
NEWKIRK TOWNSHIP ZONING ORDINANCE

Ordinance No. ____

DRAFT

January 27, 2012

(Including Zoning Maps Dated September 28, 2011)

**Newkirk Township
Lake County, Michigan**

Preface

Newkirk Township officials have initiated the preparation of this draft zoning ordinance to provide township officials and residents with an enhanced ability to protect property values, minimize conflicts between land uses, and more effectively guide the township's future, while minimizing restrictions on individual property owners.

It is the intent of township officials that the zoning ordinance will be periodically reviewed and revised to ensure it supports local concerns and aspirations.

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**Newkirk Township
County of Lake, State of Michigan**

**ORDINANCE NO. ____
ZONING ORDINANCE**

An Ordinance enacted by Newkirk Township under Public Act 110 of 2006, the Michigan Zoning Enabling Act, to regulate the use and development of land and provide for the establishment of districts within which specified land use and development may occur including restrictions and requirements for structures, buildings, yards, and development densities, and to establish a permitting system to ensure reasonable review and authorization of land uses and development including the issuance of permits, appeals of decisions, and penalties for violations.

THE NEWKIRK TOWNSHIP BOARD ORDAINS:

**Article 1
TITLE and PURPOSE**

Section 1.1 Title

This Ordinance shall be known and cited as the Newkirk Township Zoning Ordinance.

Section 1.2 Purpose

It is the purpose of this Zoning Ordinance to regulate the use of land and structures to meet the needs of the state's citizens for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land in accordance with the land's character and adaptability, to ensure that the use of land is situated in appropriate locations and relationships, to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities, to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements, to promote public health, safety, and welfare including the conservation of property values and natural resources including farmland, woodlands, wetlands, and water resources, to implement the goals, objectives and policies of the Newkirk Township Master Plan adopted pursuant to the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and to advance all other purposes as authorized by the Michigan Zoning Enabling Act.

End of Article 1

Article 2 GENERAL ADMINISTRATION, ENFORCEMENT, and PENALTIES

Section 2.1 Purpose

It is the purpose of this Article to provide for the administration and enforcement of this Ordinance, including the creation of a review and permit process. The primary permit process shall require the issuance of a Zoning Permit which shall indicate that the uses and plans for which the permit is requested comply with this Ordinance. Upon the issuance of a Zoning Permit, the applicant may establish the use for which the permit has been issued, including the erection of a building or structure, provided a Building Permit has been obtained from the Building Inspector demonstrating conformance to the requirements of the Construction Code.

Section 2.2 Zoning Permit Required

A. Permit Required/Conformance to Ordinance: Except as provided in subsection (B) below, no excavation shall be initiated, no wall, structure or building shall be erected, altered, or moved, and no land or building shall be used or undergo a change in use as delineated in the Permitted Uses tables of Article 3, including the conversion of an abandoned building to an active use, until the Zoning Administrator has issued a Zoning Permit that shall signify the proposed activity conforms to the requirements of this Ordinance and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit. A Zoning Permit shall be on a form established for such purpose and the completed form shall identify the specific use authorized, the drawings that graphically portray the proposed alterations and improvements to the property, and any conditions made part of such permit. No Zoning Permit or Building Permit shall be issued for any structure, building or use of land where the use, construction, addition, or alteration would be in violation of this Ordinance. See Section 2.4 regarding application review procedures.

B. Zoning Permit Exemption: A Zoning Permit shall not be required for the following:

1. The alteration of any building wall provided no change is made to the location of an exterior wall and such alterations are in compliance with all requirements and standards of this Ordinance. A Building Permit may be necessary for such an alteration pursuant to the Construction Code.
2. Fences for single family and two family dwellings, and agricultural uses.
3. Any structure that occupies less than two-hundred (200) sq. ft. of ground or floor area.

Section 2.3 Responsibility for Administration

A. General Administration: The administration and enforcement of this Ordinance shall be the responsibility of the Township Board, the Planning Commission, the Zoning Board of Appeals, and such personnel as designated by the Township Board in accordance with P.A. 110 of 2006, as amended, and this Ordinance. The Township Board shall appoint a Zoning Administrator who shall act as an officer in the administration and enforcement of this Ordinance. The Zoning Administrator may simultaneously serve as the Building Inspector.

B. Duties of the Zoning Administrator: Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. The Zoning Administrator shall perform the duties specified in this Ordinance including, at a minimum:

1. Review Applications: Undertake and/or assist in the review of Zoning Permit applications and other applications made under this Ordinance, including applications for plot plans, site plans, special land use approvals, and variances.
2. Issue Zoning Permits: Issue Zoning Permits and other approvals when all provisions of this Ordinance have been met and the necessary approval has been granted by the proper body or official.
3. File of Applications: Maintain files of all applications submitted under this Ordinance, action on such applications, and any performance guarantees associated with permits.
4. Inspections and Violations: Assist in the investigation and resolution of violations of this Ordinance including inspections to investigate, monitor and ensure conformance with this Ordinance.
5. Record of Complaints: The Zoning Administrator shall keep a record of any complaint of a violation of this Ordinance and of the action taken consequent to each complaint.
6. Reports: The Zoning Administrator shall report to and attend meetings of the Planning Commission, Zoning Board of Appeals, and Township Board, to report on activities pertaining to the issuance of permits, complaints of violation, actions taken on such complaints, and other Ordinance administrative and enforcement matters as may arise.

Section 2.4 Zoning Permit Application and Review Procedures

A. General Application and Review Procedures: An application for a Zoning Permit shall be available from the Zoning Administrator. Upon approval of the application, which is to include, at a minimum, the application form and all required supporting data and documents including a plot plan or site plan, a Zoning Permit shall be issued. Whenever the Zoning Administrator determines an application for a single-family or two-family dwelling and accessory uses and structures thereto is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue the Zoning Permit. Zoning Permit applications for uses, buildings and structures not associated with a single-family or two-family dwelling shall be issued by the Zoning Administrator only after the Township Board directs the Zoning Administrator to do so unless provided otherwise by this Ordinance.

1. **Plot Plan / Site Plan:** An application for a Zoning Permit shall include the submittal of a plot plan or site plan. An application for a single family or two-family dwelling and accessory structures thereto, shall include the submittal of a plot plan according to subsection (B) below. A site plan shall be required for all other uses, structures and buildings and shall be prepared according to Article 5 (Site Plan Review) unless expressly provided otherwise by this Ordinance.
2. **Special Land Uses:** In addition to meeting the site plan requirements of Article 5, a Zoning Permit application for a use classified as a "special land use" according to Permitted Uses tables of Article 3 shall be processed according to the provisions of Article 6 (Special Land Uses), which requires Township Board action after receipt of a Planning Commission recommendation.
3. **Variances:** Where the approval of a variance by the Zoning Board of Appeals pursuant to Article 7 is necessary for the approval of a proposed plot plan or site plan, no such plot plan or site plan shall be approved nor shall such project be issued a Zoning Permit until action on such variance request has first been taken by the Zoning Board of Appeals.
4. **Incomplete Applications:** If Zoning Permit application materials are not administratively complete when received by the body that is to take action on the application, the body may deny such application or otherwise delay action on the application until it is made complete in a readily comprehensible manner.
5. **Performance Guarantees:** A performance guarantee may be required as a condition to the issuance of a permit in order to ensure conformance with the requirements of this Ordinance (see Section 2.6).
6. **Permit Refusal in Writing:** In any case where a Zoning Permit or other approval requested under this Ordinance is refused, the reasons shall be provided to the applicant in writing. Such notification may include a copy of the meeting minutes and motion containing such reasons.

B. Single Family and Two-Family Dwellings/Plot Plan Approval

1. **Application Required:** Application for a Zoning Permit for a single family or two-family dwelling, including alterations and accessory structures and buildings thereto, shall be submitted to the Zoning Administrator on a form for that purpose. See Section 2.2(B) for exceptions. Three (3) copies of all application materials shall be submitted and shall consist of:
 - a. The completed application form, and all permit applications, approvals and supporting documents associated with required state or federal permits.
 - b. An accurate, readable, drawing of scale not less than 1" = 100', constituting a plot plan, identifying:
 - 1) Name, address and telephone number of the applicant (and owner if different).
 - 2) A scaled property line survey showing property dimensions, bearings, lot area, legal description, and an arrow pointing north. The Zoning Administrator may require a property line survey prepared by a Michigan-licensed surveyor, and the delineation of existing structures on the property as part of such survey, in the case where a more detailed or official delineation of property lines and structures is necessary to ensure compliance with this Ordinance.
 - 3) The location and footprint of existing and proposed structures and heights of such structures, and the number of sleeping rooms therein. See definition for "building height" in Article 18.
 - 4) Distances of buildings and structures from lot lines.
 - 5) identification of proposed use(s) of structures and land, and the configuration of the driveway and parking areas, including dimensions.
 - 6) Existing public and private right-of-ways and easements.
 - 7) Existing and/or proposed location of septic drain field and potable water well, and other existing and proposed utility locations.
 - 8) In the case of a corner lot, the designated side and rear yard.
 - 9) Any other information deemed necessary by the Zoning Administrator to determine Ordinance compliance and provide for the enforcement of this Ordinance.
2. **Application Review:** The Zoning Administrator shall review the Zoning Permit application and plot plan and determine their conformity with the provisions of this Ordinance.

3. **Action on Application:** After conducting a review, the Zoning Administrator shall deny, approve, or conditionally approve the application as it pertains to requirements and standards contained in this Ordinance. The applicant shall be notified in writing of the Zoning Administrator's action on the application including any conditions associated with an approval. The decision by the Zoning Administrator shall be made within fifteen (15) days of the receipt of a complete application including copies of all required county, state and federal applications and permits. A plot plan shall be approved if it contains the information required by, and is in compliance with this Ordinance.
4. **Approved Plot Plans:** At least two (2) copies of an approved application, with any conditions contained within, shall be maintained as part of the Township records. A third copy shall be returned to the applicant. Each copy of the approved plans shall be signed and dated with the date of approval by the Zoning Administrator. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the application and delivered to the applicant.
5. **Plot Plan Changes:** The Zoning Administrator shall review and act on proposed changes to an approved plot plan in the same manner as described by this subsection (B).

C. Permit Withholding, Expiration, and Revocation.

1. **Withholding Permit:** A designated approving body, including in the case of a variance approval by the Zoning Board of Appeals, may withhold approval of an application pending verification that an applicant has received required county, state or federal permits. Similarly, such body may condition its approval of the requested application on the receipt of such permits or withhold the issuance of an approval until said permits have been obtained.
2. **Expiration of Permit:** A Zoning Permit shall become null and void after one (1) year from the date of its issuance unless the development or activity authorized has passed its first building inspection by the Building Inspector, provided however, that the body which approved such permit may waive or extend the period of time in which the permit is to expire for a single period of no greater than 180 days if it is satisfied that there has been a good faith intention to proceed with construction. Upon expiration, the permit shall be renewable only upon reapplication, subject to the provisions of all ordinances in effect.
3. **Revocation:** A body which grants approval of a permit or application under this Ordinance may revoke or cancel such approval in the case of failure or neglect to comply with this Ordinance, or in the case of any false statement or misrepresentation in the application. The Zoning Administrator may issue a stop work order to halt all construction activities and/or use of the premises pending a revocation decision.

Section 2.5 Building Permit / Permit of Occupancy Required

A. Building Permit: No excavation or construction shall be initiated prior to the issuance of a Zoning Permit and, where required by state law, the Building Inspector certifies proposed structures and buildings comply with the Construction Code through the issuance of a Building Permit.

B. Occupancy Permit: No structure or use shall be occupied, in whole or in part, without first receiving a permit for occupancy from the Building Inspector pursuant to the Construction Code.

Section 2.6 Performance Guarantee

A. Authority, Purpose, and Timing: To ensure compliance with this Ordinance and any conditions imposed under this Ordinance, the designated approving body for an application may require that a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Township and covering the estimated cost of improvements, be deposited with the Township Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the Zoning Permit authorizing the activity or project. The Township may not require the deposit of the performance guarantee until it is prepared to issue the Zoning Permit. This section shall not be applicable to single family and two-family dwellings or improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the Land Division Act, Public Act 288 of 1967, as amended.

B. Return of Performance Guarantee: For the return of performance guarantee or portion thereof, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. The Zoning Administrator shall inspect the improvements and transmit a recommendation to the Township Board with a statement of the reasons for any recommended denial of the return of the performance guarantee or portion thereof. The Township Board shall either approve, partially approve or reject the return of the performance guarantee request and shall notify the obligor in writing of the action of the Township Board within forty-five (45) days after receipt of the notice from the obligor of the completion of such improvements. Where approval or

partial approval is granted, the Township Clerk shall release the approved payment to the applicant. The portion of the performance guarantee to be returned shall be proportional to the work completed.

1. Lack of Full Completion: Should installation of improvements fail to meet full completion based on the approved permit application, the Township may complete the necessary improvements itself or by contract to an independent contractor, and assess all costs of completing the improvements against the performance guarantee. Any balance remaining shall be returned to the applicant.

Section 2.7 Timely Action on Applications

A. General Intent: All approvals applied for under this Ordinance shall be acted upon in a timely manner. However, in no case shall the matter of a timely decision undermine the intent of this Ordinance that all requested approvals undergo the necessary and adequate review to ensure all requirements and standards have been met and the public health, safety and welfare is preserved.

B. Specific Guidelines: The following time provisions shall apply unless specifically provided otherwise by this Ordinance or special circumstances arise such as delays associated with the acquisition of county, state or federal permits or the submittal of an incomplete application. The prescribed review periods under (2) and (4) below require that an application must be received by the Zoning Administrator at least thirty (30) days prior to the meeting when the reviewing body would normally begin deliberation on such application and, if submitted within a lesser time, the initial reviewing body may delay initiating deliberations until its next regularly scheduled meeting or special meeting called for the purpose of deliberating said application.

1. Applications Requiring Zoning Administrator Action: A complete application for a Zoning Permit for a single-family or two-family dwelling or an accessory structure or use thereto shall be acted upon by the Zoning Administrator within fifteen (15) days of the submittal of the complete application.
2. Applications Requiring Planning Commission Action: Action on an application by the Planning Commission, as in the case of making a recommendation to the Township Board regarding an application for special land use approval or an amendment petition, shall occur within ninety (90) days of receipt of a complete application. Where a public hearing is required to be held, this time frame shall be extended by thirty (30) days.
3. Applications Requiring Township Board Action: Where this Ordinance requires the Township Board to act on an application, as in the case of a site plan or special land use application, the Township Board shall take action on the application within ninety (90) days of the receipt of a complete application. Where the Township Board must delay action until receipt of a recommendation from the Planning Commission, the Township Board shall take action on the application within ninety (90) days of the receipt of such recommendation.
4. Applications Requiring Zoning Board of Appeals Action: Where the Zoning Board of Appeals is required by this Ordinance to act upon a request for a variance, ordinance interpretation, administrative appeal, or other request as provided by this Ordinance, the Zoning Board of Appeals shall take action on the request within ninety (90) days of the receipt of a complete application.
5. Public Hearing Notices: See Section 2.11.

