

KASSON TOWNSHIP
LEELANAU COUNTY, MICHIGAN

ZONING ORDINANCE

Adopted April 7, 1997
With Amendments Through January 26, 2019

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SECTION 4.6.4 SPECIFIC PERFORMANCE STANDARDS FOR EARTH REMOVAL, QUARRYING, GRAVEL PROCESSING & MINING OPERATIONS	29
SECTION 4.7 FORESTED DISTRICT (FR)	35
SECTION 4.7.1 PERMITTED USES	35
SECTION 4.7.2 SPECIAL LAND USES	35
SECTION 4.7.3 DEVELOPMENT STANDARDS	36
SECTION 4.7.4 PERFORMANCE STANDARDS	36
SECTION 4.7.5 ACCESSORY STRUCTURES AND USES	36
SECTION 4.7.6 MISCELLANEOUS REGULATIONS	37
SECTION 4.8 HIGH DENSITY VILLAGE (HDV)	38
SECTION 4.8.1 PERMITTED USES	38
SECTION 4.8.2. SPECIAL LAND USES	39
SECTION 4.8.3 DEVELOPMENT STANDARDS	39
SECTION 4.8.4 PERFORMANCE STANDARDS	43
SECTION 4.8.5 ACCESSORY STRUCTURES AND USES	44
SECTION 4.8.6 MISCELLANEOUS REGULATIONS	44
SECTION 4.9 COMMERCIAL (CD)	45
SECTION 4.9.1 PERMITTED USES	45
SECTION 4.9.2 SPECIAL LAND USES	45
SECTION 4.9.3 DEVELOPMENT STANDARDS	46
SECTION 4.9.4 PERFORMANCE STANDARDS	47
SECTION 4.9.5 ACCESSORY STRUCTURES AND USES	48
SECTION 4.9.6 MISCELLANEOUS REGULATIONS	48
SECTION 4.10 SPECIAL PURPOSE DISTRICTS	49
SECTION 4.10.1 PURPOSE	49
SECTION 4.10.2 ZONING DISTRICTS AND SPECIAL LAND USES	49
SECTION 4.10.3 SPECIAL LAND USES	49
SECTION 4.10.4 DEVELOPMENT STANDARDS	49
SECTION 4.10.5 PERFORMANCE STANDARDS	54
SECTION 4.11 PLANNED DEVELOPMENTS (PD)	57
SECTION 4.11.1 PURPOSE:	57
SECTION 4.11.2 PERMITTED AND SPECIAL LAND USES	57
SECTION 4.11.3 DISTRICT REGULATIONS FOR PLANNED DEVELOPMENTS	57
SECTION 4.11.4 PERFORMANCE STANDARDS	64
SECTION 4.11.5 MISCELLANEOUS REGULATIONS	66
SECTION 4.11.6 CONCEPTUAL DEVELOPMENT PLAN: APPLICATION REQUIREMENTS	66
SECTION 4.11.7 PLANNING COMMISSION REVIEW OF CONCEPTUAL DEVELOPMENT PLAN	68
SECTION 4.11.8 APPLICATION FOR REZONING	68
SECTION 4.11.9 SITE PLAN REVIEW REQUIRED	69
SECTION 4.11.10 CHANGES TO AN APPROVED PLANNED DEVELOPMENT	69
SECTION 4.11.11 TIME LIMIT FOR APPROVED PLANNED DEVELOPMENTS	70

CHAPTER 5 GENERAL PROVISIONS71

SECTION 5.1 INTENT AND PURPOSE	71
SECTION 5.2 ACCESSORY BUILDINGS	71
SECTION 5.3 LOT ALLOCATION	71
SECTION 5.4 SUBSTANDARD LOTS	71
SECTION 5.5 CORNER CLEARANCE	72

SECTION 5.6 MISCELLANEOUS STORAGE	72
SECTION 5.7 KEYHOLING	72
SECTION 5.8 ESSENTIAL SERVICES	72
SECTION 5.9 FENCES, WALLS AND SCREENS	72
SECTION 5.10 PORCHES AND DECKS	72
SECTION 5.11 SATELLITE DISH ANTENNAS, POINT TO POINT TELECOMMUNICATION TOWERS AND SIMILAR STRUCTURES	73
SECTION 5.12 ROAD ACCESS REQUIREMENTS	73
SECTION 5.13 TEMPORARY OUTDOOR USES	74
SECTION 5.14 PERMITS	74
SECTION 5.15 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES	74
SECTION 5.16 CORNER LOTS	74
SECTION 5.17 LANDSCAPING, SCREENING, GREENBELTS, BUFFERS AND FENCING	75
SECTION 5.18 PRIVATE ROAD STANDARDS	76
SECTION 5.19 MINIMUM SETBACK FROM AND LOT FRONTAGE REQUIRED ON ALL LAKES	76

CHAPTER 6 PARKING77

SECTION 6.1 INTENT AND PURPOSE	77
SECTION 6.2 ADEQUATE OFF-STREET PARKING	77
SECTION 6.3 TABLE OF OFF-STREET PARKING REQUIREMENTS	77
SECTION 6.4 USES NOT LISTED	79
SECTION 6.5 BUILDING, STRUCTURE, OR USE, EXPANSIONS OR ADDITIONS	79
SECTION 6.6 JOINT PARKING	79
SECTION 6.7 OFF-STREET PARKING AREA CONSTRUCTION REQUIREMENTS	79
SECTION 6.8 PARKING LOT LANDSCAPING, BUFFERING AND SCREENING.	80

**CHAPTER 7 SPECIAL LAND USES AND SPECIAL USE PERMIT
REQUIREMENTS82**

SECTION 7.1 INTENT AND PURPOSE	82
SECTION 7.2 PRE-EXISTING USE	82
SECTION 7.3 REVIEWING AUTHORITY	82
SECTION 7.4 APPLICATION AND FEE	82
SECTION 7.5 DATA REQUIRED	82
SECTION 7.6 PROCEDURE UPON RECEIPT OF APPLICATION	83
SECTION 7.7 BASIS FOR DETERMINATION	85

SECTION 7.8 CONDITIONS AND SAFEGUARDS	86
SECTION 7.9 VARIANCES	87
SECTION 7.10 GRANT OR DENIAL OF THE SPECIAL USE PERMIT	87
SECTION 7.11 PERMIT EXPIRATION OR RENEWAL	87
SECTION 7.12 BINDING EFFECT	87
SECTION 7.13 INSPECTIONS	88
SECTION 7.14 FINANCIAL GUARANTEES	88
SECTION 7.15 OTHER SPECIAL LAND USES	89
SECTION 7.16 RECORDING OF NOTICE OF SPECIAL USE PERMIT	
APPROVAL IN THE CHAIN OF TITLE	90
SECTION 7.17 REQUEST FOR RESCISSION AND CANCELLATION OF SPECIAL USE PERMIT BY THE RECORD OWNER OF PROPERTY SUBJECT TO A SPECIAL USE PERMIT	90

CHAPTER 8 DEVELOPMENT SITE PLAN REVIEW91

SECTION 8.1 INTENT AND PURPOSE	91
SECTION 8.2 SCOPE	91
SECTION 8.3 APPLICATION AND FEE	91
SECTION 8.4 REVIEWING AUTHORITY	91
SECTION 8.5 MAJOR AND MINOR DEVELOPMENT PROJECTS	
DEFINED	92
SECTION 8.6 CONCEPTUAL DEVELOPMENT SITE PLAN REVIEW	92
SECTION 8.7 SITE PLAN REVIEW; REQUIRED INFORMATION	92
SECTION 8.8 SITE PLAN REVIEW PROCEDURE	95
SECTION 8.9 DEVELOPMENT SITE PLAN REVIEW STANDARDS	96
SECTION 8.10 FINAL DEVELOPMENT SITE PLAN APPROVALS	99
SECTION 8.11 SPECIAL LAND USES AND CONCURRENT APPROVALS	100
SECTION 8.12 AMENDMENTS TO APPROVED DEVELOPMENT PLANS	101
SECTION 8.13 TIME LIMIT FOR APPROVED SITE PLANS	101

CHAPTER 9 SIGNS103

SECTION 9.1 FINDINGS AND PURPOSE	103
SECTION 9.2. DEFINITIONS	103
SECTION 9.3. ADMINISTRATION	104
SECTION 9.4. SIGNS EXEMPT FROM THIS ORDINANCE.	104
SECTION 9.5. SIGNAGE ALLOWED PER DISTRICT	105
SECTION 9.6. GENERAL PROVISIONS GOVERNING THE USE OF SIGNS	105
SECTION 9.7 NON-CONFORMING SIGNS	107

CHAPTER 10 ADMINISTRATION AND ENFORCEMENT108

SECTION 10.1 ZONING ADMINISTRATOR	108
SECTION 10.2 LAND USE PERMIT REQUIRED	108
SECTION 10.3 APPLICATION FOR LAND USE PERMIT	108
SECTION 10.4 ISSUANCE OF LAND USE PERMIT	108
SECTION 10.5 FAILURE TO OBTAIN LAND USE PERMIT	109
SECTION 10.6 DENIAL OF LAND USE PERMIT	109
SECTION 10.7 REVOCATION OF LAND USE PERMIT	109
SECTION 10.8 APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR	109
SECTION 10.9 ENFORCEMENT	109
SECTION 10.10 ESCROW DEPOSITS FOR VARIABLE COSTS AND EXPENSES.	111

CHAPTER 11 ZONING BOARD OF APPEALS112

SECTION 11.1 AUTHORIZATION	112
SECTION 11.2 MEMBERSHIP AND PROCEDURES	112
SECTION 11.3 VARIANCES	114
SECTION 11.4 ADMINISTRATIVE REVIEW	115
SECTION 11.5 INTERPRETATION AND CLASSIFICATION OF USES	115

CHAPTER 12 AMENDMENTS AND REZONING.....116

SECTION 12.1 AUTHORIZATION	116
SECTION 12.2 REZONING	116
SECTION 12.3 INITIATION OF AMENDMENTS	116
SECTION 12.4 GENERAL PROCEDURE	116
SECTION 12.5 PROCEDURE FOR PETITIONS TO PERMIT THE EXTRACTION OF NATURAL RESOURCES	118

AMENDMENTS TO THIS EDITION.....126

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ZONING ORDINANCE OF KASSON TOWNSHIP LEELANAU COUNTY, MICHIGAN

CHAPTER 1 PREAMBLE

An ordinance to establish zoning districts and to enact provisions regulating the use of land and natural resources in portions of Kasson Township, Leelanau County, Michigan.

SECTION 1.1 TITLE

This Ordinance shall be known as the "Zoning Ordinance of Kasson Township" and shall be referred to as "this Ordinance".

SECTION 1.2 PURPOSE

This Ordinance is based on the Kasson Township Master Plan and designed to be the primary means for its implementation. It sets forth regulations for the uses of land, structures and natural resources of the Township and for development, redevelopment or restoration of all property by establishing requirements requisite to proper land use. This Ordinance, along with the Zoning Map, delineates allowed land uses and their restrictions within the Township. The Zoning Ordinance and the Zoning Map are organized into five basic zone areas:

- The Gravel District
- The Agricultural District
- The Forested District
- Village High Density
- Commercial

In addition, Special Purpose Districts and Planned Developments may be created.

In the Ordinance each district is divided into six parts that provide regulations for each in a clear, concise, and organized fashion:

- Purposes;
- Permitted and Special Land Uses;
- Property Development Standards;
- Performance Standards;
- Accessory Structures and Uses;
- Miscellaneous Regulations.

The objectives of the Kasson Township Ordinance are:

- A. To promote the public health, safety, and general welfare;

- B. To ensure that land uses shall be in appropriate locations and in proper relationships with other uses;
- C. To provide for open spaces in order to prevent the overcrowding of land and congestion of population, transportation, and public facilities;
- D. To provide for adequate and efficient transportation, sewage disposal, water, and energy systems and for recreation, public safety and other public service and facility needs;
- E. To cause and perpetuate the wise use of lands and natural resources in accordance with their character and their adaptability to development or not;
- F. To eliminate the improper use of land;
- G. To effect the proper and orderly development of the Township; and,
- H. To accomplish the goals and objectives of the Township's Master Plan.

The goal of all these objectives is to promote conservation planning whereby the community is designed and managed in ways that preserve the greatest amount of natural terrain and sustain the greatest amounts of lasting biologic and economic diversity.

To meet this goal, Kasson township is divided into districts of such number, shape and area, and of such common purpose, adaptability or use, that are deemed most suitable to protect the common rights and interests within each district and the township as a whole, to preserve the property owners' rights to use of their lands, and to promote quality of life and business vitality.

The regulations of the Ordinance accomplish the purpose and objectives as outlined above by providing for land uses within each district, by acknowledging the unique impacts of Special Land Uses through specific standards for their development in appropriate locations within selected districts; by promoting quality development by limiting the location, height, bulk, occupancy and uses of buildings and other structures defining maximum residential density and specifying the percentage of site available for a building; by providing for basic site design standards to ensure the land is developed in a functional and aesthetic manner, and by requiring various setbacks from property lines and public street rights-of-way.

SECTION 1.3 SCOPE

- A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance, the provision which is more restrictive or which imposes the higher standard or requirement shall govern.

- B. This Ordinance shall not abrogate or annul any easement, covenant, or other private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.
- C. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, constructed, extended, enlarged, or altered, except in conformity with this Ordinance.
- D. No setback area or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards, lots, or setback areas, created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.
- E. Unless otherwise provided for by this Ordinance, any conditions attached to a lot as a result of public action taken pursuant to the application of this Ordinance shall remain in effect even though said lot may change ownership.
- F. The regulations herein established shall be minimum regulations for promoting and protecting the public health, safety and welfare.

SECTION 1.4 AUTHORITY

This Ordinance is enacted and shall be administered and enforced pursuant to Public Act 110 of 2006 as amended, hereafter referred to as the "Zoning Act".

SECTION 1.5 VALIDITY AND SEVERABILITY

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases, and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of the Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular lot, use, building or structure, such ruling shall not affect the application of said provision to any other lot, use building or structure not specifically included in said ruling.

SECTION 1.6 EFFECTIVE DATE

This Ordinance along with amendments through June 7th, 2010 was adopted by the Kasson Township Board on June 7th, 2010 and is ordered to take effect on July 2nd, 2010.

CHAPTER 2 DEFINITIONS

SECTION 2.1 RULES APPLYING TO THE TEXT

The following rules of construction shall apply to the text of this Ordinance.

- A. Except with respect to the headings contained in Section 2.2, the headings that title a chapter, a section or a subsection of this Ordinance are for the purposes of clarity only and are not to be considered in any construction or interpretation of this Ordinance, or as enlarging or restricting any of its terms or provisions in any respect.
- B. The illustrations contained within this Ordinance are intended to exemplify hypothetical applications of the provisions that refer to them, and shall not have the effect of enlarging or restricting the terms or provisions which refer to them. In the event of any conflict between the provisions of the written text of this Ordinance and the illustrations, the text shall govern.
- C. When inconsistent with the context, words used in the present tense shall include the future tense, words in the singular shall include the plural and words in the plural shall include the singular.
- D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- E. A "building" or "structure" includes any part thereof unless specifically excluded.
- F. The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal or public entity, or equivalent entity or any combination of them as well as a natural person.
- G. The words "used" and "occupied", as applied to any land, building or structure, shall be construed to include the phrases "intended to be", "arranged to be" or "designed to be" used or occupied.
- H. The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built", "constructed", "reconstructed", "moved upon", or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
- I. The particular shall control the general.
- J. Terms not herein defined shall have common, customary meanings.

SECTION 2.2 DEFINITIONS

For the purpose of their use in this Ordinance, the following terms and words are herein after defined:

Accessory building or structure is a building or structure that is detached from the principal building located on the same lot and is customarily incidental to the principal building.

Accessory Use shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of such lot or building.

Adult entertainment establishment is any one, or combination of the following: adult bookstore, adult tavern or bar, adult cabaret, adult live entertainment, adult mini motion picture theater, adult motion picture theater, adult novelty, adult video sales or rental, or related adult amusement. Any business that devotes more than 30 percent of its total sales, stock or trade to adult uses shall be considered an adult entertainment establishment. "Adult" in this context shall mean sexually explicit materials and actions not intended for exhibit to minors.

Adult Foster Care Family Home means a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family licensee shall be a member of the household and an occupant of the residence (MCL 400.703). This does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional facilities.

Adult Foster Care Group Home means an adult foster care facility with the approved capacity of more than six (6) but not more than twenty (20) adults to be provided with foster care (MCL 400703). This does not apply to adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional facilities.

Agriculture is farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, farm forestry, and other similar enterprises or uses.

Alley is a service way providing a secondary means of public access to abutting properties and not intended for general traffic circulation

Bed and Breakfast (Tourist Home) Establishment is a use which is subordinate to the principal use of a dwelling as a single-family dwelling unit and in which transient guests do not stay more than seven (7) consecutive days and are provided a sleeping room and board in return for payment.

Boarding or Lodging House is a building other than a hotel where, for compensation and by prearrangement for definite periods, lodging, meals, or both are provided for three (3) or more, but not exceeding twenty (20) persons.

Bonafide Commercial Agricultural Operation is the raising of plants or animals, commonly grown in Northwest Lower Michigan, on a parcel of land appropriate for a continuing agricultural enterprise.

Building is any structure which is erected having a roof supported by columns or walls.

Building Height shall mean the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the highest point of the highest gable of a pitch or hip roof, but exclusive of vents, mechanical equipment, chimneys, or other such incidental appurtenances.

Building Site shall mean a legally created parcel or contiguous parcels of land in single or joint ownership, which provides the area and the open spaces required by this Ordinance for the location or construction of a building, exclusive of all vehicular and pedestrian rights-of-way and all other easements that prohibit the surface use of the property by the owner thereof.

Commission means the Kasson Township Planning Commission; also referred to in this Ordinance as the 'Planning Commission'.

Communication Towers:

1. Point-To-Point Telecommunication Tower is an antenna and its supporting structure that is designed and intended to send and/or receive radio signals from the location of the tower to one other single, remote location.
2. Satellite Dish Antenna is a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, parabola, cone or horn. Such a device shall be used to transmit or receive television, radio, or other electromagnetic communications signals between terrestrially or extra-terrestrially based sources. This definition includes, but is not limited to, what are commonly referred to as satellite earth stations, TVRO's (Television Reception Only satellite antennas), and satellite microwave antennas.
3. Wireless Telecommunication Tower means an antenna system and its supporting structure used to send and receive radio signals to multiple individual, personal communication devices, such as, but not limited to, cellular telephones and personal computers.

Development Plan is the documents and drawings required by the Zoning Ordinance necessary to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

Drive Through Business is a business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in their vehicles.

Duplex, is a building containing two (2) separate dwelling units of a minimum 700 square feet per dwelling unit, designed for residential use by no more than two (2) families and connected by either a common wall or an attached garage area. Also known as a two (2) family dwelling.

Dwelling, Multiple Family is a building containing three (3) or more dwelling units, of a minimum 700 square feet per dwelling unit, designed for exclusive use and occupancy by three (3) or more families. As used in this Ordinance, an apartment building is a multi-family dwelling of up to eight (8) dwelling units per building and a townhouse is a multi-family dwelling from three (3) to (4) dwelling units per building and the units are side by side, with no unit above another.

Dwelling, Single Family is a building designed for exclusive use and occupancy as a dwelling unit by one (1) family, complying with the following standards:

1. A single family dwelling shall have a minimum of 480 square feet of living space.
2. Dwellings constructed on site with building materials brought to the site, and pre-manufactured units as defined under the Michigan State Construction Code, 1972, P.A. 230 (“PA 230”), as amended, shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provisions of PA 230, as amended. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards and regulations for construction are different from those imposed by PA 230, then, and in that event, such federal or state standard or regulation shall apply, in addition to those in PA 230.
3. A mobile home as defined in Section 2.2.
4. All dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.
5. A single family dwelling does not include a recreational vehicle or motor home.

Dwelling Unit is a building, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation for one family.

Essential Service is a service utility which is needed for the health, safety, and welfare of the community. In Michigan, these services are controlled by the Public Service Commission.

Family is an individual or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling.

Family Child Care Home means a private home in which fewer than seven (7) minor children are given care and supervision for periods of less than twenty four (24) hours a day, not attended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year (MCL 722.111).

Flag Lot is a lot not fronting on or abutting a road where access to the road is by a narrow, private right-of-way.

Floor Area is a total area of the floor space within the outside walls of a building, excluding porches, breeze ways, garages, attics, basements, utility areas, cellars or crawl spaces, but which may include that portion of a walkout basement that is finished for everyday living and not just for storage or occasional use.

Forestry Related Businesses are enterprises that utilize trees to produce wood products such as logs, log homes, palettes, lumber, furniture, flooring, firewood, or other similar uses.

Foster Family Home is a private home in which one (1) but not more than six (6) minor children who are not related to an adult member of the household by blood or marriage, who are placed in the household under the Michigan Adoption Code, Chapter X of the Probate Code MCL 710.21 to 710.70, are given care and supervision for twenty four (24) hours a day for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian (MCL 722.111).

Frontage is the continuous length along which a parcel of land fronts on a road or street, measured along the line where the property abuts the street or road right-of-way.

Garage - Private is a detached accessory building or portion of a main building used only for the parking or storage of vehicles.

Garage - Public is a building other than a private garage primarily used for the purpose of parking, storing, repairing or equipping motor vehicles therein as commercial use.

Group Child Care Home means a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty four (24) hours a day, not attended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year (MCL 722.111).

Home Occupation is an occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is clearly subservient to the use of the dwelling for residential purposes. No more than 1,200 square feet of space in any building, or buildings, shall be used for a home occupation; no more than one non-family member may be

employed in such activity; outdoor storage shall be completely screened; and, no activity shall become a nuisance to its neighborhood.

Housekeeping Cabin Park is a parcel of land on which two (2) or more buildings are maintained, offered, or used for dwelling or sleeping quarters for transients and operated as a commercial use, but excluding boarding or lodging houses, motels, and tourist homes.

Indoor Recreation Establishment is a facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities indoors (within an enclosed building) and operated as a business and open for use by the public for a fee, such as fitness centers, bowling alleys, indoor softball, and racquetball and tennis clubs.

kennel is any land, building, or structure where eight (8) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold for profit.

Lane is a service way providing a secondary means of public access to abutting properties and not intended for general traffic circulation.

Loading Space is a space on the same lot with a building, or group of buildings, for the temporary parking of commercial vehicles while loading and unloading merchandise or materials.

Lot is a parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a condominium unit site in a site condominium subdivision, having frontage upon a public or private street and having sufficient size to comply with the requirements of the Ordinance.

Lot Area is the total area included within lot lines. Where the front lot line is the centerline of a public street, the lot area shall not include that part which is in the public right-of-way.

Lot Coverage is a part or percent of a lot occupied by buildings or structures and other impervious surfaces.

Lot Depth is the arithmetic mean of the shortest and longest distance from the front lot line to the rear lot line.

