

Ordinance No. 32

# ZONING ORDINANCE

PORT SHELDON TOWNSHIP  
Ottawa County, Michigan

*Adopted*  
*June 22, 1985*

*as amended through*  
*September 12, 2013*

*Prepared by*  
PORT SHELDON TOWNSHIP PLANNING COMMISSION



**PORT SHELDON TOWNSHIP  
ZONING ORDINANCE**

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**ARTICLE I  
PREAMBLE**

SECTION 1.01 SHORT TITLE. This Ordinance shall be known as the Port Sheldon Township Zoning Ordinance.

SECTION 1.02 PURPOSE. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Among other purposes, such provisions are intended to provide for the orderly development of the Township; to limit and discourage the improper use of lands, buildings, and other structures; to provide and maintain safe and adequate water supply, sewage disposal, and storm water run-off; to conserve property values, preserve the quality of life, and conserve natural resources; to provide for adequate light, air and convenience of access; to secure safety from fire and other dangers; and to avoid undue concentration of population by regulating and limiting the height and bulk of buildings wherever erected, limiting and determining the size of yards, courts and other open spaces, regulating the density of population, and regulating and restricting the location of uses, trades, industries, and buildings in relation to traffic and parking needs.

SECTION 1.03 SCOPE. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by this Ordinance, nor any private restrictions placed upon property by covenant, deed, or other private agreement. Where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations, or permits or by such private restrictions, the provisions of this Ordinance shall control.

SECTION 1.04 LEGAL BASIS. This Ordinance is enacted pursuant to the Rural Township Zoning Act, being Michigan Public Act 184 of 1943, as amended.



## ARTICLE II DEFINITIONS

SECTION 2.01 RULES APPLYING TO TEXT. The following listed rules of construction apply to the text of this Ordinance:

- (a) The particular shall control the general.
- (b) With the exception of this Article, the headings which title an Article, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- (c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- (e) A "building" or "structure" includes any part thereof.
- (f) The word "person" includes a firm, association, partnership, joint venture, corporation, trust or equivalent entity or a combination of any of them, as well as a natural person.
- (g) The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended", "arranged", "designed to be used", "occupied", and the like.
- (h) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", "occupied for", and the like.
- (i) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

SECTION 2.02 DEFINITIONS. The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

**ACCESSORY BUILDING OR STRUCTURE.** A subordinate building or structure on the same lot with a main building, or a portion of the main building, occupied or devoted primarily to an accessory use.

**ACCESSORY USE.** A use naturally and normally incidental, ancillary and subordinate to the main use of the premises.

**ACREAGE, GROSS.** The total area within the legal boundaries of a particular parcel of land or project. Future streets are not included within the gross acreage; however, existing streets are.

ACREAGE, NET. The total area within the legal boundaries of a particular parcel of land or project, excluding all streets - existing or future.

ALLEY. A strip of land over which there is a right-of-way, public or private, on which no dwelling or other land uses front, serving as a rear entrance or secondary access to one or more properties.

ALTERATIONS, STRUCTURAL. Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.

APPLICATION FOR DEVELOPMENT. Means the application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance, or permit to build.

BASEMENT. That portion of a building between the floor and the ceiling which is partly below and partly above grade but so located that the average vertical distance from the grade to the floor below is more than the vertical distance from the grade to the ceiling.

BED AND BREAKFAST ESTABLISHMENTS. A private residence that offers sleeping accommodations to transient tenants in 14 or fewer rooms for rent, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants, serves breakfasts at no extra cost to its transient tenants, and has smoke detectors in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor (*as amended May 22, 1991*).

BILLBOARDS AND SIGNS. See definitions contained in Article XV. (*as amended January 9, 2003*)

BUILDING. Anything which is constructed or erected, including a mobile home, having a roof supported by columns, walls, or other supports, which is used for the purpose of housing or storing of persons, animals, or personal property or carrying on business activities or other similar uses.

BUILDING CODE, TOWNSHIP. The adopted Building Code of Port Sheldon Township.

BUILDING FOOTPRINT. The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies. (*Amended July 11, 2013*)

BUILDING HEIGHT. -The vertical distance measured from the established grade at the principal entrance to the average height of the highest roof surface. Average height shall be determined using the lowest point of the eave to the highest point of the roof. Where a building is located on a terrace, the height may be measured from the average ground level of the terrace at the building

wall. (*Amended December 11, 1997*)

**BUILDING OFFICIAL.** The person designated by the Township Board to administer and enforce the Building Code.

**BUILDING SETBACK.** The measurement from the property line to the nearest point of the main wall of the building or structure, subject to certain yard encroachments.

**CHILD CARE CENTER.** A facility, other than a private residence, receiving one (1) or more children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. Child care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than three (3) hours, while persons responsible for the children are attending religious services (*as amended July 8, 1996*).

**CONGREGATE HOUSING.** A dwelling unit providing shelter and services for the elderly that may include meals, housekeeping, and personal care assistance. Such a facility offers residents a semi-independent lifestyle, but does not provide the intensive personal care such as dispensing of medication and round the clock nursing care of a nursing home (*as amended July 8, 1996*).

**DENSITY.** The maximum number of dwelling units which may be placed upon a parcel of land, usually expressed as dwelling units per acre.

**DEVELOPER.** Means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase or other person having an enforceable proprietary interest in such land.

**DRIVE-IN FACILITY.** Any place or premise which offers the sale of goods or services to customers while in their vehicles.

**DWELLING.** Any building or portion thereof that is used exclusively for human habitation and which provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation, but not including motels, hotels, tourist rooms or cabins. (*Amended January 8, 2009*)

(a) Dwelling, Single Family: A building designed for use and occupancy by one (1) family only, but not including mobile homes.

(b) Dwelling, Two Family: A building designed for use and occupancy by two (2) families only.

- (c) Dwelling, Mobile (Mobile Home): A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed without a permanent foundation for year-round living as a single family dwelling. A mobile home may contain parts that may be combined, folded, collapsed, or telescoped when being towed, and expanded later to provide additional cubic capacity.
  - (1) Single Wide: A mobile home with an average longitudinal width of no greater than fourteen (14) feet.
  - (2) Double Wide: A combination of two (2) mobile home elements designed and constructed to be connected along the longitudinal axis, thus providing more living space than a conventional single wide unit without duplicating any of the service facilities, such as kitchen equipment or furnace. Single wide mobile homes with extenders or add-a-rooms shall not be considered as double wide mobile homes.
- (d) Dwelling, Multi-Family: A building designed for use and occupancy by three (3) or more families.

DWELLING, FARM. The principal residence or dwelling occupied by the owner or operator of the farm on which it is located.

DWELLING, MIGRATORY WORKER. A dwelling intended for the seasonal occupation of migratory farm workers and their families that meets the standards of Section 8.02(o) of this Ordinance. *(as amended July 19, 2012)*

DWELLING UNIT. One (1) room or suite of two (2) or more rooms designed for use or occupancy by one (1) family for living and sleeping purposes with housekeeping facilities. Tents, travel trailers, motor homes, and the like are not considered dwelling units for the purpose of this Ordinance.

ELECTRIC POWER GENERATING PLANT. The large-scale, commercial generation of electric power as regulated by the public utility commission. The related uses shall include, but are not limited to, the fuel stock and handling facilities; boilers, generating and regulating facilities; administrative offices and training facilities; and the waste disposal facilities. The primary and secondary distribution system is defined as an essential public service. *(as amended February 9, 2012)*

ERECTED. Constructed, built, remodeled, moved upon, or any part of preparing the land for the construction of a building or structure.

ESSENTIAL PUBLIC SERVICES. Essential public services shall mean the erection, construction, alteration or maintenance by public utilities, municipal departments or commissions, or any governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the



furnishing of utility service by such public utilities, municipal departments, commission or any governmental agencies, or for the public health, safety and welfare. Electric power generating plants, buildings, and structures are specifically excluded from the definition of essential public services. Primary and secondary electrical distribution systems are hereby defined as essential public services.

EXISTING. In the case of a lot or parcel, existing shall mean having been registered with the Ottawa County Register of Deeds. In the case of a building or structure, existing shall mean having completed the foundation.

FAMILY. One (1) or more persons occupying a single dwelling unit and using common cooking facilities; provided, however, no family shall contain more than three (3) persons, unrelated by blood, marriage, or adoption.

FAMILY DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year *(as amended July 8, 1996)*.

FARM. Land and farm structures devoted to agricultural activities, including but not limited to: silviculture and nurseries, animal husbandry, apiaries, dairying, field crops, truck farming, orchards, and greenhouses. The processing of produce grown on-site and berry processing of up to 50 tons per day is defined as an accessory use.

FARM PRODUCTS: Plants and animals useful to man and including, but not limited to: forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber or fur. *(as amended November 8, 2012)*.

FENCE: An artificially constructed barrier of recognized building materials or combination of materials erected to enclose screen or separate areas. *(as amended October 2002)*

FLOOD HAZARD AREA. An area subject to periodic flood hazard as defined in the National Flood Insurance Act of 1968, as from time to time amended.

FLOODPLAIN. An area subject to periodic flooding as defined in the National Flood Insurance Act of 1968, as from time to time amended.

FLOOR AREA. The gross floor area of all floors of a building or an addition to an existing building. For all office buildings and for any other building, except dwelling units where the principal use thereof shall include the basement, the basement floor area shall be included, except that part thereof which contains heating and cooling equipment and other basic utilities.

FLOOR, FIRST. The main floor of a dwelling, characterized by kitchen facilities, an eating area, and a living room area. In the case of split level type home, the floors with the kitchen, living room, and dining area shall be considered as the first floor.

FOSTER CARE FACILITY. An establishment that provides supervision, assistance, protection or personal care, in addition to room and board, to persons. A foster care facility is other than a home for the aged or nursing home, licensed under Act No. 139 of the Public Acts of 1956, as amended, or a mental hospital for mental patients licensed under Sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended (*as amended July 8, 1996*).

GARAGE. An accessory building used primarily of the parking of automobiles and light trucks. (*Amended January 8, 2009*)

GRADE. (*Deleted December 11, 1997*)

GREENBELT. A greenbelt shall be a planting strip or buffer strip, at least ten (10) feet in width, which shall consist of deciduous or evergreen trees, or a mixture of both, spaced not more than thirty (30) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and which grow at least five (5) feet wide and five (5) feet or more in height after one full growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.

GROUP DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervision of periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year (*as amended July 8, 1996*).

HOME OCCUPATION. A gainful occupation conducted by members of the family only, in their dwelling unit, provided that the space used is incidental to the dwelling and that no article is sold or offered for sale, except such as is produced by such home occupation.

Personal services, such as licensed beauty/barber shops, and other similar personal services conducted in home occupations are specifically included in the definition of home occupation. (*amended March 9, 2006*)(*Amended November 8, 2012*)

INSTITUTIONAL USES. Churches, schools, hospitals and other similar public or semi-public uses.

JUNKYARD. A place where waste, surplus, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled; including house-wrecking yards, used lumber yards, and places or yards for use of salvaged house-wrecking and structural steel materials and equipment, including automobile wrecking, but excluding pawn shops and

establishments for the sale, purchase or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations, when conducted entirely within a completely enclosed building.

KENNEL. Any lot or premises on which four (4) or more dogs, cats or other household pets, four (4) months of age or older, are kept either temporarily or permanently.

LANDFILL. Any facility licensed or regulated by either Public Act 641 of 1978 or Public Act 64 of 1979, as amended.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building and accessory structures, together with such open spaces as are required by this Ordinance. *(Amended December 11, 1997)*

- (a) Area, Lot: The total area encompassed within the lines of a parcel or piece of property.
- (b) Corner Lot: A lot located at the intersection of two (2) or more public or private streets.
- (c) Depth, Lot: The distance between the front and rear lot lines, measured along the median between the side lot lines.
- (d) Double Frontage Lot: Any lot, excluding a corner lot, which fronts on two (2) streets which do not intersect.
- (e) Width, Lot: The distance between the side lot lines, measured at the building setback line. The width of the lot shall not be less than the minimum width required in the specific zoning district for a minimum depth of 200 feet from the front lot line and the remainder of the depth shall meet no less than 80% of the width requirement. *(Amended June 27, 2007)*
- (f) Waterfront Lot: A lot which fronts on a street and on a navigable waterway.

LOT LINE. A line bounding a lot or a parcel of property. *(Amended December 11, 1997)*

- (a) Front: The boundary line of a lot immediately adjacent to the street right-of-way upon which the lot fronts. In the case of a corner lot, the line with the narrowest line would be considered the front lot line. In the case of a double frontage lot, each line fronting on a street shall be a front lot line. In the case of a waterfront lot, the line which fronts on a navigable waterway shall be a front line.
- (b) Rear: The boundary line which is most distant from, and generally opposite to, the narrow front lot line.
- (c) Side: Any boundary line which is neither a front nor a rear property line.

MAINTENANCE GUARANTEE. Means any security, other than cash, which may be accepted by the Township for the maintenance of any improvement required by this Ordinance.

MARIHUANA. 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(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d). (as amended January 12, 2012)

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, PA 2008, Initiated Law, MCL 333.26423(d). (as amended January 12, 2012)

MOBILE HOME LOT. A measured parcel of land within a mobile home park, which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home. A mobile home lot, outside of a mobile home park, shall be the same as a single family dwelling lot in the same zoning district.

MODULAR HOME. A dwelling which consists of prefabricated units transported to the site on a removable undercarriage or flat-bed truck and assembled for permanent location on the lot.

MOTOR VEHICLE. Every vehicle which is self-propelled.

NATURAL RESOURCE EXTRACTION. Deleted (as amended, March 9, 2006)

NONCONFORMING USE OR STRUCTURE. Any use or structure which was legally existing prior to the effective date of this Ordinance which does not now comply with the requirements herein.

ON-TRACT. Means located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

PARCEL. One or more platted or registered lots for development and taxation.

PARKING AREA, SPACE OR LOT. An off-street open area, the principal use of which is for the parking of motor vehicles.

PERFORMANCE GUARANTEE. Means any security which may be accepted by the Township, including cash.

PERSON means an individual, sole proprietorship partnership, corporation, limited liability company or association. (Amended April 9, 1998)

PLANNED UNIT DEVELOPMENT (PUD). In the case of new development, a clustering of dwelling units or other improvements, such that useful open spaces and natural features are preserved and enhanced, according to a specific plan approved by the Township. In the case of the West Olive area, a mechanism for the achievement of the above PUD concepts and the resolution of area problems, according to a specific plan developed by the residents of the West Olive area and approved by the Township.

PLANNING COMMISSION. The Port Sheldon Township Planning Commission.

PRELIMINARY FLOOR PLANS AND ELEVATIONS. Means architectural drawings prepared during early and introductory stages of the design of a project illustrating, in a schematic form, its scope, scale and relationship to its site and immediate environs.

PREMANUFACTURED HOME. A dwelling which consists of pre-fabricated units built in compliance with BOCA Code and approved by a State of Michigan authorized inspector. These units are transported to the site on a removable undercarriage or flat-bed truck and assembled for permanent locations on the lot *(as amended June 12, 1986)*.

PRIMARY CAREGIVER. A person as defined under MCL 333.7106(g) of the Michigan Medical Marihuana Act, and who has been issued and possesses a valid Registry Identification Card under the Act. *(as amended January 12, 2012)*

PRIMARY CAREGIVER HOME OCCUPATION. An activity in which a primary caregiver assists qualified patients with the medical use of marihuana as a home occupation. *(as amended January 12, 2012)*

PRINCIPAL OR MAIN USE. The primary or predominant use of a lot.

PRIVATE ROAD. *(Deleted December 11, 1997)*

PUBLIC NUDITY means the knowing or intentional display of any individuals genitals, anus, or of a female individual' breast, in a public place, or any other place for payment or promise of payment by any person. An individual's genitals or anus shall be considered to be displayed if it or they are visible; an individual's genitals or anus shall not be considered to be displayed if they are covered by a fully opaque covering. A female individual's breast shall not be considered to be displayed if the nipple and areola are covered by a fully opaque covering. Payment or promise of payment includes the payment of, or promise of payment of, any consideration or admission fee. Public Nudity does not include any of the following:

- (a) The exposure of a woman's breast while breast-feeding a child, whether the nipple OR AREOLA IS VISIBLE DURING OR INCIDENTAL to the feeding.
- (b) Any materials which meet or satisfy the definition contained in Section 2 of Act No 343 of the Public Acts of 1984, as amended, being MCLA 752.362.

- (c) Any sexually explicit visual material as defined in Section 3 of Act No.33 of the Public Acts of 1978, as amended, being MCLA 722.673.
- (d) Any display of an individual's genitals or anus, or of a female individual's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the State of Michigan. *(Amended April 9, 1998)*

PUBLIC PLACE means any real property, or appurtenance to real property which is owned by the State of Michigan, by any municipality of this State, a public agency or by a college or university of this state. The term includes, but is not limited to a structure, enclosure, facility or complex, such as a court, mall, park, or any subordinate unit of government, agency, commission, or instrumentality of the state. "PUBLIC PLACE" shall also mean a business or an educational, refreshment, entertainment, recreation, health, transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. *(Amended April 9, 1998)*

QUALIFYING PATIENT OR PATIENT. Qualifying patient or patient means a person as defined under MCL 333.7106(h) of the Michigan Medical Marihuana Act, and who has been issued and possesses a valid Registry Identification Card under the Act. *Amended January 12, 2012*

RECREATION VEHICLE. A vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreation, camping and travel use, and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes and/or marine vessel *(as amended June 12, 1986)*.

RESTAURANT. A business located in a building where, in consideration of the payment of money, meals are habitably prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals and deriving the major portion of its receipts from the sale of food.

RETAIL COMMERCIAL ESTABLISHMENT. A store, market or shop in which commodities are sold or offered for sale in small or large quantities to the retail trade. Grocery and general stores, meat markets, public garages, and automobile service stations are included in this classification.

ROADSIDE STAND. A small building, structure or area of land designed or used for the display and sale of farm products including, but not limited to, fruits, vegetables, flowers, firewood and Christmas trees. *(Amended November 8, 2012)*.

SEXUALLY ORIENTED BUSINESS means a business or commercial enterprise that conducts or engages in any of the activities hereinafter defined. *(Amended April 9, 1998)*

- (a) ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated, slug-operated, electronically controlled or mechanically controlled still picture or motion picture machines, projectors, or image-producing or image projecting devices are maintained to show images to five or fewer persons per machine or device at any time, and where the images are so projected, produced or displayed are distinguished or characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- (b) ADULT BOOKSTORE OR ADULT VIDEO STORE means a commercial establishment that, as one of its business purposes or services, offers or sale or rental for any form of consideration, any of the following:
  - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or,
  - (2) Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in paragraphs 1 or 2, above, and still be categorized as an Adult Bookstore or Adult Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it comprises 20% or more of the establishment's gross revenues, or of such materials occupy 20%

- (c) ADULT CABARET means a nightclub, bar restaurant, or similar commercial establishment that regularly features:
  - (1) Persons who appear in a state of nudity;
  - (2) Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities.
  - (3) Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities;
  - (4) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (d) ADULT MOTEL means a hotel, motel or similar commercial establishment that:
  - (1) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are

characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right-of-way that advertised the availability of any of the above;

- (2) Offers a sleeping room for rent for a period of time that is less than (12) twelve hours; or
  - (3) Allows a tenant or occupant of a sleeping room to offer it for rent or other consideration for a period of time that is less than (12) twelve hours.
- (e) ADULT MOTION PICTURE THEATER means a commercial establishment which, for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction of Specified Sexual Activities or Specified Anatomical Areas.
- (f) ADULT THEATER means a theater, concert hall auditorium, or similar commercial establishment that regularly features a person or persons who appears in a state of nudity, or that regularly features live performances that are characterized by exposure of Specified Anatomical Areas or Specified Sexual Activities.
- (g) ESCORT means a person who, for consideration agrees or offers to act as a companion, guide, or date of another person or who agrees or offers to privately model lingerie or privately perform a striptease for another person.
- (h) ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its business purposes or services, for a fee, tip, or other consideration.
- (i) NUDE MODEL STUDIO means any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, who pay money or any other form of consideration, but does not include an educational institution funded, chartered or recognized by the State of Michigan.
- (j) SEXUAL ENCOUNTER CENTER means a business or commercial enterprise that, as one of its business purposes or services, offers for any form of consideration any of the following:
- (1) Any physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  - (2) Activities between male and female persons or between persons of the same sex, when one or more of the persons is in a state of nudity.

SPECIFIED ANATOMICAL AREAS are defined as: *(Amended April 9, 1998)*



- (a) Less than completely opaquely covered human genitals, pubic region buttock or anus; or female breast immediately below a point immediately above the top of the areola; or,
- (b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following: *(Amended April 9, 1998)*

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breast;
- (b) Sex acts, normal or perverted, actual or simulated including but not limited o intercourse, oral copulation, or sodomy;
- (c) Masturbation, actual or simulated; or,
- (d) Excretory functions as part of or in connection with any of the activities set forth in paragraph 1,2, or 3 above.

SPECIFIED ANATOMICAL AREAS are defined as: *(Amended April 9, 1998)*

- (a) Less than completely opaquely covered human genitals, pubic region buttock or anus; or female breast immediately below a point immediately above the top of the areola; or,
- (b) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following: *(Amended April 9, 1998)*

- (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or breast;
- (b) Sex acts, normal or perverted, actual or simulated including but not limited to intercourse, oral copulation, or sodomy;
- (c) Masturbation, actual or simulated; or,
- (d) Excretory functions as part of or in connection with any of the activities set forth in paragraph 1,2, or 3 above.

STABLE. A building and related structures used for the housing of horses, ponies, and the like for hire or for compensation.

STORY. That portion of a building included between the upper surface of any floor and the

upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

STREET (Private). A permanent unobstructed easement at least sixty-six (66) feet in width for access from a public street.

STREET (Public). A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except alleys and private streets.

STRUCTURE. Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

SWIMMING POOL. Any structure, either above, below or partly above and partly below grade, designed to hold water to a depth of greater than two (2) feet when filled, and intended to be used for swimming purposes. Natural bodies of water and manmade ponds shall not be considered to be swimming pools.

TEMPORARY USE. A use permitted to exist during a specified and limited period of time, subject to the conditions and procedures as provided in this Ordinance. (*Amended November 8, 2012*)

TOWNSHIP. Port Sheldon Township, Ottawa County, Michigan.

TOWNSHIP BOARD. The Port Sheldon Township Board.

TRAVEL TRAILER. A transportable unit or motorized vehicle intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use, but not including mobile homes as defined in this Ordinance.

TRAVEL TRAILER/RV PARK. An area on which space is rented for travel trailers, as herein defined, on a temporary basis according to the provisions of Act 243, Public Act of 1959, as amended, and the provisions of this Ordinance.

VARIANCE. An action by the Board of Appeals to vary or modify the requirements of this Ordinance in certain circumstances where, owing to particular conditions, literal enforcement of the Ordinance would result in unnecessary hardship.

WIRELESS COMMUNICATION FACILITY. All structural facilities, attached or accessory, related to the radio frequency spectrum for the purpose of transmitting or receiving radio signals, including radio and television towers; cellular telephone and paging devices; telephone devices and exchanges; microwave relay towers; telephone transmission equipment buildings; and commercial mobile radio service facilities. (Not included are facilities for citizen band radio; short wave radio; ham and amateur radio; television reception antennae; satellite dishes; and government facilities

which are subject to state and federal law) Wireless communication facilities shall be specifically excluded from the definition of "essential public services". (amended February 12, 2002)

**WIRELESS COMMUNICATION SUPPORT STRUCTURE.** Any structure used to support attached wireless communication facilities, or other antennae or facilities, including support lines, cables, wires, braces and masts intended primarily for the purpose of mounting an attached wireless communication facility or similar apparatus above grade, including any ground or roof-mounted pole, monopole, or other similar structures which support wireless communication facilities. (amended February 12, 2002)

**YARD.** A required open space, unoccupied and unobstructed by any building or structure or portion thereof, except for certain yard encroachments.

- (a) Front: A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line or navigable waterway and the main wall of the building or structure.
- (b) Rear: A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.
- (c) Side: A yard between a main building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building.

**ZONING ACT.** Act 184, the Township Rural Zoning Act of 1943, as amended.

**ZONING ADMINISTRATOR.** The Port Sheldon Township Zoning Administrator.



### ARTICLE III MAPPED DISTRICTS

SECTION 3.01 ZONE DISTRICTS. For the purpose of this Ordinance, the Township of Port Sheldon is hereby divided into five classes of zone districts known as: *(Amended December 11, 1997)*

Single Family Residential District  
Commercial District  
Industrial District  
Agricultural District  
Planned Unit Development District

SECTION 3.02 ZONING MAP ADOPTED. The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of Port Sheldon Township, Michigan", dated June 22, 1985, as may from time to time be amended, which accompanies and is made a part of this Ordinance. The Zoning Map of Port Sheldon Township, Michigan is kept at the Township Clerk's office.

SECTION 3.03 RULES APPLYING TO DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply:

- (a) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following Township boundaries shall be construed as following Township boundaries.
- (d) Boundaries indicated as approximately following shorelines or lake or river beds shall be construed as following shorelines or lake or river beds, as in the event of change in the location of shorelines or lake or river beds, shall be construed as moving with the shoreline and lake or river bed.
- (e) Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

Where these rules of construction are insufficient for interpretation by the Zoning Administrator, or where a property owner is aggrieved by the Zoning Administrator's interpretation, the Zoning Board of Appeals shall make the interpretation, pursuant to the provisions of Article XIII.

SECTION 3.04 AREAS NOT INCLUDED WITHIN A DISTRICT. In every case where property has not been specifically included within a district or is annexed into the Township after the effective date of this Ordinance, the same is hereby declared to be in the Agricultural District. Such provisions shall apply pending the promulgation and adoption of new Township zoning regulations for such property in the manner prescribed by law.

## ARTICLE IV GENERAL PROVISIONS

These general provisions shall apply to all zoning districts:

SECTION 4.01 SCOPE. Except as hereinafter specified, no building, structure, or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located and other applicable requirements of this Ordinance.

SECTION 4.02 MIXED OCCUPANCY. All mixed uses shall meet all requirements of the individual uses.

SECTION 4.03 REQUIRED AREA OR SPACE. No lot or lots in common ownership, and no yard, court, parking area or other space shall be so divided, altered or reduced to make said area or dimension less than the minimum required under this Ordinance. If the same is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced. No area, space, yard or parking area required for the compliance with this Ordinance shall be ascribed to any other building or use.

SECTION 4.04 TRAFFIC VISIBILITY ACROSS CORNER LOTS. On any corner lot or parcel, no fence, structure or planting over thirty (30) inches in height shall be erected or maintained, within twenty (20) feet of the corner property line, so as to interfere with traffic visibility across the corner.

