



CASS COUNTY PLANNING COMMISSION

*Dan Stutsman • David Kring • Jayne Bailey • Richard Palmisano • Annie File
Samuel Barrera • Char Hiemstra • Dianna McGrew • Tyler Augst*

Wednesday, October 25, 2023 at 4:00 PM

**Cass County Building
120 N. Broadway
2nd Floor Conference Room
Cassopolis, MI 49031**

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes — September 27, 2023
4. Public Comment
5. New Business
 - a) Howard Township — Solar Amendment
 - b) Master Plan Consultant
6. Other Business
7. Adjournment

CASS COUNTY PLANNING COMMISSION

September 27, 2023 Meeting Minutes

1. The meeting was called to order in the Kincheloe Room of the Cass County Building at 4:00 p.m. by Dan Stutsman.
2. **Members present:** Dan Stutsman, David Kring, Jayne Bailey, Richard Palmisano, Annie File, Roseann Marchetti, Charlene Hiemstra, Sam Barrera, Dianna McGrew. **Members absent:** Tyler Augst.
3. File moved, Barrera seconded, CARRIED to approve the agenda as presented.
4. New Business
 - a. **Volinia Township Farmland Agreement** — Marchetti moved, Palmisano seconded, to approve farmland agreement for David and Stacey High. Motion carried
 - b. **Keeler Township Master Plan Review** — Keeler Twp master plan well written with no changes suggested. A letter and minutes should be sent to Keeler. Marchetti moved, Palmisano seconded, CARRIED to approve master plan as presented.
 - c. **Master Plan** — Based on the lack of performance, Marchetti moved, Palmisano seconded, to rescind the engagement of master plan services of Carl Baxmeyer motion made on February 27, 2023. Roll call was taken and all were in favor. Baxmeyer's current demands prevent him from having enough time to deliver the Cass County master plan. A letter will be sent to Baxmeyer stating he did not meet criteria of work.

There is no written contract in place. This decision was made with the understanding that the Cass County Master Plan is already out of date. The planning commission needs to get a replacement master plan consultant. Down the road, working with Michigan State University students and an advisor on a master plan may be an option.
5. Committee Member Comment
 - a. Tyler Augst is putting a county planning commission rolls and responsibility seminar together in PawPaw on November 15 at 6:30pm.
6. Stutman adjourned the meeting at 5 p.m.

Respectfully Submitted,

Char Hiemstra

Howard Charter Township

1345 Barron Lake Road, Niles, MI 49120

Ph: 269-684-0072

Fax: 269-684-6181

October 3, 2023

Planning Commission, Cass County
email: ambrosian@cassco.org
120 N. Broadway
Cassopolis, MI 49031

Re: Zoning Ordinance #192 Amendments

Planning Commission;

Enclosed you will find information in regards to amendments to Howard Charter Township Zoning Ordinance #192, that have been denied at our Planning Commission meeting held on September 28, 2023, for review by the Cass County Planning Commission.

I have enclosed the following:

Howard Charter Township Planning Commission meeting minutes from September 28, 2023

Howard Charter Township Planning Commission executed Decision Form

Application request to amend Zoning Ordinance #192, Chapter 15 Section 15.30B; Medium Solar Energy Systems and Chapter 18 Section 18.02LL; Large Solar Energy Systems

I have requested that this item be added to the agenda for your October 25, 2023 meeting so that we can finalize at the Howard Charter Township Board meeting in November. I will be attending the County Planning Commission meeting. Please contact me with any questions.

Thank you.

Respectfully,
Linda J McGregor
Zoning Administrator
Howard Charter Township
ph: (269) 684-0072, option 3
email: howardza@comcast.net

enclosures

**Howard Township – Cass County, Michigan
Zoning Permit(s) Application**

Goes before the Planning Commission (to include a public hearing):

☐ Special Land Use - \$400 fee	☐ Rezone Request - \$400 fee
☐ Site Plan Review \$250 fee	☒ Amendment to Zoning Ordinance Request - \$400 fee
☐ Planned Unit Development - \$400 fee	

Goes before the Zoning Board of Appeals (to include a public hearing):

☐ Variance Request - \$400 fee	☐ Interpretation Appeal - \$400 fee
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Additional fees possible. Fees are non refundable.

Applicant/Property Owner(s) Name: JACOB FERGUSON

Street Address: 1340 Breezy Beach

City: Niles **State:** MI **Zip:** 49120

Phone Number(s): 616-308-2147

Project Location/Address: HOWARD Township

Property Parcel Number: N/A **Zoning District:** _____

Brief Description of Proposed Use or Request: Amendment to Zoning Ordinance regarding Medium SES and LARGE SES.

NOTE: INCLUDE A COVER LETTER STATING REQUEST; HOW IT WILL AFFECT THE AREA; WHAT STEPS WILL BE TAKEN TO MITIGATE ANY NEGATIVE IMPACTS (if there are any). SUPPLY ALL SUPPORTING DOCUMENTATION – TO INCLUDE A SITE PLAN

I hereby attest that the information on this application form is, to the best of my knowledge, true and accurate. The undersigned acknowledges that if a permit is granted or other decisions favorable to the undersigned, the said decision does not relieve the applicant/owner from compliance with other provisions of Howard Township.

Also; I hereby grant permission for members of Howard Township (Planning Commission, Zoning Board of Appeals, Township Board, and Staff) and any additional individual/company designated by Howard Township to enter the above described property for the purposes of gathering information related to this application.

Signature of Owner(s) [Signature] **Date** 7/28/23

Date _____

An appeal taken from a decision of the Planning Commission or the Zoning Board of Appeals must be filed with the reviewing body within thirty (30) days after a written decision is issued or twenty-one (21) days following approval of the minutes confirming the decision, whichever is first to occur.

Office Use Only

Amount paid \$400.00 **by:** cash ☒ check # _____ **Date** 7-28-23 **Staff Initials** [Signature]

This application is co-sponsored by the following community members, there are many more that support this cause in our community, this is just a few.

- Kayla Ferguson – 1340 Breezy Beach Niles, MI 49120
- Rodney Copper – 2830 Cook Street Niles, MI 49120
- Karen Copper – 2830 Cook Street Niles, MI 49120
- Mary Copper – 2838 Cook Street Niles, MI 49120
- Stephanie Holland – 1340 Breezy Beach Niles, MI 49120
- Matt Neinas – 1422 Thomson Road Niles, MI 49120
- Carolyn Neinas – 1422 Thomson Road Niles, MI 49120
- Tammy McIntee – 2784 Cook Street Niles, MI 49120
- Kelly McIntee – 2784 Cook Street Niles, MI 49120
- Alexis McIntee – 965 Leet Road Niles, MI 49120

To Whom it May Concern,

My name is Jake Ferguson. I grew up in Howard Township, I have spent the majority of my life living in and enjoying recreation throughout Howard Township. It is because of my love for the community that I moved back 5 years ago to raise my family here. I spend the majority of my free time on the family farm or in the Barron Lake area. I love the community that I grew up in and around, I want the same experiences for my children and those in the community.

It has come to my attention that there are potential plans for Industrial Utility Scale Solar Power Plant installations throughout our community. I have reviewed the current ordinances for Howard Township regarding Medium and Large Solar Equipment Systems. I do not feel that these current setbacks and rules protect non-participants of Industrial Utility Scale Power Plant installations or the community in the long run.

It is my understanding that no formal project has been proposed to the township yet, which appears to fall in line with the playbook Invenergy and other billion dollar energy companies follow for these utility scale solar power plants. There are stories across the state and country similar to ours. They promise large sums of money to property owners BEFORE approaching local governments with official plans.

I would like to start the process of revising the zoning ordinances to protect both the interests of the residents who are participating as well as those who are not. The current zoning ordinance does not include reasonable setbacks, noise parameters, and reporting to the community for Utility Scale Solar Power Plants. (Defined as Medium and Large SES in our current Zoning ordinance.)

With the current ordinance, a non-participating community member's property will be violated with noise from humming and whining inverters, their view will be tarnished by the blight of the panels near the property lines, EMF radiation property will be exposed to due to close proximity of the equipment, and property values will suffer. I travel around the state and have talked with people in communities where these Industrial Utility Solar Power Plants have been installed and they are not happy with their new industrial neighbors in agriculturally zoned areas.

Below are links to the noises that my family will have to endure, even on a cloudy day like the first video, should property owners around decide to lease their property to these billion dollar energy companies with the current ordinance in place:

Lennon, MI on Cloudy Day - <https://youtube.com/shorts/ZEjIleXdMt4?feature=share>

Solar Power Plant Inverter Noise - https://youtu.be/6_xWD6XoDtc

The amendment I am proposing to the current zoning ordinance is similar to what other Michigan Townships have adopted that will help protect participants and non-participants as well as the future of our community's safe ground water. There is a wide range of support for this amendment in the community. People in our community care about others in the community, we do not want to see someone who is surrounded by agricultural fields to be placed in the middle of an industrial power plant being smothered by power generation equipment. This amendment should help alleviate concerns in the community that folks could have industrial power generating equipment feet away from their child's bedroom window.

In this amendment we will help protect the community by putting in requirements for reporting and Township access to these sites should problems be suspected. We have to remember that we are not simply inviting a different crop into our community, we are allowing industrial power generation which comes with all of the concerns of other industrial facilities. Including, but not limited to: Toxic Materials, Fire Hazards, Electric Shock and Arc Flash Hazards, Electromagnetic Fields, and an extensive amount of non-panel system components. (racking, wiring, inverter, transformers, etc.)

Our community is already dealing with the repercussions of one billion dollar energy company's issues, the least we should do is protect our residents with responsible ordinances that will not allow the peace to be further robbed from our rural community by other billion dollar energy companies. I appreciate your time in reviewing and service to the community.

Thank you,



Jake Ferguson

**ORDINANCE PROPOSAL
TOWNSHIP OF HOWARD
CASS COUNTY, MICHIGAN**

An Ordinance to Amend Ordinance #192, the Zoning Ordinance

Amendment Proposal for Section 15.30 (Medium SES) & Section 18.02 LL (Large SES)

Medium SES and Large SES Additional Requirements and Setbacks

- 1. Ground-mounted collection systems and associated equipment shall be set back a minimum of three hundred (300) feet from all side, rear, and front lot lines.**
 - a. The setbacks to adjoining properties in the same project do not apply.**
- 2. Noise mitigation and Sound Pressure Level: Transformers and Inverters shall be located in or near the center of the project to mitigate sound at the property line. Medium SES and Large SES facilities shall not exceed 40 dB(A) (Lmax) / 55 dB(C) (Lmax) as measured at the property line of the outside boundary of property included within the project.**
- 3. Minimum Lot Requirements – 25 Acres**
- 4. Maximum Lot Coverage by Zoning District**
 - a. AG – 30%**
 - b. AR – 30%**
 - c. C – 50%**
 - d. O – 50%**
 - e. LI – 50%**
 - f. GI – 50%**
- 5. Extraordinary Events. If the Medium SES or Large SES experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the Township within 24 hours.**
- 6. Annual Report. The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:**
 - a. Current proof of insurance;**
 - b. Verification of financial security; and**
 - c. A summary of all complaints, complaint resolutions, and extraordinary events.**
- 7. Safety/Access: A security fence (height and material to be established through the special use permit process) shall be placed around the perimeter of the Medium SES and/or the Large SES power plant, all electrical equipment shall be locked. Knox boxes shall be provided at locked entrances for emergency personnel access.**
- 8. Electrical Interconnections: All electrical interconnections or distribution lines shall comply with all applicable codes and standard commercial large-scale utility requirements and be underground. If batteries are used as part of the Medium SES and/of Large SES, they must be placed in a secured container or enclosure.**

9. **Inspections.** The Township may inspect Medium SES and/or Large SES at any time by providing 24 hours advance notice to the applicant or operator.
10. **Transferability.** A special use permit for a Medium SES and/or Large SES is transferable to a new owner. The new owner must register its name and business address with the Township and must comply with this Ordinance and all approvals and conditions issued by the Township.
11. **Remedies.** If an applicant or operator fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke the special land use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.
12. **Abandonment and Decommissioning Plan:**
 - a. **Abandonment:** A Medium SES and/or Large SES that ceases to produce energy on a continuous basis for a 12-month period will be considered abandoned unless the current responsible party (or parties) with ownership interest in the SES provides substantial evidence (updated every 6 months after the 12-month period of no energy production) to the Zoning Administrator of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible part (or parties) to remove all equipment and facilities and restore the Parcel to its condition prior to development of the SES.
 - i. Upon determination of abandonment, the Zoning Administrator shall notify the party (or parties) responsible that they must remove the SES and restore the site to its condition prior to development of the SES within one hundred and eighty (180) days of notice by the Zoning Administrator.
 - ii. If the responsible party (or parties) fail to comply, the Zoning Administrator may remove the SES, sell any removed materials, and initiate judicial proceedings or take any other steps to legally authorized against the responsible parties to recover the costs required to remove the SES and restore the site to a non-hazardous pre-development condition.

HOWARD CHARTER TOWNSHIP
Planning Commission – Special Meeting Minutes

September 28, 2023 7:00 p.m.

Call to Order/Pledge/Roll Call

Chairman Scott Miller called the special meeting of the Howard Charter Township Planning Commission to order at 7:00 p.m. The meeting was held at the Howard Charter Township Office. Pledge to the Flag was given. Scott Miller, Phil Hurlbutt, Debbie Johnson, Tom Hable and Dawn Stanage answered roll call. Zoning Administrator, Linda McGregor, was also present.

Agenda

A motion was made by D. Stanage, supported by T. Hable to approve the Meeting Agenda, carried.

Minutes

A motion was made by D. Johnson, supported by P. Hurlbutt to approve the August 2, 2023, regular meeting minutes as written, carried.

Old Business

None

New Business

S. Miller opened the public hearing at 7:02 p.m. S. Miller read a brief description of proposed amendments made by Jacob Ferguson, 1340 Breezy Beach. He also read Public Hearing Procedures/Guidelines. No board members have a conflict. Jacob Ferguson read his amendment letter. L. McGregor read 2 emails she had received in favor of the proposed amendment from Matt & Carolyn Neinas, 1422 Thompson Rd. and an email from David Wolnik 2320 Yankee St. in favor of the amendment. Persons present at the meeting in favor of the amendment included Jason King, 1419 Thomson Rd, stating he had already lost value of property, wildlife will suffer, fire plans need to be in place that will decrease land value and if Invenergy goes bankrupt, there will be no repercussions. Carolyn Neinas, 1422 Thomson Rd. stated that she cannot move at this point because she would have to reveal that a solar field is being planned around her property and she will be surrounded on 3 sides. She stated that studies show that people near solar farms have more health issues and a 40-foot setback is not far enough.

L. McGregor read documents in opposition to the proposed amendment from Larry and Lucy Eckler, 1879 Barron Lake Rd. Larry Eckler spoke, stating that Invenergy is doing a 1 on 1 interview to mitigate issues. Farmers have addressed all the questions and issues they had, have reviewed findings by Michigan State, and have been told issues being brought up are not true. He stated that the noise output from an inverter 50 feet away could not be heard and opposers are playing on fear of the public. Don Dodd, 1654 Dodd Rd, stated that there is a bond to pay landowners to remove equipment when the solar farm is decommissioned. Permanent cover crop improves soil whereas tilling harms the soil. A 300-foot setback makes no sense and removes the value of solar panels. Margaret Cinniger, 2850 White St., on behalf of herself and husband, John, stated that she would have less land if the amendments are adopted. Ron Hansing, 2495 Korn, stated that the 300-foot setback negates everything. Charles Hartzung, 3969 Reinhart Dr, Stevensville, MI, stated that he used to install solar panels and there is no risk unless installed improperly. Barb Green, 2474 Hand, pointed out that Midwest Energy Co-op has solar panels with sheep around them to keep the grass down. Roger Anderson, 1690 Anderson Rd., stated there is forest around a lot of the proposed solar panel fields. Why would a 300-foot setback be needed with woods, no homes, and open fields.

S. Miller closed the public hearing at 7:34 p.m.

Board Deliberations: T. Hable stated that he had heard and read too little to approve the type of change to the amendment that is being proposed. D. Johnson thanked the public for their comments and opinions and stated that the board does not know what the public knows about the solar farm. We are putting parameters in place with what we know. S. Miller stated that he drove by a solar farm on Bittersweet Road and heard only crickets, there were no trees, and good zoning was in place. He feels that if a commercial property wants to place solar panels, they should be able to. P. Hurlbutt stated he does not agree with the proposed amendment. We have looked at putting practices in place to protect residents. Some communities do not put these limits in place. He originally argued for more of a setback and we created the zoning ordinance for the solar farm because nothing was in place.

A motion to deny amendments to zoning ordinance #192, Chapter 15 Section 15.30 B; Medium Solar Energy Systems and Chapter 18 Section 18.02 LL; Large Solar Energy Systems was made by P. Hurlbutt, seconded by D. Johnson. D. Stanage read the motion for the record. A vote was taken with all members of the board voting Yes to deny the proposed amendments.

Adjournment

A motion was made by P. Hurlbutt, supported by D. Johnson to adjourn the meeting at 7:44 p.m., carried.

Submitted by:

Dawn Stanage, PC Secretary

Howard Charter Township - Cass County Michigan
1345 Barron Lake Rd Niles Michigan 49120
Phone: (269) 684-0072 Fax: (269) 684-6181
Final Decision of the Howard Township Planning Commission

Date of Meeting: September 28, 2023

Applicant Name: Jacob Ferguson

Address: 1340 Breezy Beach Dr Niles Michigan 49120

Applicant Phone Number: 616-308-2147

Nature of Request (please specify):

Zoning Ordinance text amendments to Zoning Ordinance #192:

An amendment to Section 15.30 (Medium SES) and Section 18.02LL (Large SES) to allow for ground mount collection system to be setback 300 feet from all side, rear and front lot lines. To require transformers and inverters to be located in or near the center of the project and require noise mitigation for Medium and Large SES not to exceed 40dBA/55bD(C), as measured from the property lines. To require township notification in the case of extraordinary events; to prepare an annual report documenting current proof of insurance, verification of financial security and a summary of all complaints. To require a security fence around the perimeter of a Medium SES and/or Large SES. To require that all electrical connections and lines comply with applicable codes. Battery storage infrastructure must be placed in a secured container. To allow for township inspections upon 24-hour notice. A special land use permit is transferrable to a new owner, the new owner must register its name/business address with the Township and comply with Township ordinances and SLUP conditions. Sets forth a decommissioning plan.

Action taken: Motion made by P. Hurlbutt, support by D. Johnson

to **deny** ☒ or **approve** ☐ the above-mentioned application

PC Member Vote

Signature of Voting Member

Aye ☒ Nay ☐

Scott Miller
Scott Miller, Chairperson

Aye ☒ Nay ☐

Debbie Johnson
Debbie Johnson, Vice Chairperson

Aye ☒ Nay ☐

Dawn Stanage
Dawn Stanage, Secretary

Aye ☒ Nay ☐

Tom Hable
Tom Hable, Member

Aye ☒ Nay ☐

Phillip Hurlbutt
Phillip Hurlbutt, HT Board Liaison

Signature of PC Secretary Attesting to the Decision:

Dawn Stanage
Dawn Stanage, Planning Commission Secretary

Date: 9/28/23

Chapter 4 AR Agricultural Residential District

Section 4.01 Description and Purpose

This zoning district is intended to accommodate land currently under cultivation, wetlands, woodlands, and other lands in an undisturbed state. Farming, crop cultivation, dairy and livestock operations, and rural estate single family dwellings are suitable uses in this district. Parcels within the AR District are restricted to a minimum of one (1) acre in size.

