

CHAPTER XI

GENERAL PROVISIONS

These general provisions shall apply to all Zoning District.

SECTION 11.01 THE EFFECT OF ZONING. *Zoning applies to every building, structure or use. No building structure of land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance.*

SECTION 11.02 RESTORATION OF UNSAFE BUILDING. *Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.*

SECTION 11.03 AREA, HEIGHT AND USE CONDITIONS AND EXCEPTIONS.

- (a) Required Area or Space - A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase it's noncompliance with such minimum requirements.

- (b) Existing Lots of Record - If a lot in any zoning district, which is platted or a parcel otherwise of record as of the effective date of this Ordinance, does not comply with the area and/or width requirements of it's zoning district, then such lot may be used only if authorized by the Board of Appeals by the granting of a variance. In considering such variance request, the Board of Appeals shall determine whether practical difficulties and unnecessary hardship exists concerning the use of the parcel because of it's size and also shall consider the following standards:
 - (1) The size, character, and the nature of the building and accessory buildings to be erected and constructed on the lot;
 - (2) The effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - (3) The effect of the proposed use on light and air circulation of adjoining properties;

- (4) The effect of any increased density of the intended use on the surrounding neighborhood; and
 - (5) Available parking for the intended use
- (c) Exceptions - The following buildings and structures shall be exempt from height regulations in all zoning districts: Parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkhead, fire towers, grain elevator, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.
- (d) Setbacks from Private Roads - In the event that any property owner desires to construct a principal building upon any platted or unplatted land which will have sole access by means of a private road or a portion of a private road, which is presently being used or will be used as a sole access to one or more other separately owned principal buildings, the setback requirements provided for all buildings and structures constructed adjacent to such private road.

SECTION 11.04 ESSENTIAL SERVICE. The erection, construction, alteration or maintenance by public utilities or Township departments or commissions, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary for the furnishing of adequate service by such public utilities or Township departments or commissions, or for the public health, safety or general welfare. This definition does not include towers or other buildings or structures intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobilized radio, enhanced specialized mobile radio, paging and similar services.

SECTION 11.05 REQUIRED YARD OR LOT. *All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the Zoning District in which they are located.*

SECTION 11.06 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, VIBRATION AND ODORS. *Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise and vibration beyond the lot on which the use is located.*

SECTION 11.07 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION.

- (a) Upon application, the Zoning Administrator shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application, the Zoning Administrator shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

SECTION 11.08 ACCESSORY USES. *In any Zoning District, accessory uses, incidental only to a permitted use, are permitted when located on the same lot; provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.*

SECTION 11.09 ACCESSORY BUILDINGS.

- (a) In any Zoning District, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.

- (b) Detached accessory buildings shall comply with all setback requirements of the particular zoning classification and shall not be closer than forty (40) feet to the waters edge of a water front lot (except that boat houses and pump houses may be located within forty (40) feet of the waters edge if they do not exceed five (5) feet in height) and shall not occupy more than 30% of any required rear yard space.
- (c) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
- (d) A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted otherwise of record as of the effective date of this Ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street.
- (e) No accessory building or structure shall include residential or living quarters for human beings except a guest house located in the R-1 or R-2 Zoning District.

SECTION 11. 10 PRINCIPAL BUILDING ON A LOT. *In the R-1 and R-2 Residence Zoning Districts, no more than one (1) principal building shall be placed on a lot unless authorized by the Heath Township Planning Commission as a Multiple Principal Buildings Development special exception land use pursuant to Chapter XIa of this Ordinance.*

SECTION 11.11 DOUBLE FRONTAGE LOTS. *Buildings on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such streets.*

SECTION 11.12 SIGNS.

- (a) No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling an emergency light shall be used in connection with any sign.
- (b) Banners, pendants, balloons, light strings, flashing or blinking lights, and other similar devices used to attract the attention of the public are prohibited; provided, however, that this provision shall not prohibit the display of a governmental or organizational flag in the manner prescribed by law for such display.