SECTION 4.05 HEIGHT EXCEPTIONS. The height requirements established by this ordinance shall apply uniformly in each zoning district to every building and structure except that the following structure and appurtenances shall be exempt from the height requirements of this ordinance; spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio and television broadcasting and receiving antennas, wireless communication facilities and support structures, silos, parapets and other necessary mechanical appurtenances, provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration and other public authorities having jurisdiction. (*amended February 12, 2002*)

SECTION 4.06 ESSENTIAL PUBLIC SERVICES. Essential public services, as defined in Article II, shall be permitted in all classes of districts; provided that all buildings or structures to be constructed, or structural changes or alterations to be made, shall be subject to approval by the Planning Commission as to architectural or landscaping compatibility with the neighborhood.

SECTION 4.07 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 or vibration beyond the lot on which the use is located.

#### 4.08 TEMPORARY USES OR STRUCTURES

- (a) Temporary construction office or yard. Upon application, the Zoning Administrator may issue a permit for a temporary office structure or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site. 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 structure or yard is still incidental and necessary to construction at the site where located.
  
- (b) Temporary sales office. Upon application, the Zoning Administrator may 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.
  
- (c) Temporary Sales
  - (1) Upon application, the Zoning Administrator may issue a permit for the temporary sale of merchandise in the commercial district, related to a temporary or periodic event. Such temporary sales uses shall include the sale of merchandise, fireworks, farm products and similar activities.
  - (2) In considering a request for a temporary sales permit, the Zoning Administrator must determine that the operation of such a use is limited in its duration and will not be established as a permanent use.
  - (3) Each permit shall be valid for a period of not more than two (2) calendar months and may be renewed by the Zoning Administrator for up to two (2) additional successive periods of two (2) months each, provided the season or event to which the use relates is continued.
  
- (d) Standards. In considering authorization of a temporary use, the Zoning Administrator shall consider the following standards:
  - (1) that the use or structure does not have an unreasonable detrimental effect upon adjacent properties;
  - (2) in the case of sections 4.08(a) and (b) above, that the use or structure is reasonably necessary for the convenience and safety of the construction or project proposed;
  - (4) that access to the area or structure will not constitute a traffic hazard due to ingress or egress;



- (5) that adequate off-street parking is available to accommodate the use;
  - (6) that no parking space required for any other use shall be occupied by a temporary use or structure.
  - (7) all local, state and federal licenses or permits that may be required for such temporary uses shall be issued and maintained for the duration of the temporary use.
- (e) Conditions
- (1) The Zoning Administrator may establish conditions on the temporary use permit as necessary to protect the public health, safety and welfare, including a prescribed duration of the temporary use and the removal of temporary structures.
  - (2) if any conditions of the temporary use permit or any requirements of the zoning or general ordinances are violated, the temporary use permit may be rescinded by the Zoning Administrator and such temporary use or activity shall be removed immediately.
- (f) Temporary dwellings are prohibited, except as permitted under Section 4.21, Certain Uses Prohibited.

SECTION 4.09 ACCESSORY USES. No lot or parcel may be used for an accessory use where a principal use has not been established.

SECTION 4.10 ACCESSORY BUILDINGS. Except as expressly permitted in this Ordinance, all accessory buildings shall conform to the following requirements (*Amended December 11, 1997*)(*Amended January 8, 2009*) (*Amended July 11, 2013*)

- (a) No accessory building may be built on any agricultural, residential, commercial, or industrial zoned lot on which there is no principal building, except that land owned in common by a residential property owner's association or similar entity may be used for non-commercial docks, boat houses, and mooring facilities.
- (b) Accessory buildings shall be considered as attached to a principal building when the distance between the two (2) buildings meets the following standards:
  - (1) The accessory building is not greater than twenty five (25) feet from the principal building; and,
  - (2) The area connecting the principal building to the accessory building shares a common roof structure that blends with the design of the principal building. This may be in the form of a covered breezeway, portico, covered colonnade, or similar architectural device.
  - (3) When the accessory building is structurally attached to a principal building, it shall

conform to all yard regulations of this Ordinance applicable to principal buildings.

(c) The following standards shall apply to accessory buildings in the R-1 Single Family Residential District:

- (1) No detached accessory building shall be erected in any front yard.
- (2) Detached accessory buildings for single-family dwellings shall be at least ten (10) feet from the side or rear property line.
- (3) No detached accessory building shall be located any closer than ten (10) feet to the principal building.
- (4) One detached accessory building is permitted per parcel and the building footprint shall not exceed two point five percent (2.5%) of the lot area or eleven hundred (1,100) square feet, whichever is less. This does not include the area of an attached garage. An attached garage shall not exceed one thousand (1,000) square feet in area.
- (5) No detached accessory building within the R-1 Single-Family Residential District shall exceed a height of fifteen (15) feet.

(d) The following standards shall apply to accessory buildings in the AG-1 Agricultural District:

- (1) A detached accessory building is prohibited in the first fifty (50) feet of any front yard, except for roadside stands.
- (2) Detached accessory buildings in the side yard shall conform to the yard requirements of a principal structure. Detached accessory buildings in a rear yard shall be not less than ten (10) feet to any rear or side property line. No detached accessory building shall be located any closer than ten (10) feet to the principal building.
- (3) No detached accessory building in the Agricultural District shall exceed twenty (20) feet in height. Detached accessory buildings greater than twenty (20) feet in height may be authorized by the Planning Commission as a special use.

In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:

- a) The intended use of the building and the type of material to be stored.
- b) The location of other detached accessory buildings and the height of these buildings compared to the proposed accessory building.
- c) The architectural character of the proposed accessory building compared with the architectural character of surrounding buildings and uses.

- d) The visual impact of the proposed accessory building on adjacent property owners when considering existing and proposed landscaping.
- (4) Any accessory building housing animals shall be located a minimum of seventy-five (75) feet from the line from which minimum front yard setbacks are measured according to Section 4.26, a minimum of one hundred twenty-five (125) feet from existing adjacent residential buildings, and a minimum of fifty (50) feet from any property line.
- (5) Detached accessory buildings shall not exceed a building footprint of two point five percent (2.5%) of the lot area or four thousand (4,000) square feet, whichever is less. If the applicant desires more than four thousand (4,000) square feet of accessory building, then they must apply for a special use for consideration by the Planning Commission. In consideration of such special use, the Planning Commission shall consider the provisions of Article XVIII plus the following standards:
- a) The intended use of the building and the type of material to be stored.
  - b) The location of other detached accessory buildings and the area of these buildings compared to the proposed accessory building.
  - c) The architectural character of the proposed accessory building compared with the architectural character of surrounding buildings and uses.
  - d) The visual impact of the proposed accessory building on adjacent property owners when considering existing and proposed landscaping.
  - e) In no case shall the area of all accessory buildings exceed 2.5% of the lot area.
- (6) The standards in section (5) above do not include the area of an attached garage. An attached garage shall not exceed one thousand (1,000) square feet in area.
- (7) For parcels in the AG-1 Agricultural district that do not contain a principal dwelling, a detached accessory building may only be authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
- a) The proposed accessory buildings shall be used for agricultural purposes only.
  - b) The size of the parcel proposed for the accessory use and its long-term agricultural potential.
  - c) The location of adjacent uses and buildings and the impact of the proposed use on the existing uses and structures.

- d) The visual impact of the proposed accessory building on adjacent property owners when considering existing and proposed landscaping.
- (e) The following standards shall apply to accessory buildings in the LSR Lakeshore Residential District:
  - (1) Except as permitted elsewhere in this Ordinance, no detached accessory building shall be located in the required minimum setback of a side or rear yard.
  - (2) Except as elsewhere permitted in this Ordinance, no detached accessory building shall be located in a front yard.
  - (3) No detached accessory building shall be located any closer than ten (10) feet to the principal building.
  - (4) One detached accessory building is permitted per parcel and the building footprint shall not exceed one point seven five percent (1.75%) of the lot area or eleven hundred (1,100) square feet, whichever is less. This does not include the area of an attached garage. An attached garage shall not exceed one thousand (1,000) square feet in area.
  - (5) No detached accessory building within the LSR Lakeshore Residential district shall exceed a height of fifteen (15) feet.
- (f) In the commercial, industrial, or open space districts, no accessory building shall be erected in any front yard. Accessory buildings shall be limited to one structure per parcel with a maximum area of one thousand (1,000) square feet and shall comply with the yard and height regulations of the respective districts.
- (g) In all districts, for lots with two front yards (corner or double frontage lots), no accessory building shall be located in the required minimum setback of either front yard.
- (h) When a rear lot line adjoins a side yard of an adjacent lot, no accessory building shall be nearer to said lot line than the side yard requirements of the district.
- (i) For waterfront lots, pump houses may be located within a front yard if they do not exceed three (3) feet in height.
- (j) The architectural character of all accessory buildings shall be compatible with the principal building and the character of the surrounding area.
- (k) In no instance shall an accessory building be located within a dedicated easement.
- (l) No portion of a detached accessory building shall be utilized as a dwelling or as sleeping quarters, except for approved migratory worker housing. Plumbing facilities may be installed in an accessory building provided the system is connected to a septic system approved by the County Health Department or a public sanitary sewer system.

- (m) No mobile home, portable structure, vehicle, trailer, or other such substitute shall be permitted to be used as a garage or accessory building.

SECTION 4.11 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 4.12 GOVERNMENTAL IMPROVEMENTS. The provisions of this Ordinance shall be applicable to the Township itself and all other governmental agencies and units; federal, state or local.

SECTION 4.13 WATER AND SANITARY DISPOSAL FACILITIES, AVAILABLE. No permit shall be issued for the construction of a building or structure, which is to have drinking water or sanitary facilities, which is to be located on a lot which is not served by water or sanitary disposal facilities in conformance with all requirements of the Ottawa County Health Department and any other local, state or federal requirements.

SECTION 4.14 KEEPING OF PETS AND LIVESTOCK. The keeping of pets and livestock shall be subject to the following restrictions and regulations: *(as amended December 13, 2012)*

- (a) The keeping of up to three (3) dogs and/or cats is permitted in all zoning districts provided that the provisions of this Ordinance and other local and County regulations are met. A litter of dogs or cats which results in the temporary keeping of a number of domesticated or household pets, or combination thereof, that exceeds three (3) shall not be deemed a violation of this subsection until the litter reaches the age of four (4) months.
- (b) Except for farms as defined by this Ordinance, the keeping of large domesticated animals such as horses, cows, sheep, hogs, goats or other similar animals is permitted in the AG-1, R-1 and LSR districts, subject to the following standards:
  - (1) Two (2) such animals may be kept for the first two (2) acres of lot area and one (1) additional such animal is permitted for each additional one (1) acre of lot area. In addition, a minimum of one acre shall be provided for roaming or grazing for the first two (2) animals and another one-half (1/2) acre shall be provided for each additional such animal.
  - (2) All such animals shall be properly housed in a manner that does not interfere with or adversely impact neighboring properties with particular attention to noise and odors. Housing for such animals shall meet the setback standards for the zoning district in which it is located.
  - (3) All such animals and grazing areas required by Section 4.14(b)(1) shall be kept within a fenced area. The fenced area shall be set back at least five (5) feet from any property line, or where the parcel/lot abuts a public road, from the road right-of-way and shall not be within fifty (50) feet of another dwelling.

- (4) The keeping of such animals shall be recreational or educational in nature. The slaughtering or butchering of farm animals or livestock on such non-farm properties must be conducted indoors and shielded from adjacent properties.
- (c) Farms, as defined by this Ordinance, are exempt from the requirements of subsection (b) of this Section. The keeping of farm animals and livestock on farms is permitted in accordance with standards of the Michigan Right to Farm Act (PA 93 of 1981), as amended.

SECTION 4.15 SWIMMING POOLS. Swimming pools, as defined in Article II, shall be subject to the following requirements:

- (a) Permit. It shall be unlawful for any person to install or place upon any lands in the Township of Port Sheldon a swimming pool unless first securing a permit therefor from the Township Building Inspector and it shall be unlawful for any person to erect, place or maintain any swimming pool on any lands in the Township of Port Sheldon, contrary to any of the provisions of this Ordinance.
- (b) Application. Each person desiring to build or install a swimming pool shall file an application for a permit to do so. Such application shall show the size of the pool, type of construction, and its position in relation to the lot or property lines on which it is to be located. A fee (see Fee Schedule) shall be paid to the Township Building Inspector with each application as filed.
- (c) Location. The outside edge of the wall of any swimming pool shall not be placed nearer than four (4) feet to any lot or property line on which said pool is to be placed or constructed, provided that if any part of the pool walls are more than two (2) feet above the surrounding grade level, then such pool shall be placed or erected not less than ten (10) feet from any side or rear lot line.
- (d) Construction. Any pool constructed of poured concrete shall have a bottom not less than six (6) inches thick and walls of not less than eight (8) inches in thickness, all of which walls and bottom shall be reinforced with metal reinforcing rods. Liner type pools may be constructed or installed, provided that the liner used is made and furnished by a manufacturing concern which, as part of its business, regularly makes swimming pool liners out of plastic, rubber, fiberglass, steel or any other type product, and provided that the bottom and walls of such liner type pool are constructed in accordance with the specifications of the manufacturer of the liner.
- (e) Enclosure. Each swimming pool shall be enclosed by a fence or wall of a height of not less than four and one-half (4-1/2) feet and in such manner that no person may enter the yard or the area where such pool is located without passing through a gate or door located on the lot or parcel of land on which such pool is situated. Said fence may be placed on or anywhere inside the property lines of the lot or yard where such pool is situated, provided that no fence may be erected closer to a street than a building may be erected in the zone district in which such pool is located.

- (f) Gates and Doors. All gates and doors which permit access to the pool area shall be capable of being locked and shall be locked at all times when no person is present on the premises on which such pool is located.

SECTION 4.16 UNLICENSED AND INOPERABLE VEHICLES. No unlicensed vehicle, which is ordinarily licensable under the laws of the State of Michigan as originally manufactured, shall be stored or parked upon any lot or parcel of land within the Township except an agricultural vehicle that is used seasonally (*as amended September 11, 1986*).

SECTION 4.17 HOME OCCUPATIONS. All home occupations shall be subject to the following restrictions and regulations:

- (a) The occupation shall be operated entirely within a dwelling.
- (b) The occupation shall be conducted only by the person or persons occupying the dwelling as their principal residence a major portion of each month.
- (c) The dwelling has no exterior evidence, other than a two (2) square foot sign, to indicate that the same is being utilized for any purpose other than that of a dwelling.
- (d) The occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for single family dwelling purposes.
- (e) No occupation shall be conducted upon, or from, the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or the creation of unreasonable traffic to the premises. Noise, smoke, odor, electrical disturbance, or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted. (*As amended March 9, 2006*)

SECTION 4.17A PRIMARY CAREGIVER HOME OCCUPATION. In addition to the requirements of Section 4.17, a Primary Caregiver Home Occupation shall be subject to the following: (*as amended January 12, 2012*)

- (a) A primary caregiver home occupation is the only primary caregiver activity permitted in Port Sheldon Township. All other medical marihuana facilities, including but not limited to dispensaries, storefronts, cooperatives and combined growing operations, are prohibited.
- (b) Primary Caregiver Home Occupations, as defined in Section 2.02, assisting no more than five qualifying patients, shall be permitted within any dwelling unit in the Township, providing such activity is conducted in accordance with Initiated Law 1 of 2008, known as the Michigan Medical Marihuana Act and the rules promulgated thereunder.
- (c) The primary caregiver home occupation shall be operated entirely within a dwelling. All marihuana plants and processing equipment used for the medical use of marihuana shall

be kept in an enclosed, locked portion of a dwelling.

- (d) The area used for a primary caregiver home occupation shall not exceed 20% of the habitable area of a dwelling.
- (e) Primary caregivers shall only provide medical marihuana to their designated qualified patients, not exceeding five (5), as defined in the Michigan Medical Marihuana Act.
- (f) No more than one person residing in the dwelling shall be permitted to be a primary caregiver for those who do not reside within the dwelling.
- (g) All growing operations, processing operations and use shall be conducted in compliance with the Michigan Medical Marihuana Act and other applicable State laws and regulations. A primary caregiver home occupation, conducted in accordance with this Ordinance and the Michigan Medical Marihuana Act, does not grant a primary caregiver immunity from violation of state or federal laws.
- (h) Modifications or alterations to dwellings containing a primary caregiver home occupation shall conform to applicable building code standards.
- (i) A primary caregiver home occupation shall not bear any sign, emblem or any other mark that would indicate the presence of the activity.
- (j) A primary caregiver home occupation shall not be located within 1,000 feet of a school property.

SECTION 4.18 LITTER. No person shall dump, deposit, or bury on any public or private land situated in the township any tin cans, automobile bodies, appliances, junk, movable structures or other litter or waste material of any kind or description unless such area is a municipally owned or operated public landfill, waste collection depot; and no dumping, depositing, littering, placing or permitting to be so deposited of any such waste material of any kind or nature in violation of Michigan Public Act 106 of 1963, as amended, shall be allowed within the township.

SECTION 4.19 RIVER AND CREEK SETBACKS. No building or structure, except docks, shall be erected within any designated Floodplain or Flood Hazard Area of Pigeon Creek or Ten Hagen Creek. Further, no building or structure shall be erected within forty (40) feet of any designated Floodplain or Flood Hazard Area, or within forty (40) feet of any natural, continuously flowing stream or creek, whichever is more. *(Amended December 11, 1997)*

SECTION 4.20 GRADE LEVELS AND ON-SITE DRAINAGE. The existing elevation of land or improvements at a property line shall be maintained. No storm water runoff, in excess of that occurring under natural and undeveloped conditions, shall be permitted to enter a drain, creek, marsh, pond or lake or to flow onto another persons property. Where a drainage district has been established, the storm water runoff, entering said drain, may be increased. Storm water runoff shall be controlled through the use of site grading, swales, retention ponds, dry wells, and other appropriate means.



In an Agricultural District, the established water table at the property line shall not be artificially raised by more than six (6) inches nor lowered by more than six (6) inches.

SECTION 4.21 CERTAIN USES PROHIBITED. Under the provisions of this Ordinance, it shall be unlawful to:

- (a) Maintain a truck, truck trailer, motor home, camper or similar vehicle, either operable or inoperable, as a storage building. (*Amended December 11, 1997*)
- (b) Occupy a travel trailer, recreation vehicle, tent or any other similar unit as a permanent dwelling. Occupy a travel trailer, recreational vehicle, tent, or any other similar unit as a temporary dwelling outside of a campground approved by the State Department of Health, except a tent within an area approved by the Township Board as a temporary primitive campground for a non-profit organization. In making its determination, the Township Board shall consider:
  - (1) The effect on the surrounding area and the township as a whole.
  - (2) The provisions for temporary water and sanitary waste disposal.
  - (3) The provisions for fire protection and other emergency services.
  - (4) The provisions for restoring the area to its original condition after the event has ended.

The Township Board may condition its approval on reasonable conditions necessary to protect the public interest as described in Article I of this Ordinance. These conditions may include, but are not limited to, fixing the maximum number of people, fixing the beginning and ending dates, and the posting of a bond.

- (c) Occupy a mobile home as a temporary dwelling outside of a mobile home park, except when approved by the Zoning Administrator. The Zoning Administrator may not approve a temporary mobile home unless all of the following conditions are met (*as amended June 12, 1986*).
  - (1) The mobile home is located on a parcel of land of not less than two (2) acres and meets all yard and setback requirements of the district in which it is located.
  - (2) The mobile home is occupied by the owner of the parcel or an employee of the owner of the parcel (*as amended June 12, 1986*).
  - (3) The mobile home shall be occupied during the construction or major rehabilitation of the primary dwelling.
  - (4) The mobile home shall be hooked to a water supply and wastewater disposal system, approved by the Ottawa County Health Department.
  - (5) A bond, in the amount of \$1,000, has been posted for the removal of the mobile home in the event that the time limit has expired, or that the conditions of the approval have not been met, or that the temporary mobile home has become a

public nuisance.

The Zoning Administrator may approve a temporary mobile home for not more than six months. The Zoning Administrator may issue one extension for a period of not more than six months, providing that all conditions of the approval are met, and the temporary mobile home has not become a public nuisance. The Zoning Administrator may consult with the Planning Commission prior to the issuance of any extension.

- (d) Occupy a boat in Pigeon Lake, except while at anchor for three or less nights, or for such time as may reasonably be necessary to make repairs or to wait out a storm.
- (e) Occupy or construct a dwelling for migratory workers, except as permitted in Article VIII, Agricultural District, Section 8.02, Use Regulations.

SECTION 4.22 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE OF MOBILE HOME PARKS. All dwelling units located outside of mobile home parks shall comply with the following requirements: *(Amended January 8, 2009)*

- (a) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet.
- (b) The minimum width of any single family dwelling unit shall be twenty (20) feet for at least sixty-seven (67) percent of its length, measured between the exterior part of the walls having the greatest length.
- (c) There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of forty-two (42) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches.
- (d) All dwellings without basements shall provide a crawl space below the entire floor of the dwelling four (4) feet in depth, with a vapor barrier consisting of two (2) inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The building inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Township.
- (e) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the Township or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."
- (f) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.

- (g) All dwellings shall be connected to a sewer system and water supply system approved by the Township or the County Health Department.
- (h) All dwellings shall provide steps or porch areas, where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress. *(Amended December 11, 1997)*
- (i) All additions to dwellings shall meet all the requirements of this Ordinance.
- (j) All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides or alternatively with window sills or roof drainage systems, concentrating roof drainage at collection points along sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design and appearance of residential dwellings located outside of mobile home parks within five hundred (500) feet of the subject dwelling. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- (k) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (l) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Township.
- (m) A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure approved by the Building Inspector.
- (n) The area of a dwelling used for human habitation shall be contained in one principal building and all areas of the dwelling shall be accessible from the interior of the dwelling. Access to a portion of a living facility from an accessory building is not considered a part of the dwelling.

SECTION 4.23 REMOVAL OF NATURAL RESOURCES. No person shall conduct, cause or allow an earth change on property in the Township without a special use approval and permit as provided in this Section. *(As amended, March 9, 2006)*

- (a) Definitions. When used in this Section, the following terms shall have the meanings ascribed to them in this subsection:
- (1) “Earth Change” means the moving, removing, excavating, mining, extraction, filling, dumping, depositing or stockpiling of Natural Resources.
  - (2) “Natural Resources” means sand, gravel, soil, topsoil, rock, stone, minerals, peat and other similar materials.
  - (3) “Ancillary Activities” means the washing, crushing, blending, sorting/ screening, packaging, loading and other processing of Natural Resources done in conjunction with an Earth Change and on the same parcel.
  - (4) “Transportation Facility” means a highway or public road, a railroad, an airport or a public wharf or dock.
- (b) Scope and Exemptions. This Section shall apply to every Earth Change occurring in the Township, except for the following activities which are exempt from regulations under this Section.
- (1) Earth Changes that involve more than a total of 100,000 cubic yards of Natural Resources in total and in any combination. See, Section 4.23A.
  - (2) Any mining or other Earth Change that is the subject of a permit issued by the State under a statute that preempts local regulation.
  - (3) Earth Changes conducted for the construction, reconstruction, maintenance or repair of a Transportation Facility where such Earth Change is entirely within the boundaries or right-of-way of the Transportation Facility.
  - (4) Earth Changes consisting of stockpiling, mining or extraction of sand, soil, gravel or stone outside of the right-of-way or property boundaries of a Transportation Facility for purposes of the construction, reconstruction, repair or maintenance of the Transportation Facility, if such activities are subject to appropriate Federal or State regulations concerning reclamation of the Earth Change site.
  - (5) Earth Changes conducted to restore land and structures following a natural disaster.
  - (6) Earth Changes permitted or otherwise lawfully established and operated as of the effective date of this Section, which shall be considered non-conforming uses; provided that any expansion of the area on which Earth Change activities are conducted or any change in the type of Ancillary Activities shall be subject to this Section and shall require special use approval.
  - (7) Dredging, removal and depositing of materials from the bed of Lake Michigan or Pigeon Lake for navigational purposes or for public utility purposes pursuant to permits issued by Federal, State and Ottawa County agencies.
  - (8) Earth Changes conducted under authority of the Drain Code.

- (9) Any Earth Change that involves only the moving or redistribution of Natural Resources on the parcel and is conducted under generally accepted and customary agricultural practices associated with production of farm products, if such Earth Change will not cause, or be likely to cause, sand blows, erosion by water, stagnant water pools, bogs or adverse impacts to adjoining properties.
  - (10) An Earth Change that involves only the moving or relocation of Natural Resources on the parcel, without Natural Resources being imported to or exported from the parcel, provided such Earth Change is done in conjunction with development of the parcel and such development is otherwise subject to review and approval under PUD, special use and/or site plan procedures and the relevant application requirements and standards under this Section are considered in such review and approval process.
  - (11) Any Earth change that moves and redistributes topsoil or sand in an amount less than 5,000 cubic yards from one part of a lot to another part of the lot if such action will not cause, or be likely to cause, sand blows, erosion by water, stagnant water pools, bogs or adverse impacts to adjoining properties. Also, topsoil or sand may be removed from a lot for the purpose of erecting, constructing or installing a building, structure or pond on the lot, provided that not more than 500 cubic yards of topsoil and/or sand are removed.
- (c) Criteria for Determination. In deciding the special use request, the Planning Commission shall consider the following:
- (1) The size of the property from which such topsoil, sand, gravel, or other such materials are to be removed;
  - (2) The amount of topsoil, sand, gravel or other such materials which is to be removed;
  - (3) The purpose of such removal;
  - (4) The effect of such removal on adjoining property;
  - (5) The effect of such removal in causing a safety hazard, creating erosion problems, or altering the groundwater table;
  - (6) The potential for such removal to cause the creation of sand blows, erosion by water, stagnant water pools, or swampy areas;
  - (7) The effect of such removal on the environment and the natural topography, and the potential destruction of any natural resource;
  - (8) Potential traffic congestion and problems because of trucks or other vehicles or means utilized to haul and transport the materials removed;
- (d) Operations granted a special use permit by the Planning Commission shall meet the following conditions:
- (1) Any change of the natural contour of the land, both during Earth Change operations and at the time of abandonment by completion, shall be maintained as safe to

- all trespassers and any other persons having reason to be within the area of activity;
- (2) No business or industrial buildings or structures of a permanent nature shall be erected, except where such building is a permitted use within the Zoning District in which the Earth Change activity is located;
  - (3) No storage or truck parking shall be located within two hundred (200) feet of any adjacent residence or within fifty (50) feet of any other adjacent property;
  - (4) All of the operation shall be screened with a wire screen or uniformly painted wood fence at least six (6) feet in height, with evergreen screen plantings on any side adjacent to residentially zoned property;
  - (5) As the Natural Resources are being removed, the property shall be restored by the replacement of topsoil where feasible; and all excavations shall be sloped to a gradient with not more than a 3-foot horizontal/1 foot vertical slope and the contour be caused to blend as nearly as possible with the natural surroundings. The Earth Change area shall be planted with a suitable ground cover sufficient to control erosion. A reclamation plan shall be submitted as part of the application. *(Amended December 11, 1997)*
  - (6) All truck operations shall be directed away from residential streets and utilize county primary roads wherever possible;
  - (7) The Planning Commission may require a financial guarantee (cash or letter of credit) as deemed necessary to insure that requirements are fulfilled, and may revoke permission to operate at any time specified conditions are not maintained. The financial guarantee shall not be released by the Township until such time the site has been restored as indicated in the reclamation plan and as verified by the Zoning Administrator. *(Amended December 11, 1997)*
  - (8) The applicant shall secure all necessary permits from Township, County, State and Federal authorities.
  - (9) Man-made ponds, lakes, or bodies of water which are to be created or altered as a result of the removal of Natural Resources shall be reviewed and approved in light of the provisions and standards contained in Section 4.24; and for the purposes of this section, the provisions of Section 4.24 are incorporated herein by reference. Unless such body of water is contemplated and incorporated on plans of sufficient detail and approved as part of a special use permit application under the provisions of this section, a separate special application under the provisions of this section and a separate special use permit under the provisions of Section 4.24 shall be required *(as amended March 26, 1990)*.
  - (10) In considering adjacent land and use impacts, the Planning Commission shall review the potential for dust and soil deposit where the exit to the proposed operation enters a public street and consider the best possible solution to solve this concern with either pavement or other suitable material. *(Amended December 11, 1997)*

SECTION 4.23A - EARTH CHANGE. No person shall conduct, cause or allow an earth change on property in the Township without a special use approval and permit as provided in this Section.