Section 2.8 Application Fees

A. Application Fees Required: Fees for the administration and review of development proposals, rezoning requests, actions before the Zoning Board of Appeals, inspections and the issuance of permits required under this Ordinance shall be deposited with the Township Clerk in advance of processing any application. The amount of such fees shall be established by the Township Board by resolution and may be revised from time to time. Such fees shall be limited to covering actual costs incurred by the Township and may include but are not limited to costs associated with conducting meetings and inspections, public notices, postage, photocopying, staff time, and mileage.

B. Professional Review and Fee: For any application for a Zoning Permit, variance, or other approval under this Ordinance, the Township Board or the reviewing body may also require the payment of a professional review fee when professional input is desired before a decision is made, due to the character or complexity of the proposal or concern over the potential impacts of the project. The applicant is entitled to a refund of any unused professional review fee and actual professional review costs exceed the amount of the fee, the applicant shall pay the balance due prior to final action on such application. No professional review shall be required for an application for a single-family or two-family dwelling.

Section 2.9 Site Inspections

The Zoning Administrator shall have the authority to make inspections of premises, upon request at reasonable times, for the purposes of verifying information on an application, monitoring conformance with the regulations and standards of this Ordinance, and for any other purpose associated with responsibilities of the Zoning Administrator granted by this Ordinance. No person shall interfere with the Zoning Administrator in the discharge of his/her duties.

Section 2.10 Violations, Penalties and Remedies

A. Violations are a Nuisance Per Se: Any use of land which is commenced or conducted, or any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained, or changed, in violation of any provision of this Ordinance is hereby declared to be a nuisance per se. Any person who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit or other approval granted hereunder, or any lawful order or determination of the Township Board, Planning Commission, Zoning Board of Appeals, Building Inspector, Zoning Administrator, Zoning Enforcement Officer or any authorized deputy sheriff, issued pursuant to this Ordinance, shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance per se.

B. Violations Are Municipal Civil Infractions: A violation of this Ordinance is a municipal civil infraction, for which the fines shall be as follows:

1. \$150 for the first offense.
2. \$500 for the second or other subsequent offense.

For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within 12 months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible; provided, however, that offenses committed on subsequent days within a period of one week following the issuance of a citation for a first offense shall all be considered separate first offenses. Such fines shall be levied in the discretion of the court and shall be in addition to all other costs, damages, expenses and attorney fees incurred by the Township in enforcing this Ordinance. Each day that a violation occurs shall constitute a separate offense.

C. Procedures: The procedures for the issuance of citations and payment of fines and costs shall be a prescribed in the Newkirk Township General Civil Infractions Ordinance, as may be amended.

D. Lien: If any fines, costs, assessments, damages and/or expenses remain unpaid or unsatisfied after the time permitted for such payment or satisfaction, the Township may impose and record a lien upon the real property involved, to the extent permitted by law, and may enforce the lien to the extent and in the same manner as is provided by law for the enforcement of unpaid ad valorem real property taxes, including the inclusion of the monetary amount of such lien upon the ad valorem property tax roll, and the collection thereof in the same manner as ad valorem real property taxes are collected.

E. Other Remedies: In addition to issuance of a municipal civil infraction citation, the Township may also commence and enforce an action in a court of competent jurisdiction seeking injunctive, declaratory or other equitable relief to enforce or interpret any provision of this Ordinance, to require abatement of a violation and to seek such other relief as may be provided by law.

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Section 2.11 Public Hearing Notices

A. Hearing Notice Content: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:

1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
3. Indicate the date, time and place of the hearing(s).
4. Indicate when and where written comments will be received concerning the request.

B. Recipients and Means of Notice: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, the following shall receive notice of the hearing, which notice shall include the information specified in (A) above.

1. General public, by publication of the hearing notice in a newspaper of general circulation in the Township.
2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.
3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in Newkirk Township, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
 - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request or an appeal of an administrative decision that does not involve a specific property.
 - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
4. To each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing, by mail, in the case of a text amendment or zoning map amendment.

C. Timing of Notice and Determination of Notice Given: Unless otherwise required by the Michigan Zoning Enabling Act or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be made not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.

D. Confirmation of Notices Made by Mail or Personal Delivery: The Township Clerk shall prepare a list of property owners and registrants to whom notice was mailed, as well as anyone to whom personal notice was delivered.

End of Article 2

Article 3 ZONING DISTRICTS, REGULATIONS, and MAP

Section 3.1 Establishment of Districts

For the purpose of this Ordinance, the Township is hereby divided into the following zoning districts, which shall be known by the following respective symbols and names, and shall have boundaries as delineated on the Official Zoning Map.

Resource Protection Districts

CR Conservation/Rural Residential District

Residential Districts

R-1 Low Density Residential District
R-2 Medium Density Residential District
R-MF Multiple Family Residential District
R-MHC Manufactured Housing Community District

Commercial Districts

C-1 Local Commercial District

Industrial Districts

I-1 Light Industrial District

Section 3.2 Compliance with District Regulations

Except as may otherwise be provided in this Ordinance, 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 occurring, and every enlargement of, or addition to an existing use, building and structure, occurring after the effective date of this Ordinance, shall be subject to the provisions of this Ordinance. Whenever any fill is placed in any lake or stream, the land thus created shall automatically and without further governmental action thenceforth acquire and be subject to the same District regulations as are applicable for lands to which the fill is attached or otherwise adjacent.

Section 3.3 Zoning District Map

A. Official Zoning Map: The boundaries of the Districts enumerated in Section 3.1 are as depicted on the Official Zoning Map entitled NEWKIRK TOWNSHIP ZONING MAP, which is an integral part of this Ordinance. This map, with all notations and explanatory matter thereon, shall be published as part of this Ordinance as if fully described herein. The Official Zoning Map shall be located at the official offices of Newkirk Township and shall be the final authority with regard to the current zoning status of all land in the Township, along with supporting minutes of Township Board meetings regarding District changes, regardless of the existence of copies of the Official Zoning Map which may be made and published from time to time.

B. Map Identification and Changes: The Official Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bearing the following: *This is to certify that this is the Official Zoning Map of the Newkirk Township Zoning Ordinance adopted on the ___th day of ___, 20__.* If, in accordance with the provisions of this Ordinance, changes are made in District boundaries or other matter portrayed on the Official Zoning Map, such changes shall be made on the Official Zoning Map.

C. Boundary Interpretations: Where, due to the scale, lack of details, or illegibility of the Official Zoning Map, there is an uncertainty, contradiction, or conflict as to the intended location of any zoning district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined upon written application to the Zoning Board of Appeals. The Zoning Board of Appeals, in arriving at a decision on such matters, shall apply the following standards:

1. Boundaries indicated as approximately following roads or highway shall be construed as following their center lines. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Map. If no distance is given, such dimension shall be determined by the Map scale.
2. Boundaries indicated as approximately following Township boundary lines, section lines, quarter section lines, quarter-quarter section lines, or lot lines shall be construed as following such lines.

3. Boundaries following the shoreline of a stream, lake, or other body of water shall be construed to follow such shorelines, and in the event of change in the shorelines, shall be construed as moving with the actual shorelines. Boundaries indicated as approximately following the centerlines of streams, canals, or other bodies of water shall be construed to follow such centerlines.
4. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) Districts, the land in question shall be considered to be zoned according to the District that applies greater limitations on the overall intensity of development based on such features as minimum lot sizes, density controls, setbacks, and scope of authorized uses.

Section 3.4 Purposes of Zoning Districts

See Table 3-1.

Section 3.5 Permitted Uses in Zoning Districts

A. Uses Permitted in Districts: No land use shall be established except in conformance with the Permitted Principal Uses Tables, Tables 3-2 and 3-3 of this Article, unless expressly provided otherwise in this Ordinance. In order to ensure all possible benefits and protection for the Districts, the Tables delineate whether a principal land use is permitted in a particular District as a "Use Permitted by Right" or a "Special Land Use," as defined in Article 18. All special land uses shall be subject to a public hearing and site plan approval (Article 6).

1. **Uses Permitted by Right:** Uses permitted by right are the primary uses and structures specified for which the District has been established, and are subject to plot plan approval (Sec. 2.4(B)) or site plan approval (Article 5).
2. **Special Land Uses:** Special land uses are uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures permitted in the District, but could present potential injurious effects upon the primary uses or are otherwise unique in character, and therefore require special consideration in relation to the welfare of adjacent properties and to the Township as a whole. All such uses shall be subject to a public hearing and site plan approval. See Article 6.

B. Accessory Uses: Unless otherwise specified in this Ordinance, accessory uses which are clearly incidental to and customarily associated with the principal use of the property, are permitted in all Districts and shall conform to this Ordinance. Examples in association with single-family dwellings include home occupations, swimming pools, storage buildings, garages, private stables, and the keeping of other animals.

C. Prohibited Uses: Any use of land not specifically permitted is prohibited, including any use of land not specifically identified in the Permitted Principal Uses Tables. The Planning Commission may be petitioned to initiate an amendment to the Ordinance to authorize an otherwise prohibited use and standards that will apply for that use. If the Township Board approves such an amendment, then an application can be submitted to establish that use. Nothing in this subsection (C) shall be interpreted to infer that approval of such an amendment will result in approval of a subsequent application for the use in question. In no case shall a use be permitted that is contrary to federal, state or local laws or ordinances.

Section 3.6 Site Development Requirements of Zoning Districts

A. All land uses shall comply with the site development requirements of the District in which they are located, as delineated in the Site Development Requirements Table of this Article, Table 3-4, in addition to the other site development provisions of this Ordinance such as those pertaining to parking, screening, and signs.

B. No part of a setback area, yard, or other open space required about or in connection with any use, building or structure, for the purpose of complying with this Ordinance, shall be included as part of a setback area, yard, or other open space similarly required for any other use, building or structure.

C. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements of this Ordinance. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein, including lot size and lot width.

D. No portion of one lot shall be used in the creation of another lot unless each lot resulting from such reduction, division, or sale, and any structures on such lots, conform to the requirements of this Ordinance.

E. Wherever any provision of this Ordinance imposes more stringent requirements, regulations, or limitations than are imposed or required by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, the provisions of such law or ordinance shall govern.

**Table 3-1
 PURPOSES of ZONING DISTRICTS**

ALL DISTRICTS
It is the purpose of all Districts to protect important environmental resources to the greatest extent practical; that all Districts be located in coordination with the Newkirk Township Master Plan; that uses minimize negative impacts on surrounding land uses; that all non-residential uses complement the community's rural character through appropriate design; that development ensure safe and efficient vehicular travel and access and minimizes congestion, turning conflicts, and pedestrian hazards; that all residential uses provide for adequate open spaces and a healthy living environment; and that each use be adequately served by facilities and services including sewage disposal, potable water, fire protection, and roads. Additional and more specific purposes of each District follow.
RESOURCE PROTECTION DISTRICTS
It is the purpose of the C/RR Conservation/Rural Residential District to protect the most expansive areas of the Township predominately under public ownership and characterized predominantly by woodlands and wetlands, the majority of which comprise portions of the Pere Marquette State Forest and Manistee National Forest. The enjoyment and long-term protection of these forests is of great public interest and importance to the Township, State of Michigan, and United States. The forest resources are important in providing wildlife habitats, water and air purification, flood control, and recreation opportunities, and support the desired rural character of the Township and its forestry industry. This district is also intended to encourage and provide opportunities for agriculture and provide opportunities for comparatively low density rural residential lifestyles and development patterns within the overall setting of the public forests. Principal uses in the district are intended to be limited to agriculture including timber production and forestry management, conservation areas, low density residential development, and outdoor resource-based uses that support the overall intent of this district. See also the "All Districts" purpose statement above.
RESIDENTIAL DISTRICTS
It is the principal purpose of the R-1 and R-2 Residential Districts to provide opportunities for single and two-family residential development patterns of greater density than provided by the C/RR District, to accommodate varying suburban and urban residential lifestyles and meet the varied housing needs of current and future residents. These districts are intended to be located in the general vicinity of the Village of Luther, according to the Master Plan, other than to recognize the presence of existing neighborhoods established prior to the effective date of this Ordinance that reflect typical lot sizes similar to those authorized by the R-1 and R-2 Districts. See also the "All Districts" purpose statement above.
It is the principal purpose of the R-MF Multiple Family Residential District to provide alternative housing opportunities of a greater density than those of the other Residential Districts, in the form of multiple family development such as apartments and townhouses, to meet the varied housing needs of current and future residents. It is intended that this District be established only where sanitary sewer is provided. See also the "All Districts" purpose statement above.
It is the principal purpose of the R-MHC Manufactured Housing Community District to provide alternative housing opportunities in the form of manufactured housing communities as regulated by the Michigan Mobile Home Commission Act. It is the intent of this District that, in light of the comparative speed at which a manufactured housing community can be constructed and the resulting rapid increased demands on public infrastructure and community services, this District be established only where development of such acreage will not outpace the Township's ability to effectively manage and accommodate public infrastructure and services demands. See also the "All Districts" purpose statement above, and Section 3.7.
COMMERCIAL DISTRICTS
It is the principal purpose of the C-1 Local Commercial District to provide opportunities for commercial uses and services that primarily address the local day-to-day retail and service needs of the local population and visitors to the area, and in a manner that supports the desired rural character of the Township. See also the "All Districts" purpose statement above.
INDUSTRIAL DISTRICTS
It is the principal purpose of the I-1 Light Industrial District to provide for a variety of industrial uses that can be generally characterized as being of low intensity, including comparatively small building sizes and the absence of objectionable external affects. See also the "All Districts" purpose statement above.