- (c) Subject to the provision of Chapter XIV, all signs shall be maintained in good condition and repair.
- (d) No permanent business sign, billboard, or other type of permanent sign shall be constructed, erected, or attached to a building prior to the issuance of a permit therefore by the Zoning Administrator.
- (e) All signs may be illuminated if the source of light is not visible.
- (f) The following signs are exempt from the provisions of this Ordinance with respect to permit, heights, area, and location, unless otherwise specified herein:
 - (1) Highway signs erected by the State of Michigan, County of Allegan or the Township;
 - (2) Governmental use signs erected by the governmental agencies to designate house of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings;
 - (3) Directional signs erected in conjunction with private off-street parking area, provided any such sign does not exceed four (4) square feet in area and is limited to traffic control functions only;
 - (4) Historic signs designating sites recognized by the State Historical Commission as Centennial Farms and Historical Landmarks;
 - (5) Placards posted to control or prohibit hunting within the Township.
 - (6) Subdivision signs not exceeding thirty-two (32) square feet in area; provided, however, that such signs shall be removed at such times as fifty (50) percent or more of the lots in such subdivisions are sold or after five (5) years, whichever shall first occur.
 - (7) One (1) construction sign per project of no more than thirty (30) square feet in area denoting architects, engineers, or contractors in conjunction with the work under construction, other than one and two family dwellings, provided such signs do not exceed one (1) per project and thirty (30) square feet in area.

- (8) Essential service signs denoting utility lines, railroad lines, hazards, and precautions.
- (9) Memorial signs or tablets which are either (1) cut into the face of a masonry surface; or (2) constructed of bronze or other incombustible material when located flat on the face of the building.
- (10) Special decorative displays on signs used for holidays, public demonstrations or promotion of civic welfare or charitable purposes when authorized as a special use by the Board of Appeals. In considering such authorization, the Board of Appeals shall consider the following standards:
 - (a) The size, character, and nature of the display or sign;
 - (b) The duration or time period during which the display or sign will be utilized;
 - (c) The purpose (s) for which the sign display is to be erected;
 - (d) The arrangements made for the removal of the sign or display after the termination of its usefulness;
 - (e) The effect of the proposed sign or display on light and air circulation for lots which are both adjoining and in the surrounding neighborhood of the proposed sign or display;
 - (f) Whether or not the sign or display will constitute a traffic hazard; and
 - (g) The effect of the sign or display on the surrounding neighborhood
- (11) Signs in the agricultural district that serve only to identify the name of a farm, farm owner or crops of livestock produced thereon.
- (12) For Sale and For Lease signs providing the sign is removed promptly upon sale or lease of the property.

SECTION 11.12a SCOPE. *This section is intended to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals, health, safety and general welfare. Such signs will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic*

safety, or otherwise endanger public welfare, shall be permitted except as may be otherwise provided herein.

SECTION 11.12b DEFINITIONS.

- (a) Billboard - Any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes, not related to the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notices issued by a court or public body.
- (b) Illuminated Signs - A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
- (c) Identification Signs - A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.
- (d) Pole Signs - A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and have a sign area not more than 100 square feet from the ground to the bottom of the sign.
- (e) Projecting Signs - A sign which projects from and is supported by a wall of a building and does not extend beyond or into and over street right-of-way.
- (f) Portable Signs - A free-standing sign not permanently anchored or secured to either a building or the ground.
- (g) Real Estate Signs - A sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease. Altering such signs after sale, rent or lease is consummated to reflect that said real estate was sold, rented or leased by a particular individual, firm or corporation shall not be permitted.

- (h) Temporary Signs - A display, information sign, banner or other advertising device with or without a structural frame and intended for a limited period of display, including seasonal produce sales, decorative displays for holidays or public demonstrations.
- (i) Marquee Signs - An identification sign attached to a marquee, canopy or awning projecting from and supported by the building.
- (j) Wall Signs - A sign which is attached directly to or painted upon a building wall and which does not extend more than thirteen (13) inches therefrom nor more than five (5) feet above the roof line, with the exposed face of the sign in a plane parallel to the building wall.
- (k) Roof Signs - Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
- (l) Institutional Bulletin Board - A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.
- (m) Subdivision Sign - A sign placed at the primary entrance to a subdivision, containing information only about the subdivision. This term also refers to signs at the primary entrance to a mobile home park. Such signs being without moving part, not higher than ten (10) feet from the ground and no closer than twenty (20) feet to any public right-of-way line.

SECTION 11.12c PERMIT PROCEDURE. *Application for a permit to construct or locate a sign, except real estate signs, shall be obtained from the Township Zoning Administrator. The application shall include the following information:*

- (a) Name, address, telephone number of the landowner, developer, or petitioner.
- (b) A map of the property at a scale of 1" = 25' showing the location and type of existing structures on the site, property boundaries, location and type of structures or adjacent properties, road rights-of-way, entrances and exits onto the subject property and approximate location of the proposed sign(s).