- (a) Definitions. When used in this Section, the following terms shall have the meanings ascribed to them in this subsection:
- (1) "Earth Change" means the moving, removing, excavating, mining, extraction, filling, dumping, depositing or stockpiling of Natural Resources.
  - (2) "Natural Resources" means sand, gravel, soil, topsoil, rock, stone, minerals, peat and other similar materials.
  - (3) "Ancillary Activities" means the washing, crushing, blending, sorting/ screening, packaging, loading and other processing of Natural Resources done in conjunction with an Earth Change and on the same parcel.
  - (4) "Transportation Facility" means a highway or public road, a railroad, an airport or a public wharf or dock.
- (b) Scope and Exemptions. This Section shall apply to every Earth Change occurring in the Township, except for the following activities which are exempt from regulations under this Section.
- (1) Earth Changes that involve less than a total of 100,000 cubic yards of Natural Resources in total and in any combination. See, Section 4.23.
  - (2) Any mining or other Earth Change that is the subject of a permit issued by the State under a statute that preempts local regulation.
  - (3) Earth Changes conducted for the construction, reconstruction, maintenance or repair of a Transportation Facility where such Earth Change is entirely within the boundaries or right-of-way of the Transportation Facility.
  - (4) Earth Changes consisting of stockpiling, mining or extraction of sand, soil, gravel or stone outside of the right-of-way or property boundaries of a Transportation Facility for purposes of the construction, reconstruction, repair or maintenance of the Transportation Facility, if such activities are subject to appropriate Federal or State regulations concerning reclamation of the Earth Change site.
  - (5) Earth Changes conducted to restore land and structures following a natural disaster.
  - (6) Earth Changes permitted or otherwise lawfully established and operated as of the effective date of this Section, which shall be considered non-conforming uses; provided that any expansion of the area on which Earth Change activities are conducted or any change in the type of Ancillary Activities shall be subject to this Section and shall require special use approval.
  - (7) Dredging, removal and depositing of materials from the bed of Lake Michigan or Pigeon Lake for navigational purposes or for public utility purposes pursuant to permits issued by Federal, State and Ottawa County agencies.
  - (8) Earth Changes conducted under authority of the Drain Code.

- (9) Any Earth Change that involves only the moving or redistribution of Natural Resources on the parcel and is conducted under generally accepted and customary agricultural practices associated with production of farm products, if such Earth Change will not cause, or be likely to cause, sand blows, stagnant water pools, bogs or adverse impacts to adjoining properties.
  - (10) An Earth Change that involves only the moving or relocation of Natural Resources on the parcel, without Natural Resources being imported to or exported from the parcel, provided such Earth Change is done in conjunction with development of the parcel and such development is otherwise subject to review and approval under PUD, special use and/or site plan procedures and the relevant application requirements and standards under this Section are considered in such review and approval process.
- (c) Application. A person seeking special use approval for an Earth Change permit shall make an application to the Planning Commission and pay the application fee as established from time to time by the Township Board. This application may also be coordinated with an application for Planned Unit Development, Site Condominium, Subdivision or Land Division application. An application shall include the following unless the Planning Commission expressly finds that one or more of the following requirements is impracticable or inapplicable under the circumstances of the proposed Earth Change or would be an undue hardship because of the peculiar conditions pertaining to the land or the activity in question.
- (1) A completed special use permit application on the form provided by the Zoning Administrator.
  - (2) A legal description of the parcel on which the Earth Change is located or proposed, including the tax parcel number. If the Earth Change will involve only a portion of the parcel, then a legal description of the affected area shall also be provided.
  - (3) The name, address and telephone number of the owner of the parcel. If the applicant is other than the owner of the parcel or if the Earth Change is to be operated by a person other than the owner, then the applicant's/operator's name, address and telephone number shall also be provided, together with documentation of an appropriate interest in the parcel for the purposes of the Earth Change.
  - (4) A map of the parcel and surrounding vicinity showing existing site conditions, including without limitation, all buildings, streets, drains, water courses, bodies of water and natural features within 300 feet from the boundaries of the parcel, which map shall show contour elevations at 5 foot intervals along the perimeter of the parcel.
  - (5) A site plan (drawing) prepared, dated, sealed and signed by an engineer or land surveyor registered in Michigan conforming to the requirements of Article XXI of this Ordinance and in addition such site plan also shall show the following:



- a) The location and construction details of proposed access drives and service roads on the parcel, together with proposed scrub pads;
  - b) The boundaries of the area proposed for the Earth Change activities and, if such Earth Change activities are to be conducted in phases or in separate mining cells, such phases or cells shall be numbered, the phase or cell boundaries shall be depicted with the acreage of each indicated, and each phase or cell shall be labeled as completed, active or future as the case may be;
  - c) The location and details of proposed fences, gates, signs and parking areas;
  - d) The location of proposed structures and fixed equipment to be placed on the site for Earth Change and any Ancillary Activities;
  - e) Setback lines as required by this Section;
  - f) The boundaries, surface areas and bottom contours of any lake or pond to be created or modified by the Earth Change.
- (6) A plan narrative containing the following information:
- a) The time period proposed for the Earth Change;
  - b) A description of the type of Natural Resources and the quantity (in cubic yards) involved in the proposed Earth Change;
  - c) Methods of mining, moving, storing, processing, loading and transporting of the Natural Resources on and from the site;
  - d) Identification of and proposed sequence of which phases or cells will be mined and restored, including projected dates for completion of restoration and reuse of each phase or cell;
  - e) Measures to be taken to:
    - i) control noise and vibration beyond the boundaries of the parcel;
    - ii) control erosion and wind-blown sand, dust, dirt or other materials;
    - iii) control access and prevent trespass on the site;
    - iv) prevent waste accumulation;
    - v) prevent stagnant water and control surface water erosion;
    - vi) preserve existing vegetation and topsoil.
  - f) A description of the proposed hours of operation;
  - g) If Natural Resources are to be removed from the Parcel:
    - i) A description of the type and the loaded weight of trucks to be used;
    - ii) The proposed number of trucks leaving the site per day;
    - iii) The proposed route through the Township to be used by such trucks.
  - h) A description of Ancillary Activities proposed for the site;

- i) Identification of wells on adjacent properties and the area water tables and a description of the impact of the proposed Earth Change on such wells and water table.
  - (7) A current wetland identification and/or delineation reports detailing the presence of wetland conditions on the parcel and their status as regulated or unregulated, together with copies of any permits or applications for permits issued by or filed with the MDEQ.
  - (8) Copies of all other federal, state or county permits or approvals that relate to and are required for the proposed Earth Change.
- (d) Procedures. The application shall be received, processed, heard and decided in accordance with the procedures for special uses set forth in Section 18.02 of this Ordinance.
- (e) Standards and Basis for Determination. Approval of the special use for an Earth Change permit shall be granted only if the Planning Commission determines that all the general standards and regulations of Sections 18.03 and 21.02 of this Ordinance (as determined applicable) and the following standards and regulations are met:
- (1) Access. Each site shall have at least one (1) access to a public road with the location approved by the Ottawa County Road Commission. Driveways leading to a site shall be secured to prevent unauthorized access during non-operating hours.
  - (2) Burning. Burning on any site shall comply with the burning requirements of any applicable Township ordinances, regulations or orders.
  - (3) Driveways and on-site Roads. All on-site, unpaved drives and roads shall be constructed and maintained to control dust from migration off-site. A scrub pad, consisting of a paved surface as specified on the site plan, shall be installed on any access drive from the point of contact with the public road to a distance on the driveway determined as adequate to clear exiting vehicles of excess tire debris, which scrub pad shall be a minimum of 200 feet in length. The person conducting the Earth Change shall provide for the prompt removal from the public roads of any Natural Resources emanating from the transporting vehicles, without requiring any notice or request from the Township or the Ottawa County Road Commission.
  - (4) Erosion Control. The conduct and operations of the Earth Change shall not result in:
    - a) wind-blown sand, dust or soil that would migrate off-site;
    - b) the collection of surface water or the run-off of water onto adjoining lands contrary to normal and natural drainage patterns;
    - c) the removal or disturbance of existing trees and vegetation on the site in areas on which the Earth Change for a specific phase or cell is not commenced or continuing or that is not used for drives or Ancillary Activities;

- d) the failure to promptly reclaim any area of a phase or cell when the Earth Change for that phase or cell is completed.
- (5) Fencing. A fence at least four (4) feet high and of a type to discourage and impede unauthorized entry shall be erected around all hazardous areas within a site and as may be required by the Planning Commission for reasons of safety and security.
- (6) Glare. Any lighting associated with the Earth Change and Ancillary Activities shall be directed away from adjacent property so as to avoid as nearly as possible the direction of glare onto adjacent property.
- (7) Noise. At no point on the boundaries of a site shall the level of sound emanating from any mining equipment, any moving equipment, any processing equipment, and any loading equipment exceed 80 dB(A), except for warning devices emitting sound for warning purposes as required by law.
- (8) Equipment. Only that equipment which has been authorized specifically through the permit process of this Subsection is permitted on a site. In order to add equipment after a permit has been issued, the permittee shall notify in writing the Zoning Administrator at least (30) days prior to the planned placement of the equipment. The Zoning Administrator may authorize the placement of the equipment, unless he believes the proposed equipment would result in a significant, material, and substantial change in the permitted Ancillary Activities, in which case he shall refer the request to the Planning Commission for approval or disapproval. Thereafter, the permittee shall not install the proposed equipment until the Planning Commission authorizes the installation.
- (9) Screening. Residential uses and public streets adjacent to the parcel shall be screened from the Earth Change and Ancillary Activities area, with a minimum six (6)-foot high screen. Acceptable screening methods are raised earth berms, coniferous trees, fences which provide eighty percent (80%) solid visual barrier, and natural topography. The Planning Commission may determine that setbacks from property lines, existing landscaping, or other measures are acceptable means to fulfill the screening requirement.
- (10) Setbacks. The following table shall serve as general guidelines for setbacks for an Earth Change operation. The Planning Commission may adjust those guidelines and establish the setback distances when approving the special use in light of the circumstances of the proposed Earth Change.

Type of Operation or Equipment	Setbacks (in feet) From:	
	Property Lines	Public Streets Right of Way
Mining	50	100
Moving	50	50
Processing*	300	300
*Refers to structures and stationary equipment that are generally in fixed locations and does not include tractor driven heavy earthmoving equipment.		

- (11) Signs. Only 1 sign identifying the Earth Change operation shall be permitted on the parcel, such sign shall be located near the main access drive and its dimensions shall be determined by the Planning Commission. No trespassing and warning signs shall be installed as appropriate.
- (12) Truck traffic. Trucks used to transfer the Natural Resources from the parcel shall follow a route designated by the Planning Commission and the Ottawa County Road Commission that poses the least interference with other traffic, minimizes traffic through higher density residential areas, and uses public roads constructed for high volumes of heavy truck traffic.
- (13) Vegetation. Existing vegetation on a parcel shall be removed only to the extent reasonably necessary for the Earth Change operation/activities in order to minimize the exposure of land to potential erosion. In the case of an Earth Change involving phases or separate cells, vegetation removal to prepare the next phase or cell shall not commence until the Earth Change operation/activities near completion on the phase or cell then currently involved in the Earth Change. On-site burial of vegetation existing on the parcel is prohibited.
- (14) Waste
- a) No trash, rubbish, junk, refuse of any kind, inoperable vehicles or equipment, building materials, or unwholesome substances shall be permitted to accumulate on the Parcel, unless contained in a dumpster or, in the case of inoperable vehicles or equipment, unless they are housed within a building or structure, or are enclosed completely by an opaque fence which is erected and maintained in compliance with Township ordinances.
  - b) Building materials on a mining site to be used as part of construction on the site for which a Township building permit has been issued are not considered waste.
- (15) Bodies of Water. If the Earth Change will result in the creation of a pond or lake or in the alteration in the surface area and depth of an existing pond or lake, the standards contained in Section 4.24(b) shall be met, except when inconsistent with the following standards:
- a) The setback of the edge of the water body shall be no closer to the property lines than the setback approved for the mining/extraction operations.
  - b) The slopes of the banks or sides of the water body shall be as follows:
    - i) For the banks of the water body and to a point of 5 feet of depth of the water body - minimum 4 feet horizontal/1 foot vertical slope
    - ii) For depth of the water body exceeding 5 feet - minimum 1 foot horizontal/1 foot vertical slope.
  - c) The minimum depth of a water body shall be 10 feet.

- (16) Hydrogeological Reports and Monitoring Reports. If the Planning Commission determines that the Earth Change may have an affect on adjacent wells and/or on the water table in the area, it may require the applicant to submit a current hydrogeological report, prepared and certified by a registered professional engineer and/or environmental consultant, which report shall contain the following:
- a) A full determination of groundwater and surface water flow across the parcel, together with a determination of the effect that the proposed Earth Change and Ancillary Activities may have on the flow, depth, quality and quantity of groundwater or surface water of the parcel and of adjacent property.
  - b) Identification of wells and existing water courses and bodies of water within 500 feet of the boundaries of the parcel and a determination of what, if any, impact the Earth Change and Ancillary Activities may have on such wells and bodies of water.
  - c) If the Earth Change and Ancillary Activities would have an adverse effect on the flow, depth, quality or quantity of groundwater or surface water in the vicinity or on neighboring wells and water bodies, the applicant shall submit a supplemental report with engineered drawings of measures to be taken to ameliorate the detrimental effects to the local groundwater and surface water regimes. Approval by the Planning Commission of such measures to counter the potential adverse effects shall be conditioned upon the installation of monitoring wells and/or other appropriate testing apparatus on the parcel by the applicant's professional engineer or environmental consultant, together with subsequential reports submitted to the Zoning Administrator by the engineer or consultant showing what, if any, changes have occurred to the surface water or groundwater in the vicinity. Such supplemental reports shall be submitted on an annual basis within 30 days prior to the date of the expiration of the permit, if a renewal permit is sought.
- (17) Compliance. The proposed Earth Change shall comply with all Federal, State and County of Ottawa regulations, orders and permit and approval requirements. Any new structure or the modification or moving of any existing structure on the parcel shall comply with applicable building codes and Township Ordinances.
- (18) Reclamation. Reclamation of areas affected by the Earth Change shall be provided by the operator of the Earth Change in accordance with the plan approved by the Planning Commission as part of the special use approval. Such plan shall require, without limitation the following:
- a) Upon completion of the Earth Change, the parcel shall be rehabilitated such that it will be suitable for a primary permitted use of the zoning district in which the parcel is located.

- b) Slopes of land in the Earth Change area shall be restored to a minimum 3 feet horizontal/1 foot vertical.
- c) All fill shall be properly compacted to stabilize the soil conditions and prevent settling.
- d) Appropriate vegetative cover, together with topsoil as may be appropriate for such vegetation, shall be reestablished promptly to prevent erosion by wind or water.
- e) All equipment, refuse and debris associated with the Earth Change and Ancillary Activities shall be removed from the parcel.
- f) If the Earth Change involves a number of phases or cells, appropriate reclamation of the existing, completed phase/cell shall be commenced and continued when the Earth Change operations/activities begin on the next phase or cell. The scope and type of appropriate reclamation shall be specified in the plan approved by the Planning Commission in consideration of the type of Earth Change activities involved, the potential for erosion by wind or water, and the health, safety and welfare of the Township and its residents.

(f) Performance Guarantee.

(1) Upon approval of the Earth Change special use and prior to the issuance of the Earth Change permit, the applicant shall submit to the Township Clerk a performance guarantee in the amount established by the Planning Commission for purposes of reclamation of the site upon termination of the Earth Change activities. The performance guarantee shall name the Township as the beneficiary and such guarantee shall have a duration of 6 months beyond the permit expiration date. The performance guarantee shall be conditioned upon the prompt and complete compliance by the applicant with all terms of this Ordinance and with the terms and conditions of an Earth Change approval and a permit issued in accordance with this Section.

(2) Amount.

- a) The amount of the required performance guarantee shall be established by the Planning Commission considering the prevailing cost to complete restoration of the site, the complete removal of all mining, moving, processing and loading equipment and any other equipment if the permittee terminates the operations, and other reasonable expenses.
- b) The Planning Commission shall also consider the amount of any performance guarantees which an applicant may have provided to the MDEQ or other public agency which guarantees completion of any of the work described in this subsection.

- c) The Zoning Administrator shall not issue a Permit until the Township has received the required performance guarantee as described in this subsection.
  - d) Special assessment. If the performance guarantee submitted in accordance with this subsection is insufficient to pay for the costs for restoration of a site, or to pay for the costs for removal of all mining, moving, processing, loading and transportation equipment, or to pay for the Township's other reasonable expenses, then any of the costs not covered by the performance guarantee may be reported to the Township as a special assessment upon the parcel, subject to the requirements pertaining to special assessments.
- (g) Term of Permit. Upon approval of the Earth Change special use, the Planning Commission shall issue the permit for an initial term not to exceed 19 months and such permit may be renewed for additional terms of 1 year by the Planning Commission as provided in subsection (i).
- (h) Transferability. A permit issued pursuant to this section may be transferred, provided a written request for transfer and a written acceptance by the new permittee of the terms and conditions of the special use approval are submitted to the Township.
- (i) Permit Renewal. An Earth Change permit (or a renewed permit) issued under this Section may be renewed by the Planning Commission for an additional one-year term in accordance with the following procedure:
- (1) At least 30 days prior to the date of expiration of the existing permit, the applicant shall request a renewal of the Earth Change permit and pay the fee for renewal as established from time to time by the Township Board. Such request must be in writing on the form provided by the Zoning Administrator, or if no form is available, then in the form of a letter.
  - (2) The written request shall provide information concerning the Earth Change operation/activities conducted during the current year and also show that such operation/activities are in compliance with the Earth Change special use approval and the permit requirements.
  - (3) If the period approved for the Earth Change special use has expired or will expire within the next year, no permit shall be renewed. The Applicant may apply for an extension of the special use approval as provided for in the Section for Major Revisions.
  - (4) The Planning Commission, at a public meeting, reviews the request and determines that the Earth Change operation/activities conducted under the prior permits have been in compliance with the terms and conditions and the special use approval and permit requirements and there currently exist no legitimate objections or complaints that may require Major Revisions as provided in this Section.

- (5) Prior to the issuance of a renewal permit, the applicant shall provide the performance guarantee which shall continue for the renewal term and 6 months beyond.

(j) Revisions and Re-hearings.

- (1) Minor Revisions: The Planning Commission shall permit minor revisions to the special land use permit. Said revisions may reflect objections raised at the public hearing, to correct technical errors or to address complaints of a minor nature. Such minor revisions shall be accomplished by the written agreement of the Planning Commission and the applicant/operator, without additional hearing, and shall be added to the existing special use approval record.
- (2) Major Revisions: The Planning Commission may consider major changes to the Earth Change application; which shall require a public hearing before the Planning Commission. Notice of the public hearing shall be given in the manner provided in Section 20.01. The standards for the Planning Commission decision on the major revision shall be as outlined in Section 4.23A(e). A major revision includes an expansion of the operation by ten percent (10%) or more, mining closer to the property line or a residential area, or an extension of the time period of the overall operation. *(As amended November 9, 2006, eff. November 30, 2006)*

- (k) Right of Entry. The Zoning Administrator and other Township representatives shall have the right to enter and to inspect a permitted mining site at all reasonable times for purposes of monitoring compliance with this ordinance and with the terms of any Permit issued pursuant to this ordinance.

SECTION 4.24 MAN-MADE PONDS. The routine maintenance of an existing pond consistent with an approved plan shall be reviewed and approved by the Zoning Administrator. No person shall create or enlarge an existing pond unless it has been authorized by the Planning Commission as a special use. *(Amended December 11, 1997)*

- (a) In considering such authorization, the Planning Commission shall consider the following:
  - (1) The location of the proposed or existing pond;
  - (2) The safety precautions to be taken to protect those using the pond, or who might be endangered by it;
  - (3) The size, depth, and water capacity of the pond;
  - (4) The water source and method of water discharge;
  - (5) The method of filtration and treatment of the water, if required.
- (b) Man-made ponds granted a special use approval by the Planning Commission shall meet the following conditions:



- (1) A man-made pond in any zoning district shall be set back a minimum of thirty (30) feet from all property lines.
- (2) Man-made ponds to be located in an agricultural district shall not artificially raise the established water table more than six (6) inches as measured at the property line.
- (3) No pond shall be used or maintained unless adequate public health measures are periodically taken to ensure that the existence of use thereof does not cause the spread of disease, stagnation, or otherwise provide conditions dangerous or injurious to the public health.
- (4) The discharge pipe from any pond without a direct outlet to an established drain shall:
  - a) not exceed four (4) inches in diameter;
  - b) be constructed of galvanized iron or other such standard and durable material as may be approved by the Building Inspector.

No ponds shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another, and no pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pond is located. Discharge into the public sanitary sewer system is prohibited.

- (5) No public water shall be used in connection with the filling or operation of a pond when limitations on the consumption and use of public water are in effect.
  - (6) The slopes of the banks or sides of the pond shall be constructed so that for each one foot of fall there shall be a minimum of four (4) feet of run. This minimum slope angle must be maintained and extended into the pond water to a depth of at least five (5) feet. These slope requirements shall not apply to any industrial facility, an agricultural irrigation pond, nor to any natural body of water or established County drain.
  - (7) Unless otherwise authorized by the Planning Commission under the provisions of Section 4.23 of this Article, "Removal of Natural Resources," spoils shall be retained on-site, graded, and seeded to promote rapid revegetation and to minimize the risk of erosion.
  - (8) No pond shall be constructed or maintained which either causes or contributes to the erosion of any adjacent, abutting, or nearby lands.
- (c) If the Planning Commission determines, in the course of its approval of a pond, that the protection of the general public requires that the pond be enclosed, the Planning Commission shall require that the pond be enclosed by a wall, fence, or other type of enclosure.

The wall, fence, or other enclosure shall:

- (1) be not less than four feet above the grade line;
- (2) be designed so that a child cannot pass through or under the fence, wall, or other

enclosure except at a gate or door.

All gates or doors leading to a pond, except a door in any building forming part of the enclosure, shall be fitted with a self-closing positive latching device.

- (d) The applicant shall secure applicable County, State, and Federal permits prior to authorization by the Planning Commission (*as amended March 26, 1990*).

SECTION 4.25 DOCKS, BOAT HOUSES, AND MOORING FACILITIES. Docks, boat houses, and mooring facilities in any residential or industrial zoning district, according to the following criteria and requirements: (*Amended June 27, 2007*)

- (a) In residential areas, no dock, boat house, or mooring facility, whether seasonal or permanent, shall:
- (1) Be built closer to any property line than ten (10) feet.
  - (2) Have a height greater than fifteen (15) feet from the elevation of the mean water level.
  - (3) Project into the waterway more than fifty (50) feet beyond an elevation which is three feet below the ordinary high water mark, 580.5 IGLD (International Great Lakes Datum, 1985), or (20) percent of the width of the waterway, whichever is less. The Township may require a professional land surveyor licensed in the State of Michigan to certify this elevation.
  - (4) Be used for commercial purposes or rented for compensation in any form.
  - (5) Be so constructed or arranged so as to constitute a hazard to navigation.
- (b) In industrial areas, no dock, boat house, or mooring facility, whether seasonal or permanent, shall:
- (1) Be constructed or arranged so as to be other than parallel to the shoreline.
  - (2) Be built closer to any property line than one hundred (100) feet.
  - (3) Be used for dockage or moorage other than is necessary for reasonable loading or unloading, emergency repairs, or to wait out a storm.
  - (4) Project into the waterway more than fifty (50) feet or ten (10) percent of the width of the waterway, whichever is lesser.
  - (5) Be so constructed or arranged so as to constitute a hazard to navigation.
- (c) Any application for a permit for a boat dock proposed to project more than fifty (50) feet from the ordinary high water mark, and located west of the Lakeshore Drive Bridge, shall be accompanied by a letter of non-objection from any public utility that uses the water for commercial navigation.

SECTION 4.26 ROAD AND HIGHWAY SETBACKS. No building shall be closer to a street than the minimum front yard requirement of its district. The minimum front yard requirement on a lot adjoining a major street including Port Sheldon Road, Lake Shore Drive, Butternut Drive, Crosswell and West Olive Road shall be measured from a line sixty (60) feet from, and parallel to, the centerline of the street. For section and quarter section roads, the minimum front yard requirement shall be measured from a line forty-three (43) feet from, and parallel to, the centerline of the street, and where adjoining any other street in the Township the front yard shall be measured from a line thirty-three (33) feet from, and parallel to, the centerline. (*Amended December 11, 1997*)

SECTION 4.27 YARD ENCROACHMENTS. Every part of every required yard or setback area shall be open and unobstructed by any use or structure from the ground to the sky, except as hereinafter provided:

- (a) Sills, belt courses, pilasters, chimneys, and other similar architectural appurtenances may project not more than twelve (12) inches into a required yard or setback area.
- (b) Cornices, eaves, and similar architectural appurtenances may project not more than thirty (30) inches into a required yard or setback area.
- (c) Fire escapes may project not more than six (6) feet into a required yard or setback area.
- (d) Uncovered stairs, porches, and decks shall meet the setback requirements of the zone district.
- (e) Swimming pools, accessory buildings, and accessory structures may be located in any required yard or setback area subject to applicable regulations contained elsewhere in this ordinance.
- (f) Uncovered walks, patios and driveways, and parking areas; landscaping; fences; retaining walls; and similar customary and incidental yard uses and structures may be located in any required yard or setback area.