Section 4.02 Permitted Uses

Land, buildings and structures permitted in this Zoning District may be used for the following purposes only:

- A. Farms, together with farm dwellings, buildings and other installations necessary to such farms including temporary housing for migratory workers housing and its sanitary facilities, provided that such activities are in conformance with all requirements of the Cass County Health Department, the State of Michigan Right to Farm Act, MDEQ and/or any other Federal, State and/or local regulating agency having jurisdiction.
- B. Greenhouses, nurseries, orchards, vineyards, and apiaries.
- C. Private stables, in accordance with Section 15.12
- D. Single family dwelling.
- E. Publicly owned and operated parks, parkways, and recreational facilities.
- F. Family day care homes.
- G. Adult Foster Care family home.
- H. Adult Foster Care small group home.
- I. Home occupations, in accordance with Section 15.16.
- J. Keeping of livestock, in accordance with Section 15.12
- K. Two family dwelling.
- L. Medical Marihuana, in accordance with Section 15.28
- M. Wind Energy Conversion System (non-commercial), in accordance with Section 15.27
- N. Solar Energy Systems (small and medium), in accordance with Section 15.30 (*added 10/26/2019*)
- O. Accessory structures and uses customarily incidental to the above permitted uses, in accordance with Section 15.25

Section 4.03 Special Land Uses

The following uses may be permitted by the Planning Commission subject to the conditions specified for each use in Chapter 18; review and approval of the Planning Commission and the imposition of special conditions which, in the opinion of the Planning Commission, are necessary to fulfill the purposes of this Ordinance.

- A. Removal and/or processing of topsoil, organic material, sand, gravel or other such minerals.
- B. Kennels and Public Stables.
- C. Municipal, county, regional and state-owned buildings and service facilities (not including open storage) when in character with the surrounding residential and agricultural area.
- D. Private recreation areas, uses, and facilities including country clubs, golf courses, and swimming pools but not to include automobile and motorcycle raceways, race tracks, drag strips and related activities.
- E. Cemeteries and Crematories.
- F. Religious institutions and buildings customarily incidental thereto.
- G. Bed and Breakfast.
- H. Group day care home.
- I. Telecommunications towers and facilities.
- J. Planned Unit Development.
- K. Open Space Preservation Development.
- L. Site Condominium Development
- M. Shooting or Archery Range: Indoor/Outdoor
- N. Hunting Preserve
- O. Wind Energy Conversion System (commercial)
- P. Solar Energy Systems (large)
- Q. Pop-Up Retail (*added 8/29/2023*)

Section 4.04 Development Standards

No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following requirements:

- A. **Height:** No residential building or structure shall exceed thirty-five (35) feet in height. Agricultural structures such as storage silos, barns, grain elevators and similar structures are exempt from the maximum height requirements of this Ordinance.

- B. **Front Yard Setback:** There shall be a front yard setback of not less than forty (40) feet.
- C. **Side Yard Setback:** There shall be a side yard setback of not less than ten (10) feet.
- D. **Rear Yard Setback:** There shall be a rear yard setback of not less than fifty (50) feet.
- E. **Lot Area:** The minimum lot area, unless specified elsewhere, shall be one (1) acre.
- F. **Lot Width:** The minimum lot width, unless specified elsewhere, shall be one hundred fifty (150) feet. The lot width shall be measured at the front (address side) property line.
- G. **Frontage:** The minimum public street or private road frontage, unless specified elsewhere, shall be the same as the lot width of one hundred fifty (150) feet.
- H. **Floor Area:** Each dwelling unit, unless specified elsewhere, shall have a minimum of nine hundred sixty (960) square feet of livable floor area on the main floor.
- I. **Site Plan Review:** Site Plan Review and approval is required in accordance with Chapter 17 of this Ordinance.

Chapter 15 General Provisions and Exceptions

Section 15.01 Description and Purpose

All uses and structures, whether permitted by right or by special land use permit shall be subject to the following general regulations of this Ordinance.

Section 15.02 Uses Not Specifically Permitted in Districts *(as amended 5/29/2022)*

The following uses are not permitted in any district, subject to conditions imposed herein:

- A. Any use not included as a use permitted by right or a use permitted by an approved special land use permit.
- B. No condition shall be allowed to exist which will constitute a hazard to health, safety or welfare, is inconsistent with the accepted appearance of the zoning district, or in any way creates a nuisance or damages adjoining property.

Section 15.03 General Exceptions

- A. **Essential Services:** Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township, it being the intention hereof to exempt such essential services from the application of this Ordinance, except that all buildings hereunder shall be subject to site plan review in accordance with this Ordinance. The Zoning Board of Appeals may permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of a larger area than the district requirements herein established and may permit the location in any use district of a public utility building, structure, or use, if the Board finds such use, height, area, building, or structure is reasonably necessary for the public convenience and services, and if such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district.
- B. **Voting Place:** The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

Section 15.04 Easements

It shall be unlawful for any person to install, erect, cause or permit the installation of a permanent structure (garage, building, fence, large tree, or similar structure) on or across an easement of record which will prevent or interfere with the free right or opportunity to use or make accessible such easement for its proper use.

Section 15.05 Barron Lake Waterfront Lots

- A. The front yard shall be measured from the lakeside on waterfront lots.
- B. The front yard (waterfront) setback shall be measured from the ordinary high-water line; established at seven hundred fifty-seven (757) foot elevation from sea level mark.

Section 15.06 Grades, Elevation Differentials and Retaining Walls

- A. The grading of all building lots shall be such so as to divert water away from buildings and to prevent standing water and soil saturation detrimental to structures, lot use and surrounding property. However, water should not be diverted to adjacent properties.

- B. Retaining walls in excess of four (4) feet height shall require a building permit. All retaining walls shall be designed and built so as to safely resist lateral pressures of soil behind them and be safely supported by soil beneath them. Additionally, retaining walls shall be maintained in a structurally sound condition and shall not impair drainage or create negative impacts on adjacent properties.

Section 15.07 Obstructions to Vision

Corner Lots (See Appendix E & I): No structure, wall, fence, shrubbery, parked vehicle, stored material, or trees shall be placed, erected, planted or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that shrubbery and low retaining walls not exceeding three (3) feet in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted. This shall also mean that there shall be provided an unobstructed triangular viewing area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the pavement edge lines, or in the case of a rounded corner, from the intersection of the street property lines extended.

Interior and Double Frontage Lots (See Appendix E): Must follow Section 15.08 G. Trees within a ten (10) foot setback from street right-of-way must keep branches no less than eight (8) feet above the street level.

Section 15.08 Fence and Wall Regulations (as amended 5/28/2023)

Fences and walls are permitted subject to the following:

- A. The erection, construction or alteration of any fence or wall as defined herein shall require zoning compliance. Fence or wall is to be measured from the surface of the ground to the uppermost portion of the fence or wall.
- B. Fence or wall shall not be taller than four (4) feet in a required front yard setback nor taller than six (6) feet outside the required front yard setback and in a side or rear yard on any residential property. However; fence or wall in R4, with lake frontage, shall not be taller than three (3) feet in a front yard nor taller than six (6) feet in a side or rear yard, with the rear yard having a minimum setback of ten (10) feet from right of way.
- C. A six (6) foot chain link fence shall surround all playgrounds associated with a children's day care facility.
- D. Fence or wall with barbed/razor wire (or similar type) and/or electrical current are prohibited on any residential property, with the exception of underground fencing.
- E. Fences used to enclose vacant land may be constructed using above regulations, provided that any fence over four (4) feet high shall not be less than seventy percent (70%) open.
- F. AR District shall be exempt from all fence restrictions as it pertains to containment of livestock.
- G. All fences shall be constructed with any and all supporting structures or devices on the inside of the fence, leaving the decorative side facing the neighboring properties.
- H. Construction of a fence shall require the issuance of an approved Zoning Compliance Application from the Zoning Administrator.

Section 15.09 Storage of Obnoxious Matter in Open Containers Prohibited

No garbage, filth, refuse or other obnoxious matter shall be kept in open containers, piled or laid on the open ground and all containers shall be stored in such a way so as not to be accessible to animals.

Section 15.10 Soil Excavation and Filling

- A. The deposit or burying of any man-made materials such as scrap iron, appliances, tires, and other “junk”, as defined by the Township, anywhere in Howard Township which is not biodegradable is expressly prohibited. The burying of “garbage”, as defined by the Township, when deemed to be biodegradable (such as plant and animal wastes) shall be permitted when conducted in accordance with County, State, and Federal laws.
- B. This regulation shall not prohibit the normal removal or filling of soil for the construction of an approved building or structure when such plans have been approved by the Township and a permit has been issued for said development.

Section 15.11 Outdoor Storage of Vehicles and Equipment in Residential and Agricultural Districts
(as amended 5/29/2022)

The outdoor storage or parking of any vehicle or equipment, such as but not limited to; automobile, truck, recreational vehicle, boat hoist or dock (except on Barron Lake waterfront lots), boat, float, trailer, trailer coach, camping trailer, motorized home, all-terrain vehicle (ATV), off-road vehicle (ORV), utility task vehicle (UTV), snowmobile, motorcycle, dirt bike, golf cart, go cart, dismountable travel equipment of the type adaptable to light duty trucks, and other equipment or vehicles of a similar nature (not including typical farm equipment), shall be subject to the following conditions:

- A. Any vehicle or equipment parked outside shall not be located in any front yard or closer than five (5) feet to any property line, with the exception of being located on a driveway.
- B. Outdoor Storage or parking of any vehicle or equipment shall be limited to a lot or parcel upon which the owner of the vehicle or equipment also makes his/her primary residence. The lease of space for storage or parking of any vehicle or equipment shall not be permitted on residential lots or parcels.
- C. All vehicles and equipment shall be in good working condition and properly registered (if required by law). Any inoperative, non-road worthy (as deemed by the State of Michigan) or unlicensed vehicle shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

A vehicle or equipment that is owned by the resident is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

- D. The storage upon any parcel (not to include vacant land) of any vehicle or equipment that is not kept in a completely enclosed building must be kept to a minimum of one (1) each, must be well maintained, kept free of weeds and must belong to the occupant. This is to prevent properties from being used for outdoor storage and becoming a blight issue within the Township.
- E. **Vehicles or equipment may not be stored on vacant lots or parcels. Open storage of partially or disassembled component parts is prohibited.**

- F. Commercial vehicles not associated with an agricultural operation that are over one-ton capacity shall not be allowed, with the exception of one (1) commercial vehicle per parcel that is being used for work by an occupant.
- G. Trailer coaches, motor homes, and other recreational vehicles or equipment designed or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water, or gas, with the exception that it may be utilized for up to fourteen (14) days in any six (6) month period for visitors. With the exception of the fourteen (14) day utilized period, they shall abide by above conditions A thru F.

Section 15.12 Keeping of Livestock

- A. The keeping, raising, or breeding of livestock shall be a permitted use only in the AR District on parcels of two (2) acres or more. Livestock must be contained on said parcel.
- B. On parcels in the R1 District the keeping, raising, or breeding of livestock shall require an approved Special Land Use, in accordance with Section 18.02 of this ordinance. *(as amended 8/8/2015)*
- C. The keeping of chickens and/or ducks for **personal use** is permitted on any parcel in Districts AR, R1, C1, C2, LI, M, with the following restrictions:
 - 1. Must be kept in a sanitary condition free of offensive odor.
 - 2. Must be contained in the rear yard.
 - 3. No roosters are allowed.
- D. The keeping of livestock for youth agricultural experience projects not on parcels as stated in A, B, and C above, may petition the Planning Commission and request approval. The Planning Commission may attach any conditions it deems necessary to protect adjacent properties from anticipated negative impacts.
- E. The keeping, raising, or breeding of livestock is not allowed in any district other than what is stated above.

Section 15.13 Keeping of Pets

- A. The keeping of pets is allowed in all residential districts.
- B. No more than five (5) dogs, one (1) pot-bellied pig, six (6) months of age or older are allowed without a special land use permit for a kennel, subject to listed special land uses per district.
- C. Pets shall be contained on said parcel.

Section 15.14 Dumpsters or Outdoor Trash Receptacles *(as amended 5/29/2022)*

Any new or altered use (except agricultural and farming operations) which requires site plan review under Chapter 17 and has an outdoor trash storage area shall comply with the following requirements:

- A. Any outdoor trash storage area shall be limited to normal refuse which is collected on a regular basis and shall be maintained in a neat, orderly and sanitary condition. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.

- B. A Decorative masonry wall or wooden privacy fence of six (6) feet in height shall enclose three (3) sides of the storage area. Posts and/or other protective devices shall be installed at the opening and to the rear of any storage area to prevent damage to the screening walls. Screening gates may be required by the Planning Commission when deemed necessary to obscure a trash receptacle from view from a public right-of-way. The surface under any such storage area shall be constructed of concrete.
- C. In no instance shall any such refuse be visible above the required enclosure.
- D. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby.
- E. Any such storage shall be located in a rear yard or be so located and arranged as to minimize its visibility from adjacent streets and uses. The Planning Commission may require an obscuring gate when the visibility of such a storage area, from a public street or adjacent use is deemed to render an adverse influence. In no instance shall any such area be located in a front yard.

Exception: Personal Pickup Service at Curbside: accumulation of rubbish or garbage from personal use shall be placed in an approved container, provided by the occupant's pickup service provider. This container shall be put out at curbside no earlier than the day before pickup and removed from curbside on pickup day. These containers are not to be left at curbside between pick up days.

Section 15.15 Swimming Pools, Spas and Hot Tubs *(as amended 5/29/2022)*

- A. Construction, installation, enlargement or alteration of a swimming pool, containing water more than twenty-four (24) inches in depth, must first make application, with a Zoning Compliance Application, to the Zoning Administrator for review and obtain a building permit (if required). The application shall show the name of the owner, a plot plan of the property showing the location of the pool, (if building permit is required; a detailed plan and specifications for the pool is required) and full information as to the type, height and location of the fence surrounding the pool and the number of gates therein.
- B. Swimming pools may be erected in the side or rear yard only, provided that they are located no closer than ten (10) feet from the house, side or rear lot lines. No such pool or part thereof shall be installed within twenty-five (25) feet of a street.
- C. Swimming pools, spas and hot tubs, containing water more than twenty-four (24) inches in depth shall be completely surrounded by a fence not less than forty-eight (48) inches in height above the finished ground level measured on the side of the fence away from the pool. Gates and doors in fence shall be self-closing and self-latching. Where the self-latching device is less than fifty-four (54) inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches from the gatepost. An existing pool fence enclosure shall not be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a lockable safety cover and swimming pools with a powered safety cover, that complies with ASTM F1346 (Standard Performance Specification for Safety Covers and Labeling Requirements) shall be exempt from the provisions of fencing.

The provisions of C are intended to provide protection against the potential drowning and near drowning by restricting access to such pools, spas and hot tubs.

- D. Swimming pools, spas and hot tubs shall be maintained in a clean and sanitary condition, and in good repair.

Section 15.16 Home Occupation *(as amended 5/28/2023)*

Definition: Any occupation conducted within a dwelling unit or accessory building and carried on by the inhabitants thereof. Home occupations shall be clearly incidental and secondary to the use of the dwelling for living purposes, shall not change the character thereof, and shall not endanger the health, safety, and welfare of any other persons residing in that area by reason of, but not limited to, noise, noxious odors, unsanitary or unsightly conditions, fire hazards, traffic, and the like, involved in or resulting from such occupation, profession or hobby.

Purpose: The purpose of this section is to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The intent of this section is to establish standards for all home occupations and to ensure that home occupations remain subordinate to the residential use.

A home occupation may be permitted in a single family detached dwelling within a zoning district where such dwelling is permitted, subject to the following conditions:

- A. Home occupation applications shall be reviewed for compliance with the requirements of this section and approved by the Zoning Administrator. A zoning compliance application shall include the additional home occupation form and be accompanied by a letter indicating the nature of the home occupation with sufficient facts to indicate that the home occupation will comply with the requirements of this section, and a copy of the applicants' state license (if applicable). Such application shall incorporate an affidavit to be signed by the applicant acknowledging the requirements of this Section and agreeing to fully abide by them.
- B. The home occupation must be conducted entirely within a residential building or within not more than one (1) accessory building. The home occupation must not be evident in any way from the street or from any neighboring premises.
- C. The home occupation must be carried on only by the inhabitants of the building plus not more than one (1) non-resident employee.
- D. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes and shall not exceed a total area greater than twenty five percent (25%) of the usable floor area of the dwelling unit.
- E. A home occupation conducted within an accessory building shall not occupy more than fifty percent (50%) of said building. Accessory buildings in excess of one thousand two hundred (1,200) square feet shall be limited to six hundred (600) square feet in which to conduct the permitted home occupation.
- F. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of conduct of such home occupation. There shall be no external or internal alterations not customary in residential areas including the expansion of off-street parking areas in excess of residential standards.
- G. A home occupation shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, wireless communication interference, fire hazard, increased traffic volume, or any other hazard or nuisance

to any greater or more frequent extent than would normally be generated in a similarly zoned residential district.

- H. Signs not customarily found in residential areas shall be prohibited, however, that one (1) non-illuminated name plate, not more than two (2) square feet in area, may be attached to the building, and which sign shall contain only the name, occupation, and address of the premises. Freestanding signs not in excess of four (4) square feet in area may be placed on residential property in the AR district as an alternative but not in addition to a sign placed on the dwelling.
- I. No outdoor display or storage of materials, goods, supplies, or equipment used in the home occupation shall be permitted on the premises.
- J. No retail or other sales of merchandise or products shall be conducted upon the premises except for those goods actually produced on the premises. If not produced on the premises, the Home Occupation could be considered on an individual basis by the Zoning Administrator.

Section 15.17 Temporary Buildings, Uses and Structures *(as amended 5/29/2022)*

- A. Structures erected for ice fishing and hunting purposes less than one hundred (100) square feet in size are permitted in Howard Township and are exempt from the provisions of this Ordinance.
- B. The office and storage trailers of building contractors used in association with the construction of a legally permitted use shall be permitted in all districts. Said office or storage trailer shall be setback at least ten (10) feet from all property lines and be removed within fifteen (15) days after the certificate of occupancy has been granted for the building under construction on the property.
- C. In addition to any other provisions contained in this Ordinance concerning the location of temporary manufactured homes within this Township, a temporary manufactured home may be permitted outside of a manufactured home park in the AR, R1 and C1 Districts on a basis, as follows:
 - 1. In the case where a residence has been damaged or destroyed by fire, tornado, flood or other similar reason, the Zoning Administrator may approve a temporary manufactured home to be erected on the same site while the permanent structure is completed or rebuilt.

The Zoning Administrator shall have final approval for a temporary zoning permit and may attach reasonable conditions to the temporary use or structure to ensure that standards and requirements are met. The temporary dwelling unit shall abide by all other sections of this Ordinance.

Upon issuance of the temporary zoning permit, the applicant shall apply for and obtain a building permit for a temporary residence on the parcel, the demo permit, (if needed), and the completion/rebuild permit for the damaged residence **within thirty (30) days**.

