

CHARLEVOIX TOWNSHIP

ZONING ORDINANCE

January 2006

As amended:

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Prepared for:

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**CHARLEVOIX TOWNSHIP
ZONING ORDINANCE**

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**CHARLEVOIX TOWNSHIP
ZONING ORDINANCE**

**ORDINANCE NO. ____ OF 2007
AN ORDINANCE PURSUANT TO ACT 110
OF THE PUBLIC ACTS OF 2006, AS AMENDED**

THE TOWNSHIP OF CHARLEVOIX ORDAINS:

ARTICLE I PURPOSE AND TITLE

1.1 PURPOSES

It is the purpose of this Zoning Ordinance to promote the safety, health, morals, convenience, and general welfare; to encourage the use of lands and natural resources in the Township in accordance with their character, adaptability, and suitability for particular purposes; to conserve social and economic stability, property values, and the general character and trend of community development; to prevent excessive concentration of population; to lessen congestion on the public streets and highways; to facilitate adequate provision of streets and highways, sewerage and drainage, water supply and distribution, educational, and other public resources, by establishing herein standards for community development in accordance with these objectives and by providing for the enforcement of such standards.

It is the further purpose to adopt provisions for each designated zoning district within which the location, size and uses of buildings and minimum open spaces, sanitary and safety measures required and the maximum number of families to be housed in buildings erected or altered in the future are specified.

Recognizing the waterfront along Lake Charlevoix and Lake Michigan as a unique and valuable resource, it is the further purpose of Charlevoix Township to adopt provisions to insure wise, proper and compatible uses of this property.

1.2 TITLE

This Ordinance shall be known as the "Charlevoix Township Zoning Ordinance".

ARTICLE II RULES APPLYING TO THE TEXT

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

1. Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
2. The word "person" includes an individual, corporation, partnership, firm, association, limited liability company, or other legal entity.
3. The word "lot" includes "plot," "tract," or "parcel."
4. The term "shall" is always mandatory and not discretionary; the work "may" is permissive.
5. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."
6. Any word or term not interpreted or defined by the Article shall be used with a meaning of common or standard utilization.

ARTICLE III GENERAL REGULATIONS

3.1 APPLICATION OF REGULATIONS

Except as hereinafter specified, no building, structure or premises shall hereafter be used or occupied and no building, structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified. Furthermore, no lot shall be divided, no yard or setback reduced, or building height, density or lot coverage increased so as to be in violation of this Ordinance, except where such reduction or increase has been brought about by the expansion or acquisition of a public right-of-way and/or a variance has been approved by the Zoning Board of Appeals.

3.2 PRIOR BUILDING AND/OR ZONING PERMITS

Any building and/or zoning permit issued prior to the adoption of this Ordinance, shall be valid, provided it complies fully with the regulations in effect at the time of issuance of the building and/or zoning permit and further provided the construction is meaningfully commenced within one (1) year of the date of issuance of the building or zoning permit. In the event construction is not so commenced within the (6) six-month period following issuance, the building, structure, or use for which the permit was issued shall be required to conform to all of the provisions of this Ordinance.

3.3 PERMITTED HEIGHT AND YARD EXCEPTIONS

- A. **Permitted Height Exceptions.** The following structural appurtenances shall be permitted to exceed the height limitations of the district within which located:
1. Ornamental appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles, and monuments.
 2. Mechanical and structural appurtenances such as chimneys, water tanks, elevator and stairwell penthouses, ventilators, bulkheads, amateur radio towers, television antennas, satellite dishes one meter (39 inches) or less in diameter, fire and hose towers, and cooling towers but excluding telecommunication towers.
 3. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls that may extend to a maximum of five (5) feet above the height limitations for the district and shall have no openings. The foregoing permitted height exceptions may be authorized only when all of the following conditions are satisfied:
 - a. No portion of any building or structure, permitted as an exception to a height limitation, shall be used for human occupancy or the conduct of a business.
 - b. Any permitted structural exception to a height limitation shall be erected only to such height as is necessary to accomplish the purpose it is intended to serve, and no higher.
 - c. If the roof area of such structural elements that are allowed to exceed the height limitations exceed more than 20% of the gross roof area, they shall be considered to be integral parts of the whole structure and shall not be eligible to exceed the height limitations.

- B. **Permitted Yard Encroachments.** The following encroachments within required yards shall be permitted subject to the stated conditions:
1. Paved terraces, patios, decks, uncovered porches, and ramps for the physically disabled provided the area is unroofed, the highest elevation of the surface of the improvement does not extend more than three (3) feet above the average surrounding finished grade level, and no portion of the improvement extends more than ten (10) feet into a required front or rear yard or five (5) feet into a required side yard.
 2. Special structural elements such as cornices, eaves, gutters, sills, chimneys, belt courses, and ornamental features and similar features and roof overhangs provided they do not project more than three (3) feet into a required yard.
 3. Unenclosed porches, either roofed or unroofed, provided no part of the structure is closer to a side or rear lot line than eight (8) feet, and the front lot line than 15 feet and, further provided, there shall be no more than one such encroachment in any one yard.
 4. Enclosed and unenclosed balconies provided they project no more than five (5) feet into any required yard.
 5. Enclosed porches built at ground level and having solid foundations shall be considered to be an integral part of the building and shall be subject to all of the yard and area dimensional requirements established for principal buildings.
 6. Open fire escapes and stairways may project into a required rear yard to a maximum of five (5) feet.

3.4 **TEMPORARY BUILDINGS**

Temporary buildings for uses incidental to construction work, and all debris, shall be removed within fifteen (15) days following completion of the construction.

3.5 **TEMPORARY DWELLINGS**

No structure shall be used for dwelling purposes that is not considered a standard dwelling as defined by this Ordinance except for tents, campers, and motor homes, which may be located on private property and occupy the premises for not more than 14 consecutive days. Thereafter, said tent, camper, or motor home shall be removed from the property for a minimum of 14 consecutive days. No garage or other accessory building, basement, partial structure or other temporary structure shall be used in whole or in part for dwelling purposes in any district for any length of time unless approved as a special exception by the Zoning Board of Appeals. Such approval shall be subject to all of the following conditions:

- A. Issuance of such temporary permit shall be for a period not to exceed six (6) months.
- B. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind, or other natural disaster.
- C. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- D. Adequate provision is made for temporary public or private water supplies and sewage disposal to and from said structure.

- E. The structure is constructed so as to meet the minimum requirements for the health, safety and welfare of the dwelling's occupants and the surrounding neighborhood in accordance with the current State of Michigan Building Code.

3.6 BASEMENT DWELLINGS

Basement dwellings are prohibited in the Township except as set forth in Section 3.5 above.

3.7 MOVING OF BUILDINGS

The moving of a building to a different location, even if on the same lot, shall be considered the same as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto.

3.8 RAZING OF BUILDINGS

No building shall be razed until a Zoning Permit has been issued by the Zoning Administrator. Permit issuance shall be subject to the razing of the building within a specified timeframe and compliance with all regulations pertaining to the removal of debris, the filling of excavations, and disconnections from existing utilities.

3.9 COLLECTION OR STORAGE OF RUBBISH

It shall be unlawful to store, collect, dispose of, or place building materials, refuse, junk, garbage, inoperable and/or unlicensed automobiles, or any such materials or substances anywhere in the Township except where specifically permitted by this Ordinance.

3.10 REQUIRED SEWER AND WATER FACILITIES

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect the public health. The written approval of such facilities by the Northwest Michigan Community Health Agency shall be filed with an application for a Zoning Permit.

3.11 INTERSECTION VISIBILITY

On any corner lot in any district requiring front and side yards, no fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision between the heights of three (3') feet and ten (10') feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and thirty (30') feet distant from their point of intersection. Such heights of clear vision areas shall be measured from the elevation of the street center lines at the point of intersection. No fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision from a driveway between the heights of three (3') feet and ten (10') feet, measured above the elevation of the street center line, within ten (10') feet of any front property line.

3.12 FENCES/HEDGES

- A. **Compliance Required.** It shall be unlawful for any person to construct a fence or hedge on property within the Township except in compliance with the following regulations. A Zoning Permit shall not be required.

- B. **Regulations.** The following regulations shall apply to fences and hedges within the Township, unless otherwise required in this Ordinance:
1. Fences and hedges located in a front or street side yard shall be no more than 36 inches in height, as measured vertically from the surface of the ground.
 2. Fences located in a front or street side yard shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. No chain link fences shall be constructed in a front or street side yard.
 3. Fences located in a rear or interior side yard shall be no more than six (6) feet in height, as measured vertically from the surface of the ground; provided, however, that fences and hedges located in an interior side yard shall not extend closer to the front lot line than the front of the principal building or the required front yard setback, whichever point is farther from the front lot line.
 4. Fences located in a rear or interior side yard shall be constructed of brick, stone, wood boards, split rails, wrought iron, decorative concrete blocks, decorative chains, decorative rope, or similar material. Chain link fences shall be permitted in a rear or interior side yard.
 5. Except as otherwise provided herein, all fences and hedges shall be located entirely on the property of the person constructing the fence or hedge.
 6. The portions of all fences facing property other than the property of the fence owner or facing a road right-of-way shall be finished so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the road right-of-way.

3.13 SHORELINE PROTECTION REGULATIONS

- A. **Purpose.** The purpose of this Section is to maintain the natural shoreline appearance from the water surface while allowing landowners to enjoy views to the water and to protect the surface waters of Charlevoix Township from storm water flows that may be detrimental to water quality.
- B. **Setback Requirements.** No buildings or structures, except docks and launch ramps shall be erected within a shoreline protection zone closer than 50 feet from the shoreline of Lake Michigan, Lake Charlevoix, or any stream or creek as measured from the ordinary high water mark, or the top of bank, whichever is higher.
- C. **Regulations.** The following shoreline regulations shall apply to all districts except the I-2 Marine Industrial District:
1. Areas located below the Ordinary High Water Mark (elevation 579.8) shall not be altered.
 2. Within the first 50 feet as measured landward from the ordinary high water mark (shoreline protection zone), no more than one-third of the trees and shrubs shall be removed. Such trees and shrubs shall be cut flush with the ground but stumps shall not be removed. Significant trees (12 inches and larger in diameter measured at breast height) shall be preserved, wherever possible. The remaining trees and shrubs may be trimmed and pruned to create views to the water from the property.

3. Within the first 25-feet above the ordinary high water elevation, native vegetation shall be maintained to filter storm water flows. No cultured varieties of vegetation or grass shall be permitted within this zone.

3.14 BOATHOUSES

Boathouses, docks (except for seasonal docks), and launch ramps shall be permitted provided the requirements of Section 3.13 are satisfied and, further provided, permits have been issued by the appropriate regulatory agencies.

3.15 KEEPING OF ANIMALS

It shall be unlawful to keep farm animals in the Township, except as provided for in the Agricultural District. It shall also be unlawful to keep wild animals in the Township. This provision shall not prohibit the keeping of ordinary household pets such as dogs, cats, birds, fish and small rodents or exotic pets such as pot-bellied pigs or small wild animals such as amphibians and reptiles that are unlikely to be injurious to the health, welfare and safety of the public.

3.16 CRITICAL DUNE AREAS

The Township shall not issue a Zoning Permit for construction within any Critical Dune Area, whether or not shown on the Zoning Map, until approved by the Department of Environmental Quality in accordance with the State of Michigan, Sand Dune Protection and Management Act, Part 353 of PA 451 of 1994.

3.17 STREET CLOSURE

Whenever any road, street, alley or other public right-of-way, or railroad right-of-way, is vacated by official action of the appropriate agency or governmental body, the zoning district adjoining each side of such right-of-way shall automatically be extended to the center of such vacation, and all areas included in the vacation shall then be subject to all of the regulations of the extended districts.

3.18 ACCESS MANAGEMENT OVERLAY REGULATIONS - U.S. 31, M-66, AND BOYNE CITY ROAD.

- A. **Purposes.** The purposes of access management overlay regulations are to coordinate access to U.S. 31, M-66, and Boyne City Road in the interests of enhancing traffic safety, reducing congestion, maintaining traffic capacity, and minimizing highway expansion while providing continuing opportunities for growth and development within these highway corridors. It is the intent of this Ordinance that land uses share access wherever possible or provide alternative access as means to accomplish these purposes.
- B. **Site Plan Review Required.** Before any Zoning Permit is issued for lots that abut U.S.-31, M-66, or Boyne City Road, a site plan shall be approved by the Planning Commission in accordance with Article IX of this Ordinance. In addition to the Submission Requirements of Article IX, information shall be provided by the applicant that establishes the location of accesses on adjacent properties.
- C. **Regulations.** The following regulations shall be applicable to all lots abutting on U.S. 31, M-66, and Boyne City Road (hereinafter the Highway) in Charlevoix Township. No building, shall be erected or enlarged, no use shall be changed and no access shall be constructed or altered except in conformance with the following

access management regulations, however, the enlargement of an existing one-family dwelling shall not require conformance with these regulations.

1. Access Spacing. The minimum horizontal distance between any two accesses on the same side of the Highway, whether streets or driveways, as measured from their centerlines, shall be 275 feet. This spacing requirement shall apply to all uses and may be accomplished by any of the following means:
 - a. By owning sufficient frontage on the highway to meet the spacing requirement; or
 - b. By assembling sufficient frontage to meet the spacing requirement; or
 - c. By sharing access via shared driveways, easements and/or cross access agreements, or
 - d. In the event the access spacing standards cannot be satisfied on an individual parcel due to frontage deficiencies, one temporary private driveway may be approved, provided an access management plan is submitted by the applicant, and approved by the Planning Commission, that incorporates the principles of shared driveways, cross easements, or alternative access and, further provided, said access design is approved by the Michigan Department of Transportation and/or County. Individual one and two-family dwellings shall not be required to have an access management plan.
2. Corner Clearance. Where a lot abuts both on the Highway and a crossroad, access to the Highway shall conform to the access spacing requirements for the Highway. The first private driveway or street access to the crossroad, as measured from the edge of the pavement of the Highway, shall be no less than 100 feet.
3. Residential Access. No new private residential driveway access shall be permitted directly to the Highway unless no other alternative is available. Wherever two or more residential lots are created which have no alternative access, a single shared driveway or road access shall be required.
4. Existing Individual Driveways. If a lot or use has one or more existing individual driveway accesses to the Highway, said accesses shall be allowed to remain in use provided they are not relocated or altered. In the event such accesses are altered, they shall be made to more fully comply with the access requirements of this Section.
5. Access Design and Approval. The design of any direct access to the Highway shall be as required and approved by the Michigan Department of Transportation and/or County. The requirements of this Section shall supersede the issuance of a driveway permit by the Michigan Department of Transportation.
6. Flexibility Allowed. As part of the site plan review process, the actual location of an access may be varied by the Planning Commission if it can be demonstrated that the intent of this Section to minimize the number of individual driveways and coordinate accesses is fulfilled in the interests of maintaining highway capacity, reducing congestion, and improving traffic safety.

ARTICLE IV ESTABLISHMENT OF DISTRICTS

4.1 ZONING DISTRICTS

In order to regulate and restrict the location, erection, alteration and use of buildings, structures and land and to carry out the purposes of this Ordinance, Charlevoix Township is hereby divided into the following zoning districts:

"R-1"	One-Family Dwelling District
"R-2"	One and Two-Family Dwelling District
"R-3"	Manufactured Home Development District
"PRD"	Planned Residential District
"PUD"	Planned Unit Development District
"C"	Commercial District
"HCO"	Health Care and Office District
"I"	Industrial District
"I-2"	Marine Industrial District
"A"	Agricultural District
"SRD"	Scenic Reserve District
"MRD"	Mineral Resource District

4.2 ZONING DISTRICTS MAP

The locations and boundaries of these districts so established are bounded and defined as shown on the map, entitled "Charlevoix Township Zoning Districts Map," which accompanies and is hereby declared to be a part of this Ordinance with the same force and effect as if the districts shown thereon were fully set forth by legal description or metes and bounds herein. A current and up-to-date Charlevoix Township Zoning Districts Map, with all notations and amendments noted, shall be kept on file in the office of the Township Clerk, and this map shall be the final authority as to the current zoning status of land, buildings and other structures in the Township, subject to interpretation by the Zoning Board of Appeals.

4.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning Districts Map, the following rules shall apply:

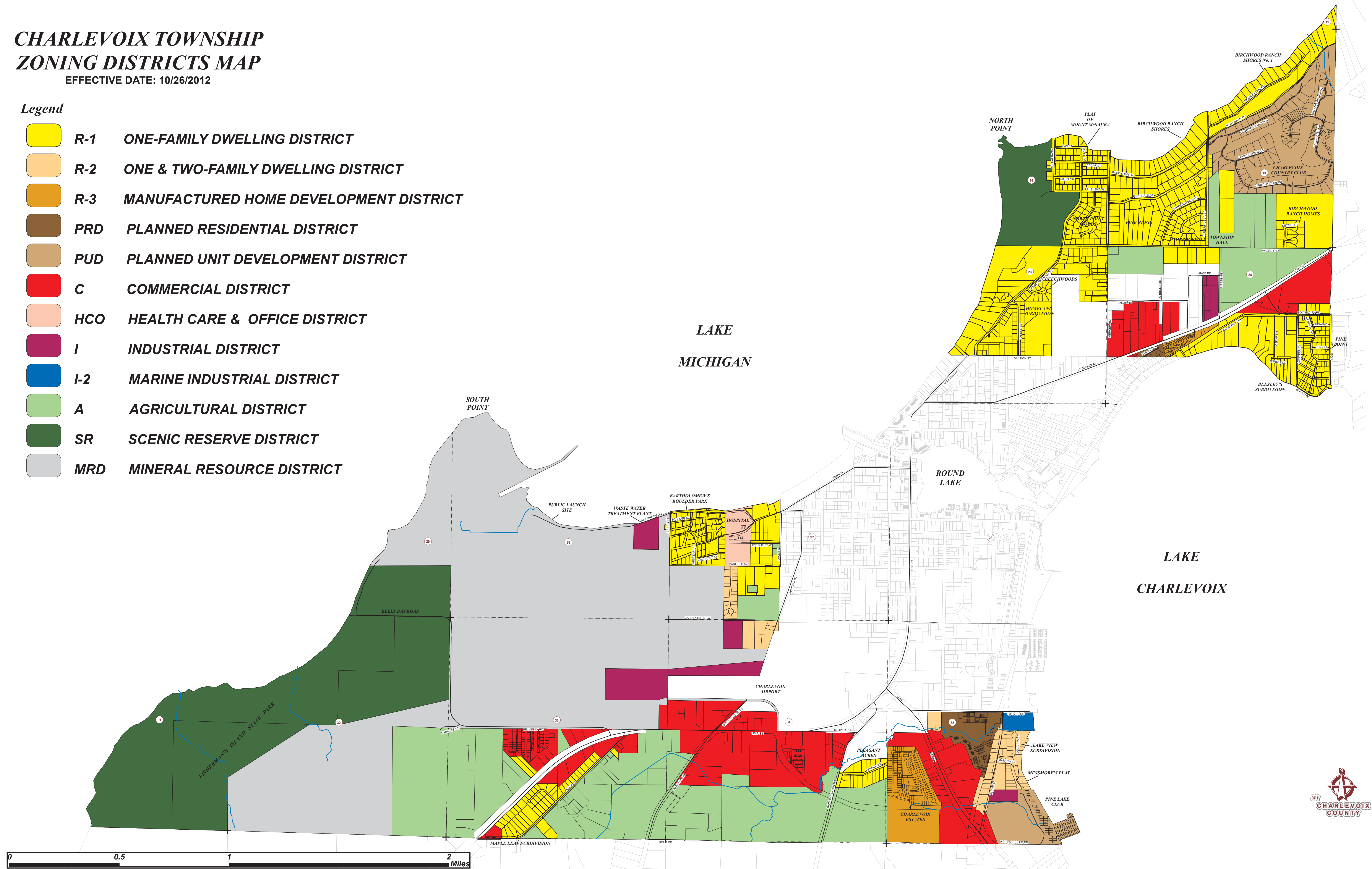
- A. Where district boundaries are indicated as approximately coterminous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be said boundaries.
- B. Where district boundaries are indicated as approximately coterminous with platted lot lines, section lines, quarter-section lines, or other survey lines, such lines shall be construed to be said boundaries.
- C. Where district boundaries are indicated as approximately parallel to street or highway centerlines or right-of-way lines, or to section lines, quarter-section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning Districts Map.
- D. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be coterminous with the centerline of the main track or former track of said railroad line.
- E. Where the boundary of a district approximately follows the centerline of any river or stream, the boundary line shall be interpreted as following such centerline of said river or stream.
- F. Where the boundary of a district approximately follows the shoreline of a lake, the boundary shall be construed as following the ordinary high water mark of the lake.
- G. Where the application of these rules leaves a reasonable doubt as to the boundaries of a district, the interpretation of boundaries shall be by the Zoning Board of Appeals.