SECTION 4.28 REGISTRATION OF LAND. Every building hereafter erected shall be located on a parcel of land the description of, and deed to which, shall be on record in the Office of the Registrar of Deeds of Ottawa County. No more than one main building, together with its customary accessory buildings and structures, shall be erected on such lot or parcel of land, provided that approved planned unit developments may have more than one main building.

SECTION 4.29 ACCESS. Every lot or parcel of land shall have the legal required frontage from a public street or an approved private street. All buildings shall be so located as to provide safe and convenient access for servicing, fire protection, and required off-street parking. (*Amended December 11, 1997*)

SECTION 4.30 SLOPE PROVISIONS. Excavation shall not be permitted on natural slopes of twenty-five (25) percent or greater, without an adequate plan for restoration and stabilization.

Where excavations occur on slopes of less than twenty-five (25) percent, such alterations will be stabilized with vegetation and, where necessary, structural erosion controls. All excavations shall meet the requirements of the Soil Erosion and Sedimentation Control Act.

SECTION 4.31 FLOOD DAMAGE PREVENTION. All buildings and structures to be erected in the designated floodplain shall meet the requirements of the Flood Damage Prevention Ordinance, Ordinance No. 18, as amended. This area is specifically designated on the Flood Insurance Rate Map (FIRM) as prepared by the Federal Insurance Administration and is generally adjacent to the Post Drain, the Pigeon River, and the Ten Hagen Creek.

SECTION 4.32 APPLICABLE REGULATIONS. When the provisions of this Ordinance are higher than local, county, state or federal regulations, the higher standard shall prevail. When local, county, state or federal regulations are higher than the provisions of this Ordinance, the higher standard shall prevail.

Section 4.33 LOT WIDTH. The minimum lot width for lots fronting on cul-de-sac streets (public or private) shall be measured at the rear of the required front yard setback and shall not be diminished throughout the lot. Such lots shall have a front lot line of at least forty (40) feet and in no case shall the lot width within the front yard be less than forty (40) feet (*as amended January 12, 1995*).

SECTION 4.34. RADIO/TELEVISION, MICROWAVE, CTV TOWERS AND ACCESSORY STRUCTURES. (*amended February 12, 2002*)

A. Applicability.

1. New Towers and Antennas. All new towers or antennas in Port Sheldon Township shall be subject to these regulations, except as provided in sections A(2) through (4), inclusive.
2. Amateur Radio Station Operators. This section shall not govern any tower, or the installation of any antenna, that is under one hundred and twenty five (125) feet in height and is owned and operated by a federally-licensed amateur radio station operator.
3. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section unless modified.

B. Uses.

1. Permitted Uses. The following uses may be administratively approved after review:
  - (a) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the Industrial District provided it is setback a minimum of three hundred (300) feet from a public right-of-way.
  - (b) Locating antennas on existing structures or towers.

- (i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower.
- (ii) Height
  - (a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the towers existing height, to accommodate the collocation of an additional antenna.

2. Special Use. A new tower or wireless communication facility is permitted when authorized by the Planning Commission as a special use with consideration of the following conditions:

- A. Height: Towers for radio, television, cellular phones 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 be height of the tower exceed 199 feet. The radio frequency reception data maps showing signal strength information for the tower location shall accompany all applications. *(Amended September 12, 2013)*
- B. Construction: All towers shall be a monopole or stealth technology 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 residential structures within the neighborhood. The structures shall be located and constructed in compliance with the following criteria:
  - 1. Location Criteria
    - a. Facilities shall be sited to minimize views from residential areas or the public right-of-way.
    - b. Concentration of support structures will be limited in all geographic areas to avoid excessive visual impacts.
    - c. The structure shall be located on a site of not less than two (2) acres consisting of a rectangle of with not more than a three (3) to one (1) depth to width ratio.

- d. Minimum spacing between towers shall be two (2) miles.
2. Development and Design Standards
- a. Support structures shall be located as to be screened from view by siting them near buildings or placed near existing tall trees to the extent possible.
  - b. Whenever possible, all support structures shall be of a monopole design.
  - c. Support structures shall be located a minimum of one hundred fifty (150) feet from any residential lot line.
  - d. Support structures shall be painted in unobtrusive colors.
  - e. Support structures shall be designed to prevent unauthorized climbing.
  - f. When the FAA or other federal or state authority requires lighting, it shall be the minimum required to meet regulations. It shall be oriented inward so as not to project onto surrounding properties.
  - g. The Planning Commission may require anti-climbing devices and security fencing of at least six feet preventing access to the associated building, tower, and/or guyed wires.
  - h. Signs and logos are prohibited on the tower.
  - i. 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.
  - j. Towers shall be located so that they do not interfere with television, radio or short wave radio reception in nearby residential areas.
  - k. 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 residential zoned or used area, the operator shall provide a plant screen sufficient in density and height so as to have an immediate buffering impact on adjacent property.
  - l. 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.

- m. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
  - n. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
  - o. Structures shall be subject to current State and Federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive State or Federal standards are adopted in the future, the antenna shall be made to conform. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
  - p. 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.
  - q. 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.
  - r. 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, Ottawa County Road Commission, or other federal, state, or local agencies.
  - s. To insure compliance with the above criteria, the Township may require a bond to assure compliance with the same.
3. Safety Standards. All new wireless communication facilities shall be designed within the applicable ANSI standards.

D. 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 on existing buildings, structures and existing wireless communication structures. If a provider fails to or refuses to permit collocation, such a structure shall be a nonconforming structure and shall not be altered or expanded in any way. As a condition of the special use, the applicant will

be requested to allow location of municipal antennas on the tower for fire and police use.

- E. Airport or Helipad Setbacks: All towers over twenty-five (25) feet in height shall be a minimum of one-half (1/2) mile from any airport runway or designated helicopter landing site.
- F. Discontinuance: When a wireless communication structure has not been used for a period of ninety (90) consecutive days after new technology is available which permits the operation of a facility without the necessity of a wireless communication structure, all parts of the structure shall be removed within one hundred and 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. Port Sheldon 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. In securing the removal of the structure, the Township may charge up to 125% of the removal cost to the operator and/or the landowner.

Section 4.35 CORNER LOT. Any lot of record as of the effective date of this amendment that becomes a corner lot by definition shall not be considered a corner lot. *(as amended March, 2002)*

Section 4.36 FENCES. The following regulations shall apply to all fences erected, constructed or modified in the R-1 and LSR Zoning Districts after the effective date of this section.

1. No fence shall be erected or constructed prior to the issuance of a building permit. In order to obtain such a permit, evidence of a survey and evidence of existing property stakes must be furnished to the Building Inspector. If deemed appropriate by the Building Inspector, survey stakes placed by a registered land surveyor may be required when the property line cannot be visually determined using existing property stakes. This may be required to avoid future conflicts on the location of the proposed fence.
2. No fence in excess of six (6) feet in height shall be erected, constructed, located or maintained in the rear or side yards of any zoning district.
3. No fence in excess of forty-eight (48) inches in height shall be erected, constructed, located or maintained in a front yard.
4. The height of a fence shall be measured from the average grade elevation within thirty (30) inches of each side of the proposed fence.
5. A fence may not be erected, constructed, located or maintained in a front or side yard of a property adjacent to Lake Michigan or Pigeon Lake.



6. All fences will be uniform in design and will be constructed in such a manner that vision shall not be obstructed to an extent greater than fifty percent (50%) of the total area of the fence.
7. Above ground fences shall not contain barbed wire, electric current or charge of electricity except when used as part of a farm operation
8. No fences in the Township shall be located outside or beyond the property or lot lines of the lot upon which said improvement shall be placed.
9. No fence in the Township shall be erected, constructed, located or maintained which constitutes a traffic hazard because of obstruction of visibility.
10. No fences in the Township shall be erected in any public right-of-way.
11. All fences in the Township shall be maintained to retain their original appearance, shape and configuration. Elements of a fence that are missing, damaged, destroyed or deteriorated shall be replaced and repaired to maintain conformity with the original fence appearance and design.
12. In all zoning districts, due to the design or construction of a fence, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot. The Zoning Administrator, Building Official or designated official shall determine the finished side of the fence based on the situation and the type of fence. If an adjoining property owner or resident disputes what the finished side is, they may file an appeal with the Zoning Board of Appeals to review the decision.
13. A privacy fence or obscuring fence may be erected in any zoning district not to exceed a height of six (6) feet to enclose a swimming pool, hot tub or patio area provided the location of the fence meets the setback requirements applicable to the area to be enclosed. The privacy fence may be a solid fence and all other provisions of this section shall apply.
14. A fence used on a seasonal basis, such as a snow fence, may be erected in any zoning district no earlier than November 1 and shall be removed no later than April 15 of the immediately following year. Any temporary open wire fence less than thirty (30) inches in height such as a garden fence, may be erected without a permit provided it complies with the above regulations.
15. An existing non-conforming fence shall be maintained in a safe condition. If the property is sold or changes ownership, the non-conforming fence must be modified to comply with the provisions of this Ordinance.
16. When a building permit is issued and/or a special use is granted by the Township that includes any portion of a non-conforming fence, the non-conforming fence shall be brought into compliance with the above requirements. *(as amended May 14, 2009)*

SECTION 4.37 UNCLASSIFIED USES. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Building Inspector has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this Ordinance, the Building Inspector shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features which were not contemplated or specified herein, then the Planning Commission may permit such use as a special use only after it determines that it will have no adverse effect upon adjacent property, that the use is similar to other uses in the district in which it is proposed to be placed, and the spirit, purpose and intent of the Zoning Ordinance and master plan are not impaired by permitting such use at the proposed location. *(as amended July 10, 2008)*

SECTION 4.38 WIND ENERGY TURBINES *(as amended July 9, 2009)*

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

**Ambient Sound Level** is the amount of background noise at a given location prior to the installation of a WET(s) which may include, but not be limited to, traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.

**Anemometer** is a temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

**Condominium Development** is defined as a development that is created under the Condominium Act.

**General Common Element** is defined as an area designated for use by all owners within condominium development.

**Decibel** is defined as unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.

**Decommissioning** is the process of terminating operation and completely removing a WET(s) and all related buildings, structures, foundations, access roads, and equipment.

**Large Wind Energy Turbine (LWET)** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The LWET has a nameplate capacity above two hundred fifty (250) kilowatts, and the main purpose of the LWET is to supply electricity to off-site customers.

**Medium Wind Energy Turbine (MWET)** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The MWET has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The total height does not exceed one hundred and fifty (150) feet.

**Nacelle** refers to the encasement which houses all of the generating components, gear box, drive tram, and other equipment.

**Net Metering** is a special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

**Occupied Building** is a dwelling, school, hospital, church, public library, business, or any other building used for public gatherings.

**Operator** is the entity responsible for the day-to-day operation and maintenance of a Wind Energy Turbine (WET).

**Owner** is the individual or entity, including their respective successors and assigns that have equity interest or own the Wind Energy Turbine (WET).

**Rotor Diameter** is the cross-sectional dimension of the circle swept by the rotating blades of a WET.

**Shadow Flicker** is the moving shadow, created by the sun shining through the rotating blades of a Wind Energy Turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

**Small Tower-Mounted Wind Energy Turbine (STMWET)** is a tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts. The total height does not exceed one hundred twenty (120) feet.

**Small Structure-Mounted Wind Energy Turbine (SSMWET)** converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or

other elevated surface. The SSMWET has a nameplate capacity that does not exceed ten (10) kilowatts. The total height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.

**Tower** is a freestanding monopole that supports a Wind Energy Turbine (WET).

**Upwind Turbine** is a Wind Energy Turbine (WET) positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.

**Wind Energy Turbine (WET)** is any structure-mounted, small, medium, or large wind energy conversion system that converts wind energy into electricity through the use of a wind generator and includes the nacelle, rotor, tower, and pad transformer, if any.

(c) Applicability

- (1) This section applies to all WETs proposed to be constructed in Port Sheldon Township.
- (2) All WETs constructed prior to the effective date of this section shall not be required to meet the requirements of this section; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this section.

(d) Temporary Uses The following is permitted in all zoning districts as a temporary use, in compliance with the provisions contained herein, and the applicable WET regulations.

(1) Anemometers

- a) The construction, installation, or modification of an anemometer tower shall require a building permit and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- b) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, and safety requirements that correspond to the size of the WET that is proposed to be constructed on the site.
- c) An anemometer shall be permitted for no more than thirteen (13) months for a SSMWET, STMWET, or MWET, and no more than three (3) years for a LWET.

(e) Small Structure Mounted Wind Energy Turbine (SSMWET): All SSMWET are subject to the following minimum requirements.

(1) Siting and Design Requirements:

- a) “Upwind” turbines shall be required.
- b) Visual Appearance
  - i) A SSMWET, including accessory buildings and related structures shall be a non-reflective, non-obtrusive color (e.g. white, gray, black).

The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET.

- ii) A SSMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or otherwise necessary for the reasonable safety and security thereof.
  - iii) SSMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
- c) **Ground Clearance:** The lowest extension of any blade or other exposed moving component of a SSMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty [30] feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below the SSMWET.
- d) **Noise:** Noise emanating from the operation of a SSMWET shall not exceed, at any time, the lowest ambient sound level that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a residential or agricultural use parcel or from the property line of parks, schools, hospitals, and churches. Noise emanating from the operation of a SSMWET(s) shall not exceed, at any time, the lowest ambient noise level plus 5 dBA that is present between the hours of 9:00 p.m. and 9:00 a.m. at any property line of a non-residential or non-agricultural use parcel.
- e) **Vibration:** Vibrations shall not be produced which are humanly perceptible beyond the property on which a SSMWET is located.
- f) **Guy Wires:** Guy wires shall not be permitted as part of the SSMWET.
- g) In addition to the **Siting and Design Requirements** listed previously, the **SSMWET** shall also be subject to the following:
- i) **Height:** The height of a SSMWET shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, and antennae.
  - ii) **Setback:** The setback of the SSMWET shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the SSMWET is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.
  - iii) **Location:** The SSMWET shall not be affixed to the wall on the side of a structure facing a road.

- iv) Quantity: No more than three (3) SSMWETs shall be installed on any parcel of property.
- v) Separation: If more than one SSMWET is installed, a distance equal to the height of the highest SSMWET must be maintained between the base of each SSMWET.

(2) Permit Application Requirements

- a) Name of property owner(s), address, and parcel number.
- b) A site plan shall include maps (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s), property lines, physical dimensions of the property, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, non-motorized pathways, roads and contours. The site plan must also include adjoining properties as well as the location and use of all structures.
- c) The proposed type and height of the SSMWET to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- d) Documented compliance with the noise requirements set forth in this section.
- e) Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- f) Proof of applicant's liability insurance
- g) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- h) Other relevant information as may be reasonably requested.
- i) Signature of the Applicant.
- j) Total proposed number of SSMWETs.

(3) Safety Requirements

- a) If the SSMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.

- b) The SSMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
- c) A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET.
- d) The structural integrity of the SSMWET shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" and/or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22 "Wind Turbine Certification," and IEC 61400-23 "Blade Structural Testing," or any similar successor standards.

(4) Signal Interference

The SSMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

(5) Public Inquiries & Complaints

- a) Should an aggrieved property owner allege that the SSMWET is not in compliance with the noise requirements, the procedure shall be as follows:
  - i) Notify the Zoning Administrator in writing regarding concerns about noise level.
  - ii) If the complaint is deemed sufficient by the Zoning Administrator to warrant an investigation, the Zoning Administrator will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this section.
  - iii) If the test indicates that the noise level is within noise requirements, the Township will use the deposit to pay for the test.
  - iv) If the SSMWET Owner(s) is in violation of the noise requirements, the Owner(s) shall reimburse the Township for the noise level test and take immediate action to bring the SSMWET into compliance which may include ceasing operation of the WET until violations are corrected. The Township will refund the deposit to the aggrieved property owner.

(f) Small Tower Mounted Wind Energy Turbine (STMWET), Medium Wind Energy Turbine (MWET), and Large Wind Energy Turbine (LWET): All are subject to the following minimum requirements.

(1) Siting and Design Requirements

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



- h) In addition to the Siting and Design Requirements listed previously, the STMWET shall also be subject to the following:
  - i) Height: The total height of a STMWET shall not exceed one hundred twenty (120) feet.
  - ii) Location: The STMWET shall only be located in a rear yard of a property that has an occupied building.
  - iii) Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the Tower.
  - iv) Other Setbacks: The setback shall be equal to the total height of the STMWET, as measured from the base of the tower, from the property line, public right-of-way, public easement, or overhead public utility lines. This setback may be reduced if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the wind turbine.
  - vi) Quantity: No more than one (1) STMWET shall be installed on any parcel of property.
  - vii) Electrical System: All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each parcel at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the wind generator to the tower wiring are exempt from this requirement.
  
- i) In addition to the Siting and Design Requirements listed previously, the MWET shall also be subject to the following:
  - i) Location: The MWET shall be located on a parcel with a minimum area of ten (10) acres. The MWET shall only be located in a general common element in a condominium development.
  - ii) Height: The Total Height of a MWET shall not exceed one hundred and fifty (150) feet.
  - iii) Ground Clearance: The lowest extension of any blade or other exposed moving component of a MWET shall be at least fifteen (15) feet above the ground (at the highest point of the grade level within fifty [50] feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human occupancy, such as balconies or roof gardens, that are located directly below the MWET.
  - iv) Noise: Noise emanating from the operation of a MWET or shall not exceed, at any time, the lowest ambient sound level that is

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

- v) Quantity: No more than one (1) MWET shall be installed for every two and one-half (2.5) acres of land included in the parcel.
- vi) Setback & Separation:
  - (a) Occupied Building Setback: The setback from all occupied buildings on the applicant's parcel shall be a minimum of twenty (20) feet measured from the base of the Tower.
  - (b) Property Line Setbacks: With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the internal property line setbacks shall be equal to the total height of the MWET as measured from the base of the tower. This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall, curl, or bend within a distance or zone shorter than the height of the WET.
  - (c) Public Road Setbacks: Each MWET shall be set back from the nearest public road a distance equal to the total height of the MWET, determined at the nearest boundary of the underlying right-of-way for such public road.
  - (d) Communication and Electrical Lines: Each MWET shall be set back from the nearest above-ground public electric power line or telephone line a distance equal to the total height of the MWET, as measured from the base of the tower, determined from the existing power line or telephone line.
  - (e) Tower Separation: MWET/tower separation shall be based on industry standard and manufacturer recommendation.
- j) In addition to the Siting and Design Requirements listed previously, the LWET shall also be subject to the following:
  - i) Ground Clearance: The lowest extension of any blade or other exposed moving component of an LWET shall be at least fifty (50) feet above the ground (at the highest point of the grade level within one hundred fifty [150] feet of the base of the tower).
  - ii) Noise: Noise emanating from the operation of a LWET or shall not

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

- iii) Quantity: The number of LWETs shall be determined based on setbacks and separation.
- iv) Setback & Separation:
  - (a) Occupied Building Setback: Each LWET shall be set back from the nearest occupied building that is located on the same parcel as the LWET a minimum of two (2) times its total height, or one thousand (1000) feet, as measured from the base of the tower, whichever is greater.
  - (b) Property Line Setbacks: With the exception of the locations of public roads (see below), drain rights-of-way and parcels with occupied buildings (see above), the internal property line setbacks shall be a minimum of one and one-half (1.5) times the total height, as measured from the base of the tower. This setback may be reduced to a distance agreed upon as part of the special use permit if the applicant provides a registered engineer's certification that the WET is designed to collapse, fall curl, or bend within a distance or zone shorter than the height of the WET.
  - (c) Public Road Setbacks: Each LWET shall be set back from the nearest public road a minimum distance no less than four hundred (400) feet or one and one-half (1.5) times its total height, whichever is greater, determined at the nearest boundary of the underlying right-of-way for such public road.
  - (d) Communication and Electrical Lines: Each LWET shall be set back from the nearest above-ground public electric power line or telephone line a distance no less than four hundred (400) feet or one and one-half (1.5) times its total height, whichever is greater, determined from the existing power line or telephone line.
  - (e) Tower Separation: Turbine/tower separation shall be based on industry standards and manufacturer recommendation.
- v) Access Driveway: Each LWET shall require the construction of a private road to offer an adequate means by which the Township may readily access the site in the event of an emergency. All private

roads shall be constructed to the Township's private road standards.

(2) Safety Requirements

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

(3) Signal Interference The STMWET, MWET or LWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.

(4) Site Plan Requirements

- a) Site Plan Drawing: All applications for an STMWET, MWET or LWET special land use permit shall be accompanied by a detailed site plan map that is drawn to scale and dimensioned, displaying the following information:
  - i) Existing property features to include the following: property lines, physical dimensions of the property, land use, zoning district, contours, setback lines, right-of-ways, public and utility easements,

public roads, access roads (including width), sidewalks, non-motorized pathways, large trees, and all buildings. The site plan must also include the adjoining properties as well as the location and use of all structures and utilities within three hundred (300) feet of the property.

- ii) Location and height of all proposed STMWET, MWETs or LWETs, buildings, structures, ancillary equipment, underground utilities and their depth, towers, security fencing, access roads (including width, composition, and maintenance plans), electrical sub-stations, and other above-ground structures and utilities associated with the proposed STMWET, MWET or LWET.
  - iii) Additional details and information as required by the special use requirements of the Zoning Ordinance or as requested by the Planning Commission.
- b) Site Plan Documentation: The following documentation shall be included with the site plan:
- i) The contact information for the Owner(s) and Operator(s) of the STMWET, MWET or LWET as well as contact information for all property owners on which the STMWET, MWET or LWET is located.
  - ii) A copy of the lease, or recorded document, with the landowner(s) if the applicant does not own the land for the proposed STMWET, MWET or LWET. A statement from the landowner(s) of the leased site that he/she will abide by all applicable terms and conditions of the use permit, if approved.
  - iii) Identification and location of the properties on which the proposed STMWET, MWET or LWET will be located.
  - iv) In the case of a Condominium Development, a copy of the Condominium Development's Master Deed and Bylaws addressing the legal arrangement for the STMWET, MWET or LWET.
  - v) The proposed number, representative types and height of each STMWET, MWET or LWET to be constructed; including their manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated capacity, rotor diameter, and a description of ancillary facilities.
  - vi) Documents shall be submitted by the developer/manufacturer confirming specifications for STMWET, MWET or LWET tower separation.
  - vii) Documented compliance with the noise, and shadow flicker requirements set forth in this Ordinance.

- viii) Engineering data concerning construction of the STMWET, MWET or LWET and its base or foundation, which may include, but not be limited to, soil boring data.
- ix) A certified registered engineer shall certify that the MWET or LWET meets or exceeds the manufacturer's construction and installation standards.
- x) Anticipated construction schedule.
- xi) A copy of the maintenance and operation plan, including anticipated regular and unscheduled maintenance. Additionally, a description of the procedures that will be used for lowering or removing the STMWET, MWET or LWET to conduct maintenance, if applicable.
- xii) Documented compliance with applicable local, state and national regulations including, but not limited to, all applicable safety, construction, environmental, electrical, and communications. The STMWET, MWET or LWET shall comply with Federal Aviation Administration (FAA) requirements, Michigan Airport Zoning Act, Michigan Tall Structures Act, and any applicable airport overlay zone regulations.
- xiii) Proof of applicant's liability insurance.
- xiv) Evidence that the utility company has been informed of the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- xv) Other relevant information as may be requested by Township to ensure compliance with the requirements of this section.
- xvi) Following the completion of construction, the applicant shall certify that all construction is completed pursuant to the special use permit.
- xvii) A written description of the anticipated life of each STMWET, MWET or LWET; the estimated cost of decommissioning; the method of ensuring that funds will be available for decommissioning and site restoration; and removal and restoration procedures and schedules that will be employed if the STMWET, MWET(s) or LWET(s) become inoperative or non-functional.
- xviii) The applicant shall submit a decommissioning plan that will be carried out at the end of the STMWET, MWET's or LWET's useful life, and shall describe any agreement with the landowner(s) regarding equipment removal upon termination of the lease.
- xix) The Township reserves the right to review all maintenance plans

and bonds under this Ordinance to ensure that all conditions of the permit are being followed.

- xx) Signature of the Applicant.
- xxi) In addition to the Site Plan Requirements listed previously, the LWET shall be subject to the following:
  - (a) A site grading, erosion control and storm water drainage plan will be submitted to the zoning administrator prior to issuing a special use permit for an LWET. At the Township's discretion, these plans may be reviewed by Township's engineering firm. The cost of this review will be the responsibility of the applicant.
  - (b) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the LWET.
  - (c) A statement indicating what hazardous materials will be used and stored on the site.
  - (d) A study assessing any potential impacts on the natural environment (including, but not limited to, assessing the potential impact on endangered species, eagles, birds and/or other wildlife, wetlands and fragile ecosystems. The study shall conform to state and federal wildlife agency recommendations based on local conditions.

(6) Certification & Compliance

- a) The Township must be notified of a change in ownership of a STMWET, MWET or LWET or a change in ownership of the property on which the STMWET, MWET or LWET is located.
- b) The Township reserves the right to inspect any STMWET, MWET, and all LWETs, in order to ensure compliance with the section. Any cost associated with the inspections shall be paid by the owner/operator of the WET.
- c) In addition to the Certification & Compliance requirements listed previously, the LWET shall also be subject to the following:
  - i) A sound pressure level analysis shall be conducted from a reasonable number of sampled locations at the perimeter and in the interior of the property containing any LWETs to demonstrate compliance with the requirements of this section. Proof of compliance with the noise standards is required within ninety (90) days of the date the

LWET becomes operational. Sound shall be measured by a third-party, qualified professional.

- ii) The LWET Owner(s) or Operator(s) shall provide the Township Zoning Administrator with a copy of the yearly maintenance inspection.

(7) Public Inquiries & Complaints Should an aggrieved property owner allege that the STMWET, MWET or LWET is not in compliance with the noise and shadow flicker requirements of this section, the procedure shall be as follows:

a) Noise Complaint

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

b) Shadow Flicker Complaint

- i) Notify the Zoning Administrator in writing regarding concerns about the amount of shadow flicker
- ii) If the complaint is deemed sufficient by the Zoning Administrator to warrant an investigation, Zoning Administrator will request the Owner(s) to provide a shadow flicker analysis of the turbine as constructed to determine compliance of the requirements of this Ordinance.
- iii) If the STMWET, MWET or LWET Owner(s) is in violation of the shadow flicker requirements, the Owner(s) take immediate action to bring the STMWET, MWET or LWET into compliance which may include ceasing operation of the WET until the Ordinance violations are corrected.