- (c) An elevation drawing of the proposed sign(s) depicting its design, lettering, method of illumination and other relevant information. The dimensions of the height and length, and width of the sign(s) and height between ground elevation and the bottom of the sign, shall be noted.
- (d) In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.
- (e) In the case of a temporary sign, the length of time the proposed sign will be on the site.
- (f) The proposed date of construction of the sign.
- (g) Other information or data as may be required by the Zoning Administrator.

The Zoning Administrator shall approve, disapprove, or approve subject to specified conditions, the request for a permit, based upon the standards for this Section.

SECTION 11.12d MEASUREMENT OF AREA OF A SIGN. *The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed but including any sign tower. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area. In the case of a sphere, the total area of the sphere is divided by four for purposes of determining the maximum permitted sign area.*

SECTION 11.12e SIGNS PERMITTED. *Signs are permitted according to the district in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the following regulations:*

- (a) Agricultural District. The following types of signs are permitted:

1. On Premises Advertising Sign, for principal uses other than dwellings, not exceeding twenty-four (24) square feet in area and set back at least fifteen (15) feet from the front line.
 2. Identification Sign, one per dwelling unit not exceeding eight (8) square feet in area; and one per business not exceeding twenty-five (25) square feet.
 3. Temporary Sign, one per premises advertising produce raised on said premises; not exceeding twenty (20) square feet in area; set back from any right-of-way at least ten (10) feet, and removed from view during seasons when said produce is not normally considered in season.
 4. Real Estate Sign, one per premises or building and located only while said real estate is actually on the market for sale, rent or lease; not exceeding eight (8) square feet in area and set back at least five (5) feet from the front line.
- (b) In the R-1, R-2 and R-3 Residential Districts, no more than one sign at any one time shall be permitted. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any visible moving parts. The following types of signs are permitted:
1. On-Premises Advertising Sign, for principal uses other than dwellings, not exceeding ten (10) square feet in area and not located nearer to the front lot line than six (6) feet from the required front yard setback nor located in the required side yard setback.
 2. Identification Sign, one per dwelling unit, not exceeding one hundred forty-four (144) square inches in area; and one per business, not exceeding eight (8) square feet in area.
 3. Institutional Bulletin Board, one per public or semi-public institution, located on premises, not exceeding forty (40) square feet in area, and set back at least fifteen (15) feet from the front lot line.
 4. Real Estate Sign, one per premises or building and located on the same premises or building only while said real estate is actually on the market for sale, rent or lease; not exceeding ten (10) square feet in area and set back at least five (5) feet from the front lot line.

5. Subdivision Sign, one per subdivision entrance, continuously and properly maintained; not exceeding thirty (30) square feet in area and set back at least fifteen (15) feet from any property or right-of-way line.
 6. Temporary Sign, on-premises or off-premises sign advertising real estate in a subdivision being for sale, rent or lease, not exceeding sixteen (16) square feet in area and subject to approval by the Zoning Administrator for periods of up to three (3) months subject to removal as long as the sign conforms to the conditions of approval and said real estate is actively on the market for sale, rent or lease. The number of off-premises signs shall be limited to that reasonably necessary to direct the public to the location of the development.
- (c) Mobile Home Parks and Multiple-Family Dwellings. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any visible moving parts. The following types of signs are permitted:
1. Same as for R-1, R-2 and R-3 Residential Districts.
 2. Wall Sign, one per housing development, indicating only the name of the housing development; not exceeding sixteen (16) square feet in area.
- (d) General Business and Industrial Districts. The following types of signs are permitted.
1. Same as for R-1, R-2 and R-3 Residential Districts, except as modified hereunder.
 2. Advertising Sign, Wall Sign, Roof-Sign, Portable Sign (less than twenty (20) square feet in area), Pole Sign (less than twenty (20) feet in height) or Marquee Sign. No business establishment shall have a total of more than three (3) signs facing upon any one street, providing the total sign area for all signs permitted shall not exceed fifteen (15) percent of the area of the face of the building to which they are attached or stand in front of and set back from the front lot line at least ten (10) feet, except as provided for elsewhere in this ordinance.

3. Billboard, where the erection or maintenance of same will not unreasonably affect the proper use of adjoining property, at least twenty (20) feet from any right-of-way line; not exceeding a sign area of ten (10) feet in height and fifteen (15) feet in length, and subject to Board of Appeals approval for periods of up to thirty-six (36) months. Not more than one billboard may be located within 2,640 linear feet of another billboard located on the same side of such street or highway. The 2,640 linear foot measurement shall not be limited to the boundaries of Heath Township where the particular street or highway extends beyond such boundaries.