The temporary zoning permit shall expire one (1) year from the date of approval. Permits may be renewed by the Zoning Administrator for one (1) additional successive period of six (6) calendar months or less at the same location and for the same purpose, provided that the reason for the extension is due to circumstances beyond the immediate control of the applicant for the permit extension.

2. For an aged or handicapped relative of the property owner, any approval for a temporary manufactured home must be granted by the Planning Commission. The applicant shall submit a request for a temporary permit to the Planning Commission, which shall hold a meeting for the review to consist of a public hearing and noticed per the Michigan Zoning Enabling Act. The temporary permit may be approved in accordance with the following:
 - a. The permit shall be valid for one (1) year with the eligibility for yearly renewals by the Zoning Administrator.
 - b. The temporary manufactured home shall be limited to single family occupancy.
 - c. The applicant shall supply information showing the need for a temporary manufactured home.
 - d. The parcel site where the temporary manufactured home is to be located shall be a minimum of one (1) acre in size.
 - e. The temporary manufactured home shall meet the setback requirements of the district in which it is located.
 - f. No more than one (1) temporary manufactured home shall be located on a parcel.
 - g. The applicant for a temporary manufactured home permit shall also submit an approved, signed health department permit from the Cass County Health Department and shall have a HUD Certification on said manufactured home and comply with any related local, state or federal requirements.
 - h. The applicant shall further sign an agreement with the Township ensuring the removal of the manufactured home within six (6) months of the termination of use. Failure to remove said temporary manufactured home will automatically authorize the removal by the Township, with all costs incurred placed as a lien on the property or placed on the next available tax bill as a special assessment against the property. **It is the burden of the applicant to demonstrate good faith in receiving the permit by informing the Township of any changes in the circumstances connected with the permit.**
 - i. Additional conditions may be reasonably applied by the Planning Commission to appropriately assure the compliance with the provisions of this Ordinance.

Section 15.18 Building Permits Issued Prior to Effective Date

- A. Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been entered into pursuant to a zoning compliance application issued prior to the effective date of this Ordinance may be completed and used in accordance with the plans and applications on which said building permit was granted.
- B. A building which is lawfully under construction at the time of adoption of this Ordinance shall be allowed to be completed within one (1) year of the passage of this Ordinance. Adoption of this Ordinance shall not require any changes to the plans, construction or designated use of any such buildings.

- C. Any building or structure completed under this Section and made nonconforming by the adoption of this Ordinance shall be subject to the requirements of Chapter 19, Nonconforming Uses and Structures.

Section 15.19 Restoration of Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector or required compliance with his/her lawful order. Furthermore, upon the determination of the Building Inspector and official notification to the property owner, the Township Board may order the demolition and removal of any designated unsafe building. In addition, the cost of said removal shall be borne by the property owner. If the property owner fails to pay for the cost of the removal within sixty (60) days of the date the building was removed, the Township may either place a lien on the property or place the cost of said removal on the next available tax bill as a special assessment against the property.

Section 15.20 Moving of Buildings

- A. Any building or structure that has been wholly or partially erected on any premises located within the Township shall not be moved to and be placed upon any other premises in the Township until a zoning permit for such removal has been secured according to the requirements of this Ordinance. Any such building or structure shall fully conform to this Ordinance in the same manner as a new building or structure.
- B. Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and determine if it is in a safe condition to be moved, whether or not it may be reconditioned to comply with the Building Code and other requirements for the use and occupancy for which it is to be used, and whether or not it will be of similar character with the buildings in the area where it is to be moved. In addition, clearances shall be obtained from all utility companies ensuring that utilities are discontinued and all facilities accounted for. Inspection fees, as determined by the Township or County, may be charged to cover costs of inspecting the old site and the new site of such building or structure. If these conditions can be complied with, a zoning compliance application shall be issued for the moving of such a building or structure.

Section 15.21 Number of Buildings per Parcel

Every building hereinafter erected or structurally altered shall be located on a parcel and there shall be not more than one (1) main building on one (1) parcel unless otherwise allowed in this Ordinance. Exceptions to the aforementioned requirement include dwellings permitted as a result of a Planned Unit Development (PUD) or open space project and temporary structures meeting the requirements set forth in this Chapter.

Section 15.22 Illegal Dwellings (as amended 5/29/2022)

The following are considered illegal dwellings:

- A. The use of any basement without proper emergency egress.
- B. Buildings erected as garages or accessory buildings, including as an accessory to a primary residence/commercial building or existing on vacant land.
- C. Vehicles, automobile chassis, motor home, trailer coach, travel trailer, recreational vehicle, camper, portable buildings, tents, forts, tree house, watercraft, shipping container, storage unit, commercial vehicle, or similar structures.

Section 15.23 Other Projections into Yards

- A. **Cornice, Sill, Chimney, or Fireplace** A cornice, eave belt course, sill, canopy, or other similar architectural feature (not including bay windows or other vertical projections which shall be a part of the

main building), may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front or rear yard not more than thirty-six (36) inches. Chimneys or fireplaces may project into a required front, side, or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than three (3) feet in the R4 District or five (5) feet in all other districts.

- B. **Fire Escape** A fire escape may extend or project into any required front, side, or rear yard not more than four (4) feet, provided the width of such side yard is not reduced to less than three (3) feet in the R4 District or five (5) feet in all other districts.

Section 15.24 Access Through Yards

Access drives may be placed in the required front or side yards so as to provide access to a rear yard. Furthermore, any walk, terrace, or other pavement serving a like function shall be permitted in any required yard.

Section 15.25 Accessory Use, Building or Structure *(as amended 5/29/2022)*

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

A. All District Parcels

1. Accessory buildings, structures and uses are **permitted only** in connection with, incidental to and on the same lot with a principal building, structure, or use which is permitted in the particular zoning district. An accessory building, structure, or use must be in the same zoning district as the principal building, structure, or use on a lot.
2. No accessory building or structure shall be built, occupied, or utilized unless the principal building or structure to which it is accessory is occupied, utilized or until the following components have been completed: excavation, forms set, foundation and/or blocks, basement floor, joists set, subfloor, framed and sheathed, roof shingled, windows set, siding on, heating installed, plumbing roughed in, wiring roughed in, insulated, walls roughed in, water and sewer connected. Component completion is to be determined by two (2) of the following three (3): Zoning Administrator, Building Inspector, Assessor.

No accessory building or structure shall be built, occupied, or utilized upon vacant land until the principal use of land to which it is an accessory is utilized.

3. Where the accessory building is structurally attached to a main building, it shall be subject to and must conform to all regulations of this Ordinance applicable to main or principal buildings.
4. All accessory buildings, structures, and uses combined shall cover no more than fifty percent (50%) of any rear yard.
5. No detached accessory building or structure shall be located within ten (10) feet of any main or principal building.
6. No accessory building may be closer than five (5) feet to any other accessory building.
7. In the case of double frontage lots, accessory buildings shall observe front yard requirements as described in definition of "Lot, Double Frontage".

8. In the case of a corner lot, accessory buildings shall observe front yard requirements as described in definition of “Lot, Corner”.
 9. Manufactured homes, single wide mobile homes, semi-trailers, shipping containers or other vehicles shall not be used as accessory storage buildings.
- B. All District Parcels, except lakefront lots within the R4 District
1. Accessory buildings shall be located a minimum of ten (10) feet from a side or rear lot line and a minimum of twenty-five (25) feet from any right-of-way line.
 2. Accessory buildings, no more than twenty (20) feet high and nine hundred (900) square feet, will be allowed in the front yard but not within the front yard setback.
- C. Lakefront Lots within the R4 District
1. Accessory buildings shall be located a minimum of five (5) feet from a side lot line, minimum of ten (10) feet from a rear lot line, and a minimum of ten (10) feet from any right-of-way line.
 2. Accessory structures, to only include gazebos, pergolas, and sheds (no more than seven (7) feet high as measured from grade to eave) will be allowed in the front yard but not within the front yard setback.

Section 15.26 Reimbursable Expenses

The cost of the Township review of applications for zoning approval can be considerable, can differ greatly between different applications, and cannot always be accurately predicted at the time application is made, therefore, the actual cost of review should properly be borne by the applicant.

- A. The stated fees for zoning approval applications, established by resolution of the Township Board from time to time, are to be considered basic application fees which cover only consideration of the application by the Zoning Administrator; at scheduled Planning Commission, Zoning Board of Appeals, and/or Township Board meetings; and publication and mailing of notice of hearing, as applicable.
- B. In addition to the basic application fee, applicants for zoning approval shall pay the costs of review of applications for variances, special land use permits, site plans, re-zoning, planned unit developments, subdivisions, site condominiums, and similar requests. Such charges shall be in addition to the basic application fee, in an amount equal to the Township’s actual expenses incurred for reviewing the application, including but not limited to the cost of:
1. Special meetings
 2. Subcommittee meetings
 3. Review by Township attorney and preparation of appropriate approving resolutions or ordinances
 4. Traffic studies
 5. Environmental impact studies
 6. Notice of additional hearings
 7. Similar services and expenses

- C. If the Zoning Administrator determines that the application is one for which such costs for review are likely to be incurred, the Zoning Administrator shall require the applicant to pay into escrow, in advance, an amount estimated to be sufficient to cover the expected costs. The amount to be paid into escrow shall be established in increments of at least five hundred dollars (\$500), commencing with an initial deposit of not less than five hundred dollars (\$500) with the balance not falling below that initial deposit. No application shall be processed prior to the required escrow fee having been deposited with the Township Clerk. If an applicant objects to the amount of the escrow funds required to be deposited, it may appeal that determination to the Township Board within thirty (30) days after the initial decision by the Zoning Administrator.
- D. If, during application review, it is determined that additional costs are likely to be incurred, review action will cease until an escrow account is established in accordance with Section 15.26 C.
- E. If funds in the escrow account fall below five hundred dollars (\$500), the applicant shall make an additional deposit sufficient to cover any deficit and to re-establish a balance of at least five hundred dollars (\$500). The amount of additional deposit sufficient to cover any deficit in the account shall be at least five hundred dollars (\$500), or such greater amount as is determined by the Zoning Administrator to be reasonably necessary in order to cover anticipated remaining or future expenses. No further action shall be taken on an application until the escrow account has been re-established to such appropriate level, as determined by the Zoning Administrator.
- F. The Zoning Administrator shall maintain accurate records regarding the expenditures made on behalf of each applicant from the escrow account. Such escrow funds (from one to more applicants) shall be kept in a separate bank account category.
- G. Any excess funds remaining in the escrow account, after the application has been fully processed, reviewed, and the final decision has been rendered regarding the project, will be refunded to the applicant with no interest to be paid on those funds. If the balance of the expenses for the application for any reason exceeds the amount remaining in escrow following final action by the Township, the Township shall send the applicant a statement for such additional fees. Until the applicant pays such fees for the expenses of review, no further building permit or certificate of occupancy or other permit for the project shall be issued, and if such expenses remain unpaid for a period of fourteen (14) days, the Township Zoning Administrator or Building Official may issue appropriate stop work orders or take other action to halt work on the project. In addition, the Township may take legal action to collect unpaid fees.
- H. The application for zoning approval or other approvals covered by this Ordinance shall indicate that the applicant agrees to pay the Township's expenses for review of the application and other above stated expenses.

Section 15.27 Wind Energy Conversion Systems (WECS) – noncommercial

Noncommercial wind energy conversion systems (NWECS) are permitted in AR and R1 districts provided:

- A. Minimum parcel size upon which the NWECS is to be located shall be five (5) acres.
- B. Maximum height of a NWECS shall be eighty (80) feet, as measured from the ground at its base to tip of the rotor blade in the upright position (e.g. when extended above the support structure, **See Appendix J**). NWECS over eighty (80) feet in height are subject to a special land use permit.
- C. Minimum setback of a NWECS shall be equal to the height of the NWECS structure.

- D. For every additional NWECS on a parcel, and additional one and one-half (1 ½) acres shall be provided, however, the wind turbines may be clustered on site. Properties with three (3) or more NWECS per parcel are subject to site plan review.
- E. All NWECS requests shall include the following information:
1. Location and height of all buildings, structures, towers, security fencing and other above ground structures associated with the NWECS.
 2. Existing and proposed setbacks of all structures located on the property in question.
 3. Sketch elevation of the premises accurately depicting the proposed NWECS and its relationship to all structures within three hundred (300) feet.
 4. A copy of the manufacturer's installation instructions shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
- F. NWECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code.
- G. NWECS shall be equipped with both a manual and automatic braking devise capable of stopping the NWECS operation in high winds, as established by the manufacturer.
- H. At all times NWECS shall have one legible sign, not to exceed two (2) square feet in area posted at the base of the tower containing the following information:
1. Emergency phone number(s).
 2. Emergency shutdown procedures.
 3. Warning high voltage.
 4. Manufacturer's name
- I. NWECS shall not have affixed or attached any sign(s), light(s), reflectors(s), flasher(s) or any other illumination, except as required.
- J. NWECS shall be located and designed such that shadow flicker will not fall on, or in, any existing residential structure.
- K. Noise emanating from the operation of NWECS shall not exceed fifty (50) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels for normal operating conditions shall be provided by applicant.

- L. The Township hereby reserves the right to inspect the premises on which it is located at any time. If a NWECS is not maintained in operational condition and/or poses a potential safety hazard, the owner shall take immediate action to correct the situation.
- M. Any NWECS that is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.
- N. NWECS shall be of monopole design and shall not have guy wires.
- O. Colors and surface treatment of the NWECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structures shall be used for signs or advertising.
- P. NWECS shall be designed and constructed so as not to cause radio, television, and wireless device interference.

Section 15.28 Medical Marihuana *(as amended 5/28/2023)*

The medical use, growing, and processing of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act (MMMA), Initiated Law 1 of 2008 and the Administrative Rules (Administrative Rules) of the Michigan Department of Community Health as they may be amended from time to time.

Nothing in this section or in any companion regulatory provision adopted in any other provision of this Ordinance is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with the MMMA and the Administrative Rules. Also, since Federal law is not affected by the MMMA or the Administrative Rules, nothing in this section, or in any companion regulatory provision adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under Federal law. Neither this Ordinance nor the Michigan Medical Marihuana Act protects users, caregivers or the owners of properties on which the medical use of marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act.

It is not the intent of this section to broaden the strict interpretation of the MMMA to apply to activities not explicitly provided for therein nor is it the intent of this section to encourage or sanction the cultivation, processing, refinement, distribution, transfer or use of marihuana except as permitted by a strict application of the terms of the MMMA and any rules or regulations duly enacted.

The voters of the State of Michigan approved by initiative and referendum the use of marihuana by Qualifying Patients for certain medical conditions and established as a legitimate activity that individuals with appropriate credentials may assist Qualifying Patients in the use of marihuana under the provisions of the MMMA

Despite the provisions of the MMMA, marihuana remains a controlled substance under Michigan and Federal law and if its use is not carefully monitored and regulated, there exists significant potential for abuse and illegal conduct that can threaten the health, safety and welfare of the residents of Howard Township.

Howard Township neither supports nor opposes the legitimate medicinal use of marihuana by Qualifying Patients in compliance with the MMMA, but finds that it has an obligation to residents and property owners to effectively mitigate potential secondary impacts that could result from the Primary Caregiver activity.

Medical Marihuana use by a registered primary caregiver (caregiver) shall be **a** permitted use only in AR Agricultural Residential, R1 Low Density Residential, R4 Lake Residential, R3 Manufactured Housing Park and the residential portion of the C1 Mixed Use District pursuant to compliance with the Administrative Rules, the MMMA, and the requirements of this section.

The requirements for a primary caregiver shall be as follows.

- A. A caregiver must be located outside of a one thousand (1,000) foot radius from any real property as follows: a daycare facility, a place of religious worship, recreational facilities and any school or college. Measurements for purposes of this section shall be made from parcel/lot/site boundary to parcel/lot/site boundary.
- B. Not more than one (1) caregiver within a single-family dwelling shall be permitted to service qualifying patients who do not reside with the primary caregiver. A primary caregiver shall not operate within an apartment building, multi-family residential building or similar housing. Only one (1) caregiver may reside in a single-family dwelling. The caregiver must reside within the same single-family dwelling where he or she is growing Medical Marihuana. Outdoor grow of Medical Marihuana is prohibited.
- C. No signage is permitted regarding medical marihuana.
- D. Growing operations shall be fully contained within a locked and secured building or in any other facility or manner as permitted by the MMMA.
- E. All necessary building, electrical, plumbing and mechanical permits shall be obtained in which, building, electrical wiring, lighting, and/or watering devices are located, installed or modified that support the cultivation, growing or harvesting of marihuana.
- F. If a room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 11 p.m. and 7 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.
- G. The primary caregiver shall deliver medical marihuana to their qualified patients. No dispensing or sale of medical marihuana shall occur on the premises of the primary caregiver.
- H. It shall be considered unlawful for any person or persons to establish or operate a profit or non-profit medical marihuana dispensary, collective, cooperative or smoke house within the Township.

Definitions – As used in this section

Marihuana, also known as Marijuana or Cannabis: This term shall have the meaning given to it in the Michigan Public Health Code, 1978 PA 368, MCL 333.7106, as is referred to in Section 3 of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, and MCL 333.26423.

Marihuana Collective or Cooperative: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed that is formed by a group or individuals in a group acting together as a collective enterprise or by an organization owned collectively by members who share in the benefits owned as a cooperative or in any way structured like a collective or a cooperative.

Marihuana Dispensary or Dispensatory: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two (2) or more of the following: a registered primary caregiver, a registered qualifying patient, or a person with an identification card or in possession of an application for an identification card. The term “dispensary” shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008; and the Administrative Rules of the Michigan Department of Community Health.

Medical Use of Marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Primary Caregiver: Primary caregiver or caregiver means a person as defined, and who has been issued and possesses a Registry Identification Card, under the, Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Qualifying Patient or Patient: Qualifying patient or patient means a person as defined, and who has been issued and possesses a Registry Identification Card, under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Registry Identification Card: Registry Identification Card means a document as defined under the Michigan Medical Marihuana Act, Initiated Law 1 of 2008.

Smoke House: Smoke house means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises.

Section 15.29 Private Road *(added 5/28/2016)*

The Township has hereby determined that as large tracts of land are divided, sold, transferred, and developed; private access roads are being created to provide access to the newly divided properties which are not subject to regulation under the Michigan Subdivision Control Act of 1967 and other State regulations. The Township determines it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private roads to assure:

That private roads are designed with width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.

That private roads are constructed of suitable materials to ensure minimal maintenance and safe passage.

That private roads will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.

Definitions – as used in this section

Private Road Easement: is a private road that provides access solely to one (1) parcel of land and does not require the private road to be constructed.

Private Road: is a road under private ownership which has been constructed upon a private road easement for the purpose of providing access to two (2) or more parcels of land.

A. General Requirements to Private Road Easement/Private Road

1. A private road shall not be constructed, except in accordance with the standards and requirements of this Ordinance and must meet Cass County Road Commission specifications.
2. If an existing private road is proposed to be extended then the existing portion shall be improved, along with the new portion, to meet the standards and requirement of this Ordinance and must meet Cass County Road Commission specifications.
3. Private roads are permitted in all zoning districts.
4. Private road easement/private road shall not interconnect with the public street network in a manner that will preclude the extension of public streets, if necessary, to further the logical, orderly, and efficient development of the overall public street network.
5. Private roads that may be exempt from this section are those private roads that would be subject to site plan review per this Ordinance, such as but not limited to: Planned Unit Development, Manufactured Housing Park, shopping centers.