SECTION 4.39 ROADSIDE STANDS. All roadside stands shall be considered accessory uses and are subject to the following restrictions and regulations: *(Amended November 8, 2012)*

- (a) Roadside stands shall be permitted in the AG-1, R-1, LSR districts. In the Commercial district, roadside stands are permitted as a temporary use, subject to the provisions of Section 4.08 of this Ordinance.
- (b) The area occupied by the display of farm products at a roadside stand shall not exceed two-hundred twenty-five (225) square feet.
- (c) The roadside stand shall be situated in such a manner that ingress/egress to and from the roadside stand is safe and an area outside the right of way is available for vehicular parking.
- (d) Roadside stands shall be set back at least fifteen (15) feet from the road surface and shall not be located within the public right of way.
- (e) Except for temporary uses permitted in Section 4.39(a), farm products offered for sale at a roadside stand shall be harvested from the parcel on which the roadside stand is located.
- (f) Any buildings or structures placed on a site for a roadside stand shall be removed during those seasons where the roadside stand is not in use



**ARTICLE V**  
**R-1 - SINGLE FAMILY RESIDENTIAL DISTRICT**

SECTION 5.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for highly protected single family residential use.

SECTION 5.02 USE REGULATIONS. Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- (a) Single family dwellings, their accessory buildings and structures, and including home occupations.
- (b) Churches and educational facilities, when authorized by the Planning Commission as a special use.
- (c) Publicly-owned parks and cemeteries.
- (d) Real estate sign, identifying sign, and name plate.
- (e) Distribution systems and related accessory structures for public utilities, when authorized by the Planning Commission as a special use. (*Amended December 11, 1997*)
- (f) Governmental buildings and uses, when authorized by the Planning Commission as a special use.
- (g) Bed and Breakfast establishments, when authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards: (*as amended May 22, 1991*)
  - (1) Location outside of a platted subdivision. The lot size for a proposed Bed and Breakfast establishment shall be a minimum of twenty thousand (20,000) square feet and a minimum width of one hundred (100) feet.
  - (2) The Bed and Breakfast operation shall be clearly incidental to the principal residence on the site. Accordingly, the Bed and Breakfast operation shall be confined to the single-family dwelling on-site. Not more than twenty-five (25) percent of the total area of the dwelling unit shall be used for bed and breakfast sleeping rooms. Food may be served only to those persons who rent a room in the bed and breakfast facility.
  - (3) The dwelling unit shall be the principal residence of the owner/operator, and the owner/operator shall live in the dwelling unit when the Bed and Breakfast facility is in operation.
  - (4) A building used for bed and breakfast operations shall have at least two (2) exits outdoors. Rooms used for sleeping shall have a minimum size of one hundred

(100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants. Each sleeping room shall be equipped with a smoke detector.

- (5) Two (2) off-street parking spaces for the owner/operator and a minimum of one (1) off-street parking space per room to be rented shall be provided (*as amended May 22, 1991*).
- (h) Group day care homes when authorized as a special use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
- (1) The character of the residential structure is not altered and maintains a residential appearance.
  - (2) The home is located not closer than fifteen hundred (1,500) feet to any of the following facilities, as measured from one structure to another structure:
    - (a) Another licensed group day care home.
    - (b) An adult foster care small group home or large group home licensed by the State of Michigan.
    - (c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
    - (d) A community correction center, residence home, half-way house, or other similar facility that houses an inmate population under jurisdiction of the Michigan Department of Corrections.
  - (3) When authorizing such use the Planning Commission shall have the ability to impose such additional conditions it deems necessary to ensure the safety of children and to protect the interests of adjoining properties. Such conditions may relate to and include, but are not limited to, the installation of perimeter fencing, the provision of additional off-street parking spaces and the provision of outdoor play areas or open space (*as amended July 8, 1996*).
- (i) In house sales of fire arms when authorized as a Special Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards: (*Amended December 11, 1997*)
- (1) The character of the residential structure is not altered and maintains a residential appearance.
  - (2) The provisions of Section 4.17 shall apply to the proposed use.
- (j) Roadside stands, subject to the requirements of Section 4.39. (*Amended November 8, 2012*)

SECTION 5.03 AREA AND YARD REGULATIONS. No building or structure nor any

enlargement thereof shall be hereafter erected except in conformance with the following yard and area requirements:

- (a) Front Yard: There shall be a front yard of not less than fifty (50) feet. (See Section 4.26 ROAD AND HIGHWAY SETBACKS.) *(Amended December 11, 1997)*
- (b) Side Yard: There shall be side yards of not less than ten (10) feet.
- (c) Rear Yard: There shall be a rear yard of not less than forty (40) feet.
- (d) Location of Accessory Structures: No accessory structure shall be erected in any front yard. Accessory buildings or structures for single family dwellings shall be at least ten (10) feet from any side or rear property line. No accessory structure shall be located any closer than ten (10) feet from the principal building.
- (e) Area: The minimum lot area and width for single family dwellings in this district shall be not less than twenty thousand (20,000) square feet and one hundred (100) feet respectively. The minimum lot area and width for non-residential uses in this district shall be not less than five (5) acres and one hundred (100) feet respectively. All lots shall have the required lot width on either a dedicated public or approved private road. (See Section 4.33 LOT WIDTH) *(Amended December 11, 1997)*

SECTION 5.04 HEIGHT REGULATION No residential building or structure shall exceed thirty-five (35) feet or two and one half (2 1/2) stories in height whichever is less. Accessory buildings or structures for single family dwellings shall meet the requirements of Section 4.10 *(Amended December 11, 1997)*

SECTION 5.05 MINIMUM FLOOR AREA. Each one or two bedroom dwelling unit shall have a minimum of eight hundred sixty four (864) square feet of area on the first floor. Each three or more bedroom, or two story dwelling unit shall have a minimum of one thousand (1,000) square feet of area but in no instance less than seven hundred twenty (720) square feet on the first floor. *(Amended December 11, 1997)*

SECTION 5.06 SIGN REGULATIONS. No signboard or billboard shall be erected or used in this district, nor shall any exterior sign be used, except those which meet the requirements of Article XV, Sign Regulations.

SECTION 5.07 PARKING REGULATIONS. Parking shall be provided in accordance with Article XVI, Parking and Loading Spaces.



**ARTICLE VA**  
**LSR - LAKESHORE RESIDENTIAL DISTRICT**  
*(as adopted February 12, 2002)*

SECTION 5.01A DESCRIPTION AND PURPOSE. This Zoning District is intended to preserve the existing single family residential character of the area, including the sensitive environments areas associated with the Lake Michigan shoreline.

SECTION 5.02A USE REGULATIONS. Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- (a) Single family dwellings, their accessory buildings and structures, and including home occupations.
- (b) Churches and educational facilities, when authorized by the Planning Commission as a special use.
- (c) Publicly-owned parks and cemeteries.
- (d) Real estate sign, identifying sign, and name plate.
- (e) Distribution systems and related accessory structures for public utilities, when authorized by the Planning Commission as a special use.
- (f) Governmental buildings and uses, when authorized by the Planning Commission as a special use.
- (g) Bed and Breakfast establishments, when authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
  - (1) Location outside of a platted subdivision. The lot size for a proposed Bed and Breakfast establishment shall be a minimum of forty thousand (40,000) square feet and a minimum width of one hundred (100) feet.
  - (2) The Bed and Breakfast operation shall be clearly incidental to the principal residence on the site. Accordingly, the Bed and Breakfast operation shall be confined to the single-family dwelling on-site. Not more than twenty-five (25) percent of the total area of the dwelling unit shall be used for bed and breakfast sleeping rooms. Food may be served only to those persons who rent a room in the bed and breakfast facility.
  - (3) The dwelling unit shall be the principal residence of the owner/operator, and the owner/operator shall live in the dwelling unit when the Bed and Breakfast facility is in operation.

- (4) A building used for bed and breakfast operations shall have at least two (2) exits outdoors. Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus an additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants. Each sleeping room shall be equipped with a smoke detector.
  - (5) Two (2) off-street parking spaces for the owner/operator and a minimum of one (1) off-street parking space per room to be rented shall be provided and paved.
- (h) Group day care homes when authorized as a special use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
- (1) The character of the residential structure is not altered and maintains a residential appearance.
  - (2) The home is located not closer than fifteen hundred (1,500) feet to any of the following facilities, as measured from one structure to another structure:
    - (a) Another licensed group day care home.
    - (b) An adult foster care small group home or large group home licensed by the State of Michigan.
    - (c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
    - (d) A community correction center, residence home, half-way house, or other similar facility that houses an inmate population under jurisdiction of the Michigan Department of Corrections.
  - (3) When authorizing such use the Planning Commission shall have the ability to impose such additional conditions it deems necessary to ensure the safety of children and to protect the interests of adjoining properties. Such conditions may relate to and include, but are not limited to, the installation of perimeter fencing, the provision of additional off-street parking spaces and the provision of outdoor play areas or open space.
- (i) In house sales of fire arms when authorized as a Special Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
- (1) The character of the residential structure is not altered and maintains a residential appearance.
  - (2) The provisions of Section 4.17 shall apply to the proposed use.
- (j) Roadside stands, subject to the requirements of Section 4.39. *(Amended November 8, 2012)*



SECTION 5.03A AREA AND YARD REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard and area requirements:

- (a) Front Yard: There shall be a front yard of not less than fifty (50) feet. (See Section 4.26 ROAD AND HIGHWAY SETBACKS.)
- (b) Side Yard: There shall be side yards of not less than ten (10) feet.
- (c) Rear Yard: There shall be a rear yard of not less than forty (40) feet.
- (d) Location of Accessory Structures: Accessory structures shall comply with the standards of Section 4.10. (*Amended July 11, 2013*)
- (e) Area: The minimum lot area and width for single family dwellings in this district shall be not less than forty thousand (40,000) square feet and one hundred (100) feet respectively. The minimum lot area and width for non-residential uses in this district shall be not less than five (5) acres and one hundred (100) feet respectively. All lots shall have the required lot width on either a dedicated public or approved private road. (See Section 4.33 LOT WIDTH)

SECTION 5.04A HEIGHT REGULATION No residential building or structure shall exceed thirty-five (35) feet or two and one half (2 1/2) stories in height whichever is less. Accessory buildings or structures for single family dwellings shall meet the requirements of Section 4.10

SECTION 5.05A MINIMUM FLOOR AREA. Each one or two bedroom dwelling unit shall have a minimum of eight hundred sixty four (864) square feet of area on the first floor. Each three or more bedroom, or two story dwelling unit shall have a minimum of one thousand (1,000) square feet of area but in no instance less than seven hundred twenty (720) square feet on the first floor.

SECTION 5.06A SIGN REGULATIONS. No signboard or billboard shall be erected or used in this district, nor shall any exterior sign be used, except those which meet the requirements of Article XV, Sign Regulations.

SECTION 5.07A PARKING REGULATIONS. Parking shall be provided in accordance with Article XVI, Parking and Loading Spaces.



**ARTICLE VI  
COMMERCIAL DISTRICT**

SECTION 6.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for shopping and retail activities, office and financial uses, and civic and cultural buildings.

SECTION 6.02 USE REGULATIONS. Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- (a) Retail sales.
- (b) Personal service establishments.
- (c) Professional and business offices.
- (d) Medical and dental offices.
- (e) Publicly-owned parks.
- (f) Churches and educational facilities.
- (g) Restaurants, except those having drive-in service or serving liquor.
- (h) Theatres and indoor recreation facilities.
- (i) Governmental facilities and offices.
- (j) Automobile repair and gasoline service stations.
- (k) Restaurants serving liquor or having drive-in service, when authorized by the Planning Commission on a Special Use.
- (l) Open-air markets for the sale of fruits and vegetables at retail, when authorized by the Planning Commission as a Special Use.
- (m) Automobile, trailer, boat or farm equipment sales, when authorized by the Planning Commission as a Special Use.
- (n) Establishments which fabricate merchandise for sale primarily as a retail enterprise for sale of such merchandise on the premises, provided that the size of such establishment shall not exceed ten thousand (10,000) square feet, and when authorized by the Planning Commission as a Special Use.

- (o) Rental and mini-storage facilities when authorized by the Planning Commission as a Special Use. *(Amended December 11, 1997)*
- (p) Sexually oriented business shall be allowed as a special use subject to the requirements of Article XVIII SPECIAL USES. *(Amended April 9, 1998)*
- (q) Temporary Uses, subject to the requirements of Section 4.08 *(Amended November 8, 2012)*

SECTION 6.03 AREA AND YARD REGULATIONS. No building nor structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard requirements:

- (a) Front Yard: There shall be a front yard of not less than fifty (50) feet. (See Section 4.26 ROAD AND HIGHWAY SETBACKS) *(Amended December 11, 1997)*
- (b) Side Yard: There shall be side yards of not less than ten (10) feet.
- (c) Rear Yard: There shall be a rear yard of not less than fifteen (15) feet.
- (d) Area: The minimum lot area and width for commercial uses in this District shall be twenty thousand (20,000) square feet and one hundred (100) feet, respectively, throughout the first two hundred (200) feet of depth. All lots shall have the required lot width on either a dedicated public or approved private road. (See Section 4.33 LOT WIDTH) *(Amended December 11, 1997)*

SECTION 6.04 HEIGHT REGULATION. No building or structure shall exceed thirty-five (35) feet in height, except for churches, schools or theatres which shall not exceed sixty-five (65) feet in height.

SECTION 6.05 SIGN REGULATIONS. No signboard or billboard shall be erected or used in this District, nor shall any exterior sign be used, except those which meet the requirements of Article XV, Sign Regulations.

SECTION 6.06 PARKING REGULATIONS. Parking shall be provided in accordance with Article XVI, Parking and Loading Spaces.

SECTION 6.07 SITE PLAN. A site plan is required as per Article XXI for all buildings in this district. *(Amended December 11, 1997)*

## ARTICLE VII INDUSTRIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for electric power generating facilities and certain light industrial facilities.

SECTION 7.02 USE REGULATIONS. Land, buildings, and structures in this Zoning District may be used for the following purposes only:

- (a) Electric power generating plants, buildings, structures, and their related uses.
- (b) Warehousing.
- (c) Construction and contractors equipment yards, when enclosed by a solid fence six (6) feet high or a greenbelt buffer.
- (d) The manufacturing, compounding, processing, assembly, packing, or treatment of previously prepared materials, including metals, plastics, cloth, fibers, wood, rubber, and similar materials.

SECTION 7.03 PERFORMANCE STANDARDS. Before issuance of any building or occupancy permit in this zone, the applicant shall sign an agreement with the Township Board that the use of the property will meet the following Performance Standards and that any violation of these standards in subsequent operations will be corrected;

- (a) Fire and Explosion Hazards: All buildings, storage and handling of flammable materials, and other activities shall conform to County and Township building and fire ordinance and to any applicable State and Federal regulations or requirements. No use of building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street.
- (b) Smoke, Fumes, Gases, Dust, and Odors: There shall be no emission of any smoke, radiation, fumes, gases, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to cause property damage or hazards to public health, or to be detrimental to the property rights of other property or to be obnoxious to the general public.
- (c) Liquid or Solid Waste: No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the Township and by the County and Michigan State Health Department.

- (d) Vibration: There shall be no vibration which is discernible to the human sense of feeling beyond the boundaries of the immediate site on which such use is conducted.
- (e) Noise: There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.
- (f) Glare: There shall be no direct or sky-reflected glare harmful to the human eye at the property line of the lot occupied by such use.

SECTION 7.04 AREA AND YARD REGULATIONS. No building nor structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard requirements:

- (a) Front Yard: There shall be a front yard of not less than seventy-five (75) feet.
- (b) Side Yard: There shall be side yards of not less than fifteen (15) feet.
- (c) Rear Yard: There shall be a rear yard of not less than fifteen (15) feet.
- (d) Area: The minimum lot area and width for uses in this District shall be not less than forty thousand (40,000) square feet and one hundred (100) feet, respectively, throughout the first two hundred (200) feet of depth.

SECTION 7.05 HEIGHT REGULATION. No building or structure shall exceed fifty-five (55) feet in height, except electric power generation plant buildings, structures, and their related uses.

SECTION 7.06 SIGN REGULATIONS. No signboard or billboard shall be erected or used in this District, nor shall any exterior sign be used, except those which meet the requirements of Article XV, Sign Regulations.

SECTION 7.07 PARKING REGULATIONS. Parking shall be provided in accordance with Article XVI, Parking and Loading Spaces.

SECTION 7.08 SPECIAL REQUIREMENTS. There shall be a greenbelt, fence or wall along any side or rear property line which abuts any other zoning district. Greenbelts shall be maintained in a healthy growing condition. Fences or walls shall be solid and uniformly painted, not less than four (4) feet in height nor more than six (6) feet in height, and maintained in good condition.

**ARTICLE VIII**  
**AG-1 - AGRICULTURAL DISTRICT**

SECTION 8.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for land used for farming or agricultural activities.

SECTION 8.02 USE REGULATIONS. Land, buildings and structures in this Zoning District may be used for the following purposes only:

- (a) Farms for both general and specialized farming, together with farm dwellings and buildings and other installations necessary to such farms (*Amended December 11, 1997*)
- (b) Single family non-farm dwellings.
- (c) Farm cooperatives for the storage or processing of feeds or agricultural products, provided the following standards are met:
  - (1) The produce or materials stored or distributed by the cooperative must be either locally produced or must be for local agricultural use.
  - (2) At least fifty (50) percent of the cooperative membership must live within the township.
- (d) Real estate sign, identifying sign, and name plate. (*Amended December 11, 1997*)
- (e) Home occupations as an accessory use. (*Amended December 11, 1997*)
- (f) Churches and educational facilities when approved by the Planning Commission as a Special Use (*as amended September 12, 1991*).
- (g) Riding stables where horses are boarded or rented when approved by the Planning Commission as a Special Use (*as amended September 12, 1991*).
- (h) Publicly owned parks and cemeteries; and privately owned cemeteries when authorized by the Planning Commission as a special use (*as amended December 14, 1995*).
- (i) Distribution systems and related accessory structures for public utilities when approved by the Planning Commission as a Special Use (*as amended September 12, 1991*).
- (j) Kennels when approved by the Planning Commission as a Special Use (*as amended September 12, 1991*).

- (k) Natural resource extraction, when authorized by the Planning Commission as a special use. In considering the authorization of natural resource extraction, the Planning Commission shall consider the following additional standards:
  - (1) The size of the proposed use with respect to the area's character.
  - (2) The environmental impact of the proposed use.
  - (3) The final use to which the property will be put after the natural resources are extracted.
  
- (l) Governmental buildings and uses, when authorized by the Planning Commission as a special use.
  
- (m) Bed and Breakfast establishment, when authorized as a special use. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and Section 5.02(g)(1-5) and the following:
  - (1) The lot size for a proposed Bed and Breakfast establishment shall be a minimum of two (2) acres and a minimum width of two hundred (200) feet (*as amended September 12, 1991.*)
  
- (n) Group day care homes when authorized as a special use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
  - (1) The character of the residential structure is not altered and maintains a residential appearance.
  - (2) The home is located not closer than fifteen hundred (1,500) feet to any of the following facilities, as measured along a street, road or other public thoroughfare, excluding an alley:
    - (a) Another licensed group day care home.
    - (b) An adult foster care small group home or large group home licensed by the State of Michigan.
    - (c) A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people, licensed by the State of Michigan.
    - (d) A community correction center, residence home, half-way house, or other similar facility that houses an inmate population under jurisdiction of the Michigan Department of Corrections.
  - (3) When authorizing such use the Planning Commission shall have the ability to impose such additional conditions it deems necessary to ensure the safety of



children and to protect the interests of adjoining properties. Such conditions may relate to and include, but are not limited to, the installation of perimeter fencing, the provision of additional off-street parking spaces and the provision of outdoor play areas or open space (*as amended July 8, 1996*).

- (o) Migratory worker dwellings. A migratory worker dwelling shall be considered an accessory use to a farm and shall meet the following standards: (*as amended July 19, 2012*)
  - (1) A site plan pursuant to Article XXI shall be required prior to the construction, placement or use of migratory worker dwellings.
  - (2) Migratory worker dwellings shall be located on a parcel of land use that is primarily used for agricultural purposes and shall be considered an accessory use.
  - (3) The parcel that contains migratory worker dwellings shall have an area of at least 10 acres.
  - (4) Migratory worker dwellings shall meet all setback standards of the AG-1 Agricultural District.
  - (5) Migratory worker dwellings shall meet all rules, regulations and standards of the State of Michigan Department of Agriculture and Rural Development which governs the licensing and operation of migratory worker dwellings, as well as all applicable requirements of the Ottawa County Health Department and any other local, state or federal requirements.
  - (6) Migratory worker dwellings shall only be occupied between the dates of April 1 and November 15 of a calendar year.
  - (7) The size, location, access and character of the proposed migratory worker dwellings shall be generally compatible with existing residential areas and not detract from existing scenic areas.
  - (8) The owner or operator of the farm served by the migratory worker dwellings shall ensure that occupants of the migratory worker dwelling maintain reasonable quiet hours at night.
  - (9) Migratory worker dwellings shall only be used for the housing of persons primarily employed by the owner of the farm and the employee's immediate family.
  - (10) Vehicular parking areas shall be clearly delineated and arranged in an orderly manner. Parking areas shall be established as part of the site plan review.
  
- (p) In house sales of fire arms when authorized as a Special Use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the provisions of Article XVIII and the following standards:
  - (1) The character of the residential structure is not altered and maintains a residential appearance.

(2) The provisions of Section 4.17 shall apply to the proposed use.

(q) Roadside stands, subject to the requirements of Section 4.39. *(Amended November 8, 2012)*

SECTION 8.03 AREA AND YARD REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard and lot area requirements:

(a) Front Yard: There shall be a front yard of not less than fifty (50) feet. (See Section 4.26 ROAD AND HIGHWAY SETBACKS) *(Amended December 11, 1997)*

(b) Side Yard: There shall be side yards of not less than thirty (30) feet.

(c) Rear Yard: There shall be a rear yard of not less than forty (40) feet.

(d) Area: The minimum lot area and width for farm uses in this district shall be not less than five (5) acres and three hundred thirty (330) feet, respectively. The minimum lot area and width for other single family dwellings per section 8.02, temporary mobile homes per Section 4.21(c), public parks and cemeteries per Section 8.02(d), farm cooperatives per Section 8.02(e), and churches and educational facilities per Section 8.02(f), shall be not less than two (2) acres and two hundred (200) feet, respectively, throughout two hundred (200) feet of depth. All lots shall have the required lot width on either a dedicated public or approved private road. (See Section 4.33 LOT WIDTH) *(Amended December 11, 1997)*

(e) *(Deleted December 11, 1997)*

SECTION 8.04 HEIGHT REGULATIONS. No residential building or structure shall exceed thirty-five (35) feet or two and one half (2 1/2) stories in height whichever is less. Accessory buildings or structures for single family dwellings shall meet the requirements of Section 4.10 *(Amended December 11, 1997)*

SECTION 8.05 MINIMUM FLOOR AREA. Each one or two bedroom dwelling unit shall have a minimum of eight hundred sixty four (864) square feet of area on the first floor. Each three or more bedroom, or two story dwelling unit shall have a minimum of one thousand (1,000) square feet of area but in no instance less than seven hundred twenty (720) square feet on the first floor. *(Amended December 11, 1997)*

SECTION 8.06 SIGN REGULATIONS. No signboard or billboard shall be erected or used in this district, nor shall any exterior sign be used, except those which meet the requirements of Article XV, Sign Regulations.

SECTION 8.07 PARKING REGULATIONS. Parking shall be provided in accordance with Article XVI, Parking and Loading Spaces.

**ARTICLE IX  
OPEN SPACE DISTRICT**

SECTION 9.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for publicly owned land for the preservation of recreation areas and open space.

SECTION 9.02 USE REGULATIONS. Land, buildings and structures in this Zoning District may be used for the following purposes only:

- (a) Farms for both general and specialized farming, but excluding farm dwellings and migratory worker housing.
- (b) Publicly owned parks and recreation areas.
- (c) Real estate sign, identifying sign, and nameplate.
- (d) Governmental buildings and uses, when authorized by the Planning Commission as a special use.

SECTION 9.03. AREA AND YARD REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected unless in conformance with the following yard and lot area requirements: *(as amended June 12, 1986)*

- (a) Front Yard: There shall be a front yard of not less than fifty (50) feet.
- (b) Side Yard: There shall be side yards of not less than thirty (30) feet.
- (c) Rear Yard: There shall be a rear yard of not less than forty (40) feet.
- (d) Area: The minimum lot area and width for all uses in this District shall be not less than ten (10) acres and three hundred thirty (330) feet, respectively.

SECTION 9.04 HEIGHT REGULATIONS. No building or structure shall exceed thirty-five (35) feet in height.

SECTION 9.05 SIGN REGULATIONS. Signs erected in this Zone District shall meet the requirements of Section 8.06 and Article XV, Sign Regulations.

SECTION 9.06 PARKING REGULATIONS. Parking shall be provided in accordance with Article XIV - Parking and Loading Spaces.



**ARTICLE X**  
**CD - CRITICAL DUNE DISTRICT**  
*(as amended March 14, 1991)*

(DELETED June, 2001)



**ARTICLE XI  
HIGH RISK EROSION AREA OVERLAY ZONE**

(DELETED JUNE, 2001)





**ARTICLE XII**  
**PLANNING COMMISSION**  
(as amended March 11, 2010)

SECTION 12.01. TOWNSHIP PLANNING COMMISSION. The Port Sheldon Township Planning Commission was created by Resolution Number One (1980-1981) as specified in Section 3, Act 168, Public Acts of Michigan, 1959, as amended, and pursuant to Section 11 of 1959 Public Act 168, by such Resolution all powers, duties, and responsibilities of zoning boards provided in the Township Rule Zoning Act, 1943 Public Act 184, were transferred to the Planning Commission. The Township Board confirms the establishment of the Planning Commission under the Michigan Planning Enabling Act, 2008 Public Act 33, MCL 125.3801, *et seq.* The Township also confirms and establishes that the Planning Commission shall perform the duties and have the authority of a planning commission/zoning board as provided in 2008 Public Act 33 and the Michigan Zoning Enabling Act, 2006 Public Act 110, MCL 125.3101, *et seq.*, together with such other powers and duties provided for in this Article, including the authority to act on all matters requiring approval or recommendation of the Planning Commission.

SECTION 12.02. MEMBERSHIP: APPOINTMENT AND TERM.

- (a) The Planning Commission shall consist of seven (7) members.
- (b) The Supervisor, with the approval of a majority of the members of the Township Board elected and serving, shall appoint all members of the Planning Commission, including the ex officio members.
- (c) All members of the Planning Commission shall be qualified electors of the Township. EXCEPTION: One member may be a person who is not a qualified elector if the Township Board finds that such person has unique skills or talents that would well serve the Planning Commission or because of the Planning Commission's particular needs at that time.
- (d) One member of the Township Board shall be appointed to the Planning commission as an ex officio member. An ex officio member has full voting rights. No other elected officer or employee of the Township is eligible to be a member of the Planning Commission.
- (e) The membership of the Planning Commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the Township, in accordance with the major interests as they exist in the Township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the Township to the extent practicable.