CHARLEVOIX TOWNSHIP ZONING DISTRICTS MAP

EFFECTIVE DATE: 10/26/2012

Legend

- R-1** ONE-FAMILY DWELLING DISTRICT
- R-2** ONE & TWO-FAMILY DWELLING DISTRICT
- R-3** MANUFACTURED HOME DEVELOPMENT DISTRICT
- PRD** PLANNED RESIDENTIAL DISTRICT
- PUD** PLANNED UNIT DEVELOPMENT DISTRICT
- C** COMMERCIAL DISTRICT
- HCO** HEALTH CARE & OFFICE DISTRICT
- I** INDUSTRIAL DISTRICT
- I-2** MARINE INDUSTRIAL DISTRICT
- A** AGRICULTURAL DISTRICT
- SR** SCENIC RESERVE DISTRICT
- MRD** MINERAL RESOURCE DISTRICT



ARTICLE V DISTRICT REGULATIONS

5.1 R-1 ONE-FAMILY DWELLING DISTRICT

- A. **District Purpose.** The purpose of this district is to create a low-density residential area for standard one-family dwellings and complementary uses that are customarily found in neighborhood settings and are compatible in all respects with adjacent homes.
- B. **Permitted Principal Uses.** Land and buildings within the R-1 District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Requirements of Section 5.1 E. of this Article.
1. One (1) standard one-family dwelling on each lot unless processed as a condominium subdivision.
 2. Adult foster care facilities for six (6) or less persons (State licensed residential facility as defined by MCLA, 125.583b; MSA 5.2933(2)).
 3. Child day care facilities for six (6) or fewer children licensed by the State of Michigan.
 4. Essential services excluding telecommunication towers.
 5. Uses customarily incidental and accessory to a permitted principal use including satellite dishes that are one meter (39 inches) or less in diameter and attached to a building, large satellite dishes located in rear yards, amateur radio antennas and television antennas but excluding telecommunications towers.
- C. **Uses Permitted with Special Conditions.** Land and buildings permitted with special conditions shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Regulations of Section 5.1 E. of this Article.
1. Home-based businesses such as business and professional offices and telecommuting businesses subject to the following conditions:
 - a. The home-based business shall be clearly secondary and incidental to the use of the premises as a residence.
 - b. All activities shall be conducted entirely within the interior of the principal dwelling or garage.
 - c. Home-based businesses shall be owned and operated solely by persons residing in the residence except that not more than one person not in residence on the premises may be employed on the premises.
 - d. No alterations to the exterior of the dwelling, accessory building or yard shall be permitted which alters the residential character of the premises.
 - e. Parking shall be allowed only within improved driveway areas.
 - f. Not more than one identification sign shall be permitted provided it is not larger than two (2) square feet in area, is not illuminated, and denotes only the name of the business and/or the name or profession of an occupant of the dwelling.
 - g. No sale or rental of goods stored on the premises shall be permitted, except as may be incidental to the furnishing of a service.
 - h. No equipment shall be used in the home-based business that will create electrical interference for surrounding properties.

- i. The use shall not generate noise; vibration, odor, glare, or airborne particulates, other than those customarily associated with a residence, beyond the property line of the home-based business.
 - j. Instruction in crafts and fine arts are recognized as permitted home-based businesses if they meet the above conditions.
- 2. One temporary accessory dwelling unit per lot for one family member subject to the following conditions:
 - a. The floor area of the temporary accessory dwelling unit shall not be greater than 600 square feet.
 - b. The temporary accessory dwelling unit is developed within an existing or proposed one-family dwelling and/or over a garage as defined by this Ordinance.
 - c. The temporary accessory dwelling unit does not have direct access to the outdoors other than as required for emergency access purposes or as may be required for an accessory building.
 - d. The proposed use has been issued a building permit and a zoning permit and complies fully with the requirements of the current State Of Michigan Building Code.
 - e. The temporary accessory dwelling shall be clearly subordinate to the principal dwelling unit on the parcel in terms of size, location and appearance.
 - f. When the family member no longer occupies the temporary accessory dwelling unit, its use as an accessory dwelling unit shall be discontinued.
- 3. Bed and breakfast inns. Subject to the following conditions:
 - a. The exterior of the structure shall not be altered from its single-family character and appearance.
 - b. There shall be no separate or additional kitchen facility or facilities for guests.
 - c. The number of rental rooms permitted shall depend on the ability of the lot to accommodate parking at one space per room in accordance with the provisions of this Ordinance.
 - d. Off street parking is subject to all of the requirements established in Article VI of this Ordinance.
- 4. Religious institutions subject to the following conditions:
 - a. The building shall be designed and used primarily for worship.
 - b. Fifty (50) foot side and rear yards are required when the property abuts any residentially zoned lots.
 - c. Off street parking is subject to all of the requirements established in Article VI of this Ordinance.
- 5. Public schools and colleges subject to the following conditions:
 - a. Fifty (50) foot side and rear yards shall be required when the property abuts any residentially zoned lots.
 - b. Off street parking is subject to all of the requirements established in Article VI of this Ordinance.
- 6. Private non-profit schools and colleges subject to the following conditions:
 - a. Compliance with the requirements established in Section 5.1 C.5, a. and b. for public schools and colleges listed above.

- b. Private non-profit schools and colleges shall not include trade schools, business colleges, or private schools operated as commercial enterprises.
7. Parks, playgrounds, community centers and other public buildings subject to the following conditions:
- a. Facilities shall be owned and operated by a government agency or a non-profit neighborhood group.
 - b. Fifty (50) foot side and rear yards shall be required for structures when the property abuts any residentially zoned lots.
 - c. Off street parking is subject to all of the requirements established in Article VI of this Ordinance.
8. Not more than two detached accessory buildings subject to the following conditions:
- a. Any portion of a detached accessory building which exceeds 100 square feet and is located on the side of the principal building shall not be less than six (6) feet from such principal building and shall maintain all setbacks required for the principal building.
 - b. Any portion of a detached accessory building which exceeds 100 square feet and is located to the rear of the principal building shall not be less than ten (10) feet from such principal building and shall maintain all setbacks required for the principal building.

D. **Uses Permitted by Special Use Permit.** (Reserved)

E. **District Development Regulations.** The following development requirements shall apply to all uses and structures within the R-1 One-Family Dwelling District.

1.	Minimum Lot Area	15,000 SQ FT	Accessory Buildings less than 100 Square Feet in area
2.	Minimum Lot Width	100 FT ¹	
3.	Maximum Structure Height	35 FT	
4.	Minimum Front Yard	25 FT	25 FT. ⁴
5.	Minimum Interior Side Yard	15 FT	5 Ft.
6.	Minimum Street Side Yard	25 FT	25 Ft.
7.	Minimum Rear Yard	30 FT	5 Ft.
8.	Maximum Lot Coverage	30%	
9.	Minimum Lakeshore Setback	50 FT ²	
10.	Minimum Floor Area	1,040 SQ FT ³	
11.	Minimum Structure Size	24 FT ⁵	

¹ As measured at the front building line.

² As measured from the ordinary high water mark; see Article III Section 3.13 for shoreline protection regulations applicable to all districts.

³ One-story, exclusive of porches, garages, basements and utility areas. 1,200 Sq.Ft. if more than one story in height.

⁴ Shall not be closer to the street than the house.

⁵ The minimum dimension of any side of the first floor of a dwelling, as measured in a straight line from the exterior faces of the exterior walls of the building, exclusive of porches, garages and basements.

5.2 R-2 ONE AND TWO-FAMILY DWELLING DISTRICT

- A. **District Purpose.** This purpose of this district is to delineate areas in the Township that are suitable for standard one and two-family dwellings. The district is intended to create areas having a single-family residential character while accommodating attached two-family dwellings. It is intended to be similar to the R-1 district, except for the different type, and slightly higher density of dwelling units.
- B. **Permitted Principal Uses.** Land and buildings within the R-2 District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the District Development Requirements of Section 5.2 E. of this Ordinance.
 - 1. All uses permitted in the R-1 One-Family Dwelling District, Section 5.1, B. as permitted principal uses.
 - 2. Standard two-family dwellings.
- C. **Uses Permitted with Special Conditions.** Land and buildings permitted with special conditions shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Requirements of Section 5.2 E. of this Ordinance.
 - 1. All uses permitted in the R-1 One-Family Dwelling District, Section 5.1, C. as uses permitted with special conditions, subject to all the requirements of that district.
- D. **Uses Permitted by Special Use Permit.** (Reserved)
- E. **District Development Regulations.** The following development requirements shall apply to all uses within the R-2 One and Two-Family Dwelling District.

		With public water and sewage facilities.	Without public water and sewage facilities.	
1.	one-family dwelling	Minimum Lot Area	10,000 Sq. Ft.	12,000 Sq. Ft.
		Minimum Lot Width	80 Ft. ¹	100 Ft. ¹
2.	two-family dwelling	Minimum Lot Area per Dwelling Unit	6,500 Sq. Ft.	10,000 Sq. Ft.
		Minimum Lot Width per Dwelling Unit	50 Ft. ¹	75 Ft. ¹

3.	Maximum Structure Height	35 FT	Accessory Buildings less than 100 Sq. Feet in area.
4.	Minimum Front Yard	25 FT	25 FT. ⁴
5.	Minimum Interior Side Yard	10 FT	5 Ft.
6.	Minimum Street Side Yard	25 FT	25 Ft.
7.	Minimum Rear Yard	30 FT	5 Ft.
8.	Maximum Lot Coverage	35%	
9.	Minimum Lakeshore Setback	50 FT ²	
10.	Minimum Floor Area	864 SQ FT ³	
11.	Minimum Structure Size	24 FT ⁵	

¹ As measured at the front building line.

² As measured from the ordinary high water mark; see Article III Section 3.13 for shoreline protection regulations applicable to all districts.

³ Exclusive of porches, garages, basements and utility areas. 1,200 Sq. Ft. if more than one story in height.

⁴ Shall not be closer to the street than the house.

⁵ The minimum dimension of any side of the first floor of a dwelling, as measured in a straight line from the exterior faces of the exterior walls of the building, exclusive of porches, garages and basements.

5.3 R-3 MANUFACTURED HOME DEVELOPMENT DISTRICT

- A. **District Purpose.** The purpose of the Manufactured Home Development District is to provide an affordable housing alternative in manufactured home developments where appropriate and consistent with the general character of the Township. All manufactured housing developments shall comply with Act 243 of Public Acts of the State of Michigan, 1959, as amended. These housing developments are not required to meet the minimum standards for standard dwellings as defined herein.
- B. **Permitted Principal Uses.** Land and buildings within the R-3 Manufactured Home Development District shall be used only for the following purposes, provided the Zoning Administrator finds that the proposed use satisfies all of the conditions of Section 5.3 C. of this Ordinance.
1. Manufactured home developments subject to the conditions listed in Section 5.3, C., 1. below.
 2. All uses permitted in the R-1 and R-2 Districts, Section 5.1, B., permitted principal uses, as well as, Section 5.1, C. uses permitted with special conditions, subject to all the requirements of that district.
- C. **Uses Permitted with Special Conditions.** Land and buildings permitted with special conditions shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied.
1. Manufactured home developments subject to the following conditions:
 - a. Each development shall be licensed by the Michigan Department of Consumer and Industry Services as required by Rule 214k of the General Rules of the Michigan Manufactured Home Commission.
 - b. Each manufactured home development shall be under the control of a person and contain a minimum of ten (10) acres.
 - c. All utility connections shall be underground and shall comply with state and local codes.
 - d. Wherever possible, public water and sewer systems shall be required for manufactured home developments. Private water supply and sewage disposal systems shall be connected to the public systems, where available, or, if not possible, such systems shall be approved by the Northwest Michigan Community Health Agency. Evidence of Agency approval shall be submitted with the application for a Zoning Permit.
 - e. All streets within the development shall be paved and each development shall have a minimum of one (1) access to a street.
 - f. Two-way streets within a manufactured home development shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted along one side of the street, and 41 feet where parallel parking is permitted along both sides of the street. The minimum width of a one-way street shall be 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted along one side and 33 feet where parallel parking is permitted along both sides.
 - g. All roads shall be clearly marked with appropriate identification and traffic control signs. The name of all roads shall be approved by the Township and County.

- h. Two parking spaces shall be provided for each home site. Required parking shall not be provided within a public street right-of-way.
- i. Manufactured homes shall maintain a one hundred (100) foot landscaped setback from any public street and fifty (50) foot minimum landscaped rear and side yards adjacent to any adjoining properties.
- j. Each manufactured home shall have skirting consistent with R125.1604, Rule 604 of the Manufactured Home Commission Rules. Skirting shall be installed within ninety (90) days of the date the manufactured home is sited.
- k. The manufactured home development shall provide sufficient storm water facilities, to prevent flooding of streets, lots or recreation areas. On-site stormwater detention facilities may be required, as deemed necessary by the Township.
- l. Home sites shall have a minimum of 4,000 square feet per manufactured home unit.
- m. There shall be provided a separate area either fenced and screened or enclosed, within the development for the storage of tenants' camping trailers, boats, snowmobiles, and other similar recreational equipment. Such items shall not be stored in any other area of the development.
- n. Accessory uses may be permitted including utility/laundry buildings, auxiliary storage space for manufactured home tenants, community buildings for use by the tenants of the development as well as recreation areas and playgrounds and one (1) office building exclusively for conducting the business operations of the manufactured home development.

D. **Review Standards.** In addition to the Site Plan Review standards of Article IX of this Ordinance, the Planning Commission shall be provided with a graphic development plan which contains the following information and demonstrates conformance with all of the above conditions:

- 1. The location, shape, dimensions, size of lots and homes and setbacks for individual lots and homes.
- 2. All public and private rights-of-way and easements located on and adjacent to the subject property which are proposed to be continued, created, relocated or abandoned.
- 3. The location and number of curb cuts, if curbing is provided, driveways, parking and loading areas.
- 4. The location, dimensions, size and use of all common or shared facilities, areas and buildings.
- 5. Existing and proposed sewer, water and other utility lines and a description of how the development will be serviced by these utilities.
- 6. All major environmental features including but not limited to stands of trees, wetlands, water features and steep slopes (greater than 12%).
- 7. Storm water management improvements including detention basins and soil erosion control measures.
- 8. Play areas for children and other recreation facilities.

5.4 PRD - PLANNED RESIDENTIAL DISTRICT

- A. **District Purpose.** The purposes of this district are to provide for the creation of high quality living environments, consisting of both traditional and non-traditional housing types, to satisfy the life-cycle housing needs of a changing population; to preserve valuable natural, archeological, and historical resources; to encourage a high degree of compatibility between land uses; and to provide livable, walkable and convenient neighborhoods by providing a variety of housing types, mixing housing types, and clustering housing; requiring usable open space, recreation areas and pedestrian circulation; and allowing greater flexibility in the regulation of land development.
- B. **Qualifying Conditions.** Any application for a Planned Residential Development shall meet the following conditions to qualify for consideration as a PRD.
1. **Public Utilities Required.** The PRD shall be connected to the public sewer and water systems.
 2. **Unified Control.** The land area to be included in the PRD shall be under the control of one person or a group of persons and shall be capable of being planned and developed as an integral unit.
- C. **Permitted Principal Uses.** Land and buildings within a PRD-Planned Residential District shall be used only for the following purposes provided the Planning Commission finds that all of the Development Regulations of this district and the Standards for Approval of Section 5.4 E. are satisfied.
1. Permitted principal uses and uses permitted with special conditions and by special use permit in the R-1 and R-2 Districts subject to the requirements and procedures specified.
 2. Standard Multiple-Family dwellings consisting of three or more units per building.
 3. Indoor recreation facilities for the use of occupants only.
 4. Outdoor recreation facilities including parks, tot lots, open spaces and other similar recreation uses and facilities primarily for use by occupants.
 5. Uses customarily accessory and incidental to a principal use.
- D. **District Development Regulations.** The following development regulations shall apply to uses in the PRD District:
1. **Maximum Densities:**
 - a. Riparian PRDs: Four (4) units per acre.
 - b. Non-riparian PRDs: One (1) unit per 5,000 square feet of land area.
 2. **Density Bonus Provisions:** A PRD which satisfies two or more of the following criteria shall qualify for a maximum density bonus of 20%:
 - a. Dedicates 50% or more of the land area of the PRD to permanent usable open space or recreational uses for residents of the PRD,
 - b. Configures open space to protect and preserve the site's most valuable natural resources including mature woodlots; shorelines; steep slopes (12% or greater); wetland and lake edges; dunelands; significant wildlife habitat and interconnected corridors; scenic vistas; ridge tops; stream corridors and historical, cultural, and archeological areas,

- c. Provides recreational amenities and facilities for use by the PRD residents including such things as wildlife viewing platforms, horse barns and stables, ball fields, hiking and biking trails. These should be suitably located to be conveniently accessible by residents of the PRD,
 - d. Protects rural roadside character and incorporates rural character elements which are unique to the Township including, but not limited to, open space, farmland, farmhouses, barns, orchards, woods and water. This should include the avoidance of homes fronting directly onto existing public roads which give the appearance of a suburban subdivision,
 - e. Avoids construction on ridgelines (the top elevation of the rooftop is constructed below the top elevation of the ridgeline),
 - f. Protects and incorporates sites of historic, archeological or cultural value,
 - g. Landscapes individual lots and common areas with native trees, flowering shrubs and other vegetation to promote wildlife habitat. Whenever possible, existing significant trees (deciduous 12" dbh and coniferous 8" dbh and larger) should be retained on individual lots and within dedicated open space areas.
 - h. Employs design principles generally accepted as consistent with "traditional neighborhood design."
3. Buffer Yards Required. All PRDs shall provide a minimum buffer yard of 50 feet from street right-of-way lines and property lines and 50 feet from the ordinary high water mark of a lake or stream. Buffer yards shall be landscaped with trees, shrubs and other plant materials that are compatible with local climate, soils characteristics, drainage and available water supply. Maintenance shall be the responsibility of the homeowners association. See Section 3.13 for shoreline protection regulations.
 4. Maximum Structure Height. 35 feet.
 5. Open Space Required. A minimum of 30% of the land area of the PRD shall be dedicated to permanent usable open space and recreation uses for residents of the PRD.
 6. Underground Utilities Required. All utilities including telephone, cable TV and electricity shall be constructed underground.
 7. Street Requirements. All streets, driveways and parking areas shall be surfaced with bituminous asphalt, concrete or other similar surface materials.
 8. Minimum Floor Area. Dwelling units shall average at least 780 square feet of floor area per unit exclusive of porches, garages basements and utility areas. In no case shall units be less in size than 680 square feet of floor area.
 9. Architectural Compatibility Required. Buildings within the PRD shall have consistent and compatible architecture.
 10. Pedestrian Circulation Required. The PRD shall emphasize pedestrian circulation and access.
 11. Natural Features Integration. The natural landscape shall be preserved as an integral part of the overall design.
- E. **PRD Procedures.** PRD procedures shall be as required for the PUD District, Section 5.5 E. of this Article.
- F. **PRD Submittal Requirements.** PRD submittals shall be as required for the PUD District, Section 5.5 F. of this Article.

5.5 PUD - PLANNED UNIT DEVELOPMENT

- A. **District Purpose.** The purposes of this District are to encourage creative and innovative community design; establish usable open spaces and recreation areas; encourage the preservation of valuable natural, archeological and historical resources; establish a high degree of compatibility between differing land uses and provide livable, walkable and convenient neighborhoods by mixing land uses, providing for a variety of housing types, encouraging clustered housing and allowing flexibility in the regulation of land development. It is further intended that PUDs apply to any undeveloped area currently zoned R-1 as a means to provide for more imaginative and creative housing design.
- B. **Qualifying Conditions.** Any application for a Planned Unit Development shall meet the following conditions to qualify for consideration as a PUD:
1. **Mixed-Use Required.** The proposed development shall consist of at least two land uses.
 2. **Minimum Site Size.** The PUD site shall have a minimum of 10 acres of land area.
 3. **Public Utilities Required.** The PUD shall be connected to the public sewer and water systems.
 4. **Unified Control.** The land area to be included in the PUD shall be under the control of one person or a group of persons and shall be capable of being planned and developed as an integral unit.
- C. **Permitted Principal Uses.** Land and buildings within a Planned Unit Development District shall be used only for the following purposes provided the Planning Commission finds that all of the development requirements of the district and the Standards for Approval as stated in Section 5.5 E of this Ordinance are satisfied.
1. **Permitted principal uses,** uses permitted with special conditions and by special use permit in the PRD District.
 2. **Public parks, schools, golf courses, recreation buildings, and other municipally owned facilities.**
 3. **Essential services** but excluding telecommunication towers.
 4. **Privately owned recreation facilities** such as golf courses, swimming pools and similar uses which are primarily for the use of the owners of lots located in the Planned Unit Development.
 5. **Personal care services** such as barber shops and beauty salons (Sector 81) but excluding sexually oriented businesses.
 6. **Retail trade establishments** which sell merchandise directly to the consumer (Sectors 44 and 45) but excluding sexually oriented businesses, drive-thru businesses, and outdoor sales.
 7. **Uses customarily accessory** and incidental to a principal use.
- D. **District Development Regulations.** The following development regulations shall apply to uses in the PUD district:
1. **Maximum Development Intensity.**
 - a. Residential (riparian PUDs): Three (3) units per acre.
 - b. Residential (non-riparian PUDs): Four (4) units per acre.
 - c. Commercial: Maximum Floor Area Ratio of 0.3 for individual commercial sites.