End of Table 3-1

**Table 3-2
 Permitted Principal Uses in Resource Conservation and Residential Districts**

PRINCIPAL USES		ZONING DISTRICTS			
		C/RR	R-1 R-2	R-MF	R-MHC
		BR = Use Permitted by Right, S = Special Land Use - = Prohibited Use			
		C/RR	R-1 R-2	R-MF	R-MHC
Uses of a Primarily Agricultural, Outdoor Recreation, or Natural Resource Based Character¹					
1	Agriculture.	BR	-	-	-
2	Agricultural service establishments.	S	-	-	-
3	Commercial campgrounds and retreat centers.	S	-	-	-
4	Commercial stables.	S	-	-	-
5	Extraction operations.	S	-	-	-
6	Golf courses and country clubs.	S	S	S	-
7	Land dedicated to the conservation of its natural resources for the purpose of plant or animal habitat protection, and which may be more commonly described as a wildlife management area, nature preserve, or game refuge, but excluding any type of shooting range or commercial hunting facility.	BR	-	-	-
8	Recreational vehicle parks.	S	-	-	-
9	Shooting ranges.	S	-	-	-
Uses of a Primarily Residential Character					
1	Single family dwellings not part of a manufactured housing community.	BR	BR	-	-
2	Two family dwellings.	BR	BR	-	-
3	Convalescent and nursing homes.	S	S	S	-
4	Day care, family home.	BR	BR	-	-
5	Day care, group home.	S	S	-	-
6	Foster care facility, family home.	BR	BR	-	-
7	Foster care facility, group home.	BR	S	-	-
8	Multiple family dwellings.	-	-	BR	-
9	Manufactured housing communities.	-	-	-	BR
Uses of a Primarily Commercial, Industrial or Business Character					
1	Bed and breakfast establishments.	BR	-	-	-
2	Landscape supply sales including trees, shrubs, and nursery stock, and may include accessory landscape sales such as soil, mulch, landscape stones and pavers, gardening tools, and seed.	BR	-	-	-
3	Veterinarian clinics and kennels.	S	-	-	-
4	Wireless communication towers.	S	-	-	-
5	Commercial Wind Energy Conversion Facility.	S	-	-	-
Uses of a Public, Semi-Public, or Other Character					
1	Public facilities operated by a governmental unit including, but not limited to, government administrative buildings, meeting halls, storage buildings, cemeteries and parks.	S	S	S	S
2	Churches and other religious institutions, and other public or semi-public places of assembly not otherwise specified in this Table.	S	S	S	S
3	Clubs, lodges, and similar social, recreational and community centered facilities when not operated for profit.	S	-	-	-

End of Table 3-2

**Table 3-3
 Permitted Principal Uses in Commercial and Industrial Districts**

PRINCIPAL USES		ZONING DISTRICTS ¹	
		C-1	I-1
Uses of a Primarily Agricultural, Outdoor or Natural Resource Based Character			
1	Agricultural service establishments.	S	BR
Uses of a Primarily Residential Character			
1	Single family dwellings including a dwelling above a commercially or industrially-used building.	BR	BR
Uses of a Primarily Commercial or Business Character ¹			
1	Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building including, but not limited to, groceries, foods, drugs, liquor, furniture, clothing, dry goods, books, flowers, jewelry and hardware.	BR	–
2	Artist galleries.	BR	–
3	Day care center.	S	–
4	Funeral homes and mortuaries, including a dwelling occupied by the owner.	S	–
5	Hospitals and medical clinics.	S	–
6	Indoor commercial recreation such as theaters, bowling alleys, skating rinks, indoor shooting ranges, and similar uses.	S	–
7	Lumber yards and incidental mill work.	–	S
8	Mini-storage facilities.	S	S
9	Motels and hotels, including conference centers.	S	–
10	Service-oriented offices such as financial institutions and insurance and real estate offices; offices of an executive, administrative, clerical and similar character; and offices for accountants, doctors, lawyers, financial and other consultants, architects, and similar professional office uses.	BR	–
11	Offices and showrooms of plumbers, electricians, decorators, and similar trades.	BR	–
12	Personal service establishments which perform services on the premises within a completely enclosed building such as, by example, shoe repair, barber and beauty shops, photographic studios, appliance repair, and dry cleaners.	BR	–
13	Sale of new or used cars, recreational vehicles, boats, farm machinery, and other vehicles and equipment, including indoor and outdoor sales and display, and the service and repair of such vehicles and equipment.	S	–
14	Sale of outdoor home and garden supplies such as plant materials and garden equipment and tools, lawn furniture, and play equipment.	S	–
15	Restaurants and other establishments that provide food or drink for consumption on the premises, but excluding the serving of alcohol.	BR	S
16	Restaurants and other establishments that provide food or drink for consumption on the premises, and may include the serving of alcohol.	S	–
17	Taxidermy services.	BR	BR
18	Vehicle service stations.	S	–
19	Vehicle repair shops.	S	S
20	Vehicle / car wash facility.	S	–
21	Veterinarian clinics.	BR	–

Table 3-3 Continued Next Page. See End of Table for Footnotes

Table 3-3 (continued)
Permitted Principal Uses in Commercial and Industrial Districts

PRINCIPAL USES		ZONING DISTRICTS ¹	
		C-1	I-1
Uses of a Primarily Industrial Character¹			
1	Assembly of electrical appliances, electronic instruments and devices, including the manufacture of small parts such as computer parts.	–	BR
2	Building material storage and sales yard, including lumber yards and incidental millwork, and storage facilities for building materials including sand, gravel, stone, lumber, and contractor's equipment.	–	BR
3	Junkyards and salvage yards.	–	S
4	Lumber processing.	–	BR
5	Manufacturing, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, cellophane, fur, glass, canvas, cork, felt, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood, sheet metal, wax, and wire, and the packaging thereof. "Previously prepared materials" are materials processed, manufactured or created at another location and transported to the parcel in this District for assembly into new products.	–	BR
6	Monument and art stone production.	–	BR
7	Plastic molding and extrusion.	–	BR
8	Production, processing or testing for the development or prototyping of a product.	–	S
9	Printing and publishing.	S	BR
10	Tool and die manufacturing establishments.	–	BR
11	Trade schools.	–	S
12	Utility service yards, electrical transformer facilities, utility substations, and similar utility facilities.	–	S
13	Warehousing and storage and transfer establishments.	–	S
Other Uses Not Listed Above¹			
1	Public facilities owned by Newkirk Township including, but not limited to, township hall, storage buildings, cemeteries and parks.	S	S
2	Public facilities not owned by Newkirk Township and not otherwise specified in this Table.	S	–
3	Churches and other religious institutions, and other public or semi-public places of assembly not otherwise specified in this Table.	S	–
4	Clubs, lodges, and similar social, recreational and community centered facilities when not operated for profit.	S	–

Footnotes for Table 3-3

1. Irrespective of the particular labeling of a cell in this Table, any use that exceeds a total of 10,000 sq. ft. in gross floor area, but excluding agricultural and residential structures, whether such floor area is in a single building or part of multiple buildings, is classified as a Special Land Use.

End of Table 3-3

**Table 3-4
 Site Development Requirements¹**

Land uses shall comply with the standards of Table 3-4 in addition to the other provisions of this Ordinance.

Zoning District	Minimum Lot Area	Minimum Lot Width & Frontage	Maximum Building Height	Minimum Yard Setback		
				Front	Side	Rear
C/RR: Conservation / Rural Residential	1 acre (TFD: 2 acres)	150 ft. ² (TFD: 200 ft. ²)	Footnote 3	40 ft. ⁴	20 ft. ⁴	20 ft. ⁴
R-1: Low Density Residential	30,000 sq. ft. (TFD: 50,000 sq. ft.)	90 ft. ² (TFD: 120 ft. ²)	Footnote 3	35 ft. ⁴	15 ft. ⁴	20 ft. ⁴
R-2: Medium Density Residential	20,000 sq. ft. (TFD: 30,000 sq. ft.)	80 ft. ² (TFD: 100 ft. ²)	Footnote 3	30 ft. ⁴	10 ft. ⁴	20 ft. ⁴
R-MHC: Manufactured Housing Community	See Section 3.7					
R-MF: Multiple Family Residential	1 acre	150 ft. ²	Footnote 3	40 ft. ⁴	30 ft. ⁴	30 ft. ⁴
C-1: Local Commercial	1 acre	150 ft. ²	Footnote 3	40 ft. ⁴	15 ft. ⁴	15 ft. ^{4,5}
I-1: Light Industrial	1 acre	150 ft. ²	Footnote 3	40 ft. ⁴	15 ft. ⁴	15 ft. ^{4,5}

TFD = Two-Family Dwelling

Footnotes for Table 3-4

- Land uses shall comply with the standards of Table 3-4 in addition to the other provisions of this Ordinance.
- The minimum frontage/lot width standard of Table 3-4 shall extend from the front lot line toward the rear lot line for a minimum distance of seventy-five (75) feet from the front lot line, and the depth of a lot shall not exceed four (4) times its width. The lot width and frontage standards of Table 3-4 may be reduced by fifty percent (50%) where the lot gains access from a cul-de-sac.
- No limitations on building height shall apply except as follows:
 - Structures and buildings in excess of thirty-five (35) feet in height shall be set back from all lot lines an additional two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet. Agricultural buildings and structures that are part of a farm are not subject to such additional setback provisions. Those portions of architectural features that are purely ornamental in purpose such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles and monuments, and similar features not designed for occupancy, which are no greater than fifteen (15) feet in height, are not subject to such additional setback provisions.
 - In no case shall a wireless communication tower exceed 190' in height inclusive of antennas.
- Unless otherwise provided in this Ordinance, setbacks shall be measured from the lot line to the structure's foundation or other structure wall, whichever is closer. Bay windows, steps, chimneys, and similar minor architectural elements, which do not extend more than two (2) feet from the structure, shall not be included in the setback measurement. Front yard setbacks shall be measured from the front lot line, which is typically the line separating the lot from the public or private road right-of-way from which it gains access. See definition of "lot line, front" in Article 18. For a lot at the corner of two intersecting roads and abutting both roads, the minimum required front yard setback shall apply to both yards abutting such roads. See also Footnote 3.
- Minimum side and rear yard setbacks in the C-1 and I-1 Districts shall be increased to 40 feet in the case where such yard abuts another district other than a C-1 or I-1 District. See also Footnote 3.

Section 3.7 Special District Provisions

A. Manufactured Housing Community District (R-MHC)

1. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Michigan Mobile Home Commission Act, a preliminary plan shall be submitted for review by the Township Board. The preliminary plan shall include the location, layout, general design, and general description of the project. The preliminary plan need not include detailed construction plans. In preparing the preliminary plan and when reviewing the plan, the developer and Township Board shall generally follow the procedures and requirements in Article 5 of this Ordinance, where applicable, except where said procedures and requirements are superseded by the requirements in P.A. 96 of 1987, as amended, or the Manufactured Housing Commission Rules. Pursuant to Section 11 of Public Act 96 of 1987, as amended, the Township Board shall take action of the preliminary plan within sixty (60) days after the Township receives the preliminary plan.
2. All manufactured housing communities shall be constructed and maintained in accordance with the Michigan Mobile Home Commission Act, and the rules and regulations promulgated by the Manufactured Housing Commission pursuant to the Act. The construction of a manufactured housing community shall not be initiated, nor shall a manufactured housing community be inhabited or operated until all necessary permits have been acquired from the Michigan Department of Labor and Economic Growth and all other agencies pursuant to the Mobile Home Commission Act.

End of Article 3

Article 4
(RESERVED)

End of Article 4

Article 5 SITE PLAN REVIEW

Section 5.1 Purpose

It is the purpose of this Article to specify the process that shall be followed in the preparation, review and approval of site plans as required by this Ordinance, including the standards by which such plans shall be evaluated, to ensure that proposed uses subject to site plan review are in conformance with this Ordinance.

Section 5.2 Site Plan Approval Required

A. Uses Requiring Site Plan Approval: Except as provided by subsection (1) below or elsewhere in this Ordinance, site plan approval by the Township Board is required prior to the Zoning Administrator's issuance of a Zoning Permit for all authorized uses including, but not limited to, multiple family developments, commercial and industrial uses, institutions, special land uses, site condominiums, and platted subdivisions.

1. **Exceptions:** Site plan approval shall not be required for farm buildings and single family and two-family dwellings and accessory uses and structures thereto, including temporary dwellings. See Sec. 2.4(B) regarding plot plan approval for single family and two-family dwellings and accessory uses and structures thereto, which require plot plan approval by the Zoning Administrator.

Section 5.3 Review Procedures

A. Preliminary Site Plan Required: Prior to preparing a detailed final site plan and seeking approval of such final site plan, the applicant shall seek approval of a preliminary site plan for the purpose of receiving approval of the general design and layout of the project. A preliminary site plan shall be reviewed and acted upon in the same manner as a final site plan, as delineated in subsections (B) – (E) below.

1. **Level of Detail:** The preliminary site plan shall be prepared according to the manner and information required for a final site plan pursuant to Section 5.3(B), except that detailed construction drawings to address specific site improvements are not necessary. However, the detail of the preliminary information shall adequately portray the arrangement and feasibility of critical components of the project such as, but not limited to, preliminary storm water management including flow direction and preliminary location of detention/retention basins; preliminary grading including approximate limits of clearing and proposed contours at minimum two (2) foot intervals; vehicular circulation including road alignments, parking spaces and parking circulation; lot areas and lot lines; signage; and landscaping.
 - a. A preliminary site plan shall be evaluated according to the level of information required at the preliminary plan level. A preliminary plan shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to this Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes.
2. **Approval Period:** Approval of a preliminary site plan is valid for a period of one (1) year. If a complete final site plan has not been submitted during this period, the approval of the preliminary plan shall be null and void unless the Township Board finds that no changes have occurred to ordinance regulations, abutting properties, or other conditions that suggest revisions to the preliminarily approved Site Plan.
3. **Simultaneous Preliminary/Final Site Plan Approval:** An applicant may voluntarily submit a site plan that is intended to meet both the preliminary and final site plan provisions of this Article, the effect being to avoid the formal and separate preliminary approval phase and seek immediate final site plan approval. An applicant choosing to exercise this option shall clearly specify his/her intention as part of the zoning permit application materials and bears the risk of the preparation of a final site plan without the benefit of Township Board action on a preliminary plan first.

B. Final Site Plan Application Submittal, Distribution and Data: A minimum of fifteen (15) copies of a final site plan shall be submitted to the Zoning Administrator along with any supporting documents and application fee. Upon receipt of the application, the Zoning Administrator shall record the date of their receipt and transmit copies to the Planning Commission and Township Board, and other agencies or individuals selected to review such plans. The Zoning Administrator shall request all reviewing entities to respond within twenty (20) days of receipt of the materials. The Planning Commission and Township Board need not delay taking action on the application if such response has not been received within such period.

1. **Format of Site Plan:** The site plan shall be of a scale not less than 1" = 100' and with a north arrow on each sheet, and shall clearly present the required information. All information depicted shall be designed by a professional engineer, land surveyor, or landscape architect licensed in Michigan and

shall bear the seal and signature of the licensed individual. The site plan shall present all necessary information in a clear and comprehensible fashion.