- (f) The Planning Commission members, other than an ex officio member, shall serve for terms of three years each, and shall hold office until the member's successor is appointed. An ex officio member's term on the Planning Commission shall expire with that member's term on the Township Board.
- (g) Vacancies shall be filled for the unexpired term in the same manner as the original appointment.

SECTION 12.03. REMOVAL. The Township Board may remove a member of the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

SECTION 12.04 BYLAWS, RECORD OF PROCEEDINGS, AND ANNUAL REPORT.

- (a) The Planning Commission shall adopt bylaws for the transaction of business.
- (b) The Planning Commission shall keep a public record of its resolutions, transactions, findings and determinations. The writings prepared, owned, used, or possessed by the Planning Commission shall be made available to the public in compliance with the Freedom of Information Act, MCL 15.231, *et seq.*
- (c) The Planning Commission shall make an annual written report to the Township Board concerning its operations and the status of planning activities, including recommendations regarding actions by the Township Board related to planning and development.

SECTION 12.05. COMPENSATION. The Planning Commission members may be compensated for their services as provided by Township Board resolution. The Planning Commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the Township Board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

SECTION 12.06. BUDGET. After preparing the annual report, the Planning Commission may prepare a detailed budget and submit it to the Township Board for approval or disapproval. The Township Board annually may appropriate funds for carrying out the purposes and functions permitted under the Michigan Planning Enabling Act, MCL 125.3801, *et seq.*, and this Article and may match Township funds with federal, state, county or other local government or private grants, contributions, or endowments.

SECTION 12.07. OFFICERS AND COMMITTEES.

- (a) The Planning Commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the Planning Commission is not eligible to serve as chairperson. The term of each office shall

be one year, with opportunity for re-election as specified in the Planning Commission bylaws.

- (b) The Planning Commission may also appoint advisory committees whose members are not members of the Planning Commission.

#### SECTION 12.08. MEETINGS.

- (a) The Planning Commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.
- (b) Unless otherwise provided in the Planning Commission's bylaws, a special meeting of the Planning Commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.
- (c) The business that the Planning Commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, MCL 15.261, *et seq.*

SECTION 12.09. CONFLICT OF INTEREST. Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this division constitutes malfeasance in the office. For the purposes of this section, the Planning Commission shall define conflict of interest in its bylaws.

#### SECTION 12.10. RESPONSIBILITY FOR PREPARATION AND ADOPTION OF MASTER PLAN; PLAN CONTENT.

- (a) Under the authority of the Michigan Planning Enabling Act, MCL 125.3801, *et seq.*, the Planning Commission shall make and adopt a land use plan ("Master Plan") as a guide for the development of unincorporated portions of the Township and may amend the plan as provided in such Act. The Master Plan shall address land use and infrastructure issues and shall include maps, plats, charts and descriptive, explanatory and other related matter and shall show the Planning Commission's recommendations for the physical development of the unincorporated area of the Township.
- (b) The Master Plan shall include those of the following subjects which reasonably can be considered as pertinent to the future development of the Township:
  - (1) A Master Plan and program, in part consisting of a classification and allocation of land for agriculture, residences, commerce, industry, recreation, ways and grounds,

public buildings, schools, soil conservation, forest, wildlife refuges, open space, and other uses and purposes.

- (2) The general location, character and extent of streets, roads, highways, railroads, bicycle paths, pedestrian walkways, bridges, waterways and waterfront developments; flood prevention works, drainage, sanitary sewers and water supply systems; works for preventing pollution and works for maintaining water levels; and public utilities and structures.
  - (3) Recommendations for implementing any of its proposals.
- (c) The Planning Commission shall have the final authority to approve a master plan, or any amendment to the master plan, unless the Township Board passes a resolution asserting the right to approve or reject the master plan.
  - (d) The Planning Commission shall promote public understanding of an interest in the Master Plan and shall publish and distribute copies of the plan and of any report, and may employ such other means of publicity and education as it determines necessary.

#### SECTION 12.11. APPROVAL OF PUBLIC IMPROVEMENTS.

- (a) After the Planning Commission has adopted the Master Plan of the Township, no street, square, park or other public way, ground or open space, or public building or structure, shall be constructed or authorized in the Township or in the planning section and district until the location, character and extent thereof shall have been submitted to and approved by the Planning Commission.
- (b) The Planning Commission shall communicate its reasons for approval or disapproval to the Township Board, which shall have the power to overrule the Planning Commission by a recorded vote of not less than a majority of its entire membership.
- (c) If the public way, ground, space, building structure, or utility is one which the authorization or financing of the project rests with another governmental body, then the submission to the Planning Commission shall be by the board, commission or body having jurisdiction, and the Planning Commission's disapproval may be overruled by resolution of the board, commission or body by a vote of not less than a majority of its membership.
- (d) The failure of the Planning Commission to act within thirty-five (35) days after the official submission to the Planning Commission shall be deemed approval.

SECTION 12.12. PLANNING CONSULTANT. The Township Board, upon the recommendation of the Planning Commission, may employ a planning director, or other planning personnel, and/or may contract for the part-time or full-time services of planning and engineering consultants. The Township Board may pay or authorize the payment of such expenses from the funds budgeted and provided for planning purposes.

SECTION 12.13. APPROVAL OF PLATS. The Township Board shall refer plats or other matters relating to land development to the Planning Commission before final action thereon by the Township Board and may request the Planning Commission to recommend regulations governing the subdivision of land. The recommendations may provide for the procedures of submittal, including recommendations for submitting a preliminary subdivision design, the standards of design, and the physical improvements that may be required.

SECTION 12.14. SPECIAL USE PERMITS. The Planning Commission shall have the authority to issue special use permits for the uses for which this Ordinance requires the obtaining of such permits.

SECTION 12.15. OTHER AUTHORITY, DUTIES, AND RESPONSIBILITIES. The Planning Commission shall have additional authority, duties, and responsibilities as provided elsewhere in this and other ordinances of the Township. The Planning Commission shall undertake other studies and make recommendations on other subjects as the Township Board may from time to time request.



**ARTICLE XIII  
ZONING BOARD OF APPEALS**

**SECTION 13.01 BOARD OF APPEALS.**

- (a) There shall be a Township Board of Appeals composed of five (5) members and up to two (2) alternate members. One member of the Board of Appeals shall be a member of the Township Planning Commission. One member may be a member of the Township Board who may not serve as the Chairperson of the Board of Appeals. The remaining members of the Board of Appeals shall be selected from the electors of the Township residing outside of incorporated villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township Board may not serve as a member of the Township Board of Appeals. An alternate member may be called upon to serve and shall have the authority as provided in the Zoning Act. *(As amended Nov. 9, 2006, eff. November 30, 2006)*
- (b) The total amount allowed the Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Township Board.
- (c) A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office. *(As amended Nov. 9, 2006, eff. November 30, 2006)*
- (d) The term of each member shall be for three (3) years, except that of the members first appointed; two (2) shall serve for two (2) years, and the remaining members for three (3) years. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- (e) A Township Board of Appeals shall not conduct business unless a majority of the members of the Board are present.

**SECTION 13.02 MEETINGS, OATHS, RECORDS.** Meetings of the Township Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings, which shall be filed in the office of the Township Clerk and shall be a public record.

**SECTION 13.03 PROCEDURE.**

- (a) Time to Appeal and Notice of Appeal; Transmission of Record; Submission Deadline: An appeal shall be taken within such time as shall be prescribed by the Township Board of Appeals by general rule, by the filing with the office whom the appeal is taken, and with the Board of Appeals of a Notice of Appeals specifying the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The submission shall be made as set by the resolution adopted by the Township Board for establishing submission deadlines. *(Amended November 11, 2004)*
  
- (b) Public Hearing: When an application for hearing or appeal has been filed in proper form supplied by the Township and the fee paid with the required data, the secretary of the Board of Appeals shall, within a reasonable time, place said application or appeal upon the calendar for hearing and cause notice of the hearing to be given in accordance with Section 20.01 of this Ordinance. *(As amended Nov. 9, 2006, eff. November 30, 2006)*

Upon the hearing, any party may appear in person or by agent or by attorney.

The Board of Appeals may reverse or affirm wholly or partly, or may modify any order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. Where there are practical difficulties in the way of carrying out the strict letter of the Ordinance, the Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions so that the spirit of the Ordinance shall be observed, public safety secured, and substantial justice done.

Any party aggrieved by a decision of the Board of Appeals shall have the right to appeal such decision as provided with the Zoning Act.

No application for a variance, restricted permit, or appeal which had been denied wholly or in part by the Board of Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the Board of Appeals. Such action or reconsideration shall only be upon reapplication and payment of fees.

- (c) Adjournments: Upon the day for hearing any application or appeal, the Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing.
  
- (d) Filing Fee: Each appeal or application for variance shall be accompanied by a filing fee in



accordance with the fee schedule established by the Township Board.

- (e) Stay of Proceedings Pending Appeal: An appeal shall stay all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Board of Appeals after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent perils to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application or notice to the officer from whom the appeal was taken and on due cause shown.
- (f) Condition of Approval: In authorizing a variance, the Board of Appeals may, in addition to the conditions of approval called for in this Ordinance, attach thereto such other conditions regarding the location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest, including the right to authorize such variance for a limited period of time. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XVI of this Ordinance.
- (g) Time Limit on Variances: Any variance granted by the Board of Appeals shall automatically become null and void after a period of twelve (12) months from the date granted, unless the applicant shall have taken substantial steps towards effecting the variance within said period; provided, however, that the Board of Appeals may extend such period for a further period of time up to one (1) year upon application without further notice.

#### SECTION 13.04 DUTIES; RULES; HEARING AND DECISION OF APPEALS; RIGHT TO AND THE GROUNDS OF APPEALS.

- (a) The Township Board of Appeals shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of the zoning maps.
- (b) The Township Board of Appeals may fix rules and regulations to govern its procedures sitting as such a Board of Appeals.
- (c) The Township Board of Appeals shall herein decide appeals from, and review any order, requirements, decision or determination made by, an administrative official charged with enforcement of any Ordinance adopted pursuant to the provisions of Act 184, Public Acts of 1943, as amended. It shall also herein decide all matters referred to it or upon which it is required to pass under this Ordinance.
- (d) Three (3) members of the Board of Appeals shall constitute a quorum. A concurring vote

of three (3) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of applicant any matter upon which they are required to pass under any such ordinance or to effect any variation in such ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, Board or Bureau of the Township, County or State. The grounds of every such determination shall be stated.

(e) Variances: Conditions Governing Application: The Zoning Board of Appeals is empowered to issue, upon appeal, such variance from the term of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. A variance from the terms of this Ordinance shall not be granted by the Board of Appeals unless and until:

(1) A written application for a variance is submitted demonstrating:

- a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district;
- b) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance;
- c) That the special conditions and circumstances do not result from the actions of the applicant;
- d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same zoning district.

No nonconforming use of neighboring lands, structures or buildings in the same zoning district, and no permitted use of lands, structures or buildings in other zoning districts shall be considered grounds for the issuance of a variance.

SECTION 13.05 LAND USE VARIANCE. Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zoning districts involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. The Board of Appeals cannot grant use variances or use its variance authority to accomplish what would, in effect, be rezoning. (*as amended February 12, 2002*)

**ARTICLE XIV**  
**NONCONFORMING USES, BUILDINGS, STRUCTURES OR PARCELS**

SECTION 14.01 DESCRIPTION AND PURPOSE. Within the districts established by this Ordinance or amendments thereto, there exist uses, buildings, structures, parcels and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or an amendment thereto. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

SECTION 14.02 CONTINUANCE OF NONCONFORMING USES, BUILDINGS, STRUCTURES OR PARCELS. Except where specifically provided to the contrary and subject to the provisions of this chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued, although such use does not conform with the provisions of this Ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or, in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued, although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

SECTION 14.03 EXPANSION.

- (a) Structures or buildings nonconforming only by reason of height, area or parking and loading space provisions may be extended, enlarged, altered, remodeled or modernized, provided:
  - (1) There is compliance with all height, area, and parking and loading provisions with respect to such extension, enlargement, alteration, remodeling or modernization.
  - (2) The Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure.
- (b) No existing building, structure or parcel devoted to a use not permitted in the district in which it is located, shall be extended, enlarged, remodeled, modernized or moved, except in changing the use of the building structure or parcel to a use permitted in the district in which it is located.
- (c) No nonconforming structure may be extended, enlarged, altered, remodeled or modernized in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

- (d) Should a nonconforming building or structure be moved for any reason, for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (e) A nonconforming use may be extended throughout any parts of a building or structure existing prior to this Ordinance so long as any part of the building or structure was manifestly arranged or designed for such use. However, at no time shall such use be extended to occupy any land outside such building or into an addition to the building.

SECTION 14.04 RESTORATION AND REPAIR. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made. In the event any nonconforming building or structure is damaged by fire, wind, Act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed fifty (50) percent of the true cash value of the nonconforming building or structure prior to the damage occurring. Any building or structure, which is so damaged to more than fifty (50) percent of said value, shall be removed or rendered to safe condition within 30 days. (*Amended April 20, 2000*)

SECTION 14.05 CHANGE OR DISCONTINUANCE. The nonconforming use of a building or structure or of any parcel shall not be:

- (a) Changed to any other nonconforming use.
- (b) Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of nine (9) consecutive months.
- (c) Re-established after it has been changed to a conforming use.

SECTION 14.06 CHANGE OF OWNERSHIP. Change of ownership between private parties does not remove the nonconformity nor extend time limits.

SECTION 14.07 REBUILDING OR RESTORATION COST. Rebuilding or restoration cost as used in this article is the cost of restoring the building or structure to its original condition as appraised by the Building Inspector.

SECTION 14.08 REMOVAL OF NONCONFORMING STATUS. A nonconforming building or structure or parcel may be made conforming by appropriate action or modifications which cause the building, structure or parcel to fulfill the requirements of the district in which it is located. In the case of a nonconformity which would be permitted as a Special Use by this Ordinance, the nonconforming status may be removed upon issuance of a special use permit after the appropriate action has been taken in accordance with the provisions of this Ordinance.

SECTION 14.09 BUILDING OR STRUCTURE UNDER CONSTRUCTION ON EFFECTIVE DATE OF ORDINANCE OR AMENDMENT. Any building or structure shall be considered existing for purposes of this Article and to have been in use for purposes for which constructed if, on the effective date of this Ordinance or amendment thereto, a building permit has been issued, a substantial start has been made toward construction, and construction is thereafter pursued diligently to conclusion.

**ARTICLE XV**  
**SIGNS**

*(as amended January 10, 2003)*

SECTION 15.01 DESCRIPTION AND PURPOSE. It is the intent of this Ordinance to regulate the size, location and manner of display of signs in Port Sheldon Township. While it is recognized that signs are customary for public information and for trade, it is the intent of this Ordinance to ensure that they do not endanger the public health, safety or welfare or impair property values.

SECTION 15.02 DEFINITIONS

- (a) **Animated or Moving Sign:** Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
- (b) **Banner Sign:** A sign constructed of cloth, fabric or other light temporary material with or without a structural frame, to be used for a limited period of display not to exceed thirty (30) days nor used for commercial purposes, including decoration displays for festivals or public demonstrations.
- (c) **Billboard:** A freestanding sign that advertises or directs attention to a business, commodity, service, entertainment or other activity conducted, sold or offered other than on the premises on which the sign is located.
- (d) **Changing Message Sign:** Any sign or part of a sign that contains a message which changes every few seconds or minutes on a regular interval.
- (e) **Directional Sign:** Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way”, “entrance” and “exit”.
- (f) **Freestanding Sign:** A sign structurally separated from a building and either supported by one or more poles or braces, or attached directly to the ground.
- (g) **Ground Sign:** A freestanding sign supported by short supporting uprights, or braces, or some other base or object in or upon the ground and no portion of which exceeds ten (10) feet above the average grade at the supports/base.
- (h) **Illuminated Sign:** A sign, which is lit by the use of internal or external electrical means, electrical devices, and/or wiring. This includes signs with internal lighting, or signs illuminated by the use of attached or unattached external floodlights or light bulbs of any type.

- (i) Marquee Sign: A sign attached to or hung from a marquee, canopy or other covered structure, projecting from and supported by the building and extending beyond the building wall.
- (j) Political Sign: A portable sign used in connection with a local, state or national election or referendum.
- (k) Portable Sign: A sign, usually of a temporary nature, not securely anchored to the ground or to a building or structure, and which obtains some or all of its structural stability with respect to wind or other normally applied forces by means of its geometry or character.
- (l) Pylon Sign: A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.
- (m) Projecting Sign: A display sign which is attached directly to the building wall and which extends more than fifteen (15) inches from the face of the wall.
- (n) Roof Sign: A sign which is erected, constructed and maintained above the roof of the building to which it is connected.
- (o) Sign: A display of an assembly of letters, figures, characters, marks and /or illustrations which is affixed to, located on, or painted or otherwise depicted on any structure, land or exterior of a building for purposes of attracting attention and /or conveying information.
- (p) Sign Area: The sign area of a sign shall mean the area expressed in square feet, within a single continuous rectilinear perimeter of straight lines enclosing the extreme limits of writing, representations, emblems or figures of a similar character together with all material or color forming an integral part of the display or used to differentiate the design from the background against which it is placed; provided that (a) in the case of a sign designed with more than one (1) exterior face, the area shall be computed as including only the maximum single displayed surface which is visible from any ground position; (b) the supports and uprights shall not be included in determining the surface display area; (c) the base on which any sign is placed shall be allowed to be one and a half (1 1/2) times the sign area; and (d) the areas of lamps, neon tubing or artificial illumination on walls of any structure shall be counted as part of the total allowable sign area.
- (q) Wall Sign: A sign, but not including a banner sign, which is painted on or attached directly to a fence or on the surface of masonry, concrete, frame or other approved building walls, and which extends not more than fifteen (15) inches from the face of the fence or wall and which shall not extend above the wall.

## SECTION 15.03 GENERAL PROVISIONS

It shall be unlawful for any person to erect, place, or maintain a sign in Port Sheldon Township except in accordance with the provisions of this section.

- (a) Signs Prohibited: The following types of signs are prohibited in all zoning districts:
  - (1) Abandoned signs.
  - (2) Air-filled or gas-filled balloon signs.
  - (3) Animated signs and/or flashing signs (except traffic control devices).
  - (4) Roof signs.
  - (5) Signs imitating or resembling official traffic or government signs or signals.
  - (6) Portable signs except as otherwise provided in this Article.
  
- (b) Permits Required: Unless otherwise provided by this Ordinance, all signs shall require permits and payment of fees as determined from time to time by the Township Board. No permit is required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.
  
- (c) Signs Not Requiring Permits
  - (1) A sign shall not be erected without the issuance of a sign permit except for the following signs, which are exempt from the provisions of this Ordinance with respect to permits, heights, area, and location except as otherwise provided in subsection 15.03(e):
    - a) Signs erected by the Township, County, State, or Federal Government for street direction or traffic control.
    - b) Governmental use signs erected by governmental agencies conveying information to the public including with limitation to designate hours of activity or conditions, or use for parks, parking lots, recreational areas, other public space, or for governmental buildings.
    - c) Signs designating sites recognized by the State Historical Commission as Centennial Farms or Historic Landmarks.
    - d) Real estate signs located two (2) feet outside of the street right-of-way, or further, advertising premises for sale, rent, or lease.
    - e) Signs not larger than one (1) square foot in area posted to control and/or prohibit hunting or trespassing within the Township.
    - f) Essential service signs denoting utility lines, railroad lines, hazards, and precautions including portable flashing signs.

- g) Signs not exceeding twelve (12) square feet in area that are 1) cut in to the face of a masonry surface, or 2) produced on a bronze or other noncombustible material placed on the face of a building, structure or other permanent object on the ground in order to commemorate a historical event or person.
  - h) Signs, pennants, flags or banners used for holidays, public demonstrations for promotion of civic welfare, or charitable purposes wherein the same shall be used for not more than thirty (30) days.
  - i) Accessory professional or nameplate signs not more than four (4) square feet in area.
  - j) One sign advertising a garage sale, estate sale, rummage sale, or arts and crafts sale conducted by an individual, church or nonprofit organization may be placed upon the premises where the sale is located. The sign shall not exceed six (6) square feet in area. Any such event shall not occur more than three (3) times, for seventy-two (72) hour periods, within any calendar year. Each such seventy two (72) hour period must be at least thirty (30) days apart.
  - k) A sign may be located a minimum of two (2) feet from the front property line on the premises of a construction project which would not exceed thirty-two (32) square feet in area identifying the architects, engineers, contractors or other parties responsible for a project, or identifying the intended purposes or uses of the building. A similar sign may also be permitted if required by a governmental agency providing financing for the project. Such sign shall be removed within thirty (30) days from the issuance of a certificate of occupancy or of the completion of the construction.
  - l) Political signs not larger than thirty-two (32) square feet in area may be placed upon any parcel of property in all districts provided:
    - (1) It is not closer than 50 feet from the point when two different street right-of-way lines intersect.
    - (2) It does not obstruct the vision of vehicular traffic on any street or on any area designated for which traffic or the parcel that is located on or any adjacent parcel thereto.
- (d) Application Procedure: A scale drawing of the outside dimensions of the sign or the total area encompassed by a line around all lettering or symbols shall be presented to the Zoning Administrator so that he may insure that the provisions of this section are met. Evidence shall also be presented to the effect that the sign will be securely attached to the building or supporting structure and will not present a hazard. For freestanding signs, a site development plan of the intended location of the sign and a scale drawing of the total sign structure shall also be presented to the Zoning Administrator. When a site plan is required



as per Section 21.01, sign information shall be submitted for review and approval as part of the site plan process.

- (e) No sign (whether a permit is required or not) shall be located or erected in such a manner as to interfere with traffic visibility. In determining whether a sign may interfere with traffic visibility, the Zoning Administrator shall consider the following:
  - (1) Height, area, supporting structure, and distance from ground level of the sign;
  - (2) Lighting of the sign;
  - (3) Location of the sign in relation to roads, drives, points of ingress and egress, parking areas, sidewalks, and other vehicular or pedestrian access ways.
  - (4) Location of the sign in relation to nearby buildings and structures.
  - (5) Traffic visibility across corner lots.
- (f) No sign shall be located closer than two (2) feet to a public street right-of-way nor shall any portion of a sign overhang a public street right-of-way and shall have a minimum ground clearance of ten (10) feet except as otherwise provided in this Article.
- (g) No illumination or sign shall be so placed or designed to be confused with, or appear similar to, a highway sign or traffic safety device.
- (h) The provisions of this section are not intended to conflict with provisions controlling signs regulated under the authority of MCL 252.301 et seq., the Highway Advertising Act, as amended.
- (i) Lighting:
  - (1) Unless otherwise specified by this Ordinance, all signs may be illuminated. Low pressure sodium lighting is the preferred light source to minimize light emission. No sign regulated by this Ordinance may utilize:
    - a) An exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion device.
    - b) Any exposed incandescent lamp in excess of 160 watts unless a screen or shield is installed so that no light rays are emitted by the installed fixture at angles above the sign's highest horizontal plane.
    - c) Any revolving beacon light.For the purpose of this Ordinance, quartz lamps shall not be considered an incandescent light source.
  - (2) Metal halide lighting, fluorescent lighting, and quartz lighting may be used for signs but shall be installed in enclosed luminaries.

- (3) Glass tubes filled with neon, argon, or krypton may be used, provided they do not flash intermittently or create a visual effect of movement.
  - (4) Lighting fixtures used to illuminate a sign shall be mounted on the top of the sign structure whenever practical or mounted so that no light rays are emitted by the installed fixture to traffic areas or residential areas.
  - (5) No sign may be illuminated by flashing, oscillating, or intermittent lighting.
- (j) A conforming agricultural business, commercial or institutional use may place four (4) directional signs off premises provided a proof of permission by the host property owner is provided to the Zoning Administrator, each sign does not exceed four (4) square feet in area, and is located a minimum of two (2) feet from the property line.

#### SECTION 15.04 SIGNS IN AGRICULTURAL AND RESIDENTIAL DISTRICTS

In the AG, R-1 and LSR Districts, only the following signs shall be permitted:

- (a) One (1) accessory professional nameplate sign not more than four (4) square feet in area.
- (b) One (1) temporary sign pertaining to the lease or sale of the premises upon which it is placed, not exceeding six (6) square feet in total area.
- (c) In parking areas, no signs other than directional or regulatory signs shall be permitted. If such signs are shown in connection with a Site Plan, the Planning Commission shall determine whether or not they are the correct size and if they are necessary for the public welfare. In all other cases, such determination shall be made by the Zoning Administrator.
- (d) Signs of a combined area of not more than thirty-two (32) square feet in area advertising the name and activities of a permitted nonresidential use. Said sign shall be located on the same parcel as the use it is advertising.
- (e) Customary farm and crop signs on active farms not to exceed ten (10) square feet in area.
- (f) A sign of not more than thirty-two (32) square feet advertising the name and activities of a legal nonconforming use.
- (g) A development entry sign not to exceed thirty-two (32) square feet which identifies the name of a residential development and/or the developer and/or the type of residential structures included in the development and/or a graphic layout of the lots, and which is harmonious in appearance with that of the vicinity. Said sign may be erected after the Township Board has granted final preliminary plat approval, final PUD approval or similar type of approval as determined by the Zoning Administrator and shall be removed when ninety (90) percent of the dwellings have been occupied.

- (h) A development is permitted one ground mounted primary entry sign not to exceed thirty two (32) square feet in area. A secondary entry may have one ground mounted sign not to exceed sixteen (16) square feet in area. Said signs shall be located a minimum of two (2) feet from the street right-of-way and shall be located not to create a vision problem for traffic at the intersection.
- (i) A real estate sign not to exceed six (6) square feet in area and five (5) feet in height.