SECTION 11.12f SIGNS PROHIBITED. *A sign not expressly permitted by this ordinance is prohibited.*

SECTION 11.12g ILLUMINATION. *There shall be no flashing, oscillating, or intermittent, red, blue, or green illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections. All illuminated signs shall be designed and located to prevent the light therefrom from being cast upon adjoining residences and shall be located at least one hundred fifty (150) feet from any residential use. The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard, as determined by the Zoning Administrator.*

SECTION 11.12h CONSTRUCTION AND MAINTENANCE. *The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements. No advertising sign or billboard permit shall be issued until the building and zoning inspectors are satisfied the sign to be constructed complies with the provisions of this ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing anchorage and foundation. A sign shall not be erected or installed until a permit is first obtained from the Township Zoning Administrator and from the Building Inspector.*

SECTION 11.12i HEIGHT. *No sign otherwise permitted shall exceed the maximum height limitations of the zoning district in which it is located.*

SECTION 11.12j BOARD OF APPEALS. *The Board of Appeals may, upon application by a property owner, modify the specifications of this Section where no good purpose would be served by strict compliance with same.*

SECTION 11.12k DIRECTIONAL SIGNS. *All directional signs for orientation of the general public, when erected by the township, county or state, shall be permitted in all Districts.*

SECTION 11.13 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO MAJOR STREETS. *Notwithstanding any other provision of this ordinance, no building or structure shall be hereafter constructed, erected or enlarged on a lot abutting a street designated as a major thoroughfare on the "Heath Township General Development Plan", as the same shall be amended from time to time, unless the following minimum building setbacks measured from the street centerline are maintained.*

- (a) State Highway - One Hundred (100) feet.
- (b) County Primary - Seventy-three (73) feet.
- (c) Township Streets - Seventy-three (73) feet.

SECTION 11.14 MINIMUM STREET FRONTAGE. *Every principal building and use shall be located on a lot having a minimum of sixty-six (66) feet of frontage on a street.*

SECTION 11.15 GOVERNMENTAL IMPROVEMENTS. *The provisions of this ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state or local.*

SECTION 11.16 HEALTH DEPARTMENT APPROVAL. *No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if it's water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations governing waste and sewage disposal of Allegan County.*

SECTION 11.17 REMOVAL OF NATURAL RESOURCES. *Subject to the standards in Section 11.22.*

SECTION 11.18 TEMPORARY MOBILE HOMES. *In addition to any other provisions contained in this ordinance concerning the location of mobile homes within this Township, mobile homes shall be permitted outside of mobile home parks in the AG, R-1, R-2, and R-3 Districts on a temporary basis as provided herein. Upon application the Township Zoning Administrator shall issue a temporary mobile home permit for a period of one (1) year provided the conditions set forth below are met. An extension of the permit for one (1) additional year may be obtained from the Zoning Administrator provided the applicant continues to meet the following conditions:*

- (a) The mobile home shall be limited to single-family occupancy and shall only be used in connection with one or more of the following purposes:
 - (1) The mobile home is associated with a farm enterprise operating on ten (10) acres or more of land;
 - (2) The mobile home is used as temporary housing for an aged or handicapped parent or parents of the owner of the parcel on which the mobile home is located. A temporary mobile home falling under this category shall not be limited as to the number of one-year extensions which may be granted it.
 - (3) The mobile home is being used either as a temporary residence in connection with the construction of a permanent residence or building being constructed on the same parcel. Before a temporary mobile home permit may be issued for a mobile home falling under this category, the applicant shall submit plans for a permanent allowable building upon the property and a valid building permit for the construction of the permanent allowable building shall be obtained.
- (b) The mobile home shall meet the setback requirements of the district in which it is located.
- (c) No more than one (1) mobile home shall be located on a parcel.
- (d) The mobile home shall be owner-occupied except in the case of farm enterprises or aged parents.
- (e) The applicant for the temporary mobile home permit shall supply a signed septic tank permit from the Allegan County Health Department.