- a. The Township Board may waive the requirement that the site plan shall be prepared by a professional engineer, land surveyor, or landscape architect, where it determines that the character of the proposed alterations to the lot are of a minimal and non-complex nature such as, by example, where no building and/or paved parking is proposed.
2. Site Plan Information: A final site plan shall include, at a minimum, the following except where the Township Board determines, upon a request by the applicant, that the waiving of specific submittal items, due to the particular character of proposed development or site or surrounding conditions, shall not undermine the ability to effectively evaluate the extent to which the site plan complies with the standards of this Ordinance and protects the public health, safety and welfare. The Township Board may subsequently void this waiver should deliberations reveal the need for additional information.
- a. The applicant's full name, address and phone number, the name and address of the person and firm who prepared the plan, and the date each drawing was prepared or last revised.
 - b. A vicinity sketch showing the location of the property subject to the application in relation to the surrounding road system for a minimum distance of one-thousand (1,000) feet in all directions and the uses and locations of all structures and buildings within one-hundred (100) feet of the property.
 - c. A property line survey, correlated with a legal description, showing property line dimensions and bearings, lot area and graphic scale.
 - d. Existing uses, buildings, structures, roads, easements and all other existing site improvements, with a designation as to which are to be retained, removed, or otherwise altered, and the delineation of any driveways within one-hundred (100) feet of the property.
 - e. Existing natural features on and within one-hundred (100) feet of the site including woodland areas; wetlands; drainage courses, water bodies, and 100-year flood plain areas; topography at no greater than two-foot contour intervals; and soils by type and drainage features according to the County Soil Survey or well/boring logs.
 - f. Required front, side and rear yard setbacks for principal buildings in the district.
 - g. Proposed lots including area, dimensions and lot line bearings; proposed principal and accessory uses, buildings, and structures including trash storage areas, signs, and lighting; the total number of dwelling units; total and usable floor area of each non-residential building; carports or garages; proposed open spaces and type of recreation facilities to be provided; computations associated with the number of parking spaces required and provided; and a project narrative that addresses the intended use of the property and each building proposed.
 - h. Proposed public right-of-ways, private easements, and deed restrictions.
 - i. Proposed roads, drives, and alleys including widths, cross-sections and profiles; acceleration, deceleration and turn lanes; driveways, parking spaces, and parking aisles, with an indication of the total number of spaces and typical space and aisle/driveway dimensions, the direction of travel, and the inside radii of all curves including driveway curb returns; and sidewalks and other non-motorized travel ways. Proposed traffic control measures (including signs) shall also be indicated.
 - j. Proposed source and location of all public and private utilities including potable water, sewage disposal, and electrical and communication lines, and the necessary easements that exist or are to be established for installation, repair and maintenance of such utilities.
 - k. A graphic illustration of the location and extent to which natural features on the site shall be disturbed or otherwise cleared including those under subsection (e) above.
 - l. Proposed landscaping/screening plan in compliance with the requirements of Article 13.
 - m. Proposed grading, storm drainage and storm water management plan, including soil erosion and sedimentation control measures and spot elevations to adequately portray drainage patterns and final elevations and grades. Such plan shall include the location of drainage easements, exterior drains, dry wells, catch basins, retention and/or detention areas, sumps and other facilities designed to collect, store or transport storm water. The point of discharge for all drains and pipes shall be specified on the site plan as well as invert and related elevations, and pipe lengths and slope, to construct the same. Such plans shall document the extent of clearing of vegetation and the extent of other clearing, cuts, fills, or other grading, and the finished floor elevations of all buildings.
 - n. Proposed location and specifications for any existing or proposed above or below ground storage facilities for any toxic or hazardous substances, as well as any containment structures or clear zones required by government authorities; a complete inventory of toxic or hazardous substances to be stored or used on the site, including the quantity of substances, substance names and characteristics; the proximity of such materials to ground water aquifers, wetlands, surface waters, existing and proposed wells, storm sewers, storm drains, and sanitary sewers; and a proposed

storage and disposal plan for such materials including their transfer and/or transport.

- o. Proposed elevation drawings of all buildings, and floor plans for all buildings to be occupied.
- q. A statement identifying all federal, state and local permits required, if any.
- r. Proposed project completion schedule.
- s. Other information as is necessary to enable designated reviewing bodies to determine whether the proposed site plan shall conform to the provisions of this Ordinance.

C. Submittal and Distribution of Site Plans: At least fifteen (15) copies of the site plan and accompanying zoning permit application shall be submitted to the Zoning Administrator. The Zoning Administrator shall record the date of their receipt and transmit five (5) copies thereof to the Planning Commission; five (5) copies thereof to the Township Board; one (1) copy to the Fire Department, one (1) copy to any review professionals or agencies as may be deemed necessary including planners, engineers, attorneys, County Road Commission, and the County Drain Commissioner; and the remaining shall be retained by the Township.

D. Planning Commission Review and Recommendation: The Planning Commission shall review the application and plans and determine their conformity with the provisions of this Ordinance, including the site plan submittal requirements of Section 5.3(B) and the site plan approval standards of Section 5.4. After conducting a review, the Planning Commission shall make recommendations for rejection, approval, or conditional approval of the Site Plan and forward its recommendation to the Township Board.

E. Township Board Review and Action: After conducting a review, the Township Board shall reject, approve, or conditionally approve the Site Plan and accompanying zoning permit application, as it pertains to requirements and standards contained in the Zoning Ordinance. Any conditions required by the Township Board shall be stated in writing and shown on the Site Plan, together with the reasons, and delivered to the applicant. A Site Plan and accompanying zoning permit application shall be approved if it contains the information required by, and is in compliance with this Ordinance, the conditions imposed pursuant to the Ordinance, other Township planning documents, other applicable ordinances, and state and federal statutes. The Township Board may require the submittal of a fully revised final site plan upon its determination that the conditions necessary for the approval of such plan are of an extent or character that a fully revised set of documents is necessary to clearly portray the plan as anticipated to be approved.

1. Issuance of Zoning Permit: Upon approval or conditional approval of the site plan and accompanying zoning permit application by the Township Board, and upon all other approvals as may be required by this Ordinance, such as in the case of a Special Land Use, the Zoning Administrator shall issue a Zoning Permit authorizing the use and construction subject to the approved application.
2. Building Permit Required: Upon issuance of a Zoning Permit, no construction shall be initiated prior to the acquisition of all necessary Building Permits from the Building Inspector unless expressly authorized by the Township Board.

F. Approved Site Plans: Three (3) copies of an approved site plan, with any conditions contained within, shall be maintained as part of the Township records for future review and enforcement. A fourth copy shall be returned to the applicant. Each of the four (4) approved copies shall be signed and dated with the date of approval specified. For identification of the approved plans, each copy shall be signed and dated with the date of approval by the Township Supervisor and Township Clerk. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the approved minutes concerning the variances shall also be filed with the Township records as a part of the site plan and delivered to the applicant.

G. As-Built Drawings: The applicant shall submit three (3) copies of as-built drawings upon completion of construction activities, but no later than sixty (60) days from the issuance of a permit of occupancy by the Building Inspector. Such drawings shall identify all improvements made upon the site including utility services.

Section 5.4 SITE PLAN APPROVAL STANDARDS

A. Specific Site Development Standards: Each preliminary and final site plan shall conform with the specific site development standards of this Ordinance such as requirements pertaining to lot area, lot width, setbacks, heights, permitted uses, nonconformities, signs, road access, potable water, sewage disposal, and screening.

B. General Site Plan Approval Standards: In addition to compliance with the standards of subsection (A) above, all site plans shall comply with the following general site plan approval standards:

1. All elements of the Plan shall be harmoniously and efficiently organized in relation to the size and character of the lot, the manner in which buildings and support facilities on the lot relate to one another, and the character of the proposal as viewed from nearby properties and roads.
2. The Plan shall be of a character that supports the purpose of the District in which the site is located.
3. The site plan shall not impede the normal and orderly development, improvement, or enjoyment of surrounding property for uses permitted in the District, including matters pertaining to visual impacts

- from lighting, signage, outdoor storage, and off-street parking.
4. The site plan shall preserve the environmental character of the site insofar as practical by minimizing the removal or disturbances to on-site natural features such as trees, woodlands, soils, topography, water courses and wetlands.
 5. The site plan shall provide for the removal of storm water so as to minimize on-site flood conditions and assure the well being of the users of the property, while not adversely affecting adjacent properties and public and natural drainage systems due to flooding, erosion, sedimentation, increased rates or quantities of runoff, or other negative impacts. Storm water management plans shall rely on existing drainage patterns to the greatest extent practical and minimize topographic alterations, and incorporate the necessary measures to discourage soil erosion and sedimentation and the discharge of impurities into the groundwater and nearby water courses.
 6. The site plan shall provide vehicular and non-motorized circulation and parking in a manner that ensures visually clear, safe, convenient and efficient travel in the site and at ingress and egress points, including minimizing congestion and conflicting turning patterns, minimizing negative impacts upon abutting properties and roads, coordinating access with the existing and planned public circulation system and improvements thereto, avoiding unnecessary curb cuts and encouraging the use of shared drives where practical, and ensuring that all buildings shall be so arranged as to permit emergency access by some practical means to all sides.
 7. The site plan shall provide for the appropriate location of all necessary and proposed utilities. Underground facilities shall be provided to the greatest extent practical.
 8. Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and public health, safety and welfare. In developments that are intended to be of a mixed-use character, the approving body may require a phasing plan to ensure that the intended dominant character of the development is preserved, such as the specification of a number or percentage of the proposed residential units in a predominantly residential development be constructed prior to or concurrently with nonresidential components.
 9. Site plans shall conform to all applicable Township planning documents including the Newkirk Township Master Plan, other applicable ordinances, and state and federal statutes.

Section 5.5 Conformity To Approved Site Plans

Property which is the subject of site plan approval shall be developed in compliance with the approved site plan and any approved changes thereto. If construction or use of the property does not conform to such approved plans, the approved Zoning Permit shall be subject to revocation pursuant to Section 2.4.

Section 5.6 Changes to Approved Site Plans

A. Site Plan Changes: No changes shall be made to an approved site plan prior to, during, or after construction except according to the following procedures:

1. **Major Changes:** Major changes to an approved site plan shall be reviewed and acted upon according to Section 5.3. A "major change" shall include a change in excess of five (5) feet in the location of vehicular circulation ways, parking areas, or exterior building walls; a change in the number of accesses to a street or alley or any other change impacting the basic circulation pattern and/or traffic flow; a reduction or increase of more than four (4) parking spaces or one-hundred (100) square feet of floor area; an increase in the number of dwelling units or the realignment of lot lines where such realignment exceeds two (2) feet at any single point; or an increase of more than three (3) feet in building height.
2. **Minor Changes:** Minor changes shall be subject to Zoning Administrator approval. Approved changes shall be clearly specified in writing and signed by the Zoning Administrator. The Zoning Administrator shall keep accurate records of approved changes. The Zoning Administrator may defer action on a minor change to the Township Board. Minor changes to an approved site plan shall include changes not otherwise identified as a major change in (A)(1) above including changes to required landscaping and screening where the change will not alter the overall appearance and effectiveness of the required landscaping and screening, and changes to the location, elevation or grade of storm sewer, sanitary sewer, or other utilities where the Township Engineer has approved such changes.

End of Article 5

Article 6 SPECIAL LAND USES

Section 6.1 Purpose

It is the purpose of this Article to specify the process that shall be followed in the review and approval of "special land uses" as authorized by Tables 3-2 and 3-3 of Article 3 and elsewhere in this Ordinance, including the standards by which such applications shall be evaluated to ensure such uses are in conformance with this Ordinance and encourage public health, safety and welfare.

Section 6.2 Review Procedure

- A. Application:** An application for a Zoning Permit for a Special Land Use shall consist of the following:
1. An application form available from the Zoning Administrator, signed by the property owner(s) and applicant(s).
 2. A preliminary site plan prepared according to Sec. 5.3(A).
 3. A detailed description of the proposed project, in narrative form.
- B. Preliminary Approval/Public Hearing:**
1. Application for a Zoning Permit for a Special Land Use shall require preliminary action prior to the submittal of a final application. A preliminary application for a Zoning Permit for a Special Land Use shall follow the same general procedures as delineated for site plan review according to Section 5.3(A) except that upon finding that the application materials are complete, and prior to the Planning Commission forwarding a recommendation to the Township Board, the Planning Commission shall hold a public hearing on such application. Notice of the hearing shall comply with Section 2.11. Following receipt of the Planning Commission's recommendation, the Township Board shall deny, approve, or approve with conditions the application for special land use/site plan approval.
 2. An application for a Zoning Permit for a Special Land Use shall be an application to determine the appropriateness of both the proposed use on the subject property, and the manner in which the proposed use is to be arranged and function on the site as delineated in the required site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
 3. Action on the application by the Planning Commission and Township Board shall each be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission and Township Board shall refer to the approval standards set forth in Sec. 6.6 in addition to those specified for site plan approval (Sec. 5.4) prior to taking action.
- C. Final Approval:** Following approval of a Special Land Use preliminary application, final application approval shall follow the same general procedures as delineated for final site plan review according to Section 5.3(B). A public hearing on the final application, including final site plan, shall not be required provided such final application is substantively similar to the approved preliminary application including both the character and features of the use and site plan.
1. Following receipt of the Planning Commission's recommendation, the Township Board shall deny, approve, or approve with conditions the final application for special land use/site plan. The use and site plan shall be viewed as inseparable and shall be acted upon through a single motion.
 2. Action on the final application by the Planning Commission and Township Board shall each be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions recommended. The Planning Commission and Township Board shall refer to the approval standards set forth in Sec. 6.6 in addition to those specified for site plan approval (Sec. 5.4) prior to taking final action.
- D. Simultaneous Preliminary/Final Approval:** The provisions of Sec. 5.3(A)(3) pertaining to the simultaneous approval of a preliminary and final site plan shall equally apply to the simultaneous approval of a preliminary and final Special Land Use application.

Section 6.3 Appeals

A person aggrieved in association with a Special Land Use decision may appeal the Special Land Use application decision to the Zoning Board of Appeals.

Section 6.4 Reapplication

No application for a Zoning Permit for a Special Land Use which has been denied wholly or in part by the Township Board shall be resubmitted until the expiration of one (1) year from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, as determined by the Township Board. A reapplication shall require a new fee and the process shall follow the provisions of Section 6.2.

Section 6.5 Changes

A. Site Plan: Changes to an approved site plan shall be acted upon according to Section 5.6. In the case where a proposed site plan change constitutes a major change according to Section 5.6, the Planning Commission shall hold a public hearing on such site plan change according to the notice requirements of Section 2.11. If the Township Board determines that such major change would alter the essential character of the site plan, the proposed change shall not occur until such change is applied for and approved according to the application and review procedures of Section 6.2.

B. Use or Activity: A change in the character of the use or activity from what the originally approved Zoning Permit authorized shall not occur until such change is applied for and approved according to the application and review procedures of Section 6.2. Examples requiring a new application and review procedure include the establishment of another special land use, an expansion or increase in intensity of use including but not necessarily limited to the erection of additional buildings, the extension of authorized hours of operation, or the addition of two-hundred (200) square feet or more of floor area.