## SECTION 15.05 SIGNS IN COMMERCIAL DISTRICT

In the Commercial District, signs are permitted as follows:

- (a) Only one wall or marquee sign is permitted on each building wall facing a public street or a parking lot:
- (b) The size of the wall or marquee sign shall not exceed 10% of the wall surface or exceed one hundred (100) square feet in area, whichever is less.
- (c) One freestanding or pylon sign is permitted not to exceed one-hundred (100) square feet in area nor exceed a height of twenty (20) feet.
- (d) A freestanding or pylon sign shall be setback a minimum of two (2) feet from any property line or road right-of-way line whichever is greater.
- (e) Menu boards not larger than sixteen (16) square feet in area advertising the food and price for drive through or fast food restaurants shall not be included in computing the total sign area.
- (f) Height of wall signs. No wall sign shall project above the roof of the building to which it is attached.
- (g) Temporary pennants, flags or banners are permitted for a period of not more than thirty (30) days without a building permit, provided they are kept in a state of good repair.
- (h) A multi-use establishment (shopping center larger than 50,000 square feet) is permitted the following type and size of signs.
  - (1) One freestanding or pylon sign for multi-use establishment identification purposes not to exceed one hundred (100) square feet in size or twenty (20) feet in height.
  - (2) Individual establishments within the center are permitted one wall or marquee sign not to exceed fifteen (15) percent of the wall area to be served by the sign. Such sign shall be a minimum of ten (10) feet above finished grade.
  - (3) An establishment with a major wall surface as part of the center is permitted a wall sign facing a street not to exceed on-half (1/2) percent of the wall area facing the street but not to exceed two-hundred and fifty (250) square feet in area. As used

above, a major wall surface shall mean a wall, which faces a public street, has a minimum size of two thousand (2,000) square feet and does not contain a customer entry area. The wall surface may contain multiple surfaces provided they all are part of the same retail user.

- (i) A real estate sign not to exceed thirty-two (32) square feet in area and ten (10) feet in height.

#### SECTION 15.06 SIGNS IN THE INDUSTRIAL DISTRICT

- (a) Signs as regulated in the Commercial District.
- (b) Directional signs up to four (4) square feet in area designating entrances, exits, parking and loading areas, shipping docks or similar traffic control signs may be located a minimum of two (2) feet from any property line.

#### SECTION 15.07 REGULATIONS OF BILLBOARDS

Billboards may be constructed or erected in the Commercial and Industrial Zoning Districts adjacent to US 31-as either a principal or accessory use.

- (1) Not more than three (3) billboards may be located per linear mile of street or highway regardless of the fact that such billboards may be located on different sides of the subject street or highway. The linear mile measurement shall not be limited to the boundaries of Port Sheldon Township where the particular street or highway extends beyond such boundaries. Double-faced billboard structures (i.e., structures having back-to-back billboard faces) and V-type billboard structures having only one face visible to traffic proceeding from any given direction on a street or highway shall be considered as one billboard. Additionally, billboard structures having tandem billboard faces (i.e., two parallel billboard faces facing the same direction and side-by-side to one another) shall be considered as one billboard. Otherwise, billboard structures having more than one billboard face shall be considered as two billboards and shall be prohibited in accordance with the minimum spacing requirement set forth in subsection "2" below.
- (2) No billboard shall be located within one thousand (1,000) feet of another billboard abutting either side of the highway.
- (3) No billboard shall be located closer than seventy-five (75) feet from a property line adjoining a public right-of-way or thirty (30) feet from any interior boundary lines of the premises on which the billboard is located. It shall also be a minimum of forty (40) feet from a building or structure.
- (4) The surface display area of any side of a billboard may not exceed three hundred (300) square feet.

- (5) The height of a billboard shall not exceed thirty (30) feet above (1) the grade of the ground on which the billboard sits or, (2) the grade of the abutting roadway, whichever is higher.
- (6) A billboard may be illuminated, provided such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of on-coming vehicles, or any adjacent premises. In no event shall any billboard have flashing or intermittent lights, nor shall the lights be permitted to rotate or oscillate.
- (7) A billboard shall be constructed in such a fashion that it will withstand all wind and vibration forces, which can normally be expected to occur in the vicinity. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.
- (8) A billboard established within a commercial or industrial area, as defined in MCL 252.301 et. seq. (Highway Advertising Act) bordering interstate highways, freeways or primary highways as defined in said Act shall, in addition to complying with the above conditions, also comply with all applicable provisions of said Act and the regulations promulgated thereunder, as such may from time to time be amended.



**ARTICLE XVI**  
**PARKING AND LOADING SPACES**

SECTION 16.01 GENERAL. In all Zoning Districts, there shall be provided, before any building or structure is occupied or is enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

- (a) Automobile Sales and Service Garages - one (1) customer parking space for each five hundred (500) square feet of floor area.
- (b) Barber and Beauty Shops - three (3) spaces for each chair or booth.
- (c) Bowling Alleys - six (6) spaces for each alley.
- (d) Churches - one (1) space for each three (3) seats.
- (e) Commercial Amusements (outdoor) - twenty-five (25) percent of lot area, but in no case less than ten (10) spaces.
- (f) Dance Hall, Assembly Hall, Exhibition Hall Without Fixed Seats - one (1) space for each one hundred (100) square feet of floor area.
- (g) Drive-in Facilities - two (2) spaces for each drive-in window, plus four (4) stacking spaces for each drive-in window.
- (h) Dwellings - two (2) spaces per dwelling unit.
- (i) Funeral Home or Mortuaries - one (1) space for each twenty-five (25) square feet in service parlors or chapels plus one (1) space for each funeral vehicle maintained on the premises.
- (j) Furniture Sales (retail) - one (1) space for each five hundred (500) square feet of floor area.
- (k) Hospital - one (1) space for each two (2) beds plus one (1) space for each doctor plus one (1) space for each employee other than doctors.
- (l) Hotels, Motels, Tourist Homes - one (1) space for each lodging room plus one (1) space for each full-time employee.
- (m) Libraries, Museums, Governmental Administration Buildings - one (1) space for each one hundred (100) square feet of floor area.
- (n) Manufacturing, Electrical Power Generation, and Industrial Uses - two (2) spaces for each employee on the largest shift. If there is only one shift, there shall be one (1) space for each employee.

- (o) Medical Offices and Clinics, Including Veterinary - six (6) spaces for each doctor or veterinarian plus one (1) space for each employee.
- (p) Office Buildings (Business and Professional) and Banks - one (1) space for each two hundred (200) square feet of floor area.
- (q) Restaurants, Bars, and Similar Establishments - one (1) space for each three (3) seats provided for patron use plus one (1) space for each employee.
- (r) Retail Sales and Personal Services - one (1) space for each one hundred (100) square feet of floor area.
- (s) Schools:  
 Elementary and Junior High Schools- two (2) spaces for each three (3) employees normally engaged in or about the buildings and grounds plus one (1) for each eight (8) auditorium seats.  
  
 Senior High Schools and Institutions of Higher Learning: two (2) for each three (3) employees normally engaged in or about the buildings and grounds and one (1) additional for each four (4) students enrolled in the institution, plus parking as required for gymnasiums and sports facilities.
- (t) Service Stations - two (2) spaces for each employee plus two (2) spaces for each service stall.
- (u) Theaters and Auditoriums (not incidental to schools) - one (1) space for each four (4) seats plus one (1) space for each two (2) employees.
- (v) Warehouses, Storage Buildings, Lumber and Supply Yards, Wholesale Outlets - two (2) parking spaces for each employee.
- (w) Other Uses Not Specifically Mentioned - In the case of unique uses which are not specifically mentioned, the requirements for a use which is mentioned and to which said use is similar in terms of parking demand shall apply.
- (x) Mixed Uses in the Same Building - In the case of mixed uses in the same building, the amount of parking space for each use shall be provided and the space for one (1) use shall not be considered as providing required spaces for any other use.

## SECTION 16.02 GENERAL REQUIREMENTS.

- (a) If the use of a structure or premises changes, the parking requirements of the new use shall apply. If a structure or premises is enlarged, the parking requirements shall be applicable to the total area of the structure or premises. A structure or premises shall not be used for



a use nor enlarged unless the required parking is provided.

- (b) In the instance of dual function of off-street parking spaces where operating hours of use do not overlap, the Zoning Board of Appeals may grant a variance for non-concurrent use.
- (c) In the Single Family Residential Zoning District, no parking area shall be used for parking or storing of any commercial vehicle exceeding one-ton capacity. The storage of merchandise, motor vehicles for sale (other than the resident's private vehicles), or the repair of vehicles exceeding one ton capacity is prohibited in any required parking area.
- (d) In the Single Family Residential Zoning District, the storage of major sporting equipment, such as camping trailers, motor homes, snowmobiles, and other similar equipment, shall not be permitted in the front yard.

SECTION 16.03 OFF-STREET LOADING SPACES. For every building or addition to an existing building hereafter erected to be occupied by manufacturing storage, display of goods, retail store, or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition:

- (a) An area of means adequate for maneuvering and ingress and egress for delivery vehicles; and
- (b) Off-street loading spaces in relation to floor areas as follows:
  - (1) Up to twenty thousand (20,000) square feet - one (1) space;
  - (2) Twenty thousand (20,000) or more, but less than fifty thousand (50,000) square feet - two (2) spaces; and
  - (3) One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.

SECTION 16.04 REQUIREMENTS FOR PARKING AREAS AND LOADING SPACES. Every parcel of land hereafter established as an off-street public or private parking area for more than five (5) vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- (a) Each off-street parking space shall have an area of not less than two hundred (200) square feet (exclusive of access drives or aisles) and shall be a minimum of ten (10) feet in width. Each loading space shall be at least ten (10) feet wide and thirty-five (35) feet long.
- (b) The parking lot and its driveway shall be:
  - (1) Designed to provide adequate drainage.

- (2) Surfaced with concrete, asphalt pavement, compacted gravel, or similar material except that all parking lots, loading spaces, and driveways located in the Commercial and Industrial District shall be required to be surfaced with concrete or asphalt pavement.. (*Amended December 11, 1997*)
- (3) Maintained in good condition, free of dust, trash, and debris.
- (c) The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicles.
- (d) The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion.
- (e) Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.
- (f) No part of any public or private parking area, regardless of the number of spaces provided, shall be closer than ten (10) feet to the street right-of-way.
- (g) A building permit is required prior to establishment or alteration of an off-street parking area.

ARTICLE XVII  
(RESERVED FOR FUTURE USE)



**ARTICLE XVIII**  
**SPECIAL USES**

SECTION 18.01 PURPOSE. Special uses are those uses of land which are not essentially incompatible with uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this article is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special uses. The criteria for decision and requirements provided for under the provisions of the article shall be in addition to those required elsewhere in this ordinance which are applicable to the special use under consideration.

SECTION 18.02 APPLICATION PROCEDURES. An application for authority to establish a special use shall be submitted and acted upon in accordance with the following procedures:

- (a) Application: Applications for a special use shall be submitted in accordance with the resolution adopted by the Township Board for establishing submission deadlines. The Zoning Administrator shall review the application for completeness, and when complete transmit it to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. *(amended November 11, 2004)*
- (b) Required Information: An application for a special use permit shall be accompanied by the following documents and information:
  - (1) A special use application form supplied by the Zoning Administrator which has been completed in full by the applicant.
  - (2) A site plan, as specified in Article XXI.
  - (3) A statement(s) and other supporting materials with regard to compliance with the criteria required for approval in Section 18.03, and other criteria imposed by this Ordinance affecting the special use under consideration.
- (c) Public Hearing: Upon receipt of a complete application together with all required information, the Zoning Administrator shall transmit the documents to the Planning Commission. The Planning Commission or Zoning Administrator shall set a time and place for a public hearing and arrange for the notice of such hearing to be given in accordance with Section 20.01 of this Ordinance. *(As amended Nov. 9, 2006, eff. November 30, 2006) (Amended July 11, 2013)*
- (d) Review and Approval: Following the public hearing, the Planning Commission shall review the application for a special use, comments received at the public hearing, the site plan and other materials submitted in relation to the application, and make a determination on the special use application in accordance with the criteria for approval

stated in Section 18.03, and such standards contained in this Ordinance which relate to the special uses under consideration. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for a building permit.

SECTION 18.03 PERFORMANCE STANDARDS AND BASIS OF DETERMINATION. Prior to approval of a special use application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

- (a) Pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the site, between buildings, and between buildings and vehicles.

All parking spaces shall be usable, safe and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

- (b) The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on surrounding development, and contiguous and adjacent buildings and lands.
- (c) Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the Planning Commission. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
- (d) Buffering may be required around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees, or combinations thereof to achieve the stated objectives.
- (e) Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.
- (f) Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
- (g) Storm drainage, sanitary waste disposal, water supply, and garbage disposal shall be

reviewed and considered. Particular emphasis shall be given to the accuracy of existing systems and the need for improvements, both on-site and off-site, to adequately carry runoff and sewage, and to maintain an adequate supply of water at sufficient pressure.

- (h) Garbage disposal shall be adequate to insure freedom from vermin and rodent infestation. All disposal systems shall meet municipal specifications as to installation and construction.
- (i) Environmental elements relating to soil erosion, preservation of trees, protection of water courses, and resources, noise, topography, soil, and animal life shall be reviewed, and the design of the plan shall minimize any adverse impact on these elements.
- (j) Sexually Oriented business shall be operated in the Commercial Zone (Article VI) and subject to the following requirements: *(Amended April 9, 1998)*
  - 1. A 350' distance shall be maintained between any part of the business property and any adjacent residence and/or church or school property.
  - 2. Such business shall have direct vehicular access to Highway U.S.-31 or from a county road intersecting such highway, such county road access being 100 feet of the U.S. 31 right of way.
  - 3. Such business shall be a minimum of 500 feet from an existing residential unit, school or church.
  - 4. Serving alcohol beverages will not be permitted.
  - 5. The Planning Commission will consider the hours of operation proposed by the applicant and adjust as appropriate for the proposed location.

SECTION 18.04 ISSUANCE OF A SPECIAL USE PERMIT. *(as amended August 13, 2009)*

- (a) Issuance of a Special Use Permit. Upon approval by the Planning Commission, the Zoning Administrator shall issue the special use permit, which permit shall identify any and all conditions, terms, and restrictions applicable to the approved special use. The special use permit shall become effective upon Township Planning Commission approval, provided the following are met:
  - (1) The Building Official shall not issue a Building Permit until approval of such special use permit and any conditions pertaining to such approval are met.
  - (2) Until a Building Permit has been granted pursuant to the special use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the special use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.
  - (3) Land subject to a special use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions

of this ordinance, or the zoning compliance approval of the Zoning Administrator has been granted for uses not subject to the requirements for a certificate of occupancy.

If pre-conditions to the issuance of the permit are given, the Zoning Administrator shall verify that all conditions are met prior to issuance of a special use permit. It shall be the responsibility of the Zoning Administrator to monitor and verify compliance with the terms, conditions and restrictions of any special use permit and take any enforcement action necessary in the event of a violation of the special use permit.

- (b) Appeals. A decision or condition related to a special use application may not be appealed to the Zoning Board of Appeals.
- (c) Amendments. Amendments to special use permit shall be handled in the same manner as the initial special use permit application. Minor non-substantive changes to a site plan may be made to an existing special use permit with the approval of the Zoning Administrator.
- (d) Transfers. The special use permit, with any and all associated benefits, conditions and required security may be transferred to a new owner upon the sale or transfer of the property in question. The original owner, upon transferring the special use permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit, compliance with security, and other conditions. The special use permit shall run with the land, subject to Section 18.04(f), pertaining to abandonment.
- (e) Expiration. A special use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:
  - (1) If replaced or superseded by a subsequent permitted use or special use permit.
  - (2) If the applicant or current owner of the property requests the rescinding of the special use permit.
  - (3) If a condition of approval included a stipulation that the special use permit shall expire by a certain date.
  - (4) If the special use is abandoned in accordance with Section 18.04(f).
  - (5) If a zoning permit has not been obtained or the on-site development has not commenced pursuant to Section 21.07 within one (1) year, the special use permit approval shall become null and void.
- (f) Abandonment. Any permitted special use shall be considered abandoned, and such use shall not be resumed thereafter if any of the following conditions apply:



- (1) When the owner declares or otherwise makes evident his intent to discontinue such use.
  - (2) When the use has been replaced by a different use.
  - (3) The cessation of the permitted special use for a period of twelve (12) consecutive months shall result in a rebuttable presumption of the owner's and any lawful occupant's intent to permanently discontinue and abandon the special use. At any time after said twelve (12) consecutive month period, the Zoning Administrator may notify the owner and any occupants in writing of said presumption and such writing shall provide the owner and any occupants at least thirty (30) days to rebut the presumption in a writing addressed and delivered to the Zoning Administrator by certified mail with a return receipt. If the owner and occupants fail to provide written evidence rebutting the presumption within said thirty (30) day period, the owner's and occupant's intent to discontinue and abandon the special use shall thereby be established. The notice from the Zoning Administrator shall be sent by certified mail, with a return receipt, to the owner and any occupants at the mailing address of the owner listed on the Township tax rolls and at the street address of the property in question if a building with an address exists at said location.
- (g) Violations. Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the permit. The Township Planning Commission may either revoke or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the special use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).



**ARTICLE XIX**  
**PUD - PLANNED UNIT DEVELOPMENT DISTRICT**  
*(as amended December 14, 2006 eff. December 27, 2006)*

SECTION 19.01 STATEMENT OF INTENT. It is the purpose of this section to permit flexibility in the regulation of land development, and to encourage innovation and variety in land use and design of projects. The basic provisions concerning Planned Unit Development are the subdivision, development, and use of land as an integral unit, combining more than one primary land use and which may provide for single-family residential, multi-family residential, education, business, commercial, recreation, park and common use areas, which are compatible with one another and provide for efficient use of land. The objectives of these Planned Unit Development standards shall be:

- (a) To permit flexibility in the regulation of land development.
- (b) To encourage innovation in land use, the potential for mixed land use, and variety in design, layout, and type of structures constructed.
- (c) To achieve economy and efficiency in the use of land, natural resources, energy, and the providing of public services and utilities.
- (d) To encourage useful open space, and to provide improved housing, employment, and shopping opportunities particularly suited to the needs of the residents of the State and Township.
- (e) To encourage the innovative use, re-use, and improvement of existing sites and buildings.

It is also the intent of the PUD regulations to provide a process for approval of PUD proposals in two steps: Zoning and Preliminary Development Plan approval, and Final Development and Site Plan approval.

Review of Zoning and Preliminary Development Plans shall concentrate on review of the Qualifying Conditions, Regulations and Conditions, Dimensional and Use Standards and Design Considerations specified in the following sections of this Article. The second step of the PUD approval process is review and approval of a Final Development Plan and Site Plan, which shall comply with the requirements for Contents of Final Site Development Plan and the Standards for PUD Final Site Development Plan Approval as required by this Article.

SECTION 19.02 QUALIFYING CONDITIONS.

- (a) In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of 5 acres with 200 feet of road frontage or lot width at the minimum building setback line. The minimum parcel size for a mixed use development permitted in Section 19.04(a)(12) shall be twenty (20) acres with two hundred (200) feet of road frontage.

- (b) Public water, sanitary sewer, transportation, and drainage facilities shall be available and adequate to service the site.

SECTION 19.03 REGULATIONS AND CONDITIONS. In addition to the foregoing provision, the following procedures, standards and conditions shall be observed. Where the Planning Commission determines it is desirable to allow a more flexible and innovative development to occur it may recommend that the terms of the Port Sheldon Township Zoning Ordinance and Subdivision/Condominium Regulations be adjusted in accordance with the provisions of this Article. Planned Unit Developments shall meet the following general standards:

- (a) The use shall be compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is consistent with the public health, safety and welfare of the residents of Port Sheldon Township and the benefits of the development shall not be achievable under any single zoning classification.
- (b) The use shall be consistent with the Port Sheldon Township Master Plan and the Future Land Use Map.
- (c) The use and development shall be warranted by the design and additional amenities made possible with and incorporated by the development proposal.
- (d) The development shall consolidate and maximize usable open space.
- (e) Landscaping shall be provided to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property and to create a pleasant pedestrian scale outdoor environment.
- (f) Vehicular and pedestrian circulation, allowing safe, convenient, non-congested and well-defined circulation within and access to the development shall be provided.

SECTION 19.04 DIMENSIONAL AND USE STANDARDS. In acting upon the application, the Planning Commission may recommend and the Township Board may alter lot size standards, required facilities, buffers, open space areas, setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules, and miscellaneous regulations, where such regulations or changes are reasonable and consistent with the intent, objectives, and standards set forth in Section 19.01. Further, the Planning Commission may recommend and the Township Board may consider requests to alter residential density limits up to one and one half (1.5) times the density permitted in the underlying zoning district.

The Planning Commission may recommend and the Township Board may authorize land uses not permitted in the underlying district where the land is located, provided that such uses are consistent with the intent of this section and the standards set forth herein. Generally, mixed land

uses shall demonstrate direct relationships, such as being designed to directly serve, or be accessory to, uses permitted within the underlying zoning district.

All Planned Unit Developments shall conform to the following requirements:

- (a) Use Restrictions: Land in an approved PUD may be used for any permitted or special use authorized in the zoning district in which the PUD lies. In addition, the following uses may be approved as a PUD:
  - (1) Group camps and campgrounds, including recreational vehicle parks.
  - (2) Country clubs.
  - (3) Golf courses and outdoor sports facilities.
  - (4) Hospitals.
  - (5) Hotels and motels.
  - (6) Nursing homes and senior citizens housing.
  - (7) Philanthropic institutions.
  - (8) Schools, colleges, and institutions of higher learning.
  - (9) Multi-family residences. (No density bonus would be permitted)
  - (10) Religious institutions.
  - (11) Mobile Home Park.
  - (12) Mixed use developments, traditional and village centered neighborhoods where there are direct relationships between the mix of uses and principal uses permitted within the underlying zoning district.
- (b) Minimum Size: In order to be zoned as a PUD district, the proposed area shall consist of at least five (5) acres and have a minimum of two hundred (200) feet of frontage.
- (c) Maximum Densities: For the purposes of this chapter, maximum densities shall be determined on the basis of the gross area of the proposed PUD District. The maximum density of a PUD shall not exceed one and one half (1.5) times the maximum density of residential living units permitted in the zoning district in which the PUD lies. The increase in density proposed for the PUD shall be justified in the documentation supplied with the PUD application in terms of the design criteria intended for the PUD, including character of the proposed development, provision of public utilities, community services, and open space and recreational amenities provided as part of the PUD. The use permitted by Section 19.04(a)(11) shall not exceed 4.7 units per acre.
- (d) Sewer and Water Service: In the event public sewer or water service is not available at the time of the development, PUD may utilize a private sewer or water system, provided such sewer and/or water system is approved by the appropriate federal, state, county or local

agencies and the Township Board.

- (e) Performance Guarantee: The Township Board is empowered to require a performance guarantee such as a letter of credit, cash, or certified check in an amount up to the estimated cost of improvements associated with the project or for each phase. Such performance guarantee shall be deposited with the treasurer of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan. The Township shall rebate a proportional share of the deposit, biannually as requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. The Zoning Administrator may, at his discretion, call upon professional assistance from the Township Engineer or the Township Planner. In cases where the provisions of the final development plan, as approved, have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

SECTION 19.05 PUD DESIGN CONSIDERATIONS. In consideration of a proposed Planned Unit Development the Planning Commission and Township Board shall take into account the following specific design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located.

- (a) Perimeter setbacks.
- (b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- (c) Underground installation of utilities.
- (d) Insulation of separate pedestrian ways apart from vehicular streets and ways.
- (e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- (f) Noise reduction and visual screening mechanisms from adjoining residential uses.
- (g) Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- (h) Off-street parking, loading, refuse, and other service areas with respect to ingress and egress and the potential effects of noise, glare, vibration, and odor emanating from such facilities on adjoining properties and uses.
- (i) Screening and buffering with respect to dimensions and character.

- (j) Yard areas and other open space.
- (k) Density and intensity of development expressed in terms of percent of gross and net land area coverage and/or gross and net housing units per acre and the height of buildings and other structures.
- (l) The preservation of natural resources and natural features.

SECTION 19.06 APPLICATION AND PROCESSING PROCEDURES.

- (a) EFFECTS: The granting of a Planned Unit Development rezoning application shall require an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this Ordinance. An approval granted under this Article including all aspects of the Final Site Development Plan and conditions imposed shall constitute an inseparable part of the zoning ordinance.
- (b) PREAPPLICATION CONFERENCE: Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Zoning Administrator, and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development, and the following information:
  - (1) A legal description of the property in question;
  - (2) The total number of acres to be included in the project;
  - (3) A statement of the approximate number of residential units and/or the approximate number, type, and square footage of non-residential units;
  - (4) The approximate number of acres to be occupied and/or devoted to or by each type of use;
  - (5) The number of acres to be preserved as open space or recreation space; and
  - (6) All known natural resources and natural features.
- (c) PRELIMINARY SITE DEVELOPMENT PLAN - SUBMISSION AND CONTENT: Following the above conference or conferences, copies of a Preliminary Site Development Plan and application for a PUD rezoning request shall be submitted. The submission shall be made as set by the resolution adopted by the Township Board for establishing submission deadlines and shall be made to the Zoning Administrator who shall present it to the Planning Commission for consideration at a regular or special meeting. The plan shall be accompanied by an application form and fee as determined by the Township Board. The Preliminary Site Development Plan shall contain the following information:
  - (1) Date, north arrow, and scale which shall not be more than 1" = 100'.
  - (2) Locational sketch of site in relation to surrounding area.
  - (3) Legal description of property including common street address.

- (4) Size of parcel.
  - (5) All lot or property lines with dimensions.
  - (6) General location of all buildings within one hundred (100) feet of the property lines.
  - (7) General location and size of all existing structures on the site.
  - (8) General location and size of all proposed structures on the site. The general size of all buildings shall be within five thousand (5,000) square feet or five percent (5%), whatever is smaller of whatever is submitted on the Final Site Development Plan.
  - (9) General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.
  - (10) A preliminary phasing plan indicating boundaries and uses included to be constructed during the phase.
  - (11) General size and location of all areas devoted to green space.
  - (12) Location of existing vegetation and general location and size of proposed landscaped areas and buffer strips.
  - (13) All areas within the 100-year floodplain, wetland areas or bodies of water.
  - (14) Existing topographical contours at a minimum of five (5) foot intervals.
  - (15) A narrative describing:
    - (a) The nature of the project.
    - (b) The proposed density, number, and types of dwelling units if a residential PUD.
    - (c) A statement describing how the proposed project meets the objectives of the PUD.
    - (d) A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
    - (e) Proof of ownership or legal interest in property.
- (d) PRELIMINARY SITE DEVELOPMENT PLAN - PLANNING COMMISSION REVIEW: The Planning Commission shall review the Preliminary Site Development Plan and shall make reasonable inquiries of the applicant.

The Planning Commission shall review the Preliminary Development Plan according to the provisions of 19.02 through 19.05 herein and transmit its recommendations for changes or modifications of the Preliminary Development Plan to the applicant.



- (e) PUBLIC HEARING: The Planning Commission shall hold a public hearing for the purpose of receiving comments relative to the PUD application and shall be published and delivered in accordance with Section 22.03 of this Ordinance.
- (f) TIME LIMITATIONS ON DEVELOPMENT: An application for Final Site Development Plan approval shall be made within one year of Preliminary Site Development Plan approval. See Section 19.12 (c).

SECTION 19.07 STANDARDS FOR ZONING APPROVAL. Following the public hearing, the Planning Commission shall recommend to the Township Board to either approve, approve with conditions, or deny the PUD rezoning request and Preliminary Site Development Plan.