SECTION 11.19 PRIVATE ROADS. *After the effective date of this amendment to the ordinance, all new private roads that serve less than four lots or four dwelling units shall have a right-of-way easement of at least 30 feet. Any private road serving four or more lots or dwelling units shall have an easement of at least 66 feet in width and shall be required to record the easement with the county register of deeds. All private roads shall be passable for emergency vehicles which include ambulances, fire trucks and police vehicles. In addition, a road maintenance agreement shall also be recorded at the register of deeds office. All private roads serving more than four lots or dwelling units shall have a name and street sign. [Section 11.19 adopted April 8, 2002, by Ordinance 54, effective May 9, 2002; and amended by Ordinance No. 59, adopted December 8, 2003, effective December 30, 2003.]*

SECTION 11.20 KEEPING OF PETS. *The keeping of animals other than ordinary household pets is prohibited in the R-2, R-3, C-1, and I-1 Zoning Districts.*

SECTION 11.21 NATURAL RIVER OVERLAY DISTRICT. *In accordance with the Lower Kalamazoo River Natural River Plan adopted June 11, 1981 by the Michigan Natural Resources Commission, the following regulations shall apply to all lands within 300 feet of each side of the Rabbit River, Bear, Sand and Silver Creeks. (Ord No. 50, eff 6/27/01)*

- (a) Mining, new industrial or commercial uses and buildings, and expansion of existing industrial or commercial uses and buildings is prohibited, except as permitted by the Township Zoning Board of Appeals.
- (b) New lots within the Natural River District must be in accordance with other provisions within this zoning ordinance.
- (c) The building setback for new structures, including accessory buildings, shall be a minimum of 200 feet from the river's edge, except that the setback may be decreased three feet for every foot of vertical bank height above the ordinary high water mark, to a minimum of 75 feet. No building shall take place on lands subject to flooding.
- (d) Private boat docks of reasonable size, are permitted, if designed, constructed and maintained with indigenous natural material.
- (e) Septic tanks and absorption fields shall be installed in accordance with Allegan County Health Department regulations.
- (f) A natural vegetation strip of 50 feet shall be maintained on each side of the river.
 - (1) Dead, diseased, unsafe or fallen trees and noxious plants and shrubs may be removed.
 - (2) Trees and shrubs may be pruned for a view of the river upon approval by the local zoning administration.
 - (3) Clear cutting is not allowed in the natural vegetation strip.
- (g) Existing agricultural practices are permitted within the natural vegetation strip provided they do not contribute to the river's degradation. Cattle crossings and watering areas shall be constructed according to accepted methods after consulting with the Soil Conservation Department, County Extension Service and/or Department of Natural Resources.

- (h) Existing lots of record. If a lot of record within the Natural Rivers District is too small to comply with the setback requirements, then such lot may be used only if authorized by the Township Zoning Board of Appeals by granting a variance. In considering such a variance the Zoning Board of Appeals shall determine the following:
 - (1) Granting the variance is not contrary to public interest.
 - (2) The variance applies only to the property owner.
 - (3) Granting of the variance will not result in damage to any other property due to altering the flood plain.
 - (4) Whether a hardship exists to the owner if a variance is not granted.
- (i) The Natural Rivers Section of the Department of Natural Resources shall be notified of all requests for rezonings, variances and special exceptions within the Natural River Overlay District.
 - (1) Mail noticed a minimum of twenty-one (21) days before meeting.

SECTION 11.22 STANDARDS FOR SPECIAL USE PERMIT AND PROCEDURES FOR ISSUANCE. *In order to make this ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the township, the Township Planning Commission, in addition to its other functions, is authorized to approve the location of certain uses within the various zone classifications, which uses are designed in this ordinance as Special Uses.*

Such special uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without proper control and limitations, would cause it to be incompatible with the other detrimental thereto.

With this in mind, such special uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, control, limitations, circumstances, and safeguards proposed therefore and imposed by said Commission would be compatible with the other uses expressly permitted within said district; would not in any manner be detrimental or injurious to the use of development of adjacent properties, to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals, and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; would be compatible with adjacent uses of land; would be consistent with and promote the intent and purpose of the ordinance; would be compatible with the natural environment; would be consistent with the capacities of public services and facilities affected by the proposed use; and that the standards required by the Commission for the allowance for such use can and will, in its judgment, be met at all times by the applicant.

(a) Special Use Application Procedure.