2. Density Bonus Provisions. A PUD which satisfies two or more of the following criteria shall qualify for a maximum density bonus of 20%:
 - a. Dedicates 50% or more of the land area of the PUD to permanent usable open space or recreational uses for residents.
 - b. Configures open space to protect and preserve the site's most valuable natural resources including mature woodlots; shorelines; steep slopes (12% or greater); wetland and lake edges; dunelands; significant wildlife habitat and interconnected corridors; scenic vistas; ridge tops; stream corridors and historical, cultural, and archeological areas,
 - c. Provides recreational amenities and facilities for use by the PUD residents including such things as wildlife viewing platforms, horse barns and stables, ball fields, hiking and biking trails. These should be suitably located to be conveniently accessible by residents,
 - d. Protects rural roadside character and incorporates rural character elements which are unique to the Township including, but not limited to, open space, farmland, farmhouses, barns, orchards, woods and water. This should include the avoidance of homes fronting directly onto existing public roads which give the appearance of a suburban subdivision,
 - e. Avoids construction on ridgelines (the top elevation of the rooftop is constructed below the top elevation of the ridgeline),
 - f. Protects and incorporates sites of historic, archeological, or cultural value,
 - g. Landscapes individual lots and common areas with native trees, flowering shrubs and other vegetation to promote wildlife habitat. Whenever possible, existing significant trees (deciduous 12" dbh and coniferous 8" dbh and larger) should be retained on individual lots and within dedicated open space areas.
 - h. Employs design principles generally accepted as consistent with "traditional neighborhood design."
3. Buffer Yards Required. All PUDs shall provide a minimum buffer yard of 50 feet from street and Highway right-of-way lines, property lines and the ordinary high water mark of a lake or stream except that PUDs that front on a Highway may have lesser setbacks if approved by the Planning Commission. Variations may be permitted by the Planning Commission for street or Highway buffer yards which employ traditional neighborhood design. Buffer yards shall be landscaped with trees, shrubs and other plant materials that are compatible with local climate, soils characteristics, drainage and available water supply. Maintenance shall be the responsibility of the homeowners association. See Section 3.13 for shoreline protection regulations.
4. Maximum Structure Height. 35 feet.
5. Open Space Required. A minimum of 40% of the land area of the PUD shall be dedicated to usable open space and recreation uses.
6. Underground Utilities Required. All utilities including telephone, cable TV and electricity shall be constructed underground.
7. Maximum Allowable Commercial Development. Not more than 25% of any PUD shall be comprised of commercial development.
8. Street Requirements. All streets, driveways and parking areas shall be surfaced with bituminous asphalt, concrete or other similar surface materials.
9. Minimum Residential Floor Area.
 - a. One-Family Dwelling: 780 square feet of floor area for the first floor and 1,000 square feet if more than one story exclusive of porches, garages, basements and utility areas.

- b. Multiple-Family Dwelling: 800 average square feet of floor area per unit but no unit shall be less than 680 square feet.
- 10. Architectural Compatibility Required. Buildings within the PUD shall have consistent and compatible architecture.
- 11. Pedestrian Circulation Required. The PUD shall emphasize pedestrian circulation and access.
- 12. Natural Features Integration. The natural landscape shall be preserved as an integral part of the overall design.

E. **PUD Procedures**

- 1. Master Development Plan-Rezoning.
 - a. Optional Pre-Application Conference. Prior to submission of a Master Development Plan, the applicant may request a meeting with the Chairperson of the Planning Commission, the Township Supervisor and the Township Zoning Administrator, together with such consultants and local officials and staff as either the Township or the applicant deem appropriate. The purpose of the meeting is to inform Township Officials of the general theme for the proposed development; to answer questions; to provide the potential applicant with information regarding land development plans, policies, procedures and standards; and to discuss information requirements and possible waivers of information relative to the proposed development. Statements made in the course of a pre-application conference shall not be construed to be legally binding commitments on the part of either the Township or the applicant. At the pre-application conference the applicant may present a general sketch plan for the proposed PUD or any other information that may be of help in describing the character and intent of the PUD.
 - b. Application. Ten (10) copies of the application for a Master Development Plan and rezoning shall be submitted to the Township Clerk along with the requisite fee at least 30 days prior to the date of the public hearing.
 - c. Planning Commission Chair Review. The Planning Commission Chair shall review the application and support information to determine whether they are complete. To the extent the application is incomplete the Chair shall inform the applicant within 30 days. When the application is complete, the Chair shall forward copies of the application to the Planning Commission for review and recommendation. The Planning Commission Chair shall have discretion as part of the review process to solicit comments from the County Road Commission, the County Drain Commissioner, the Northwest Michigan Community Health Agency, the Michigan Department of Transportation, the County Soil Erosion Control Officer, the County Planning Department, the Township's Consulting Planner and Engineer, and such other public agencies as may have an interest in the application.
 - d. Planning Commission Recommendation, Public Hearing and Findings. The Planning Commission shall hold a public hearing on the Master Development Plan in accordance with the procedures and notice requirements for a rezoning. The Planning Commission shall submit a written recommendation to the Township Board for approval, denial or approval with conditions of the Master Development Plan. The

recommendation on the Master Development Plan shall be accompanied by its findings in accordance with Section 5.5 E. 1. g., Standards for Approval.

- e. County Planning Commission Recommendation. Following a recommendation on the Master Development Plan by the Township Planning Commission, it shall be forwarded to the County Planning Commission for review.
- f. Township Board Approval. The Township Board shall review the application and the recommendation of the Township and County Planning Commissions and shall approve, deny or approve with conditions the Master Development Plan. The Township Board may, at its discretion, hold additional public hearings on the application. In the event the Township Board shall approve the Master Development Plan, the effect of the approval shall be to rezone the property to PUD District whereupon; the Master Development Plan shall become the zoning for the property. It shall also authorize the applicant to prepare Final Development/ Site Plans for specific development phases.
- g. Standards for Approval. In making a decision on a Master Development Plan, the Township shall find as follows:
 - 1) The PUD satisfies all of the Qualifying Conditions and the District Development Regulations of the Planned Unit Development District, Section 5.5 D.
 - 2) The PUD is compatible in character and scale with the surrounding neighborhood and immediately surrounding properties and will not increase traffic volumes significantly on residential streets within established neighborhoods.
 - 3) The PUD establishes a harmonious relationship between the developed area and the natural environment and protects and integrates important and sensitive natural, historical and archeological resources with the PUD.
 - 4) The PUD and the proposed mix and intensity of land uses are generally consistent with the Township Master Plan.
 - 5) The PUD is adequately served by public utilities and services and is compatible with the capacities of public services and facilities that may be affected by the PUD.
 - 6) The PUD has access to a major street or highway such that it will not cause undue congestion or interference with the normal traffic flow.
 - 7) The PUD is consistent with the public health, welfare and safety of the Township.
 - 8) The PUD is consistent with applicable state and federal statutes and regulations.
- h. Conditions. Reasonable conditions may be applied by the Township with the approval of a PUD to insure that public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads caused by the use or activity, to protect the natural environment, to insure compatibility with the adjacent uses of land and to promote the use of land in a socially and economically desirable manner in the interests of residents, adjacent land owners and the community as a whole. Said conditions shall be recorded in the

record of approval of a land use or activity kept by the Township and shall remain unchanged except by mutual consent of the Township and the landowner.

- i. Amendments. A Master Development Plan may be amended as follows:
 - 1) Minor Amendment. Minor amendments are those which will **have** no foreseeable effect beyond the property boundary, such as minor changes in the alignment of utilities and the realignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Planning Commission without notice or public hearing, provided such changes shall not increase the size of buildings by more than five percent (5%), the height of structures by more than five percent (5%), not to exceed the maximum height of 35 feet, or significantly reduce the efficiency or number of public facilities or improvements serving the PUD, significantly reduce usable open space, significantly reduce or increase parking areas, or significantly encroach on natural features proposed by the plan to be protected. Any amendment that proposes to increase the number of residential units shall be processed as a major amendment.
 - 2) Major Amendment. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Township Board after first being reviewed by the Planning Commission. Such amendment shall be processed as authorized by this Article for approval of a PUD.
 - j. Expiration/Extension. The PUD shall automatically expire two years from the date of approval of a Master Development Plan if a Final Development Plan has not been initiated for at least one phase of the PUD. Upon written request, stating the reasons for the delay and providing a schedule for continuation, The Planning Commission may extend the approval for up to one additional year on a one time basis.
2. Final Development Plan-Site Plan Review
- a. Application Requirements. A Final Development Plan shall be processed in accordance with the procedures established for Site Plan Review, Article IX of this Ordinance.
 - b. Substantial Compliance Required. The Final Development Plan shall be in substantial compliance with the approved Master Development Plan. Substantial compliance shall mean the following:
 - 1) The number of residential living units has not increased or decreased by more than five percent from that approved in the Master Development Plan;
 - 2) Neither the floor area of non-residential uses has been increased by more than five percent nor the gross floor area of any individual building has been increased by more than ten percent from that approved for the Master Development Plan;
 - 3) There has been no increase in the height of any building;
 - 4) Open space has not been decreased or altered to change its original design or intended use; and
 - 5) All conditions required on the Master Development Plan by the Township have been incorporated into the Final Development/Site Plan.

- c. Failure to Comply. In the event the Final Development Plan is not in substantial compliance with the approved Master Development Plan, the Planning Commission Chair shall not forward the plan to the Planning Commission for consideration.
3. Simultaneous Submittals. Applicants may combine the Master Development and the Final Development Plans for review by the Planning Commission by submitting all information required for both stages simultaneously.

F. **Submittal Requirements**

1. Master Development Plan. An application for a Master Development Plan shall be accompanied by the following information:
 - a. The mapping and description of existing conditions:
 - 1) A legal description and the ownership of the property.
 - 2) The number of acres broken down into buildable areas, unbuildable areas (i.e., ponds, lakes, streams, wetlands and dunelands) and areas of public road right-of-way.
 - 3) Mapping and descriptions of existing conditions including site topography, drainage patterns, unbuildable areas, floodplains, woodlands and other vegetated areas, existing land use and structures, existing zoning and such other information as may be relevant to the review of the plan.
 - 4) Mapping and descriptions of existing conditions surrounding the site including existing land use, historical and archeological features, structures, roads, zoning, utilities and natural features that may have a relationship to the subject property.
 - b. A generalized Master Plan for the entire PUD site including graphic plans and written documentation illustrating:
 - 1) The location, number, density and height of residential units, if any, the location, height and approximate floor area of non-residential uses and the approximate number of acres to be occupied by each specific use (the plan shall provide a tabular summary of this information);
 - 2) Approximate road and utility locations and sizes;
 - 3) Probable traffic impacts at intersections in the general vicinity of the PUD and on residential streets in established neighborhoods and the methods proposed to manage traffic impacts;
 - 4) The degree to which the PUD is or is not consistent with the Township's Master Plan;
 - 5) Generalized grading and drainage plans showing major cuts and fills and how and where surface water detention and drainage will be accommodated;
 - 6) The number of acres and the location of areas to be preserved as open or recreational space and/or for natural feature, historical and archeological and wildlife habitat preservation;
 - 7) A description of the uses of common open space, its proposed ownership, and the instruments to be employed to restrict and maintain such open space;
 - 8) Typical drawings and sketches which illustrate the proposed character of the development and the concepts and relationship of buildings to each other, to the street, to parking and to common open space areas and the proposed architectural style;

- 9) Generalized landscaping plans;
 - 10) Generalized plans for signage and lighting including the location, size and character of signs and the type and character of lighting proposed;
 - 11) A plan for the timing and phasing of development;
 - 12) Covenants or other restrictions proposed for the regulation and governance of the development and;
 - 13) A description of other governmental approvals that are required or pending and the status of these approvals processes;
 - 14) A general summary of PUD impacts and the measures proposed to mitigate such impacts.
- c. Waiver: The Planning Commission may waive Master Development Plan requirements if it finds that they do not apply or would serve no useful purpose.
2. Final Development Plan. A Final Development Plan representing one phase of a Master Development Plan shall include all of the information required by Article IX, Site Plan Review Requirements.

5.6 C COMMERCIAL DISTRICT

- A. **District Purpose.** The purpose of this district is to accommodate a broad range of retail and commercial service establishments to serve the needs of both residents and the public.
- B. **Permitted Principal Uses.** Land and buildings in the C Commercial District shall be used only for the following purposes, provided no single tenant occupancy exceeds a floor area of 20,000 square feet and the Zoning Administrator finds that the proposed use satisfies all of the District Development Regulations of Section 5.6 E. of this Ordinance. Sector Numbers refer to the North American Industry Classification System, 1997; Office of Management and Budget; in effect on the effective date of this Ordinance. A complete list of uses can be obtained in the Township office.
1. Accommodations and Food Services (Sector 72)
 2. Administrative and Support Services (Sector 56) but excluding Waste Management and Remediation Services (562)
 3. Arts, Entertainment and Recreation (Sector 71) but excluding sexually oriented businesses
 4. Educational Services (Sector 61)
 5. Health Care and Social Assistance (Sector 62)
 6. Information Services (Sector 51) such as newspaper, software, book and music publishers but excluding sexually oriented businesses
 7. Management of Companies and Enterprises (Sector 55)
 8. Personal and Laundry Services (812) but excluding sexually oriented businesses
 9. Private Household Services (814)
 10. Professional, Scientific and Technical Services (Sector 54) such as legal, tax preparation, engineering and design services and veterinary services
 11. Public Administration Services (Sector 92)
 12. Real Estate Rental and Leasing (Sector 53)
 13. Religious, Grant making, Civic, Professional, and Similar Organizations (813)
 14. Retail Trade Establishments that sell merchandise directly to the consumer (Sectors 44 and 45), but excluding sexually oriented businesses, drive-thru businesses, outdoor sales, and buildings exceeding 2,000 square feet.
 15. Retail lumber yards, including mill and sash work, if conducted in a completely enclosed structure.
 16. Wholesale Trade Establishments (Sector 42)
 17. Essential services but excluding telecommunications towers
 18. Uses customarily accessory and incidental to a principal use
- C. **Uses Permitted with Special Conditions.** Land and buildings permitted with special conditions shall be used for the following purposes, provided no single tenant occupancy exceeds a floor area of 20,000 square feet, the Zoning Administrator finds that the following conditions are satisfied, and further provided that the proposed use satisfies all of the District Development Regulations of Section 5.6 E. of this Ordinance.
1. Repair and Maintenance Services (811) provided that all operations are conducted within a completely enclosed structure.
 2. Drive-thru Businesses as accessory to a principal use subject to the following conditions:

- a. Service lanes shall be designed for a one-way traffic flow only.
- b. Sufficient vehicle stacking space shall be provided so that motor vehicles will not interfere with circulation on sidewalks, streets, and highways.
- c. The drive-thru function shall be physically separated from customer parking areas. The physical separation shall be achieved through structures, curbs, islands, or other permanent structures.
3. Manufactured Home Sales when part of a manufactured home development provided the requirements of this district are met.
4. Outdoor display and sales of merchandise subject to the following conditions:
 - a. Outdoor sales shall be accessory to a principal use on the same lot.
 - b. The outdoor display of merchandise for sale shall be limited to paved surface areas.
 - c. All repair and service shall be done within an enclosed building.
 - d. All outdoor storage of trash, vehicle parts and similar items shall be screened from view from residential areas and public streets and highways.
5. Building, Developing, General Contracting (Sector 233) and Special Trade Contractors (Sector 235) provided that all operations, materials, and supplies are conducted and stored within a completely enclosed structure.
6. Contractors equipment storage yards associated with a permitted contractors operation provided the outdoor storage of equipment is located in the rear yard and is screened from view from residential areas and streets to a height of eight (8) feet above the ground.
7. Permitted Commercial Uses that abut a residential district subject to the following buffering requirements:
 - a. The Planning Commission may determine that adjoining uses are not incompatible and that minimal landscaping or buffering, as required by Article IX, Site Plan Review, is acceptable.
 - b. Where the Planning Commission finds that adjacent uses or uses located on opposite sides of a street, will be incompatible attributable to outdoor storage, parking, loading, or similar activities, a landscaped buffer shall be required adjacent to the common property or street line consisting of combinations of vegetation, berming, decorative walls, and fencing. Said buffer shall screen the activity from view of the residential district to an opacity of 85% at least to a height of six (6) feet for interior side and rear yards. Fencing alone shall not be considered to be acceptable screening and shall not be used in front or street side yards. Such screening shall not exceed a height of three (3) feet in a front or street side yard.

- D. **Uses Permitted by Special Use Permit.** Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, provided the Planning Commission finds that all of the District Development Regulations of Section 5.6 E. of this Ordinance are satisfied and further subject to the General Standards and Specific Requirements of Article VIII of this Ordinance are satisfied.
1. Sexually Oriented Businesses.
 2. Telecommunication Towers.
 3. Mixed-Use PUDs.
 4. Municipally owned outdoor storage yards.

5. Single tenant occupancies exceeding a footprint of 20,000 square feet. No single tenant occupancy shall exceed a footprint area of 90,000 square feet.

E. **District Development Regulations.** The following development regulations shall apply to all uses and structures within the C Commercial District.

1. Minimum Lot Width	80 FT ¹⁾
2. Maximum Structure Height	35 FT
3. Minimum Front Yard	25 FT ^{2) 3)}
4. Minimum Interior Side Yard	25 FT ³⁾
5. Minimum Street Side Yard	25 FT ^{2) 3)}
6. Minimum Rear Yard	25 FT ³⁾

¹⁾ As measured at the front building line. See Section 3.18 for access management requirements. Lot width on US-31 and M-66 shall be at least 150 feet as measured at the right-of-way line unless the spacing requirements of Section 3.18 are fully satisfied or the lot requires no direct access to the highway.

²⁾ Off-street parking and the display of merchandise for sale shall not be located nearer the street or Highway right-of-way line than the required building setback.

³⁾ Any yard abutting or across a street from a C-Commercial or I-Industrial district may be reduced to 10 feet, except that no reduction in any yard abutting a public street shall be permitted. For a development consisting of more than 10 acres that is planned and developed by a person as a unit, any yard abutting a C-Commercial or I-Industrial district may be reduced to 0 feet, except that no reduction in any yard abutting a public street shall be permitted.

F. **Procedural Requirements.** All uses in the C Commercial District shall be processed in accordance with Article IX, Site Plan Review.

5.7 HCO HEALTH CARE AND OFFICE DISTRICT

- A. **District Purpose.** This district is primarily intended to accommodate establishments that provide health care services and social assistance to individuals. These are services that are delivered by trained professionals in hospital, clinic and residential care settings. In addition, it is the purpose of this district to accommodate compatible professional and business offices that are related to or have customer characteristics that are similar to health care and social assistance providers.

- B. **Permitted Principal Uses.** Land and buildings in the HCO Health Care and Office District shall be used only for the following purposes, provided the Planning Commission finds that the proposed use satisfies all of the District Development Regulations of Section 5.7 E. of this Ordinance. Sector Numbers refer to the North American Industry Classification System, 1997; Office of Management and Budget; in effect on the effective date of this Ordinance. A complete list of uses can be obtained in the Township Office.
 - 1. Ambulatory Health Care Services (621) such as emergency and outpatient care centers, doctor and dentist clinics, medical and diagnostic laboratories.
 - 2. Hospitals (Sector 62).
 - 3. Nursing and Residential Care Facilities (623).
 - 4. Social Assistance Services (624) such as family care, community food, housing, and child day care services.
 - 5. Business and professional offices such as lawyers, engineers, architects, and insurance sales.
 - 6. Uses customarily accessory and incidental to a principal use.