B. Minimum Standards for Private Road Easement/Private Road

1. A private road shall be located within a private road easement. Such easement shall not be less than sixty-six (66) feet in width.
2. At the dead end of such easement, the easement shall widen such that there is a minimum diameter of one hundred twenty (120) feet.
3. A parcel shall have frontage on the private road easement which is at least equal to the minimum parcel width required for the zoning district in which the parcel is located.
4. A private road easement/private road shall intersect and connect to a public road. A private road easement/private road shall not be approved which accesses a public road by another private road easement/private road.
5. A private road shall be constructed or extended when a private road easement serves two (2) or more parcels.
6. A private road shall be given a street name that is not the same or similar to any other street name in the county, to be verified by Cass County Road Commission. A street sign meeting Cass County Road Commission standard shall be erected and maintained by the applicant where such private road intersects any public road.
7. A dwelling unit on a private road shall display a house number, minimum of three (3) inches in height, in a manner so that the number is at all times readily visible from the private road.

8. In determining the location of a private road easement, consideration shall be given to safety of traffic entering and exiting the private road easement in relationship with the public road.

C. Road Maintenance Agreement

The owners(s) and any other parties with legal interest in the proposed private road shall provide to the Township, a road maintenance agreement, access easement agreement, list of parcel numbers, and deed restrictions, all must be recorded with Cass County, which shall provide for the perpetual private maintenance of such roads and/or easements to a necessary and reasonable standard to serve the parties having an interest in the private road. These documents shall, at a minimum, contain the following provisions:

1. A method of initiating and financing of such road in order to keep the road in a reasonably good and usable condition that will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and are readily accessible to and usable by emergency vehicles in all types of weather.
2. A workable method of apportioning the costs of maintenance and improvements, including the potential of future paving.
3. A notice that if repairs and maintenance are not made, the Township Board may bring the road up to Cass County Road Commission specifications and assess owners of parcels on the private road for the improvements, plus an administrative fee in the amount of five percent (5%) of the total cost of the improvements.
4. A notice that no public funds of the Township of Howard are to be used to build, repair, or maintain the private road. All costs shall be the responsibility of the property owners.
5. Easements to the public for purposed use of utilities, emergency and other public vehicles for whatever public services are necessary.
6. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the parcels having a right to use the road.
7. That any structures or parcels thereafter created or constructed on the private road shall also be subject to the road maintenance and that said agreement shall run with the land.

D. Procedure for Private Road

An application to establish or extend a private road shall be filed with the Township along with a fee as set by the Township Board. The application shall contain or be accompanied by the following information:

1. The name(s) of the owners and any other parties having any legal interest in the private road and the parcels across which it is to be constructed.
2. Parcel numbers of the parcels over which the private road is to be constructed.
3. A site location map, not necessarily to scale, which shows the location of the parcels containing the road to surrounding parcels and roadways within one-half (1/2) mile of the site; the location of

all public utilities; the location of any lakes, streams, wetlands, drains; and the location of any other structures located within one hundred (100) feet of the private road.

4. A scaled drawing showing the location, grade, elevation, route, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect.
5. A scaled drawing illustrating the proposed lot divisions.
6. A road maintenance agreement, access easement agreements and deed restrictions as described in Section 15.29 C.
7. An approved driveway permit from the Cass County Road Commission.
8. A statement from the Cass County Road Commission indicating there is no known duplication of the proposed private road name.
9. The permit application, drawings and other required information shall be reviewed by the Zoning Administrator for completion and then go before the Planning Commission for a decision.

E. Final Compliance Requirements

1. Upon completion of the private road, the following shall be on file with the Township: a) a letter from the Cass County Road Commission that the road has been constructed in compliance with Cass County Road Commission specifications, and b) documentation that the road maintenance agreement, access easement and deed restrictions have been recorded with the Cass County Register of Deeds office, and c) a driveway permit for the private road from the Cass County Road Commission or the State of Michigan Highway Department, whichever applies, and d) verification letter from the Cass County Road Commission that the new street name is not the same or similar to any other street name in the county, and e) Planning Commission minutes and/or signatures verifying approval.
2. Upon verification of all items required for final compliance, the Township Supervisor shall issue a letter of final approval.

F. Permits for Dwellings on Private Road

1. A building permit shall not be issued for any principal dwelling which derives its primary access from a private road unless a letter of final approval of the private road has been issued.

G. Township Liability

The owner(s) of the private road agree by applying for and securing approval to construct the private road that they shall indemnify and save and hold the Township harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road. Such wording shall appear on the application for approval and be signed by the applicant.

Section 15.30 Solar Energy Systems *(added 10/26/2019)*

This section is intended to promote the public health, safety, and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the township by regulating the use of solar generated power systems.

Definitions – as used in this section

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

Solar Energy System (SES): A system consisting of a device or combination of devices, structures or parts thereof, that collect, transfer or transform solar radiant energy into thermal, chemical or electrical energy, excluding systems that substantially rely on mirrors or similar technologies to focus solar radiant energy onto a considerably smaller area, and sometimes referred to as "concentrated solar power" systems or "CSP" systems.

1. Small Solar Energy System (Small SES): A solar energy system that relies on roof-mounted and/or ground-mounted collection systems that have a total cumulative surface area of no more than two thousand (2,000) square feet. A Small SES typically serves a single residence unit, agricultural operation, business or other singular facility, located on the same lot as the Small SES.

2. Medium Solar Energy System (Medium SES): A solar energy system that relies on roof-mounted and/or ground-mounted collection systems that have a total cumulative surface area of more than two thousand (2,000) square feet but not more than ten thousand (10,000) square feet. A Medium SES commonly serves multiple dwellings, businesses and/or other facilities, all on a single lot on which the system is located.

3. Large Solar Energy System (Large SES): A solar energy system that relies on roof-mounted and/or ground-mounted collection systems that have a total cumulative surface area of more than ten thousand (10,000) square feet and/or is used principally to provide service to customers not located on the same lot as the Large SES, irrespective of the cumulative area of the panels. A Large SES commonly serves multiple dwellings, businesses and/or other facilities, all on a single lot on which the system is located and may serve users on other lots including in association with energy utility providers.

4. Self-Contained Energy Systems: Solar energy systems that do not exceed four (4) square feet in total solar collector panel area and intended to provide energy to operate a device to which such panel is attached such as in the case of a panel powering an exterior light or an attic fan.

5. Solar Collection Panels: Panels and/or tiles comprised of semiconductor devices and typically referred to as photovoltaic cells, which collect and convert solar energy directly into electricity. Ground mounted solar collection panels are panels attached to the ground by a pole, metal frame or other similar support structure.

Self-Contained SES: Self-Contained SES is permitted in all districts and is not subject to zoning compliance.

Exempt SES: The following are exempt from the regulations of this section. Roof-mounted SES that function as shingles or otherwise shingle-like in general character. However, these are subject to Building Inspector approval.

A. Small Solar Energy Systems (Small SES)

1. Compliance with District Regulations: a solar energy system (SES) shall comply with the regulations using "Accessory Use, Building or Structure" guidelines within the General Provisions Chapter of the Zoning Ordinance unless otherwise stated within this section.

a. Authorization, Review and Approval Procedures: A Small SES is a permitted accessory use/structure in all districts. Small SES shall be subject to Zoning Administrator approval.

b. General Provisions: Small SES collection panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties and public roads. The applicant shall submit documentation to verify compliance with this requirement. When deemed necessary, the Zoning Administrator may require a report from a qualified person with documented training, certification and/or licensing in the generation of glare associated with SES including training in the use of computer software designed to assess glare potential, attesting to the glare and radiation impact on nearby properties and public roads.

c. Roof-Mounted Systems

1. No part of a Small SES roof-mounted system shall exceed the building height restriction.

d. Ground-Mounted Systems

1. Small SES ground-mounted collection panel systems and associated equipment shall not exceed fifteen (15) feet in height as measured from the ground below.

2. If a ground-mounted Small SES ceases to operate or is abandoned for six (6) months, or is deemed by the Building Inspector to be unsafe or not consistent with the building code, the applicant shall repair and restore the system to good working order within thirty (30) days of notification by the Zoning Administrator, or otherwise remove the system in its entirety including posts, equipment, panels, foundations and other features and restore the ground to its preconstruction state.

i. The Zoning Administrator may permit a repair period greater than thirty (30) days if the Zoning Administrator determines a longer period is necessary due to conditions not within the control of the applicant.

B. Medium Solar Energy Systems (Medium SES)

1. Authorization, Review and Approval Procedures: A Medium SES is permitted as an accessory use in the C2-General Commercial, LI-Light Industrial, M-Manufacturing and AR-Agricultural Residential Districts. A Medium SES shall be subject to the "Site Plan Review and Approval Procedures Chapter of the Zoning Ordinance.

2. General Provisions: Medium SES collection panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties and public roads. The applicant shall submit a report prepared by a qualified person with documented training, certification and/or licensing in the generation of glare associated with SES including training in the use of computer software designed to assess glare potential, attesting to the glare and radiation impact on nearby properties and public roads.

3. Roof-Mounted Systems: No part of a Medium SES roof-mounted system shall exceed the building height restriction.

4. Ground-Mounted Systems

a. Yard and Setback Restrictions

i. Within the C2-General Commercial, LI-Light Industrial, M-Manufacturing and AR-Agricultural Residential districts, ground-mounted collection systems and associated equipment are prohibited in a front yard and shall be set back a minimum of fifteen (15) feet from all side and rear lot lines. The setback shall be increased to forty (40) feet along those segments of a shared lot line where the adjacent lot is residential.

ii. Ground-mounted solar collection panels shall not exceed eighteen (18) feet in height.

iii. In the case of ground-mounted solar panels located on a lot that is adjacent to a lot that is residential, including double fronted lots, screening shall be provided along such shared lot lines. The screening shall consist of evergreen trees of a minimum of six (6) feet in height at the time of planting and with a projected growth rate of a minimum of six (6) inches per year and to a minimum projected height of twenty (20) feet and spaced no greater than twelve (12) feet apart measured on center. The site plan shall specify the proposed plant material according to common name, botanical name, and minimum plant size. All plant material shall be maintained in a healthy condition to provide the intended screening, shall be permitted to grow according to its natural habit, and shall be replaced upon death or disease.

1. In the case where a dwelling is present within seventy-five (75) feet of a shared lot line, a second row of tree plantings shall be provided and placed no greater than twelve (12) feet from the first row as measured on-center, with the second row of trees positioned in a staggered formation to the first row to have trees spaced at no greater than six (6) feet on-center as viewed from the shared lot lines.

2. Required screening need not be in the immediate area of the panels that the plantings are intended to screen, as long as the planting locations provided are for the intended screening effect. No tree shall be located within five (5) feet of the lot line.

v. If a ground-mounted Medium SES ceases to operate or is abandoned for six (6) months, or is deemed by the Building Inspector to be unsafe or not consistent with the building code, the applicant shall repair and restore the system to good working order within thirty (30) days of notification by the Zoning Administrator, or otherwise remove the system in its entirety including posts, equipment, panels, foundations and other features and restore the ground to its preconstruction state.

1. The Zoning Administrator may permit a repair period greater than thirty (30) days if the Zoning Administrator determines a longer period is necessary due to conditions not within the control of the applicant.

Section 15.31 Outdoor Furnaces and Boilers *(added 5/29/2022)*

- A. **Purpose** The Township desires to regulate the location and operation of outdoor furnaces to secure and promote the health, safety and welfare of the public. Outdoor furnaces are an alternative to traditional home-heating methods and have increased in popularity because of rising fuel costs. This increased usage has led to the recognition that outdoor furnaces can impact health, safety and welfare if not designed and used properly and these impacts are multiplied when used in densely populated areas. Outdoor furnaces shall only be permitted under certain circumstances and only when specific requirements are met in order to broaden home-heating options for residents while ensuring regulations are in place to protect residents from health, safety and welfare impacts.
- B. **Application** An outdoor furnace shall not be installed on any property unless an approved zoning compliance application and any required mechanical and building permits have been issued by the appropriate authority. In addition, the applicant shall submit a signed acknowledgement indicating that combustion, in the outdoor furnace, of material prohibited by this section is grounds for revocation of the approved zoning compliance application requiring immediate discontinuance of its use and removal of the structure and all connecting materials.
- C. **Eligibility** Outdoor furnaces are permitted in side and rear yards as an accessory structure/use to residential dwellings or commercial uses on parcels with a parcel area of at least twenty thousand (20,000) square feet. All units shall be “UL” (Underwriters Laboratory) listed and shall comply with State mechanical code. The unit shall not constitute a nuisance to neighboring properties.
- D. **Isolation and Setback** An outdoor furnace shall be located the distance from the primary residence as recommended by the manufacturer or the mechanical inspector, a minimum of one hundred (100) feet from any residential dwelling on an adjacent parcel, forty (40) feet from any other accessory structure, and shall be located a minimum of forty (40) feet from the property line of the parcel where it is located.
- E. **Stack Height** Stack or chimney height of an outdoor furnace shall have a minimum height of fifteen (15) feet as measured from grade to chimney top, or extend to an elevation at least two (2) feet above the roof peak of any residential dwelling within three hundred (300) feet of the outdoor furnace, whichever is higher.
- F. **Combustion Materials** Only dry, seasoned wood or pellets manufactured for use in an outdoor furnace may be used in an outdoor furnace. The Zoning Administrator may approve an alternative fuel if it is recommended by the outdoor furnace manufacturer and will result in air emissions no greater than that of dry, seasoned wood or pellets manufactured for outdoor furnace use. Combustion of toxic or other materials that generate offensive odors or excessive smoke or that are harmful to human health are prohibited. Such prohibited materials include, but are not limited to, coal, trash, garbage, plastics of any kind, wood that is painted, varnished or treated, gasoline, oil, rubber, naphtha, materials treated with petroleum products, leaves and paper products including cardboard. Any combustion of prohibited construction materials shall result in the revocation of the approved zoning compliance application requiring the immediate discontinuance of use of the outdoor furnace and removal of the structure and all connecting materials.

Section 15.32 Roadside Stands and Seasonal Uses *(added 5/29/2022)*

Roadside Stands: a temporary or existing permanent building operated for the purpose of selling only produce raised or produced by the proprietor of the stand or his family on the premises, and its use shall not make

into a commercial district land which would otherwise be an agricultural or residential district, nor shall its use be deemed a commercial activity for purposes of this Ordinance.

Seasonal Uses: temporary sale of merchandise related to a seasonal or periodic event to include but not limited to; Christmas trees, roadside stands, and garage, barn and yard sales.

- A. Adequate off-road parking shall be provided on the property and outside the public road right-of-way.
- B. One (1) on-site sign may be permitted per street frontage and shall otherwise comply with the requirements of Chapter 14 Signs of this Ordinance.
- C. Any temporary buildings or structures placed on a site for a roadside stand shall be removed during the seasons where the roadside stand is not in use.
- D. Roadside stands shall be kept in a neat and orderly condition and in good repair.
- E. Garage, barn and yard sales are limited to no more than twelve (12) days per calendar year.
- F. Roadside stands and Seasonal Uses are a permitted use without submission of a Zoning Compliance Application.

Section 15.33 Land Division and Combination *(added 5/29/2022)*

The dividing or uniting of lots or parcels by virtue of changes in the deeds. The division of lots or parcels shall take place in accordance with the Land Division Act, Michigan PA 288 of 1967, as amended. Division and Combination of lots or parcels shall be in accordance with Howard Township procedures.

- A. Land shall not be divided in any manner by any means creating lot or parcel which cannot be used in conformance with the requirements of this Ordinance.
- B. After the construction of a structure(s) upon a parcel of land, no subsequent division of that land shall be made which would cause the structure(s) located thereon to be in violation of the terms of this Ordinance.
- C. Land shall not be divided in any manner by any means to create a land locked lot or parcel.
- D. The combination of lots or parcels shall consist of contiguous lots or parcels and the listed ownership must be titled exactly the same.
- E. Metes and bounds lots or parcels shall not be combined with platted lots or parcels. Platted lots or parcels shall only be combined with platted lots or parcels. Metes and bounds lots or parcels shall only be combined with metes and bounds lots or parcels.

Section 15.34 Manufactured Housing *(added 5/29/2022)*

It is the intent of this section to provide for the use of manufactured housing as single-family dwellings on individual parcels. All structures and utilities to be constructed, altered, or repaired shall comply with all applicable codes of the Township, the State of Michigan, the U.S. Department of Housing and Urban Development and the Manufactured Housing Commission, including building, electrical, plumbing, liquefied petroleum gases and similar codes, and shall require permits issued therefore by the appropriate office.

The manufactured home must meet minimum livable floor area as noted within district development standards.

Single wide manufactured homes are not allowed outside a manufactured housing park unless grandfathered in prior to this ordinance.

The manufactured home must either be:

1. new and certified by the manufacturer or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
2. used and certified by the manufacturer or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on inspection by the Building Inspector, to be in acceptable condition, safe and fit for residential occupancy.

Chapter 18 Special Land Uses

Section 18.01 Special Land Use Permit Review

The Planning Commission shall have the following specific powers and duties concerning special land use approvals.

- A. **Statement of Intent:** The procedures and standards set forth in this Chapter are intended to provide a consistent and uniform method for review of proposed plans for special land uses.
- B. **Basis:** In hearing and deciding upon special land use permit requests, the Planning Commission shall base its actions on the theory that the development and execution of a comprehensive zoning ordinance is founded upon the division of the Township into districts, within each district the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are variations in the nature of special land uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

Upon mutual consent between the Planning Commission and the Township Board, an application for a special land use permit may be referred to the Township Board for approval, in which case all of the procedures shall be transferred from the Planning Commission to the Township Board.

- C. **Application:** The application shall be submitted by the owner having an interest in land for which the special land use approval is sought or, by a designated agent providing written permission from the owner. The applicant or a designated representative shall be present at all scheduled review meetings or consideration of the proposal may be tabled due to lack of representation.

The application for special land use review shall be submitted to and reviewed by the Zoning Administrator for completeness. The Zoning Administrator is to attach the chapter of this ordinance under which the special land use is sought to the completed application before submission to the Planning Commission. Each submitted application shall consist of the following:

1. A completed application form, as provided by the Township.
 2. The payment of a fee as established by the Township.
 3. The site plan which shall include all the information required by this Ordinance in Chapter 17.
 4. A letter describing the proposed use of the property.
 5. Other information which the Zoning Administrator may reasonably deem necessary for adequate review.
- D. **Notice of Public Hearing:** Upon receipt of a complete application, site plan, and attachments, if any, the Township shall schedule a public hearing on the request. The notice shall be given in accordance with the Zoning Act and shall contain the following:
1. A description of the nature of the special land use request under the specific section of this Ordinance.

2. A legal description or address and/or an approximate sketch of the property which is the subject of the request.
3. A statement of when and where the public hearing will be held to consider the request.
4. A statement as to when and where comments will be received concerning the request.