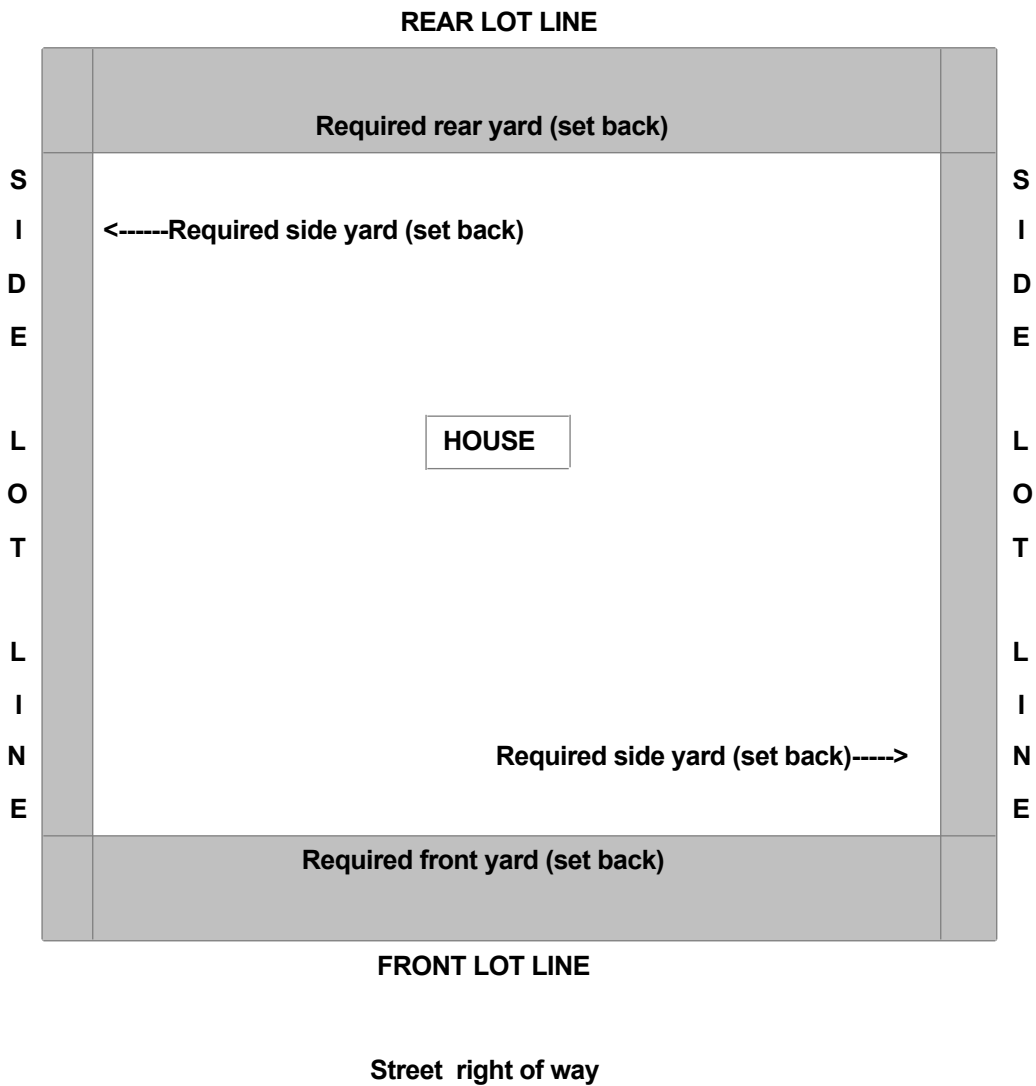
Lot Line is the line bounding a lot, parcel, or general common element (if there is no limited common element) that separates the lot, parcel, or general common element (if there is no limited common element) from another lot, parcel general common element (if there is no limited common element), existing street right-of-way, approved private road easement, or the ordinary high water mark.

Lot Line, Front is the lot line separating a lot or parcel from a street right-of-way (refer to Figure 1), or in the case of a lake lot, the ordinary high water mark.

Lot Line, Rear is the lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length, entirely within the lot, and generally parallel to and most distant from the front lot line.

Lot Line, Side is any lot line not a front or rear lot line (refer to Figure 1)

FIGURE 1:



Manufactured Home is a mobile home, residential building, dwelling unit, dwelling rooms or room or rooms, or a building component which is designed for long term residential use and is and designed to be used as a dwelling only and required to be connected to the

required utilities, and includes the plumbing, HVAC, and electrical system contained in the structure is wholly or substantially constructed at an off site location, transported to a site and erected.

Mobile Home, as defined in PA 230 shall mean a vehicular, portable structure and shall meet all of the following requirements:

1. Is built on a chassis pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 to 5426.
2. Is designed to be used without a permanent foundation as a dwelling when connected to required utilities.
3. Is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same premises for more than 30 consecutive days
4. A mobile home shall otherwise comply with all of the requirements of the Mobile Home Commission Act, Act 96 of 1987 (“PA 96”), as applicable, shall be installed pursuant to the manufacturer's set-up instructions, and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall.
5. Each mobile home shall be installed with the wheels removed. Additionally, no mobile home shall have any exposed towing mechanism, undercarriage or chassis.

The foregoing standards shall apply to a mobile home located in a licensed mobile home park except to the extent otherwise required by state or federal law or as specifically required in this ordinance.

A mobile home does not include a recreational vehicle or motor home. Motor Vehicle Sales and/or Repair is any establishment engaged in the sale, rental, or leasing of new or used automobiles, vans, pick-up trucks, recreational vehicles, or travel trailers; or a business performing repairs on such vehicles.

Motor Vehicle Service Facility is any establishment engaged in the direct retail sale of gasoline or other engine fuels, motor oil or lubricants, performing interior or exterior cleaning, sale of tires, parts, or accessories, inspection, lubrication, engine tuning, or minor repair for automobiles, vans, pick-up trucks, or other motor vehicles.

Non-Conforming Use is the use of a building or of land lawfully existing at the time this Ordinance or amendments became effective, but which does not conform with the use regulations of the district in which it is located.

Non-Conforming Structure is a structure, or portion thereof, lawfully existing at the time this Ordinance or amendments became effective and which fails to meet the minimum requirements of the zoning district in which it is located.

Off Site Sign is a sign which advertises or directs attention to products or activities that are not provided on the parcel upon which the sign is located. Bus benches with advertising are included within this definition.

Open space land areas that are open and permanently preserved for use in common by the owners or residents of a Planned Development.

Ordinary High Water Mark is the line between upland and bottom land which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland, and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, levee, or other water controlling device, this shall be the natural ordinary high water mark.

Outdoor Recreation Establishment is a facility designed and equipped for the conduct of sports, amusement or leisure time activities, and other customary recreational activities outdoors (outside of an enclosed building) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks.

Owner(s) shall mean any combination of persons who have equitable or legal title to the premises, dwelling, or dwelling unit.

Parking Space is a designated area for parking of motor vehicles.

Planned Development is an area of a minimum contiguous size, as specified by this ordinance, developed according to plan as a single entity and containing one or more structures with appurtenant common areas.

Principal Use is the main use to which a premises is devoted and the principal purpose for which a premises exists.

Private Road is any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties.

Public Park or Park shall mean a playground, recreation center or other public areas, created, established, designated, maintained, provided or set aside by a governmental body, for the purposes of rest, play, recreation, enjoyment or assembly for the public and all buildings, facilities and structures located thereon or therein.

Public Street is a public thoroughfare which affords the principal means of access to abutting properties.

Recreational Vehicle is a vehicle intended and designed primarily for recreational use, such as a motor home, camper trailers, boats, snowmobiles, off road and all terrain vehicles, and similar vehicles or trailers. The term "recreational vehicle" shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for daily on-street use.

Recycling Center, a commercial facility which recovers resources, such as newspapers, glassware and metal cans and collects, stores, flattens, crushes, or bundles, essentially by hand, and within a completely enclosed building. This definition shall not be construed to include a non-profit, community organization recycling a limited number and volume of items for the purpose of fund-raising.

Retail Store is any building or structure in which goods, wares, or merchandise are sold to the consumer for direct consumption and not for resale.

Right-of-way is a street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles and under the legal authority of an agency having jurisdiction over the right-of-way.

Road - refer to definition of "street".

Salvage is material to be used for further use, recycling, or sale.

Salvage Yard is any principal or accessory use where salvage or its component parts are brought and sold, exchanged, stored, baled, packed, disassembled, separated, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A "salvage yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings. A "salvage yard" shall be defined as less than three (3) acres in size and does not include landfills or Recycling Centers (see "Special Purpose Districts").

Screen is a structure such as a fence or wall, providing enclosure and visual barrier between the area enclosed and the adjacent property.

Seasonal is any use of such a nature that the activity cannot or should not be performed during the entire year.

Septage Waste Storage Facility (SWSF) – an underground structure used to store domestic septage waste.

Setback is the required minimum horizontal distance between a lot line or other controlling entity; e.g., a road right of way, an ordinary high water mark and a building, (measured from the overhang), structure, or use line.

Sign is an outdoor sign, display, figure, painting, drawing, message, placard, or poster which is designated, intended, or used to advertise or inform.

Site Condominium Projects are land developments done in accordance with the Condominium Act, (Act 59 of 1978), as amended. All such developments shall follow the standards and procedures of Section 4.11 Planned Developments.

Site Plan includes the documents and drawings required to ensure that a proposed land use or activity is in compliance with the Zoning Ordinance.

Special Land Use: A use which is allowed within a particular district only with a Special Use Permit. See Chapter 7: Special Land Uses and Special Use Permit Requirements.

Special Use Permit: A permit required for all Special Land Uses, as described within each district. See Chapter 7: Special Land Uses and Special Use Permit Requirements.

Street is an approved thoroughfare which affords the principal means of access to abutting properties.

Structure is anything constructed, assembled or erected, the use of which is intended to be permanent or lasting, and requires location on the ground or attachment to something having a location on or in the ground. The word "Structure" shall not apply to fences or to ponds, wires and their supporting poles or frames, electrical or telephone utilities, or to service utilities below the ground.

Stub Street a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future.

Uniform Setback is where fifty (50%) percent of the frontages of existing structures along a roadway between two (2) intersecting streets maintain the same minimum setback.

Use is the purpose for which land or a building (or buildings) is arranged, designed or intended, or for which land or a building (or buildings) is or may be occupied and used.

Vehicle is any device in, upon, or by which any person or property is or may be transported or drawn upon any street, highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks.

Yard is a space open to the sky and unoccupied or unobstructed, except by structures or uses specifically permitted by this Ordinance. A required yard is measured between the applicable lot line and the nearest foundation line of a building or structure.

Yard, Front is the yard extending across the full width of the lot, the depth of which is the distance between the front lot line and foundation line of the building or structure (refer to Figure 1).

Yard, Rear is the yard extending across the full width of the lot, the depth of which is the distance between the rear lot line and rear foundation line of the main building (refer to Figure 1).

Yard, Side is the yard between the foundation line of the main building and the side lot line extending from the front yard to the rear yard (refer to Figure 1).

CHAPTER 3 NON-CONFORMITIES

SECTION 3.1 INTENT AND PURPOSE

It is the intent of this Chapter to provide for the use of lands, buildings, and structures which were lawfully established prior to the effective date of this Ordinance to continue, even though the use may be prohibited or differently regulated under the terms of this Ordinance. Such non-conforming lots, uses of land, structures, and uses of structures are declared by this Ordinance to be incompatible with permitted conforming uses, buildings and structures. In order to adequately regulate the conflicts between conforming and non-conforming uses, buildings, and structures the regulations that follow are enacted.

SECTION 3.2 NON-CONFORMING LOTS

Any residential lot or parcel created and recorded prior to the effective date of this Ordinance may be used for residential purposes even though the lot does not comply with the dimensional requirements of this Ordinance provided:

- A. That the lot or parcel complies with Section 5.12 of Chapter 5, General Provisions.
- B. That a proposed building, structure, or use for the lot satisfies the yard and setback requirements set forth in Chapter 4 district regulation in the appropriate district.
- C. That the approvals set forth in Section 5.15 of Chapter 5, General Provisions are delivered to the Zoning Administrator.

SECTION 3.3 NON-CONFORMING USES OF LAND

Where, at the effective date of adoption or amendment of this Ordinance, a lawful use of land exists that becomes non-conforming under the terms of this Ordinance, such use may be continued, so long as it remains otherwise lawful, subject to the following conditions provision:

- A. No such non-conforming use shall be enlarged or increased to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

SECTION 3.4 NON-CONFORMING STRUCTURES

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its

location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such structure may be expanded in a direction that extends further into a setback. However a structure may be increased in height and may also be extended in a direction that is parallel to the setback so long as any addition does not encroach on any other required setback.
- B. Any such structure destroyed by fire or an act of God may be reconstructed, but nearly conforming with the provisions of this Ordinance as possible.
- C. Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the area into which it is located.

SECTION 3.5 REPAIR AND REPLACEMENT OF NON-CONFORMING STRUCTURES

On any building devoted in whole or in part to any non-conforming use, ordinary maintenance may be done. Replacement of walls, fixtures, wiring or plumbing shall not exceed an aggregate cost of fifty (50%) percent of the assessed value of the building in any twelve (12) month period. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 3.6 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of any existing non-conforming use of land, structure or premises provided there is no change in the nature or character of such non-conforming use that would be at variance with the provisions of this chapter and Ordinance.

SECTION 3.7 ABANDONMENT OF NON-CONFORMING USES AND STRUCTURES

- A. If for any reason a non-conforming use is abandoned or discontinued for a period greater than 365 days, the use shall not be allowed to be re-established, and any subsequent use shall conform to all the requirements and provisions of this Ordinance. Under unusual circumstances, a petition may be made to the Zoning Board of Appeals to extend the period of disuse or re-establish the non-conforming use.
- B. If for any reason the use of a non-conforming structure ceases to exist or is discontinued for a period of more than 365 consecutive days, no use shall be allowed to occupy the structure, unless authorized by the Zoning Board of Appeals.

CHAPTER 4 DISTRICT REGULATIONS

SECTION 4.1 DIVISIONS OF THE TOWNSHIP

For the purpose of this Ordinance, all land within Kasson Township, excepting the roadways and alleys, is divided into the following Zoning Districts:

- GR Gravel
- AG Agricultural
- FR Forested
- HDV High Density Village
- CD Commercial
- PD Planned Development
- SPD Special Purpose District

For the specific regulations and requirements of each of the districts listed above, refer to Section 4.5 through Section 4.9. Section 4.10 allows for and regulates the creation of Special Purpose Districts (SPD) within the above districts. Section 4.11 allows for and regulates Planned Development (PD) within the above districts

SECTION 4.2 OFFICIAL ZONING MAP

The boundaries of zoning districts are defined and established as shown on the map entitled the "Kasson Township Zoning Map". This map, with all explanatory matter thereon, is hereby made a part of this Ordinance. The official Zoning map shall be kept by the Township Clerk and maintained by the Zoning Administrator.

SECTION 4.3 INTERPRETATION OF BOUNDARIES

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

- A. Boundaries shown following streets or highways shall be presumed to follow the centerline of these roadways.
- B. Boundaries shown approximately following property lines or Township boundary lines shall be presumed to follow these lines.
- C. Boundaries shown approximately parallel to the centerline of streets or alleys shall be interpreted as being parallel to and at such a distance as indicated by given distance or scaled dimension.

SECTION 4.4 CLASSIFICATION OF USES NOT LISTED

The Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned by this Ordinance, as described in Section 11.5. Said use shall be treated in a like

manner with comparable uses, as determined by the Zoning Board of Appeals, and permitted or prohibited by the District Regulations for each Zoning Districts.

SECTION 4.5 AGRICULTURAL DISTRICT (AG)

The purpose and intent of the Agricultural District is to provide areas for commercial agricultural and farming operations, as well as limited residential areas. This district is established to conserve and protect agricultural lands as an ecologically and economically valued resource by preventing the encroachment of urban land uses in predominantly agricultural areas where geographic and social conditions favor continued agricultural production. A wide range of farming activities shall be permitted in this zone in order to foster the continuation of agriculture in the township.

SECTION 4.5.1 PERMITTED USES

In an Agricultural District, no building, structure, land or water use shall be permitted except for one or more of the following:

- A. All general agricultural uses.
- B. Farm dwellings, accessory buildings, farm labor housing:
 - 1. More than one farm dwelling shall not be permitted unless substantial evidence is provided that shows that the additional farm dwelling is necessary for the operation of the commercial farm. In making the determination whether the additional farm dwelling is necessary for the farm operation, the Zoning Administrator shall take into consideration whether any non-farming dwellings already exist on the farm unit that may be used for that purpose.
 - 2. A dwelling may be considered to be in conjunction with farm use or the propagation or harvesting of a forest product when located on a lot or parcel that is managed as part of a farm operation and/or woodlots.
 - 3. Farm dwellings in addition to the principal dwelling shall be located to minimize adverse effects upon productive areas for farm crops and livestock.
- C. Single family dwellings.
- D. Home Occupations.
- E. Planned Developments in accordance with Section 4.11 when more than one structure is included for a specific parcel of property
- F. Adult Foster Care Family Home
- G. Family Child Care Home

H. Foster Family Home

I. A stand for sale of agricultural products provided that:

1. No more than one stand is allowed for each six hundred (600) lineal feet of road frontage.
2. Adequate parking and maneuvering areas are provided to ensure safe vehicle ingress and egress and pedestrian movement within the site.
3. The products sold on any stand are mainly grown or produced on the premises.

SECTION 4.5.2 SPECIAL LAND USES

A. The following uses are permitted in this district upon securing a Special Use Permit and upon Development Site Plan Review approval in accordance with Chapters 7 and 8 and are subject to lot, building and other requirements of Section 4.5. The necessary conditions for approval of any of these uses shall be a demonstrated need for the use and placement of the facility in a manner which least affects the productive agricultural land of the site or surrounding properties:

- Fruit Packing and Grading Plants
- Wineries
- Cooling and Packing Plants
- Agricultural research and development facilities, public and private
- Other similar agricultural businesses or uses
- Bed and Breakfast Establishments
- Boarding or Lodging Houses
- Slaughter Houses
- Salvage Yards
- Riding Stables
- Kennels
- Cemeteries
- Public or private outdoor recreation or park facilities
- Forestry related business
- Elderly Day Care Centers
- Churches
- Schools
- Adult Foster Care Group Home
- Group Child Care Home

B. Septage Waste Storage Facility (SWSF) – For Agricultural Application:

1. All septage must be applied according to MDEQ regulations on the parcel where the SWSF is located.

2. The capacity of the SWSF shall not exceed 50,000 gallons. The SWSF shall also comply with MDEQ, SWSF Management Practices.
3. No septage treatment is permitted under this Special Land Use.

SECTION 4.5.3 DEVELOPMENT STANDARDS

A. Minimum parcel size: Five (5) acres, or one dwelling unit per five (5) acre density, with seventy (70%) percent permanently preserved, unbuilt, reserved land in accordance with Section 4.11, Planned Development.

B.	Farm Building	Commercial Structure
Minimum frontage	330 feet	350 feet
Minimum front setback	50 feet	100 feet
Minimum side setback	50 feet	50 feet
Minimum rear setback	50 feet	50 feet
Maximum height	85 feet	40 feet

C. Metes-and-bounds or platted lots for residential uses shall meet the following standards:

Minimum parcel size	5 acres
Minimum frontage	330 feet
Minimum front setback	50 feet
Minimum side setback	25 feet
Minimum rear setback	50 feet
Maximum height	35 feet

SECTION 4.5.4 PERFORMANCE STANDARDS

- A. Farming approved ancillary activities shall be carried out conscious of neighboring uses. Wherever feasible and justifiable, buffers of hedgerows, tree lots or other barriers should be maintained between different districts and uses to minimize conflicts.
- B. Variances for farm lot size may be granted by the Zoning Administrator if applicant can prove the desired agricultural operation is a bonafide commercial agricultural operation.
- C. To the greatest degree practicable, land subdivisions, including single lot splits, must be designed to protect and preserve natural resources, productive farm land, and the culture and character of the area.
- D. Within all setbacks, landscape planting shall be required by residential uses to buffer them from adjacent agricultural, or potential agricultural operations, and to retain the rural character of the area.

- E. All residential developments, or residential plots, units or parcels, within this district shall be devised with the understanding that agricultural operations are the primary use of this district and therefore layouts for residences shall be designed in such a manner as to protect farming and other agricultural operations from interference and nuisances.

SECTION 4.5.5 ACCESSORY STRUCTURES AND USES

Any use or structure customarily incidental to a permitted use not otherwise regulated by this Ordinance is allowed by right. Accessory structures may be used for home occupations as defined and delineated by this Ordinance.

SECTION 4.5.6 MISCELLANEOUS REGULATIONS

- General provisions as permitted in Chapter 5.
- Parking as permitted in Chapter 6.
- Signs, as permitted in Chapter 9.

SECTION 4.6 GRAVEL DISTRICT (GR)

The intent of this district is to delineate the areas within the Township where the soils and other geological factors are indicative of commercial gravel operations. The purpose is to give clear direction to future developers of this resource and to others considering any other use within these areas.

SECTION 4.6.1 PERMITTED USES

- A. Uses allowed in Section 4.5.1, Agricultural District, Permitted Uses. All uses shall be examined closely to ensure sufficient compatibility of, and, if not, barriers between uses.
- B. All uses in this district are on notice that earth removal, quarrying, gravel processing, and mining, as regulated in this Ordinance, may be permitted anywhere within the district with a Special Use Permit.
- C. Wireless telecommunication towers and equipment shelter buildings shall be allowed under the following conditions:
 - Maximum height of ninety (90) feet.
 - Designed and constructed to be inconspicuous in their intended locations.
 - Co-location with other services is mandatory.
 - Provision of a positive environmental assessment.
 - A statement providing the proof of need for the proposed tower.
 - Equipment shelter buildings and other accessory structures shall meet all the requirements for similar structures in the district.

SECTION 4.6.2 SPECIAL LAND USES

- A. Uses allowed in Section 4.5.2, Agricultural Districts Special Land Uses with a Special Use Permit.
- B. Earth removal, quarrying, gravel processing and mining.

SECTION 4.6.3 DEVELOPMENT STANDARDS

Shall be the same as Section 4.5.3, AGRICULTURAL DISTRICT

SECTION 4.6.4 SPECIFIC PERFORMANCE STANDARDS FOR EARTH REMOVAL, QUARRYING, GRAVEL PROCESSING & MINING OPERATIONS

- A. Maximum depth of excavation shall not be below existing groundwater table.
- B. Where necessary the Commission may require the applicant to construct or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around

residential areas and preventing the deterioration of existing roads which are not "all weather" roads. All access roads shall be considered part of the mining operation.

C. Setbacks.

1. All mining operations shall be a minimum of ninety (90) feet from any public right-of-way, not including ingress and egress roads.
2. All mining operations shall be a minimum of five hundred fifty (550) feet from any lake, stream or wetland.
3. All mining operations and all ingress and egress roads shall be a minimum of ninety (90) feet from any other property line.
4. All mining operations shall be a minimum of five hundred (500) feet from any church or public park.
5. All mining operations shall be a minimum of one thousand (1000) feet from any school, hospital or nursing home.
6. All mining operations and all ingress and egress roads shall be a minimum of three hundred (300) feet from an existing house on an adjacent property.
7. All ingress and egress roads shall be by the most direct route to a public right-of-way.
8. All ingress and egress roads will require a legal driveway permit.

D. The permanent processing plant shall not be located closer than three hundred (300) feet from any property line and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impacts.

E. Sight barriers shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed which lack natural screening conditions through existing vegetative growth. The following minimum standards shall apply:

A continuous screen at least six (6) feet in height is required to provide maximum screening of the site.

1. This landscape buffer may consist of earthen berms, and/or living materials.
2. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two feet in width at the highest point of the berm, extending the length of the berm.

Berm slopes shall be protected with sod, seed, shrubs or other forms of natural ground cover.