- C. **Uses Permitted with Special Conditions.** (Reserved)

- D. **Uses Permitted by Special Use Permit.** (Reserved)

- E. **District Development Regulations.** The following development regulations shall apply to all uses within the HCO Health Care and Office District.

1	Maximum Structure Height	35 FT
2	Minimum Front Yard	25 FT
3	Minimum Interior Side Yard	10 FT
4	Minimum Street Side Yard	25 FT
5	Minimum Rear Yard	25 FT

- F. **Procedural Requirements.** All uses in the HCO Health Care and Office District shall be processed in accordance with Article IX, Site Plan Review.

5.8 I INDUSTRIAL DISTRICT

- A. **District Purpose.** The purpose of this district is to accommodate manufacturing, scientific research, warehousing and office uses which provide employment for area residents while generating a minimum of noise, odor, glare, dust, vibration, air and water pollution and fire and safety hazards. It is the intent of this district to allow manufacturing, compounding, processing, packaging, assembly, and storage of finished or semi-finished products from previously prepared materials in a manner that is compatible with surrounding uses, views from the highway and access to the highway. It is not the intent of this district to accommodate the manufacturing and processing of products from raw materials.

- B. **Permitted Principal Uses.** Land and buildings within the I Industrial District shall be used only for the following purposes, provided the Planning Commission finds that the proposed use satisfies all of the District Regulations and Requirements. Sector Numbers refer to the North American Industry Classification System, 1997; Office of Management and Budget; in effect on the effective date of this Ordinance. A complete list of uses can be obtained in the Township office.
 - 1. Any manufacturing (Sectors 31 through 33) use from previously prepared materials.
 - 2. Building, Developing, and General Contracting (233)
 - 3. Special Trade Contractors (235)
 - 4. Testing Laboratories (54138)
 - 5. Technical and Trade Schools (6115)
 - 6. Wholesale Trade, Durable Goods (421) and Wholesale Trade, Nondurable Goods (422) but excluding livestock and other live animals.
 - 7. Administrative and Support Services (Sector 56) but excluding Waste Management and Remediation Services (562)
 - 8. Essential services but excluding telecommunication towers
 - 9. Uses customarily incidental and accessory to a permitted principal use.

- C. **Uses Permitted with Special Conditions.** (Reserved)

- D. **Uses Permitted by Special Use Permit.** Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, provided the Planning Commission finds that all of the District Development Regulations of Section 5.8.E., District Performance Requirements of Section 5.8.G. and the General and Specific Requirements of Article VIII of this Ordinance are satisfied.
 - 1. Waste Treatment Facilities and Solid Waste Transfer Stations (56221) but excluding wastewater treatment and solid waste incinerators and landfills.

- E. **District Development Regulations.** The following development regulations shall apply to all uses within the I Industrial District.

1. Minimum Lot Area	1 Acre
2. Minimum Lot Width	150 FT ¹
3. Maximum Structure Height	35 FT

¹ As measured at the front building line.

The following setbacks are required when Industrial property is abutting industrial or commercial property.

The following setbacks are required when Industrial property is abutting residential property.

4.	Minimum Front Yard	50 FT	50 FT
5.	Minimum Interior Side Yard	20 FT	35 FT
6.	Minimum Street Side Yard	35 FT	35 FT
7.	Minimum Rear Yard	25 FT	50 FT

F. **Procedural Requirements.** All uses in the I Industrial District shall be processed in accordance with Article IX, Site Plan Review.

G. **District Performance Requirements.** The following performance requirements shall apply to all uses within the I District:

1. **Enclosed Building.** All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided further, that no goods, materials or objects shall be stacked higher than the fence or wall.
2. **Loading Docks, Trash and Mechanical Equipment.** Loading docks, trash receptacles and mechanical equipment shall not be visible from residential areas, public streets, or state or federal highways.
3. **Noise.** Noise emanating from a use in this District shall not result in the loss of the peaceful enjoyment of adjacent properties by people of ordinary and reasonable hearing and sensibilities.
4. **Fumes and Gases.** The use shall emit no toxic or corrosive fumes or gases which may be deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
5. **Odor.** The use shall not emit smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond the boundary of the lot.
6. **Dust and Particulate Matter.** The use shall not discharge into the air dust or other particulate matter.
7. **Heat and Glare.** The use shall produce no heat or glare which is humanly perceptible at or beyond the lot boundaries.
8. **Vibration.** The use shall produce no physical vibrations that are humanly perceptible beyond the lot boundaries.
9. **Explosive Material.** The use shall not involve the production or storage of any material designed for use as an explosive nor shall it use such material in production.
10. **Access.** No new direct private drive access shall be permitted to U.S. 31 if there is an alternative access available.

5.9 I-2 MARINE INDUSTRIAL DISTRICT

- A. **District Purpose.** The purposes of this district are to provide water related sites and locations for businesses that manufacture, repair, sell, and store boats and marine equipment and provide boat harborage.
- B. **Permitted Principal Uses.** Land and buildings within the I-2 Marine Industrial District shall be used only for the following purposes, provided the Planning Commission finds that the proposed use satisfies all of the District Regulations and Requirements. Sector Numbers refer to the North American Industry Classification System, 1997; Office of Management and Budget; in effect on the effective date of this Ordinance. A complete list of uses can be obtained in the Township office.
 - 1. Boat Houses
 - 2. Marina (713930)
 - 3. Scenic and Sightseeing Transportation, Water (487210)
 - 4. Freight Transportation Arrangement (488510)
 - 5. Coastal and Great Lakes Freight Transportation (483113)
 - 6. Port and Harbor Operations (488310)
 - 7. Boat Dealers (441222)
 - 8. Ship and Boat Building (3366)
 - 9. Essential services excluding telecommunication towers.
- C. **Uses Permitted with Special Conditions.** (Reserved)
- D. **Uses Permitted by Special Use Permit.** (Reserved)
- E. **District Development Regulations.** The following development regulations shall apply to all uses within the I-2 District.

1. Minimum Lot Area	50,000 SQ FT
2. Minimum Lot Width	250 FT ¹
3. Maximum Structure Height	35 FT
4. Minimum Front Yard	25 FT
5. Minimum Interior Side Yard	5 FT
6. Minimum Street Side Yard	25 FT
7. Minimum Rear Yard	25 FT
9. Minimum Lakeshore Setback	50 FT ²

¹ As measured at the front building line.

² As measured from the ordinary high water line; see Article III for shoreline protection regulations applicable to all districts.

- F. **Procedural Requirements.** All uses in the I-2 Industrial Marine District shall be processed in accordance with Article IX, Site Plan Review.
- G. **District Performance Requirements.** The following performance requirements shall apply to all uses within the I-2 District:
 - 1. **Permits.** Shall obtain all required state and federal permits.
 - 2. **Outdoor Storage of Products, Supplies, Materials and Equipment.** Products, supplies, materials and equipment shall be located and screened on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided

further, that no goods, materials or objects shall be stacked higher than the fence or wall.

3. Loading Docks, Trash and Mechanical Equipment. Loading docks, trash receptacles and mechanical equipment shall not be visible from residential areas or state or federal highways.
4. Noise. Noise emanating from a use in this District shall not result in the loss of the peaceful enjoyment of adjacent properties by people of ordinary and reasonable hearing and sensibilities.
5. Fumes and Gases. The use shall emit no toxic or corrosive fumes or gases which may be deleterious to the public health, safety or general welfare; except for those produced by internal combustion engines under designed operating conditions.
6. Odor. The use shall not emit smoke, odorous gases or other odorous matter in such quantities as to be offensive at or beyond the boundary of the lot.
7. Dust and Particulate Matter. The use shall not discharge into the air dust or other particulate matter.
8. Heat and Glare. The use shall produce no heat or glare which is humanly perceptible at or beyond the lot boundaries.
9. Vibration. The use shall produce no physical vibrations that are humanly perceptible beyond the lot boundaries.
10. Explosive Material. The use shall not involve the production or storage of any material designed for use as an explosive nor shall it use such material in production.

5.10 A AGRICULTURAL DISTRICT

- A. **District Purpose.** The purpose of this district is to allow for the continuation of non-offensive agricultural activities for as long as possible and to maintain large tracts of land until they are ready to be developed in accordance with the Township Master Plan.
- B. **Permitted Principal Uses.** Land and buildings within the A Agricultural District shall be used only for the following purposes, provided the Planning Commission finds that the proposed use satisfies all of the District Development Requirements of Section 5.10 E. of this Ordinance.
1. One (1) standard one-family dwelling on each lot unless processed as a condominium subdivision.
 2. General farming activities including the raising or growing of crops such as fruits, vegetables, grains, and trees and the care and raising of livestock.
 3. Apiaries
 4. Country clubs and golf courses.
 5. Essential services excluding telecommunication towers.
 6. Uses customarily incidental and accessory to a permitted principal use including satellite dishes that are one meter (39 inches) or less in diameter and attached to a building, large satellite dishes located in rear yards, amateur radio antennas and television antennas but excluding telecommunications towers.
- C. **Uses Permitted with Special Conditions.** Land and buildings permitted with special conditions shall be used for the following purposes, provided the Planning Commission finds that the following conditions are satisfied and further provided the proposed use satisfies all of the District Development Requirements of Section 5.10 E. of this Ordinance.
1. Roadside stands subject to the following conditions:
 - a. Each farm may have a maximum of one (1) temporary roadside stand.
 - b. The structure shall have a maximum height of fourteen (14) feet.
 - c. The floor plan of the structure shall not be larger than twenty by twenty (20 x 20) feet.
 - d. The stand shall be located no closer than thirty (30) feet from the nearest pavement or other traveled surface.
 - e. The area between the stand and the traveled surface shall be reserved exclusively for parking.
 - f. The stand shall be of portable construction, permitting it to be removed from its roadside location during the seasons when it is not in use.
 - g. Signs used in connection with the road side stand shall be temporary, and shall be removed when the stand is not in use. No sign shall be placed within a public right-of-way.
 2. Home-based businesses such as business and professional offices and telecommuting businesses subject to the following conditions:
 - a. The home-based business shall be clearly secondary and incidental to the use of the premises as a residence.
 - b. All activities shall be conducted entirely within the interior of the principal dwelling, barn, and garage.

- c. Home-based businesses shall be owned and operated solely by persons residing in the residence except that not more than one person not in residence on the premises may be employed on the premises.
- d. No alterations to the exterior of the dwelling, accessory building or yard shall be permitted which alters the residential character of the premises.
- e. Parking shall be allowed only within improved driveway areas.
- f. Not more than one identification sign shall be permitted provided it is not larger than four (4) square feet in area, is not illuminated, and denotes only the name of the business and/or the name or profession of the occupant of the dwelling.
- g. No sale or rental of goods stored on the premises shall be permitted, except as may be incidental to the furnishing of a service.
- h. No equipment shall be used in the home based business that will create electrical interference for surrounding properties
- i. The use shall not generate noise; vibration, odor, glare, or airborne particulates, other than those customarily associated with a residence, beyond the property line of the home-based business.
- k. Instruction in crafts and fine arts are recognized as permitted home-based businesses if they meet the above conditions.

D. **Uses Permitted by Special Use Permit.** Land and buildings permitted by Special Land Use Permit shall be used only for the following purposes, provided the Planning Commission finds that all of the District Development Regulations of Section 5.10 E., and the General and Specific Requirements of Article VIII of this Ordinance are satisfied.

- 1. Waste Treatment Facilities and Solid Waste Transfer Stations (56221) but excluding wastewater treatment and solid waste incinerators and landfills.

E. **District Development Regulations.** The following development requirements shall apply to all uses and structures within the A Agricultural District.

1.	Minimum Lot Area	2 Acres
2.	Minimum Lot Width	200 FT ¹
3.	Maximum Structure Height	35 FT
4.	Minimum Front Yard	50 FT
5.	Minimum Interior Side Yard	20 FT 60 FT for Agricultural Buildings
6.	Minimum Street Side Yard	25 FT
7.	Minimum Rear Yard	100 FT
8.	Maximum Lot Coverage	30%
10.	Minimum Structure Floor Area	864 SQ FT ²

¹ As measured at the front building line.

² Exclusive of porches, garages, basements and utility areas.

5.11 SRD SCENIC RESERVE DISTRICT

- A. **District Purpose.** The purposes of this district are to maintain and protect large areas of publicly owned Lake Michigan shorelands and critical dune areas for limited public and scenic use as designated by the Township Master Plan.

- B. **Permitted Principal Uses.** Land and buildings within the SR Scenic Reserve District shall be used only for the following purposes, provided the Planning Commission finds that the proposed use satisfies all of the District Development Regulations of Section 5.11 E. of this Ordinance.
 - 1. Existing campgrounds and ancillary uses.
 - 2. Existing trails and interpretive facilities.
 - 3. Flora and fauna management activities and facilities.
 - 4. Public and scenic open space.

5.12 MRD MINERAL RESOURCE DISTRICT

Ordinance No. 1.22, Chapter XIII(B), heretofore known as the Charlevoix Township Mineral Resource District Ordinance, shall be incorporated by reference as the use, dimensional, and procedural requirements for the MRD District.

ARTICLE VI OFF STREET PARKING REQUIREMENTS

6.1. OFF-STREET PARKING REQUIREMENTS.

A. Off-Street Parking Regulations.

1. When units or measurements determining number of required parking spaces result in the requirement of a fractional space, the fraction shall be considered one (1) required parking space.
2. In all zoning districts, off-street parking shall be provided in amounts not less than specified for the various uses.
3. Requirements for a use not mentioned shall be the same for that use which is most similar to the use not listed, as determined by the Planning Commission.
4. Additional parking shall be provided and maintained in proper ratio to any increase in floor area or building use capacity.
5. Where benches, pews, or other similar seating facilities are used as seats, each twenty (20) inches of such seating facilities shall be counted as one (1) seat.
6. In the case of mixed uses in the same building, the total requirements for off-street parking and loading shall be the sum of the requirements for each individual use computed separately, except that mixed-use developments as provided for in Article VIII of this Ordinance may be exempt from this provision if the Planning Commission determines that shared parking will provide opportunities and reduce the number of spaces.
7. It shall be unlawful to use any of the off-street parking established to meet the requirements of this Ordinance for any purpose other than the parking of licensed vehicles.
8. No commercial repair work, servicing, or selling of any kind shall be conducted on any parking area. Required parking spaces shall be used only for the parking of vehicles used to service the establishment to which it is accessory and by its patrons.
9. No advertising sign shall be erected on required parking areas except that not more than one (1) directional sign at each point of ingress or egress may be erected which may also bear the name of the enterprise the lot is intended to serve. Such signs shall not exceed two (2) square feet in area and shall not project beyond the property line of the premises.
10. The joint use of parking facilities by two (2) or more uses is recommended, and may be approved by the Planning Commission. When the following can be satisfied.
 - a. Computing Capacities: In computing capacities of any joint use, the total space requirement is the sum of the individual requirements that will occur at the same time. If space requirements for individual uses occur at distinctly different times, the total of such off-street parking facilities required for joint or collective use may be reduced below the sum total of the individual space requirements.
 - b. Record of Agreement: A copy of an agreement between joint users shall be filed with the application for a zoning permit and recorded with the Register of Deeds for Charlevoix County. The agreement shall include a recorded easement for continued use of the parking facility for each party of the joint use.

11. The number of required off-street parking spaces in all districts for every residential, recreational, institutional, cultural, business, and industrial use shall be provided in accordance with the following minimum requirements:

B. Off-Street Parking Space Requirements.

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
RESIDENTIAL		
One and Two Family	2	Per each dwelling unit
Multiple family and attached single family	2	Per each dwelling unit
Manufactured Home Developments	2	Per each manufactured home unit
INSTITUTIONAL		
Day care center	1	Per each four (4) persons based on licensed capacity, plus amount required for accessory uses
	6	off-street queuing spaces
Churches	1	Per each three (3) seats based on maximum seating capacity in the main place of assembly therein.
Convalescent homes, nursing homes, children's homes	1	Per each two (2) beds
Elementary and junior high schools	1	Per classroom, plus requirements of the auditorium or assembly hall therein
Golf courses open to the general public	60	Per nine holes, plus amounts required for accessory uses
High Schools, Colleges and trade schools	1	Per 2 employees plus
	1	Per each eight (8) students, based on maximum occupancy load established by local, county, state, fire, health, or building codes, plus requirements of the auditorium or assembly hall therein
Hospitals	2	Per each bed (bassinets shall not be counted as beds)
Libraries and museums	1	Per each 400 square feet of usable floor area
Private clubs and lodges	1	Per each three (3) individual members allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Private tennis club, swim club, golf club or other similar uses	1	Per each two (2) member families or individuals, plus amount required for accessory uses
Senior independent living units	1.2	Per each living unit
Senior assisted care units, homes for the aged, retirement community housing, etc.	1	Per 3 residents

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
	Auditoriums, stadiums and assembly halls	2
COMMERCIAL		
Animal hospitals and kennels	1	Per each 400 square feet of gross floor area
Barber shops	2	Per each barber
Beauty shops	3	Per each beauty operator
Bed and breakfast	1	Per rented room, provided on site, plus
	2	For operator's dwelling unit
Bowling lanes	5	Per bowling lane plus amount required for accessory uses
Convenience stores	1	Per 500 square feet of usable floor area
Dance halls, exhibition halls, pool halls, billiard parlors, and assembly halls without fixed seats	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes
Furniture, appliances, and household equipment repair shops, hardware stores, and other similar uses	1	Per each 800 square feet of gross floor area
Laundromats, coin operated dry cleaning establishment	1	Per three (3) washing or dry cleaning machines
Marinas	1.5	Per boat slip,
	1	Per each four (4) boat storage spaces
Miniature or "Par 3" golf courses	3	Per each hole plus amount required for accessory uses
Mortuary establishments, funeral homes, undertaking parlors	1	Per each 500 square feet of gross floor area
Motels, hotels and tourist home	3	Per two guest rooms plus the amount required for each accessory uses including restaurants, lounges and gift shops
Personal service establishment (not otherwise provided for herein)	1	Per each 300 square feet of usable floor area
Restaurants and other establishments (other than drive-thru restaurants) in which is conducted the sale and consumption on the premises of food, beverages, or refreshments	1	Per each two (2) persons allowed within the maximum occupancy load as established by local, county, state, fire, health, or building codes.
Restaurants (drive-thru) or similar drive-thru uses for the sale of food, beverages, or refreshments	1	Per each 50 square feet of gross floor area plus,
	2	drive-thru short term waiting spaces plus,
	12	stacking spaces for drive-thru service which do not conflict with the use of required spaces plus,
	2	longer spaces designated for recreational vehicles, buses, and semi-trucks

USE	PARKING SPACE PER UNIT OF MEASUREMENT AS FOLLOWS:	
Retail stores	1	1 space for each 200 square feet of gross floor area
Roadside stands	6	Per establishment
Theaters with:	1 to 3 screens or stages	1 per each 4 seats
	4 to 6 screens or stages	1 per each 5 seats
Vehicle repair shops, collision or bump shops, and other similar uses	1	Per each 800 square feet gross floor area, plus
	3	Per each stall or service area
Vehicle salesrooms, machinery sales and other similar uses	1	Per each 200 square feet usable floor area, plus amount required for accessory uses
Vehicle service stations	3	Per each service stall, plus
	1	Per each service vehicle, plus amount required for convenience store, vehicle wash, or other applicable accessory use
Vehicle wash establishments	1	Per employee during peak shifts plus,
	12	stacking spaces per bay for a semi- or fully automatic car wash plus,
	2	stacking spaces per bay for a self-serve car wash
Wholesale stores	1	Per 200 square feet of gross floor area
OFFICES		
Banks (drive-thru)	4 stacking spaces	Per each drive-thru window which do not conflict with the use of required parking spaces plus requirements for a bank
Banks (other than drive-thru banks) and post offices	1	Per each employee or service window plus
	1	Per each 300 square feet of gross floor area
Business and professional offices	1	Per each 250 square feet of gross floor area
Medical clinic and dental clinic	3	Per each examining room
INDUSTRIAL		
Industrial or manufacturing establishments and research establishments	1	Per each 300 square feet of gross floor area, plus amount required for accessory uses and offices, with a minimum of five (5) spaces
Warehouses and storage buildings	1	Per each 2,000 square feet gross floor area, with a minimum of four (4) spaces

- C. **Off-Street Parking Design Standards.** The following design standards shall apply:
1. Parking areas with a capacity of four (4) or more vehicles shall be surfaced with a material that shall provide a durable, smooth, and dustless surface and shall be graded and provided with drainage facilities to accommodate surface runoff on site.
 2. Each parking space shall be provided access by means of a maneuvering aisle. Backing directly into a street or highway shall be prohibited. Parking spaces shall be clearly marked and have the following minimum dimensions depending on the parking pattern:

	Stall Width	Aisle Width	Stall Length	Bay ¹⁾ Width	Bay ²⁾ Width
a. Parallel Parking	9 feet	12 feet	22 feet	30 feet	21 feet
b. 90-Degree Parking	9 feet	24 feet	18 feet	60 feet	42 feet
c. 60-Degree Parking	9 feet	18 feet	18 feet	54 feet	36 feet
d. 45-Degree Parking	9 feet	14 feet	18 feet	50 feet	32 feet
e. 30-Degree Parking	9 feet	12 feet	18 feet	48 feet	30 feet

¹⁾ With 2 parking stalls and aisle
²⁾ With one parking stall and aisle

6.2 OFF-STREET LOADING REQUIREMENTS

- A. **Off-Street Loading Regulations.**
1. On the same premises with every building or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale, market, hotel, hospital, laundry, dry cleaning, or others similarly involving the receipt or distribution of vehicles, material, or merchandise there shall be provided and maintained on the lot adequate space for standing, loading, and unloading services in order to avoid undue interference with street or parking areas.
 2. Such loading and unloading space, unless completely and adequately provided for within a building, shall be a minimum area of ten (10) feet by fifty (50) feet, with fourteen (14) foot height clearance, and shall be provided according to the following schedule:
 3. Off-street loading spaces shall be screened from view of residential areas and public streets and highways.
- B. **Off-Street Loading Space Requirements.**

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Gross Floor Area	
0-2,000	0	
2,000-20,000	1	
20,000-100,000	1	plus one space for each 20,000 square feet in excess of 20,000 square feet.
100,000-500,000	5	plus one space for each 40,000 square feet in excess of 100,000 square feet.
Over 500,000	15	plus one space for each 80,000 square feet in excess of 500,000 square feet

ARTICLE VII - SIGN REGULATIONS

7.1 Description and Purpose

To permit and regulate the use of signs in all districts.