Section 6.6 Approval Standards

A. General Standards: No Special Land Use application shall be approved except where the application complies with the following standards:

1. Be consistent with the general policies and objectives of the Newkirk Township Master Plan.
2. Be designed, constructed, operated and maintained so as to be compatible with the existing and planned character of the general vicinity, taking into consideration such features as the bulk, placement, and materials of proposed structures, open space areas, lighting, and landscaping and screening.
3. Will not be hazardous, disturbing, or detrimental to the use, peaceful enjoyment, economic value or development of neighboring property, or the vicinity in general, taking into consideration such features as the location of driveways and traffic flow patterns including turning patterns, vehicular and pedestrian safety, the intensity and character of traffic and parking conditions, hours of operation, and the production of noise, glare, vibration, odors, or other external impacts.
4. Not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to the natural environment including air, soil, surface water, and ground water resources.
5. Be served adequately by essential public facilities and services such as roads, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools; and minimize the impact of traffic generated by the proposed development on adjacent properties.
6. Will not create excessive additional requirements at public cost for public facilities and services.
7. Comply with the site plan approval standards of Section 5.4.

B. Specific Standards: In addition to compliance with the above standards in subsection (A), special land uses shall comply with the standards and regulations applicable to each specific land use as may be identified in this Ordinance.

End of Article 6

Article 7 ZONING BOARD of APPEALS (ZBA)

Section 7.1 Purpose

The purpose of this Article is to establish a Zoning Board of Appeals (ZBA) pursuant to Public Act 110 of 2006, including its responsibilities, procedures, and standards of review, to ensure that the objectives of this Ordinance are fully and equitably achieved.

Section 7.2 Creation and Membership

A. Establishment and Appointment of Members: A ZBA is hereby established, to consist of three (3) members appointed by the Township Board by majority vote. One (1) of the members shall be a member of the Planning Commission. One (1) regular or alternate member of a ZBA may be a member of the Township Board but shall not serve as the chairperson. The remaining regular members, and any alternate members, shall be selected from the electors of the Township residing within. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the ZBA.

B. Alternate Members: The Township Board may appoint not more than two (2) alternate members to the ZBA, each appointed for a term of three (3) years. The alternate members shall be called on a rotating basis to sit as regular members of the ZBA in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings of the ZBA. An alternate member may also be called to serve in the 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. An alternate member shall serve on a case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the ZBA.

C. Terms of Appointment: Members shall be appointed for three (3) year terms except in the case of a Planning Commission and/or Township Board member serving on the ZBA, whose terms on the ZBA shall be limited to the time they are members of the Planning Commission or Township Board. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. When the initial members of the ZBA are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment. Members may be reappointed.

D. Removal from Office / Conflict of Interest: A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from deliberations and a vote in which the member has a conflict of interest constitutes malfeasance in office.

Section 7.3 Organization

A. Rules of Procedure and Officers: The ZBA may adopt rules of procedure for the conduct of its meetings and the implementation of its duties. The ZBA shall annually elect from its members a chairperson, vice-chairperson, and secretary.

B. Meetings and Quorum: Meetings of the ZBA shall be held at the call of the chairperson and at such other times as the ZBA in its rules of procedure may specify. A majority of the regular membership of the ZBA shall comprise a quorum, which may include an alternate member(s) sitting in for a regular member(s). The ZBA shall not conduct official business unless a quorum is present. All meetings shall be open to the public and conducted pursuant to the requirements of the Open Meetings Act.

C. Oaths and Witnesses: The chairperson may administer oaths and compel the attendance of witnesses.

D. Records/Minutes: The ZBA shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk, and shall be a public record according to the Freedom of Information Act. All minutes shall state the grounds for each determination, including findings of fact and conclusions.

Section 7.4 Jurisdiction

The ZBA shall act upon questions as they arise in the administration of this Ordinance and take other actions as specified in this Ordinance. The ZBA shall perform its duties and exercise its powers as provided in Public Act 110 of 2006, as amended. The ZBA shall not have the power to alter or change the zoning district classification of any property, nor make any change in the terms or intent of this Ordinance, but shall have the power to act on those matters so specified in this Ordinance including Ordinance interpretations, variances, and the review of an order, requirement, decision, or determination made by an administrative official or body charged with the enforcement of this Ordinance.

Section 7.5 Appeals for Administrative Reviews

A. Authority: The ZBA shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, or decision by the Zoning Administrator or by any other body or official in administering or enforcing the provisions of this Ordinance. Within this capacity the ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of such body or official. The ZBA shall have all the powers of the body or official from whom the appeal is taken.

B. Standards: The ZBA shall reverse or otherwise modify the decision of such body or official from whom the appeal is taken only if it finds that the action or decision appealed:

1. was arbitrary or capricious, or
2. was based upon an erroneous finding of a material fact, or
3. constituted an abuse of discretion, or
4. was based upon erroneous interpretation of the Zoning Ordinance or zoning law, or
5. did not follow required procedures.

C. Procedures:

1. **Application Requirements:** A written application for an appeal for administrative review shall be completed and filed with the Township Clerk on forms established for that purpose, within twenty-one (21) days after the date of the meeting during which the meeting minutes addressing the decision being appealed was approved. Application for an administrative review shall specify, at a minimum, the name, address, and phone number of the applicant; the decision being appealed; and the basis for the appeal. A minimum of seven (7) copies of the application shall be submitted along with any application fees.
2. **Stay:** An appeal for an administrative review filed under this Section stays all proceedings in furtherance of the action appealed unless the officer or body from whom the appeal is taken certifies to the ZBA, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would in the opinion of the officer or body would cause imminent peril to life or property. If such a certification is filed, the proceedings shall only be stayed by a restraining order. A restraining order may be granted by the ZBA or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken and on due cause shown.
3. **Record of Facts / Transmission of Record:** Upon receipt of an application for an administrative review, the officer or body from whom the appeal is taken shall transmit to the ZBA all papers constituting the record upon which the action appealed from was taken. In hearing and deciding appeals under this Section, the ZBA's review shall be based upon the record of the administrative decision being appealed, and the ZBA shall not consider new information which had not been presented to the administrative official or body from whom the appeal is taken except where the ZBA first remands the matter, along with the new information, back to the body that made the original administrative decision, for reconsideration.
4. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
5. **Decision:** The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse or otherwise modify the action subject to the appeal. A member of the ZBA who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing, deliberation, 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 and vote on other unrelated matters involving the same property.

Section 7.6 Interpretations

A. Authority: The ZBA shall hear and decide upon requests to interpret the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one meaning, including the determination of the precise location of the boundary lines between zoning districts (see Sec. 3.3).

B. Procedures:

1. **Application Requirements:** A written application for an interpretation shall be completed and filed with the Township Clerk on forms established for that purpose. Application for an interpretation shall specify, at a minimum, the name, address, and phone number of the applicant; the standard, regulation or provision requiring an interpretation; and a plot plan, site plan, or similar drawing illustrating the application or relevance of such interpretation. A minimum of five (5) copies of the completed application shall be submitted along with any application fees.
2. **Hearing:** Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. **Decision:** The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to make an interpretation. In deciding on an interpretation, the ZBA shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions in the Ordinance.
 - a. Prior to deciding a request for an interpretation, the ZBA may confer with Township staff and consultants to gain insight into the provision subject to interpretation and any consequences which may result from differing decisions.
 - b. A decision providing an interpretation may be accompanied by a recommendation to the Planning Commission for consideration of an amendment of the Ordinance.

Section 7.7 Variances

A. Authority: The ZBA shall have the power to authorize specific variances from specific site development standards contained in this Ordinance, such as lot area and width requirements, building height and setback requirements, yard width and depth requirements, lot depth to width ratio requirements, off-street parking and loading space requirements, and sign requirements. The ZBA shall not have the power to authorize variances from requirements of this Ordinance pertaining to permitted uses of land in a District.

B. Standards: The ZBA shall have the power to authorize variances from specific site development requirements provided that all of the standards listed below are met and the record of proceedings of the ZBA contains evidence supporting each conclusion.

1. That there are practical difficulties that prevent carrying out the strict letter of this Ordinance due to unique circumstances specific to the property such as its narrowness, shallowness, shape, or topography, that do not generally apply to other property or uses in the same district, and shall not be recurrent in nature. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
2. That the practical difficulty or special condition or circumstance is not a result of the actions of the applicant.
3. That the variance will relate only to property described in the variance application.
4. That the variance will be in harmony with the purpose of this Ordinance and the intent of the District, including the protection of public health, safety and welfare in general and vehicular and pedestrian circulation specifically.
5. That the variance will not cause a substantial adverse effect upon surrounding property including property values and the development, use and enjoyment of property in the neighborhood or District.
6. That strict compliance with the site development requirement in question would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
7. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the practical difficulty.

C. Procedures

1. Application Requirements: Application for a variance shall specify, at a minimum, the name, address, and phone number of the applicant; the legal description for the lot subject to the variance; a specification of the Ordinance's standards for which a variance is sought and the specific variance being requested; and a plot plan, site plan, or similar drawing that adequately illustrates the proposed improvements to the lot for which the variance is requested. In all variance proceedings, it shall be the responsibility of the applicant to provide information, plans, testimony and/or evidence from which the ZBA may make the required findings, including any information the applicant may chose to submit to demonstrate conformance with the standards of subsection (B) above. A minimum of five (5) copies of the completed application shall be submitted along with any application fees.
2. Hearing: Upon receipt of an application, the chairperson of the ZBA shall fix a reasonable time and date for a hearing, taking into account adequate time for members of the ZBA to review the application prior to such hearing. Notice of the hearing shall comply with Section 2.11. See Sec. 2.7 regarding timely action. Upon the hearing, any party may appear in person or by agent or attorney.
3. Decision: The ZBA shall render a decision in the form of a motion or resolution containing a full record of the findings and determination of the ZBA, and basis for such determination. The concurring vote of a majority of the members of the ZBA shall be necessary to grant a variance.
 - a. In granting a variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance. See Article 20 (Supplemental Provisions) regarding conditional approvals.
 - b. A variance shall become null and void unless the construction authorized by such variance has been commenced within one (1) year after the granting of the variance; and the occupancy or use of the land, structure, and/or building for which the variance was granted has taken place within one (1) year after the granting of the variance. The ZBA may extend this time limit upon its finding that no substantial changes have occurred to ordinance regulations, abutting properties, or other conditions that undermine the basis for the original issuance of the variance.
 - c. No application for a variance which has been acted upon shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly-discovered evidence or proof of changed conditions having bearing on the basis for the original action, in the discretion of the ZBA.

End of Article 7

Article 8

ZONING MAP and TEXT AMENDMENTS

Section 8.1 Purpose

This Article establishes procedures for the review and action on amendment requests. Requested amendments to this Ordinance shall be processed according to Public Act 110 of 2006, as amended, and in doing so, the procedures of this Article shall be followed. It is not intended that this Ordinance be amended except to correct an error, to address changed or changing conditions including in a particular area in the Township and in strategies to ensure the public health, safety and welfare, to conform with the Master Plan and/or other ordinances of the Township, and to meet a public need for new or additional land uses in appropriate locations.

Section 8.2 Initiation of Amendments

Petitions for amendments may be initiated by the Township Board or Planning Commission, by its own motion, or by petition of one (1) or more owners of property to be affected by the proposed amendment. Only the Township Board may amend this Ordinance.

Section 8.3 Procedures

A. Application, Distribution and Data: A petitioner shall submit twenty (20) copies of a completed application to the Township Clerk on a form established for that purpose, which shall include a detailed description of the proposed amendment including the name, address and phone number of the applicant and the desired change(s) and reason(s) for such change(s), along with any application fees. The Township Clerk shall record the date of their receipt and transmit copies to the Planning Commission, Township Board, and other agencies or individuals selected to review such plans including but not necessarily limited to Township departments and staff, consultants, and the Lake County Road Commission.

1. When the petition involves a change in the Zoning Map, an application shall be submitted for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment, and the applicant shall also submit the following information:
 - a. A legal description of the property, and a scaled map of the property correlated with the legal description and clearly showing the property's location.
 - b. The applicant's name, address and phone number and interest in the property, and if the applicant is not the owner, the name, address and phone number of the owner.
 - c. The desired change and reasons for such change.
 - d. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information.

B. Planning Commission Action

1. **Public Hearing:** The Planning Commission shall review the application materials. Upon finding that the application materials are satisfactorily complete and the Planning Commission has a clear understanding of the requested amendment, the Planning Commission shall establish a date for at least one (1) public hearing on the application and hold such hearing. Notice of the public hearing shall comply with Section 2.11. Any application not properly filed or complete may be returned to the applicant with a written notice of deficiencies.
2. **Planning Commission Review / Recommendation:** In reviewing any amendment application, the Planning Commission shall identify and evaluate all factors relevant to the application.
 - a. If the petition involves an amendment to the official zoning map, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
 - 1) What, if any, identifiable conditions related to the petition have changed which justify the proposed amendment?
 - 2) What is the impact of the amendment on the ability of the Township and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
 - 3) Will the petitioned district change adversely affect the value of the surrounding property?
 - 4) Is the site's environmental features compatible with the host of uses permitted in the proposed district, and will development under the petitioned district change be likely to adversely affect environmental conditions?
 - 5) Can the subject parcel comply with all requirements of the proposed zoning classification?
 - 6) Is the subject property able to be put to a reasonable economic use in the zoning district in which it is presently located?

- 7) Is the proposed rezoning consistent with the zoning classification of surrounding land?
 - 8) Does the petitioned district change generally comply with the Master Plan?
 - 9) What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
- b. If the petition involves an amendment to the text of the Ordinance, matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
- 1) Is the proposed amendment supported by documentation, such as from the Zoning Board of Appeals, that the proposed amendment would minimize problems or conflicts with specific sections of the Ordinance?
 - 2) Is the proposed amendment supported by reference materials, planning and zoning publications, information gained at seminars or experiences of other communities to more effectively address certain zoning issues?
 - 3) Is the proposed amendment supported by significant case law?
3. **Planning Commission Recommendation:** Following the hearing, the Planning Commission shall transmit a summary of comments received at the public hearing to the Township Board, along with its recommended action on the amendment request. The Planning Commission shall also forward its recommended action on the amendment request to the Lake County Planning Commission .