F. Nuisance Abatement.

1. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.
2. Air pollution in the form of dust and dirt shall be kept to a minimum by the use of equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution. Interior roads used in the operation shall have their surfaces treated to minimize any such nuisance.
3. A noise barrier shall be provided along all boundaries of the site where quarrying, gravel processing and mining is proposed which lack sufficient existing vegetation to meet the minimum standards, as follows:
 - a. There shall be six (6) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted parallel to the boundaries of the property.
 - b. The spacing between rows shall not exceed six (6) feet.
 - c. The spacing between trees within a row shall not exceed six (6) feet.
 - d. The Planning Commission may allow preserved existing trees within the setback areas to qualify toward satisfying (a.) above.
 - e. A "Performance Guarantee" concerning the trees will be required.
 - f. The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

G. Reclamation of mined or excavated areas.

1. Earth removal, quarrying, gravel processing and mining, shall be considered temporary uses. Mined or excavated sites shall be reclaimed properly and in a timely fashion.
2. A "Performance Guarantee" shall be posted by the land owner with the Kasson Township Board to cover the estimated costs of reclamation. This "Performance Guarantee" shall be received by the Township Clerk within 30 days of the approved site plan. "Performance Guarantee" as used herein shall mean a cash

deposit, certified check, or irrevocable bank letter of credit, acceptable to the Township, in the amount of the estimated cost of reclamation. It shall be subject to review and adjustment by the commission at the end of twelve (12) months, and thereafter at two (2) year intervals.

3. Reclamation shall be completed as agreed upon by the Commission and applicant in an approved development site plan.
4. Inactivity at a site for a continuous twelve (12) month period shall constitute termination of mining activity and require that site reclamation commence and be completed.
5. Upon the failure of any operator to perform reclamation of the mining site in a proper and timely manner as agreed to in the approved site plan the "Performance Guarantee" will be forfeited. The Kasson Township Board shall use the funds to cover the cost of restoring the site and administrative cost incurred in so doing. Any cost in addition of those covered by the "Performance Guarantee" shall be billed to the operator and a lien placed against the subject property. If unpaid, the cost shall be collected in the same manner as delinquent taxes or as allowed by law.
6. Standards controlling reclamation
 - a. Excavated areas shall not collect stagnant water.
 - b. Surface of such area which is not intended to be permanently submerged shall be graded or back-filled with non-toxic, non-flammable and non-combustible solids as necessary to produce a surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - c. The banks of all excavation shall be sloped to the waterline in a water producing excavation and to the pit floor in a dry operation at a slope which shall not be steeper than one foot vertical to three feet horizontal.
 - d. Vegetation shall be restored within one year by the appropriate planting of indigenous grasses, trees, or shrubs to establish a permanent vegetative cover on the land surface and to minimize erosion.
 - e. Maintenance
 - (1) Slopes and surfaces shall be maintained as agreed in the development site plan.
 - (2) Erosion areas shall be filled and the surface restored.

- (3) All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.
 - f. Reclamation plans shall follow the standards detailed for the most appropriate uses(s) allowed by this ordinance.
 - g. Future uses shall conform with uses indicated in the Township Master Plan or as approved in the Development Site Plan.
- H. Additional requirements for earth removal, quarrying, gravel processing or mining.
- 1. On the development site plan:
 - a. North point, scale and date;
 - b. Extent of the area to be excavated;
 - c. Location, width and grade of all easements or rights-of-way on or abutting the property;
 - d. Location of all existing and proposed structures on the property;
 - e. Site drainage features and flow directions indicated;
 - f. Bench marks;
 - g. Location of any bodies of water and wetlands on the proposed site or within one thousand five hundred (1,500) feet;
 - h. Areas to be used for ponding;
 - i. Depth to groundwater;
 - j. Processing, loading and storage areas;
 - k. Proposed fencing, gates, parking and signs;
 - l. Existing and proposed ingress-egress roads, on-site roads and proposed surface treatment and means to limit dust; and
 - m. Setback lines for all activities of the site.
 - 2. An operational statement, which shall include at a minimum:
 - a. The approximate date of commencement of the excavation and the duration of the operation;
 - b. Amount and type of material or resources to be removed;

- c. Method of extracting and processing, including the disposition of overburden;
 - d. Equipment proposed to be used in the operation of the excavation;
 - e. Location and type of processing plants, temporary and permanent;
 - f. Proposed hours and days of operation;
 - g. Operating practices proposed to be used to minimize noise, dust, air contaminants and vibrations;
 - h. Amount and source of water to be utilized in processing; and
 - i. Methods to prevent:
 - Pollution of surface water or groundwater;
 - Adverse effects on the quantity and quality of surface water and groundwater runoff from the property; and
 - Adverse effects on wetlands both on and near the property.
3. A rehabilitation or reclamation plan that shall include as a minimum:
- a. A reclamation statement and plan, including identification of post-mining land use, methods of accomplishment, phasing and timing;
 - b. A plan indicating any proposed structures to be built on the site, the final grade, i.e., post-mining topography of the excavation, any water bodies included in the reclamation, and methods planned to prevent stagnation and pollution landscaping and areas of cut and fill;
 - c. The methods of disposing of any equipment or structures used in the operation of excavation upon completion of the excavation.

SECTION 4.7 FORESTED DISTRICT (FR)

The purpose and intent of this district is to preserve the forest and wood lots, the dominant land cover of the Township, while allowing a wide range of uses in such ways that will not detract from this end. To the greatest degree practicable, the integrity and contiguity of forest lands shall be maintained.

SECTION 4.7.1 PERMITTED USES

- Single family dwellings.
- Duplex dwellings.
- Residential Planned Developments in accordance with Section 4.11 when more than one structure is included for a specific parcel of property.
- Home Occupations.
- Agricultural Uses (refer to Section 4.5.1).
- Adult Foster Care Family Home.
- Family Child Care Home.
- Foster Family Home.

SECTION 4.7.2 SPECIAL LAND USES

All uses listed below require a Special Use Permit in accordance with Chapter 7:

- Housekeeping cabin parks.
- Boarding or Lodging Houses.
- Bed and Breakfast establishments.
- Elderly Day Care Centers.
- Churches.
- Public or private outdoor recreation or park facilities.
- Fruit packing and grading plants.
- Wineries.
- Cooling and packing plants.
- Agricultural research and development facilities; public and private.
- Other similar agricultural businesses or uses.
- Riding stables.
- Kennels.
- Cemeteries.
- Schools.
- Adult Foster Care Group Home.
- Group Child Care Home.

SECTION 4.7.3 DEVELOPMENT STANDARDS

- A. Minimum Parcel Size: Five (5) acres; or one dwelling unit per five (5) acre density, with seventy (70%) percent permanently preserved unbuilt reserved land in accordance with Section 4.11, Planned Development.
- B. Minimum Project Area in a Planned Development: twenty (20) acres.
- C. Minimum frontage: 330 feet

	Dwelling and Accessory Uses	All other uses
D. Minimum front setback	50 feet	100 feet
E. Minimum side setback	25 feet	50 feet
F. Minimum rear setback	50 feet	50 feet
G. Maximum height	35 feet	35 feet

or as approved in a Planned Development.

SECTION 4.7.4 PERFORMANCE STANDARDS

- A. All structures, roads and other infrastructure shall be placed in such a manner that will minimize the destruction of trees on a site or parcel.
- B. Forested unbuilt areas of a site or parcel whenever possible, shall be contiguous with forested areas of adjoining sites to promote the maintenance of large forested expanses without buildings, other structures, or infrastructure.
- C. Trees and other vegetation within buffer or setback areas shall be preserved to the greatest degree practicable.
- D. Unbuilt areas, suitable for such, shall be reforested as part of a parcel's Development Site Plan.
- E. All non-residential uses shall be situated and designed such that any potential nuisances or disturbances of surrounding properties shall be eliminated or mitigated to the greatest degree possible. Agricultural uses shall follow performance standards of Section 4.5.

SECTION 4.7.5 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted use not otherwise regulated by this Ordinance is allowed by right. Accessory structures may be used for home occupations as defined and delineated by this Ordinance.

SECTION 4.7.6 MISCELLANEOUS REGULATIONS

- General provisions as permitted in Chapter 5.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 9.

SECTION 4.8 HIGH DENSITY VILLAGE (HDV)

The purpose and intent of this district is to provide an area within the Township where traditional village-style development may occur with a mixture of uses as villages historically have done and to provide areas where high density uses may be developed in a park-like manner with large areas of open space and landscaping. Sewer and water systems and other infrastructure may be necessary for these uses.

SECTION 4.8.1 PERMITTED USES

A. The following residential uses:

- Single family dwellings.
- Duplex dwellings.
- Townhouse dwellings. (Mixed Use Commercial Core Only)
- Home occupations.
- Apartments Dwellings. (Mixed Use Commercial Core Only)
- Adult Foster Care Family Home.
- Family Child Care Home.
- Foster Family Home.

B. Public and semi-public uses, including community meeting halls, public or private schools, athletic clubs, museums, libraries, parks and playgrounds and structures typically constructed as part of these types of facilities are allowed in both Mixed Use Commercial Core and Medium and Small Lot sub-districts.

C. The following commercial uses:

- Banks and other financial institutions.
- Offices and personal service establishments.
- Retail stores.
- Restaurants.

D. Planned Developments in accordance with Section 4.11 when more than one structure is included for a specific parcel of property.

E. Wireless telecommunication towers and equipment shelter buildings shall be allowed under the following conditions:

- Maximum height forty-two (42 feet).
- Designed and constructed to be inconspicuous in their intended locations.
- Co-location with other servers is mandatory.
- Provision of a positive environmental assessment.
- A statement providing the proof of need for the proposed tower.
- Equipment shelter buildings and other accessory structures shall meet all the requirements for similar structures in this district.

SECTION 4.8.2. SPECIAL LAND USES

The following uses require a Special Use Permit in accordance with Chapter 7:

- Community clubs.
- Adult Foster Care Group Home.
- Elderly Day Care Centers.
- Churches.
- Motor vehicle service facilities, including gas stations and car washes.
- Indoor recreation establishments, such as bowling alleys, skating rinks, arcades.
- Theaters.
- Coin operated laundries.
- Mortuaries, Funeral homes.
- Hotels and Motels.
- Taverns, Bars.
- Boarding or Lodging Houses.
- Group Child Care Home.

SECTION 4.8.3 DEVELOPMENT STANDARDS

High density uses must conform to the development standards that follow for each type of allowed use within designated districts.

AREA AND BULK REGULATIONS

1. Large lot single family detached dwellings:
 - a. Metes-and bounds or platted lots:
 - b. Minimum parcel size: 2 acres
 - c. Minimum frontage: 200 feet
 - d. Minimum front setback: 50 feet
 - e. Minimum side setback: 25 feet
 - f. Minimum rear setback: 50 feet
 - g. Maximum impervious area: 35%
 - h. Maximum height: 35 feet
2. Medium-size lot single family detached dwellings:
 - a. Minimum lot area twenty thousand (20,000) square feet.
 - b. Minimum lot width at front yard setback line: one hundred (100) feet.
 - c. Minimum lot depth: one hundred twenty (120) feet.
 - d. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet unless otherwise specified in the regulating site plan or approved street sections.
 - Side Yard (each side): twenty (20) feet.
 - Rear yard: fifty (50) feet.

- e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building lot coverage: twenty-five (25%) percent.
 - g. Maximum impervious surface: thirty-five (35%) percent.
 - h. Rear or side yard garage required.
 - i. Bulk standards for accessory structures and dwellings: an accessory structure or dwelling located on the same lot as amid-sized lot, single family dwelling, shall additionally comply with the bulk standards as specified above without modifications, except that a detached accessory dwelling shall be limited to a maximum building height of twenty-five (25) feet.
 - j. Area and bulk standards for flag lots: flag lots shall comply with the above specified area and bulk standards, except that minimum lot width at the street line and minimum lot width at the front yard setback line shall be twenty (20) feet and a minimum yard set back dimensions for all yards shall be twenty (20) feet.
3. Small lot single family detached dwellings:
- a. Minimum lot area: ten thousand (10,000) square feet.
 - b. Minimum lot width: at front yard setback line, fifty (50) feet.
 - c. Minimum lot depth: one hundred (100) feet.
 - d. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet unless otherwise specified in the regulating site plan or approved street sections.
 - Side yards: ten (10) feet.
 - Rear yard: twenty-five (25) feet.
 - e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building coverage: forty (40%) percent.
 - g. Maximum impervious area: fifty (50%) percent.
 - h. Rear yard parking required.
 - i. Additional standards for accessory structures and dwellings: an accessory structure or dwelling located on the same lot as a small lot, detached single family dwelling shall additionally comply with the standards as specified above without modification, except that a detached accessory dwelling shall be limited to a maximum building height of twenty-five (25) feet.
 - j. Area and bulk standards for flag lots: flag lots shall comply with the above specified area and bulk standards, except that a minimum lot width at the street line and the minimum lot width at the front setback line shall be twenty (20) feet and the minimum yard dimensions for all yards shall be ten (10) feet.
4. Duplex Dwelling:
- a. Minimum lot area: ten thousand (10,000) square feet per building.
 - b. Minimum lot width: at front setback line, one hundred (100) feet per building.
 - c. Minimum lot depth: one hundred (100) feet.

- d. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet or as specified in the regulating site plan.
 - Side Yards: ten (10) feet.
 - Rear Yards: twenty-five (25) feet.
 - e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building coverage: fifty (50%) percent.
 - g. Minimum open area: forty (40%) percent.
 - h. Maximum impervious surface: sixty (60%) percent.
 - i. Rear yard parking or attached garage required.
5. Townhouse Dwellings Within Mixed-Use Commercial Core
- a. Minimum lot area: five thousand (5,000) square feet per dwelling unit.
 - b. Minimum lot width: at front setback line, one hundred fifty (150) feet.
 - c. Minimum lot depth: one hundred (100) feet.
 - d. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet or as specified in the regulating site plan or approved street profiles.
 - Side yards (each end of row): thirty (30) feet.
 - Rear yard: twenty-five (25) feet.
 - e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building coverage: fifty (50%) percent.
 - g. Maximum impervious surface: seventy (70%) percent.
 - h. Maximum building size: four (4) dwelling units in a row, and one hundred (100) feet in length.
 - i. Minimum interior yards (open space between buildings on the same lot): thirty (30) feet.
 - j. Rear yard covered parking required.
6. Apartment Dwellings Within Mixed-Use Commercial Core
- a. Minimum lot area: ten thousand (10,000) square feet per building.
 - b. Minimum lot width: ninety (90) feet.
 - c. Minimum lot depth: one hundred-ten (110) feet.
 - d. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet or as specified in a regulating site plan or approved street profiles.
 - Side yards: Thirty (30) feet from property line.
Ten (10) feet in Mixed Use Commercial core.
 - Rear yard: fifty-five (55) feet.
 - e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building coverage: sixty (60%) percent.
 - g. Maximum impervious area: eighty (80%) percent.

- h. Maximum building size: eight (8) dwelling units per building.ninety-six (96) feet in length.
 - i. Minimum interior yards (open space between buildings): twenty (20) feet.
 - j. Rear yard parking is required.
7. Village Commercial and Mixed-Use Buildings within Mixed-Use Commercial Core:
- a. Minimum lot area: two thousand five hundred (2,500 square feet.
Maximum lot area: sixteen thousands (16,000) square feet.
 - b. Minimum lot width: at front yard setback line twenty-five (25) feet.
 - c. Minimum lot depth: one hundred (100) feet.
 - d. Minimum & maximum yard dimensions
 - Front setbacks:
 - Commercial/retail: zero (0) feet to thirty (30) feet.
 - Mixed-use, retail/office/apartments: four (4) feet to thirty (30) feet.
 - Mixed-use, retail/office/residential: four (4) feet to thirty (30) feet.
 - Side yards (each side): zero (0) feet, if attached to adjacent building, or a minimum of five (5) feet if not attached to an adjacent building. No limit on maximum.
 - Rear yard: a minimum of fifty-five (55) feet
 - e. Maximum building height: thirty-five (35) feet.
 - f. Maximum building coverage: seventy (70%) percent.
 - g. Maximum impervious area: ninety (90%) percent.
 - h. Minimum interior yards (open space between buildings): fifteen (15) feet.
 - i. All off-street parking must be in the rear yards.
8. Community Facilities, Institutional and Religious Buildings Within Mixed-Use Commercial Core.
- a. Minimum lot area: ten thousand (10,000) square feet;
 - b. Maximum lot area: forty thousand (40,000) square feet.
 - c. Minimum lot width: at front yard setback, eighty (80) feet.
 - d. Minimum lot depth: one hundred ten (110) feet.
 - e. Minimum yard dimensions:
 - Front setback: twenty-five (25) feet.
 - Side yards: thirty (30) feet from property line.
ten (10) feet in Mixed Use Commercial core.
 - Rear yard: seventy-five (75) feet.
 - f. Maximum building height: thirty-five (35) feet.
 - g. Maximum building coverage: sixty (60%) percent.
 - h. Maximum impervious area: eighty (80%) percent.
 - i. Minimum interior yards (open space between buildings on the same lot): fifteen (15) feet.
 - j. All off-street parking must be in the rear yards.

SECTION 4.8.4 PERFORMANCE STANDARDS

- A. All uses except single family detached dwellings in this district shall be subject to Chapter 8, Development Site Plan Review.
- B. Any use allowed in this district shall be so situated and operated that is shall not become a nuisance to its neighbors. Commercial uses shall be generally situated along major roads, in commercial core areas or at the peripheries of mixed use areas in accordance with the Zoning Map of the Maple City Area. Commercial uses desiring to be situated outside these areas shall be considered Special Land Uses and along with compliance with Chapter 7 of this ordinance shall provide detailed justification for such use and placement as part of their Special Use Permit Application. The decision as to the appropriateness of the use and location shall be at the sole discretion of the Planning Commission.
- C. All commercial activities and operations shall be carried on within an enclosed structure unless specifically permitted to do otherwise by a Special Use Permit.
- D. The following standards shall be used to measure High Density Village District Projects:
 - 1. Sewerage - - Adequate facilities to handle the total build-out proposed and not endanger area ground water quality or supply as determined by the local health department. (Monitor wells may be required by the Planning Commission upon recommendation by the appropriate health authorities or a qualified engineer).
 - 2. Water - - Adequate facilities to handle total build-out proposed and not endanger area ground water quality or supply as determined by the local health department. (Monitor wells may be required by the Planning Commission upon recommendation by the appropriate health authorities or a qualified engineer).
 - 3. Fire - - Proposed project will not lower the current response time.
 - 4. Police - - Proposed projects will not lower the current response time.
 - 5. Traffic - - Proposed project will not cause the service at proposed entryways or nearby intersections to fall below level C, or level D at peak times of the day in accordance with the Institute of Transportation Engineers Standards of Current Adoption.
 - 6. Parks - - Parks shall be available on a basis of three (3) acres per 1,000 persons.
 - 7. Drainage - - Storm drainage resulting from a project shall be handled on-site or in conformance with an approved area plan and with the county regulations governing storm drainage.

8. Air quality - - Projects shall promote non-polluting transportation, heating ventilating and air conditioning systems.
9. Physical conditions and natural features - - Local prominent features and attributes, such as streams, woodlots, ridges, shall be preserved or enhanced.
10. Schools - - Build out population shall be calculated for proposed projects and shall be reviewed by the school district to determine adequate capacity to service predicted school age children.

The above are thresholds for each High Density Area. These standards should be applied to the Maple City area only. If any of the above standards cannot be met, either by the project developer or by the Township, the project cannot proceed until the deficiency is corrected.

SECTION 4.8.5 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted use not otherwise regulated by this Ordinance.

SECTION 4.8.6 MISCELLANEOUS REGULATIONS

- General provisions as permitted in Chapter 5.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 9.

SECTION 4.9 COMMERCIAL (CD)

The purpose and intent of this district is to provide an area within the township where commercial development can be expanded alongside other rural activities. This provides areas where high density uses may be developed in a park-like manner with large areas of open space and landscaping. Sewer and water systems and other infrastructures may be necessary for these uses.

SECTION 4.9.1 PERMITTED USES

- A. Public and semi-public uses, including community meeting halls, public or private schools, athletic clubs, museums, libraries, parks and playgrounds and structures typically constructed as part of these types of facilities.
- B. The following commercial uses:
 - Banks and other financial institutions.
 - Offices and personal service establishments.
 - Retail stores.
 - Restaurants.
- C. Wireless telecommunication towers and equipment shelter buildings shall be allowed under the following conditions:
 - Maximum height: forty-two (42) feet.
 - Designed and constructed to be inconspicuous in their intended locations.
 - Co-location with other servers is mandatory.
 - Provision of a positive environmental assessment.
 - A statement proving the proof of need for the proposed tower.
 - Equipment shelter buildings and other accessory structures shall meet all the requirements for similar structures in this district.

SECTION 4.9.2 SPECIAL LAND USES

- A. The following uses require a Special Use Permit in accordance with Chapter 7:
 - Community clubs.
 - Adult Foster Care Group Homes.
 - Elderly Day Care Centers.
 - Churches.
 - Building supply warehouses and wholesale businesses.
 - Motor vehicle service facilities, including gas stations and car washes.
 - Motor vehicle repair facilities.
 - Self-service storage facilities.
 - Contractors and builders establishments.
 - Indoor recreation establishments, such as bowling alleys, skating rinks, arcades.

- Theaters.
- Coin operated laundries.
- Mortuaries and funeral homes.
- Manufacturing, processing assembling, packaging, treatment of previously prepared material (must be conducted in an enclosed building).
- Hotels and motels.
- Taverns, bars and other adult entertainment businesses.
- Group Child Care Home.

SECTION 4.9.3 DEVELOPMENT STANDARDS

High density uses must conform to the development standards that follow for each type of allowed use within designated districts.

A. AREA AND BULK REGULATIONS

1. Commercial

Properties within the Commercial District shall use the requirements listed below for singular lot development.

Metes-and-bounds or platted lots:

Minimum lot area: two (2) acres

Minimum setbacks:

Front setbacks: State roads, seventy five (75) feet.

County roads, fifty (50) feet.

Side setbacks: thirty-five (35) feet

Rear setbacks: thirty-five (35) feet

Maximum building coverage: twenty five (25) percent

Maximum impervious surface: fifty (50) percent

Maximum building height: thirty five (35) feet

2. Community Facilities, Institutional and Religious Buildings

Minimum lot area: two (2) acres

Minimum setbacks:

Front setbacks: State roads, seventy five (75) feet.

County roads, fifty (50) feet.

Side setbacks: thirty-five (35) feet

Rear setbacks: thirty-five (35) feet

Maximum building coverage: twenty five (25) percent

Maximum impervious surface: fifty (50) percent

Maximum building height: thirty five (35) feet

B. REQUIRED OFF-STREET PARKING IN COMMERCIAL AREAS

Refer to CHAPTER 6 (Parking)

C. PERIPHERAL AREAS OF COMMERCIAL DISTRICT

1. Unless peripheral areas abutting highways and arterials contain existing mature trees, a mixture of indigenous species trees shall be planted to provide visual and noise screening to the area. Trees must be 1 ½” inch caliper minimum at the time of planting.
2. Peripheral areas should have lower density uses, including where appropriate light manufacturing or warehousing, with large open areas to define the edges of the commercial park development.
3. Peripheral areas may be used for agricultural purposes or forests, as long as the uses are not nuisances to the commercial/community facilities/institutional/religious building use area.
4. Natural vegetation and other existing attractive natural features within peripheral and within commons or green areas shall be properly maintained.