In making its recommendation, the Planning Commission shall document its findings of fact that the proposed PUD meets (or does not meet) the intent of the PUD district and the following standards:

- (a) Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
- (b) The proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
- (c) The proposed development shall be compatible with the Master Plan of the Township and shall be consistent with the intent and spirit of this Article.
- (d) The Planned Unit Development shall not change the essential character of the surrounding area when compared to permitted uses in the underlying zoning district.
- (e) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Building Inspector.

SECTION 19.08 TOWNSHIP BOARD APPROVAL. After receiving the recommendation of the Planning Commission, the Township Board shall hold a public hearing for the purpose of receiving comments relative to the PUD application and shall be published and delivered in accordance with Section 22.03 of this Ordinance. Based on all the information gathered from the public hearing and consideration of the recommendation of the Planning Commission, the Township Board shall either approve, approve with conditions, or deny the PUD application and Preliminary Site Development Plan in accordance with the requirements of Article XIX and the standards for approval and conditions for a PUD as contained herein. A building permit shall not be issued until Planning Commission approval of the PUD Final Site Development Plan.

Where provisions of Michigan Public Act 288 of 1967 as amended shall apply, the applicant shall

thereafter submit the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to platting approval.

**SECTION 19.09 EFFECT OF APPROVAL.** The Planned Unit Development amendment including the Preliminary Site Development Plan as approved and narrative and all conditions imposed, if any, shall constitute the land use authorization for the property subject to approval of the Final Site Development Plan. All uses not specifically specified in the Preliminary Site Development Plan are disallowed and not permitted on the property. All improvements and uses shall be in conformity with this amendment, except as permitted by Section 19.14. At its discretion, the Township Board may cause a separate ordinance to be created documenting the elements of the PUD. The applicant shall record an affidavit with the Ottawa County Register of Deeds that shall contain the following:

- (a) Date of approval of the PUD by the Township Board.
- (b) Legal description of the property.
- (c) Legal description of the required green space along with a plan stating how this green space is to be maintained.
- (d) A statement that the property will be developed in accordance with the approved PUD Final Site Development Plan and any conditions imposed by the Township Board or Planning Commission unless an amendment thereto is duly approved by the Township upon the request and/or approval of the applicant or applicant's transferee's and/or assigns.

**SECTION 19.10 FINAL SITE DEVELOPMENT PLAN.** After receiving the PUD rezoning and Preliminary Site Development Plan approval from the Township Board, the applicant shall submit a Final Site Development Plan for review and approval by the Planning Commission prior to starting any construction.

- (a) **CONTENTS OF FINAL SITE DEVELOPMENT PLAN:** The Final Site Development Plan shall contain the same information required for the Preliminary Site Development Plan and shall also contain the information required under Article XXI, Site Plan Review, of this zoning ordinance. In addition to site plan requirements, the Final Site Development Plan shall contain the following information:
  - (1) Location and size of all water, sanitary sewer, and storm sewer lines serving the development.
  - (2) Proposed contour lines at not greater than two (2) foot intervals.
  - (3) Proposed landscaping including type, number, and size of trees and shrubs.
  - (4) Location and design of signs and exterior lighting.
  - (5) Location of sidewalk, footpaths, or other pedestrian walkways.
  - (6) Distance of all buildings from lot lines, right-of-ways, and other principal buildings.

- (7) Exterior architectural drawings noting building materials, height and area of buildings and accessory structures.
- (8) Phasing Plan for the project.
- (b) PUBLIC HEARING: At the discretion of the Planning Commission, they may invoke the right to conduct a public hearing prior to approving, approving with conditions, or denying the Final Site Development Plan. If a public hearing is required, public notice shall be giving following the procedures specified in Section 19.06(e).

SECTION 19.11 STANDARDS FOR PUD FINAL SITE DEVELOPMENT PLAN APPROVAL. Planning Commission shall approve, approve with conditions, or deny the Final Site Development Plan under the procedures outlined in Article XXI, Site Plan Review.

In making its decision, the Planning Commission shall document its findings of fact to support its decision to approve, approve with conditions, or deny the Final Site Development Plan based upon an objective evaluation that the proposed PUD meets or does not meet the intent of the PUD district and the approved Preliminary Site Development Plan.

SECTION 19.12 CONDITIONS.

- (a) In approving a PUD Final Site Development Plan, the Planning Commission may impose reasonable conditions which include but are not limited to conditions necessary to: ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protect the natural environment and conserve natural resources and energy; ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - (1) Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - (2) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
  - (3) Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- (b) The conditions imposed with respect to the approval of a PUD Final Site Development Plan shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions that are unchanged. The

Final Site Development Plan, as approved, shall act as a restriction upon the development. The development must conform to the Final Site Development Plan.

- (c) **Time Limitations on Development:** An application for Final Site Development Plan approval shall be made within one year of Preliminary Site Development Plan approval. If the property owner/developer does not fulfill this provision, the Planning Commission may grant an extension up to one (1) year provided the owner/developer presents reasonable evidence to the effect that the PUD has encountered unforeseen difficulties and is not ready to proceed. Following expiration of the time limit and any extension, if the application has not been filed, the Planning Commission may recommend, following a public hearing with notice provided as required by law, to the Township Board rezoning of the property to its previous zoning district.

The Planning Commission shall take action to approve, approve with conditions, or deny the Final Site Development Plan within one year of filing of a complete application for same.

Each PUD shall be under construction within one (1) year after the date of final approval of the Final Site Development Plan by the Planning Commission. If said development does not fulfill this provision, the Planning Commission may grant a sixty (60) day extension provided the developers present reasonable evidence to the effect that the PUD has encountered unforeseen difficulties and is not ready to proceed. Should the aforementioned provisions not be fulfilled, any building permit issued for said development shall be invalid and void.

**SECTION 19.13 PERFORMANCE GUARANTEES.** The Planning Commission may require a performance guarantee or similar guarantee in order to ensure the completion of required improvements.

**SECTION 19.14 MODIFICATION OF A PUD.** Minor changes to a PUD Final Site Development Plan may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other Township regulations or state law. Minor changes include all matters that were approved by the Planning Commission in the final development plan that were not part of the preliminary development plan, that the location of structures, roads, parking areas, signs, lighting, and driveways may be moved provided that are in the same general location as approved in the Preliminary Site Development Plan as determined by the Planning Commission, and building size that does not exceed five thousand (5,000) square feet or five (5) percent of the gross floor area, whichever is smaller.

A major change to an approved PUD shall comply with the original approval procedures for a PUD. Major changes include but are not limited to increase in density or number of dwelling units, increase in land area or building size, except as noted above or addition of other uses not authorized by the original PUD approval.

**ARTICLE XX**  
**REQUIREMENTS FOR NOTICE**

*(As amended Nov. 9, 2006, eff. November 30, 2006)*

SECTION 20.01. REQUIREMENTS FOR NOTICE. Whenever a public hearing is required or granted by discretion under the provisions of this Ordinance or the Zoning Act relating to an application or request for zoning approval or other zoning action, notice of the public hearing shall be given as follows:

- (a) The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Township.
- (b) Except as provided in Subsection (d) of this Section, a notice of public hearing shall also be mailed or be delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - (1) The applicant;
  - (2) All persons to whom real property is assessed within 300 feet of the property that is the subject to the application or request; and
  - (3) The occupants of all structures within 300 feet of the property that is the subject of the application or request.

If the above described 300 foot radius extends outside of the Township's boundaries, then notice must be provided outside of the Township boundaries, within the 300 foot radius, to all persons in the above stated categories.

- (c) The notice of public hearing shall include the following information:
  - (1) A description of the nature of the application or request.
  - (2) An identification of the property that is the subject of the application or request. Except as provided in Subsection (d) of this Section, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
  - (3) State when and where the application or request will be considered.
  - (4) Identify when and where written comments will be received concerning the application or request.
  - (5) In the case of an amendment to the Ordinance or to the Zoning Map the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
- (d) When a proposed rezoning involves 11 or more adjacent properties, the mailing or delivery requirement of Subsections (b)(2) and (b)(3) of this Ordinance are not required, and the listing of individual property addresses under Subsection c(2) is not required.



**ARTICLE XXI  
SITE PLAN REVIEW**

**SECTION 21.01 APPLICABILITY.**

(a) Site plan review and approval shall be required before any change of use, or before any excavation, removal of soil, clearing of a site, or placing of any fill on lands contemplated for development; and, except as hereinafter provided, no building permit shall be issued for any building or use, or reduction or enlargement in size or other alteration of any building or change in use of any building including accessory structures unless a site plan is first submitted and approved by the Planning Commission and no certificate of occupancy shall be given unless all construction and development conform to the plans as approved by the Planning Commission.

(b) All uses in the following districts shall require site plan approval:

- Commercial District
- Industrial District
- PUD - Planned Unit Development District

In the following districts, site plan approval shall be required as stated:

- (1) Residential - All uses other than single-family dwellings and their accessory buildings.
- (2) Agricultural - All uses other than single-family dwellings, their accessory buildings and farming structures. Site plan review and approval shall be required for migratory worker dwellings. *Amended July 19, 2012*

(c) Site plan approval shall not be required if the construction or alteration or change of occupancy or use does not affect existing circulation, drainage, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of site plan review.

**SECTION 21.02 PERFORMANCE STANDARDS.**

In reviewing any site plan, the Planning Commission shall consider:

(a) Pedestrian and vehicular traffic movement within and adjacent to the site with particular emphasis on the provision and layout of parking areas; off-street loading and unloading; and movement of people, goods and vehicles from access roads, within the site, and between buildings and vehicles.

The Planning Commission shall ensure that all parking spaces are useable and are safely and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.

- (b) The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on surrounding development, and contiguous and adjacent buildings and lands.
- (c) Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be a type approved by the reviewing board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
- (d) Buffering shall be located around the perimeter of the site to minimize headlights of vehicles, noise, light from structures, the movement of people and vehicles, and to shield activities from adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees, or combinations thereof to achieve the stated objectives.
- (e) Landscaping shall be provided as part of the overall site plan design and integrated into building arrangement, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.
- (f) Signs shall be designed so as to be aesthetically pleasing, harmonious with other signs on the site, and located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
- (g) Storm drainage, sanitary waste disposal, water supply, and garbage disposal shall be reviewed and considered. Particular emphasis shall be given to the adequacy of existing systems and the need for improvements, both on-site and off-site, to adequately carry runoff and sewage, and to maintain an adequate supply of water at sufficient pressure for fire fighting purposes.
- (h) Garbage disposal shall be adequate to ensure freedom from vermin and rodent infestation. All disposal systems shall meet municipal specifications as to installation and construction.
- (i) Environmental elements relating to soil erosion, preservation of trees, protection of water courses and resources, noise, topography, soil, and animal life shall be reviewed; and the design of the plan shall minimize any adverse impact on these elements.

### SECTION 21.03 SUBMITTAL REQUIREMENTS.

- (a) The applicant shall submit three (3) copies of his complete application to the Planning Commission. The time for the Planning Commission's review shall not begin to run until



the submission of a complete application with the required fee. The submission shall be made as set by the resolution adopted by the Township Board for establishing submission deadlines. *(amended November 11, 2004)*

- (b) A complete application for preliminary approval shall also consist of the following:
- (1) A properly completed site plan information form.
  - (2) The required fee, as specified by resolution of the Township Board.
  - (3) A site plan on which the following is set out:
    - a) Scale, not to exceed 1" = 100'.
    - b) Location map showing all road intersections within 500 feet.
    - c) All structures, wooded areas and topography with two-foot intervals, except where the slope exceeds five (5) percent, in which case contour intervals may be ten feet.
    - d) All lot lines and owners of lots within 300 feet of the site *(as amended June 12, 1986)*.
    - e) Streets, easements, watercourses and right-of-ways.
    - f) Utility and drainage plans and information.
    - g) Preliminary plans for elevations and locations of structures.
    - h) Preliminary plans for parking, lighting, loading, signs, and landscaping.
    - i) Any extension of off-tract improvements necessitated by the proposed development.
    - j) Other items as required by the Planning Commission *(as amended June 12, 1986)*.

#### SECTION 21.04 DISTRIBUTION OF SITE PLAN.

The clerk of the reviewing board shall distribute the site plan application for review and report as required.

#### SECTION 21.05 PUBLIC HEARINGS.

The Planning Commission or Zoning Administrator may determine to hold a public hearing on any application for its plan to be approved. The Planning Commission or Zoning Administrator shall set the time and place for such public hearing and arrange for notice of such hearing in accordance with Section 20.01 of this Ordinance. *(As amended Nov. 9, 2006, eff. November 30, 2006) (Amended July 11, 2013)*

## SECTION 21.06 EXCEPTION TO APPLICATION OF SITE PLAN REGULATIONS.

The Planning Commission, when acting upon applications for site plan approval, shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of this ordinance if the literal enforcement of one or more provisions of this ordinance is impracticable or will extract undue hardship because of peculiar conditions pertaining to the land in question.

## SECTION 21.07 EFFECT OF SITE PLAN APPROVAL.

Approval of a site plan, except as provided below in subsection (d) of this section, shall confer upon the applicant the following rights for a one year period from the date of the site plan approval:

- (a) That the general terms and conditions on which approval was granted shall not be changed, including, but not limited to, use requirements; layout and design standards for streets, curbs and sidewalks; lot size, yard dimension and off-tract improvements; natural resources to be preserved on the site; vehicular and pedestrian circulation, parking and loading; screening, landscaping and location of structures; exterior lighting, both for safety reasons and street lighting; except that nothing herein shall be construed to prevent the Township from modifying by ordinance such general terms and conditions of approval as relate to the public health and safety.
- (b) That the applicant may submit for a building permit on or before the expiration date of approval.
- (c) That the applicant may apply for, and the Planning Commission may grant extensions on, such approval for additional periods of one year but not to exceed a total extension of two years. If the design standards have been revised by ordinance, such revised standards may govern.
- (d) In the case of a site plan for an area of 50 acres or more, the Planning Commission may grant the rights referred to in subsections (a), (b) and (c) of Section 21.07 above for such period of time longer than one year, as shall be determined by the Planning Commission to be reasonable, taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under preliminary approval; (2) economic conditions; and (3) the comprehensiveness of the development. The applicant may apply for thereafter, and the Planning Commission may thereafter grant, an extension to preliminary approval for such additional period of time as shall be determined by the Planning Commission to be reasonable, taking into consideration the above factors. If the design standards have been revised by ordinance, such revised standards may govern.

## SECTION 21.08 GUARANTEES REQUIRED.

- (a) As a condition of site plan approval, the Planning Commission may require and shall accept in accordance with the standards adopted by this ordinance for the purpose of assuring the installation and maintenance of on-tract improvements:
  - (1) The furnishing of a performance guarantee in favor of the Township in an amount not to exceed 100 (one hundred) percent of the cost of installation for improvements it may deem necessary or appropriate, including, but not limited to, streets, grading, shade trees, surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers or other means of sewage disposal, drainage structures, erosion control and sedimentation control devices, public improvements of open space, and other on-site improvements and landscaping. The performance guarantee shall be in the form of a bond from a bonding company approved by the Township or other form as may be acceptable to the Township.
  - (2) The furnishing of a maintenance guarantee to be posted with the Township Board for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed fifteen (15) percent of the cost of the improvement. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by performance or maintenance guarantees to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required for such utilities or improvements.
- (b) The amount of any performance guarantee may be reduced by the Township Board, by resolution, when portions of the improvements have been certified by the Building Inspector to have been completed.
- (c) If the required improvements are not completed or corrected in accordance with the performance guarantee, the obliger and surety, if any, shall be liable thereon to the municipality for the reasonable cost of the improvements not completed or corrected, and the Township may, either prior to or after the receipt of the proceeds thereof, complete such improvement.
- (d) When all of the required improvements have been completed, the obliger shall notify the Township Board, in writing, of the completion of said improvements and shall send a copy thereof to the Zoning Administrator. The Building Inspector shall inspect all of the improvements and shall file a detailed report, in writing, with the Township Board indicating either approval, partial approval, or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- (e) The Township Board shall either approve, partially approve, or reject the improvements on the basis of the report of the Building Inspector and shall notify the obliger, in writing, not

later than 60 days after receipt of the notice from the obliger. Where partial approval is granted, the obliger shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved.

- (f) If any portion of the required improvements is rejected, the reviewing board may require the obliger to complete such improvements; and upon completion, the same procedure of notification, as set forth in this section, shall be followed.
- (g) If the Township employs an engineer to review improvements, the obliger shall reimburse the Township for reasonable inspection fees paid to the Township Engineer for the foregoing inspection of improvements.

**ARTICLE XXII  
CHANGES AND AMENDMENTS**

SECTION 22.01 INITIATION OF AMENDMENTS. This Ordinance may be amended or supplemented from time to time in accordance with Act 184 of the Public Acts of 1943, as amended, being the Rural Township Zoning Act. Amendments to this Ordinance may be initiated by the Township Board, the Planning Commission, or by any interested person or persons by petition to the Planning Commission.

SECTION 22.02 AMENDMENT PETITION PROCEDURE. All petitions for amendment to this Ordinance shall be in writing, signed and filed with the Township Clerk for presentation to the Planning Commission. The submission shall be made as set by the resolution adopted by the Township Board for establishing submission deadlines Such petitions shall include the following: *(amended November 11, 2004)*

- (a) The petitioner's name, address, and interest in the petition and, if applicable, the name, address, and interest of each person having a legal or equitable interest in any land which is to be rezoned.
- (b) The nature and effect of the proposed amendment.
- (c) If the proposed amendment would require a change in the zoning map, a fully dimensioned map showing the land would be affected by the proposed amendment, a legal description of such land, the present zoning district of the land, the zoning district of all abutting lands, and all public and private right-of-way and easements bounding and intersecting the land to be rezoned.
- (d) The alleged error, if any, in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reason why the proposed amendment will correct the same.
- (e) The changed or changing conditions in the area or in the Township that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare.
- (f) All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.

SECTION 22.03 AMENDMENT PROCEDURE. After initiation, amendments to this Ordinance shall be considered as follows: *(as amended April 9, 2009)*

- (a) The Planning Commission shall authorize the preparation of the proposed amendment to be considered.
- (b) The Planning Commission shall set a time and place for a public hearing on the proposed amendment and shall arrange for notice of such public hearing to be given in accordance with Section 20.01 and the Zoning Act. *(As amended Nov. 9, 2006, eff. November 30, 2006)*

- (c) At said hearing, the Planning Commission shall establish that the applicant has paid to the Township the fee established by the Township Board and that proper notices have been made.
- (d) The Planning Commission shall hold said public hearing, noting all comments and reports requested, or noting the absence of such.
- (e) The Planning Commission may make minor changes in the amendment to reflect objections raised at the hearing or to correct technical errors. The changed text shall be forwarded as above without further hearing. If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
- (f) The Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
- (g) After receiving notice of action by the County Planning Commission if any is provided by County policy, the Township Board shall consider such proposed zoning amendment.
- (h) If the Township Board determines that the proposed amendment should be modified or rejected, it may refer the proposed amendment back to the Planning Commission for consideration and for comments within a time specified by the Township Board. After receiving the report of the Planning Commission, the Township Board shall grant a hearing on the proposed amendment to a property owner who requests a hearing by certified mail, addressed to the Clerk. Additionally, the Township Board may hold a public hearing on the proposed amendment if considers it necessary. Notice of any such hearing shall be given in accordance with the Section 20.01. *(As amended Nov. 9, 2006, eff. November 30, 2006)*
- (i) The Township Board may pass the amendment after receiving the recommendation of the County Planning Commission, if any is required, or at least thirty (30) days after the County recommendation is requested.
- (j) The Township Board shall adopt the Ordinance in the prescribed manner and shall publish the Ordinance amendment or a summary of the regulatory effect of the Ordinance amendment within fifteen (15) days.
- (j) The Township Board shall then file the Ordinance in the official ordinance book of the Township within seven (7) days after adoption and publication with a certification by the Supervisor and Clerk authenticating the record.

**ARTICLE XXIII  
ADMINISTRATION AND ENFORCEMENT**

SECTION 23.01 ZONING ADMINISTRATION. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator shall be appointed by the Township Board for such term and subject to such conditions as at such rate of compensation as the Township Board shall determine. To be eligible for appointment to the post of Zoning Administrator, the applicant must:

- (a) Be generally informed of the provisions of this Ordinance.
- (b) Have a general knowledge of the building arts and trades.
- (c) Be in good health and physically capable of fulfilling the duties of the Zoning Administrator.

Said applicant shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility or device entering into or used in connection with building construction. The Zoning Administrator may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

SECTION 23.02 PERMITS REQUIRED. No person, firm or corporation shall excavate, erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure at a cost of more than fifteen hundred dollars (\$1,500) in Port Sheldon Township or cause the same to be done without first obtaining a separate building permit for each such building or structure from the Zoning Administrator. It shall be unlawful for any person, firm, or corporation to excavate, erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure at a cost of more than fifteen hundred dollars (\$1,500) in Port Sheldon Township without first obtaining such a permit from the Zoning Administrator.

SECTION 23.03 APPLICATIONS FOR BUILDING PERMITS. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose. Every such application shall:

- (a) Identify and describe the work to be covered by the permit for which application is made.
- (b) Describe the land on which the proposed work is to be done, by lot, block, track, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
- (c) Indicate the use or occupancy for which the proposed work is intended.
- (d) Be accompanied by plans and specifications as required in Section 23.04.

- (e) State the valuation of the proposed work.
- (f) Be signed by permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.
- (g) Give such other information as reasonably may be required by the Zoning Administrator, including, but not limited to, the following:
  - (1) The actual shape, location and dimensions of the lot.
  - (2) The shape, size, area and location of the building or structure to be excavated, erected, constructed, enlarged, altered, repaired, moved, improved, converted or demolished, and of any buildings or other structures already on the lot.
  - (3) The existing and intended use of the lot and of all structures upon it.
  - (4) Such other information concerning the lot, adjoining lots, or other matters as may be essential for determining whether the provisions of this Ordinance are being observed.

SECTION 23.04 BUILDING PERMIT PLANS AND SPECIFICATIONS. With each application for a building permit, and when required by the Zoning Administrator for enforcement of any provisions of this Ordinance, two sets of plans and specifications shall be submitted. The Zoning Administrator may require plans and specifications to be prepared and designed by an engineer or architect licensed by the State to practice as such.

Plans and specifications shall be submitted to the Zoning Administrator in accord with the requirements of the Building Code. The Zoning Administrator, at his discretion, may require a certified property survey to insure that the provisions of this Ordinance are met.

SECTION 23.05 ISSUANCE OF BUILDING PERMITS. The application, plans, and specifications filed by an applicant for a permit shall be checked by the Zoning Administrator. Such plans may be reviewed by other officials of the Township to check compliance with the laws and ordinances under their jurisdiction. If the Zoning Administrator is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Ordinance, the Building Code and other pertinent laws and ordinances; he shall issue a permit therefore to the applicant; however:

- (a) Issuance of a permit shall in no case be construed as waiving any provision of this Ordinance.
- (b) The Zoning Administrator, under no circumstances, is permitted to grant exceptions to the actual meaning of any clause, order, or regulation contained in this Ordinance.
- (c) The Zoning Administrator, under no circumstances, is permitted to make changes in this



Ordinance or to vary the terms of this Ordinance.

- (d) The Zoning Administrator shall issue a permit when the imposed conditions of this Ordinance and the Building Code and other pertinent laws and ordinances are met by the applicant, regardless of the effect of such a permit on contracts, such as deed covenants or private agreements.
- (e) If any application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval.

SECTION 23.06 FEES. Building permit fees shall be charged and collected by the Zoning Administrator in accord with the fee schedule adopted by resolution of the Township Board.

SECTION 23.07 CERTIFICATE OF OCCUPANCY. No building or structure, except as otherwise provided in the Building Code, shall be used or occupied, and no change in the use or occupancy of a building or structure or portion thereof shall be made until the Zoning Administrator has issued a Certificate of Occupancy. Such Certificate shall affirm that the building or structure conforms in all respects with the provisions of this Ordinance and the Building Code.

- (a) A temporary Certificate of Occupancy may be issued by the Zoning Administrator for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.
- (b) Upon written request from the owner or tenant, the Zoning Administrator may issue a Certificate of Occupancy for any building, structure, or premises existing at the time of enactment of this Ordinance certifying, after inspection, the extent and kind of use made of the building, structure or premises and whether such use conforms to the provisions of this Ordinance.
- (c) No permit or certificate shall be issued for any illegal use or occupancy existing at the time of the adoption of this Ordinance. Furthermore, the issuance of a Certificate of Occupancy shall in no case be construed as waiving any provision of this Ordinance.



## ARTICLE XXIV

### VIOLATIONS AND PENALTIES

SECTION 24.01 VIOLATIONS-PROCEDURES. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. A record of the disposition of complaints shall be filed.

SECTION 24.02 PENALTIES. A violation of the provisions of this Ordinance shall be deemed a Municipal Civil Infraction as defined and enforced in Ordinance 2009-02, Municipal Civil Infractions Ordinance. *(as amended August 13, 2009)*

The Township Board, the Board of Appeals, the duly authorized Attorney for the Township, the Prosecuting Attorney for Ottawa County, or any owners or occupants of any real estate within the Township may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.



## ARTICLE XXV

### MISCELLANEOUS PROVISIONS

SECTION 25.01 ADMINISTRATIVE LIABILITY. No officer, agent, employee, Zoning Board of Appeals, Building Inspector, or member of the Planning Commission, Township Board, or Board of Appeals shall be himself personally liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this Ordinance.

SECTION 25.02 SEVERABILITY. This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 25.03 REPEAL. The former Zoning Ordinance of this Township, effective August 13, 1970, and all amendments thereto, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder. All other ordinances and parts of ordinances, or amendments thereto, of the Township of Port Sheldon, in conflict with the provisions of this Ordinance, except those ordinances and parts of ordinances or amendments thereto which are more restrictive than this Ordinance, are hereby repealed.

SECTION 25.04 EFFECTIVE DATE. This Ordinance was adopted at a regular meeting of the Port Sheldon Board on the 9th day of May, 1985, and is ordered to take effect thirty (30) days from the adopted date and a notice shall be published once in the Holland Sentinel on or before the 24th day of May, 1985.

SECTION 25.05 CITATIONS TO TOWNSHIP ZONING ACT SUPERCEDED. All citations or references in this Ordinance to the "Township Zoning Act," the "Rural Township Zoning Act," and/or "Public Act 184 of 1943, as amended" are hereby replaced and superseded by the citation to the Michigan Zoning Enabling Act, 2006 PA 110, including without limitation, references contained in Sections 1.04, 12.01, 13.04(c), 19.03(e), 22.01, and 2.02. DEFINITIONS: ZONING ACT. (As amended Nov. 9, 2006, *eff.* November 30, 2006)

/s/ Lloyd Bakker

Township Supervisor

/s/ Judith Elenbaas

Township Clerk