- (1) All applicants for special use permits shall be filed with the Township Clerk and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for a special use permit.
- (2) Upon receipt of an application for a special use which requires a decision on discretionary grounds, one notice that a request for special use permit has been received shall be published in a newspaper that circulates in the Township and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. The Notice shall be given not less than fifteen (15) days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units, or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
Ord 66: Eff 10/27/06

The Notice shall:

- (a) Describe the nature of the special use request.
- (b) Indicate the property that is the subject of the request shall include a listing of all existing street addresses within the property.
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- (c) State when and where the special use request will be considered.
- (d) Indicate when and where written comments will be received concerning the request.
- (e) Indicate that the public hearing on the special use request may be requested by any property owner, or the occupant of any

structure located with 300 feet of the boundary of the property being considered for a special use.

- (3) Following such hearing, said Commission shall either grant or deny a permit for such special use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by said Commission in its decision and shall be filed with the Zoning Administrator of the Township.
 - (4) The plot plan and specifications and all conditions, limitations, and requirements imposed by the Planning Commission shall be incorporated as a part of the special use permit and violations of any of these at any time will cause revocation of said permit and said special use shall cease to be a lawful use.
- (b) Standards for mining operations, earth removal and gravel pit operations: In addition to the above, mining operations, earth removal and gravel pit operations shall be subject to the following specific provisions and standards as a special use:
- (1) Prior to the approval by the Planning Commission of a special use for earth removal and commercial excavation, as herein defined, or for quarrying or gravel procession in any area of the township, said Board shall be certain the following and limitations are or shall be strictly complied with, in addition to any other requirements contained in the township zoning ordinance or in any other township ordinance controlling such operations:
 - (a) Plans must be filed with the township, disclosing the limits of the area proposed for the operation, the maximum depth of any excavation, proposed finished grade, and the manner in which the land may properly be developed following the termination of the operation so the same will not remain devastated beyond any reasonable use.
 - (b) No finished slope, not any slope located within 100 feet of adjoining residential properties or residential zone shall, at any time, exceed forty-five degree.
 - (c) No excavations, other than those which are incidental to building, structure, or public utility construction shall be permitted below the grade of any adjoining public street or abutting property under different ownership for a distance of 100 feet.

- (d) No dust, dirt, or debris emanating from the operation, shall, at any time, be permitted to be deposited upon adjoining premises to such an extent as to be a nuisance or annoyance to the occupants thereof.
- (e) No operation shall be permitted at any time prior to 7:00 a.m. or subsequent to 6:30 p.m. daily.
- (f) All topsoil shall be stockpiled upon the premises and promptly used to resurface areas where operations have been terminated or have been substantially discontinued for any period in excess of one year. Such areas shall then be seeded and plated to lessen erosion and encourage proper growth within one year of termination of all excavation activity in the area.
- (g) No natural drainage shall be materially changed or altered in any manner that would adversely affect adjoining premises. Any areas where water has accumulated shall be fenced and posted with signs around the perimeter thereof to prevent injury to children or others and shall be eliminated as expeditiously as possible.
- (h) Special uses granted hereunder may be limited in time, subject to renewal for a further limited time by the Planning Commission, if said Board is satisfied all conditions and limitations herein contained are fully complied with and the operations are not a nuisance or annoyance to adjoining property owners or occupants by reason of noise, smoke, dust, dirt, unreasonable truck traffic, or hazardous condition.
- (i) No excavation, mining, or quarrying covered by this ordinance shall be commenced or shall hereafter continue until a performance bond has been filed with the Township Clerk in the amount of not less than \$4,000 per acre contained in that portion required to be filed with the township under Paragraph (1) hereof, proposed to be excavated, mined, or quarried within the ensuing 12 month period, guaranteeing the satisfactory performance of all the regulations herein contained. Such bond shall at no time be less than \$4,000 in amount. No performance bond filed with the township shall be released until all ordinance regulations have been fully complied with.

- (j) All such operations existing on the effective date of this ordinance shall be subject to the within regulations with regard to future activities, notwithstanding past operations, not complying therewith. A special use permit shall not, be required; therefore, such operations may be allowed to continue in a particular zoning classification as a nonconforming use, subject to these regulations.
- (c) Landfills, in addition to the above regulations, shall be subject to the following conditions:
 - (1) Adequate screening shall be constructed either of evergreens or of new and attractive fencing to effectively screen adjoining properties.
 - (2) Adequate dust controls shall be maintained at all times.
 - (3) The landfill shall be fenced in it's entirety.
 - (4) If the landfill is open to the public, there shall be a full-time attendant on duty.
 - (5) There shall be a daily pickup of all litter and debris in the area of the landfill.
 - (6) All state regulations and county regulations pertaining to landfills are hereby incorporated by reference herein just as if same were a part of this ordinance and may be enforced by the township pertaining to any landfill.