SECTION 4.9.4 PERFORMANCE STANDARDS

- A. All uses in this district shall be subject to Chapter 8, Development Site Plan Review.
- B. Any use allowed in this district shall be so situated and operated that it shall not become a nuisance to the neighbors.
- C. All commercial activities and operations shall be carried on within an enclosed structure unless specifically permitted to do otherwise by a Special Use Permit
- D. The following standards shall be used to measure Commercial District projects:
 1. Sewerage - Adequate facilities to handle the total build-out proposal and not endanger area ground water quality as determined by the local health department. (Monitor wells may be required by the Planning Commission upon recommendation by the appropriate health authorities or a qualified engineer).
 2. Water - Adequate facilities to handle the total build-out proposal and not endanger area ground water quality as determined by the local health department. (Monitor wells may be required by the Planning Commission upon recommendation by the appropriate health authorities or a qualified engineer).
 3. Fire – A review and a letter of written recommendation from the appropriate authority shall be required.
 4. Police - A review and a letter of written recommendation from the appropriate authority shall be required.

5. Traffic - A review and a letter of written recommendation from the appropriate authority shall be required. A formal traffic study may be required dependent upon the size and scope of the project.
6. Drainage - Storm drainage resulting from a project shall be handled on-site or in conformance with an approved area plan and with the county regulations for storm drainage.
7. Air Quality – Projects shall promote non-polluting transportation, heating ventilating and air conditioning systems.
8. Physical conditions and natural features - Local prominent features and attributes, such as streams, woodlots, ridges, shall be preserved and enhanced.

SECTION 4.9.5 ACCESSORY STRUCTURES AND USES

Any use or structure incidental to a permitted use not otherwise regulated by this Ordinance is allowed by right.

SECTION 4.9.6 MISCELLANEOUS REGULATIONS

- General provisions as permitted in Chapter 5.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 9.

SECTION 4.10 SPECIAL PURPOSE DISTRICTS

SECTION 4.10.1 PURPOSE

The purpose of this section is to provide the means for special purpose districts for uses not allowed as permitted or Special Land Uses within existing zoning districts, but with sufficient land and appropriate standards to protect the health, safety, welfare and character of the community, may be permitted in accordance with the condition of this section.

SECTION 4.10.2 ZONING DISTRICTS AND SPECIAL LAND USES

Uses approved under the section shall be designated "Special Purpose Districts" with the specific use appended as part of the district name, for example, SPD-Landfill or SPD-Manufacturing and Commercial Service Park, etc.

SECTION 4.10.3 SPECIAL LAND USES

All uses in Special Purpose Districts, because of their size, characteristics and potentially significant effects upon the community shall be considered Special Land Uses and shall be reviewed as Planned Developments in accordance with procedures in Section 4.11 Planned Developments. Greater lot, yard, setback or other requirements may be set by the Commission if deemed necessary to meet performance standards of these districts, or adjoining districts, and to protect adjoining property owners from adverse impacts.

- Landfills
- Recycling Centers
- Manufacturing and Commercial Service Parks
- Other Single or Predominant Uses

SECTION 4.10.4 DEVELOPMENT STANDARDS

A. CLASS II LANDFILLS

All landfills shall follow all state requirements in accordance with Part 115 of the Natural Resources and Environmental Protection Act, 1994, PA 451 as amended (NREPA), MCL 324.11501 (et seq.) and meet the standards of the Leelanau County Solid Waste Management Plan.

1. Minimum parcel size: 160 acres
2. Minimum landscaped setback from road, highway or adjoining parcel to operating cell(s): Five Hundred (500) feet
3. Statement of Needs:

A report justifying the need for any proposed facility shall be provided to the Planning Commission. This report, at minimum, will show the proposed service

area of the landfill, demographic and other projections indicating need for the size of operation intended, existing landfill facilities within the proposed service area and the capacities of these facilities in relation to the projections required above. The Commission may call for an independent assessment of the Statement of Needs at the applicant's expense, if it has reason to believe the report is inaccurate or if it cannot make a reasonable decision based upon the content of the report.

4. Plan of Operations:

The operator of the proposed landfill shall prepare a plan of operations which shall be updated and submitted annually to the Planning Commission that describes the proposed actions and workings of the facility.

5. Landscaping Required:

Within the five hundred (500) foot setback, natural vegetation must be maintained if already existing, or be planted and maintained to provide an opaque screen of the landfill operations. New plantings shall be indigenous trees of at least 1 ½” inch caliper for deciduous trees or six (6) foot in height for coniferous trees. Understory plantings of smaller trees and shrubs should also be provided.

6. EPA Performance Standards:

All landfills shall meet performance standards of Section 111 of the Federal Clean Air Act.

B. RECYCLING CENTERS

A salvage operation greater than three (3) acres in size with machinery for crushing, shredding, incinerating or other large-scale recycling activities.

1. Minimum parcel size: ten (10) acres

2. Minimum lot width: six hundred sixty (660) feet

3. Yard Dimensions:

Front yard setback: two hundred fifty (250) feet

Side yard setback: one hundred fifty (150) feet

Rear yard setback: one hundred fifty (150) feet

4. Maximum impervious surface: twenty-five (25) feet

5. Maximum building height: thirty-five (35) feet

6. Within the required setback areas, natural vegetation must be maintained, if already existing, or be planted and maintained to provide an opaque screen of the landfill operations. New plantings shall be indigenous trees of at least 1 ½” inch

caliper for deciduous trees or six (6) feet in height for coniferous trees. Understory plantings of smaller trees and shrubs should also be provided. If landscape plantings cannot be maintained to provide a solid opaque screen of all recyclable materials and machinery from view, a solid fence must be erected to accomplish this requirement where necessary.

7. Greater setbacks or lot size may be required for machinery or operations that would have detrimental impact upon surrounding properties.

C. MANUFACTURING AND COMMERCIAL SERVICE PARK DISTRICTS

Manufacturing and Commercial Service Parks provide for a quality working environment and intend to achieve a harmonious mixture of uses in designated Commercial Districts. Activities are intended to promote employment opportunities in manufacturing, service, research and development, engineering and wholesale trades.

1. Uses Intended:

a. Manufacturing

- Manufacturing, compounding, assembly or treatment of articles of merchandise;
- Furniture upholstery;
- Laboratories;
- Bottling Plants;
- Fruit processing and packing houses;
- Fruit products manufacturing, including frozen foods.

b. Storage and Wholesale Trades

- Mini storage, public storage and storage warehouses;
- Building materials and lumber storage yards and/or contractors yards;
- Building equipment storage, sales, rentals.

c. Services

- Animal hospital or veterinary clinic;
- Automobile and/or truck services;
- Blueprinting and photocopying;
- Distributors, showrooms and administrative offices;
- Furniture sales;
- Kennels;
- Offices, commercial/retail businesses, medical professional, real estate and research.

d. Public and Semi-Public Uses

- Post offices and postal terminals;
 - Public utility pumping stations, equipment buildings and installations;
 - Public utility service yards;
 - Educational institutions.
- e. Agricultural Uses
- Hydroponic and hot house growing, including the sale of products raised on the premises.
- f. High Density Residential Developments if done with sufficient protections for residential occupants. (Refer to Section 4.9.3 for High Density Residential Standards.)
- g. Accessory Uses
- Incidental services for employees on a site occupied by a permitted or Special Land Uses, including day care and recreational facilities;
 - Watchmen's or caretaker's living quarters.
2. Specific Development Standards for Manufacturing & Commercial Service Parks
- a. General Requirements:
- | | |
|---|---|
| • <u>Minimum lot area:</u> | 20 acres |
| • <u>Lot width:</u> | 660 feet |
| • <u>Front yard setback:</u> | 250 feet for state highway
100 feet for county roads
50 feet internal streets |
| • <u>Side Yards setback, each side (in feet):</u> | 50 feet |
| • <u>Rear setback:</u> | 75 feet |
| • <u>Lot coverage, maximum:</u> | 50 percent |
| • <u>Building height:</u> | 35 feet |
| • <u>Distances between detached structures on the same lot:</u> | 30 feet |
- b. Off-street parking: sufficient parking shall be provided to accommodate all employees and projected patrons. One space per employee (in largest shift), plus one space per 1700 square feet of warehouse or wholesale area plus one space per 250 square feet for retail shall be used as guides
- c. Special Requirements:
- (1) When any lot in a Manufacturing and Commercial Park abuts a lot in any residential zone a minimum setback of fifty (50) feet shall be required for any structure in the Manufacturing and Commercial Park zone. Said

setback may be used for required off-street parking areas. The setback may be increased by the Planning Commission in situations where additional distance problems or hazards.

- (2) In all street and side yard setback areas; there shall be trees a minimum 1 ½” inch caliper and minimum of 50 feet on center. At all lot lines adjacent to residential zones, a six (6) foot high opaque wall shall be constructed of trees and shrubs sufficiently dense to provide an opaque screen. Fences shall blend in with site architecture. Alternatively, lesser would help to mitigate or alleviate potential landscaping or fencing may be allowed if a greater setback is provided.
- (3) Streetscapes shall be landscaped to provide transition from the street to the building. Patios, parking and circulation spaces can be included in setback areas to help buffer adjoining parcels from one another, as long as these are landscaped.
- (4) Joint ingress and egress, service drives and parking arrangements shall be required where possible and feasible to facilitate ease of vehicular movement between adjoining properties and to limit driveways.
- (5) All developments in a flood plain shall be in accordance with the National Flood Insurance Requirements and Local Ordinances.

3. Accessory Structures

- a. Accessory structures shall not be located in front of the main building.
- b. Accessory structures shall meet all of the setback requirements for main buildings.
- c. Porches, steps, architectural features such as canopies, eaves, chimneys, balconies or stairways may project not more than four (4) feet into any required setback area.
- d. Accessory structures shall be no taller than thirty-five (35) feet in height.

4. Signs

One freestanding sign or outdoor advertising structure identifying the Manufacturing and Commercial Service Park shall be permitted in any Manufacturing and Commercial Service Park district in addition to those allowed on each building. Such freestanding signs shall not exceed thirty-two (32) square feet in surface display area per side and shall not be higher than twelve (12) feet above the ground. Such signs shall be at least ten (10) feet from any street line and

may be illuminated provided the source of the illumination is not visible beyond the property lines of the parcel. (Refer to Chapter 9)

D. OTHER SINGLE OR PREDOMINANT USES

1. Large single uses may prepare a plan in accordance with procedures in Section 4.11 Planned Developments.
2. Categories of large single uses allowed:
 - a. Medical centers
 - b. Entertainment or cultural centers
 - c. Large scale transportation or manufacturing uses:
 - (1) Factories
 - (2) Warehouse terminals
3. Standards established for similar uses allowed by this Ordinance (in particular see Section 4.10.4, sub-section C.2) shall be used to determine proper lot sizes, setbacks and other requirements for each project. Where no similar use exists in this Ordinance and the use does not fit one of the uses listed in section 4.10.4, sub-section C, the Planning Commission shall reject the application as a non-allowed use.

SECTION 4.10.5 PERFORMANCE STANDARDS

All areas not designated as undeveloped areas shall be landscaped. Landscaping shall consist predominantly of plant material and shall be permanently maintained in a clean, healthy and thriving condition, free of weeds, trash and debris.

All ground mounted mechanical equipment, including heating and air conditioning units and trash receptacle areas, shall be completely screened from surrounding properties by walls, fences or plantings, or shall be enclosed within a building. Exposed gutters, down spouts, vents, louvers and other similar elements shall be painted to match the surface to which they are attached unless they are used as part of the design theme.

All utility connections shall be designed to coordinate with the architectural elements of the site so as not to be exposed except where necessary. Pad-mounted transformers and/or meter box locations shall be included in the site plan with an appropriate screening treatment. Power lines and other cables shall be installed underground except for those 34kv and greater.

Lighting. All light sources shall be shielded in such a manner that the light is directed away from the streets or adjoining properties. Illuminators shall be integrated within the architecture of the building. Freestanding lamp posts shall be no taller than eighteen (18) feet. Night lighting shall be confined to the minimum necessary for security

and safe vehicle and pedestrian movement. The intensity of light at the boundary of any Manufacturing and Commercial Park district shall not exceed seventy-five (75) foot lamberts from a source of reflected light.

Electrical Disturbance. Heat and Cold. Glare. No use except a temporary construction operation shall be permitted that creates changes in temperature or direct glare, detectable by the human senses without the aid of instruments, beyond the boundaries of the site. No use shall be permitted which creates electrical disturbances that affect the operation of any equipment beyond the boundaries of the site.

Fire and Explosion Hazard. All storage of and activities involving flammable explosive materials shall be provided with adequate safety and fire fighting devices to the specifications of the Uniform Fire Code and the local fire chief. Incineration is prohibited. Adequate emergency sprinklers and smoke detectors shall be installed in all new construction and upon expansion change of an existing use.

Noise. No use except a temporary construction operation shall be permitted which creates a noise level of which exceeds five decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area measured at the property line.

Odor. No use shall be permitted which creates odor in such quantities as to be readily detectable beyond the boundaries of the site.

Radioactivity. The use of radioactive material shall be limited to measuring, gauging and calibration devices and medical x-ray diagnostic equipment.

Vibration. No use except a temporary construction operation, shall be permitted which generates inherent and recurrent ground vibration perceptible, without instruments, at the boundary of the lot in which the use is located.

The conversion of a project to condominium ownership shall meet all the requirements of the district. In no case shall the requirements of the Fire Code, sign restriction and the screening standards be waived.

Air Pollution. There shall be no emission on any site for more than one minute in any hour of air contaminants which at the emission point or within a reasonable distance of the emission point are as dark or darker in shade as designated No. 1 on the Ringelman Smoke Chart as published in the United States Bureau of Mines Information Circular 8333.

Outdoor Storage Areas shall be entirely enclosed by solid opaque walls six (6) feet or greater in height to screen stored materials from view, from beyond the boundaries of the property using materials approved by the Planning Commission.

D. Testing. Whenever there is a question of conformance with the performance standards of this Section, the Township shall require the property owner or operator to

engage the services of a certified testing firm. Copies of all such tests shall be furnished to the Zoning Administrator and the Township Board.

- E. The owner shall prepare and provide the Township with a copy of its Pollution Incident Prevention Plan.

SECTION 4.11 PLANNED DEVELOPMENTS (PD)

SECTION 4.11.1 PURPOSE:

Planned development regulations furnish a beneficial and productive means to design site plans within areas designated in the Master Plan for housing. These regulations, while adhering to the underlying densities specified in the various districts of the Zoning Ordinance, provide for better design and planning of land uses by making the geography, the history and culture, and the ecology of the area the standards and determinants of that design rather than the singular enforcement of lot sizes and standard setbacks.

These regulations intend to promote the efficient and thoughtful use of the land, while encouraging a diversity of housing types, and mixed uses where appropriate, by maintaining the high degree of quality control necessary for the preservation of the natural and scenic elements that are integral to the rural character of the Township.

Projects approved hereunder shall be designated PLANNED DEVELOPMENTS (PD).

SECTION 4.11.2 PERMITTED AND SPECIAL LAND USES

A. Planned Developments within zones established by the Township Board.

All legal methods of land subdivision may be used in the design of a Planned Development. All pertinent regulations addressed elsewhere in the Zoning Ordinance or in separate ordinances of the Township, shall be complied with. Condominium projects and mobile home parks shall be administered and reviewed under SECTION 4.11.

B. Permitted and Special Land Uses of the property prior to PD zone designation.

SECTION 4.11.3 DISTRICT REGULATIONS FOR PLANNED DEVELOPMENTS

A. AGRICULTURAL (AG)

Residential development shall be permitted within the agricultural district by designing a Planned Development in accordance with Section 4.11.3 of this Ordinance.

MINIMUM PROJECT AREA - 20 Acres

MAXIMUM DENSITY DEVELOPABLE ACREAGE - 1 Unit/5 Acres

(Developable acreage is the total project less regulated wetlands and flood hazard areas).

REQUIRED PERCENT OF PROJECT AS OPEN SPACE - 70%

(Land areas that are open and permanently preserved for use in common by the owners or residents of the Planned Development.) Easements and/or rights-of-way for roads shall be counted as open space provided that the easements/rights-of-way are used exclusively for:

1. roads, trails, and sidewalks, and or,
2. utility infrastructures necessary to serve only the building lots that are part of the Planned Development.

If the easements/rights-of-way include utility infrastructure that serve areas outside the Planned Development, an exception to this requirement may be granted by the Planning Commission based on unique and unusual circumstances.

All other public or private easements, rights-of-way or building lots shall not be counted as part of the required open space.

MINIMUM CONTINUOUS PROJECT FRONTAGE – 165 Feet
(On a county or state highway.)

PARCEL SETBACKS

Parcel Front Setback: 100 feet from the road right of way.

Parcel Side and Rear Setback: 100 feet

OTHER REQUIREMENTS:

The 100 foot parcel setback perimeter should be developed as needed for a sight barrier.

It is the intent of this section of the Ordinance to provide for appropriate visual screening to the development. As expressed in the Master Plan, Township residents desire to maintain the agricultural and forest vistas of the Township. To that end, developers will be given latitude in ways to screen buildings in the development from view of passers-by on adjacent roads and highways and from view, as necessary from adjacent developed properties.

On rolling and/or forested parcels, adequate screening may be achieved by using existing topography and/or wooded areas and by use of curving interior roads. Depending on the specifics of a given parcel, the Planning Commission may require the developers to install additional tree plantings to achieve adequate screening.

Where tree plantings are required by the Commission, the following standards shall be used:

- a. There shall be six (6) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted around the entire development perimeter. In addition, an extra row of 1½ " inch caliper hardwood trees, (representative of the area) are to be placed a maximum of 20 feet apart along the road front.

- b. The Planning Commission may allow preserved existing trees within the setback areas to qualify toward satisfying (a.) above.
- c. A "Performance Guarantee" concerning the trees will be required of developers.

The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

B. FORESTED DISTRICT (FD)

Residential development shall be permitted within the forested district by designing a Planned Development in accordance with Section 4.11.3 of this Ordinance.

MINIMUM PROJECT AREA - 20 Acres

MAXIMUM DENSITY DEVELOPABLE ACREAGE - 1 Unit/5 Acres

(Developable acreage is the total project less regulated wetlands and flood hazard areas).

REQUIRED PERCENT OF PROJECT AS OPEN SPACE - 70%

(Land areas that are open and permanently preserved for use in common by the owners or residents of the Planned Development.)

Easements and/or rights-of-way for roads shall be counted as open space provided that the easements/rights-of-way are used exclusively for:

1. roads, trails, and sidewalks, and or,
2. utility infrastructures necessary to serve only the building lots that are part of the Planned Development.

If the easements/rights-of-way include utility infrastructure that serve areas outside the Planned Development, an exception to this requirement may be granted by the Planning Commission based on unique and unusual circumstances.

All other public or private easements, rights-of-way or building lots shall not be counted as part of the required open space.

MINIMUM CONTINUOUS PROJECT FRONTAGE – 165 Feet

(On a county or state highway.)

PARCEL SETBACKS

Parcel Front Setback: 100 feet from the road right of way.

Parcel Side and Rear Setback: 100 feet

OTHER REQUIREMENTS:

The 100 foot parcel setback perimeter should be developed as needed for a sight barrier.

It is the intent of this section of the Ordinance to provide for appropriate visual screening to the development. As expressed in the Master Plan, Township residents desire to maintain the agricultural and forest vistas of the Township. To that end, developers will be given latitude in ways to screen buildings in the development from view of passers-by on adjacent roads and highways and from view, as necessary from adjacent developed properties.

On rolling and/or forested parcels, adequate screening may be achieved by using existing topography and/or wooded areas and by use of curving interior roads. Depending on the specifics of a given parcel, the Planning Commission may require the developers to install additional tree plantings to achieve adequate screening.

Where tree plantings are required by the Commission, the following standards shall be used:

1. There shall be six (6) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted around the entire development perimeter. In addition, an extra row of 1½ " inch caliper hardwood trees, (representative of the area) are to be placed a maximum of 20 feet apart along the road front.
2. The Planning Commission may allow preserved existing trees within the setback areas to qualify toward satisfying (1.) above.
3. A "Performance Guarantee" concerning the trees will be required of developers.

The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

C. GRAVEL DISTRICT (GR)

Residential development shall be permitted within the gravel district by designing a Planned Development in accordance with Section 4.11.3 of this Ordinance.

MINIMUM PROJECT AREA - 20 Acres

MAXIMUM DENSITY DEVELOPABLE ACREAGE - 1 Unit/5 Acres

(Developable acreage is the total project less regulated wetlands and flood hazard areas).

REQUIRED PERCENT OF PROJECT AS OPEN SPACE - 70%

(Land areas that are open and permanently preserved for use in common by the owners or residents of the Planned Development.)

Easements and/or rights-of-way for roads shall be counted as open space provided that the easements/rights-of-way are used exclusively for:

1. roads, trails, and sidewalks, and or,
2. utility infrastructures necessary to serve only the building lots that are part of the Planned Development.

If the easements/rights-of-way include utility infrastructure that serve areas outside the Planned Development, an exception to this requirement may be granted by the Planning Commission based on unique and unusual circumstances.

All other public or private easements, rights-of-way or building lots shall not be counted as part of the required open space.

MINIMUM CONTINUOUS PROJECT FRONTAGE – 165 Feet

(On a county or state highway.)

PARCEL SETBACKS

Parcel Front Setback: 100 feet from the road right of way.

Parcel Side and Rear Setback: 100 feet

OTHER REQUIREMENTS:

The 100 foot parcel setback perimeter should be developed as needed for a sight barrier.

It is the intent of this section of the Ordinance to provide for appropriate visual screening to the development. As expressed in the Master Plan, Township residents desire to maintain the agricultural and forest vistas of the Township. To that end, developers will be given latitude in ways to screen buildings in the development from view of passers-by on adjacent roads and highways and from view, as necessary from adjacent developed properties.

On rolling and/or forested parcels, adequate screening may be achieved by using existing topography and/or wooded areas and by use of curving interior roads. Depending on the specifics of a given parcel, the Planning Commission may require the developers to install additional tree plantings to achieve adequate screening.

Where tree plantings are required by the Commission, the following standards shall be used:

1. There shall be six (6) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3)

years of age planted around the entire development perimeter. In addition, an extra row of 1½ " inch caliper hardwood trees, (representative of the area) are to be placed a maximum of 20 feet apart along the road front.

2. The Planning Commission may allow preserved existing trees within the setback areas to qualify toward satisfying (1.) above.
3. A "Performance Guarantee" concerning the trees will be required of developers.

The screening shall be maintained in a healthy condition, free from refuse and debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

D. VILLAGE HIGH DENSITY (VHD)

Residential development shall be permitted within the village high density district by designing a Planned Development in accordance with Section 4.11.3 of this Ordinance.

MINIMUM PROJECT AREA - 20 Acres

MAXIMUM DENSITY DEVELOPABLE ACREAGE:

(Developable acreage is the total project less regulated wetlands and flood hazard areas).

1. Large Lot Residential Density - Single Family and Peripheral Uses – 1 (one) dwelling per acre.
2. Medium and Small Lot Residential – Single Family, Multiple Family Density – 2 (two) dwellings per acre.
3. Mixed Use Commercial Core Residential Densities –
 - Single Family – 4 (four) dwellings per acre;
 - Multiple Family – 16 (sixteen) dwellings per acre.

REQUIRED PERCENT OF PROJECT AS OPEN SPACE – 25%

(Land areas that are open and permanently preserved for use in common by the owners or residents of the Planned Development.)

Easements and/or rights-of-way for roads shall be counted as open space provided that the easements/rights-of-way are used exclusively for:

1. roads, trails, and sidewalks, and or,
2. utility infrastructures necessary to serve only the building lots that are part of the Planned Development.

If the easements/rights-of-way include utility infrastructure that serve areas outside the Planned Development, an exception to this requirement may be granted by the Planning Commission based on unique and unusual circumstances.

All other public or private easements, rights-of-way or building lots shall not be counted as part of the required open space.

PARCEL SETBACKS

Parcel Front Setback: 25 feet from the road right of way.