C. Township Board Action

1. After receiving the findings and recommendations of the Planning Commission, the Township Board at any regular meeting or at any special meeting called for that purpose, shall consider said findings and recommendations. The Township Board may refer any proposed amendment back to the Planning Commission for further consideration and comment within a time specified by the Township Board. The Township Board may adopt the amendment, with or without changes. Such action shall be by Ordinance, requiring a majority vote of the Township Board.
 - a. If the Township Board has not received County Planning Commission comments within thirty (30) days of the submittal of the Township Planning Commission's recommendation, the Township Board need not delay taking action on the amendments.
 - b. The Township Board may hold additional public hearings if the Township Board considers it necessary. The Township Board shall grant a hearing on the proposed amendment to any interested property owner who has filed a written request to be heard. Such written request shall take the form of a certified mail letter from the property owner to the Township Clerk. A hearing under this subsection (a) is not subject to the requirements of Section 2.11, except that notice of the hearing shall be given to the interested property owner according to Section 2.11(A) and (C). The Township Board may require the property owner to justify the property owner's interest on which the additional hearing request is based.

D. Publication of Notice of Ordinance Amendments: Following adoption of amendments by the Township Board, the amendments shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Promptly following adoption of an amendment by the Township Board, a copy of the notice of adoption shall also be mailed to the airport manager of each airport that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice. The adoption notice shall provide either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment, and the effective date of the amended Ordinance and the place and time where a copy of the amendment ordinance may be purchased or inspected.

1. **Effective Date:** The effective date of an amendment shall be the expiration of eight (8) days after publication of the notice of adoption as provided in (D) above except where the Township Board expressly provides a greater number of days.

Section 8.4 Resubmittal

No application for an amendment which has been denied by the Township Board shall be resubmitted 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 Planning Commission to be valid.

End of Article 8

Article 9
RESERVED

End of Article 9

Article 10

NONCONFORMING LOTS, USES and STRUCTURES

Section 10.1 Purpose

It is recognized that there exists lots, structures and uses of land and structures within the districts established by this Ordinance and subsequent amendments, which were lawful before this Ordinance was passed or amended, and which would be prohibited, regulated or restricted under the terms of this Ordinance or subsequent amendment. It is the purpose of this Article to permit legal nonconforming lots, structures and uses to continue until they are removed or discontinued, and to provide for their maintenance and repair but not their expansion, enlargement, extension or other alteration which in any way increases its nonconformity, except as otherwise provided by this Article.

Section 10.2 Nonconforming Lots

A. Notwithstanding limitations imposed by other provisions of this Ordinance, any use and customary accessory structures may be erected on any single lot recorded with the County Register of Deeds prior to the effective date of adoption or amendment of this Ordinance, where such use is an authorized use by right in said District according to Article 3, even though such lot fails to meet the requirements for area, width, and/or frontage that are applicable in the district. However, all yard dimensions, setbacks and other requirements not involving area, width, and/or frontage, shall conform to the regulations for the district in which such lot is located unless a variance is obtained through approval of the Zoning Board of Appeals.

Section 10.3 Nonconforming Uses

A. Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A nonconforming use may be enlarged or increased in area to occupy a greater area of a building or land than was occupied at the effective date of adoption or amendment of this Ordinance. Any outdoor expansion of a nonconforming use or relocation to another location on the lot, or expansion or enlargement of a building occupied by a nonconforming use, shall be subject to site plan approval (Article 5) and a public hearing to receive public comment on such site plan.
2. A change of tenancy or ownership of a nonconforming use is allowed provided there is no increase in the degree of nonconformance of the nonconforming use.
3. Irrespective of other requirements of this Article, if no structural alterations are made, any nonconforming use of a structure and lot may be changed to another nonconforming use of less nonconformance, provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the District than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require appropriate conditions and safeguards in accord with the purpose of this Article. Where a nonconforming use, structure, or use and structure in combination is hereafter changed to a less nonconforming character, it shall not thereafter be changed to a greater nonconforming character.
4. Any nonconforming use of land or nonconforming use of a structure, or combination thereof, which is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such use is located, and the nonconforming use may not thereafter be resumed.
5. If a nonconforming use is not re-established within thirty-six (36) months from the date it was terminated or otherwise abandoned, or from the date of its destruction, the subsequent use of such lot shall thereafter conform to the regulations and provisions of this Ordinance for the district in which such lot is located.

Section 10.4 Nonconforming Structures

A. Existing Structure: Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance or subsequent amendment by reason of restrictions on height, setbacks 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:

1. No nonconforming structure may be enlarged or altered in any way which increases its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement value, exclusive of foundations, it shall not be reconstructed except in conformity with the provisions of this Ordinance, including the respective site development standards for the District in which it is located. In identifying the extent of destruction and the cost to replace the damaged structure, the Zoning Administrator may seek a written opinion from a qualified building appraiser and the opinion shall include the basis for the appraiser's conclusion.
 - a. The limitations of this subsection (2) shall not apply in the case of the replacement of a nonconforming structure where the replacement structure is completed to an extent equal to fifty percent (50%) of its construction cost within eighteen (18) months of the previous structure's destruction, and the replacement structure is no more nonconforming than the previous destroyed structure.
3. Should such structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 10.5 Repairs and Maintenance

Nothing in this Article shall be deemed to prohibit repairs, maintenance, and structural alterations to a nonconforming structure provided such work does not result in an increase in the structure's nonconformity including an increase in the cubic content of the portion of the structure that is nonconforming. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by the Building Inspector.

Section 10.6 District Changes

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district, the provisions of this Article shall also apply to any existing lots, uses and structures that become nonconforming as a result of the boundary changes.

Section 10.7 Illegal Nonconformities

Nonconforming lots, uses and structures existing on the effective date of this Ordinance or amendment thereto, that were established without approval of zoning compliance or without a valid building permit, except those existing prior to the requirement for a Township zoning permit or County building permit, shall be declared illegal nonconformities and shall not be entitled to the status and rights accorded legally established nonconformities by this Article.

End of Article 10

Article 11 SIGNS

Section 11.1 Purpose

The purpose of this Article is to provide a framework within which the identification and informational needs of all uses, including the legitimate needs of business, industry and other activities in attaining their identification and informational objectives, can be balanced with the desires to minimize negative impacts of unrestricted signage including traffic safety hazards, visual clutter and blight, and the undermining of the township's desired character.

Section 11.2 Definitions

- A. Sign Area:** The area of a 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 single parallelogram or rectangle, including any framing. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where (2) such similarly shaped faces are placed back-to-back, parallel to one another and less than one (1) foot apart from one another, the area of the sign shall be the area of one (1) face.
- B. Business Sign:** A sign advertising the name, services, goods or any other aspect or feature of a commercial or industrial business.
- C. Freestanding Sign:** A sign which is permanent in nature as compared to a portable sign, and which is not attached to a building.
- D. Off-Premises Sign:** A sign which identifies goods, services, facilities, events, or attractions which are available or provided at a location other than the lot or parcel upon which such sign is located.
- E. Portable Sign:** Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building, including but not limited to "A-frame", "T-frame", or inverted "T-shaped" structures, including those signs mounted on wheeled trailers.
- F. Sign:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or other representation, or combination thereof, by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or product, which is located upon any land or on any building.
- G. Wall Sign:** A sign which is attached directly to a building wall with the sign area surface flat against or generally parallel to the building wall, including signs painted on a building wall.

Section 11.3 Signs Requiring Permits

All freestanding signs, and all wall signs greater than fifteen (15) square feet in sign area, shall require a zoning permit prior to construction and/or placement. If site plan review is required for a proposed project which a proposed sign shall be part of, the signage shall be reviewed as part of the site plan review procedure for the entire project. If the proposed sign 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 application to assure all applicable ordinance standards have been met prior to issuing a zoning permit for the sign. The Zoning Administrator may defer action on proposed signage to the Township Board.

Section 11.4 General Regulations

A. Signs Not To Constitute A Traffic Hazard

1. No sign shall be erected along a road in such a manner as to obstruct free and clear vision of oncoming traffic or vehicles attempting to access such road. A sign located near the intersection of two (2) roads shall be setback from all road right-of-way or easement lines a minimum distance of thirty (30) feet.
2. No sign shall be erected at any location where by reason of the design, position, shape or color, such sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. No sign shall 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 traffic.
3. Signs may be illuminated, but no flashing, blinking or moving illumination shall be permitted. The source of illumination shall be shielded from traffic and adjacent lots.

B. Construction and Maintenance: All signs shall be constructed and maintained in a manner consistent with building code provisions and maintained in good structural and aesthetic condition at all times. All signs shall be kept neatly painted, stained, sealed or preserved including all metal parts and supports.

- C. Height / Setback Limitations:** All signs shall comply with the height and setback provisions of this Article.
1. Freestanding sign setbacks shall be measured from the nearest edge of the sign where it makes contact with the ground to the respective lot line. In the case where any part of a sign extends horizontally beyond the sign's support below, such as in the case of a pole mounted sign, such setback shall be measured from the point below the nearest edge of the sign extending beyond such supporting structure toward such lot line, according to an imaginary vertical line extending from such nearest edge to the ground below.
 2. The height of a freestanding 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, excluding any berms or other artificial means intended to increase the height of a sign.
- D. Permitted Signs:** The following signs are permitted according to the limitations specified:
1. Wall Signs: Wall signs on a lot are permitted according to Table 11-1. There shall be no limitation on the number of wall signs provided the total sign area on a building or structure complies with Table 11-1.
 2. Freestanding Signs: Freestanding signs on a lot are permitted according to Table 11-1.
 3. Portable Signs: One (1) portable sign is permitted on a lot provided such sign does not exceed ten (10) square feet in sign area and four (4) feet in height and is set back a minimum distance of ten (10) feet from all lot lines. Such sign is permitted in addition to the other signs authorized by this Article.
 4. Off-Premises Signs: One (1) off-premises sign is permitted on a lot provided such sign does not exceed ten (10) square feet in sign area and four (4) feet in height and is set back a minimum distance of ten (10) feet from all lot lines. Such sign is permitted in addition to the other signs authorized by this Article.
 5. Other Signs: In addition to the authorized signs above, all other signs not exceeding six (6) square feet are permitted.

Section 11.5 Nonconforming Signs

Nonconforming signs shall be subject to the nonconforming structure provisions of Article 10.

**Table 11-1
 STANDARDS for SIGNS**

Wall signs and freestanding signs on a lot shall comply with the provisions of this Table including the clarification provisions below:

1. In the case of a corner lot with a minimum of one hundred (100) feet of frontage along each road, the freestanding sign provisions of this Table shall apply to each frontage separately.
2. Irrespective of the provisions of this Table, the maximum freestanding sign area for a governmental agency, religious institution, school, museum, library, or other similar institution, shall be thirty-two (32) square feet and may include one (1) additional changeable message board of no greater than thirty-two (32) square feet.
3. "Building façade," as used in this Table for the C-1 and I-1 Districts, is defined as the vertical surface area of the building wall generally oriented to the road frontage or parking area, as applicable.
4. In the case of a grouping of three (3) or more businesses on one (1) or more lots that share parking and access and are linked architecturally or otherwise developed as a unified grouping of businesses, the one (1) freestanding sign authorized by Table 11-1 shall not exceed forty (40) square feet.

ZONING DISTRICT	WALL SIGNS	FREE STANDING SIGN			
	Maximum Total Sign Area	Maximum Height	Maximum Number	Maximum Sign Area	Minimum Setback
CR	24 sq. ft.	6 ft.	1	24 sq. ft.	15 ft.
R-1 and R-2	24 sq. ft.	6 ft.	1	24 sq. ft.	15 ft.
R-MF	24 sq. ft.	6 ft.	1	24 sq. ft.	15 ft.
R-MHC	24 sq. ft.	6 ft.	1	24 sq. ft.	15 ft.
C-1	25% of building facade	20 ft.	1	32 sq. ft.	15 ft.
I-1	10% of building facade	10 ft.	1	32 sq. ft.	15 ft.

End of Article 11

**Article 12 – Article 16
Reserved for Future Use**

End of Articles 12 – 16

Article 17 SUPPLEMENTAL PROVISIONS

Section 17.1 Purpose

The purpose of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standards in addition to the regulations contained elsewhere in this Ordinance, and to establish such provisions. The following supplemental provisions apply to all zoning districts unless otherwise indicated.

Section 17.2 Lots to Have Access

All lots shall have frontage on a public road or access easement recorded in the office of the County Register of Deeds, and take their access from such frontage so as to assure access for fire protection and other emergency vehicles, and any required off-street parking.

Section 17.3 One Dwelling Unit Per Lot

No more than one (1) dwelling unit shall be established on any lot unless specifically provided for elsewhere in this Ordinance, such as in the case of the authorization of two-family dwellings, multiple family developments, and temporary dwellings according to Section 17.12.

Section 17.4 Moving Buildings

No existing building or structure within or outside of the Township shall be relocated upon any lot within the Township unless the building or structure meets all provisions of this Ordinance and the State Construction Code.

Section 17.5 Essential Services

Essential services as defined in this Ordinance shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention of this Ordinance to exempt such services from the application of this Ordinance. This exception shall not apply to administrative buildings, communication towers, public utility storage yards, and similar above-ground structures and uses associated with such essential services.

Section 17.6 Potable Water and Sewage Disposal

Any building intended for human occupancy and used for dwelling, businesses, industrial, recreational, or institutional purposes shall not be erected, altered, used or moved upon any premises unless said building shall be provided and maintained with an adequate potable water supply and means of collection, treatment, and disposal of generated wastes, including human excreta and domestic, commercial, and industrial wastes, in accordance with the requirements and standards of the Lake County Health Department as well as those of other applicable local, county, state, or federal agencies.

Section 17.7 Vibration

The operation of any land use including equipment and devices that creates vibrations that are typically discernible by human senses at or beyond the lot line of the source is prohibited. For the purposes of this Section, "typically discernible by human senses" means vibrational motion of such character to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or observation of moving objects.

Section 17.8 Glare and Heat

The operation of any land use that produces glare or heat shall be conducted within an enclosed building or other screened so as to be completely imperceptible from any point at or beyond the lot lines of the lot upon which the source of glare or heat is located.

Section 17.9 Environmental Protection

All land uses and construction activities shall conform to the provisions of this Ordinance and all local, county, state and federal regulations such as, but not limited to, those of the Michigan Department of Natural Resources and Environment including those applying to air and water quality protection, wetlands, stream crossings, fills in or near water bodies or in flood plains, and waste disposal; the Lake County Drain Commissioner including those pertaining to grading and storm water management; the Lake County Health Department including those pertaining to sewage disposal and potable water; and agencies regulating the loading/unloading, transport, storage, use and/or disposal of hazardous substances including fuels and other flammable liquids.

Section 17.10 Conditional Approvals

A. Conditions on Discretionary Decisions: The Planning Commission, Zoning Board of Appeals, and Township Board may attach conditions to the approval of a site plan, special land use, variance or other discretionary approval. Such conditions shall be based upon standards in this Ordinance and may be imposed to:

1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
2. Protect the natural environment and conserve natural resources and energy.
3. Insure compatibility with adjacent uses of land.
4. Promote the use of land in a socially and economically desirable manner.

