as to the current zoning status of all lands and buildings in Conway Township.

### B. Interpretations

Where, due to the scale, lack of detail or illegibility on the zoning map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundary shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon the written application to, or upon its own motion, by the ZBA.