Parcel Side and Rear Setback:

10 feet when abutting other designated Village High Density Districts.
30 feet – when abutting all other parcels of land not designated as Village High Density Districts.

OTHER REQUIREMENTS:

A. The parcel setback perimeters should be developed as needed for a sight barrier.

It is the intent of this section of the Ordinance to provide for appropriate visual screening to the development. As expressed in the Master Plan, Township residents desire to maintain the agricultural and forest vistas of the Township. To that end, developers will be given latitude in ways to screen buildings in the development from view of passers-by on adjacent roads and highways and from view, as necessary from adjacent developed properties.

On rolling and/or forested parcels, adequate screening may be achieved by using existing topography and/or wooded areas and by use of curving interior roads. Depending on the specifics of a given parcel, the Planning Commission may require the developers to install additional tree plantings to achieve adequate screening.

Where tree plantings are required by the Commission, the following standards shall be used:

1. There shall be six (6) rows of mixed evergreen trees of species recommended by the District Forester, staggered six (6) feet apart and no less than three (3) years of age planted around the entire development perimeter. In addition, an extra row of 1½ " inch caliper hardwood trees, (representative of the area) are to be placed a maximum of 20 feet apart along the road front.
2. The Planning Commission may allow preserved existing trees within the setback areas to qualify toward satisfying (1.) above.
3. A "Performance Guarantee" concerning the trees will be required of developers. The screening shall be maintained in a healthy condition, free from refuse and

debris. All unhealthy or dead material shall be replaced within one year of damage or death, or at the next appropriate planting period, whichever comes first.

- B. In the Village High Density District, it is the intent that future land development maintain the character of a village through the use of interconnecting streets. That is, development of a given parcel must provide for street connections to adjacent properties. In addition to preserving the character of a village interconnecting streets enhance emergency service access and provides alternative vehicular flow.

Therefore the following requirements must be followed in the site plan:

1. Where the parcel being developed is adjacent to an undeveloped parcel exceeding 10 acres in the Village High Density District:
 - a. 'Stub streets' must be provided from streets in the developed parcel up to property lines with the undeveloped parcel.
 - b. At least one 'stub street' must be provided for each 1000 feet (or any fraction thereof) of common property line. 'Stub streets' shall not be required to adjacent properties that only share a common corner.
 - c. 'Stub streets' will be designed and completed to the same standards as other roads within the developed parcel.
 2. Where the parcel being developed is adjacent to an undeveloped parcel of 10 acres or less, no 'stub streets' will be required, but are encouraged if appropriate to the given situation.
 3. Where the parcel being developed is adjacent to a parcel of any size which contains existing 'stub streets' along their common boundary, connection to the 'stub streets' on the adjacent parcel shall be mandatory.
- C. The use of hard surfaced sidewalks or pedestrian walking paths within Planned Developments in Village High Density is encouraged. Such pathways should allow for safe pedestrian travel and, if feasible, to and from the village proper. In accordance with the Master Plan and keeping with a traditional village atmosphere, the use of such pathways may be considered part of the necessary open space requirements for Planned Developments within the Village High Density District.

SECTION 4.11.4 PERFORMANCE STANDARDS

The following development requirements shall apply to all planned developments:

- A. The planned development should be designed and developed in a manner compatible with and complementary to existing uses or development indicated by the current Master Plan for the immediate vicinity of the project site. Site planning on the property perimeter shall provide for the protection from adverse surrounding influences, as well

as protection of the surrounding areas from potentially adverse influences from within the development.

- B. Open space may be left undeveloped or may be improved. If it is improved, provisions for its maintenance must be provided. If land is to remain undeveloped, measures may be required to mitigate construction, to improve natural habitat and to prevent erosion and control drainage. Open space left in its natural state shall be kept free of litter. Open spaces shall link with those adjoining properties to ensure maximum landscape cover and wildlife habitat.
- C. If development is to be done in stages, the development plan shall schedule the improvement of the open space, the construction of buildings, structures, and the construction of dwelling units in order that each development stage achieves a proportionate share of the total open space and planned amenities of the total development.
- D. All designated open space shall be reserved for use in common by the owners or residents of the planned development. Areas permanently preserved for common open space shall be reserved for the use and enjoyment of the owners and residents. The Township may, with the developer's consent, require the open space easements be conveyed to the Township or to another responsible entity.
- E. All public streets within or abutting the proposed planned development shall be improved to Township and County specifications for the particular classifications of street. When the developer desires to retain any streets within the development as private streets, such streets shall be maintained for their intended purposes by the development's land owners association or other means acceptable to the Township and County. All roads and passageways must be designed to allow emergency vehicle access.
- F. Planned developments shall be in harmony with the topography of the site, shall preserve water courses, drainage areas, wooded areas, rough terrain and similar natural features and areas.
- G. All utilities that service a planned development shall be placed underground where feasible; otherwise, they shall be placed in the most unobtrusive manner possible. Sufficient easements shall be provided for all necessary utilities.
- H. The designation of building plots or building areas within which structures must be sited is required to ensure proper placement of homes in relation to the geography and ecology of the site as well as in relation to structures on surrounding properties.
- I. A property owners association shall be formed to hold title to and to manage the land, structures or improvements to be held in common. Necessary

stipulations of the Planned Development approval shall be conveyed by deed restrictions and covenants or within the condominium master plan, whichever is applicable.

- J. The development must meet all the standards and requirements of the various agencies that have jurisdiction over the development area. No Planned Development shall be granted final approval until all necessary approvals are obtained in written form.
- K. A development schedule, including all contiguous or adjacent land owned or controlled by the applicant, shall be submitted indicating planned phases, including construction of roads, utilities, dwellings and amenities - all the major components of the project.
- L. An annual updated schedule shall be submitted to the Planning Commission until the entire development is completed.

This annual report shall include, at minimum, the percentage completed to date and forecasted construction for the ensuing year of each component of the project. Approval of subsequent stages of a development shall be based upon adherence to the approved schedule or modifications agreed upon by the Planning Commission.

SECTION 4.11.5 MISCELLANEOUS REGULATIONS

- General provisions as permitted in Chapter 5.
- Parking as permitted in Chapter 6.
- Signs as permitted in Chapter 9.

SECTION 4.11.6 CONCEPTUAL DEVELOPMENT PLAN: APPLICATION REQUIREMENTS

Applicants for approval of a planned development shall submit a complete application for review of a conceptual development plan to the Zoning Administrator. The application shall contain all of the following:

- A. Twelve (12) copies of a conceptual development plan encompassing all phases of the proposed PD, prepared at a scale not less than one (1) inch equals one hundred (100) feet containing the following information:
 - 1. Name of development, applicant name, preparer name, if different, date of preparation, written and graphic scale, north arrow, property lines and dimensions, size of property in acres. Revisions to the original development plan shall include date of revision.
 - 2. Zoning and use of all adjoining properties.
 - 3. Existing natural features of the site, including predominant vegetative cover, major tree stands, and existing drainage ways.

4. Existing site improvements, including existing buildings or other structures, existing utilities with sizes shown, and any existing easements of record.
 5. Existing site elevation contours at a minimum of twenty (20) foot intervals.
 6. If applicable, identify existing shoreline, existing one-hundred (100) year flood hazard area boundary, existing wetlands and existing water courses.
 7. Existing rights-of-way lines, pavement edges and names of public streets; proposed layout of new public streets or private roads.
 8. Layout and typical dimensions of proposed lots, including building plots or pads. If the proposed Planned Development zone includes construction of buildings or other structures, identify proposed footprints and dimensions, proposed number of stories; identify uses proposed within the planned development and the acreage allotted to each use.
 9. Location of proposed access driveways and parking areas.
 10. If multi-phase development is proposed, identify areas included in each proposed phase.
- B. A legal description of the land to be included in the planned development along with the parcel number.
 - C. A sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within five-hundred (500) feet of the planned development.
 - D. A narrative statement describing the overall objectives of the planned development.
 - E. A completed application on a form supplied by the Township.
 - F. Payment of the fee, established from time to time, by resolution of the Township Board to cover the cost of the planned development project review.
 - G. Applicants must clearly demonstrate that all standards of this ordinance have been met. It is solely the responsibility of the applicant to procure and present adequate professional expert testimony and/or other information, as may be required by the Planning Commission during the review of the application, describing the methods, proposed conditions, and safeguards that are to be put into place to satisfy all applicable standards.

SECTION 4.11.7 PLANNING COMMISSION REVIEW OF CONCEPTUAL DEVELOPMENT PLAN

- A. The Planning Commission shall review the conceptual development plan at a public meeting. Recommendations made by the Planning Commission shall be based upon its consideration or the standards for approval of a planned development contained in this section, and based upon the intent of the ordinance. The recommendation of the Planning Commission shall be transmitted in written form to the Township Board, the County Planning Commission, and a copy of the recommendations transmitted to the applicant.

- B. In the course of its review of a conceptual development plan for a planned development, the Planning Commission shall notify adjoining property owners within three hundred (300) feet of the property to provide an opportunity for public comment on the proposed planned development

- C. Review Procedure:
 - 1. The Planning Commission shall review the conceptual site plan to ensure that:
 - a. The uses, buildings, and structures shown on the conceptual site plan are not in conflict with the Master Plan of current adoption.
 - b. That the proposed uses, buildings and structures are compatible with surrounding uses of land, or that measures to adequately mitigate non-compatible uses have been included on the conceptual site plan.
 - c. That the plan meets the applicable development and performance standards of this section and of the district in which it is proposed to be situated.
 - 2. Based on the findings of its review, the Planning Commission shall do one of the following:
 - a. Grant conceptual site plan approval.
 - b. Grant conceptual site plan approval subject to conditions and the submission of a revised site plan.
 - c. Reject the conceptual site plan, stating the specific reasons for the rejection.
 - 3. If the conceptual project plan is approved, it should be noted the intended project is still conceptual and conditions may be modified.

SECTION 4.11.8 APPLICATION FOR REZONING

Once the Planning Commission has granted approval or approval subject to conditions, an application for Planned Development may be filed and processed in accordance with

Chapter 12 of this Ordinance. The approved conceptual site plan shall be made part of the application, and shall be considered as part of the rezoning request.

SECTION 4.11.9 SITE PLAN REVIEW REQUIRED

Either concurrent with the application for rezoning or upon rezoning approval, the applicant must apply for development site plan approval in accordance with Chapter 8. Prior to any new construction or any activity that is an alteration of the approved site plan, site plan approval must be obtained.

In addition to the information required for development site plan approval, the applicant shall submit, where relevant, the following:

- A. Lot lines and building pads.
- B. Details of proposed and existing lighting.
- C. A copy of all of the following that are applicable: proposed deed restrictions, covenants, condominium or landowner association documents.
- D. Summary data schedules:
 - 1. Number and sizes of proposed units, including accessory or ancillary structures.
 - 2. Area and percentage of building site coverage.
 - 3. Area and percentage of impervious surface coverage.
 - 4. Area and percentage of open, undeveloped space.
 - 5. Parking space calculations, if applicable.

SECTION 4.11.10 CHANGES TO AN APPROVED PLANNED DEVELOPMENT

- A. No changes to an approved development plan for a planned development shall be made, except by mutual agreement between the applicant and the Township. Revisions to an approved final development plan or to any conditions imposed on an approval, with the exception of minor administrative changes, which do not alter the layout, number of units or other details of the plan by more than five (5%) percent, shall be processed in the same manner as an application for approval of a Development Site Plan, as specified in Chapter 8.
- B. Minor administrative changes may be made by the Planning Commission or the Commission may delegate this responsibility to the Zoning Administrator.

SECTION 4.11.11 TIME LIMIT FOR APPROVED PLANNED DEVELOPMENTS

- A. Construction of an approved planned development shall commence and shall proceed towards completion within two (2) years from the date of the approval of the planned development by the Township Board.
- B. If the planned development has not commenced and proceeded towards completion at the end of the initial two (2) year time period, or the one permitted extension thereof, then the planned development approval shall automatically become invalid and void and the property will revert back to the prior zoning.
- C. The owner or applicant of the planned development may apply to the Township Board for one (1) extension of the original approval for an additional term of two (2) years. The Township Board may, in its discretion, authorize this extension. In considering such authorization, the Township Board shall use the following standards:
 - 1. The planned development has encountered unforeseen difficulties beyond the reasonable control of the owner or applicant.
 - 2. The planned development is likely to commence and to be completed.

CHAPTER 5 GENERAL PROVISIONS

SECTION 5.1 INTENT AND PURPOSE

In addition to the development and performance requirements set forth in Chapter 4, other standards and requirements are necessary to ensure that the development of land occurs in an efficient and orderly manner. **It is the intent of this Chapter to set forth provisions that will regulate the uses allowed in all districts.**

SECTION 5.2 ACCESSORY BUILDINGS

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

- A. Where an accessory building is structurally attached to a main building, except where otherwise noted, it shall be subject to and must conform to, all regulations applicable to the main building.
- B. Accessory buildings shall not be erected in any required setback.
- C. Accessory building heights: refer to Chapter 4 district regulations in the appropriate district.
- D. Mobile homes are not accessory buildings and shall not be used for storage.

SECTION 5.3 LOT ALLOCATION

Except in Planned Developments, no portion of any lot or parcel used once to comply with the provisions of this Ordinance for yards, lot area, or any other requirement herein, shall be used a second time to satisfy said requirements for any other structure or building.

SECTION 5.4 SUBSTANDARD LOTS

Any residential lot or parcel created and recorded prior to the effective date of this Ordinance may be used for residential purposes even though the lot does not comply with the dimensional requirements of this Ordinance, provided:

- A. That the lot or parcel complies with Section 5.12 of this Chapter.
- B. That a proposed building, structure, or use for the lot satisfies the yard requirements set forth in Chapter 4 district regulation in the appropriate district.
- C. That the approvals set forth in Section 5.15 of this Chapter are delivered to the Zoning Administrator.

SECTION 5.5 CORNER CLEARANCE

No fence, wall, shrubbery, crops, signs, or other visual obstruction shall be permitted above a height of 36" within a triangle area formed by the intersection of any street or r

SECTION 5.6 MISCELLANEOUS STORAGE

Storage of any goods shall be in be in rear yards only and shall be contained either within a structure or behind fencing of opaque screening that hides them from public view.

SECTION 5.7 KEYHOLING

When two (2) or more families, legal entities, or parties share access on navigable water without residing on said frontage, such common usage and/or ownership of the waterfront shall be governed by this Section. The provisions herein shall apply regardless of whether access to the waterfront is gained by easement, common or joint ownership, single fee ownership, lease, license, site condominium unit, stock or membership in a corporation, or any other means.

- A. No more than one watercraft slip, mooring, boat hoist, raft, or any means of anchorage will be developed per twenty five feet of water frontage.
- B. No more than one dock per one hundred (100) feet of frontage shall be allowed on the water and shall otherwise comply with all state and federal statutes and regulations pertaining thereto.
- C. Boat launch facilities shall not be permitted

SECTION 5.8 ESSENTIAL SERVICES

Essential service transmission lines such as electric, telephone, gas, cable TV or other similar utilities, are permitted in all districts, provided, that the services are authorized, regulated, and in compliance with all other applicable laws, ordinances and regulations. Buildings accessory to such services however, require a Special Use Permit and are subject to the requirements set forth in Chapter 7 and Chapter 8 of this Ordinance.

SECTION 5.9 FENCES, WALLS AND SCREENS

Fences, walls or screens are permitted in all yards, but shall be subject to sight distance requirements at drives and roadways.

SECTION 5.10 PORCHES AND DECKS

Open, unenclosed porches, decks, or paved terraces may project into a required rear or side yard provided that the porch, deck or terrace is located no closer than ten (10) feet from any lot line.

SECTION 5.11 SATELLITE DISH ANTENNAS, POINT TO POINT TELECOMMUNICATION TOWERS AND SIMILAR STRUCTURES

Satellite dish antennas, point to point telecommunication towers, television antennas, amateur radio antennas, and other structures similar in size, shape and function are permitted in all zoning districts subject to the following:

- A. All satellite dish antennas, point to point telecommunication towers, television antennas, amateur radio antennas and other similar structures shall be subject to the following setback requirements:
 - 1. All satellite dishes shall be located no closer than ten (10) feet from any side or rear lot lines.
 - 2. All antennas and antenna towers shall be located no closer than the maximum height of the tower and the antenna from any lot line. Antennas and antenna towers with a total height greater than ninety (90) feet in height shall require a Special Use Permit. If tower is self-collapsing type, set backs may be altered if such alteration is supported by verified structural engineering data.
 - 3. Satellite dishes, antennas, and similar structures shall not be placed or constructed in any required front yard setback.
- B. At the time any point to point telecommunication tower is permanently out-of-service, it shall be removed from the site within one (1) year. A "Performance Guarantee" shall be required to cover removal costs at the time of construction. See Section 8.10.b.1 for type of security acceptable to the township.
- C. Satellite dishes may be placed or mounted on poles; however, they shall be subject to accessory building height limitations.
- D. For the purpose of this Section, a "point-to-point telecommunication tower" is defined as an antenna and its' supporting structure that is designed and intended to send and/or receive radio signals from the location of the tower to one other single, remote location.

This definition does not apply to "wireless telecommunication towers" that are referred to in other sections of this Ordinance.

SECTION 5.12 ROAD ACCESS REQUIREMENTS

- A. Each lot shall have access to a public road or dedicated easement.
- B. A new road or driveway access to an existing county or state highway shall be allowed no closer than three hundred fifty feet (350) from another existing or proposed road or driveway. If the lot and driveway configurations existing prior to the date of adoption of this ordinance preclude this action, or the lay of the land is such that

meeting this requirement would create an unsafe or non-functional condition, the Road Commission and/or State Highway Commission shall approve the location for a new proposed driveway which will meet the required distance as closely as possible.

C. Driveway areas or easements for flag lots shall be a minimum of thirty-three (33) feet wide.

D. Minimum driveway width shall be twelve (12) feet wide.

SECTION 5.13 TEMPORARY OUTDOOR USES

Temporary outdoor uses may be permitted in any zoning district provided that the temporary use is similar in nature to those uses that are allowed by right in the district. Any other temporary outdoor uses require a review by the Planning Commission and may require an approved site plan at the Commission's discretion in accordance with Chapter 8.

A Land Use Permit identifying the location, sponsoring group or individual, and the beginning and ending dates of the use must be obtained from the Zoning Administrator by the event sponsor. The Zoning Administrator shall determine the off street parking requirements for the event.

SECTION 5.14 PERMITS

No construction activity requiring a building or grading permit shall commence until a Land Use Permit and building or grading permit has been issued.

SECTION 5.15 REQUIRED WATER SUPPLY AND SANITARY SEWERAGE FACILITIES

No structure shall be erected, altered, or moved upon any parcel as a dwelling, office, business, industry or public facility unless it is provided with a safe, sanitary, and potable water supply and with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, or industrial waste. All such installations and facilities shall conform to the requirements of the County Health Department and applicable State agencies and all applicable permits authorizing said facilities shall be obtained. The owner or applicant for any Land Use Permits shall demonstrate the availability of potable water and public sewer connections or adequate space for septic fields with appropriate reserve areas and setbacks specific to site conditions, but in no case should a septic field be closer than ten (10) feet to a lot line.

SECTION 5.16 CORNER LOTS

Lots or parcels which have frontage on two (2) or more streets shall be subject to the following.

- A. All yards having frontage on a street shall be considered front yards for the purpose of satisfying dimensional requirements.
- B. The lot or parcel owner shall designate which yard shall be considered the front yard for the purpose of establishing the rear and side yards.

SECTION 5.17 LANDSCAPING, SCREENING. GREENBELTS, BUFFERS AND FENCING

- A. The intent of this section is to promote the public health, safety, and general welfare by:
 - 1. Minimizing the nuisances that new development may cause, including additional noise, air and water pollution, and the destruction of scenic views.
 - 2. Improving the appearance of off street parking and other vehicular use areas.
 - 3. Requiring buffering between incompatible land uses.
 - 4. Regulating the appearance of property abutting the public rights-of-way.
 - 5. Protecting and preserving the appearance, character and value of the community and its neighborhoods.
 - 6. Preventing soil erosion and soil depletion.
 - 7. Promoting soil water absorption.

Sizes and amounts of landscaping and plant types shall be dependent upon what is already present in the area and landscaping needs of the specific site. Generally, landscaping shall at least equal surrounding landscaping in newer areas and tend toward upgrading older areas. Landscaping needs will be determined by using the standards set forth in this Section, and other applicable sections of this Ordinance, but plantings covering a minimum of twenty (20%) percent of any site shall be used as a guideline.

- B. The following standards shall be followed:
 - 1. Additional landscaping shall be added to the retained natural landscaping features, to reduce the apparent mass and height of buildings, to visually break expanses of paving, to reduce the visibility of paved areas from adjacent roadways and properties, and to provide an attractive appearance from both within and without the site.
 - 2. Ground cover shall be permeable to prevent erosion.
 - 3. Areas that are intended to be landscaped shall be provided with a minimum depth of topsoil of four (4) inches and mulched appropriately.
 - 4. All plantings shall be maintained in a vigorous, healthy, and weed-free state. Any dead or diseased plants shall be removed and replaced.

SECTION 5.18 PRIVATE ROAD STANDARDS

Any private roadway or driveway intended to service five (5) or more lots or residential units shall conform with the requirements of the Kasson Township Private Access Road Ordinance.

SECTION 5.19 MINIMUM SETBACK FROM AND LOT FRONTAGE REQUIRED ON ALL LAKES

No part of any building or other structure may be erected less than one hundred (100) feet from the ordinary high water mark and from the road right-of-way, with a setback of thirty (30) feet from the side lot lines, with a minimum lake frontage of not less than one hundred sixty (160) feet on a minimum lot size of ten (10) acres on any lake or lakes within the Township except Glen lake. The minimum setback from Glen lake shall be forty (40) feet from the water's edge and from the road right-of-way with a side setback of ten (10) feet from the side lot lines and a minimum lake frontage of not less than one hundred (100) feet.

CHAPTER 6 PARKING

SECTION 6.1 INTENT AND PURPOSE

It is the purpose of these regulations to ensure that adequate parking facilities are provided for, and that they are adequately maintained. Off street parking as required by this Ordinance shall be in accordance with the following provisions.

SECTION 6.2 ADEQUATE OFF-STREET PARKING

For all uses, adequate off-street parking shall be required to prevent conflicts with vehicular traffic. Adequate off-street parking shall be provided for each use. Off street parking areas shall be designed with enough capacity to provide safe and sufficient parking for all vehicles during normal visitation periods. Direct access to off street parking areas shall be provided from a county street or approved private street. Street rights-of-way shall not be construed as satisfying the requirements of this Chapter except as allowed by specific districts and uses in this Ordinance.

Off street parking for commercial uses shall be sufficient to provide parking for the employees of all proposed uses as well as long-term customer parking. Off street parking lots shall be prohibited in any front yard setback area, and shall be located at the rear or side of the buildings and shall be accessed by means of common driveways, preferably from side streets or lanes. Such lots shall be small sized (less than 25 parking spaces), where possible, and interconnected with commercial parking lots on adjacent properties. Cross-access easements for adjacent lots with interconnected parking lots shall be required, in language acceptable to the Township. Common, shared parking facilities are encouraged, where possible.

SECTION 6.3 TABLE OF OFF-STREET PARKING REQUIREMENTS

Total parking required is the sum of spaces for all land uses proposed on the site, plus employee parking, as defined below.