E. Planning Commission Determination:

1. Following the public hearing, the Planning Commission shall review the application for the special land use permit, together with the public hearing findings and reports and recommendations of Township staff, consultants and other reviewing agencies. The Planning Commission is authorized to deny, approve, or approve with conditions, requests for special land use approval. Such decision shall include the standards relied upon, finding of fact, conclusions, approval or denial, and conditions, if any, attached to the approval.
2. No special land use application which has been denied shall be resubmitted for a period of one (1) year from the date of denial. The Planning Commission may choose to hear the request prior to the one (1) year period if new and significant facts or conditions are presented which could alter its decision, as determined by the Zoning Administrator.
3. An approved special land use shall be initiated within one (1) year of such approval, except as noted below:
 - a. The Planning Commission may grant one (1), six (6) month extension of the one (1) year time period, provided the applicant requests the extension prior to the expiration date of the special land use approval.
 - b. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
 - c. If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to the start of construction, the special land use approval shall be null and void.

F. Recording of Planning Commission Action: Each action taken with reference to a special land use proposal shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for action taken, and any conditions imposed in conjunction with approval. All records or proceedings shall be kept on file and made available to the public.

G. Effective Duration of Special Land Use Approval: Special land use approvals shall run with the land. The Planning Commission may, as a condition of the approval, require periodic review of the special land use to determine continued compliance with the general and specific standards of the approval, as well as any conditions imposed.

H. Amendments to Special Land Uses: When an application is received to expand or change the use, traffic pattern, or other elements of a special land use, the application shall be subject to the same procedures followed for an original special land use application. The denial of an application to amend an existing

Special Land Use Permit shall not nullify or cause to prohibit the applicant from continuing to operate in compliance/conformance within the specifications of the original (existing) Special Land Use Permit approval.

- I. **Revocation of Special Land Use Approval:** Approval of a special land use permit and site plan may be revoked by the Planning Commission if construction is not in conformance with the approved plans or any conditions or approval imposed by the Planning Commission. In such a case, the Planning Commission shall set a public hearing for the purpose of reviewing the special land use, and give notice in accordance with the Zoning Act. The applicant shall be given the opportunity to present information to the Planning Commission and answer questions. The Planning Commission may revoke approval if it finds that a violation exists and has not been remedied prior to the hearing.
- J. **Appeals:** The Zoning Board of Appeals shall not have the authority to hear appeals of special land use decisions. Appeals may be taken to Cass County Circuit Court.
- K. **General Standards for Special Land Use Approval:** Approval of a special land use permit shall be based on the following General Standards of this Section, in addition to the applicable Specific Standards of Section 18.02, applicable site plan review criteria set forth in Chapter 17, applicable parking and loading standards set forth in Chapter 16, applicable sign requirements set forth in Chapter 14, as well as other dimensional and setback requirements of the applicable Zoning District.
1. The proposed use shall be harmonious to and in accordance with the general objectives, safeguards, intent, and purposes of this Ordinance and the Township Master Plan.
 2. The location, scale, and intensity of the proposed use shall be compatible with adjacent uses, the natural environment and zoning; promote the use in a socially and economically desirable manner; assure existing and long-term compatibility with surrounding uses; and not impede the development or improvement of surrounding properties.
 3. The hours of operation of the proposed use shall be so as not to disrupt surrounding area. Approval may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
 4. The location of the proposed use shall minimize the impact of the traffic generated by the proposed use.
 5. The proposed use shall be consistent with existing and future capabilities of public services and facilities affected by the proposed use.
 6. The proposed use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental to public health, safety, and welfare. Site layout shall be such that operations will not be objectionable to nearby dwellings by reason of noise, fumes, glare or flashing lights.
- L. **Specific Standards for all Hazardous Materials, Hazardous Substances, Hazardous Wastes, Liquid Industrial Wastes, Fuels and Petroleum Products:** All Hazardous Materials, Hazardous Substances, Hazardous Wastes, Liquid Industrial Wastes, Fuels and Petroleum Products shall be managed and contained in compliance with all Federal, State and Local laws and ordinances for the Special Land Uses

described in Sections 18.02, B; E; F; U; Y; BB; FF; HH; and such other proposed special land uses as may be applicable, as follows:

1. All Underground Storage Tank (UST) and Above Ground Storage Tank (AST) systems, including their associated equipment, piping, lines, dispensers, pads, leak detection systems and containment systems shall be installed, managed, operated, inspected, upgraded, insured, registered, de-commissioned, closed and remediated in conformity and compliance with all Federal, State and Local laws, regulations and ordinances including, but not limited to:
 - a. The Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 USC 9601, et. seq., and the regulations promulgated thereunder.
 - b. The Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 USC 6901, et. seq., and the regulations promulgated thereunder; including but not limited to 40 CFR 260 through 299.
 - c. The Michigan Natural Resources and Environmental Protection Act (NREPA), MCL 324.101, et. seq., including but not limited to Sections 324.11101, et. seq., 324.11501, et. seq., 324.12101, et. seq., 324.20101, et. seq., 324.21101, et. seq., 324.21301, et. seq., 324.21501, et. seq. and the administrative rules promulgated thereunder; including but not limited to the Michigan Underground Storage Tank Rules.
 - d. The Michigan Fire Protection Code, MCL 29.1, et. seq. and the administrative rules promulgated thereunder; including but not limited to the Flammable and Combustible Liquid Rules, The Michigan Underground Storage Tank Rules, and Gaseous and Hydrogen Rules, the Liquefied Natural Gas Rules, the Liquefied Petroleum Gas Rules, among others.
2. In addition, all AST's shall be equipped with or contained within secondary containment, including one (1) or more of the following: built-in secondary containment, vaulted systems, concrete encasement, impervious dikes, curbing, drip pans, enclosed cabinets with sealed flooring, spill diversion and retention ponds, weirs, booms and other barriers, as required under the Flammable and Combustible Liquid Rules, including R29.50101 to 5516 and as described in MDEQ's guidance document "The Guide to Understanding Secondary Containment Requirements in Michigan". All AST's must be equipped with approved corrosion protection and vapor control equipment to prevent ignition of flammable vapors as required under the Flammable and Combustible Liquid Rules, including R 29.50101 to 5516.

Section 18.02 Specific Standards for Special Land Use Approval

The specific and detailed requirements set forth in this section relate to particular uses, and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

A. Adult Only Uses and Sexually Oriented Businesses

1. **Authorization:** In the preparation, enactment, and enforcement of this section, it is recognized that there are some uses relating to sexual material which, because of their very nature have serious operational characteristics that have a deleterious effect upon residential, office, and commercial areas. Because certain forms of expression relating to sexual material have particular functional and inherent characteristics with a high potential of being injurious to surrounding

properties by depreciating the quality and value of such property, it is the intent of this section to provide a framework of reasonable regulatory standards which can be used for approving or disapproving the establishment of this type of use in a viable and accessible location, where the adverse impact of their operations may be minimized.

However, it is recognized that these specified controlled uses have legitimate rights under the United States Constitution as well as location needs similar to many other retail establishments. Special designation and regulation in the LI District are therefore necessary to ensure that adverse effects of such uses will not contribute to the degradation of adjacent parcels and the surrounding area. Furthermore, these controls are intended to provide commercially viable locations within the Township where these uses are considered more compatible and less deleterious.

2. **Uses Specified:** Uses subject to these controls as defined herein as "Adult Only Uses and Sexually Oriented Businesses" are as follows:
 - a. **Adult Business:** An adult arcade, adult bookstore, adult novelty or retail store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, nude modeling studio and/or photography studio and any business determined by the Zoning Administrator to be an adult use, due to the activities of the business which involve characteristics of adult uses, such as nudity and semi-nudity.
 - b. **Adult Arcade:** An establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, compact discs or similar machines, or other image producing machines (whether coin-operated, debit/credit card operated, slug-operated or electronically, electrically, internet or mechanically controlled) are used to show films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of sexual activities or anatomical areas.
 - c. **Adult Book Store, Adult Novelty or Retail Store, or Adult Video Store:** An establishment which offers any one (1) or more of the following for sale, rental or viewing at the site, for any form of consideration:
 - i. Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed material, films, motion picture, video cassettes or video reproduction, slides or other visual representations which depict or describe sexual activities or anatomical areas.
 - ii. Instruments, devices, or paraphernalia which are designed for use in connection with sexual activities.
 - iii. Items, materials, gimmicks, or paraphernalia depicting, displaying, advertising or packaged as sexual activities or depicting or describing anatomical areas.
 - d. **Adult Cabaret:** A nightclub, club, bar, restaurant or similar commercial establishment which features one (1) or more of the following:
 - i. Person(s) who appears nude or in a state of nudity or semi-nudity.

- ii. Live performances which are characterized by the exposure of anatomical areas or by sexual activities.
- iii. Films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of sexual activities or anatomical areas.
- e. **Adult Motion Picture Theater:** A commercial establishment where films, motion pictures, video cassettes, compact discs, slides of sexual activities or depictions or descriptions of anatomical areas are regularly shown for any form of consideration.
- f. **Adult Theater:** A theater, concert hall, auditorium or similar commercial establishment which, for any form or consideration, regularly features persons who appear in a state of nudity or semi-nudity for live performances which are characterized by exposure of anatomical areas or by sexual activities.
- g. **Nude Artist or Modeling Studio:** Any place where a person appears in a state of nudity or semi-nudity or displays anatomical areas, and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include a modeling studio the primary function of which is to provide art classes as part of a college, university or educational institution and which is certified by the State of Michigan.
- h. **Anatomical Areas:** For the purposes of this Section, anatomical areas include partially or fully uncovered human genital, pubic region, buttocks, anus, female breasts, and male genitals.

It shall be unlawful to operate, cause to be operated or maintain an adult only use or sexually oriented business in any location in the Township, except as provided for in this Section. It shall be unlawful to operate, cause to be operated, or maintain more than one (1) adult only use or sexually oriented business in the same building, structure, or portion thereof.

- 3. **Site Location Principles:** The following principles shall be utilized to evaluate the proposed location of any such use. These principles shall be applied by the Planning Commission as general guidelines to help assess the impact of such a use upon the district in which it is proposed.
 - a. No adult only business shall be located within one thousand (1,000) feet, measured from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated, of a: residential zoning district, religious institution, cemetery, school, library, public park or playground, non commercial assembly facility, public office building, licensed day care facility as defined in Act 116 of the Public Acts of 1973, as amended (MCLA 722.111 et seq.), or arcade.
 - b. No adult only business shall be permitted within a one thousand (1,000) foot radius of an existing adult only business. Measurement of the one thousand (1,000) foot radius shall be made from the outer most boundaries of the lot or parcel upon which the proposed adult use will be situated.

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4. **Site Development Requirements:** The site layout, setbacks, structures, function, and overall appearance shall be compatible with adjacent uses and structures.
- a. Windows, displays, signs and decorative structural elements of buildings shall not include or convey examples of a sexual nature. All such displays and signs shall be in conformance with this Ordinance and shall be approved by the Planning Commission prior to their use.
 - b. All building entries, windows and other such openings shall be located, covered or screened in such a manner as to prevent viewing into the interior from any public or semi-public area as determined by the Planning Commission.
 - c. No loud speakers or sound equipment shall be used by an adult only business that projects sound outside of the adult only business so that sound can be discerned by the public from public or semi-public areas.
 - d. An adult only business shall clearly post at the entrance to the business, or that portion of the business utilized for adult only purposes, that minors are excluded.
5. **Use Regulations:** No person shall reside in or permit a person to reside in the premises of an adult only business.
- a. No person shall operate an adult only business unless there is conspicuously placed in a room where such business is carried on, a notice indicating the process for all services performed therein. No person operating or working at such a place of business shall solicit or accept any fees except those indicated on any such notice.
 - b. The owners, operators, or persons in charge of an adult only business shall not allow entrance into such building or any portion of a building used for such use, to any minors as defined by MCL 722.51 et seq., as amended.
 - c. No adult only business shall possess or disseminate or permit persons therein to possess or disseminate on the premises any obscene materials as defined by MCL 752.361 et seq., as amended.
 - d. No person shall operate an adult only business without obtaining a current zoning and building occupancy permit. Such licenses shall be issued by the Zoning Administrator, Building Inspector or duly appointed designee following an inspection to determine compliance with the relevant ordinances of Howard Township. Such license shall be subject to all regulations of federal, state and local governments.
 - e. No person shall lease or sublease, nor shall anyone become the lessee or sub-lessee of any property for the purpose of using said property for an adult only business without the express written permission of the owner of the property for such use and only upon having obtained the appropriate licenses and permits from Howard Township, County of Cass and State of Michigan.
6. **Conditions and Limitations:** Prior to the granting of any permit herein provided, the Planning Commission or Township Board may impose any such conditions or limitations upon the location,

construction, maintenance or operation of the establishment or regulated use, as may in its judgment, be necessary for the protection of the public interest. Failure to follow such limitation or condition will act to immediately terminate any permit or license issued.

7. **Limit on Re-application:** No application for an adult use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on the grounds of new evidence not previously considered or proof of a change in conditions from the original request.

B. Automobile Repair, Filling Station, Service Station and/or Wash Establishment

1. **Purpose:** In order to regulate and control the problems of noise, odor, light, fumes, vibration, dust, danger of fire and explosion and traffic congestion which result from the restricted and unregulated construction and operation of automobile filling stations, service stations, wash establishments and repair garages, and to regulate and control other problems incidental to these uses, the following regulations and requirements shall be met. No such use existing on the effective date of this Ordinance shall be structurally altered so as to provide a lesser degree of conformity with this section than existed on the effective date of this Ordinance.
2. **Repairs:** All minor and major repairs shall be conducted completely within an enclosed building.
3. **Minimum Area and Frontage:** Minimum lot frontage shall be one hundred fifty (150) feet and the minimum lot area shall be fifteen thousand (15,000) square feet.
4. **Setbacks:** Minimum setbacks shall be forty (40) feet from any right of way and from any side or rear lot line directly adjoining a residential zoning district.
5. **Driveway and Curbs:**
 - a. All driveways providing ingress or egress shall comply with the standards of this Ordinance and shall not be more than thirty (30) feet wide at the property line. Not more than two (2) curb openings shall be permitted along any street. No driveway or curb opening shall be located within twenty (20) feet of any side or rear lot line and shall meet the separation requirements of the Cass County Road Commission between other driveways and intersecting streets. In no case shall a driveway be located within thirty (30) feet of any other driveway or intersection. All drive approaches shall otherwise meet Cass County Road Commission standards for construction, turning lanes and placement.
 - b. A raised concrete curb, six (6) inches in height, shall be erected along all driveway openings to minimize erosion and to appropriately direct traffic.
6. **Paved Areas:** All parking areas, isles, driveways and loading areas shall be hard surfaced with concrete or a plant mixed bituminous (asphalt) material, except undeveloped and landscaped areas.
7. **Equipment Location:** All lubrication equipment, washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline and fuel pumps and canopies shall be located not less than fifteen (15) feet from any lot line and shall be arranged so that motor vehicles

shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right of way.

8. **Number of Pumps:** Lots with an area of fifteen thousand (15,000) square feet or less shall be permitted four (4) double gasoline and fuel pumps or eight (8) single gasoline and fuel pumps, and two (2) enclosed stalls for servicing, lubricating, greasing and/or washing. An additional two (2) gasoline and fuel pumps and one (1) enclosed stall may be included for each additional two thousand (2,000) square feet of lot area.
9. **Walls and Screening:** Where adjoining property located in any residential zoning district, screening shall be provided.
10. **Lighting:** All exterior lighting, including lighting for signs and canopies, shall be erected and hooded or shielded so as to be deflected away from adjacent and neighboring property and shall comply with all requirements of this Ordinance.
11. **Outdoor Storage and Parking:** Storage of vehicle components, parts, trash, supplies, or equipment outside of a building is prohibited. Outdoor storage or parking of vehicles or trailers, other than private passenger automobiles, shall be prohibited between 10:00 p.m. and 7:00 a.m. of the following day. Storage of rental equipment, limited to travel trailers or campers of under twenty-one (21) feet overall length, car top carriers and similar auto accessories, shall be permitted as an accessory use. Rental equipment storage shall be within fenced enclosures the setbacks required for buildings in the zoning district in which it is located.
12. **Removal of Underground Storage Tanks:** In the event the use has been abandoned or terminated for a period of more than one (1) year all underground gasoline storage tanks shall be removed from the premises in accordance with State and Federal regulations and statute.

C. **Condominium Development**

1. **Purpose and Scope**

The purpose of this Section is to ensure that the plans for developments within Howard Township proposed under the provisions of the Condominium Act, PA 59 of the Public Acts of 1978, as amended, shall be reviewed with the objective and intent of achieving the same characteristics as if the development and improvements therein were being proposed pursuant to the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended. It is further the intent of this Section to ensure that such development is in conformance with the requirements of this Ordinance, other applicable Township ordinances and state and federal regulations.

2. **Condominium Review and Approval Procedures**

- a. Prior to submission of application, the applicant shall submit the condominium plans to the following agencies for their approval:
 - i. Michigan Department of Natural Resources/Michigan Department of Environmental Quality
 - ii. Cass County Drain Commissioner

- iii. Cass County Road Commission
- iv. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
- b. An application for review of a condominium project shall be made to the Zoning Administrator along with the appropriate fees. The application shall, at a minimum, contain the following information:
 - i.. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.
 - ii. The applicant's name, address and phone number(s).
 - iii. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
 - iv. The name, address and phone number(s) of the owner(s) of record, if different from that of the applicant.
 - v. The legal description, address and tax parcel number of the property.
 - vi. Project description, including number of structures, dwelling units, square feet of building sites, open spaces and estimated inhabitants, phasing, etc.
 - vii. Gross and net size of the parcel in acres.
 - viii. Written comments and/or approvals from the above list of agencies resulting from their review of the condominium plans, as applicable.
 - ix. A copy of the proposed deed restrictions or covenants for the condominium.
 - x. A copy of any preliminary agreements which may be required before final plan approval is granted.
 - xi. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the County Register of Deeds as required by state law.
 - xii. The applicant shall provide at least ten (10) copies of the preliminary condominium project plan and additional copies if deemed necessary by the Zoning Administrator.

- c. Upon receipt of the condominium project plans, the Zoning Administrator shall forward one (1) copy to each member of the Planning Commission, the Township Engineering and Planning Consultant (if available).
- d. The Planning Commission shall hold a public hearing on the request. Notice of the hearing shall be given in accordance with the Zoning Act.
- e. In reviewing the plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan.
- f. If the plan meets the requirements of this Ordinance and all other applicable local, state, county and federal regulations the Planning Commission shall grant it approval.
- g. If the plan does not meet the requirements of this Ordinance the Planning Commission shall:
 - i. Recommend denial of the plan, setting forth the reasons in writing, or
 - ii. Recommend granting plan approval contingent upon the completion of the revisions as noted.

3. **Site Condominium Review and Approval Procedures**

- a. Prior to submission of application, the applicant shall submit the site condominium subdivision plans to the following agencies for their approval:
 - i. Michigan Department of Natural Resources/Michigan Department of Environmental Quality
 - ii. Cass County Drain Commissioner
 - iii. Cass County Road Commission
 - iv. Other appropriate state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phases.
- b. An application for review of a site condominium subdivision project shall be made to the Zoning Administrator along with the appropriate fees. The application shall, at a minimum, contain the following information:
 - i.. Application for certificate of zoning compliance, which upon issuance, shall ensure that the project, as proposed, is capable of being developed in conformity with the standards and regulations applicable to the zoning district in which the project is located, subject to the customary procedures applicable to Township approvals of individual uses on individual building sites.