7.2 Use Regulations

The following signs shall be permitted for the identification of premises, for providing information relative to the functions of the premises, or for advertising, within the particular limitations for each district noted.

- A. **Residential Districts R-1, R-2, R-3, PRD and PUD** - One non-illuminated sign advertising the sale or lease of the lot or building not exceeding six (6) square feet on any one lot. A non-illuminated sign advertising a recorded subdivision, a condominium subdivision or development shall be permitted, not to exceed one-hundred (100) square feet in area and placed no closer to a street right-of-way line than ten (10) feet.
- B. **Commercial (C), Industrial (I) and Marine Industrial (I-2) Districts**. The following shall apply:
1. All signs in any residential district shall be permitted subject to the same limitations for those districts.
 2. A sign shall not exceed in height, twenty (20) percent of the building height, and the total area of all signs shall not exceed twenty (20) percent of the area of the nearest building face with which they are parallel.
 3. Signs may be illuminated externally.
 4. Signs not exceeding two (2) square feet in area may be utilized for traffic regulation or direction within the zone.
 5. An additional freestanding sign not to exceed eighty (80) square feet shall be permitted near one entrance on each street upon which the lot or parcel fronts. Such a sign shall convey only identification of the permitted use, shall be located so that the view of traffic is not obstructed and may not extend into or over any public right-of-way or easement.
- C. **Health Care and Office District (HCO)**.
1. Signs in any residential district shall be permitted subject to the same limitations for those districts.
 2. One sign pertaining to the permitted use shall be allowed, provided that the sign does not exceed twenty (20) square feet. The sign shall not be illuminated except by a reflector method and the light source may not be visible from adjacent properties.
- D. **Agricultural District**.
1. All signs in any residential or commercial district shall be permitted subject to the same limitations of those districts.
 2. Outdoor signs shall not exceed one hundred fifty (150) square feet in area. All such signs shall be three (3) feet or more above ground and conform to the yard and setback requirements of the district. All illumination, unless otherwise approved by the Zoning Board of Appeals, shall not have the sources of light visible beyond the property lines of the parcel upon which the sign is located.
 3. Billboards shall not exceed two hundred (200) square feet in area unless approved by the Township Board. Setbacks on all Township roads shall

conform to the State of Michigan setback requirements for primary roads. Applications for permits for billboards shall be approved by the Township Board.

ARTICLE VIII SPECIAL LAND USES

8.1 PURPOSE AND PROCEDURES [amended 5/14/07]

- A. **Intent and Purpose.** In order to provide for reasonable control, this Article permits detailed review of certain specified land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Land and structure uses possessing these characteristics may be authorized within designated zoning districts by the issuance of a special use permit. By such procedure, the Township shall have the authority to impose conditions and safeguards which are determined by the Township to be necessary to protect the public welfare.
- B. **Permit Procedures.** An application for a special use permit for any use of land or structure permitted under this Article shall be submitted and processed in accordance with the following procedures:
1. **Submission of Application:** The application shall be submitted to the Township Clerk on a special form for that purpose at least 30 days prior to the date of the public hearing. Each application shall be accompanied by the payment of a fee as established by the Township Board to cover the costs of processing the application. No part of any fee shall be refundable.
 2. **Information Required:** Every application shall be accompanied by the following information:
 - a. Application. The application form and associated fee, completed in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of this Article.
 - b. Site Plan. A site plan drawn to scale in accordance with the requirements of Article IX of this Ordinance (preferably 1" = 50') for the total property. The site plan shall show natural features including springs, lakes and ponds, flood plain elevations, water courses, vegetation, topography at two (2) foot contour intervals; the location of all abutting streets; the location of all existing and proposed structures and their uses; and the location and extent of all above ground development; both existing and proposed.
 - c. Impact Assessment. A written impact assessment to include illustrations of the following information and descriptions of possible impacts and proposed mitigation measures:
 - 1) Written and graphic illustrations of the existing environmental characteristics of the site and area prior to development including topography, soils, vegetative cover, drainage, streams, creeks and ponds.
 - 2) Existing land uses and other man-made features on and adjacent to the site and how they will be impacted by the project.
 - 3) The number of people to be housed and/or employed, the number of visitors or patrons and the vehicular and pedestrian traffic that will be generated by the project.
 - 4) Phasing of the project including the ultimate development plan.
 - 5) Natural features which will be retained, removed and/or altered including vegetation, drainage, streams, wetlands, woodlands,

wildlife, water and topography. The description of the areas to be altered shall include the effects of such changes on the site and adjacent properties. An aerial photo may be used to delineate the areas of change.

- 6) The method to be used to serve the project with water and sanitary sewer facilities. If public utilities are not available to the site, the applicant shall submit a letter stating the status of approvals from the Northwest Michigan Community Health Agency.
- 7) The methods to be used to control drainage to and from the site. This shall include a plan and a description of the measures to be employed to control soil erosion and sedimentation during grading and construction operations, until a permanent ground cover can be established. Recommendations for such measures may be obtained from the Charlevoix County Soil Erosion Agency.
- 8) The method to be used to control any increase in effluent discharge or emission to the air or any increase in noise levels emanating from the site. Consideration of any nuisance that would be created within the site or external to the site whether by reason of dust, noise, fumes, vibration, smoke or lighting.
- 9) An indication of how the proposed use conforms with existing and potential development patterns in the area and any potential adverse effects.
- 10) Names(s) and address(es) of person(s) responsible for preparation of this statement.
- 11) Type, direction, and intensity of exterior lighting.
- 12) General description of deed restrictions, if any.

The Planning Commission shall have the authority to waive any of the above information that does not have specific application to the project.

3. Application Review and Published Notice: The application, along with all required information, shall be submitted to the Township Clerk who shall transmit the application to the Planning Commission Chair for review. The Chair shall determine whether the application is complete and inform the applicant in writing as to any deficiencies. Once the completed application has been received, the Chair shall inform the Township Clerk who shall publish notice of the public hearing in the newspaper which circulates in the Township not less than fifteen (15) days before the date the application will be considered. The notice shall:
 - a. Describe the nature of the special land use permit request.
 - b. Indicate the property which is the subject of the special use permit request. The notice shall include a listing of all existing street addresses within the 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.
 - c. State when and where the special use permit request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
 - e. Indicate that a public hearing on the special land use request will be held.
4. Written Notice. Written notice shall be given by the Township Clerk not less than fifteen (15) days before the date the application will be considered and the public hearing held. The notice shall be delivered personally or by mail to:
 - a. The owners of property for which approval is being considered.

- b. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.
 - c. The occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification.
5. Planning Commission Public Hearing and Decision. The Planning Commission Chair shall forward the complete application to the Planning Commission, which shall hold the public hearing, or hearings, on the application. The Commission may deny, approve, or approve with conditions the request for special use permit approval. The Planning Commission decision on a special use permit shall be incorporated in a statement containing the findings and conclusions relative to the decision, and any conditions imposed. Only upon approval by the Planning Commission may a special use permit be issued by the Zoning Administrator.
 6. Permit Expiration: A special use permit issued under this Section shall be valid for one (1) year if substantial construction has commenced and there are no physical or operational changes which alter the permitted use. If substantial construction on the permitted use has not commenced meaningfully toward completion by the end of one (1) year, the Zoning Administrator shall notify the applicant in writing of the expiration and revocation of the permit. Prior to its expiration, the applicant may request in writing an extension by the Planning Commission for one additional year. Such extension may be granted when the Commission finds that there is good reason to believe the applicant will in fact commence substantial construction toward completion by the end of the second year.
 7. Revocation Authority and Procedures: When an existing permitted special use is found to be in violation of the conditions under which it was approved, the Planning Commission shall have the authority to revoke the special use permit in accordance with the following procedures:
 - a. Notice. The Zoning Administrator shall give notice by registered mail to bring the special use into compliance with the requirements and conditions of the special use permit within 60 days of the date of notification. In the event the violation is not corrected within the 60-day period, the Zoning Administrator shall refer the matter to the Planning Commission for action.
 - b. Public Hearing. The Planning Commission shall conduct a public hearing in accordance with the notification and permit procedures of this Article.
 - c. Revocation. If, after taking testimony and reviewing the record, the Planning Commission determines that the special use fails to comply with the conditions of permit issuance, the Commission shall have the authority to revoke the permit and order the termination of the special use. In the event the Planning Commission decides to terminate the use, it shall issue its order in writing and provide the owner with the reasons and the time schedule for compliance. In the event the order of the Commission is not complied with, the matter shall be referred to the Township Attorney for enforcement actions.
 8. Reapplication: No application for a special use permit that has been denied wholly or in part by the Planning Commission shall be resubmitted for one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions.

8.2 **BASIS FOR DETERMINATIONS**

- A. **General Standards.** Before approving or disapproving a special use permit application, the Planning Commission shall review each application to determine that the proposed use meets the following general standards. The Commission shall find adequate evidence that each use on the proposed location:
1. Will be designed, constructed, operated and maintained so as to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area or neighborhood in which it is proposed to be located.
 2. Will not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
 3. Will be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage improvements, refuse disposal, water and sewage services, and schools or that persons responsible for the establishment of the proposed use shall, in the opinion of the Planning Commission, provide adequate private services and facilities in lieu of public facilities and services.
 4. Will minimize traffic conflicts and maintain traffic capacity by employing sound access management principles.
 5. Will not create excessive additional public costs for facilities and services.
 6. Will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by emitting fumes, dust, glare, vibrations or odors.
 7. Will preserve, to the maximum extent possible, the natural resources of the site and area.
 8. Will be consistent with the specific standards and the intent and purposes of this ordinance and the Township Master Plan.
 9. Will meet the standards and requirements of other governmental agencies and approval has already been obtained or is assured.
- B. **Conditions and Safeguards.** The Planning Commission may impose such additional conditions and safeguards as deemed necessary for the general welfare, the protection of individual property rights, and insuring that the intent and objectives of this Ordinance will be satisfied. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.

8.3 **SPECIFIC STANDARDS FOR SPECIAL LAND USES**

The Planning Commission shall have the authority to grant special use permits for the following uses provided the specific standards and requirements associated with each proposed use are satisfied:

- A. **Sexually-Oriented Businesses** in the C Commercial District subject to the following conditions:
1. Location. Sexually-oriented businesses shall be located a minimum horizontal distance of 500 feet from another such business, a residential district; and the property line of a religious institution, school, or child day care center.
 2. Minors on Premises. Persons operating a sexually oriented business shall not permit any person under the age of eighteen to be on the premises either as an employee or a customer.
 3. Hours of Operation. The sexually oriented business shall operate only between the hours of and 8:00 a.m. and 12:00 midnight, Monday through Saturday.
 4. Displays. Sexually oriented businesses shall display no services or products or pictures or illustrations or gifts so as to be visible from any street or neighboring property.
 5. Signs. Signage shall not include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas or specified sexual activities, or include animated or flashing illumination.
 6. Outdoor Storage. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent streets.
 7. Posting of Entrances. Entrances to a sexually oriented business shall be posted on both the exterior and interior walls in a location clearly visible to those entering and exiting the business. Lettering shall be no less than two inches in height that: 1) "Persons under the age of 18 are not permitted to enter the premises" and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission".
 8. Lighting of Parking Areas. Off-street parking shall be illuminated during all hours of operation of the sexually oriented business until one (1) hour after the business closes.
- B. **Telecommunications Towers** subject to the following conditions.
1. Antennas may be attached to existing structures including light standards, power poles, water towers or buildings in any district. Where located on an existing structure, they shall extend no higher than ten (10) feet above the structure to which they are attached.
 2. An antenna may be located on a self supporting monopole or lattice tower but not a guyed tower in the C Commercial District and the MRD Mineral Resource District. Where located on a tower, the following conditions shall apply:
 - a. Any nonconforming situations on the site shall be brought into conformance prior to the erection of the wireless communication facility.
 - b. Towers and accessory buildings shall be required to meet the development regulations of the district within which located.
 - c. A landscape buffer with a minimum height of six (6) feet shall be required to screen the structure base, accessory buildings and enclosure from

- adjacent uses and public rights-of-way. A maintenance plan detailing maintenance for landscaping shall be submitted with the application.
- d. Towers shall not be located within a yard that abuts U.S. 31.
 - e. The base of the tower shall be enclosed with a six (6) foot high security fence.
 - f. Towers shall be set back a distance equal to the height of the tower from all property lines but in no case shall a tower be taller than 199 feet.
 - g. Towers shall not be located within parking lots or other areas where they will interfere with the operation of a business on the property.
 - h. To reduce visual obtrusiveness, towers shall maintain either a galvanized or concrete appearance unless constructed as a camouflaged tower.
 - i. There shall not be displayed on the tower advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
 - j. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property owned and/or leased by the applicant.
 - k. No tower shall be constructed as a speculative tower. Prior to construction, each tower shall have at least one contracted carrier and evidence shall be provided of such contract at the time of application.
 - l. Colocation of antennas is required. Each tower shall be designed and built to accommodate multiple antennas.
 - m. Before any tower is considered, the applicant shall demonstrate in writing that there are no other colocation options available in the area and provide a map that illustrates existing and known proposed wireless communication facilities within Charlevoix Township and adjacent communities, which are relevant in terms of potential colocation or to demonstrate the need for the proposed facility.
 - n. A maintenance plan, and any applicable maintenance agreement, for the tower and tower compound shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
 - o. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes shall be provided at the time of application and shall be continuously updated during all times the facility is on the premises.
 - p. If a tower ceases to operate for a period of six (6) months, the tower shall be deemed abandoned and shall be removed upon written notice by the Zoning Administrator within one (1) year of abandonment.
 - q. All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- r. Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
- s. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views. Any aviation hazard lighting shall be detailed on the plans.
- t. Antenna and metal towers shall be grounded for protection against a direct strike by lightening and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
- u. Accessory structures shall not exceed six hundred (600) square feet of gross building area. Accessory buildings shall be a maximum of fourteen (14) feet high and shall be set back in accordance with the requirements for principal buildings in that zoning district.

- C. **Mining of Sand and Gravel in Any District.** Sand and Gravel Mining as a means to prepare the site for development in any District subject to the following conditions:
1. All uses shall be established and maintained in accordance with all applicable State and Federal regulations.
 2. No cut shall be made which creates a pit or depression in the earth unless the intent is to provide a water or other amenity for future development on the same site.
 3. No soil, sand, clay, gravel, minerals or other materials shall be removed in such a manner as to cause water to stand or accumulate, except as an amenity, or to result in a place of danger or menace to the public health or safety. The premises shall at all times be graded so as not to interfere with proper surface water drainage.
 4. At all stages of operations, the excavation shall be completely and continually drained of water when not in use or supervised by a watchperson. All slopes and banks shall be graded and treated to prevent erosion or any other potential deterioration.
 5. No building shall be erected on the premises during the operation of mining, except as temporary shelter for machinery or field office.
 6. All installations shall be maintained in a neat, orderly condition so as to prevent injury to property, any individual, or the Township in general.
 7. Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include limitations on the stockpiling of materials on the site.
 8. The finished slopes of the banks of the excavation shall in no event exceed a ratio of five feet horizontal to one foot vertical.
 9. Where an excavation results in a temporary edge being formed which is in excess of a five to one slope, a fence shall be erected protecting that portion of the site where said edge extends. The fence shall be of wire mesh or other suitable material to afford protection to persons and property and be a minimum of six (6) feet in height.

10. No roads may be used for the purpose of ingress or egress to said excavation, stripping or removal site which are located within 400 feet of occupied residences unless such roads be of a hard surface with concrete, bituminous substance, or chemically treated at sufficient intervals of time to insure that dust will be controlled.
11. Wherever top soil exists suitable for growing turf or for other land use at the time the operations begin, a sufficient quantity of top soil shall be stockpiled on said site so that the entire site, when operations are completed may be covered with a minimum of four inches of top soil. Such replacement shall be in a manner suitable for growing turf or for other land uses.
12. Mining operations and reclamation plans shall be prepared to clearly depict and describe the sequence of mining operations including existing conditions, mining underway, mining completed, reclamation underway, reclamation completed, mining proposed, reclamation proposed, stock piles, roadways, and similar land use elements. In addition a reclamation contour plat with contour intervals not to exceed two feet indicating the general grade and slopes to which excavated areas are to be reclaimed.
13. A site plan for reuse of the property in accordance with the requirements of Article IX.
14. A timetable for operation of the mining activities including the date on which the mining, extractive, or other operation will begin and the planned date of the completion of the operation.
15. Hours of operation of the mining operation shall be between 8 a.m. and 6 p.m., Monday through Friday.
16. The Planning Commission may establish such other reasonable requirements as are deemed necessary to properly protect the public health, safety and welfare and may waive or modify any of the above requirements which are not deemed requisite by the Planning Commission to protect the public health, safety and welfare.

D. **Solid Waste Transfer Stations in the A-Agricultural and I-Industrial Districts**

subject to the following conditions:

1. The transfer station shall only handle waste that can be legally handled or disposed of in an approved municipal solid waste landfill facility. This limitation shall not preclude use of the transfer station site for collection, processing, storage, and transfer of recyclable materials or for other waste reduction activities.
2. The transfer station shall be enclosed with a six (6) foot high security fence.
3. A landscape buffer with a minimum height of six (6) feet shall be required to screen the area, accessory buildings and enclosure from adjacent uses and public rights-of-way. A maintenance plan detailing maintenance for landscaping shall be submitted with the application.
4. The person operating the transfer station shall maintain a clean, neat, and orderly appearance of the site.
5. Litter, dust, and odors shall not be perceptible beyond the boundaries of the site.
6. Noise emanating from the station shall not result in the loss of peaceful enjoyment of adjacent properties by people of ordinary and reasonable hearing and sensibilities.
7. Transfer vehicles shall not be parked on public streets.

8. All solid wastes not transferred within 24 hours shall be stored in closed containers or in totally enclosed buildings. In no case shall solid waste be stored longer than seven (7) days.
9. There shall be at least 500 feet of separation between the transfer station facility (building and vehicular use areas adjacent to the building) and the nearest residential structure.
10. Operators shall remove trash, or other waste material of the type which is brought to the transfer station, along all public rights-of-way within one half mile of the facility.