TABLE OF OFF-STREET PARKING REQUIREMENTS

Land Use	# Spaces	Per Activity Unit
Mobile Home Parks	2	Dwelling Unit
Senior Citizen Housing	1	Dwelling Unit
Day Nursery	1	4 Children, per License
Doctor, Dentist, Veterinarian	2	Exam or Treatment Room
Retail, Office, Financial	1	250 sq. ft. of public space
Vehicle Repair	1	800 sq ft. of public space

Vehicle service/wash, Gas Station	3	Wash, Stall or fuel pump
Truck Stop	5*	Fuel Pump (12' x 70' truck)
Barber Shop or Beauty Salon	1	Chair
Bar or Restaurant (not Drive In)	1	2 Seats
Drive-In or Drive-Thru Restaurant	1	200 sq. ft. Gross Floor Area
Hotel or Motel	1	Guest Room
Meeting or Bingo Halls, Skating Rink, Community Center, Gymnasium	1	4 Persons Allowed in Bldg Based on Fire Code
Bowling Alley	4	Lane
Wholesale, Industrial	1	900 sq. ft. Gross Floor Area
Church, Theater, Arena, Stadium, Auditorium	1	3 Seats Or 6 Feet Of Bench Or Pew Seating
Grade School	1	10 Students
High School	1	5 Students
College or Technical School	1	3 Students
Hospital, Visitor Parking	1	3 Beds
Hospital, Doctor's Parking	1	2 Medical Staff Members
Nursing Home	1	6 Beds
Library, Museum, Gallery, Post Office	1	800 sq. ft. Gross Floor Area
Private Club	1	4 Persons Allowed in building
Any Employment Site	1	Employee At Peak Shift

*** Spaces must be as noted**

Where an applicant can substantiate a different parking need than listed above, upon submittal of convincing written evidence to the Zoning Administrator, a deviation may be allowed. Unpaved parking areas may be allowed to handle special events or high non-routine parking requirements. These areas, though, must have properly stabilized subsoil and meet regular landscape requirements.

SECTION 6.4 USES NOT LISTED

The Zoning Administrator shall determine the amount of parking spaces required for uses not listed in the table above. The Zoning Administrator's determination shall be based on a comparison of the proposed use and a similar use that is listed in the Table of Off-street Parking Requirements. In the event that there is a dispute over the number of spaces required, the matter shall be referred to the Zoning Board of Appeals for review and decision.

SECTION 6.5 BUILDING, STRUCTURE, OR USE, EXPANSIONS OR ADDITIONS

Additional parking shall be provided in accordance with the table above for any increase in floor area, change in use, addition, or expansion of a building or site.

SECTION 6.6 JOINT PARKING

The use of shared parking is encouraged and allowed when it can be demonstrated that the parking requirements of this Chapter can be met.

SECTION 6.7 OFF-STREET PARKING AREA CONSTRUCTION REQUIREMENTS

- A. The off street parking areas shall be surfaced with a material that provides a durable, smooth and dustless surface which shall be graded to drain and dispose of storm water.
- B. Storm water collection, drainage and retention structures meeting all requirements of the Leelanau County Road Commission and the Leelanau County Drain Commissioner shall be installed for all off street parking areas.
- C. Driveways and aisles for any off-street parking area shall be clearly defined meeting the following requirements:
 1. Each driveway shall be a minimum of nine (9) feet and a maximum of twenty (20) feet in width per direction. Lanes for entering and exiting traffic shall be defined.
 2. The driveways shall intersect the abutting street at a ninety (90) degree angle.
 3. Aisles shall be at least eighteen (18) feet wide.
- D. Each parcel shall have no more than one (1) driveway entrance and exit opening to an abutting public thoroughfare for each three hundred fifty (350) feet of frontage, or fraction thereof. Where more than one (1) driveway is allowed because of an existing driveway, it will be as far as possible from the nearest driveway(s), except in high density areas. No parking lot driveway shall be located closer than ten (10) feet of a neighboring property line.
- E. All lighting of a required off-street parking area shall be arranged in such a

manner and shall be of such height that the illumination is directed toward the ground and is not directed toward a public thoroughfare or adjacent properties.

- F. Parking and loading areas in general shall be located at the side or rear of the building, but in no case closer than fifty (50) feet from any road right-of-way and shall not be located any closer than ten (10) feet from any lot line.
- G. Any parking area larger than ten (10) spaces shall have a visual screen not less than four (4) feet high when adjacent to property zoned for residential uses.
- H. A Land Use permit shall be required for construction of any parking lot.

SECTION 6.8 PARKING LOT LANDSCAPING, BUFFERING AND SCREENING.

- A. Lots for apartment and non-residential uses shall balance the functional requirements of parking with the provision of pedestrian needs. Transition areas between parking and civic, commercial or residential uses should be designed with textured paving, landscaping and street furniture.
- B. Parking lot layout, landscaping, buffering and screening shall prevent direct views of parked vehicles from streets and sidewalks, avoid spill-over light, glare, noise or exhaust fumes onto adjacent properties, in particular residential properties, and provide the parking areas with a reasonable measure of shade. In order to achieve these objectives, parking lots exposed to view shall be surrounded by a minimum of four (4) foot high, year-round visually impervious screen, hedge or wall. The height of any required screen, hedge, or wall shall decrease where driveways approach sidewalks or walkways, in order to provide adequate visibility of pedestrians or bicyclists from motor vehicles, and shall not interfere with clear sight triangle requirements.
- C. The interior of all parking lots shall be landscaped to provide shade and visual relief. This is best achieved by protected planting islands or peninsulas within the perimeter of the parking lot. Parking lots with ten or less spaces may not require interior landscaping if the Planning Commission determines that there is adequate perimeter landscaping. If this perimeter landscaping is found to be inadequate, and in parking lots with eleven (11) or more spaces, a minimum of one (1) deciduous shade tree, 1½ " inch caliper, shall be planted for every six (6) parking spaces.
- D. Planting areas shall be as large as possible, but no smaller than 10 x 20 or an equivalent planter is required. Choice of plant materials, buffer width, type of screening location, and frequency of tree planting shall be flexible, but shall ensure the above objectives are satisfied. Parking lot layout shall take into consideration pedestrian circulation, pedestrian crosswalks shall be provided, and where necessary

and appropriate, shall be distinguished by textured paving, and shall be integrated into the wider network of pedestrian or multi-mode trail ways.

CHAPTER 7 SPECIAL LAND USES AND SPECIAL USE PERMIT REQUIREMENTS

SECTION 7.1 INTENT AND PURPOSE

Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for certain uses of land or structures that will allow, on one hand, practical latitude for the land owner or developer, but that will, at the same time, maintain sound provisions for the protection of the health, safety, and general welfare of Township inhabitants. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Such uses may be authorized by the Planning Commission within certain zoning districts through the issuance of a Special Use Permit as provided in the Michigan Zoning Enabling Act 110 of 2006, as amended.

SECTION 7.2 PRE-EXISTING USE

Any existing use actually undertaken, which is permissible by right in the district, shall continue as a permissible use even if that use is later designated a Special Land Use. Any expansion or enlargement of the original permissible use, later designated special, must proceed through the Special Land Use process for approval.

SECTION 7.3 REVIEWING AUTHORITY

All applications for Special Use Permits shall be considered by the Planning Commission. The Commission shall have the authority to grant, to deny, or to grant with conditions such Special Use Permits. The Commission's determination shall be considered final.

SECTION 7.4 APPLICATION AND FEE

An application for a Special Use Permit shall be submitted to the Commission through the Zoning Administrator. The applicant shall provide the Zoning Administrator with twelve (12) copies of the application, and twelve (12) sets of all required data. Each application shall be made by the owner(s) of record of the property on which the proposed Special Land Use is to exist or be conducted, or by an applicant, if not the owner, with a signed authorization of the property owner, and shall be accompanied by the payment of a fee set forth in the schedule established by the Township Board to cover the cost of processing the Special Use Permit application.

SECTION 7.5 DATA REQUIRED

A. Each application shall include the following information:

1. The name, address, telephone number and signature of the property owner and applicant;
2. A full legal description of the property on which the proposed Special Land Use is to exist or be conducted, including the property tax parcel numbers(s), together with proof of property ownership and applicable options on the property, if any;
3. A detailed description of the proposed Special Land Use for which the permit is requested;
4. Project schedule and development plans;
5. A vicinity map with north point indicated;
6. Land uses and existing structures on the subject parcel and adjoining parcels within three hundred (300) feet of the subject parcel; and
7. Written statements relative to project impact on existing infrastructure, including but not limited to traffic, capacity of roads, schools and existing utilities, and upon the natural environment.
8. Applicants must clearly demonstrate that all standards of this ordinance, including those in Section 7.7 - Basis for Determination, have been met. It is solely the responsibility of the applicant to procure and present adequate professional expert testimony and/or other information, as may be required by the Planning Commission during the review of the application, describing the methods, proposed conditions, and safeguards that are to be put into place to satisfy all applicable standards.

B. A site plan in accordance with Chapter 8 - Development Site Plan Review.

SECTION 7.6 PROCEDURE UPON RECEIPT OF APPLICATION

Upon receipt of a Special Use Permit application, which is supported by all the data and fees required above, the application shall be put on the agenda for preliminary consideration at the earliest Commission meeting practicable.

- A. Notice Requirements. Notice that a Special Use Permit application has been received and will be considered by the Commission and shall meet the following requirements:
 1. Content. The content of the notice shall:
 - a. Describe the nature of the Special Land Use request.

- b. Indicate the property which is the subject of the Special Use Permit request.
 - c. State when and where the Special Use Permit request will be considered.
 - d. Indicate when and where written comments will be received concerning the request.
 - e. State where and when a copy of the Special Use Permit may be inspected.
2. Published Notice. The notice shall be published in a newspaper of general circulation in the Township not less than 15 days before the date the application will be considered for approval.
 3. Required Party Notice. The above notice shall be mailed by first class mail to the following persons:
 - a. The owners of property for which approval is being considered.
 - b. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question.
 - c. The occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure; except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager of owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.
 4. An affidavit of notice as to the manner and date of service to all required parties shall be filed with the Commission before the meeting at which the Special Use Permit is considered.
- B. The Planning Commission shall hold a public hearing on the Special Use Permit request.
 - C. The Planning Commission shall review the request and shall establish that the standards and requirements of this Chapter are satisfied.
 - D. Following its review of the request, the Planning Commission shall take one of the following actions:

1. Issue the Special Use Permit if it is found to satisfy the requirements of this Chapter.
2. Place conditions on, and then issue, the Special Use Permit to ensure that it complies with the requirements of this Chapter.
3. Deny the Special Use Permit if it is found that the proposed use fails to satisfy the requirements of this Chapter. In the event of denial, the applicant shall be informed of the decision with the reasons for denial in writing.

SECTION 7.7 BASIS FOR DETERMINATION

Before approval of a Special Use Permit, the Commission shall establish that the standards specified in this Section, as well as applicable standards outlined elsewhere in this Ordinance, shall be satisfied. Each of the proposed Special Land Uses on the proposed location shall:

- A. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity as indicated in the Township Master Plan or other policies of the Township.
- B. Not be hazardous or disturbing to existing uses in the same general vicinity, and will not have adverse effects on the market value of surrounding property and to the community as a whole.
- C. Be served adequately by essential facilities and services, such as, but not limited to, highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
- D. Not create excessive additional requirements at public costs for public facilities and services.
- E. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by fumes, glare, noise odors or dust
- F. Will be in general compliance with the land use policies outlined in the Township Master Plan, the principles of sound planning, and will not jeopardize the economic welfare of the Township.
- G. Will not directly or indirectly have a substantial adverse effect upon the natural resources of the Township. Including, but not limited to, prime or unique agricultural lands, water recharge areas, lakes, rivers, streams, forest, wetlands, wildlife areas and major sand, gravel or mineral deposits.
- H. Structures, landscaping, or other land uses, will not disrupt water drainage systems necessary for agricultural uses and will be in compliance with Leelanau

County Drainage Commission requirements.

- I. Phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
- J. Phases of development must also be in compliance with the requirements of the district in which it is proposed and all other standards in this Ordinance, as well as with the requirements of the County Road Commission, County Building Inspector, County Drain Commissioner, District Health Department, Soil Erosion Officer, Agricultural Soil Conservation Service, area fire departments, the DNR and other applicable township, county, state and federal statutes.

SECTION 7.8 CONDITIONS AND SAFEGUARDS

Additional conditions and safeguards may be imposed by the Commission if reasonable and necessary to protect the natural environment or to conserve natural resources or energy, to ensure compatibility with adjacent uses of land, to promote the use of land in a socially and economically desirable manner, and to insure that public services and facilities affected by the proposed use or activity will be capable of accommodating the increased activity. Any condition so imposed shall meet the following requirements:

- A. To insure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity;
- B. To protect the natural environment and conserve natural resources and energy;
- C. To insure compatibility with adjacent uses of land;
- D. To promote the use land in a socially and economically desirable manner;
- E. To protect the health, safety, welfare, social and economic well-being of those who will be using the proposed Special Land Use or activity under consideration;
- F. To protect the health, safety, welfare, social and economic well-being of Township residents, and lot owners adjoining the proposed Special Land Use or activity, including, but not limited to, requirements such as screening, or the erection of natural or artificial barriers, or limitations on the time of day during which construction may occur or during which Special Land Use activities may be carried on;
- G. Be necessary to meet the intent and purposes of this Ordinance, and be related to the standards established for the land use activity under consideration, and be necessary to insure compliance with those standards;

- H. Be necessary to insure compliance with any part of the application received and approved by the Commission; and
- I. Be recorded as part of the Special Use Permit.
- J. When so doing, the following finding shall be made and documented as part of the Special Land Use reviewed:
 - 1. That such fencing, screening, buffering or landscaping or limitations on the time of day would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking, or other similar impact on adjoining parcels;
 - 2. That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

SECTION 7.9 VARIANCES

Where a Special Use Permit is granted conditionally, based upon the necessity for the applicant to obtain a variance, or variances, from the Zoning Board of Appeals, the permit shall not be valid until such variances are obtained.

SECTION 7.10 GRANT OR DENIAL OF THE SPECIAL USE PERMIT

The Commission may approve, deny, or approve with conditions, a request for Special Use Permit approval. The decision on a Special Use Permit under consideration shall be incorporated in a statement containing the conclusions which form the basis for the decision and any conditions and safeguards imposed. One copy shall be distributed to each of the following: Zoning Administrator, Township Clerk, and to the Commission. Only upon approval of the Commission may a Special Use Permit be issued by the Zoning Administrator.

SECTION 7.11 PERMIT EXPIRATION OR RENEWAL

A Special Use Permit issued pursuant to the requirements of this Ordinance shall expire after one (1) year if construction or use has not commenced and proceeded meaningfully toward completion by the end of this period.

Special Use Permits with an active "Performance Guarantee" must be brought before the Planning Commission every two (2) years for review and renewal. Application for renewal must be received by the Zoning Administrator at least sixty (60) days prior to expiration.

SECTION 7.12 BINDING EFFECT

Any Special Use Permit approved by the Commission pursuant to the provisions of this

Ordinance shall be binding between the parties, and said use shall not be modified, altered, expanded, or otherwise changed, unless the Special Use Permit holder applies for a new Special Use Permit and repeats the process outlined in this Chapter. Further, such conditions shall run with the land, and shall be binding on the landowner, his successors, heirs and assigns.

If at any time during the existence of the Special Land Use(s) permitted, the land, lot, or structures are used contrary to the conditions and provisions of the permit, said use shall be deemed a violation of the Special Use Permit and the permit may be revoked and all permitted activities must cease.

SECTION 7.13 INSPECTIONS

The Zoning Administrator shall be responsible for the inspection of all conditions imposed by the Special Use Permit and for all improvements required by the approved final site plan. All sub-grade improvements, such as utilities, sub-base and base installations for streets, drives, and parking lots, and similar improvements shall be inspected by the Zoning Administrator or other appropriate official and approved before covering. It is the responsibility of the applicant to request such necessary inspection at the appropriate times. The Zoning Administrator shall report periodically to the Commission on the progress of each Special Use Permit. He shall notify the Commission in writing of any failure on the part of the applicant to meet the requirements of the site plan and Special Use Permit, and report on steps being taken to insure compliance. The fee schedule established by the Township Board may include a fee to cover such inspections.

SECTION 7.14 FINANCIAL GUARANTEES

In the interest of insuring compliance with the provisions of this Ordinance, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a proposed Special Use Permit has been submitted, the Commission may require the applicant to:

- A. Deposit a "Performance Guarantee" as set forth herein. The purpose of the "Performance Guarantee" is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to: roadways, lighting, utilities, sidewalks, drainage, fences, berms, screens, walls, landscaping, reclamation, and widening strips.
 1. "Performance Guarantee" as used herein shall mean a cash deposit, certified check, or irrevocable bank letter of credit in the amount of the estimated cost of any improvements to be made as determined by the applicant and verified by the Township Board.
 2. The "Performance Guarantee" shall be deposited with the Township Board at the time of the issuance of the permit authorizing the activity of project. No

Special Use Permit may be issued before the receipt of all required "Performance Guarantees" by the Township Board.

3. An approved Special Use Permit shall also prescribe the period of time within which the improvements for which the "Performance Guarantee" has been required are to be completed. The period will begin from the date of the issuance of the permit.
4. In the event the "Performance Guarantee" deposited is a cash deposit or certified check, the Kasson Township Board shall rebate to the applicant fifty (50%) percent of the deposited funds when sixty (60%) percent of the required improvements are completed as confirmed by the Township Board, and the remaining fifty (50%) percent of the deposited funds when one hundred (100%) percent of the required improvements are completed as confirmed by the Kasson Township Board. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the "Performance Guarantee" herein required may be applied by said applicant to assure compliance with the standards of this Ordinance and the specifications of the approved site plan.
5. Upon the satisfactory completion of the improvements for which the "Performance Guarantee" was required, the Kasson Township Board shall return to the applicant the "Performance Guarantee" deposited and any interest earned thereon.
6. In the event the applicant defaults in making the improvements for which the "Performance Guarantee" was required within the time period as agreed to in the site plan, Kasson Township shall have the right to use the "Performance Guarantee" deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. Should Kasson Township use the "Performance Guarantee" or a portion thereof to complete the required improvements, and amounts remaining after said completion shall be applied first to Kasson Township administrative costs in completing the improvements for which it was posted, the applicant shall be required to pay Kasson Township the amount by which the cost of completing the improvements exceeds the amount of the "Performance Guarantee" deposited. The cost shall be billed to the permit holder and a lien placed against the subject property. If unpaid, the costs shall be collected in the same manner as delinquent taxes or as allowed by law.

SECTION 7.15 OTHER SPECIAL LAND USES

Land and structural uses that are not specified in any other section of this Ordinance, but, upon being applied for under the provisions of Chapter 7, may be considered by the

Planning Commission as long as they meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance.

SECTION 7.16 RECORDING OF NOTICE OF SPECIAL USE PERMIT APPROVAL IN THE CHAIN OF TITLE

Any property for which a Special Use Permit is approved under the criteria of this chapter of the Zoning Ordinance, shall record a notice of such permit approval at the Leelanau County Register of Deeds. The notice shall be prepared in a recordable form under any applicable requirements of Michigan law and/or of the Leelanau County Register of Deeds. The notice shall identify the legal description, street address and parcel number of the property subject to the permit. The notice shall further identify the type of Special Use Permit granted, when the Permit was granted, and where a copy of the complete Special Use Permit document may be reviewed at the Township office. The notice shall be recorded within 30 days of the date that the Special Use Permit was approved for the property, and a draft of the notice shall be submitted to the Township Zoning Administrator for review prior to its recording.

SECTION 7.17 REQUEST FOR RESCISSION AND CANCELLATION OF SPECIAL USE PERMIT BY THE RECORD OWNER OF PROPERTY SUBJECT TO A SPECIAL USE PERMIT

At any time after a Special Use Permit has been approved, and the permit has not otherwise expired, under the terms of this chapter, the record owner of the property subject to the permit, may petition to rescind and to cancel the permit under a form prepared by the Township. The petition to rescind and to cancel the permit shall be subject to the same public hearing and publication requirements as would apply to an application for a Special Use Permit, and shall be granted by the Planning Commission provided that there is no harm to adjacent property owners and to the Township under the same review standards applied to an application for approval of a Special Use Permit. The Planning Commission may also add reasonable conditions as part of the rescission and cancellation of the permit.

CHAPTER 8 DEVELOPMENT SITE PLAN REVIEW

SECTION 8.1 INTENT AND PURPOSE

Land development affects the character of the community and its public health, safety, and general welfare. This Chapter provides that all land uses shall be subject to development site plan review **except** a single or two-family dwelling located on a single lot and agricultural uses not subject to a Special Use Permit or as otherwise indicated in this Ordinance.

SECTION 8.2 SCOPE

All land developments, excluding those addressed in Section 8.1 above, including structures to be erected, moved, externally altered, added to, or to have any change in use which would affect their approved off street parking, landscaping, site drainage, or any other requirements, shall be reviewed under this Chapter. No building or Special Use Permit shall be issued except in accordance with a plan approved under this Chapter.

No person shall undertake any activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith, for which development site plan approval is required by this Ordinance without first obtaining such approval, nor shall such activity proceed prior to obtaining necessary soil and sedimentation control permits, wetland permits, or flood plain permits.

A grading plan in accordance with requirements in Section 8.7 shall be submitted for the activities indicated above and shall include spot elevations, soil erosion control measures, and cut and fill details, with net changes noted.

SECTION 8.3 APPLICATION AND FEE

An application for a site plan review shall be made by filing the application form, required information, and the required fee with the Township Zoning Administrator.

The application fee shall be set by resolution of the Kasson Township Board. Once accepted by the Zoning Administrator, no portion of the fee shall be returned to the applicant, unless authorized by an action of the Township Board.

SECTION 8.4 REVIEWING AUTHORITY

The Planning Commission, or its qualified designee, shall review development site applications in accordance with the standards presented in this Chapter and Ordinance. The Planning Commission shall review the site plan application and its designee's report, and shall thereafter approve, approve with conditions, or deny the request for development site plan approval. The Planning Commission decision shall be final.

**SECTION 8.5 MAJOR AND MINOR DEVELOPMENT PROJECTS
DEFINED**

A minor project, for the purpose of this Chapter, is defined as follows:

- A. The remodeling, alterations, or additions to commercial and industrial buildings of less than twenty-five (25%) percent of the square footage of the existing structure.
- B. Improvements to, erection of, or reconstruction of accessory buildings and structures, parking areas, and similar facilities.
- C. Site changes that do not exceed twenty-five (25%) percent of the existing developed site area.

Major projects are all projects not listed above, including, but not limited to, site condominium projects, multi-family apartment project developments, commercial and industrial buildings and additions, alterations or redevelopment of buildings and sites greater than listed above.

**SECTION 8.6 CONCEPTUAL DEVELOPMENT SITE PLAN
REVIEW**

The applicant is encouraged to submit a preliminary plan for review by the Planning Commission in order that errors, miscalculations or misconceptions are not incorporated into the conceptual plans. This procedure is intended to be informational only and shall not necessarily bear directly upon later reviews. Submissions for this review may consist of all those items listed in Section 8.7 that shall present an adequate overview of the intended project.

**SECTION 8.7 SITE PLAN REVIEW; REQUIRED
INFORMATION**

For major projects, Development Site Plan Review shall entail the examination of all the items in Section 8.7 B. For minor projects, the abbreviated review indicated in Section 8.7 A is allowed.

The Planning Commission may waive a requirement or requirements in this section if not deemed necessary for a thorough review. The Commission shall state for the record its reasons for taking such action.