- ii. The applicant's name, address and phone number(s).
 - iii. Proof that the applicant is the owner of the property or has the legal or financial interest in the property such as a purchase agreement.
 - iv. The name, address and phone number(s) of the owner(s) of record, if different from that of the applicant.
 - v. The legal description, address and tax parcel number of the property.
 - vi. Project description, including number of structures, dwelling units, square feet of building sites, open spaces and estimated inhabitants, phasing, etc.
 - vii. Gross and net size of the parcel in acres.
 - viii. Written comments and/or approvals from the above list of agencies resulting from their review of the site condominium subdivision plans, as applicable.
 - ix. A copy of the proposed deed restrictions or covenants for the site condominium subdivision.
 - x. A copy of any preliminary agreements which may be required before final plan approval is granted.
 - xi. A copy of the proposed master deed of the project and the supportive information which is intended to be recorded with the County Register of Deeds as required by state law.
 - xii. The applicant shall provide at least ten (10) copies of the preliminary site condominium project plan and additional copies if deemed necessary by the Zoning Administrator.
- c. Upon receipt of the site condominium project plans, the Zoning Administrator shall forward one (1) copy to each member of the Planning Commission, the Township Engineering and Planning Consultant (if available).
 - d. The Planning Commission shall hold a public hearing on the request. Notice of the hearing shall be given in accordance with the Zoning Act.
 - e. In reviewing the plan, the Planning Commission shall give particular attention to all information required to accompany the submission, in particular the deed restrictions and covenants in an effort to determine that they are adequate to ensure ultimate completion of the project in accordance to the proposed project plan.
 - f. If the plan meets the requirements of this Ordinance and all other applicable local, state, county and federal regulations the Planning Commission shall grant it approval.
 - g. If the plan does not meet the requirements of this Ordinance the Planning Commission shall:

- i. Recommend denial of the plan, setting forth the reasons in writing, **or**
 - ii. Recommend granting plan approval contingent upon the completion of the revisions as noted.
4. **Setbacks and Boundaries:** The setback requirements for condominium buildings shall be determined as follows:
 - a. Single family and multifamily units shall meet the standards of the district in which the project is located.
 - b. The relocation of boundaries as defined in MCL 559.148, Sec. 48 of the Michigan Condominium Act, shall conform to all setback requirements of this Section, of the district in which the project is located, shall be submitted to the Planning Commission for review and approval and these requirements shall be made a part of the bylaws and recorded as part of the master deed.
5. **Common Elements:** After construction of a condominium unit, the undeveloped area of a unit shall become a common element.
6. **Encroachment:** A condominium project shall not be constructed in a manner that intentionally creates an encroachment.
7. **Subdivision of Unit Sites:** Subdivision of condominium unit sites is permitted following Planning Commission review and approval, contingent upon the submission of an amended master deed to determine the effect of the subdivision on the conditions of zoning or development plan approval and shall be made as part of the bylaws and recorded as part of the master deed.
8. **Conformance with Subdivision Regulations:** All condominium project plans shall conform to the plan preparation requirements, design layout and improvement standards as established within this Ordinance.
9. **Water and Waste Water:** The condominium project shall comply with and meet all federal, state and county standards for a fresh water system and waste water disposal.
10. **Expansion and Conversion:** Prior to expansion or conversion of a condominium project to additional land and new phases, it must be reviewed and approved by the Planning Commission.
11. **Master Deed:** The project developer shall furnish the Township with one (1) copy of the proposed consolidated master deed, one (1) copy of the bylaws and two (2) copies of the proposed plans. The proposed plans shall be reviewed for compliance with this Ordinance to ensure that an assessment mechanism has been included to guarantee adequate maintenance of common elements.
12. **As Built Plans and Occupancy:** Submission of an as built plan of a condominium unit is required prior to occupancy. The Building Inspector may allow occupancy of the project before all improvements required are installed provided that an escrow is submitted to the Township, sufficient in amount and type to provide for the installation of improvements before the expiration

of the temporary occupancy permit without expense to the Township. The amount and form of the escrow shall be determined by the Township Planning Commission.

13. **Final Bylaws, Consolidated Master Deed and Site Plan:** Upon arrival of the development, the applicant shall furnish the Township a copy of the bylaws and consolidated master deed.
14. **Compliance with other Statutes and Ordinances:** All condominium projects shall comply with pertinent federal, state and local laws, statutes and ordinances.

D. Telecommunication Towers and Facilities

1. **Intent:** Regulation of commercial wireless communication service towers and facilities is necessary to protect the public health, safety and welfare while meeting the communication needs of the public. The intent of the Ordinance is to minimize adverse visual effects of towers and to avoid interference with adjacent property while adequately serving the community.
2. **Permitted Locations and Requirements:** Telecommunication towers and facilities shall meet the following standards as applicable to the District in which it will be located:
 - a. Wireless communication facilities with monopole or lattice tower support structures with a height of two hundred (200) feet or less may be permitted as a special land use in the AR, C2, LI and M Districts.
 - b. Wireless communication facilities with monopole or lattice tower support structures with a height of greater than two hundred (200) feet shall be permitted as a special land use in the C2, LI and M Districts, provided:
 - i. They shall not be located within five hundred (500) feet of any residential district or use; **or**
 - ii. Within a distance equal to the height of the support structure from the right-of-way line of any interstate or limited access highway or other major thoroughfare.
 - c. If located on the same parcel with another permitted use, such facilities and any other structures connected therewith shall not be located in a front yard.
3. **Other Locations and Requirements:** If an applicant can demonstrate to the satisfaction of the Planning Commission that a location permitted in subparagraphs 2a and 2b above cannot reasonably meet the coverage and/or capacity needs of the applicant and the applicant can demonstrate that it has reasonably exhausted all efforts to locate its facility in accordance with subparagraphs 2a and 2b above, a wireless communication facility may be permitted subject to the following conditions:
 - a. Such wireless communication facilities shall be located on a priority basis only on the following sites:
 - i. governmentally owned sites;

- ii. religious or other institutional sites;
 - iii. public, private or parochial school sites; **or**
 - iv. public parks and other large permanent open space areas, when compatible.
- b. Telecommunication towers and facilities, other than permitted ground mounted equipment, shall be of an alternative or stealth design, such as incorporation into a steeple, water tower, bell tower, or other form which is compatible with the existing character of the proposed site, the adjacent neighborhoods and the general area, as approved by the Planning Commission.
4. **General Standards:** All telecommunication towers and facilities are subject to the following:
- a. **Height:** Towers for radio, television, cellular phone and other transmitting and relay antenna towers shall be located so any setback equals the setback from any adjacent or adjoining property lines equal to or greater than the height of the tower. The maximum height shall be the minimum demonstrated to be necessary by a radio frequency engineer. However, in no case shall the height of the tower exceed two hundred fifty (250) feet. All applications shall be accompanied by the radio frequency reception data maps showing signal strength information for the tower location.
 - b. **Construction:** All towers shall be self collapsing and comply with all Michigan building code regulations. The applicant shall provide all appropriate engineering information, site plans and drawings to the Building Official at the date of application. No building other than the associated support building, sidewalk, parking lot or other area with anticipated pedestrian or vehicular traffic shall be permitted within the self collapsing or “safe fall” area.
 - c. **Compatibility:** The entire facility must be aesthetically and architecturally compatible with the surrounding environment. The use of residentially compatible materials such as wood, brick and stucco is required for associated support buildings which shall be designed to architecturally match the exterior of the residential structures within the neighborhood.
 - d. **Location Criteria:**
 - i. Facilities shall be sited to minimize views from residential area or the public right-of-way.
 - ii. Concentration of support structures will be limited in all geographical areas to avoid excessive visual impacts.
 - e. **Development and Design Standards:**
 - i. Support structures shall be located as to be screened from view by sitting them near tall buildings or placed near existing tall trees.
 - ii. Whenever possible all support shall be of a monopole design.

- iii. Support structures shall be located a minimum of one hundred fifty (150) feet from any residential lot line.
- iv. Support structures shall be painted in unobtrusive colors.
- v. Support structures shall be designed to prevent unauthorized climbing.
- vi. When lighting is required by the FAA or other federal or state authority it shall be the minimum required to meet regulations and the same shall be approved by the Planning Commission. Any lighting for associated support building shall also be subject to Planning Commission approval. It shall be oriented inward so as not to project on to surrounding properties.
- vii. The Planning Commission may require anti-climbing devices and security fencing of at least six (6) feet preventing access to the associated building, tower and/or guyed wires.
- viii. Signs and logos are prohibited on the tower.
- ix. All signal and remote-control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and structure, or between towers, shall be at least sixteen (16) feet above the ground at all points, unless buried underground.
- x. Towers shall be located so that they do not interfere with television, radio or short-wave radio reception in nearby residential areas.
- xi. Existing on-site vegetation shall be preserved to the maximum extent practicable. However, the site shall be maintained in harmony with the surrounding properties. Where the property line of a site containing a wireless communication structure abuts a residentially zoned area, the operator shall provide a plant screen sufficient in density and height so to have an immediate buffering impact on adjacent property.
- x. Towers shall be located so that they do not interfere with television, radio or short-wave radio reception in nearby residential areas.
- xi. Existing on-site vegetation shall be preserved to the maximum extent practicable. However, the site shall be maintained in harmony with the surrounding properties. Where the property line of a site containing a wireless communication structure abuts a residentially zoned area, the operator shall provide a plant screen sufficient in density and height so to have an immediate buffering impact on adjacent property.
- xii. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.

- xiii. Antennae and metal towers shall be grounded for protection against a direct strike by lightening and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
 - xiv. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
 - xv. All structures associated with the facility shall be located on the property owned or leased by the communications company operating the facility including all guyed wires and anchors relating thereto.
 - xvi. The access road leading to the facility shall be constructed of gravel and/or aggregate sufficient to maintain adequate access to the site. A driveway permit, where necessary, will be sought and received by the applicant prior to issuance of any building permit.
 - xvii. The applicant is responsible for seeking and receiving any and all permits required for the site location, including but not limited to FAA, Michigan Aeronautics Commission, Cass County Road Commission, etc.
5. **Safety Standards:** All new wireless communication facilities shall be designed within the applicable ANSI (American National Standards Institute) standards.
6. **Collocation and Construction:** Any proposed tower shall be designed and constructed to accommodate future collocation. Towers must be designed to allow for future arrangement of antennas upon the tower and to accept not less than three (3) antennas mounted at varying heights. Whenever possible, proposed wireless communication facilities shall collocate. As a condition of approval, the applicant will be required to allow location of municipal antennas on the tower for fire and police use, at no cost to the municipality.
7. **Airport or Helipad Setbacks:** All towers over twenty-five (25) feet in height shall be a minimum of one half (1/2) nautical mile, or three thousand thirteen point five (3,013.5) feet, from any airport runway or designated helicopter landing site.
8. **Discontinuance:** When a wireless communication structure has not been used for a period of ninety (90) consecutive days it shall be completely removed within one hundred sixty (160) days. The removal of antennae or other equipment from the structure or the cessation of reception or transmission of radio signals shall be considered the beginning of non use. The Township may secure the removal of the structure if it is still standing thirty (30) days after the Township has sent a notice to the operator stating the need to remove the structure and the Township may charge up to one hundred twenty five percent (125%) of the removal cost to the operator and/or the landowner.
9. **Surety/Performance Bond:** To insure compliance with the criteria and discontinuance or removal of said tower, the Township shall require a bond. The surety/performance bond shall be on file with the Township before any permits are issued. Minimum bond amount is twenty-five thousand dollars (\$25,000) or one hundred twenty five percent (125%) of construction cost.

E. Removal and/or Processing of More Than Two Thousand Five Hundred (2500) Cubic Yards per year of Topsoil, Organic Material, Sand, Gravel or Other Minerals

It is the burden of the Applicant to present documentation to the Planning Commission that demonstrates the following specific conditions and/or limitations are met.

1. The application shall contain the following:

- a. Proposed method of removal and/or processing and all equipment to be used in the removal, processing and hauling.
- b. Map of parcel showing permanent location of processing plant(s) and all its accessory equipment; distance of all proposed mining, excavating and/or extraction from processing plant(s); location and layout of all proposed roads, all loading areas, all stockpiles, all storage and all parking areas.
- c. A map and plan showing location and number of acres that shall be excavated, mined, or extracted in twelve (12) month time periods, including daily maximum and average tonnage, and total tonnage. A specific scheduled plan for all processing to be done in the same twelve (12) month period, including daily maximum and average tonnage, and total tonnage.
- d. Certification from the Cass County Road Commission, Cass County Drain Commission, and the Cass County Soil Sedimentarian that the purposed use meets their standards and requirements.
- e. Impact studies of the following:
 - i. Vibration sources and levels, and abatement plan.
 - ii. Noise sources and levels, and abatement plan.
 - iii. Pollution sources and abatement plan.
 - iv. Traffic created, including daily average number of commercial trucks that shall enter and exit the parcel. Indicate all routes that shall be used by commercial trucks.

2. The following conditions and/or limitations shall be met prior to approval:

- a. **Location**
 - i. The minimum size shall be a twenty (20) contiguous acre parcel.
 - ii. The number of points of access (ingress and egress) to the parcel shall be limited so as to have the least impact on the fewest number of residentially zoned properties.

- iii. All truck traffic shall be routed to have the least impact on the fewest dwellings. The Planning Commission may also limit the number of trucks per hour and/or day to reduce impact. If the road is not a primary road the Planning Commission shall require the applicant to make improvements to a standard that shall:
 - aa. Prevent the breaking down of the road.
 - bb. Prevent the creation of dust or excessive noise.
 - cc. Prevent the increase of any financial burden on the Township or County for repeated upkeep.
- iv. No mining, excavation or extraction shall take place closer than one hundred (100) feet from any adjoining property line or any public right of way.
- v. All processing plant(s) and its accessory structures, areas where stockpiling and loading of materials occur shall be located no closer than two hundred fifty (250) feet from any adjoining property lines and any adjoining public right of way. Where possible all of the above shall be located at a lower level than the surrounding terrain to lessen visual and noise impact and located to have the least impact on adjoining properties. All areas used for parking or storage of equipment shall also comply with this requirement. The Planning Commission may limit the number of processing plants to minimize impact on the adjoining properties.
- vi. No part of the removal or processing shall be located within one hundred (100) feet of the banks of any stream or waterway unless written approval by Cass County Soil Sedimentarian or such other County department(s) having jurisdiction thereof has been presented to the Planning Commission. No extraction, excavation, mining, processing or related operations shall interfere with the natural established flow of surface waters to the detriment or damage to, or create a nuisance to, any adjoining public or private properties.

b. Sight Barriers

- i. All property lines of the site which lack natural screening conditions shall have sight barriers. Natural screening shall be maintained to keep its original screening ability. The Planning Commission may add to the natural screening to insure a year-round sight barrier. Natural screening shall not be considered a sight barrier if located on any right of way.
- ii. All sight barriers shall be compatible with and to the uses of the surrounding properties within three hundred (300) feet of the parcel. All barriers shall not interfere with clear vision at all intersections or access to all adjoining properties.
- iii. All sight barriers shall be a minimum of six (6) feet in height and shall follow the contour of the land. Sight barriers shall be in place within thirty (30) days of

permit issue and shall consist of one or more of the following and/or additional requirements deemed necessary by the Planning Commission:

- aa. Earth berm slopes shall not exceed one (1) foot vertical to four (4) feet horizontal and shall be planted to prevent all erosion.
- bb. Plantings of evergreen trees and/or shrubbery shall be spaced to provide effective sight barriers. The plantings shall be maintained and replanted as needed.
- cc. Masonry wall or solid fence made of uniform new materials and maintained in good repair.

c. **Nuisance Abatement**

- i. Noise shall not exceed 70 decibels (dBA) at all property lines. All loader and excavating equipment shall have working backup warning systems that are motion activated. Vibration shall be contained within the parcel.
- ii. No air pollution shall be injurious, annoying or a nuisance to any adjoining property. Air pollution control shall include, but not be limited to, the following:
 - aa. Interior roads used shall have their surface treated and maintained to stop fugitive sand, dust or dirt. All access driveways shall have a paved surface to a distance of not less than one hundred (100) feet from the public road.
 - bb. Means of sufficient capacity to water the complete height and surface area of all stockpiles and all areas that will need to be treated in a one-day period to effectively control fugitive dust, dirt and sand.
 - cc. Wet mining, when possible and the use of conveyors to transport to processing area.
 - dd. Tire washing equipment for all exiting trucks
- iii. Hours shall be 7:00 a.m. to 6:00 p.m., Monday through Friday; and 7:00 a.m. to Noon on Saturday. No activity or truck traffic into or out of parcel shall be allowed on Sunday, Christmas Day, New Year's Day, Fourth of July, Memorial Day, Labor Day, and Thanksgiving or outside operating hours. The Planning Commission shall have the authority to shorten the hours of operation and limit production and/or processing tonnage per day. No trucks or equipment can arrive before the starting time or leave after the closing time.
- iv. If a fence or masonry wall has been constructed around the complete property line in compliance with Section 18.02 E 2b, Sight Barriers, and access to property has locking gates, then "No Trespassing" signs need to be posted on these site barriers every twenty-five (25) feet. If not, all excavations, pits,

ponds, lakes, banks and slopes shall be fenced with locking gates and shall be posted with "No Trespassing" signs every twenty-five (25) feet.

- v. No lighting or lights from any equipment or vehicles shall cause glare or a nuisance to any property.
 - vi. On-site security shall not create any noise that is a nuisance to any property.
 - vii. No more than ten (10) acres may be under active mining at any one time. No more than five (5) acres may be stripped for future mining preparation. As exhausted areas are rehabilitated in accordance with Section 18.02 E 2d, Reclamation and Rehabilitation, a like amount of acreage may be excavated.
 - viii. The Zoning Administrator shall be authorized to inspect the operation without prior notice, at any time during the permitted hours of operation.
- d. **Reclamation and Rehabilitation:** Reclamation and rehabilitation shall commence as outlined in Section 18.02 E 2c 7. All reclamation and rehabilitation shall be completed within one (1) year after termination of activity. Inactivity for a twelve (12) month period shall constitute termination even if the entire parcel has not been mined, excavated and/or extracted.

The standards shall be:

- i. All mining, excavation and/or extraction shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water or shall be graded or back-filled with clean gravel or fill dirt or subject to DEQ approval.
- ii. All slopes to the waterline or pit floor shall not exceed one (1) foot vertical to two (2) feet horizontal.
- iii. The proposed restoration elevations shall be compatible with the adjoining properties and adequate steps shall be taken to insure proper drainage.
- iv. Top soil equal in quality to that occurring naturally in the area shall be applied to all areas to a minimum depth of four (4) inches except where streets, beaches or other planned improvements are to be located.
- v. Vegetation shall be restored by the seeding of grasses and/or planting of trees and shrubs to establish permanent vegetative cover and to prevent all erosion. Until the plantings have taken hold, steps shall be taken to prevent all erosion.
- vi. All structures, processing plant(s), stockpiles, equipment and/or anything that pertains to the use shall be removed within three (3) months of cessation, abandonment and/or inactivity or expiration of permit. Sight barriers also shall be under this requirement if they are not part of the approved final end use.