E. **Wind Energy Conversion Systems (WECS)** in the MRD, C and PUD Districts subject to the following conditions:

1. Not more than one windmill or windwheel shall be permitted per parcel.
2. The minimum distance between the property line, overhead utility lines or another wind turban, and any tower support base of a WECS shall be equal to the proposed tower height (plus the radius of the rotor for the horizontal access machines).
3. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Planning Commission for approval.
4. The maximum allowed total height is one hundred feet. The lowest reach of the propeller blade shall be forty feet from the ground, unless, due to unusual circumstances, the Planning Commission permits a lower reach. In no case may the rotor be less than fifteen feet from the ground.
5. Maximum swept area is five hundred square feet or less. For a conventional propeller WECS, the diameter of blade configuration shall not be greater than twenty-three feet, unless the Planning Commission finds that the applicant's needs on the site justifies a WECS having a greater capacity.
6. A WECS must be equipped with both manual and automatic controls to limit the rotational speed of the blade below the design limits of the rotor. The application must include a statement by a Michigan registered mechanical engineer certifying that the rotor and overspeed controls have been designed and fabricated for the proposed use in accord with good engineering practices.
7. All mechanical equipment and buildings associated with the operation shall conform to all minimum building setbacks and shall be enclosed with a fence having a minimum height of six (6) feet. The tower shall also be enclosed with a six (6) foot fence, unless the base of the tower is not climbable for a distance of twelve (12) feet.
8. All electric and other utility wires associated with the WECS shall be buried underground.
9. The applicant shall demonstrate that any noise emanating from the wind energy conversion system shall not exceed sixty (60) decibels measured at the nearest property line.
10. Electromagnetic interference: If a WECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the WECS.

11. A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration regulations with regard to airport approach zones and clearance around VOR stations.
12. If the WECS is to be interconnected to an electric utility distribution system, it shall meet the interconnect requirements of the electricity utility company.
13. A WECS that has not produced energy for ninety (90) calendar days for reasons other than lack of wind, shall be dismantled and removed from the property within ninety (90) days.
14. At least one sign shall be posted at the base of the tower warning of high voltage. The generator, alternator, or service entrance shall be posted with the following information:
 - a. Minimum power output (kw), rated voltage (volts) and current;
 - b. Normal and emergency shutdown procedures;
 - c. The maximum wind speed the WECS in automatic unattended operation can sustain without damage to structural components or loss of the ability to function normally; and
 - d. Emergency contact telephone numbers.

F. **Mixed-Use Developments** in the C Commercial/PUD District:

1. **Purpose.** The purposes of this Section are to: encourage the establishment of integrated mixed-use developments in areas of the Township that are currently zoned exclusively for commercial use, enhance the architectural character of the Township as viewed from the Highway, enable a variety of uses to coexist in a harmonious fashion, create a well defined streetscape with pedestrian characteristics and establish connections and relationships between buildings and streets rather than continue to foster development patterns consisting exclusively of single buildings, each on its own lot.
2. **Uses Permitted.** In order to encourage mixed-use developments, the following uses shall be permitted in the C Commercial/PUD District:
 - a. Buildings with housing and office uses located above commercial uses in mixed-use buildings.
 - b. Multiple-family housing that is integrated with commercial and office uses at up to 12 units per acre.
 - c. Light manufacturing uses not exceeding 3,000 square feet.
 - d. Uses as permitted in the PRD District.
 - e. Uses as permitted in the C Commercial District, subject to all of the conditions and exclusions stated for said district.
3. **Incentives.** For developments processed as mixed-use PUDs, maximum flexibility may be allowed by the Planning Commission provided the following design standards are satisfied. The project shall be processed in accordance with the procedures established for a PUD rezoning but shall not be required to have a minimum site size of 10 acres. The land following rezoning shall be zoned C/PUD.
4. **Design Standards.**
 - a. **Building Placement.**
 - 1) Buildings shall have a well-defined front façade with entrances facing the street. They shall be aligned so that the dominant lines of their facades parallel the line of the street and create a sense of enclosure.
 - 2) The relationships between buildings and the street shall be parallel or perpendicular rather than oblique or diagonal. Front facades

shall be parallel to the street with major roof ridges either parallel or perpendicular to the street.

- 3) New buildings and additions to existing buildings shall maintain and continue the "street wall" created by adjacent buildings.
- b. Architecture.
- 1) Buildings or parts of buildings facing onto public spaces and streets, including canopies for accessory facilities, shall have peaked roofs with a slope of at least 8:12, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.
 - 2) Windows shall be vertically proportioned and balanced on facades, with width to height ratios ranging from 1:2 to 3:5. Horizontal windows may be used just below roof eaves ("eyebrow" windows) and as first-floor display windows.
 - 3) Trademark architecture, which identifies a specific company by building design features, shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of Charlevoix.
 - 4) Large buildings (footprint larger than 20,000 square feet) shall be broken up into smaller volumes consistent with the use and building proportions found in the region's traditional architecture.
 - 5) Buildings shall have windows and doors at street level, on the street side of the building, to encourage pedestrian traffic and commercial activity.
 - 6) No buildings shall have more than 15 horizontal feet of wall facing the street without a window or door opening.
 - 7) Building materials for exterior walls of new structures shall be wood, brick, stone or other materials traditionally used in the Charlevoix area.
- c. Lighting.
- Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cut-off luminaires designed to minimize glare and light pollution. Design of poles and luminaires shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.
- d. Landscaping.
- Minimum three-inch caliper shade trees, measured at breast height, shall be provided along all streets and pedestrian ways at intervals averaging twenty feet on each side. Existing trees, lawns and shrubs shall be preserved to the extent practical. Landscaping shall not be required as buffers between uses unless the uses are determined by the Planning Commission to be incompatible.
- e. Access and Connections.
- Access shall be provided in accordance with the Access Management requirements of Section 3.18 of this ordinance.
- f. Parking and Loading.
- 1) The Planning Commission may reduce the off-street parking and loading requirements of Article VI if the applicant can demonstrate that full compliance is unnecessary because of the characteristics of

the proposed use, the availability of shared or public parking, or other circumstances.

- 2) On-street parking and shared parking shall be encouraged where feasible.
- 3) Parking lots shall be located to the rear and side of buildings, and shall be laid out to minimize visibility from existing streets. Parking in front of buildings shall be limited to on-street parking. Parking in a side yard shall occupy no more than 25% of the width of the primary street frontage.
- 4) Rear parking lots shall be connected to adjoining parking lots and side streets, if any, and shall have clearly delineated pedestrian paths leading to the sidewalks along the street.

G. **Municipally-owned Outdoor Storage Yards** in the C Commercial District subject to the following conditions:

1. The facility shall not occupy Highway frontage or be visible from the Highway.
2. Materials stored on the site and operations conducted thereon shall not be visible from adjoining properties or public roads.
3. No such operation shall be located closer to a residential district than 1,000 feet.

H. **Single Tenant Occupancies Exceeding a Footprint Area of 20,000 Square Feet in the C Commercial District.** In addition to the General Standards listed in Section 8.2 A of this Ordinance, the following conditions shall apply:

1. **Purpose.** The purposes of this Section are to satisfy the purposes and intents of the Township Master Plan which are to insure that large buildings and occupancies: fit the small town character and appearance of the community, do not become a blighting influence, are more readily able to be reused if abandoned, and do not adversely impact existing businesses, the community, or the neighborhood.
2. **Design Standards.**
 - a. **Building Placement.**
 - 1) Buildings shall have a well-defined front façade with entrances facing the street. They shall be aligned so that the dominant lines of their facades parallel the line of the street.
 - 2) The relationships between buildings and the street shall be parallel or perpendicular rather than oblique or diagonal. Front facades shall be parallel to the street with major roof ridges either parallel or perpendicular to the street.
 - 3) New buildings and additions to existing buildings shall maintain and continue the "street wall" created by adjacent buildings.
 - b. **Architecture.**
 - 1) Buildings or parts of buildings facing onto public spaces and streets, including canopies for accessory facilities, shall have peaked roofs with a slope of at least 8:12, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.
 - 2) Windows shall be vertically proportioned and balanced on facades, with width to height ratios ranging from 1:2 to 3:5. Horizontal windows may be used just below roof eaves ("eyebrow" windows) and as first-floor display windows.

- 3) Trademark architecture, which identifies a specific company by building design features, shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of Charlevoix.
 - 4) Large buildings shall be broken up to provide the appearance of smaller volumes consistent with the use and building proportions found in the region's traditional architecture. Generally, facades facing a street shall have the appearance of several vertical buildings attached side by side.
 - 5) Buildings shall have windows and doors at street level, on the street sides of the building, to encourage pedestrian traffic and commercial activity.
 - 6) No buildings shall have more than 15 horizontal feet of wall facing the street without a window or door opening.
 - 7) Building materials for the exterior walls of all new buildings that are visible from a street shall be wood, brick, stone or similar materials traditionally used in the Charlevoix area. Building walls and structures that are not visible from a street shall be constructed of wood, stone, brick, concrete block, metal, and similar materials.
- c. Lighting.
Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cut-off luminaires designed to minimize glare and light pollution. Design of poles and luminaires shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.
- d. Landscaping.
Minimum three-inch caliper shade trees, measured at breast height, shall be provided along all streets and pedestrian ways at intervals averaging twenty feet on each side. Existing trees, lawns and shrubs shall be preserved to the extent practical. Landscaping shall not be required as buffers between uses unless the uses are determined by the Planning Commission to be incompatible.
- e. Access and Connections.
Access shall be provided in accordance with the Access Management requirements of Section 3.18 of this Ordinance.
- f. Sidewalks.
Sidewalks or defined walkways shall be provided leading from parking lots and along streets.
- g. Parking and Loading.
- 1) The Planning Commission may reduce the off-street parking and loading requirements of Article VI if the applicant can demonstrate that full compliance is unnecessary because of the characteristics of the proposed use, the availability of shared or public parking, or other circumstances. The Planning Commission may also consider "proof of parking" in lieu of finished parking improvements provided the applicant agrees in writing to provide parking when it is deemed to be needed by the Commission.
 - 2) On-street parking and shared parking shall be encouraged where feasible.

- 3) Parking lots shall be located to the rear and side of buildings, and shall be laid out to minimize visibility from existing streets, wherever possible. Parking in front of a building shall consist of no more than one bay width or sixty (60) feet.
 - 4) Rear parking lots shall be connected to adjoining parking lots and side streets, if any, and shall have clearly delineated pedestrian paths leading to the sidewalks along the street.
3. Additional Requirements For Buildings Exceeding a Footprint Area of 50,000 Square Feet. The following shall be required:
 - a. Market Feasibility Study. A retail market study shall accompany the application that indicates the potential of the market to accommodate the project and the impact of the proposed project on existing retail businesses in the Charlevoix market area.
 - b. Traffic Study. A traffic impact study shall accompany the application indicating the effects of the proposed development on the level of service of all existing and proposed intersections within one mile of the project and how traffic impacts will be mitigated.
 - c. Adaptability For Reuse Plan. The building design for a retail use shall demonstrate how the building is designed for adaptation to a multi-tenant building in the event of the abandonment of the single tenant occupancy. The design may include, but is not limited to, compartmentalized construction, including plumbing, electrical, service, heating, ventilation, air conditioning and wall placement. The plans shall also demonstrate how the exterior of the building can be divided into separate tenancies, facades can be adapted to separate entrances, parking can be shared, and the exterior can be maintained as a multi-tenant occupancy.

ARTICLE IX SITE PLAN REVIEW

9.1 INTENT AND PURPOSE

Site plan review is intended to insure that developments comply fully with Township ordinances and state, and federal standards and are able to be adequately serviced by public services and facilities while maintaining a high degree of compatibility with surrounding development and the natural environment.

9.2 SITE PLANS REQUIRED; EXEMPTIONS

- A. **Site Plans Required.** No building shall be erected or structurally altered, no change in use shall be permitted and no grading, or excavation shall be commenced on any lot or parcel until a site plan that meets all of the requirements of this Article has been approved by the Planning Commission.
- B. **Exemptions.** With the exception of lots abutting US-31, M-66, and Boyne City Road where site plans shall be required for all uses, the Planning Commission may exempt the following from site plan review when it determines that the submission of a site plan would serve no useful purpose and the proposed use complies fully with ordinance requirements:
1. Accessory structures no greater than 500 square feet that require no new or additional access to/from public roads. [amended 5/14/07]
 2. An enlargement of a principal building by less than 10 percent of the existing gross floor area provided such enlargement will not result in a requirement for additional parking or access to a public road.
 3. A change in a principal use where such change will not result in the expansion of an existing structure, an increase in impervious surface, additional access, or other alterations to the existing site conditions.
 4. One and two-family dwellings except that any such dwelling located in a critical dune area shall not be exempt from site plan review.
 5. Home-based businesses.

9.3 SITE PLAN REVIEW PROCEDURES

- A. **Procedures For All Site Plans.**
1. **Optional Sketch Plan Review.** Before submitting a formal application, the applicant may request a meeting with the Planning Commission to review the project. The purposes of the optional sketch plan review meeting are to allow the prospective applicant the opportunity to present preliminary sketches of the proposed development and seek input from the Planning Commission prior to the preparation of detailed plans. Statements made in the course of the sketch plan review meeting shall not be construed to be legally binding commitments on the part of either party.
 2. **Application.** An applicant shall apply for site plan review not less than 30 calendar days before the date on which such site plan shall be reviewed by the Planning Commission. Seven (7) copies of the application, support documentation, and site plan shall be submitted to the Planning Commission Chair for review according to the standards and requirements of this Ordinance.

3. Planning Commission Chair Review. The Planning Commission Chair shall circulate site plans to the appropriate officials for comments and recommendations as to their conformance with applicable standards and requirements.
 4. Approval; Referral. Once the Planning Commission Chair deems the site plan to be complete, the site plan shall be referred to the Planning Commission for review. If modifications are recommended, the applicant shall be notified in advance of the Planning Commission meeting so that adjustments can be made prior to such meeting. A site plan shall be deemed approved only upon the signature of the Zoning Administrator.
- B. **Planning Commission Review.** Once a site plan is forwarded to the Planning Commission, the Commission shall review the site plan according to the standards and requirements of this Article. The Commission shall approve the site plan if it is in conformance with the requirements of the zoning ordinance, is in substantial compliance (see page 40) with a PUD or PRD Master Development Plan, and is consistent with the Township Master Plan, other applicable Township plans and ordinances and state and federal statutes. If the Planning Commission finds that the site plan is not in conformance with applicable Township plans and ordinances the Commission shall deny the site plan, stating the reasons for denial in writing.

9.4 **SITE PLAN REQUIREMENTS.**

- A. **Submission Requirements.**
1. Support Documentation. At a minimum, the following support documentation shall be provided with the application:
 - a. The property owner's and applicant's full name, address, telephone number and proof of ownership;
 - b. A signed statement that the applicant is either the owner or officially acting on behalf of the owner of the property;
 - c. The name and address of the engineer, architect or landscape architect who prepared the site plan;
 - d. Project description including the total number of structures, units, bedrooms, square feet of floor area, parking spaces, residents, employees, customers, and related information;
 - e. The tabulation of the gross and net acreage of all parcels in the project;
 - f. Existing land uses, zoning, and existing structures on and within 100 feet of the subject parcel;
 - g. A written description identifying the probable project impacts on the existing infrastructure and services (streets, schools, utilities), the natural environment and the surrounding neighborhood and the measures to be employed to mitigate such effects.
 2. Site Plan. The site plan shall consist of an accurate reproducible drawing or drawings, illustrating the site and areas within 100 feet of the site. Site plans shall be sealed by a registered architect, engineer, or landscape architect and shall be drawn to scale and rendered on a minimum sheet size of 24 inches by 36 inches. Site plans shall include the following:
 - a. Legal description, property lines, lot lines, property dimensions, and setback lines;
 - b. Scale, north arrow, date and vicinity map;

- c. Road locations and names, existing road and alley pavement and right-of-way widths, the location and width of existing and proposed utility easements, the size and location of existing and proposed public utilities, building service lines and wells and the location and number of curb cuts and driveways;
- d. Existing topography and a detailed grading plan at two (2) foot contour intervals;
- e. Location and type of existing vegetation and any significant site amenities and how they will be altered by the project;
- f. Location and elevations of water bodies and courses, floodplains, drainage ways and wetlands and how they will be protected or altered by the project;
- g. Location, size, height and dimensions of existing and proposed structures and typical elevation drawings for proposed structures;
- h. Location and dimensions of proposed streets, drives, curb cuts, intersection clear zones and acceleration and deceleration lanes that are to serve the project and any access management measures that are required to minimize traffic conflicts along US-31 and M-66;
- i. Location, size and design of sidewalks, walkways, bicycle paths and other areas of public use;
- j. Size, number, location and design of parking and loading areas;
- k. Location of all other utilities on and adjacent to the site including, but not limited to, natural gas, electricity, cable TV and telephone services;
- l. Proposed location of accessory structures, buildings and uses including, but not limited to, docks, flagpoles, storage sheds, transformers and similar facilities.
- m. Required setback lines, lot size, lot coverage and any variances to be requested;
- n. Proposed layout, dimensions and locations of common open spaces and recreation facilities;
- o. The proposed location, size and dimensions of drainage areas and storm water detention ponds;
- p. A storm water management and soil erosion control plan;
- q. The location, size, height, and orientation of all existing and proposed signs.
- r. Detailed landscaping plan illustrating the size, location, species and numbers of plant materials;
- s. The location and design of exterior ornamental and security lighting;
- t. Location, design, materials, and height of proposed fences, walls, and other screening devices.
- u. Location, size and screening of all trash receptacles and solid waste disposal facilities;
- v. Location of any existing and proposed above or belowground storage facilities for salts, flammable or hazardous materials, and any requirement for containment structures or clear zones as may be required by governmental agencies.
- w. The following additional information may be requested by the Planning Commission:
 - 1) A report describing the soil types and the ability of soils to accommodate the proposed development;

- 2) A tree location survey signed by an engineer, surveyor or landscape architect, showing all existing trees having a diameter at breast height of six inches or greater, the common and/or scientific names and the diameter at breast height of these trees, plus an indication of trees to be preserved, to be transplanted, or to be removed during site development. Closely grouped trees shall be designated by the predominate species represented, the number present and the diameter at breast height range of the group or clump;
 - 3) A traffic study indicating the numbers of vehicles that will be generated by the development, potential areas of congestion or conflict, and the improvements that will be required to mitigate traffic impacts
- B. **Waiver.** The Planning Commission may waive any or all site plan requirements if the construction or alteration does not affect existing traffic circulation, drainage, grading, relationship of buildings to each other, landscaping, buffering, lighting, parking and other considerations of site plan review. Any of these requirements may be waived by the Planning Commission where, in its judgment, such data will not bear on the decision of the Planning Commission.
- C. **Appeals.** An applicant may appeal a decision of the Planning Commission, the Zoning Administrator, or the Planning Commission Chair to the Zoning Board of Appeals.

9.5 **BASIS FOR DETERMINATIONS.**

- A. **Standards for Granting Site Plan Approval.** Before approving or disapproving a site plan, the Planning Commission shall review each application to determine that the proposed use meets the following general standards. The Commission shall find that each proposed use on the proposed location:
1. Shall be designed, constructed, operated, and maintained to be harmonious, compatible, and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area or neighborhood in which it is proposed to be located.
 2. Shall not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
 3. Shall be adequately served by essential public facilities and services, such as streets, police and fire protection, drainage improvements, refuse disposal, water and sewage services, and schools or that persons responsible for the establishment of the proposed use shall, in the opinion of the Planning Commission, provide adequate private services and facilities in lieu of public facilities and services.
 4. Shall minimize traffic conflicts and maintain traffic capacity by employing sound access management principles.
 5. Shall not create excessive additional public costs for facilities and services.
 6. Shall not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by emitting fumes, dust, glare, vibrations or odors.

7. Shall preserve, to the maximum extent possible, the natural resources of the site and area.
 8. Shall be consistent with the specific standards and the intent and purposes of this and other Township ordinances and the Township Master Plan.
 9. Shall meet the standards and requirements of other governmental agencies and approval has already been obtained or is assured.
- B. **Conditional Approvals.** The Planning Commission may attach conditions and safeguards deemed necessary to the approval of the site plan, for the general welfare, for the protection of individual property rights, and to insure that the purposes and spirit of this Ordinance and the district will be satisfied when such conditions:
1. Insure that public services and facilities affected by a proposed land use or activity are capable of accommodating increased service and service 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, and
 5. Are related to the valid exercise of the police power under this Ordinance and the purposes which are affected by the proposed use or activity.
- C. **Recording Conditions.** The conditions and/or safeguards imposed, if any, on the site plan shall be recorded in the record of the approval action and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of the conditions that have changed or been imposed.