A. Required Submittals - Minor Projects

All project applicants shall submit to the Zoning Administrator, the development site plan application provided by the Township, and twelve (12) copies of the detailed site plan. The detailed site plan shall consist of the following items for review:

1. A site plan, drawn to scale, showing the property boundaries, the proposed location of structures and other improvements including, where appropriate, roads, driveways, pedestrian walks, off-street parking areas, landscaped areas, fences and walls.
2. A conceptual landscape plan, including required buffers, existing vegetation, water courses, and other significant site features.
3. Architectural drawings of all elevations of the proposed structures as they will appear upon completion.
4. Accurate scale drawings of all signs indicating their size, material, color and illumination, if any, and the method of installation of any free-standing sign.
5. Conceptual grading and drainage plans with existing and proposed elevations.
6. Such other data as may be required by the Planning Commission to ensure that the purpose of the Chapter are satisfied. The Commission shall state for the record its reasons for taking such action.

B. Required Submittals – Major Projects

The following are among the items to be included on the detailed plan for major projects. Development site plans should be accurately drawn at the scale of at least 1" = 100' showing the site and all land and structures within five hundred (500') feet of the site.

The plan shall also contain a rectangle one (1) inch wide by .25 inches high, labeled with the number of feet corresponding to one (1") inch on the detailed plan, to assist determining distances on a copy of the site plan that has been reduced or magnified. The Planning Commission may require details to be provided in a scale as great as 1" = 20'. If multiple sheets are used, each must be labeled, dated and the preparer identified.

1. The location of proposed or existing property lines, dimensions, legal descriptions, tax parcel numbers, setback lines and monument locations.
2. A vicinity map drawn at a scale of a minimum of 1" = 2000' with north point indicated.
3. Existing topographic elevations at two-foot intervals, proposed grades and direction of drainage flows.
4. The location and type of existing soils on the site and any certification of borings.
5. Boundaries and elevations of existing and proposed water courses and waterbodies, including county drains and man-made surface drainage ways, flood

plains and wetlands within one thousand five hundred (1,500) feet of the project site and proposed erosion control measures.

6. Location of existing and proposed buildings and intended uses thereof.
7. Proposed location of accessory structures, buildings and other appurtenances, including, but not limited to, all flags poles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators, and similar equipment, and the method and details of screening where applicable.
8. Location of existing public roads and streets, that abut or cross the site, plus rights-of-way and private easements of record.
9. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes or tapers (if any) serving the development. Details of entryway and entryway sign locations should be separately depicted, with elevation views.
10. Location, design and dimensions of existing and proposed curbing, barrier-free access, carports, parking areas (including indication of all spaces, method of surfacing and striping), fire lanes and all lighting and signing thereof.
11. Location, size and characteristics of all loading and unloading areas.
12. Location and design of all trails, walkways, bicycle paths, and other areas for public use.
13. Location of water supply lines and/or wells, including fire hydrants and shut-off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems, if applicable.
14. Location and routing of all other utilities on the site, including, but not limited to, natural gas, electric, cable TV, telephone and steam.
15. Proposed location, dimensions and details of common open spaces and common facilities, such as community buildings or swimming pools, if applicable.
16. Exterior lighting locations with areas of illumination illustrated, as well as the type of fixtures and shielding to be used.
17. Location and specifications for all fences, walls and screening features with cross sections.
18. General location and type of significant existing vegetation, including the location and size of all existing trees with a trunk of six (6") inches or more in diameter,

four and one-half (4 ½) feet above the ground, if not located in a forest. Forest and larger vegetation areas to be preserved shall be designated.

19. Location and specifications for all proposed perimeter and internal landscaping and other buffering features.
20. Location size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
21. Location and specifications for any existing, proposed or required above, or below, ground storage facilities for any chemicals, salts, flammable or hazardous materials, as well as any containment structures or clear zones required by government regulations and a Pollution Incident Prevention Plan as required by the Act 245 Program.
22. Act 245 of 1929 has been incorporated as Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act 1994, PA451, as amended (ACT 451) MCL 324.3101 et seq.
23. Identification of any significant or unique site features.
24. Indication of any significant views onto or from the site.
25. The zoning classification of the site and adjacent properties.
26. North arrow, scale and date of original submittal and all revisions.
27. Such other data as may be required by the Planning Commission to ensure that the purposes of this Chapter are satisfied. The Commission shall state for the record its reasons for taking such action.
28. When any of the numbered elements above are not applicable to a given site plan, an indication to that effect for each element shall be noted in a separate section of the site plan. This section shall be labeled "Required Site Plan Elements Not Applicable to This Site Plan" along with a brief note of why the particular element is not applicable.

SECTION 8.8 SITE PLAN REVIEW PROCEDURE

- A. When all necessary information as provided by this Chapter is submitted to the Zoning Administrator, the Zoning Administrator shall notify the Planning Commission Secretary.
- B. The Commission Secretary shall place the Site Plan Review on the next available meeting Agenda for discussion by the Commission and shall notify the applicant of this action.

- C. Within a reasonable time and based upon the standards in Section 8.9, the Planning Commission shall act either to approve or to deny the request for Development site plan approval or to provide information to the applicant by which he/she may amend his plans to conform to certain stipulated requirements to obtain approval. Upon re-submittal, the Planning Commission shall, within forty-five (45) days, inform the applicant of the acceptance or rejection of his/her plans.
- D. If plans are denied at any stage, the Planning Commission shall submit in writing to the applicant the reasons for the action.

SECTION 8.9 DEVELOPMENT SITE PLAN REVIEW STANDARDS

The following standards shall be utilized in reviewing all development site plans. The standards are intended to provide guidance for the applicant in the production of plans as well as a method for the review of the site plans by Township Officials.

A. Elements of Development Site Plan Review

1. Neighborhood and Community Elements:
 - a. Historical Preservation. Owners of existing structures of historical significance are encouraged to preserve these structures and to renovate them in a manner which preserves that significance and places them appropriately among other like structures. Variances may be granted by the Zoning Board of Appeals when necessary to accomplish this purpose.
 - b. Relation of proposed buildings to environment. Proposed structures shall be related harmoniously to the terrain, the size and shape of a lot, the character of adjoining properties and the existing buildings in the vicinity that have a visual functional relationship to the proposed buildings. Such a relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach and terrain of other buildings. In all cases, open spaces should be created that are usable.
 - c. Other concerns which shall be addressed include microclimate effects created by structure placement, solar exposure and shadow effects, including snow build-up and drifting, and effects upon wetlands, drainage and habitat systems.
 - d. Views and privacy, while dealing with the siting of buildings on individual parcels, shall be provided for on a larger scale by buffering and screening to preserve or create un-intrusive site lines wherever possible.
 - e. Landscape Preservation. The landscape shall be preserved in as natural a state as possible by minimizing tree and soil removal. Areas such as steep slopes, wetlands, and littoral areas, as well as resource areas such as forests, wooded

lots and farmlands shall be preserved wherever possible. Any grading changes shall be in keeping with the lay of neighboring lands. Golf courses in particular shall be designed to retain as much of the native terrain and herbage as possible and shall provide wide screening buffers between fairways and the public roadways and other non-compatible uses.

- f. Business Districts. Design standards may be developed by particular business districts, and if promulgated, will be used to design the elements of structures and site improvements proposed within these districts.
- g. Traffic-ways and Gateways. Site plans shall address the effects of new structures or uses upon traffic at or near their sites. A major use may require a traffic study to determine potential effects and possible necessary mitigating actions. Proposed uses at entryways to the community shall provide appropriate design features to welcome travelers to the community.
- h. Security, Fire and Emergency Access. Setbacks, access paths with adequate lane width and sufficient areas for fire and emergency vehicle turn around, and fire hydrant locations (where applicable) shall be provided per existing statutes and ordinances and in accordance with requirements of the appropriate reviewing authorities. All buildings or groups of buildings shall be arranged to permit emergency vehicles access by some practical means to all sides. Where applicable, security shall also be considered integral to the design. Sufficient illumination and ease of surveillance shall be addressed where appropriate.

2. Engineering Elements:

- a. Drives, Parking and Circulation. Parking spaces sufficient only for the intended use shall be allowed. Calculations and justification for spaces provided shall be noted on the plans. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, attention shall be given to the location and number of access points to public streets, width of interior drives and access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement of parking areas that are safe and convenient and do not detract from the design of proposed buildings and structures and neighboring properties. Parking areas shall be screened from roadways and from their adjacent uses by landscaped areas or by walls. Sufficient distance between drives and property lines shall be provided.
- b. Surface Water Drainage. Attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties of the public storm drainage system. Storm water shall be removed from all roofs, canopies and paved areas, and carried away in such a manner that it will not obstruct the flow of vehicular or pedestrian traffic, and

will not puddle or freeze in paved areas. Run-off waters shall be detained or retained to cleanse it and to prevent erosion.

- c. Utility Service. In relation to neighboring properties and the site. New utility service distribution lines shall be underground wherever feasible. Any existing utility installations remaining above ground shall be placed out of sight as much as possible and situated harmoniously in relation to neighboring properties and the site. The proposed method of sanitary sewage disposal from all buildings shall be indicated. All utility installations shall be carried out in accordance with the current standards, rules and regulations of those entities having jurisdiction. No project shall be approved without permits or authorization for all appropriate governing agencies.

3. Architectural Elements:

- a. Scale. Scale is the measure of the relationship of the mass and height of one structure or parts of a structure, to other adjacent form, including man. New structures shall complement or improve upon existing structures or the native rural environment, and be of human scale.
- b. Form. Form deals with height-to width ratios, projections from structures, rhythms created by void-to-solid ratios, fenestration and roof configurations. Structures shall conform with, or be complementary to, neighboring sites and structures.
- c. Details. Details are additions to structures for ornamentation or decoration and functional appurtenances such as lighting and signage. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and does not impair the vision of traffic along adjacent streets. No night lighting shall be permitted toward other properties or into the sky, either directly or by reflection. The fixtures themselves shall complement both site and neighboring design elements. If specific decorative details are to be required by the Township, they will be delineated by specific districts, i.e., an historic area or particular business district. Standards for these districts shall be elicited from members of the affected areas and shall not be imposed by the Planning Commission or any other authority until those districts are defined, bounded and the particular architectural details agreed upon within those districts.
- d. Siting. Siting deals with solar and wind exposure, privacy, views, access, drainage and noise. The location of not only buildings but of mechanical equipment, storage facilities and activity areas are important parts of this element. Siting shall consider geographic conditions that include; topography, climate, privacy and views. The development plan shall provide reasonable visual and sound privacy for all dwelling units located therein and on adjacent

properties. Fences, walks, barriers and landscaping shall be provided for the protection and enhancement of property and for the privacy of occupants and neighbors. Exposed storage areas, exposed heating, air conditioning and ventilating equipment or other machinery installations, service areas, truck loading areas, utility buildings and structures shall be set back and screened by plantings sufficiently large to sustain growth and attractiveness, or by other screening methods high and solid enough to assure that they will hide the above, yet shall be harmonious with the existing or proposed environment and surrounding properties.

B. General and Necessary Conditions

All other standards and requirements of this Ordinance and other applicable ordinances, regulations and statues must be met by development plans presented for review under provisions of this Chapter. The Planning Commission may confer or consult with a qualified expert in a particular field, e.g., architect or landscape architect, at the applicant's expense, to aid it in evaluating a difficult or complex project.

SECTION 8.10 FINAL DEVELOPMENT SITE PLAN APPROVALS

- A. Complete drawings, plus all certified final drawings and plans which are subject to development site plan review and contain all necessary modifications or additions required shall be submitted before final development site plan approval is granted.
- B. Conditions of Final Approval. Development Site Plans may be approved subject to the performance of certain conditions, including the provision of required improvements as the Commission shall deem to be reasonable and necessary, or advisable under the circumstances, so that the objectives of the Zoning Ordinance, the Master Plan, and any other Township planning documents shall be achieved. A development site plan may be approved conditionally upon necessary or required approvals by other local, county or state agencies, such as, but not limited to, the Leelanau County Drain Commission, Leelanau County Road Commission, and Michigan Department of Natural Resources.

1. Performance Guarantee" for Required Conditions

Security may be required to ensure performance of required conditions. The applicant may be required to furnish security in the form of a certified check or an irrevocable bank letter of credit, acceptable to the Township, in the amount fixed by the Planning Commission. If security is required, the Zoning Administrator shall not issue a Land Use Permit until the required "Performance Guarantee" is received and verified by the Township Clerk within 30 days of approved site plan.

2. Provision of Required Improvements

Whenever a development site plan approval is granted or modified subject to the conditions that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the Zoning Administrator.

3. Non-performance of Required Conditions

In the event the applicant defaults in making the improvements for which the "Performance Guarantee" was required, the Kasson Township Board shall have the right to enforce a letter of credit or to use the monies being held as security to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the "Performance Guarantee" is not sufficient to cover the costs incurred by the Township to complete the improvements, including attorney's fees and court cost, if any, the applicant shall be required to pay Kasson Township the amounts by which the costs of completing the improvements exceeded the amount of the "Performance Guarantee". These costs shall be billed and a lien placed against the subject property. If unpaid, the cost shall be collected in the same manner as delinquent taxes or as allowed by law.

4. Condition Declared Void

Whenever any judgment of a court of competent jurisdiction becomes final, declaring one or more conditions of a development review approval to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said development site plan approval shall cease to be valid and all rights and privileges granted shall lapse.

5. Violation of Required Condition or Conditions

Whenever a development site plan is approved or modified by the Planning Commission subject to a condition or conditions, the use of enjoyment of the development site plan in violation of, or without observance of, any such condition shall constitute a violation of the Zoning Ordinance, and development site plan approval may be revoked.

SECTION 8.11 SPECIAL LAND USES AND CONCURRENT APPROVALS

The Planning Commission may choose to review Special Use Permit and site plan review submittals concurrently. In the event of concurrent review, the Planning

Commission shall make sure that both the site plan and Special Land Use submittals satisfy all requirement of the Ordinance.

SECTION 8.12 AMENDMENTS TO APPROVED DEVELOPMENT PLANS

- A. Amendments to an approved development site plan may be made by the Planning Commission upon written request by the landowner. Minor changes to an approved development site plan may be approved by the Zoning Administrator after construction has begun, provided no such changes results in any of the following:
1. A significant change in use of character or the development.
 2. An increase in overall coverage of structures.
 3. An increase in the intensity of use.
 4. A reduction in the required open space.
 5. A change that may increase the storm water run-off to adjacent properties.
 6. A reduction in required off-street parking and loading.
 7. A reduction in required pavement widths or utility sizes.
 8. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
- B. If the Zoning Administrator finds that a proposed amendment to an approved development site plan does not qualify as a minor change, he shall notify the landowner that he must apply for a modification of the development site plan in accordance with the procedures of Section 8.7; or if the developer of landowner has already affected the changes in question, the Zoning Administrator shall immediately notify the permit holder in writing that development site plan approval has been suspended pending approval by the Planning Commission of the proposed amendment. The permit holder's notice shall be delivered personally or by certified mail. The permit holder shall than apply for a modification of the development site plan in accordance with the procedures in Section 8.7 hereof.

SECTION 8.13 TIME LIMIT FOR APPROVED SITE PLANS

- A. A site plan approval granted pursuant to this Chapter shall be valid for one (1) year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall expire.

B. The Planning Commission may grant one (1) extension of the site plan approval for a one (1) year period upon submittal in writing by the applicant of a request for an extension. The Planning Commission shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to proceed within one (1) year.

CHAPTER 9 SIGNS

SECTION 9.1 FINDINGS AND PURPOSE

This Chapter regulates the time, place, and manner of signs within the township, and it is in the interest of public health, safety, and general welfare to encourage the effective use of signs as a means of communicating and informing while minimizing the impact on the landscape.

Regulation of signs will lessen the impact on the aesthetic environment, while allowing for the promotion of economic development and communication.

SECTION 9.2. DEFINITIONS

District - The classification of land use by zoning districts within Kasson Township, excepting roadway and alleys, as described in this Ordinance

Parcel - A parcel of land, improved or unimproved, separated from other parcels of land by description on a recorded plat or by metes and bound description, having frontage upon a public road.

Sign - Any device, structure, fixture, placard or other object used for the display of any message which is visible to the public or from a public right-of-way.

Sign Area - The area of a sign shall be computed as the entire area circumscribed by a parallelogram; triangle, circle, or semi-circle, or any combination of these figures, which includes all of the display area of the sign, including frames surrounding display areas. For signs which consist of individual letters attached or painted on the wall of a building, with only the wall as background and no added decoration or border, the sign area shall be the geometrical shape formed by an imaginary line along the exterior perimeter of the word, or words, as a whole. For purpose of computing sign area, only one side of a sign shall be used. Structural elements necessary for the support of the sign(s) shall not be included in the square footage computation so long as they are separate from the sign face by a reveal or a change in materials. Square footage calculation shall include such elements as decorative borders, top caps, and drop signs.

Sign, Fixed (free-standing) - A sign mounted on a structure or foundation.

Sign, Portable - A sign mounted by posts, wire, plastic, or other means pushed or stuck in the ground and which are not fastened to a foundation.

Sign, Posted - A sign attached to a tree or fence post which is smaller than two (2) square feet.

Sign, Sandwich Board - A sign placed on the ground which is portable temporary and not anchored or secured.

Sign, Wall - A sign mounted on or otherwise displayed on the surface of a wall.

Sign Administrator - The Township Zoning Administrator or his or her designee.

SECTION 9.3. ADMINISTRATION

- A. Unless exempted by Section 9.4 below, any person(s), company, association, and/or corporation with an ownership interest or other authority over land, shall provide the Township a completed sign application, accompanied by the appropriate fee, prior to the installation or any alteration of a sign or signs in the Township. A fee for such application shall be set, from time to time, by Resolution of the Township Board.
- B. The Township Zoning Administrator shall only issue a sign permit provided that the sign installation/alteration complies with all provisions of this Chapter, and other applicable sections of the Zoning Ordinance.
- C. All signs shall be installed only with the prior approval of the property owner, the Township, and the appropriate county or state agency as applicable.

SECTION 9.4. SIGNS EXEMPT FROM THIS ORDINANCE.

- A. Signs owned by or erected by or at the direction of a government, governmental agency, or public utility informing the public.
- B. Signs not visible to motorists or pedestrians from any road, water body, public lands, or adjacent parcel(s).
- C. Signs less than two (2) square feet in size.
- D. Signs painted on or integral to vending machines, fuel dispensing pumps or fuel storage tanks.
- E. Un-illuminated portable signs and sandwich board signs, under a maximum height of six (6) feet and less than thirty (30) square feet in area. However, the sign area of these signs shall be considered when determining the total allowable sign area for a parcel.
- F. Signs permitted by the Leelanau County Road Commission and/or the Michigan Department of Transportation within the road right-of-way provided the Township received notice of that permit.

SECTION 9.5. SIGNAGE ALLOWED PER DISTRICT

Up to 2 signs of no more than 10 square feet each per parcel may be allowed without a permit. These signs must comply with all other provisions of this ordinance, as enforceable by the Zoning Administrator.

Table 9-1 indicates the nature of signs allowed in each zoning district.

The total sum of the square footage of these signs shall not exceed 30 square feet for each parcel.

Zoning District	Type of Sign	Maximum Size of Each Sign	Maximum Height Above Unaltered Grade	Maximum Allowable Sign Area of All Signs on Parcel (added together)
High Density Village	Wall	6 square feet	6 feet	30 square feet
	Fixed	6 square feet	6 feet	
	Portable/ Sandwich Board	6 square feet	6 feet	
Agricultural, Gravel, Forested, PD	Wall	16 square feet	8 feet	30 square feet
	Fixed	16 square feet	8 feet	
	Portable/ Sandwich Board	16 square feet	8 feet	
Commercial, SPD	Wall	16 square feet	8 feet	30 square feet
	Fixed	16 square feet	8 feet	
	Portable/ Sandwich Board	8 square feet	4 feet	

Table 9-1

SECTION 9.6. GENERAL PROVISIONS GOVERNING THE USE OF SIGNS

In addition to Section 6 above, the following provisions permitting the installation, erection, and maintenance of signs will apply:

- A. One sign of not more than thirty (30) square feet in area, shall be permitted on any unimproved parcel in any district permitting single family residential usage, provided such signs are located not less than five hundred (500) feet from any existing residence.
- B. Groups of signs may be placed on a parcel, regardless of district, but the total area of the group may not exceed the Maximum Allowable Sign Area of All Signs on Parcel (added together) in Table 9-1 above.
- C. Placement of a sign or group of signs shall not obstruct vision for either traffic, pedestrians, or occupants of the area.
- D. No sign shall be affixed in any manner to utility poles.
- E. No spinners, pennants, inflatable signs, flashing lights, or other distractive devices, may be used in conjunction with any sign or as a sign.
- F. No signs shall be allowed in the road right-of-way or clear vision area without permission from the local, county, or state road agency.
- G. Signs are subject to setback requirements specifically called for by the Michigan Department of Transportation and/or the Leelanau County Road Commission.
- H. Signs may be illuminated by a shielded light shining downward onto the sign. If illuminated, the source of light shall be baffled so it is not visible to vehicles or pedestrians on any road, water body, public land, adjacent parcels, or in the air above the illumination.
- I. All signs and sign structures shall be maintained in good, safe, structural condition and repair. All signs and display surfaces shall be neat in appearance and neatly painted or posted, and not ripped, tattered or faded. Premises immediately surrounding freestanding signs shall be kept clean and free of rubbish, weeds and debris.
- J. Signs shall not exceed the maximum height above the unaltered parcel grade (i.e., grade or topography existing prior to any excavation, clearing, grading or filling) listed in Table 9-1.
- K. Sign removal: Once the purpose of the sign is ended, the sign shall be removed within 30 calendar days. Anything used to solely support or provide a structure for a sign, and not in use for any other purpose, shall be removed.
- L. All signs shall be set back a minimum of ten (10) feet from all lot lines, except where regulated otherwise by this Ordinance.

- M. No sign shall exceed the height limitation of the district in which it is located or as otherwise regulated by this Ordinance.
- N. Fixed (free-standing) signs shall not exceed sixteen (16) square feet total face size.
- O. Only one Fixed (free-standing) sign is allowed per parcel.
- P. The sign area of Wall Signs shall not exceed ten (10%) percent of the area of the face of the wall to which it is attached.
- Q. Notwithstanding Table 1, in any instance where a parcel is occupied by a single family home, without any accompanying commercial or agricultural use of the property as permitted under the Zoning Ordinance, no more than two (2) signs of any type are allowed, not to exceed a combined sign area of eight (8) square feet.

SECTION 9.7 NON-CONFORMING SIGNS

A non-conforming sign or sign structure existing and in place as of the date of the enactment of this Ordinance may continue to have the copy of message on the sign changed and may also have normal maintenance performed. However, a non-conforming sign existing on the day of enactment of this Ordinance **SHALL NOT:**

- A. Be changed to another non-conforming sign.
- B. Be structurally altered so as to prolong the life of the sign or change the shape, size, location, type, or design of the sign.
- C. Be re-established after the activity, business, or use to which it relates has been discontinued for ninety (90) days or longer.
- D. Be re-established after damage by any means if the damage is in excess of the State Equalized Value (SEV) of the sign, as determined from its most recent assessed valuation.

CHAPTER 10 ADMINISTRATION AND ENFORCEMENT

SECTION 10.1 ZONING ADMINISTRATOR

Unless otherwise designated under a specific provision of this Ordinance, the Zoning Administrator shall be responsible for the administration of this Ordinance. The Zoning Administrator shall be a qualified individual appointed by the Kasson Township Board. The terms, conditions, and rate of compensation shall be determined by the Board. All authority delegated to the Zoning Administrator is granted by the Kasson Township Board.