3. **Reclamation/Rehabilitation and Operational Plans:** The reclamation and rehabilitation plans and operational plans shall disclose compliance with all provisions of the Howard Township Zoning Ordinance for Special Land Uses. Any required changes to the plans shall be attached to the plans and recorded in the Planning Commission's minutes.
4. **Guarantee and Insurance:** Prior to commencing any activity the following shall be in force:
 - a. A performance guarantee, in a form and amount approved by the Planning Commission, shall be furnished to the Township Clerk. The guarantee shall be reviewed by the Zoning Administrator each anniversary date of the permit. If the Zoning Administrator feels any adjustments are needed it will be presented to the Planning Commission. The guarantee shall remain in force until all areas within the parcel have been fully reclaimed and rehabilitated in conformity to the reclamation and rehabilitation plan.
 - b. A copy of applicant's liability policy and all renewal policies shall be filed with the Township Clerk. The insurance required by this section shall be continuously in force until all areas within the parcel to which the permit applies have been fully reclaimed and rehabilitated in conformity to the reclamation and rehabilitation plan.
5. **Administration and Enforcement**
 - a. In making its decision the Planning Commission, shall have the authority to impose such conditions and safe guards as it deems necessary to ensure compliance with the requirements and standards of this section. The Planning Commission may renew or extend the Special Land Use Permit or revoke or refuse to renew same for non-compliance. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation. No permit shall be revoked or not renewed until the holder of the permit has been given written notice of any violation forming the basis of such action and given at least thirty (30) days to correct the violation(s).
 - b. The permit holder shall be required to pay the costs of inspections and additional meetings of the Planning Commission, as well as any expenses covered under Section

F. **Removal and/or Processing of Two Thousand Five Hundred (2,500) Cubic Yards or Less per year of Topsoil, Organic Material, Sand, Gravel or Other Minerals.**

It is the burden of the Applicant to present documentation to the Planning Commission that demonstrates the following specific conditions and/or limitations are met.

1. **The application shall contain the following:**
 - a. Proposed method of removal and/or processing and all equipment to be used in the removal, processing and hauling.
 - b. Map of parcel showing permanent location of processing plant(s) and all its accessory equipment; distance of all proposed mining, excavating and/or extraction from processing plant(s); location and layout of all proposed roads, all loading areas, all stockpiles, all storage and all parking areas.

- c. A map and plan showing location and number of acres that shall be excavated, mined, or extracted in twelve (12) month time periods, including daily maximum and average tonnage, and total tonnage. A specific scheduled plan for all processing to be done in the same twelve (12) month period, including daily maximum and average tonnage, and total tonnage.
 - d. Certification from the Cass County Road Commission, Cass County Drain Commission, and the Cass County Soil Sedimentarian that the purposed use meets their standards and requirements.
 - e. Impact studies of the following:
 - i. Vibration sources and levels, and abatement plan.
 - ii. Noise sources and levels, and abatement plan.
 - iii. Pollution sources and abatement plan.
 - iv. Traffic created, including daily average number of commercial trucks that shall enter and exit the parcel. Indicate all routes that shall be used by commercial trucks.
2. **The following conditions and/or limitations shall be met prior to approval:**
- a. **Location**
 - i. The minimum size shall be a twenty (20) contiguous acre parcel.
 - ii. The number of points of access (ingress and egress) to the parcel shall be limited so as to have the least impact on the fewest number of residentially zoned properties.
 - iii. All truck traffic shall be routed to have the least impact on the fewest dwellings. The Planning Commission may also limit the number of trucks per hour and/or day to reduce impact. If the road is not a primary road the Planning Commission shall require the applicant to make improvements to a standard that shall:
 - aa. Prevent the breaking down of the road.
 - bb. Prevent the creation of dust or excessive noise.
 - cc. Prevent the increase of any financial burden on the Township or County for repeated upkeep.
 - iv. No mining, excavation or extraction shall take place closer than one hundred (100) feet from any adjoining property line or any public right of way.

- v. All processing plant(s) and its accessory structures, areas where stockpiling and loading of materials occur shall be located no closer than two hundred fifty (250) feet from any adjoining property lines and any adjoining public right of way. Where possible all of the above shall be located at a lower level than the surrounding terrain to lessen visual and noise impact and located to have the least impact on adjoining properties. All areas used for parking or storage of equipment shall also comply with this requirement. The Planning Commission may limit the number of processing plants to minimize impact on the adjoining properties.
 - vi. No part of the removal or processing shall be located within one hundred (100) feet of the banks of any stream or waterway unless written approval by Cass County Soil Sedimentarian or such other County department(s) having jurisdiction thereof has been presented to the Planning Commission. No extraction, excavation, mining, processing or related operations shall interfere with the natural established flow of surface waters to the detriment or damage to, or create a nuisance to, any adjoining public or private properties.
- b. **Sight Barriers:** Construction of sight barriers are subject to the discretion of the Planning Commission.
- c. **Nuisance Abatement**
- i. Noise shall not exceed 70 decibels (dBA) at all property lines. All loader and excavating equipment shall have working backup warning systems that are motion activated. Vibration shall be contained within the parcel.
 - ii. No air pollution shall be injurious, annoying or a nuisance to any adjoining property.
 - iii. Hours shall be 7:00 a.m. to 6:00 p.m., Monday through Friday; and 7:00 a.m. to Noon on Saturday. No activity or truck traffic into or out of parcel shall be allowed on Sunday, Christmas, New Year's Day, Fourth of July, Memorial Day, Labor Day, and Thanksgiving or outside operating hours. The Planning Commission shall have the authority to shorten the hours of operation and limit production and/or processing tonnage per day. No trucks or equipment can arrive before the starting time or leave after the closing time.
 - iv. Fencing of excavation areas are subject to the discretion of the Planning Commission.
 - v. No lighting or lights from any equipment or vehicles shall cause glare or a nuisance to any property.
 - vi. On-site security shall not create any noise that is a nuisance to any property.
 - vii. No more than one (1) acre may be under active mining at any one time. No more than one (1) acre may be stripped for future mining preparation. As exhausted

areas are rehabilitated in accordance with Section 18.02 F 2d, Reclamation and Rehabilitation, a like amount of acreage may be excavated.

- viii. The Zoning Administrator shall be authorized to inspect the operation without prior notice, at any time during the permitted hours of operation.

- d. **Reclamation and Rehabilitation:** Reclamation and rehabilitation shall commence as outlined in Section 18.02 F 2c 7. All reclamation and rehabilitation shall be completed within one (1) year after termination of activity. Inactivity for a twelve (12) month period shall constitute termination even if the entire parcel has not been mined, excavated and/or extracted.

The standards shall be:

- i. All mining, excavation and/or extraction shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water or shall be graded or back-filled with clean gravel or fill dirt or subject to DEQ approval.
 - ii. All slopes to the waterline or pit floor shall not exceed one (1) foot vertical to two (2) feet horizontal.
 - iii. The proposed restoration elevations shall be compatible with the adjoining properties and adequate steps shall be taken to insure proper drainage.
 - iv. Top soil equal in quality to that occurring naturally in the area shall be applied to all areas to a minimum depth of four (4) inches except where streets, beaches or other planned improvements are to be located.
 - v. Vegetation shall be restored by the seeding of grasses and/or planting of trees and shrubs to establish permanent vegetative cover and to prevent all erosion. Until the plantings have taken hold, steps shall be taken to prevent all erosion.
 - vi. All structures, processing plant(s), stockpiles, equipment and/or anything that pertains to the use shall be removed within three (3) months of cessation, abandonment and/or inactivity or expiration of permit. Sight barriers also shall be under this requirement if they are not part of the approved final end use.
- 3. **Reclamation/Rehabilitation and Operational Plans:** The reclamation and rehabilitation plan(s) and operational plan(s) shall disclose compliance with all provisions of the Howard Township Zoning Ordinance for Special Land Uses. Any required changes to the plans shall be attached to the plans and recorded in the Planning Commission's minutes.
 - 4. **Guarantee and Insurance:** Prior to commencing any activity the following shall be in force:
 - a. A performance guarantee (when required by Planning Commission), in a form and amount approved by the Planning Commission, shall be furnished to the Township Clerk. The guarantee shall be reviewed by the Zoning Administrator each anniversary date of

the permit. If the Zoning Administrator feels any adjustments are needed it will be presented to the Planning Commission. The guarantee shall remain in force until all areas within the parcel have been fully reclaimed and rehabilitated in conformity to the reclamation and rehabilitation plan.

- b. A copy of applicant's liability policy and all renewal policies (when required by Planning Commission) shall be filed with the Township Clerk. The insurance required by this section shall be continuously in force until all areas within the parcel to which the permit applies have been fully reclaimed and rehabilitated in conformity to the reclamation and rehabilitation plan.

5. **Administration and Enforcement**

- a. In making its decision the Planning Commission, shall have the authority to impose such conditions and safe guards as it deems necessary to ensure compliance with the requirements and standards of this section. The Planning Commission may renew or extend the Special Land Use Permit or revoke or refuse to renew same for non-compliance. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation. No permit shall be revoked or not renewed until the holder of the permit has been given written notice of any violation forming the basis of such action and given at least thirty (30) days to correct the violation(s).
- b. The permit holder shall be required to pay the costs of inspections and additional meetings of the Planning Commission, as well as any expenses covered under Section 15.25, Reimbursable Expenses.

G. **Kennels**

- 1. The minimum parcel size shall be one (1) acre.
- 2. All buildings or areas in which the animals are kept or exercised shall be set back a minimum of fifty (50) feet from any adjoining property. Exercise areas shall not be located in the front yard.
- 3. A screened/landscaped area shall be provided between all buildings or areas in which the animals are kept or exercised and any adjacent residential use.
- 4. The facility shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance, disturbance, or hazard to adjacent or nearby property owners.
- 5. A kennel permit shall be obtained from the Cass County Animal Control Department.

H. **Stables**

- 1. The minimum parcel size shall be two (2) acres for the first five (5) animals, plus one (1) additional acre for each additional five (5) animals.

2. All buildings or areas in which the animals are kept or exercised shall be set back a minimum of twenty-five (25) feet from any adjoining property. Exercise areas shall not be located in neither the front yard nor side or rear yard setback area.
3. A screened/landscaped area shall be provided between all buildings or areas in which the animals are kept or exercised and any adjacent residential use.
4. The facility shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance, disturbance, or hazard to adjacent or nearby property owners.
5. Animal waste shall be managed to prevent odor, other nuisances and be disposed of in accordance with Cass County and the State of Michigan health rules.

I. Municipal, County, Regional and State-Owned Buildings and Service Facilities (not including Open Storage) When in Character with the Surrounding Residential and Agricultural Area

1. The proposed site shall front upon, and all ingress and egress, shall be from an arterial or collector street.
2. Unless greater setbacks are required by the District in which the use is located, buildings and structures shall be set back at least fifty (50) feet from the front lot line and twenty-five (25) feet from the side and rear lot lines.

J. Private Recreation Areas, Uses and Facilities Including Country Clubs, Golf Courses and Swimming Pools

1. The minimum lot size shall be forty (40) acres unless the use is located within a residential PUD.
2. The site shall be so planned to provide all access directly onto or from a paved County Road.
3. All structures shall be at least one hundred (100) feet from any lot line abutting a residential district or at least seventy-five (75) feet from any other lot line and all right-of-way lines.
4. The off-street parking area shall be so arranged as to provide the most safety for pedestrians and ease of vehicular maneuvering.
5. The off-street parking area shall be at least fifty (50) feet from any lot line abutting a residential district.
6. Accessory uses like pro shops, restaurants and lounges, and golf driving ranges may be permitted, subject to meeting parking requirements for such uses.
7. If required by the Planning Commission, a hydrologic impact assessment shall be provided describing the existing ground and surface water resources including, but not limited to, a description of the water table, direction of groundwater flow, recharge and discharge areas, lake levels, surface drainage, floodplains, and water quality as well as the projected impact of the proposed development on the resources, in particular impacts associated with water supply development, wastewater disposal, and storm water management. The type of chemicals to be used on the property and the location and method of storage shall also be considered.

K. Cemeteries and Crematories, Human Remains and/or Pet Remains

1. Minimum lot area shall be five (5) acres and there shall be a minimum frontage of two hundred (200) feet.
2. The use shall be located on property with direct access to a public road.
3. Buildings, including buildings for storage of equipment, and gravesites shall be setback a minimum of fifty (50) feet from the property line of any residential district or use.
4. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
5. Must meet all applicable State, Federal and Local government regulations.

L. Religious Institutions and Buildings Customarily Incidental thereto

1. The proposed site shall abut and have direct access to a paved County Road. All ingress and egress shall be from said road.
2. Minimum lot area shall be two (2) acres.
3. Parking shall not be permitted within any required yard.
4. Outside activities shall not take place within fifty (50) feet of any property line abutting a residential district.
5. A greenbelt shall be provided where, in the opinion of the Planning Commission, screening is required to minimize visual, noise, or other effects from the proposed use or parking area.

M. Bed and Breakfast

1. The use shall only be established in a detached single-family dwelling.
2. The establishment shall be directly serviced by public water and sanitary sewer services, or such private water and/or sanitary sewer systems as approved by the Cass County Health Department.
3. The establishment shall be located on property with direct access to a paved public road.
4. Parking shall be located to minimize negative impacts on adjacent properties.
5. The lot on which the establishment is located shall meet the minimum lot size requirements of the District in which it is located.
6. The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each ten thousand (10,000) square feet or fraction thereof by which the lot area of the use exceeds one (1) acre, not to exceed ten (10) guest rooms in any case.
7. One (1) sign shall be allowed for identification purposes. The sign shall not exceed sixteen (16) square feet in area and four (4) feet in height. If illuminated, the illumination shall only be of an

indirect nature; internally lighted signs are not permitted. The sign shall be set back at least one-half (1/2) of the front yard setback area of the zoning district in which the use is located, and shall be located at least fifteen (15) feet from any side or rear lot line.

8. The establishment shall be inhabited by the operator.
9. Meals may be served only to the operator's family, employees, and overnight guests.
10. No such use shall be permitted on any property where there exists more than one (1) other bed-and-breakfast establishment within seven hundred fifty (750) feet, measured between the closest property lines.
11. Exterior refuse storage facilities beyond what might normally be expected for a detached single-family dwelling shall be prohibited.

N. Group Day Care Home

1. The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
2. All playground equipment and areas for play and exercise shall be in the rear yard of the property. This area shall be at least two thousand five hundred (2,500) square feet in size.
3. Fencing at least four (4) feet, and no more than six (6) feet in height shall be provided around all outdoor areas accessible to children.
4. The facility shall be in compliance with all applicable State licensing requirements.
5. The facility shall not be located closer than one thousand five hundred (1,500) feet to another licensed group day care home, an adult foster care small group home or large group home licensed under the adult foster care facility licensing act, a facility offering substance abuse treatment and rehabilitation services to seven (7) or more persons licensed by the State, a community correction center, resident home, halfway house or other similar facility which houses inmates under the jurisdiction of the Michigan Department of Corrections.
6. Does not exceed sixteen (16) hours of operation during a twenty-four (24) hour period.
7. One (1) non-illuminated sign measuring no more than four (4) square feet may be permitted if attached to the principal structure.
8. Required off street parking, as well as off street pick up and drop off areas shall be provided.

O. Planned Unit Development

1. PUD shall be developed in accordance with the requirements and procedures of Chapter 12.

P. Open Space Preservation Development

1. Open Space Preservation Developments shall be developed in accordance with the requirements and procedures of Chapter 13.

Q. Private, Charter or Parochial School

1. The site shall have a minimum lot width of two hundred (200) feet, abutting a paved County primary road, and at least one (1) means of ingress and egress shall be located on such road.
2. Playground equipment may only be located in the side or rear yard of the lot. The playground must be at least one hundred (100) feet from any side or rear lot line abutting a residential use or district.
3. Athletic fields must be at least two hundred (200) feet from any property line abutting a residential district.
4. Off street parking shall be arranged so that the area for bus loading and unloading of students will not be in the path of vehicular traffic.
5. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school, and to the required sidewalk along the adjacent road right-of-way line.
6. The main school building shall be at least one hundred (100) feet from any lot line.
7. A greenbelt shall be provided where, in the opinion of the Planning Commission, screening is required to minimize visual, noise, or other effects from the proposed use or parking area.

R. Keeping of Livestock

1. Livestock may be permitted only on parcels of two (2) acres or more.
2. Where you have animals of one hundred (100) pounds or more:
 - a. A maximum of two (2) animals weighing one hundred (100) pounds or more may be permitted for the first two (2) acres.
 - b. One (1) additional animal weighing one hundred (100) pounds or more may be kept for each additional whole acre.
3. Livestock must be contained on said parcel.

S. Privately Owned and Operated Parks, Parkways, and Recreational Facilities

1. Accessory uses may be permitted if related to the main use.
2. The use shall be located on property with direct access to a paved county road.

3. Any outdoor athletic or play fields shall be located in the side or rear yard and set back a minimum of two hundred (200) feet from any residential use or district.
4. Buildings for storage of equipment, or other similar buildings, shall be located at least fifty (50) feet from any lot line.
5. Lighting for athletic or play fields shall be oriented away from adjoining properties to minimize glare.
6. The Planning Commission may require suitable buffering from adjacent properties. Such buffers may include berms, evergreen plantings, fences, walls or any combination thereof.

T. Two Family Dwelling and Multiple Family Dwelling

1. A minimum of fifteen percent (15%) common usable open space shall be provided on site which shall not include parking areas, driveways or require setbacks.
2. Driveways shall be a minimum of twenty-five (25) feet from adjacent property lines.
3. Subject to residential development standards applicable to the zoning district in which it is located.

U. Marina

1. Maintenance or repair will be allowed in the boat owner slip, a designated repair area or in an enclosed building on the premises. Repair will not be allowed to present a nuisance or be offensive to others, either by sight or sound.
2. There will be no discharge or depositing of garbage, oil, fuel, refuse material, sewage or waste material of any kind into the adjoining waterways.
3. No deck, dock, or similar structure shall be more than three (3) feet wide, nor exceed a length of one hundred (100) feet.

V. Veterinary Clinic

1. Any buildings which house animals, any animal runs or exercise areas shall be located at least one hundred (100) feet from a property line.
2. Animal runs and exercise areas shall not be located in the front yard.

W. Outdoor Retail Sales of Plant Material Not Grown on the Site, Lawn Furniture, Playground Equipment, and Home Garden Supplies

1. Minimum lot area shall be two (2) acres and there shall be a minimum frontage of two hundred (200) feet.
2. The lot area used for parking, display, or storage shall be provided with a permanent, durable and dustless surface and shall be graded and drained so as to dispose of all surface water.

3. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
4. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
5. Ingress and egress to the lot shall be from a paved primary arterial or collector road.