9.6 **SITE PLAN AMENDMENTS.**

No change shall be made to an approved site plan prior to or during construction except upon application to the Planning Commission in accordance with the following procedures:

- A. **Minor Change.** A change to a site plan involving minor changes in the siting of buildings, the adjustment of utilities, walkways, traffic ways and parking areas and similar minor changes may be approved or disapproved by the Planning Commission Chair or referred to the Planning Commission by the Chair.
- B. **Major Change.** A change or amendment involving a change in the number and location of accesses to public streets and alleys; an increase or decrease of over ten percent in gross floor area or in the number of parking spaces; a major relocation or re-siting of a building, a reduction in open space and similar major changes shall require the approval of the Planning Commission. A major change to a site plan before or during construction shall be approved by the Planning Commission.

9.7 **SITE PLAN EXPIRATION AND REVOCATION**

- A. **Expiration.** An approved site plan shall expire if a zoning/building permit has not been issued within 12 months following the date of approval of the site plan. The Planning Commission may, upon written request by the applicant, waive or extend the period of time in which the site plan is to expire if the Planning Commission is satisfied that the applicant demonstrates a good faith effort to proceed with

construction. In the event no such request is made in writing by the applicant within the initial 12-month approval period, the Zoning Administrator shall notify the applicant in writing of the expiration of said site plan. If a zoning/building permit has been obtained within the 12-month period following approval of the site plan, but work ceases or substantial progress is not made for any 12-month period thereafter, the site plan shall expire and the applicant shall be so notified in writing by the Zoning Administrator.

- B. **Revocation.** The Planning Commission shall have the authority to revoke site plan approval at any time, following a hearing, if construction of the approved project is deemed by the Zoning Administrator not to be in conformance with the approved site plan. Upon discovery of a violation, the Zoning Administrator may issue a stop work order and a notice to the applicant to appear before the Planning Commission. Notice of the hearing date shall be provided to the applicant no less than ten (10) days prior to the date of the hearing.

ARTICLE X NONCONFORMITIES.

10.1 PURPOSE.

It is the purpose of this section to provide for the regulation of uses, structures and lots which do not, at the time of adoption of this ordinance, conform to the requirements of this ordinance. Such uses shall be governed by the provisions of this section.

10.2 NONCONFORMING USES.

No nonconforming use of a structure or land shall be enlarged, expanded, extended, or altered except in conformance with the provisions of this Section.

- A. **Maintenance of Nonconforming Use Buildings.** Nothing in this Ordinance shall prevent any such necessary repairs and incidental alterations of a building which is or which contains a nonconforming use on the effective date of this Ordinance as may be necessary to secure a reasonably advantageous use thereof during its natural life.
- B. **Completion of Nonconforming Buildings Containing Nonconforming Uses.** Nothing in this ordinance shall require any change in the construction or intended use of a building or structure; the construction of which shall have been substantially underway on the effective date of this ordinance.
- C. **Damage or Total Destruction of Nonconforming Uses.** Any building or structure which contains a nonconforming use shall not be reconstructed if destroyed by explosion, fire or by acts of God to the extent of 50% or greater of its SEV, unless the reconstructed building is built and used in accordance with the use and dimensional requirements of the district.
- D. **Alterations.** A building or structure containing a nonconforming use may not be repaired or remodeled during its natural lifetime if the aggregate cost of such reconstruction or remodeling exceeds 25% of the fair market value of the building as determined by a qualified appraiser, unless the use within the building or structure is changed to a conforming use. No such repair or remodeling shall increase the available floor area of the structure containing a nonconforming use.
- E. **Discontinuance of a Nonconforming Use.** If a property owner abandons a nonconforming use or structure and in fact abandons this nonconforming use or structure for a continuous period of one (1) year, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the abandonment of a nonconforming use or structure, the Zoning Administrator shall consider all of the following factors:
 - 1. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
 - 2. Whether the property, buildings, and grounds have fallen into disrepair.
 - 3. Whether signs or other indications of the existence of the nonconforming use have been removed.
 - 4. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
 - 5. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use.

- F. **Change of Nonconforming Use.** If no structural alterations are made, the Zoning Board of Appeals may authorize a change from one (1) nonconforming use to another nonconforming use provided the proposed use would be more suitable to the zoning district in which it is located than the nonconforming use which is being replaced. Whenever a nonconforming use has been changed to a more nearly conforming use or to a conforming use, such use shall not revert or be changed back to a nonconforming or less conforming use.
- G. **Expansion Or Extension.** The Zoning Board of Appeals may authorize the expansion or extension of a nonconforming use, provided the expansion or extension will not increase the size of the building or the parking requirements of the use, will not change the appearance of the use from either a residential area or a public street, and, in the judgment of the Zoning Board of Appeals, will have no adverse effects on adjoining uses and properties.

10.3 NONCONFORMING STRUCTURES.

It is the intent of this Ordinance to allow the continuation of nonconforming structures that contain conforming uses and to allow the removal, replacement, expansion and alteration of those nonconforming structures, provided such replacement, expansion or alteration does not increase any dimensional nonconformity and complies fully with current State of Michigan Building Code requirements. In addition, such nonconforming structures shall be allowed to be rebuilt if partially or totally destroyed by explosion, fire, or by acts of God, provided that any dimensional nonconformity that existed prior to the explosion, fire, or other acts of God is not increased.

10.4 SUBSTANDARD LOTS.

Any lot that was of record as of the effective date of this ordinance may be used for any permitted principal use even though the lot area and/or the dimension is less than required by the district provided: the other dimensional requirements of the district are satisfied; no contiguous land is owned by the owner of the lot in question or was owned at the time of adoption of this ordinance; the lot width and area is not less than 50% of the required lot width and area for the district; the side yards are not less in width than ten (10) feet for the R-1 District or six (6) feet for the R-2 District; and the lot is able to be serviced by utilities that are satisfactory to the Northwest Michigan Community Health Agency.

ARTICLE XI ZONING BOARD OF APPEALS

11.1 **MEMBERS, PER DIEM EXPENSES AND REMOVAL** [amended 5/14/07]

There is hereby created a Zoning Board of Appeals which shall perform its duties and exercise its power as provided in Public Act 110 of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and substantial justice done. The board shall consist of the following three (3) members: The first member shall be a member of the township Planning Commission appointed by the Township Board. The remaining members shall be selected from the electors of the Township residing outside the incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One member may be a member of the Township Board. An elected officer of the Township shall not serve as chair. An employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals. The total amount allowed such Zoning Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall be a reasonable sum which shall be provided annually in advance by the Township Board. Members of the Zoning Board of Appeals shall be removed by the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing.

11.2 **OFFICERS**

The Board shall elect from its membership a Chairman, Secretary, and such other officers as deemed necessary.

11.3 **RULES OF PROCEDURE**

The Board shall adopt rules and regulations. Copies of the rules and regulations shall be made available to the public at the office of the Township Clerk.

- A. **Meetings.** Meetings of the Board shall be held at the call of the Chairman and at such times as the Board may determine. There shall be a fixed place of meeting and all hearings shall be open to the public.
- B. **Act by Resolution.** The concurring vote of the majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.
- C. **Minutes.** The Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question, or, if absent, or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the Township Board and shall be a public record.
- D. **Transmittal of Actions.** A copy of each resolution passed upon by said Zoning Board of Appeals shall be submitted to the Clerk of the Township and to the Secretary of the Planning Commission.

11.4 JURISDICTION

The Zoning Board of Appeals, in conformity with the provisions of this Ordinance, may reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance; also, where it is alleged by the appellant that there is error or misinterpretation in any order, requirements, decision, grant or refusal made by the Zoning Administrator or other administrative officer in the carrying out or enforcement of the provisions of this Ordinance.

11.5 VARIANCES

Subject to the provisions of this Article, the Zoning Board of Appeals, after public hearing, shall have the power to decide the applications, filed as hereafter provided, for variances:

- A. **Exceptional Circumstances**. Where by reason of exceptional narrowness in width, breadth, length, or shape of a specific lot on the effective date of this Ordinance, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of the lot, building or structure, or of the use of or development of property immediately adjoining the lot in question, the literal enforcement of the requirements this Ordinance would provide practical difficulties or would cause undue hardship; provided that the Board shall not grant a variance on a lot of less area than the requirements of its district, even though such lot existed at the time of passage of this Ordinance, if the person or the person's spouse owned the adjacent land which can, without undue hardship, be included as part of the lot.
- B. **Practical Difficulties**. Where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of this Ordinance relating to the construction or alterations of buildings or structures, or the use of land, buildings, or structures so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.

11.6 STANDARDS

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board finds, from reasonable evidence, that all the following facts and conditions exist:

- A. **Exceptional Circumstances**. That there are exceptional or extraordinary circumstances or conditions applying to the property in question, as to the intended use of the property, that do not apply generally to other properties in the same zoning district.
- B. **Preservation of Substantial Property Rights**. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.

- C. **Not Be Detrimental to Adjacent Property.** That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purposes of this Ordinance or the public interest.
- D. **Not Warranting General Regulation.** That the condition or situation of the specific lot, or the intended use of the lot for which the variance is sought, is not of so general or recurrent nature that it would result in similar variance requests from other persons or owners.

11.7 **SPECIAL EXCEPTIONS**

The Zoning Board of Appeals, after public hearing, shall have the power to grant special exceptions heretofore authorized and, in addition, may authorize the following:

- A. **Vertical Extension.** The vertical extension of a building existing at the time of enactment of this Ordinance to such height as the original drawings of said building indicated, provided such building was actually designed and constructed to carry the additional stories necessary for said height limit.
- B. **Structural Alterations.** Permit the erection or structural alterations, in a district where such use is permitted, of a grain elevator, gas holder, or other industrial structure to a height above the limit specified for such district.
- C. **Temporary Dwellings.** The use or occupancy of temporary dwellings in accordance with Section 3.5 of this Ordinance.

11.8 **CONDITIONS OF APPROVAL**

In authorizing a variance or exception, the Board may, in addition to the specified conditions of approval called for in this Ordinance, attach thereto such other conditions regarding location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

11.9 **PROCEDURES**

The following procedures shall be required:

- A. **Appeals.** An appeal from any ruling of the Zoning Administrator or other administrative officer administering any portion of this Ordinance may be taken by any person or any government agency or department affected or aggrieved.
- B. **Special Exceptions.** An application for special exceptions authorized by this Ordinance may be taken by any person, or government agency or department affected or aggrieved.
- C. **Appeals and Variances.** When an application for an appeal or variance has been filed in proper form and the fee paid with the required data, the Secretary of the Board shall immediately place said application for appeal or variance upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served. Such notices shall be served personally or by mail at least eight (8) days prior to the day of such hearing, upon the applicant or the appellant

and the Zoning Administrator or other administrative office from which such appeal is taken. A like notice shall be sent, or delivered personally, at least eight (8) days prior to the hearing to all owners of property as shown by the Township Treasurer's Office within three hundred (300) feet of the premises involved by regular United States mail, postage prepaid, addressed to the last known address of such property owners as shown by said records. Any interested party may appear and be heard at such hearings in person or by agent or attorney.

- D. **Adjourned Hearing.** Upon the day for hearing, and at the hearing itself, on any application for appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the Board so decides.

11.10 DECISIONS OF THE BOARD

The Board shall decide on all applications for appeals and variances after the final hearing thereon. A copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him/her, and he/she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. A decision of the Board shall not become final until the expiration of five (5) days from the date such decision is made unless the Board shall find the immediate effect of such decisions as necessary for the preservation of property or personal rights and shall so certify on the record.

11.11 STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal shall have been filed with him, that by reason of fact stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Zoning Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

ARTICLE XII ADMINISTRATION AND ENFORCEMENT

12.1 ADMINISTRATION. [amended 5/14/07]

The provisions of this Ordinance shall be administered in accordance with the State of Michigan Act 110 of the Public Acts of 2006, as amended.

- A. **Authority.** Except as otherwise provided for by this Ordinance, the Zoning Administrator shall receive and administer applications for zoning permits; the Township Clerk shall receive and administer applications and satisfy the public notice requirements for the Planning Commission and the Township Board; the Secretary of the ZBA shall administer the notice requirements for the ZBA; and the Planning Commission Chair shall receive and process applications for special land uses, site plan review, and other matters that the Planning Commission is required by this Ordinance to review and decide.
- B. **Zoning Permits Required.** It shall be unlawful for any person to commence excavation for or construct any building, structure or parking area; or to make any structural changes to any existing structure without first securing a Zoning Permit from the Zoning Administrator. Except upon written order from the Zoning Board of Appeals, no Zoning Permit shall be issued for any building or land where the use or development requirements of this Ordinance would be violated.
- C. **Zoning Permit Application Requirements.** A Zoning Permit application, signed by the owner or a duly authorized agent of the owner, shall be filed in writing with the Zoning Administrator. A scale drawing and written documentation shall be included with the Zoning Permit application, which includes the following information:
1. The existing and intended use of the building or land.
 2. Property dimensions and proposed setbacks.
 3. The location of proposed structures and uses both existing and proposed.
 4. Evidence of ownership.
- D. **Waiver of Requirements.** In cases of minor alterations the Zoning Administrator may waive portions of the requirements of subsection C.
- E. **Display.** The Zoning Permit shall be displayed face out, in a conspicuous location, within 24 hours of issuance and shall be so displayed until all work is completed.
- F. **Zoning Permit Expiration.**
A zoning permit shall automatically expire 12 months from the date of issuance if construction has not commenced and the applicant has not requested an extension from the Zoning Administrator within said initial 12-month period. The Zoning Administrator may extend the permit for up to one additional 12-month period if he/she determines that the applicant will make a good faith effort to commence construction.

G. **Fee Schedule and Escrow Account for Zoning Fees.**

1. **Fees.** To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
 - a. Zoning permits.
 - b. Special Use permits.
 - c. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township shall not be subject to a zoning fee.
 - d. Classification of unlisted property uses.
 - e. Requests for variances from the Zoning Board of Appeals.
 - f. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Township shall not be subject to a zoning fee.
 - g. Site plan reviews.
 - h. Temporary dwelling permits issued by the Zoning Administrator.
 - i. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spend by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when the applicant withdraws the application or appeal.

2. **Additional Fees.** If the Township Board determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Township Board determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Clerk such additional zoning fees in an amount determined by the Township Board equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Township Board may require the applicant to deposit additional fees into escrow in an amount determined by the Board to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and

shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

12.2 ENFORCEMENT.

- A. **Authority.** The Zoning Administrator and Supervisor shall have the authority to enforce and initiate proceedings to enforce and abate violations of the provisions of this Ordinance. Any land, dwellings, buildings, or structures, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.
- B. **Investigation; correction period.** The Zoning Administrator shall investigate each alleged violation and shall send to the alleged violator by registered mail a written notice specifying all violations and ordering him or her to correct the violation within sixty (60) days of the notice.
- C. **Violations.** Any person who fails to correct a violation of any provision of this Ordinance within (60) days of the date of the notice ordering the correction shall be guilty of a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.
- D. **Enforcement.** The Zoning Administrator and Supervisor are hereby designated as the authorized Township officials to issue municipal civil infraction citations requiring alleged violators of this Ordinance to appear in court.
- E. **Abatement.** In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.
- F. **Dispute Resolution.** Where it is alleged by an adjoining property owner or the Zoning Administrator that a structure is being constructed in violation of the provisions of this Ordinance or any conditions imposed by the Township on a permit, the Zoning Administrator shall have the authority to issue an order to stop the construction to allow for resolution of the dispute. The Zoning Administrator may, at his or her discretion, order the preparation of a boundary survey to determine whether a violation exists, which survey shall be paid for by the zoning permit applicant.

12.3 CONFLICTING REGULATIONS.

In the interpretation, application and enforcement of this Ordinance, whenever any of the provisions or limitations imposed or required by the provisions of this Ordinance are more stringent than any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than is imposed or required by this Ordinance, then the provisions of such other law or ordinance shall govern.

ARTICLE XIII AMENDMENT PROCEDURES

13.1 TOWNSHIP BOARD MAY AMEND

The regulations and provisions of this Ordinance and the boundaries of zoning districts as shown on the Zoning Districts Map of Charlevoix Township, may be amended, supplemented, or changed by the Township Board in accordance with the State law.

13.2 INITIATION OF AMENDMENTS

The Township Board may, on recommendation from the Planning Commission, amend, modify, supplement, or revise the district boundaries or the provisions and regulations herein established, whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of the property to be affected by the proposed amendment. All proposed amendments shall be referred to the Township Planning Commission for review and recommendation.

13.3 FEES

The petitioner or petitioners requesting an amendment shall at the time of application pay the fees established by the Township Board, no part of which shall be returnable to the petitioner. The Planning Commission will not have a special meeting to consider any petition or call a special meeting for the purposes of holding a public hearing on any petition without the payment by the petitioner to the Township Treasurer of a fee, as determined by Resolution of the Township Board, to cover the costs of the Township in convening special meetings of the Planning Commission. No fee shall be charged when the applicant is the Township Board or Planning Commission.

13.4 AMENDMENT PROCEDURES [amended 5/14/07]

- A. **Petition.** Any property owner may file a petition with the Township Planning Commission at any time requesting a change in the "Zoning Districts Map" or in the text of this Ordinance as applied to his or her property. Such petition must contain the original signatures of the petitioners and shall state clearly and concisely:
1. The change desired;
 2. The reason therefore;
 3. The precise description of the boundaries of the property requested to be changed;
 4. The name and address of each petitioner and a description of the property owned by each petitioner, whether the petitioner is willing to have the matter heard at a regularly scheduled meeting or is requesting a special meeting of the Planning Commission for the purposes of hearing his or her petition;
 5. The proposed development plan for the property and the use to which it will be put if the petition is granted. (This may be shown by maps, drawings, plot plans and renderings which accompany the petition.)
- B. **Public Hearing.** The notices for all public hearings before the planning commission

or township board concerning proposed zoning ordinance amendments (zoning text or map amendments) shall comply with the following applicable notice provisions:

1. For a proposed amendment to the text of the zoning ordinance, the notice shall comply with the following:
 - a. The content of the notice shall include all of the following:
 - 1) A description of the nature of the proposed zoning amendment.
 - 2) The time, date, and place the proposed zoning ordinance amendment will be considered.
 - 3) The place and times at which the proposed zoning ordinance amendment may be examined.
 - 4) The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
 - b. The notice shall be published in a newspaper of general circulation within the township not less than 15 days before the scheduled public hearing.
 - c. The notice shall be given by first-class mail 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.
2. For a proposed zoning ordinance amendment rezoning an individual property 10 or fewer adjacent properties, the notice shall comply with all of the following:
 - a. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the proposed zoning ordinance amendment.
 - 2) A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
 - 3) The time, date and place at which the proposed zoning ordinance will be considered.

- 4) The places and times at which the proposed zoning ordinance amendment may be examined.
- 5) The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.
 - a. The notice shall be published in a newspaper of general circulation within the township not less than 15 days before the scheduled public hearing.
 - b. The notice shall be sent by first class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
 - c. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property or properties proposed for rezoning and to the occupants of all structures within 300 feet of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the township. If the name of the occupant is not known, the term "occupant" may be used in making notification in this subsection.
 - d. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the manager of each airport, that registers its name with the township clerk for the purpose of receiving the notice of public hearing.
3. For a proposed zoning ordinance amendment rezoning 11 or more adjacent properties, the notice shall comply with all of the following:
 - a. The content of the notice shall include all of the following information:
 - 1) A description of the nature of the proposed zoning ordinance amendment.
 - 2) The time, date, and place the proposed zoning ordinance amendment will be considered.
 - 3) The places and times at which the proposed zoning ordinance amendment may be examined.
 - 4) The address where and the deadline when written comments can be sent concerning the proposed zoning ordinance amendment.
 - b. The notice shall be published in a newspaper of general circulation within the township not less than 15 days before the scheduled public hearing.

- c. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.
 - d. The notice shall be given by first class mail 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.
4. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the planning commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.
- C. **Planning Commission Action.** The Planning Commission shall make findings and a recommendation on the proposed amendment. Following the public hearing, the Planning Commission shall submit the proposed Zoning Ordinance amendment, including any zoning map changes, to the County Planning Commission for review. If after 30 days the County Planning Commission has not notified the Township of its actions, the Township shall presume that the County has waived its right for review and recommendation on the Ordinance amendments.
 - D. **Township Board Action.** The Township Board shall review the recommendation of the Township and County Planning Commissions and shall approve or deny the proposed amendments. The Township Board may, at its discretion, hold additional public hearings on the proposed amendment in accordance with PA 110 of 2006.
 - E. **Resubmittal.** No application for essentially the same rezoning 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 circumstances as determined by the Township Board or when the Township Attorney, by written opinion, states that in the attorney's professional opinion, the decision made by the Township Board or the procedure used in the matter was clearly erroneous.
 - F. **Effective Date.** Amendments to this Ordinance by the Township Board shall take effect upon the expiration of seven (7) days after the publication of notice. Following the adoption of a zoning ordinance and any subsequent amendment by the Township Board, the zoning ordinance or subsequent amendments shall be filed with the Township Clerk and a notice of the ordinance adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after Township Board Action. The notice shall include the following information:
 - 1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - 2. The effective date of the amended Ordinance.
 - 3. The place and time where a copy of the amended Ordinance may be purchased or inspected.
 - 4. In the case of a newly adopted zoning ordinance, the following statement, "A

zoning ordinance regulating the development or use of land has been adopted by the legislative body of the Township of Charlevoix.”