SECTION 11.23 ADULT ENTERTAINMENT REGULATION. *This Section has been adopted to regulate certain uses which, because of their nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, church or house of religious worship, school, park, and/or a playground or public recreational area, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The controls contained within the Ordinance are for the purpose of preventing a concentration of these uses within any one area, and to prevent deterioration or blighting of a nearby residential neighborhood. The following regulated uses are subject to these controls:*

1. Activities:
 - a. Adult bookstore or adult video or videocassette store: An establishment having more than 10% of its stock in trade books, magazines, other periodicals, and/or video cassettes, videodiscs, or videotapes for sale, rent, or viewing which are distinguished or characterized by the emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein.
 - b. Adult cabaret: An establishment including, but not limited to, cafes, restaurants, or bars where patrons are entertained by live performances featuring go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers where said performances depict, describe, or relate to “specified sexual activities” or “specified anatomical areas” as defined herein.
 - c. Adult mini motion picture theater: An enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as hereinafter defined for observation by patrons therein.
 - d. Adult motion picture theater: Any establishment used for presenting material, including, but not limited to, live performances as defined in Section I, motion pictures, slides or similar photographs or laser reproductions, shown on a regular basis which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined herein for observation by patrons.
 - e. Adult personal service businesses: A commercial business or private business having as a principal activity a person, while nude, providing personal services for another person on an individual basis. Such a business includes, but is not limited to, the following activities and services:
 - I. Modeling studios.
 - ii. Body painting studios.
 - iii. Wrestling studios.

- iv. Individual theatrical performances or dance performances.
 - v. Barber shops or hair salons.
 - vi. Car washes.
 - vii. Convenience stores or other commercial business establishments where food or goods are sold.
 - viii. Massage parlors
 - ix. Tattoo parlors.
- f. Adult smoking or sexual paraphernalia store: An establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics, or other stimulating or hallucinogenic drug-related substances.
- g. Host or hostess establishment: Establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess, or for an admission or membership fee.
- h. Massage establishment: An establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, health clubs, health spas, sauna baths, and steam baths. This definition shall not be construed to include any hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan; a certified masseuse holding a Michigan Certification; or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area.

2. Definitions:

In reference to the above activities the following definitions shall apply:

- a. Specified anatomical areas:
 - I. Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola.
 - ii. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

- b. Specified sexual activities:
 - I. Human genitals in a state of sexual stimulation or arousal.
 - ii. Acts of human masturbation, sexual intercourse, or sodomy.
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

3. Restrictions:

Any use or activity listed in Section 11.23.1 shall not be:

- a. Located within a one thousand (1,000) foot radius of any residence, church or house of religious worship, school, park, playground or public recreational area unless a petition requesting waiver of this requirement is received and verified by the Township Clerk, signed by fifty-one (51%) percent of those adult persons residing within or owning property within a one thousand (1,000) foot radius of the proposed location, in which case the Planning Commission may waive this requirement.

- b. Located within a one thousand (1,000) foot radius of any other such regulated use except that such restriction may be waived by the Planning Commission if the following findings are made:
 - I. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this Ordinance is observed.

- ii. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area or its immediate surroundings.
- iii. That all applicable state laws and local ordinances will be observed.

4. Design Standards:

All building openings, entries, windows, and doorways for adult bookstores, adult personal service businesses, adult videocassette or video stores, adult cabarets, adult motion picture theaters, and massage establishments shall be located, covered or screened in such a manner as to prevent a view into the interior from any public area.

5. Conditions and Limitations:

- a. Prior to the granting of any waiver as herein provided, the Planning Commission may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- b. The Planning Commission shall have the authority to impose additional conditions and restrictions for a particular use where it deems it necessary to protect adjoining property, the traveling public, and the health, safety and welfare of the area.

6. Limit on Reapplication:

No application for a regulated use which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except upon the grounds of new evidence not previously available or proof of changed conditions.