B. Requirements for Valid Conditions: Conditions imposed shall meet all of the following requirements:

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

C. Record of Conditions and Changes: Any conditions imposed shall be recorded in the record of the approval action. These conditions shall not be changed except upon the mutual consent of the approving body and the property owner.

D Screening: Approval of a site plan according to Article 5 may be conditioned on the provision of landscaping or screening measures intended to minimize potential negative visual or audial impacts upon neighboring uses such as, by example, the screening of loading/unloading areas or other service areas and the screening of a parking lot from nearby residences. Such measures may include trees, shrubs, fences, walls and/or berms. Where such landscaping or screening may be required, the site plan approving body shall specify how such landscaping and screening is to be implemented includes the locations for the screening, the number of trees and/or shrubs to be installed in such locations, minimum size requirements of the plant materials, and general guidelines for plant species to ensure the screening will provide the desired effect.

Section 17.11 Single Family Dwelling Standards

All single family dwellings shall comply with the following standards, provided that the foregoing standards shall not apply to temporary dwellings (Sec. 17.12), or mobile homes located in a licensed manufactured housing community, except to the extent required by State and Federal law.

A. Single family dwellings shall comply in all respects with the State Construction Code. Where a dwelling is required by law to comply with federal or state standards or regulations for construction (as in the case of mobile homes) and where such standards or regulations for construction are different than those imposed by the State Construction Code, then and in that event such federal or state standard or regulation shall apply.

B. All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the State Construction Code. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device, and shall be set on a concrete footing with a masonry wall extending from the perimeter wall of the dwelling to ground, or on a concrete footing with fireproof supports and shall have a continuous skirt extending from perimeter to ground, and comply with the rules and regulations of the Michigan Mobile Home Commission, the Public Health Department, and HUD Regulations 24 CFR 3280, being the "Mobile Home Construction and Safety Standards".

- C. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed and there shall be no exposed towing mechanism, undercarriage or chassis.
- D. All dwellings shall be connected to a public sewer and water supply or to such private facilities approved by the County Health Department.
- E. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable State Construction Code provisions and requirements.

Section 17.12 Temporary Dwellings

- A. Authorization/Application:** A mobile home shall not be established on any lot on a temporary basis except where expressly authorized by the Zoning Administrator through the issuance of a zoning permit for such temporary dwelling. Said permit shall be in effect for no greater than one-hundred eighty (180) days and the Zoning Administrator may grant a single extension for no more than the same period upon a finding that, in the case of (B)(1) and (2) below, the applicant has made a good faith effort to initiate and complete construction of the permanent dwelling. A permit for a temporary dwelling shall not be issued except as provided by subsections (B) and (C) below.
- B. Basis for Temporary Dwelling:** No permit for a temporary dwelling shall be issued except for the following purposes:
 - 1. Emergency Housing: To allow a mobile home to be placed on a lot while a permanent dwelling on the same lot is under repair, for which all necessary permits have been issued, where such repair is due to destruction by fire, collapse, explosion, or other event, to an extent that it is no longer safe for occupancy.
 - 2. New Home Under Construction: To allow a mobile home to be placed on a lot while the permanent dwelling on the same lot is under construction and for which all necessary permits have been issued.
 - 3. Care of Ailing Relative: To allow a mobile home to be placed on the lot to facilitate the care of a person related by blood, marriage, or adoption, to a resident of a lawful permanent dwelling on the same lot.
- C. Standards:** A mobile home established on a temporary basis pursuant to this Section 17.12 shall comply with all provisions of this Ordinance including but not limited to the district's requirements for principal building setbacks, and there are adequate provisions for potable water and sewage disposal in compliance with county health department rules and regulations.
- D. Duration and Removal:** The temporary dwelling shall be removed from the lot no later than one (1) year from the permit issuance date, or a sooner date as the Zoning Administrator may specify.

Section 17.13 Site Condominiums

- A. Intent:** The intent of this Section is to provide regulatory provisions for site condominium projects similar to those required for projects developed under other forms of ownership. This section is not intended to prohibit or treat proposed or existing condominium projects different than projects developed under another form of ownership.
- B. Applicability of District Regulations:** A site condominium project, including single family detached units, shall comply with all applicable site development standards of the district within which it is located including use, setback, height, coverage and area requirements, and all other provisions of this Ordinance. A condominium unit in a site condominium is that portion of the project intended to function generally similar to a platted subdivision lot and shall comply with the minimum lot area, width and yard setbacks of the District within which it is located.
- C. Review and Approval Procedures:**
 - 1. Zoning Permit / Site Plan Approval Required: No grading or any other form of construction shall be initiated for a site condominium prior to the approval of a final site plan and issuance of a zoning permit. The future erection of any dwelling or other structure or building in the site condominium, not expressly approved as part of the final site plan, shall require an additional zoning permit prior to erection. The issuance of a zoning permit shall require the submittal and approval of a preliminary and final site plan pursuant to Article 5, Site Plan Review, and master deed and bylaw documents.
 - a. In addition to the preliminary and final site plan information required by Article 5, the applicant shall also submit information constituting a condominium subdivision plan, including the size, location, area, width, and boundaries of each condominium unit; building locations; the nature, location, and approximate size of common elements; and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

2. **Master Deed/Bylaws Approval Required:** The applicant shall include as part of the zoning permit application a copy of the proposed master deed and bylaws. These shall be reviewed for compliance with Township ordinances and to ensure that an assessment mechanism has been included to guarantee adequate funding for maintenance of all common elements. The common area funding responsibility of the association shall include any necessary drainage-ways and the cost to periodically clean out such drainage ways to keep them functioning as intended in the approved plans. The master deed shall clearly state the responsibility of the owner and co-owners and shall state that all amendments to the master deed must conform to Township, County, and state laws and regulations. The Master Deed shall also include any variances granted by Township, County, or State authorities and include a hold harmless clause from these variances. All provisions of the condominium subdivision plan which are approved by the Township Board shall be incorporated, as approved, in the master deed for the condominium subdivision.
3. **Issuance of Zoning Permit:** Upon approval of the final site plan, by-laws and master deed, the applicant shall furnish the Planning Commission a copy of the final bylaws and master deed, and a copy of the approved site plan. Upon the satisfactory submittal of these documents, the Township Board shall direct the Zoning Administrator to issue a zoning permit.
4. **Changes:** Any changes to an approved site condominium including changes in the by-laws, master deed, or site plan, including changes in lot line or road configuration and the addition or relocation of buildings, shall require approval by the Township Board prior to such change.

D. Building Permit: No building shall be erected prior to the issuance of a zoning permit by the Zoning Administrator and a building permit by the Building Inspector.

E. As-Built Plan and Occupancy: Submission of as-built plans of a condominium subdivision is required. The Township Board may allow occupancy of the project before all required improvements are installed provided that a financial performance guarantee is posted.

F. Monuments: All condominium units which are building sites shall be marked with monuments as if such units were lots within a platted subdivision, and such monuments shall comply with the requirements of the P.A. 591 of 1996, the Land Division Act, as amended.

Section 17.14 Home Occupations

A. Definitions: For the purpose of this Section and Ordinance, the following phrases and definitions shall apply:

1. **Home Occupation:** An occupation or profession conducted on the same lot as a dwelling, accessory to and incidental to the principal residential use of the premises, and complies with the standards of this Section.

B. Authorization: A home occupation is permitted as an accessory use to the principal residential use of a lot. A zoning permit for such an occupation is not required, but such occupation shall comply with the standards of subsection (C) below.

C. Standards: Home occupations shall comply with the following standards:

1. The occupation 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 residential character of the premises including both the dwelling and yard areas.
2. The occupation shall not produce any noise, odors, vibration, fumes or smoke detectable to normal sensory perception beyond the lot lines. No equipment or process shall be used which creates electrical interference in any radio, television, or communication receivers off the premises, or cause fluctuations in line voltage off the premises.
3. A resident of the dwelling on the lot shall be actively and personally engaged in and be responsible for all home occupation operations.
4. The home occupation shall not involve the use or storage of explosive, flammable, or otherwise hazardous materials and waste not otherwise of a customary household nature. Refuse generated by the occupation shall be safely and properly disposed of.
5. A home occupation *conducted within the dwelling* shall not occupy an area greater than thirty percent (30%) of the gross floor area of the dwelling including the basement.
6. No more than three (3) persons shall be present on the premises during the ordinary course of business excluding employees residing in the dwelling.
7. A home occupation shall not cause a noticeable increase in traffic beyond that reasonably associated with a single family dwelling.
8. Any portion of a home occupation that may be located outdoors, including the storage of equipment and materials, shall be set back a minimum distance of sixty (60) feet from all lot lines and fully screened from nearby roads and lots.

End of Article 17

Article 18 DEFINITIONS

Section 18.1 Construction of Language

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- A.** Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- B.** The word "person" includes a corporation, association, partnership, trust, firm, or similar activity as well as an individual.
- C.** The word "building" includes the word "structure" and both include any part thereof.
- D.** The word "lot" includes the word "plot", "tract", or "parcel".
- E.** The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- F.** The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended to be used or occupied," "arranged to be used or occupied," "maintained to be used or occupied," or "designed to be used or occupied."
- G.** The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, and schedules, as included or attached as enacted or subsequently amended.
- H.** Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates the connected items, conditions, provisions or events may apply singly or in any combination.
 - 3. "Either/or" indicates that the connected items, conditions, provisions, or events shall apply singly, but not in combination.
- I.** The "Township" is the Township of Newkirk in the County of Lake, State of Michigan. The "Township Board", "Zoning Board of Appeals" and "Planning Commission" are, respectively, the Board of Trustees, Zoning Board of Appeals, and Planning Commission of the Township.
- J.** Any word or term not interpreted or defined by this Ordinance shall be used with a meaning of common or standard utilization. A dictionary may be consulted.
- K.** Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

Section 18.2 Definitions

Accessory Building or Structure: A building or structure customarily incidental and subordinate to the principal structure and located on the same lot as the principal building.

Accessory Use: A use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Adult Foster Care Facility: An establishment licensed under Public Act 218 of 1979, as amended, that provides to adults, for compensation, supervision, personal care, and protection in addition to room and board, for 24 hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks, including facilities for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. A foster care facility does not include a home for the aged licensed under Article 17 of Public Act 368 of 1978, as amended, nor a nursing home licensed under Public Act 139 of 1956, as amended.

a. **Family Home:** An adult foster care facility consisting of a private residence with the approved capacity to receive six (6) or fewer adults, the licensee for which shall be a member of the household and an occupant of the residence.

b. **Group Home:** An adult foster care facility with the approved capacity to receive seven (7) but no more than twenty (20) adults.

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

Agriculture: The commercial production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. "Agriculture" includes buildings and machinery used in such commercial production. "Agriculture" does not include "kennels."

Bed and Breakfast: A structure that was constructed for single family residential purposes but which may be used for the purpose of renting bedrooms on a nightly basis to tourists, including the provision of bathing and lavatory facilities and a breakfast meal for overnight guests only.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes but is not limited to garages, greenhouses, tents, sheds, and dwellings including mobile homes.

Building Height: The vertical distance from the average of the highest and lowest finished grade along the perimeter wall of the building to the highest point of the roof surface.

Building Inspector: An individual hired by the Township or Lake County to administer the Michigan Construction Code.

Certificate of Occupancy: A document signed by the Building Inspector as a condition precedent to the commencement of a use or the occupation of a structure or building which acknowledges that such use, structure or building complies with the provisions of this Ordinance and the Michigan Construction Code.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit nor open to the general public, and does not provide merchandise, vending, or commercial activities except incidentally for the membership and purpose of such club.

Commercial Campground: A parcel on which sites are offered for the establishment of temporary living quarters, and which is not owned and operated by an agency or department of a township, county or state government. Temporary living quarters means a tent, recreational vehicle, or any portable temporary housing designed to be carried or towed by a vehicle and placed for temporary living quarters.

Communication Tower: A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations that preempt municipal regulatory authority.

Condominium: A project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Public Act 59 of 1978, as amended).

Condominium Master Deed: The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project.

Condominium, Site: A condominium project designed to function in a similar manner, or as an alternative to a platted subdivision, wherein in the condominium units function largely as lots within a platted subdivision.

Condominium Subdivision Plan: The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

Condominium Unit: That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land as in the case of a site condominium, or space which either encloses or is enclosed by a building. A condominium unit in a site condominium shall be equivalent to the term "lot" for the purposes of determining compliance of the site condominium with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, setbacks, maximum lot coverage, and similar standards pertaining to lots.

Convalescent Home: A facility that houses disabled persons who receive a wide range of health and support services including the provision of meals and nursing care for a fee (also referred to as a nursing home).

Day Care Center: A facility, other than a private residence, receiving 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. Day care center includes a facility which provides care for not less than 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.

Day Care, Family Home: A private home in which the operator permanently resides as a member of the household 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 4 weeks during a calendar year.

Day Care, Group Home: A private home in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (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 more than six unrelated minor children for more than 4 weeks during a calendar year.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations. A "district" is also known as a "zone" or "zoning district".

Drive-In / Drive-Through Establishment: A business establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Driveway: A means of access for vehicles from a road or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any requirements of the Lake County Road Commission and Michigan Department of Transportation.

Dwelling, Multiple Family: A building containing three (3) or more dwelling units designed for residential use for three or more families living independently of each other.

Dwelling, Single Family: A detached building or portion thereof designed and used exclusively by one family for living, cooking and sleeping purposes.

Dwelling, Two Family (Duplex): A building containing not more than two separate dwelling units.

Dwelling Unit: One or more rooms with bathroom and principal kitchen facilities designed as a self contained unit for occupancy by one family for living, cooking and sleeping purposes.

Erected: Anything built, constructed, reconstructed, moved upon, or any physical activity upon a premises or lot required for the structure. Excavations, fill, drainage, and the like, shall be considered a part of "erection" when done in conjunction with a structure.

Excavation: Any breaking of ground, except common household gardening, farming and ground care.

Extraction Operation: The removal, extraction, or mining of sand, gravel or similar material for commercial gain. Extraction operations shall not include the removal of sand, gravel or similar material in association with the construction of a building or swimming pool provided such construction has received all necessary approvals under this Ordinance including plot plan or site plan approval, soil erosion and sedimentation control permits, and the issuance of a zoning permit and building permit.

Family:

- a. An individual or group of two or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than two additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit; or
- b. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period. This definition shall not apply in instances of group care centers, or state licensed residential facilities as established under P.A. 395 of 1976, as amended.