X. Fast Food, Drive In, and Drive Through Restaurant

1. Sufficient stacking capacity for the drive through portion of the operation shall be provided, in accordance with this Ordinance, to ensure that traffic does not extend into the public right-of-way.
2. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive through portion of the facility.
3. In addition to parking space requirements, at least three (3) parking spaces shall be provided, in close proximity to the exit of the drive through portion of the operation, to allow for customers waiting for delivery of orders.
4. Access to the site shall be located at least twenty-five (25) feet from all property lines.
5. The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
6. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward an adjacent property.
7. The Planning Commission may establish reasonable hours of operation where it is determined that the proposed use may generate noise, glare, or similar disturbances upon nearby residents.

Y. Truck and Tractor, Boat, Manufactured Home, Recreation Vehicle and Trailer Sales

1. Minimum lot area shall be two (2) acres and minimum frontage two hundred (200) feet.
2. The lot area used for parking and/or display shall be paved with asphalt or concrete, and shall be graded and drained so as to dispose of all surface water.
3. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
4. Driveways and parking areas shall be at least fifty (50) feet from any adjacent property line.
5. Ingress and egress to the lot shall be from a paved primary arterial or collector road.

Z. Hotel and Motel

1. The proposed site shall abut and have direct access to a paved county road. All ingress and egress shall be from said road.

2. Parking shall not be permitted within any required yard.
3. Outside activities shall not take place within fifty (50) feet of any property line abutting a residential district.
4. A greenbelt shall be provided where, in the opinion of the Planning Commission, screening is required to minimize visual, noise, or other effects from the proposed use or parking area.

AA. Open Front Stores and Outdoor Display, Sale and Storage of Goods and Materials of any Retail or Wholesale Establishment

1. Minimum lot area shall be two (2) acres and minimum frontage two hundred (200) feet.
2. The proposed site shall front upon, and all ingress and egress, shall be from an arterial or collector road.
3. No access to or from such establishment shall be permitted on any (residential) local road.
4. A six (6) foot fence, wall or appropriate greenbelt shall be constructed along the rear and sides of the lot, capable of keeping trash, paper and other debris from blowing off the premises.
5. The lot area used for parking, display or storage shall be provided with a durable and dustless surface and shall be graded and drained so as to dispose of all surface water.
6. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
7. The storage of any soil, fertilizer or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
8. Shall comply with all applicable Local and State regulations regarding sanitation and general health conditions.
9. All lighting shall be shielded from adjacent residential areas.
10. The storage or materials display area shall meet all the setback requirements applicable to the main building in the district.
11. All loading activities and parking areas shall be off-street and provided on the same premises.

BB. Automobile and Motorcycle Raceway, Race Tracks, Drag Strips, and Related Activities and Accessory Uses

1. The minimum lot size shall be forty (40) acres.
2. The lot shall be located so at least one (1) side abuts an arterial or collector road and all access shall be from that road.
3. Entry drives and parking areas shall be a minimum of fifty (50) feet from adjacent property lines.

4. All main and accessory buildings shall maintain a separation of at least two hundred (200) feet from any residential dwelling located on adjacent property.
5. Maximum building coverage shall be twenty five percent (25%) of parcel.
6. Any such use located within five hundred (500) feet of any adjacent dwelling shall not be open later than 10:00 p.m.
7. A landscaped area of at least twenty-five (25) feet in width shall be maintained around the periphery of the property.
8. The Planning Commission may require additional conditions.

CC. Hunting Preserve

1. Minimum lot size shall be eighty (80) acres.
2. Minimum setback of one hundred (100) feet from any property line is required for the area used for breeding, rearing, selling and housing the animals or birds.
3. Fencing will be required commensurate with that required to obtain a "Permit to Hold Wildlife in Captivity" permit from the Michigan Department of Natural Resources.
4. Hunting of animals or birds for sport or profit may be permitted in designated areas subject to State laws pertaining to separation distances required between hunting areas and residential structures.
5. Animal waste shall be disposed of in a safe manner, as recommended by the Health Department. Such disposal shall not constitute a hazard to adjacent property owners.

DD. Shooting Range and Archery; indoor and outdoor

1. Minimum lot area of forty (40) acres for outdoor shooting range and ten (10) acres for outdoor archery. Minimum lot area of two (2) acres for indoor shooting range or archery.
2. A minimum setback of four hundred and fifty (450) feet from all lot lines shall be established where no shooting activities shall take place at an outdoor shooting range or archery. Minimum setbacks for an indoor shooting range or archery are to follow district regulations. *(as amended 10/26/2019)*
3. Hours of operation shall not begin before nine a.m. (9a.m.) for outdoor and indoor shooting range or archery. All activity shall end no later than sundown for outdoor shooting range or archery and shall end at ten p.m. (10p.m.) for indoor shooting range or archery.
4. The use shall not be located any closer than one-quarter (1/4) mile from any church, school, park or similar place of public assembly.
5. All ranges shall be built and operated in compliance with the Generally Accepted Operation Practices for Sport Shooting Ranges adopted by the State of Michigan.

EE. Nursing and Convalescent Homes, Senior Apartments, Elderly Housing Complexes, Congregate or Interim Care Housing, and Similar Dependant Housing Facilities

1. Minimum lot size shall be two (2) acres.
2. A covered drop off and pick up area shall be provided on site in close proximity to the main entrance.
3. Walkways shall be provided from the main building entrances to all adjacent roads.

FF. Freight Transportation Service

1. Minimum lot size shall be ten (10) acres with a minimum frontage of four hundred (400) feet.
2. No structures, parking areas, or facilities shall be located within forty (40) feet of the front property line. The front setback shall be landscaped as required by the Planning Commission.
3. No portion of any structure, facility, access drive or parking area shall be located within one hundred (100) feet of any residential use or district.
4. Except for the required front yard setback, a minimum six (6) foot chain link fence shall enclose all developed areas of the site. A six (6) foot screening fence shall obscure all sides abutting a residential district.
5. Outdoor speaker or paging systems shall be directed away from property lines and shall be designed to prevent objectionable noise levels on adjacent properties or streets.
6. All truck terminal access drives shall be located on a state or county primary road.
7. The Planning Commission may require deceleration lanes after County Road Commission review and recommendation.
8. It shall be determined that automotive or truck traffic will be no more hazardous nor the volume of traffic any greater than is normal for the road involved. The Planning Commission shall take into consideration vehicular turning movements in relation to routes of traffic flow, proximity and adequacy of interchanges.
9. Disabled or inoperable trucks and on-site trailer storage shall not be parked outside of an enclosed building more than five (5) consecutive days.
10. No trailers shall be stored on site for use as storage containers.

GG. Caretaker's Residence

1. Such facilities shall meet the general review standards of Section 18.01 K.

HH. Junkyard

1. Requests for a Special Land Use approval for establishment of a junk yard shall also require submission of a detailed proposal identifying the predominant type of material to be received, the methods of separation or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall abut and have suitable access to a paved County primary road to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within five hundred (500) feet of any residential use or district, or any church, school, park or cemetery.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least eight (8) feet but no more than ten (10) feet in height, and constructed of a durable, sturdy, consistent and aesthetically appropriate material. The fence shall be designed so that no stored material is visible from outside.
5. The fence or wall shall have a minimum of two (2) non-transparent gates, providing an opening not to exceed twenty-four (24) feet in width. Such gates shall provide access to the storage area for vehicles, but shall not allow direct view of the storage area from adjacent properties or roads.
6. The fence or wall shall be of uniform appearance and continuously maintained in good condition and shall contain only approved signs.
7. The fence or wall enclosing the storage area shall meet all applicable building setback requirements for the zoning district.
8. A management office shall be provided on site. A residence may be permitted for security personnel or onsite operator.
9. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
10. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or right-of-way. In no case shall salvage material be stored at a height exceeding the height of the storage area fence or wall.
11. Piles of material shall be limited to encompassing not more than three hundred (300) square feet in area, and a twenty (20) foot separation shall be required between each pile.
12. All portions of the storage area shall be accessible to emergency vehicles.
13. All batteries shall be removed from any vehicle, and all radiators and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage. No fluids removed from vehicles shall be applied as a dust control method.

14. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
15. The property shall be no less than twenty (20) acres in size.
16. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to the hours of 8:00 a.m. to 6:00 p.m. No burning of vehicles is permitted at any time.
17. The Planning Commission may impose other conditions that have a reasonable relationship to the health, safety and general welfare of Township residents. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.
18. Applicant must also adhere to Howard Township License Fee (if any). *(as amended 5/29/2022)*

II. **Wind Energy Conversion Systems (WECS) - commercial**

1. These facilities may be a principal use or an accessory use on a parcel.
2. Minimum lot size for a commercial WECS shall be twenty (20) acres, but a minimum of five (5) acres of site area is required for each WECS proposed within an eligible property.
3. In addition to the requirements for site plan application and review outlined in Chapter 17, the following information shall be included with any application of a Special Land Use for a WECS:
 - a. Location of overhead electrical transmission or distribution lines.
 - b. Location and height of all buildings, structures, towers, security fencing and other above ground structures associated with the WECS.
 - c. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS. The boundaries to include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.
 - d. A buffer or greenbelt may be required by the Planning Commission to screen the use from any adjacent residential district or use and the public road.
 - e. Existing and proposed setbacks of all structures located on the property in question.
 - f. Sketch elevation of the premises accurately depicting the proposed WECS and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
 - g. Access road to the WECS facility with detail on dimensions, composition, and maintenance.

- h. Planned security measures to prevent unauthorized trespass and access.
 - i. WECS maintenance programs shall be provided that describes the maintenance program used to maintain the WECS, including removal when determined to be obsolete.
 - j. The means in which the WECS operation is to be stopped in excessively high winds, as established by the manufacturer.
- 4. A copy of the manufacturer's installation instruction shall be provided. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings provided along with engineering data and calculations; drawings and engineering calculations shall be certified by a registered engineer licensed to practice in the State of Michigan.
- 5. A minimum of a six (6) foot tall fence shall be provided around the perimeter of the WECS, or in the case of two (2) or more WECS, around the perimeter of the site.
- 6. No part of a WECS shall be located within or above any required front, side or rear yard setback of the Zoning District in which it is located.
- 7. WECS towers shall be setback from the closest property line two (2) feet for every one (1) foot of system height.
- 8. WECS shall not be located within thirty (30) feet of an above ground utility line.
- 9. The height of a WECS shall be measured from grade to the height of the blade in the vertical position or the highest point of the WECS, whichever is greater (**See Appendix J**). Maximum height for a commercial WECS shall be two hundred (200) feet.
- 10. WECS shall be of monopole design and shall not have guy wires.
- 11. Colors and surface treatment of the WECS and supporting structures shall minimize disruption of the natural characteristics of the site. No part of the structures shall be used for signs or advertising.
- 12. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, land or tree within a two hundred (200) foot radius of the tower.
- 13. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:
 - a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - b. A locked anti-climb device shall be installed on the tower.
 - c. Tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high

14. Each WECS shall have one (1) legible at all times sign, not to exceed two (2) square feet in area posted at the base of the tower. The sign shall contain the following information:
 - a. Warning high voltage.
 - b. Manufacturer's name.
 - c. Emergency phone number(s).
 - d. Emergency shutdown procedures.
15. WECS shall not have affixed or attached any lights, reflectors, flashers or any other illumination, except for illumination devices required by Federal regulations.
16. WECS shall be designed and constructed so as not to cause radio, television, and wireless device interference.
17. Noise emanating from the operation of WECS shall not exceed sixty-five (65) decibels, as measured on the dBA scale, measured at the nearest property line. Estimates of noise levels shall be provided by applicant for normal operating conditions.
18. Any proposed WECS shall not produce vibrations humanly perceptible beyond the property on which it is located.
19. The on-site electrical transmission lines connecting the WECS to the public utility electricity distribution system shall be located underground, if required by the Planning Commission.
20. The WECS shall be located and designed such that shadow flicker will not fall on or in, any existing residential structure.
21. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed, commented upon it, and the Planning Commission has been provided this information.
22. The Township hereby reserves the right upon issuing any WECS special land use permit to inspect the premises on which the WECS is located. If a WECS is not maintained in operational condition and/or poses a potential safety hazard, the owner shall take immediate action to correct the situation.
23. Any WECS which are not used for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.
24. **Guarantee and Insurance:** Prior to commencing any activity the following shall be in force:
 - a. A performance guarantee, in a form and amount approved by the Planning Commission, shall be furnished to the Township Clerk, for the full costs of dismantling and removing the WECS system and related structures. The performance guarantee shall be reviewed by the Zoning Administrator each anniversary date of the permit. If the Zoning Administrator determines that any adjustments to the guarantee requirements are needed, these adjustments will be forwarded to the Planning

Commission for review and implementation. The WECS owner/operator is required to maintain the guarantee and insurance in force until the WECS system and all related above and below ground structures have been removed and the parcel reclaimed and rehabilitated to the Township's satisfaction.

- b. A copy of the applicant's guarantee/liability policy and all renewal policies shall be filed with the Township Clerk. The guarantee/insurance requirements of this Section shall be continuously in force until all areas within the parcel to which the permit applies have been fully reclaimed and rehabilitated to the Township's satisfaction.

JJ. Business and professional offices, which contain more than three thousand (3,000) but less than five thousand (5,000) square feet of gross floor area.

1. Minimum lot area shall be two (2) acres with one hundred fifty (150) feet of frontage.
2. The proposed site shall front upon, and all ingress and egress, shall be from an arterial or collector street.
3. Unless greater setbacks are required by the District in which the use is located, buildings and structures shall be set back at least fifty (50) feet from the front lot line and twenty-five (25) feet from the side and rear lot lines.
4. Parking shall not be permitted within any required setback.

KK. Storage and Handling of Explosives, Flammables, or other potentially dangerous materials.

1. Minimum lot area shall be two (2) acres with one hundred fifty (150) feet of frontage.
2. The proposed site shall front upon, and all ingress and egress, shall be from an arterial or collector street.
3. Unless greater setbacks are required by the District in which the use is located, buildings and structures shall be set back at least fifty (50) feet from the front and rear lot lines and forty (40) feet from the side lot lines.
4. Parking shall not be permitted within any required setback.
5. Landscaping (as defined in the definitions of this ordinance) shall be provided where, in the opinion of the Planning Commission, it is deemed necessary.
6. Must follow any local, State, and Federal regulations.

LL. Large Solar Energy Systems (Large SES) *(added 10/26/2019)*

Definitions – as used in this section

For the purpose of this ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number; and the plural the singular; and the word "shall" is mandatory and not discretionary.

Solar Energy System (SES): A system consisting of a device or combination of devices, structures or parts thereof, that collect, transfer or transform solar radiant energy into thermal, chemical or electrical energy, excluding systems that substantially rely on mirrors or similar technologies to focus solar radiant energy onto a considerably smaller area, and sometimes referred to as "concentrated solar power" systems or "CSP" systems.

Large Solar Energy System (Large SES): A solar energy system that relies on roof-mounted and/or ground-mounted collection systems that have a total cumulative surface area of more than ten thousand (10,000) square feet and/or is used principally to provide service to customers not located on the same lot as the Large SES, irrespective of the cumulative area of the panels. A Large SES commonly serves multiple dwellings, businesses and/or other facilities, all on a single lot on which the system is located and may serve users on other lots including in association with energy utility providers.

Solar Collection Panels: Panels and/or tiles comprised of semiconductor devices and typically referred to as photovoltaic cells, which collect and convert solar energy directly into electricity. Ground mounted solar collection panels are panels attached to the ground by a pole, metal frame or other similar support structure.

1. Authorization, Review and Approval Procedures: Large SES is permitted as a special land use only in AR-Agricultural Residential District by special land use permit per the Special Land Use Chapter of the Zoning Ordinance.

2. General Provisions: Large SES collection panels shall be placed such that concentrated solar radiation or solar glare shall not be directed onto nearby properties and public roads. The applicant shall submit a report prepared by a qualified person with documented training, certification and/or licensing in the generation of glare associated with SES including training in the use of computer software designed to assess glare potential, attesting to the glare and radiation impact on nearby properties and public roads.

3. Ground-Mounted Systems

a. Yard and Setback Restrictions

- i. Within AR-Agricultural District, ground-mounted collection panels and associated equipment are permitted in front, side and/or rear yards provided such systems and equipment shall be back a minimum of fifteen (15) feet from side and rear lot lines and a minimum of fifty (50) feet from a front lot line. The side and rear yard setback shall be increased to forty (40) feet along those segments of a shared lot line where a residential dwelling is present on the adjacent lot.
- ii. Ground-mounted solar collection panels shall not exceed eighteen (18) feet in height.
- iii. In the case of ground-mounted solar panels a minimum of one (1) row of screening must occur around entire project. The screening shall consist of evergreen trees of a minimum of six (6) feet in height at the time of planting and with a projected growth rate of a minimum of six (6) inches per year and to a minimum projected height of twenty (20) feet and spaced no greater than twelve (12) feet apart measured on center. The site plan shall specify the proposed plant material according to common name, botanical name, and minimum plant size. All plant material shall be maintained in a healthy condition to provide the intended screening, shall be permitted to grow according to its natural habit, and shall be replaced upon death or disease.

1. In the case where a dwelling is present within seventy-five (75) feet of a shared lot line, a second row of tree plantings shall be provided and placed no greater than twelve (12) feet from the first row as measured on-center, with the second row of trees positioned in a staggered formation to the first row to have trees spaced at no greater than six (6) feet on-center as viewed from the shared lot lines.

2. Required screening need not be in the immediate area of the panels that the plantings are intended to screen, as long as the planting locations provided are for the intended screening effect. No tree shall be located within five (5) feet of the side and rear lot line or within ten (10) feet of a front lot line, including double fronted lots. A minimum of one (1) row of screening must occur if adjacent to any unleased vacant residential parcel.

iv. If a ground-mounted Large SES ceases to operate or is abandoned for six (6) months, or is deemed by the Building Inspector to be unsafe, the applicant shall repair and restore the system to good working order within thirty (30) days of notification by the Zoning Administrator, or otherwise remove the system in its entirety including posts, equipment, panels, foundations and other features and restore the ground to its preconstruction state.

1. The Zoning Administrator may permit a repair period greater than thirty (30) days if the Zoning Administrator determines a longer period is necessary due to conditions not within the control of the applicant.

vi. Decommissioning of a system after useful life:

1. Plans for Large SES shall include a decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final removal of power equipment within six (6) to twelve (12) months of decommissioning.

4. The applicant shall provide a performance bond/guarantee, irrevocable letter of credit in an amount sufficient to cover the cost of decommissioning of the system and restoration of the construction site subject to review and approval of the Township Attorney.

MM. Pop-Up Retail *(added 8/29/2023)*

- a. Lot size.** The minimum lot size shall be one (1) acre.
- b. Parking.** Must be restricted to the property that is holding the event. Parking area must be depicted on the site plan.
- c. Setbacks.** Minimum setback to be ten (10) feet from property lines.
- d. Hours of Operation.** A Pop-Up Retail event may operate from 9:00 a.m. to 5:00 p.m.
- e. Days.** A property may not host a Pop-Up Retail event, with vendors, more than two (2) days per year. A property may not host a Pop-Up Retail event, without vendors, more than two (2) days per month.

- f. Public Facilities.** A Pop-Up Retail event, with vendors, must provide a minimum of one (1) bathroom facility. Any available facilities including bathrooms, pavilions, food and beverage service must be depicted on the site plan.
- g. Food and Beverage Service.** Any food or beverage sales must comply with all local and state laws, including obtaining any permits.
- h. License and Permit.** Any licenses and permits must be included with the application.