[Section 11.23 adopted December 11, 2000 by Ordinance No. 48, effective December 28, 2000]

11.24 CELLULAR TOWERS. *Transmitting Towers for Commercial Radio and Television, Commercial Wireless Telecommunications, and for Public Utility Microwave or Television, are special exception uses in the "state game area" "AG", "C-1" and "I-1" zoning districts subject to the following conditions:*

- (a) Co-location. To minimize the proliferation of towers within the Township, the following shall apply:
 - (1) Towers shall not be established unless the antenna cannot be accommodated on an existing or approved tower because the structural capacity would cause interference; existing towers could not accommodate the planned equipment at the height necessary, or for other unforeseen reasons.
 - (2) Towers shall be designed and constructed to accommodate both the applicant's equipment and that of a minimum of two other users.
 - (3) Antennas to be placed on roofs, walls, and existing towers must meet the requirements of this Section to include a Site Plan which shall include elevations and screening on any shelter or cabinet and a report by a qualified professional engineer.
 - (4) In a situation in which the entity desires to co-locate on an existing tower, then a permit is obtained from the zoning administrator and a review from the planning commission is not required. Information on the antenna including elevations, screening on a shelter or a cabinet shall be submitted to the zoning administrator for review and in order to receive a permit. However, if the co-location were to expand the compound, then this would require planning commission review.
- (b) Design Standards: All steel towers and antenna supporting structures shall be designed to meet the current structural standards of the Telecommunications Industry Association and Electronic Industries Association known as TIA/EIA-222, or its successor. Said towers are exempt from ordinance height restrictions.
- (c) Minimum Setback Distances:
 - (1) Towers shall be setback from all property lines and street rights-of-way a minimum of the total height of the structure, to include any antennae projecting above the top of the tower. The planning commission may reduce the set back distance based on the design

(supported by a letter from an engineer) and at their discretion. Required setback shall be measured from the outer perimeter of the base of the tower, not its center point, to property lines or rights of way. When a tower is to be mounted on another structure, the total height shall be the combined heights of the structure, tower, and projecting antennas.

- (2) Anchorages for guyed towers must be on the same parcel of land as the tower and setback from property lines a minimum of 20 feet.
- (3) Accessory buildings shall be compatible in appearance with the surrounding area and buildings and set backs from the tower shall be at the discretion of the planning commission.
- (d) Security Fencing: The tower base and any accessory buildings shall be enclosed by a security fence of an anti-climbing design or a fence consisting of a six-foot tall chain link fence topped with three strands of barbed wire, or an eight-foot tall chain link fence.
- (e) Obscuring Screen: At the discretion of the planning commission, a seven-foot tall obscuring screen of evergreens and shrubs shall be established to screen the tower base and associated accessory buildings from any residential district or public property located within 500 feet of the tower. Further, at the discretion of the planning commission, the base and screening may be required near the road frontage or at the property line.
- (f) Lighting: Towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lights unless specifically required by the Federal Aviation Administration, or other federal or state having authority over a particular tower. Any lights on a shelter shall be of a sharp cutoff type.
- (g) Signs: The use of any portion of the tower for signs other than the minimum required for warning or equipment information is prohibited.
- (h) Removal of Unused or Abandoned Towers: Towers or portions of towers and associated facilities that are no longer used or have been abandoned shall be removed within 12 months of the cessation of the operations unless an extension of the 12 month period has been approved by the Township planning commission. At the time an application for construction of a tower is made, a copy of an agreement requiring the applicant to remove the tower and associated facilities upon cessation of operations shall be submitted along with other relative documents, such as a signed lease, deed, or land contract. Before construction can begin a "removal bond" shall be filed with

the township. In the event a tower is not removed within the time period stated above (or as extended by the ZBA), the township may execute on the removal bond and the tower and associated facilities shall be removed by the Township and any other cost of removal assessed against the real property.

- (i) Lot size. Property that is purchased or leased for purposes of locating a commercial tower shall not be subject to the lot size requirements in the respective zoning classifications.
- (j) Additional Requirements. In addition to the information required for Site Plan Review (Chapter XIX) and special exception use (Section 11.22) applications for towers shall include the following supplementary information:
 - (1) Tower plans and sealed drawings from a qualified licensed professional engineer which provide tower height and design, including cross sections and elevations; capacity of the tower; steps taken by the applicant to avoid interference; a professional engineer's stamp and registration number certifying compliance with FCC and FAA regulations, Building and Electrical Codes and other applicable Township Ordinances, if any; and other information necessary to evaluate the request.
 - (2) A letter of intent committing the tower owner and his or her successors to allow the shared use of the tower with reasonable terms and conditions.
 - (3) The applicant shall also submit a search area map and a promulgation map.
 - (4) The applicant shall also submit a map showing other sites within the township; other sites within a 7 mile radius and future "to build sites".

[Section 11.24 adopted July 8, 2002 by Ordinance No. 55, effective July 25, 2002]