- Fence:** An accessory structure artificially constructed to serve as an obscuring screen, physical barrier, and/or decorative landscape element.
- Flag Lot:** A lot whose access to a road is by a narrow, private right-of-way that is either a part of the lot or an easement across another lot, and does not meet the width or frontage requirements of the district in which it is located. (See Figure 18-1 at end of this Section)
- Frontage:** The total continuous length of the front lot line.
- Garage:** An accessory building or an accessory portion of a principal building designed or used primarily for the storage of non-commercial motor vehicles, boats, motor homes, snowmobiles, and similar vehicles owned and used by the occupants of the building to which it is accessory.
- Golf Course/Country Club:** A golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as a principal use.
- Home Occupation:** See Section 17.14.
- Hospital:** An institution which is licensed by the State of Michigan to provide in-patient and out-patient medical and surgical services for the sick and injured.
- Hotel:** See "motel."
- Junkyard:** Any land or building used: 1) for the abandonment, storage, keeping, collecting, or baling of paper, rags, scrap metals, or other scrap or discarded materials; or 2) for the abandonment, demolition, dismantling, storage or salvaging of machinery or vehicles not in normal operating condition, or parts thereof. A junkyard may also be referred to as a salvage yard.
- Kennel:** A lot or premises on which three (3) or more dogs, or three (3) or more cats, or a total of six (6) domesticated animals, six (6) months of age or older, are kept temporarily for the purpose of boarding, for commercial gain.
- Lot:** A tract of land occupied, or intended to be occupied, by one or more buildings or uses, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may include a platted lot or portion thereof, a parcel of land described by metes and bounds or a portion of such parcel described by metes and bounds. Within a site condominium, a condominium unit shall be synonymous with a lot for the purposes of compliance with this Ordinance.
- Lot Area:** The area of the horizontal plane within the lot lines of a lot, exclusive of any public or private road right-of-way or easement abutting any side of the lot.
- Lot Depth:** The distance from the front lot line of the lot to its opposite rear line, measured midway between the side lot lines.
- Lot Lines:** The lines bounding a lot (see Figure 18-1 at end of this Section).
- Lot Line, Front:** The lot line separating said lot from the public or private road right-of-way from which it gains access. A lot at the corner of two intersecting roads and abutting both roads shall have two (2) front lot lines. The front lot line of a flag lot shall be the interior lot line most parallel to and nearest the road from which access is obtained.
 - Lot Line, Rear:** The lot line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot, an imaginary line at least ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. In the case of a lot adjacent to a lake, river, stream or other water body, the rear lot line shall be the ordinary high water mark of such water body.
 - Lot Line, Side:** Any lot line other than a front or rear lot line.
- Lot Width:** The straight line horizontal distance between the side lot lines (see Figure 18-1 at end of Section).
- Lumber Processing:** A facility of a permanent nature where harvested trees are cut, split, shaved, stripped, chipped or otherwise processed to produce wood products including the processing of harvested trees that may be transported to the processing facility.
- Manufactured Housing:** A dwelling unit which is designed for long term residential use and is wholly or substantially constructed at an off-site location, including mobile homes and modular housing units.
- Manufactured Housing Community:** A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

- Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.
- Master Plan:** The statement of policy by the Township Planning Commission relative to the agreed upon and officially adopted guidelines for a desirable physical pattern for future community development, land use, and preservation. The plan, developed pursuant to Public Act 33 of 2008, as amended, the Planning Enabling Act.
- Medical Clinic:** An establishment where human patients, not lodged overnight, are admitted for examination and treatment by a group of physicians, dentists, or similar professionals.
- Mini Storage:** A building or group of buildings that contains individual compartmentalized and controlled access stalls or lockers for the storage of customer's goods or wares which are generally not used on a daily basis.
- Mobile Home:** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term mobile home shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, converted buses, tent trailers, or other transportable structures designed for temporary use.
- Motel:** A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers. The term "motel" shall include buildings designated as hotels, auto courts, tourist courts, motor courts, motor hotel, and similar appellations which are designed as integrated units of individual rooms under common ownership. A motel may include support services, including recreation facilities and the serving of meals.
- Motor Home:** A self-propelled, licensed vehicle prefabricated on its own chassis, intended for recreational activities and temporary occupancy.
- Nonconforming Building or Structure:** A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or an affecting amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement, yards or similar features for the District in which it is located.
- Nonconforming Lot:** A lot lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the area and/or dimensional requirements of the District in which it is located.
- Nonconforming Use:** A use of a building or structure, or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or an affecting amendment thereto, that does not conform to the regulations of the District in which it is located.
- Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil.
- Owner:** The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.
- Parcel:** A lot described by metes and bounds or described in a recorded plat.
- Park:** A parcel of land, building or structures used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.
- Plat:** A map of a subdivision of land recorded with the Register of Deeds pursuant to the Land Division Act of 1996, as amended, or a prior statute.
- Plot Plan:** A plan showing all salient features of a proposed development, particularly for single family and two family dwellings, so that it may be evaluated in order to determine if it meets the provisions of this Ordinance.
- Principal Building:** The main building on a lot in which the principal use exists or is served by.
- Principal Use:** The main use to which the premises are devoted and the main purpose for which the premises exist.
- Prohibited Use:** A use of land which is not permitted within a particular zoning district.
- Public Facility:** Land and associated structures and buildings used to carry out a governmental function(s) or provide a governmental service(s), such as a use or service owned or managed by a city, village, township, county, state, or public school board, and including commissions or other arms of such entities. Examples of such facilities include, but are not necessarily limited to, municipal parks and cemeteries, museums, police and fire protection facilities, courts of justice, and government offices.

- Public Utility:** Any person, firm, or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state, or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.
- Recreational Vehicle:** A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.
- Recreational Vehicle Park:** All lands and structures which are owned and operated by private individuals, a business or corporation which are predominantly intended to accommodate housing by way of recreational vehicles and provide for outdoor recreational activities.
- Restaurant:** An establishment whose principal business is the sale of food and/or beverages, including alcoholic beverages, to customers in a ready-to-consume state for consumption in the restaurant building, in addition to establishments where all or a substantial portion of the business is often characterized as “drive-through,” “drive-in,” “delivery,” and “pick-up”.
- Retreat Center:** A facility used for professional, educational, or religious conclaves, meetings, conferences, or seminars and which may provide meals, housing and recreation for participants during the period of the retreat or program only, with kitchen facilities limited to communal eating areas and not within individual sleeping quarters.
- Right-of-Way:** A public or private road, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.
- Right-of-Way Line:** The legal line of demarcation between a right-of-way and abutting land.
- Road:** A thoroughfare that affords the principal means of vehicular access to abutting property. The term “road” includes the term “street” and includes both a public road and private access easement.
- Service Station:** An establishment used primarily for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles, the retail sales of oil, grease, batteries, tires and other operational fluids and accessories for automobiles and the installation of such items, and where minor automobile repairs may occur such as engine tune-ups, wheel alignment or balancing, oil change or lubrication, and the servicing of brakes, air conditioning, exhaust systems; or similar minor servicing and repairs. Such “minor servicing and repairs” shall not be construed to include refinishing, body work or painting, or the storage or dismantling of vehicles for the purpose of reuse or resale of parts. A service station may also include floor area devoted to the sale of convenience items such as beverages, food products, and magazines, and similar convenience items.
- Setback:** The minimum distance by which any building, structure, or use must be separated from a lot line, except where a different point of measurement may be specified by this Ordinance.
- Shooting Range:** An outdoor facility designed for and devoted to the shooting of firearms or archery equipment, including what are commonly referred to as a gun club, hunt club, sportsman club, rifle range, pistol range, trap/skeet range, sporting clay range, and archery range. The private use of a lot by its owner for the shooting of firearms or archery equipment shall not be construed to be a shooting range.
- Sign:** Refer to Section 11.2 for definitions pertaining to signs.
- Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance. A site plan contains more comprehensive and detailed information about improvements proposed on the site than does a plot plan.
- Stable, Commercial:** A structure and/or land use for the holding of horse shows and/or exhibitions where spectators in excess of one hundred (100) persons gather at a frequency greater than one (1) day within a thirty (30) day period.
- Stable, Private:** An accessory structure and/or land use in association with a dwelling on the same lot, where horses are kept for private use and/or commercial purposes such as riding lessons, breeding, rearing, training, and boarding, and which does not constitute a commercial stable.
- Structure:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services. Fences shall not be considered as “structures,” but must comply with all applicable standards of this Ordinance.

Use: The purpose for which land or a building is arranged, designed or intended, or for which land or a building may be occupied.

Variance: A modification of the literal provisions of the Zoning Ordinance where such variance will not be contrary to the public interest and will mitigate an otherwise practical difficulty, and the issuance of which is based upon standards in this Ordinance (See Article 7).

Vehicle/Car Wash: A building, or portion thereof, designed and used for the washing of two (2) or more vehicles irrespective of whether the washing process is automated or performed manually.

Vehicle Repair Shop: Buildings and premises for the purpose of rebuilding or reconditioning motor vehicles and/or providing collision service such as body, frame and fender repair and painting.

Veterinary Clinic: An establishment which is licensed by the State of Michigan to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention, and may include support facilities such as laboratories, offices, and fully enclosed pens or cages for the overnight boarding of animals receiving medical treatment, and accessory retail sales.

Wind energy conversion facility, Commercial: An electricity generating facility consisting of one or more wind turbines under common ownership or operation control, and may include substations, cables, wires and other structures and buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers. Such facility may be a principal or accessory use of the parcel on which it is located.

Wireless communication tower: A relay structure, including both antenna and structural supports, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, telephone, microwave, or any other form of telecommunications signals. Not included within this definition are: citizen band radio facilities; short wave receiving facilities; federally licensed amateur (ham) radio facilities; satellite dishes; and governmental facilities which are subject to state or federal law or regulations that preempt municipal regulatory authority.

Yard: An open space, on the same lot with a principal building, unoccupied and unobstructed from the ground upward by a building or structure, except as otherwise permitted in this Ordinance and as further defined herein (see *Figure 18-1 at end of this Article*):

- a. **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building or use. There shall be maintained a front yard on each road side of a lot at the corner of two intersecting roads and abutting both roads.
- b. **Rear Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building or use. In the case of a lot at the corner of two intersecting roads and abutting both roads, there shall be one rear yard.
- c. **Side Yard:** An open space between the principal building or use and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the principal building or use.

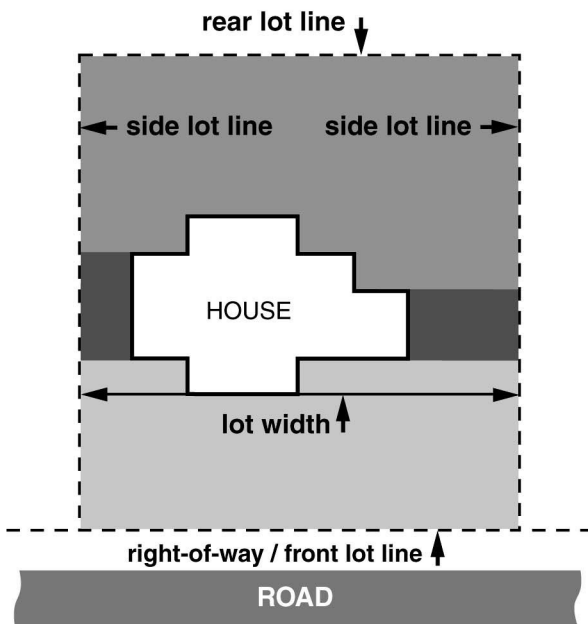
Zoning Administrator: The authorized individual charged with the responsibility of administering this Ordinance and appointed by the Township Board of Trustees.

Zoning District: See "District".

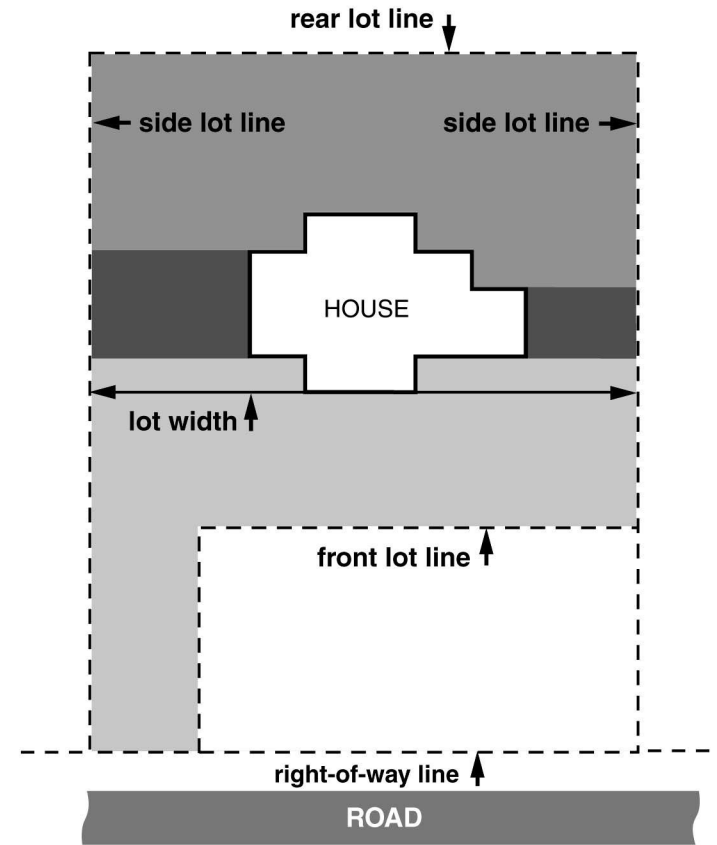
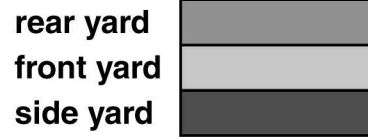
Zoning Permit: A permit signifying compliance with the provisions of this Ordinance and issued by the Zoning Administrator upon approval of the proposed land use or development plan by the designated approving body.

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Figure 18-1
LOT LINES and YARDS



TYPICAL LOT / PARCEL



FLAG LOT / PARCEL

End of Article 18

Article 19

INTERPRETATION, SEVERABILITY, and EFFECTIVE DATE

Section 19.1 Interpretation

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, prosperity and general welfare. Unless specifically provided for, it is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with the existing and unrepealed provision of law or ordinance or any rules, regulations or permits previously adopted or issued pursuant to law relating to the use of building or land, provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or structures or land or upon the courtyards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this Ordinance shall control.

Section 19.2 Severance Clause

Sections of this Ordinance and amendments thereto shall be deemed to be severable and should any section, paragraph, or provision thereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any other part thereof, other than the part so declared to be unconstitutional or invalid by court decree. Further, if any court shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot use, building or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building or structure not specifically included in said ruling.

Section 19.3 Effective Date

This Ordinance shall take effect eight (8) days following adoption and upon publication of a notice of adoption in accordance with the provisions and procedures of the Michigan Zoning Enabling Act, PA 110 of 2006, as amended. Made and passed by the Township Board of the Township of Newkirk, Lake County, Michigan on _____.

End of Article 19