- G. **Airport Notification.** A copy of the notice shall be sent to the airport manager of an airport that operates in Charlevoix Township.
- H. **Referendum.** Referendums shall follow the procedures outlined in PA 110 of 2006, Article 4.

13.5 **CONDITIONAL REZONING** [amended 5/14/07]

A. **Intent.**

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

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

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

6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily in writing by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such change in the conditions offered occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. Planning Commission Review.

1. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 13.4 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered in writing by the owner.
2. In performing its review under this section, the Planning Commission may retain whatever planning and legal assistance it needs to permit it to adequately review the proposed conditional rezoning and the conditions to be attached thereto as well as the proposed Statement of Conditions which would be attached to the conditional rezoning as set forth in Subsection E below.
3. The cost of such legal and/or planning assistance shall be borne by the owner(s) of the subject property and the Township may require that the estimated cost of such legal and/or planning assistance be deposited with the Township prior to retaining such assistance. Following completion of the conditional rezoning process, any sums deposited with the Township in excess of the sum required for such legal and/or planning assistance shall be refunded forthwith to the owner(s). Likewise, any sums owed by the owner(s) to the Township in excess of those deposited shall be paid forthwith.

D. Township Board Review.

1. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may

approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner in writing, then the Township Board shall, in accordance with Section 401(3) of the Michigan Zoning Enabling Act refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

2. In performing its review under this section, the Township Board may retain any additional planning and legal assistance it needs to permit it to adequately review the proposed conditional rezoning and the conditions to be attached thereto as well as the proposed Statement of Conditions which would be attached to the conditional rezoning as set forth in Subsection E below.
3. The cost of such legal and/or planning assistance shall be borne by the owner(s) of the subject property and the Township may require that the estimated cost of such legal and/or planning assistance be deposited with the Township prior to retaining such assistance. Following completion of the conditional rezoning process, any sums deposited with the Township in excess of the sum required for such legal and/or planning assistance shall be refunded forthwith to the owner(s). Likewise, any sums owed by the owner(s) to the Township in excess of those deposited shall be paid forthwith.

E. Approval.

1. If the Township Board finds the rezoning request and offer of conditions acceptable and all fees due from the owner(s) have been paid, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Register of Deeds of Charlevoix County and be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of

the Statement of Conditions in a manner acceptable to the Township Board.

- b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded by the Township with the Register of Deeds of Charlevoix County in the "Statement of Conditions."
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
 4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of Charlevoix County. The owner(s) of the subject land shall reimburse the Township for the cost of such recording, as well as any other costs provided for in this Ordinance, prior to implementing the use authorized by the conditional rezoning.
 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. Reversion of Zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification after an appropriate public hearing as set forth in the Michigan Zoning Enabling Act, PA 110 of 2006. The reversion process shall be confirmed by the Township Board after receiving a report from the Zoning Administrator, concurred in by the Planning Commission after notice to the owner(s) of the subject property, that the approved development and/or use of the rezoned land did not occur within the time frame specified under Subsection G above.

I. Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions

imposed under the former zoning classification shall cease to be in effect. The Township Clerk shall record with the Register of Deeds of Charlevoix County a notice that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions.

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

K. Township Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act.

L. Failure to Offer Conditions.

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

ARTICLE XIV DEFINITIONS

DEFINITIONS

For the purpose of this Ordinance, terms and words are defined as follows:

Access – Any driveway, street or other means of providing for the movement of vehicles to and from property.

Access Management – The process of managing access to property from US-31, M-66, and Boyne City Road in a manner that preserves traffic capacity and maintains safety.

Accommodations and Food Services – Uses listed in Sector 72 of the North American Industry Classification System of 1997.

Accessory Building or Structure – A structure that is customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from 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.

Administrative and Support Services – Uses listed in Sector 56 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Adult Foster Care – A state licensed residential facility as defined by MCLA 125.583b; MSA 5.2933 (2) that is used for the care and supervision of six (6) or fewer persons under 24 hour supervision but excluding persons released from or assigned to adult correctional institutions.

Alternative Access – A means of access that is not directly to the Highway including frontage roads, backage roads and access to existing or proposed roads.

Ambulatory Health Care Services - Health care services that are provided directly or indirectly to ambulatory patients.

Antenna – An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

Arts, Entertainment and Recreation Sales and Services – Uses listed in Sector 71 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Backage Road – An alternative roadway which generally runs parallel to and behind the development that fronts on the Highway.

Basement – That portion of the building that is partly or completely underground and does not satisfy the access requirements of the Charlevoix County Building Code.

Bed and Breakfast Inn – A private home that is occupied by a resident family which provides short term lodging for tourists and guests and features a personalized service and a full breakfast.

Boat Dealers - Establishments primarily engaged in the retailing of new and/or used boats in combination with activities, such as repair services and sales of replacement parts and accessories, the sales or retailing of new and used outboard motors, boat trailers, marine supplies, parts, and accessories.

Buffer Yard – A required setback area from a street or property line that is designed for the exclusive purpose of buffering nonresidential uses from residential uses and public streets by means of landscaping and the use of other buffering materials.

Building – A structure either temporary or permanent, having a roof supported by columns or walls.

Building, Developing, and General Contracting – Establishments listed in Subsection 233 of the North American Industry Classification System of 1997 which are primarily responsible for the entire construction (i.e., new work, additions, alterations, and repair) of building projects.

Building Height – The vertical distance measured from the mean elevation of the natural ground at the front of the building to the highest point of the roof.

Building Inspector – The administrator of the building, housing, plumbing, electrical or other codes that have been adopted by the Township or County.

Child Day Care Facility – A state licensed private home in which no more than six (6) minor children are given care and supervision for periods of less than 24 hours per day unattended by parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption.

Coastal and Great Lakes Freight Transportation - Establishments primarily engaged in providing water transportation of cargo in coastal waters, on the Great Lakes System.

Colocate/Colocation - The location by two or more wireless telecommunication providers of wireless telecommunication facilities on a common structure, tower or building with the intent of reducing the overall number of structures required in the community.

Condominium Subdivision - Any development undertaken under the provisions of the Michigan Condominium Act, Act 59 of Public Acts of 1978 as amended, or any other act of the Legislature of the State of Michigan providing for the development of property under joint or concurrent ownership.

Cross Access – A method whereby access to property crosses one or more contiguous or adjacent properties. These may include driveway or parking lot connections with cross easements.

Districts – Districts as used herein is synonymous with the word “zones” or “zoning districts.”

Drive-thru Business – A business which by design, physical facilities or service permits customers to receive goods or services while remaining in their motor vehicles.

Driveway – An access allowing ingress and egress from a lot to a street, road, or highway.

Dwelling – Any building, or portion thereof, which is designed or used exclusively for residential purposes.

Dwelling, Multiple – A building located on one lot and designed for or occupied by three or more families living independently of each other.

Dwelling, One-family – A detached building containing one dwelling unit and designed for occupancy by only one family.

Dwelling, Standard – A dwelling unit that meets the following requirements:

- a) The dwelling complies with the minimum development standards for the district within which it is located;
- b) The dwelling complies in all respects with the Michigan State Construction Code as promulgated by the State Construction Commission in accordance with Act 230 of the Public Acts of 1972, as amended;
- c) The dwelling is firmly attached to a permanent foundation constructed on the site in accordance with the County building code;
- d) The dwelling is compatible in design and appearance with other residences in the vicinity including roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; and has not less than two exterior doors with the second one located in either the rear or side wall of the dwelling;
- e) The dwelling has no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein;
- f) The dwelling complies with all pertinent building and fire codes;
- g) The forgoing standards do not apply to a manufactured home located in a licensed manufactured home development except to the extent required by state or federal law or otherwise specifically required by the Township pertaining to such developments.

Dwelling, Two-family – A building designed for or occupied by two families living independently of each other.

Dwelling Unit – A building or portion thereof, designed for permanent residential occupancy by one family.

Educational Services – Uses listed in Sector 61 of the North American Industry Classification System of 1997.

Essential Services – The installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead communication, telephone, electrical, gas, water distribution, sewage collection, streets, alleys, sidewalks or trails including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, padmount transformers, fire alarm and police call boxes, traffic signals, hydrants, and

similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or government agency for the general public health, safety, convenience or welfare and including structures 800 cubic feet or less which are enclosures or shelters for service equipment. Telecommunications towers or facilities, alternative tower structures and wireless communication antennae are not included within this definition.

FAA - means the Federal Aviation Administration

FCC - means the Federal Communications Commission.

Family – An individual, or two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than three additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or 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 rooming or boarding houses or any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonable nature or for an anticipated limited duration of a school term or other similar determinable period.

Floor Area – The area of a floor computed by measuring the exterior faces of the exterior walls of a building.

Floor Area Ratio - The ratio of gross building floor area to gross site area (Floor area /site area).

Footprint Area - The area of the ground floor of a building computed by measuring the exterior faces of the exterior walls of said building.

Freight Transportation Arrangement – An establishment primarily engaged in arranging the transportation of freight between shippers and carriers. See Subsection 488510 of the North American Industry Classification System of 1997.

Front Building Line - The minimum distance which any building must be located from a street right-of-way.

Garage – A detached accessory building or portion of the main building which is used for the parking of automobiles, boats, and such other vehicles as may be used by the occupants of the building to which it is accessory.

Group Day Care – A private home in which minor children are received for care and supervision for periods of less than 24 hours a day, for more than four (4) weeks during a calendar year, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Health Care and Social Assistance – Uses listed in Sector 62 of the North American Industry Classification System of 1997.

Highway – This word shall refer specifically to US-31, M-66, and Boyne City Road.

Home-Based Business – An accessory use of a dwelling for business purposes.

Hospitals – Uses listed in Sector 62 of the North American Industry Classification System of 1997.

Information Services – Uses listed in Sector 51 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Lot – A parcel of land occupied or intended for occupancy by a use permitted by this Ordinance, including one principal building together with accessory buildings, open spaces and parking areas required by this Ordinance and having its principal frontage on a street or on an approved private street.

Lot, Corner – A lot which has at least two contiguous sides abutting on and at the intersection of two or more streets which streets intersect at an angle of less than 135 degrees.

Lot Coverage – That portion of a lot, that is covered by buildings. This shall include porches, arbors, breezeways, patios, garages, buildings, and all accessory buildings.

Lot, Interior – A lot other than a corner lot.

Lot of Record – A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Charlevoix County, or a parcel of land described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Charlevoix County.

Lot Line – The boundary line between two lots. In the case of property abutting a street, road, Highway, or alley, the right-of-way line.

Lot Width – The horizontal distance between side lot lines measured at the required front setback.

Management of Companies and Enterprises – Uses listed in Sector 55 of the North American Industry Classification System of 1997.

Manufacturing Uses – The production, assembly, processing, compounding, packaging and storage of semi-finished or finished products from previously prepared materials.

Manufactured 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.

Manufactured Home Development – A parcel or tract of land under the control of a person upon which three (3) or more manufactured 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 manufactured home.

Marina - An establishment engaged in the docking and storage, with or without one or more related activities, such as the retail sales of fuel and marine supplies; and the repair, maintenance, and rental of pleasure boats.

Nonconforming Use – A use legally existing at the time of adoption of this Ordinance which does not meet the use requirements of the district within which located.

Nonconforming Structure – A structure legally existing at the time of adoption of this Ordinance which does not meet the district regulations of the district within which located.

North American Industry Classification System of 1997 - An industry classification system that groups establishments into industries based on the activities in which they are primarily engaged.

Nursing and Residential Care Facilities - Establishments that provide residential care combined with either nursing, supervisory, or other types of care as required by the residents.

Offices, Business – A building or portion of a building where services are performed of an administrative nature including such uses as insurance, real estate and financial services offices.

Offices, Professional – A building or portion of a building where services are performed of a professional nature including architectural, engineering, accounting, and similar professional service offices.

Ordinary High Water Mark – The boundary of lakes and streams which elevation shall be the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. The ordinary high water mark for Lake Charlevoix and Lake Michigan shall be, elevation 579.8 Ft. (International Great Lakes Datum - 1955).

Outdoor Sales – The display and sale of merchandise beyond the perimeter of a building.

Owner – A person having an ownership interest in premises regardless of whether such deed or land contract is recorded.

Person – An individual, partnership, association, trust or corporation, or any other legal entity or combination thereof.

Personal and Laundry Services – Uses listed in Subsector 812 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Port and Harbor Operations - This industry comprises establishments primarily engaged in operating ports and harbors, including docking and pier facilities. See Subsector 488310 of the North American Industry Classification System of 1997.

Principal Use – The main use of the property as distinguished from an accessory use.

Private Household Services - Uses listed in Subsector 814 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Professional, Scientific and Technical Services – Uses listed in Sector 54 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Proof of Parking – Demonstration on the site plan that parking equal to Ordinance requirements is satisfied on the lot, some of which is not improved, but may be required by the Township to be improved if parking demand warrants at a later date.

Public Administration Services – Uses listed in Sector 92 of the North American Industry Classification System of 1997.

Real Estate Rental and Leasing – Uses listed in Sector 53 of the North American Industry Classification System of 1997.

Religious Institution – A building where persons regularly assemble for religious worship that is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Religious, Grantmaking, Civic, Professional, and Similar Organizations - Uses listed in Subsector 813 of the North American Industry Classification System of 1997.

Repair and Maintenance Services - Uses listed in Subsector 811 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Retail Trade Establishments – Uses listed in Sectors 44 and 45 of the North American Industry Classification System of 1997, subject to the specific exclusions noted within each district.

Right-of-Way – A public or private street, alley or easement permanently established for the passage of persons or vehicles.

Right-of-Way Line – The edge of the right-of-way.

Scenic and Sightseeing Transportation, Water - This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation on the water. The services provided are local and involve same-day return to place of origin (see Subsector 487210 of the North American Industry Classification System of 1997).

Setback – The minimum distance required between a lot and/or a right-of-way line and a structure.

Sexually Oriented Businesses – Businesses where 35% or more of the physical stock by quantity or 35% or more of the floor area consists of the sale, display or provision of services characterized by their emphasis of matter depicting, describing or relating to specified sexual activities, specified anatomical areas or both. Such businesses are commonly referred to as adult book and video stores, adult cabarets, adult arcades, adult motion picture theaters, adult theaters, adult novelty stores, adult panorams, burlesque halls, adult motels and hotels, adult massage parlors, nude model studios, escort agencies and sexual encounter centers.

Sexually Oriented Business Definitions

Adult Arcade – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas as defined herein.

Adult Book and Video Store – A business which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- a) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- b) Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Cabaret – A nightclub, bar, restaurant or similar business which regularly features:

- a) persons who appear in a state of semi-nudity or nudity;
- b) live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- c) films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- d) persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Massage Parlor – A massage parlor that provides for any form of consideration, the rubbing, stroking, kneading, tapping or rolling of the body in a manner that is characterized by an emphasis on specified sexual activities or specified anatomical areas.

Adult Motel and Hotel – A hotel or motel or similar commercial establishment that:

- a) offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction;
- b) offers a sleeping room for rent for any form of consideration for a predesignated period of time that is less than twelve hours; or
- c) allows a tenant or occupant of a sleeping room to sub-rent the room for any form of consideration for a period of time that is less than twelve hours.

Adult Motion Picture Theater – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction of specified sexual activities or specified anatomical areas.

Adult Novelty Store – A business that sells devices for any form of consideration that stimulate human genitals or are designed for sexual stimulation.

Adult Panoram – A business where patrons are entertained for any form of consideration by viewing individual booths, films, tapes or live entertainment showing specified sexual activities or specified anatomical areas.

Adult Theater – A theater, concert hall, auditorium or similar business establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Burlesque Hall – A business that regularly features entertainers showing specified anatomical areas or specified sexual activities.

Escort Agency – A person or business, who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.

Nude Model Studio – A place where a person who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

Sexual Encounter Center – A business that, as one of its principal business purposes, offers for any form of consideration:

- a) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Specified Anatomical Areas – The male genitals and female breasts in a state of arousal and/or the vulva or more intimate parts of the female genitals.

Specified Sexual Activities including any of the following:

- a) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b) sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
- c) masturbation, actual or simulated; or
- d) excretory functions as part of or in connection with any of the activities set forth in a. through c. above.

Shared Access – A method whereby adjoining property owners share a common access to a street or Highway. These accesses are generally located at the common property line but may be located entirely on one property with access to another property by easement or other access agreement.

Ship and Boat Building - The operation of shipyards or boat yards. See Subsector 3366 of the North American Industry Classification System of 1997.

Single Tenant Occupancy – The area of a lot that is used by a single tenant, exclusive of parking.

Social Assistance Services - Uses listed in Subsector 624 of the North American Industry Classification System of 1997.

Special Trade Contractors - Uses listed in Subsector 235 of the North American Industry Classification System of 1997, subject to the specific conditions noted within each district.

Street – A public or private way that is permanently established for the passage of vehicles.

Story – A level of occupancy approximating a height of 10 and 15 feet. One story equals one dwelling or occupancy level, exclusive of the basement.

Structure – Anything constructed or erected which is permanently located on or above the ground including buildings, fences, signs, parking lots, sidewalks, driveways, drain fields, patios, and similar structures.

Substandard Lot – A lot or parcel of record at the time of adoption of this Ordinance which does not meet the lot area or width requirements of the district within which it is located.

Telecommunications Tower – Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice and monopole towers and guyed towers. The term includes towers such as radio and television transmission towers, microwave towers, common-carrier towers and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Technical and Trade Schools – This industry comprises establishments primarily engaged in offering vocational and technical training in a variety of technical subjects and trades. The training often leads to job-specific certification.

Temporary Accessory Dwelling – A second dwelling unit contained within a one-family detached dwelling or above a garage on the same lot as a one-family detached dwelling for use as a complete, independent living quarters, with provision for living, sleeping, bathing, and cooking.

Testing Laboratories – This industry comprises establishments primarily engaged in performing physical, chemical, and other analytical testing services, such as acoustics or vibration testing, assaying, biological testing (except medical and veterinary), calibration testing, electrical and electronic testing, geotechnical testing, mechanical testing, nondestructive testing, or thermal testing. Testing may occur in a laboratory or on-site.

Traditional Neighborhood Design – A design that creates a sense of place and emphasizes walking by providing for mixed use; a mixture of housing; smaller lots; an identifiable neighborhood focus or center; a variety of interconnected pedestrian parks; pedestrian-friendly streets with sidewalks, lighting, and landscaping; interconnected streets; garages to the rear, preferably on alleys; on-street parking and architecture that emphasizes people, buildings and social interaction rather than isolation.

Transfer Station – A facility where waste materials from residences, commercial and industrial establishments are transferred to vehicles which will take the materials to a landfill or other disposal site.

Wholesale Trade Establishments - Uses listed in Sector 42 of the North American Industry Classification System of 1997.

Yard – An open space, on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. A yard shall be construed as the minimum horizontal distance between the lot line and the structure.

Yard, Front – All land extending across the width of the property and lying between the building and the front lot line. The front yard for a corner lot shall be as determined by the owner based on the orientation of the principal structure.

Yard, Interior Side – A yard extending between the side lot line and the nearest line of the building extending from the front yard to the rear yard.

Yard, Rear – All land extending across the width of the property and lying between the building and the rear lot line.

Yard, Street Side – A yard between the side lot line that is adjacent to a street and the nearest line of the building extending from the front yard to the rear yard as measured from the right-of-way line.

Zoning Administrator – The administrator of this Ordinance, appointed by Charlevoix Township.

Zoning Permit – A standard form issued by the Zoning Administrator, upon application and declaration by the owner or his or her duly authorized agent, granting approval for the construction or use for which an application was made.

ARTICLE XV VALIDITY

Should any article, section, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ARTICLE XVI REPEALER [amended 5/14/07]

The Charlevoix Township Zoning Ordinance dated May 11, 1987 was repealed and replaced on January 26th 2006; said ordinance being amended from time to time.

ARTICLE XVII EFFECTIVE DATE

This Ordinance, as amended, shall become effective this May 21, 2007.

Amendment Record

May 14, 2007 – Amendments to comply with PA 110 of 2006.