SECTION 10.2 LAND USE PERMIT REQUIRED

Except as otherwise provided, no building or structure of any kind, including signs, shall be erected or any use authorized until a permit has been issued by the Zoning Administrator. Once it has been determined by the Zoning Administrator that the proposed building, structure, or use is in conformance with all the provisions of this Ordinance and appropriate fees are paid, a Land Use Permit may be issued. The Land Use Permit shall be non-transferable and shall remain valid for one (1) year from the date of issuance. A Land Use Permit is required for all buildings or structures over one hundred (100) square feet prior to application for a building permit. All buildings or structures, regardless of size, shall meet setback requirements of this Ordinance.

SECTION 10.3 APPLICATION FOR LAND USE PERMIT

All applications for Land Use Permits shall be made to the Zoning Administrator with the accompanying fee. The fee shall be set by the Kasson Township Board. The application shall be made up of the following:

- A. A site plan drawn to scale showing the location and size of the proposed building, structure, or use as it relates to roads and rights-of-way, lot lines, other buildings on the site, existing or proposed sewage disposal facilities, existing or proposed water wells, and lakes, streams, or wetlands, and any other items required by this ordinance to illustrate the intended use and its site.
- B. A statement by the applicant outlining the intended use and purpose for the proposed building, structure, or land in question.

SECTION 10.4 ISSUANCE OF LAND USE PERMIT

Within ten (10) days of the receipt of the application for Land Use Permit, the Zoning Administrator shall issue a Land Use Permit if it is found that the application is complete and that the proposed building, structure, or use is in conformance with the requirements of this ordinance and all required fees are paid. The Zoning Administrator shall keep a record of all permits issued and report these monthly to the Planning Commission and the Township Board

SECTION 10.5 FAILURE TO OBTAIN LAND USE PERMIT

The permit fee shall be doubled upon failure to obtain a permit from the Zoning Administrator before beginning construction.

SECTION 10.6 DENIAL OF LAND USE PERMIT

Within ten (10) days of the receipt of the application for Land Use Permit, the Zoning Administrator shall deny a Land Use Permit if it is found that the application is not complete or that the proposed building, structure, or use cannot be located in conformance with the requirements of this Ordinance, or the required fees are not paid. The Zoning Administrator shall inform the applicant in writing of the reasons for the denial of the permit. The Zoning Administrator shall keep a record of all permits denied and report these monthly to the Planning Commission and the Township Board.

SECTION 10.7 REVOCATION OF LAND USE PERMIT

The Zoning Administrator shall have the power to revoke or cancel any Land Use Permit in case of failure or neglect to comply with any provision of the Ordinance or any false statement or misrepresentation made in the application. The revocation or cancellation of the Land Use Permit shall be made in writing and all construction, uses, or other activities allowed by the permit shall cease.

SECTION 10.8 APPEAL OF THE DECISION OF THE ZONING ADMINISTRATOR

Any decision of the Zoning Administrator concerning the enforcement or interpretation of this Ordinance may be appealed to the Zoning Board of Appeals. The appeal, along with the appropriate fee shall be filed with the Township clerk within ten (10) days of the decision of the Zoning Administrator. The Zoning Board of Appeals shall review the available evidence and make a decision to uphold or reverse the decision of the Zoning Administrator.

SECTION 10.9 ENFORCEMENT

- A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be violations of this Ordinance shall be reported to the Zoning Administrator.
- B. The Zoning Administrator shall inspect all alleged violations of this Ordinance. In the event that a violation is found, the Zoning Administrator shall issue within seven (7) days from the date of inspection, a written order to correct the violation and to otherwise comply with the provisions of this Ordinance.

- C. After the order to correct has been issued, the violation shall be corrected within thirty (30) days. If the violation cannot be corrected within 30 days, an application to extend the correction period may be made to the Zoning Board of Appeals. Any violation not corrected shall be reported to the Township Board. The Township board may then initiate legal procedures against the violator.
- D. Penalties: Any person, firm, association, corporation or other entity which shall violate any provision of this Ordinance or who fails to comply with any of the regulatory measures or conditions imposed by the Board of Appeals or the Planning Commission pursuant to this Ordinance or otherwise pursuant to Michigan law shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein, along with costs which may include all expenses, direct and indirect, to which the township has been put in connection with the municipal infraction. Costs of not less than \$9.00 or more than \$500 shall be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

Civil Fines for Municipal Infractions

Unless otherwise provided elsewhere within this Ordinance for specific violations, Civil Fines for municipal civil infractions shall be assessed in accordance with the following schedule:

	Fine
1st Violation	\$100.00 (Per Day)
2nd Violation - Within three (3) years of the first violation	\$250.00 (Per Day)
3rd or subsequent Violations - Within three (3) years of the date of the first violation	\$500.00 (Per Day)

The Leelanau County Sheriff's Department and the Township Zoning Administrator, are hereby authorized to investigate violations of this Ordinance, and to issue and serve appearance tickets and citations, including municipal civil infraction citations, pursuant to MCL 764.9c, MCL 600.8701 and MCL 600.8707, on all persons in violation of this zoning ordinance. Such appearance tickets and/ or citations shall be issued and served in accordance with applicable Michigan law.

- E. The Zoning Administrator, the Township Board, and the Zoning Board of Appeals, or any interested party may institute an injunction, mandamus,

abatement or any other appropriate method 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.

SECTION 10.10 ESCROW DEPOSITS FOR VARIABLE COSTS AND EXPENSES.

Any applicant for any land use permit may be required to deposit funds to defray anticipated variable costs and expenses incurred by the Township where professional input, study or review is desired before a final decision is made. Such escrow deposits may be used to pay the actual professional expenses of community planners, engineers, attorneys, and other professionals whose expertise the Township values to provide guidance on the proposed application. Such applications may include, but are not limited to, site plan approval, special use permit, planned unit development, or conditional use permits.

CHAPTER 11 ZONING BOARD OF APPEALS

SECTION 11.1 AUTHORIZATION

There is hereby established a Zoning Board of Appeals which derives its authority, and which shall be administered, in accordance with the Zoning Act.

The Board of Appeals shall ensure that the spirit and intent of this Ordinance is upheld, that the public health, safety, and welfare is advanced, and that substantial justice is done.

SECTION 11.2 MEMBERSHIP AND PROCEDURES

- A. The Kasson Township Zoning Board of Appeals shall consist of three (3) or five (5) members. The first member of the Board of Appeals shall be a member of the Township Planning Commission, one (1) member may be a member of the Township Board, the remaining members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township. An elected officer of the Township board may not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member or employee of the Zoning Board of Appeals. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after a public hearing.
- B. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called upon to serve as a regular member of the Zoning Board of Appeals in the absence of a regular member if the regular member is absent from or will be unable to attend one (1) or more meetings of the Board of Appeals, or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve on the Board of Appeals until a final decision is made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals
- C. Terms of Zoning Board of Appeals members shall be for three (3) years, except for members of the Planning Commission or Township Board, whose terms shall be limited to the time they are members of said bodies and the period stated in the resolution appointed them. A successor shall be appointed not more than one (1) month after the term for the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
- D. The total amount allowed such Board of Appeals in one (1) 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.

- E. The Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The Board shall choose a chairperson, and in the chairperson's absence, an acting chair.
- F. Meetings shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure may specify. A simple majority of the membership of the Board of Appeals shall constitute a quorum and may conduct any items of business brought before the Board.
- G. Minutes shall be recorded of all proceeding which shall contain evidence and dates relevant to every case considered together with the votes of the members of the final disposition of each case. Such minutes shall be filed in the office of the Township Clerk and become public records.
- H. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to:
 - 1. Reverse any decision of the Zoning Administrator or Planning Commission,
 - 2. To decide in favor of the applicant any matter upon which the Board is required to pass or,
 - 3. To grant any variance of the terms or conditions of this Ordinance.
- I. A member of the Zoning Board of Appeals who is also a member of the Planning Commission or the Township Board shall not participate in a public hearing on, or vote on, the same matter that the member voted on as a member of the Planning Commission or the Township Board. However, the member may consider and vote on other unrelated matters involving the same property.
- J. The Zoning Board of Appeals shall return a decision upon each case within a reasonable amount of time. All decisions of the Board of Appeals are final, and appeals must be filed with a court of competent jurisdiction.
- K. A member of the Zoning Board of Appeals 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 shall constitute misconduct in office.
- L. The Kasson Township Zoning Board of Appeals shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, or variance as defined in this Chapter.

SECTION 11.3 VARIANCES

The Zoning Board of Appeals is authorized to grant, upon application, variance to such requirements as lot area and width regulations, yard and depth regulations, and off street parking and loading space requirements. Any requirement of this Ordinance which is dimensional in nature may be brought before the Zoning Board of Appeals to be considered for a variance. The Board may attach any conditions it deems necessary to a variance to ensure that the spirit and intent of this Ordinance is carried out.

- A. The Board of Appeals shall ensure that all variances comply with the following:
 1. Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 2. Will not permit the establishment of a use within a district that is not currently permitted within that district.
 3. Will not adversely affect property values in the immediate vicinity or Township as a whole.
 4. Will relate only to the property for which the application has been submitted.
 5. Is not a request that occurs regularly, that could be addressed through an amendment to this Ordinance.
- B. The Board of Appeals shall not grant a variance unless at least one (1) of the following is demonstrated:
 1. Where there are exceptional or extra-ordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved. Such circumstances or conditions shall not be considered grounds for a variance if they were caused by the applicant or previous owner after the effective date of this Ordinance.
 2. Where there are practical difficulties which prevent the carrying out of the strict letter of this Ordinance. Generally, economic difficulty on its face is not a qualifying difficulty. Difficulties should be evaluated in terms of the existing use of the parcel or property.
 3. Where the lot or parcel was lawfully recorded prior to the effective date of this Ordinance or any amendment thereto, and the dimensional provisions of this Ordinance prohibit the use of the lot or parcel in accordance with the district regulations.
 4. Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same district.

5. Any variance that is denied wholly or in part shall not be resubmitted for review for a period of one (1) year from the date that the Board last took action on the request unless substantive new evidence or circumstances arise.

SECTION 11.4 ADMINISTRATIVE REVIEW

The Zoning Board of Appeals is authorized to review all decisions made in the administration of this Ordinance. The Board may uphold, reverse, or modify any order, decision or determination made by the Zoning Administrator, Planning Commission, or any other entity except as otherwise noted in this Ordinance. The appeal or request for administrative review shall be submitted to the Township Clerk with the required fee.

The filing of an appeal or request for administrative review shall stay all proceedings in furtherance of the action being reviewed. If the Zoning Administrator certifies in writing to the Zoning Board of Appeals that a stay would cause imminent peril to life or property, the proceedings shall not be stayed unless a restraining order is issued by the Zoning Board of Appeals or by court action.

The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the Leelanau County Circuit Court.

SECTION 11.5 INTERPRETATION AND CLASSIFICATION OF USES

Upon application or petition and the filing of the appropriate fees, the Zoning Board of Appeals shall be authorized to interpret any uncertainty that may occur in the administration of this Ordinance.

- A. The Board shall determine the precise location of the boundary lines between zoning districts when there is a question about the exact location.
- B. The Board shall interpret any provision of this Ordinance when the Zoning Administrator is unable to clearly determine its meaning, intent, or purpose.
- C. The Board may classify any activity which is not specifically mentioned in the district regulations as a Use Allowed by Right or Allowed by Special Use Permit. The basis for such classification shall be that the activity is consistent and similar to the uses already listed in the district.
- D. The Board may determine the off street parking and loading space requirements for any use or activity which cannot be determined under the provisions of this Ordinance.

The Zoning Administrator shall keep a record of all interpretations made by the Zoning Board of Appeals and make such record available to the Township Board, Planning Commission and the public.

CHAPTER 12 AMENDMENTS AND REZONING

SECTION 12.1 AUTHORIZATION

Amendments to this Ordinance may be made as necessary, and shall be made in accordance with the procedures in this Ordinance and the Zoning Act.

SECTION 12.2 REZONING

For the purposes of this Chapter and other applicable Sections of this Ordinance, the term "rezoning" shall be considered an amendment to the Zoning District Map. The procedure for rezoning shall follow the procedure set forth in this Chapter for Amendments.

SECTION 12.3 INITIATION OF AMENDMENTS

Proposals for amendments may be initiated by the Township Board, Planning Commission, or any person or persons having a property interest in the land sought to be rezoned.

SECTION 12.4 GENERAL PROCEDURE

Except as provided in Section 12.5, the procedure for proposals by owners of property shall be set forth in this Section 12.4.

- A. Each petition by one (1) or more owners or their agents, to amend the text or map (rezoning) of this Ordinance shall be submitted upon an application of standard form to the Zoning Administrator. A fee as established by the Township Board shall be paid at the time of application. The Zoning Administrator shall transmit the application and other information to the Planning Commission for its consideration and recommendation.
- B. The Planning Commission shall consider each proposed amendment in terms of the likely effect of such proposal upon the development plans for the community as set forth in the Township Master Plan, as well as in terms of the merits of the individual proposal. The Planning Commission may recommend any additions or modifications to the amendment petition. Following the notice and hearing requirements of this section, the Planning Commission shall forward a recommendation on the proposed amendment along with a copy of the public hearing minutes to the Township Board and the County Planning Commission.
- C. Before making a recommendation on any proposed amendments to this Ordinance, the Planning Commission shall conduct a public hearing, with notice being given by the Township as specified in Sections 12.4 D and 12.4 E. Said notice shall contain the time, place, date and purpose of the hearing, the name of the applicant, a description of the property to be rezoned and the requested zoning change or, if a text change, an outline of the proposed amendment and where and when the text of the

proposed amendment may be examined.

- D. Notice shall be given by publication in a newspaper of general circulation in the Township not less than fifteen (15) days before the date of the hearing.
- E. Mailed or delivered notice shall be made in accordance with the following:
 - 1. To each railroad, electric, gas, pipeline, and telephone company that registers its name and mailing address with the Township for the purpose of receiving such notice. Said notice shall be made at least fifteen (15) days in advance of the hearing.
 - 2. To each owner of property as listed on the most recent tax roll of all real property located within three hundred (300) feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than fifteen (15) days before the date the request will be considered.
 - 3. To each occupant(s) of all structures within three hundred (300) feet of the area proposed for a map amendment. An affidavit of the delivery shall be filed with the Planning Commission. Said notice shall be given not less than fifteen (15) days before the date the request will be considered
 - 4. To the applicant and/or owner of the property in question.
- F. Following the Planning Commission's public hearing, the proposed zoning amendments, including zoning maps, shall be submitted by the Planning Commission to the Leelanau County Planning Commission for its recommendation. Upon receipt of the Leelanau County Planning Commission's recommendation or expiration of thirty (30) days, the Township Board shall review both the County's and the Planning Commission's recommendations.
 - 1. The Township Board may hold its own public hearing if it considers it necessary. The Township board shall also grant a hearing on the proposed amendment(s) to any interested property owner who has filed a written request for such a hearing with the Township Clerk. Said request shall be delivered by certified mail. The Planning commission may be requested to attend the hearing. Notice of the hearing shall be published in a newspaper of general circulation within the Township.

The notice shall be published not less than fifteen (15) days prior to the hearing.
 - 2. If the Township Board deems advisable any changes or additions to the amendment(s) recommended by the Planning Commission, it shall refer the changes or additions back to the Planning Commission for a report thereon within thirty (30) days. After receiving the report, the Township Board shall grant a

hearing on the proposed amendment(s) as is specified in 12.4.F.1

- G. Following a hearing or review of the Planning Commission's report, the Township Board by majority vote of its membership may adopt or reject the proposed amendment(s) with or without changes.
- H. If no effective date is specified, the amendment(s) will take effect fifteen (15) days after publication.
- I. The amendment(s) shall be filed with the Township Clerk and one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days after adoption. The notice shall contain:
 - 1. Either a summary of the regulatory effect of the amendment(s), including the geographic area affected, or the text of the amendment(s);
 - 2. The effective date of the amendment(s); and
 - 3. The time and place where a copy of the amendment(s) may be examined.
- J. An amendment for the purpose of conforming a provision of the Zoning Ordinance to the decree of a court of competent jurisdiction as to any specific land may be adopted by the Township Board and the notice of the adopted amendment published without a hearing or referring the amendments to any other board or agency provided for in this Ordinance.

SECTION 12.5 PROCEDURE FOR PETITIONS TO PERMIT THE EXTRACTION OF NATURAL RESOURCES

A. INTRODUCTION

The following procedure shall apply to applications for rezoning property to permit the extraction of natural resources in accordance with MCL 125.3205(3) et seq. enacted by Act 113, PA 2011 ("Act 113") with regard to property not situated within the Gravel Zoning District established in this Ordinance. An application to permit the extraction of natural resources on properties that are situated in the Gravel Zoning District shall be governed by Section 4.6. An application to permit the extraction of natural resources on properties that are not situated in the Gravel Zoning District shall be governed by this Section.

In conformance with Act 113, an application under this Section shall be divided into two parts.

- Part (1) addresses whether the applicant has a sufficient property interest in the natural resource, whether valuable natural resources are located on the applicant's property, and whether there is a need for the natural resource sought to be extracted. Part (1) shall consist of an administrative proceeding. The Planning

Commission shall conduct an initial hearing and make findings and a recommendation to the Township Board.

- Part (2) addresses the decision on whether the proposed extractive operation would be appropriate in the Township in the context of whether or not very serious consequences would result from the extraction of the resource. Part (2) shall only be necessary in the event the applicant has satisfied the requirements of Part (1).

B. **FINDINGS**

As the Michigan Supreme Court determined in *Kyser v Kasson Township*, 486 Mich 514, 518 (2010) “In 1988, there were seven gravel mines operating in the township, and over the following six years, there were seven rezoning applications submitted to the Township Board to allow for additional gravel mining, resulting in both litigation and the establishment of new mining operations. In response, the township took several steps to address its overall mining policy, culminating in the establishment of a gravel mining district in accordance with the ZEA” (“Zoning Enabling Act” for clarification).

The Gravel Mining District encompasses 3,100 acres, or over five square miles and was adopted as part of the 1995 Master Plan (amended in 2004) and incorporated in the 1997 Zoning Ordinance. The defined Gravel Mining District was intended, and continues to be intended, to protect the Township’s stability and quality of life from the threats of *Ad Hoc* rezoning applications and approvals of gravel extraction operations in unplanned locations without notice to surrounding properties, and without consideration of the Township’s long-term land-use planning concerns. The Gravel District was also intended to ensure that sufficient land was zoned to satisfy the need for gravel resources for the foreseeable future.

The Township’s study and approval of its Gravel District were actions directly and critically related to the public health, safety, and welfare in the Township, expressly recognized to be important considerations in Act 113.

Moreover, because the provisions of Act 113 are a part of the broader Zoning Enabling Act, under the rules of statutory construction recognized in *Kyser*, the exception to general rules of zoning and planning, set forth in Act 113, must be construed narrowly, and the applicant has a heavy burden to demonstrate that no very serious consequences will result from a change in the planning and zoning established in the Township and relied upon by Township property owners with respect to the established Gravel Mining District.

Act 113 specifies that the standards in *Silva v Ada Township*, 416 Mich. 153 (1982) (“*Silva*”) shall be applied in reviewing an application to permit the extraction of natural resources. As dictated by *Silva*, the existing zoning ordinance, including the existing boundaries of the Gravel Zoning District, shall be presumed to be reasonable.

While Act 113 establishes a “hybrid” analysis for zoning decision-making, Act 113 remains within the context of land use decision-making that is within the Zoning Enabling Act as a whole. Accordingly, in any decision to rezone additional property into the Gravel Mining District, the Township must consider the decision’s effect not only upon a specific project or property, but also upon the impact upon the surrounding area, future planning and all projects in the Township.

C. DEFINITIONS

1. As used in this Section, the phrase “Need for the Natural Resources,” shall represent the phrase included in MCL 125.3205(4): “Need for the Natural Resources by the person or in the market served by the person”. “Need for the Natural Resources” shall mean a demonstrable need for a commercially meaningful quantity of the natural resources proposed to be excavated on the applicant’s property. Demonstrating such a need shall require the applicant to show either of the following in relation to the natural resources on applicant’s property: a commercial need for the natural resources to satisfy a current and ongoing requirement by an active business operated principally by the applicant using the natural resources in the production of a final product for sale that is different than the natural resources; or a present commercial need by purchasers of such natural resources from the applicant’s property.

For purposes of this definition of Need for the Natural Resources:

- a. “commercial need” in relation to applicant’s property will only be deemed to exist to the extent, if any, that the need for the natural resources cannot otherwise be met within the commercial market.
- b. “commercially meaningful quantity” shall mean that quantity, taking into consideration the quality and type of natural resources, that a person who is experienced and knowledgeable in the industry would require as a condition to expending the time and money necessary to commence and operate a mining enterprise that is expected to be profitable for a sustained period of time.
- c. “commercial market” means that geographic area within which there would be a commercial demand for the natural resources from the applicant’s property, considering factors including, but not limited to: the transportation expenses and other factors relevant to cost; and the actual or available alternative supply of the natural resources from active mining sites and vacant land classified to permit mining within the Township’s Gravel District, as well as other active mines, quarries, and vacant land classified for such purpose that could provide an alternative supply to meet such demand in whole or part.

2. As used in this Section, the terms “natural resource” and “natural resources” shall mean and include “gravel,” as such term is used in the Gravel District in the Master Plan and in the Gravel Zoning District in this Ordinance.
3. As used in this Section, the phrase “sufficiency of applicant’s property interest” shall mean a requirement that, with regard to the land which is the subject of the application, applicant has, as a matter of substance, a “possessory property interest” in the land, as that term is understood in Michigan real property law, including, but not limited to a fee simple interest. An option to purchase a possessory interest shall not be a sufficient property interest.

D. ADMINISTRATIVE PROCEDURE.

1. The process of review for a request to permit the extraction of natural resources on properties that are not situated in the Gravel Zoning District shall be commenced by the applicant filing an application for an administrative determination with regard to the following, consistent with the terms defined above:
 - a. The sufficiency of the applicant’s property interest; and
 - b. A determination as to whether there are “valuable” natural resources on the applicant’s property, that is, whether the applicant can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted, and
 - c. The Need for the Natural Resources. This determination shall include the duration of the need.

The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the three determinations. The Planning Commission shall conduct an administrative hearing on the application, which shall be a public hearing. Prior to the hearing, the Zoning Administrator shall review the application and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The hearing on the issues specified in subparagraphs (a) through (c), above, shall not be noticed until the applicant has cured the deficiencies found to exist in accordance with this procedure. Public notice of the hearing shall be provided in conformance with Section 12.4.

2. At the hearing the applicant shall have the initial burden of showing:
 - a. The sufficiency of the applicant’s property interest; and

- b. That the natural resources are “valuable,” that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted; and
 - c. The Need for the Natural Resources. This determination shall include the duration of the need.
- 3. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in subsection (2), above. At the completion of the applicant’s presentation, the Township Zoning Administrator and/or Township Planner, any expert retained by the Township or other interested person and all interested citizens may address and offer evidence or argument on these issues.
- 4. Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made a sufficient showing on each of the determinations in subsection (2), above.
- 5. The Planning Commission shall forward its findings and recommendation to the Township Board which shall, taking into consideration the Planning Commission’s recommendation, then make its own findings and conclusions on each of the determinations in subsection (2) above. The Township Board may conduct an additional public hearing at its discretion. If the Township Board does schedule an additional public hearing, notice shall proceed in conformance with Section 12.4.
- 6. Appeal. With regard to all findings and conclusions made by the Township Board, an aggrieved applicant or other interested party may appeal to the circuit court.

E. **LEGISLATIVE PROCEDURE.**

1. Standards for Review

The following standards shall be applied for the purpose of determining whether the applicant has proven that “no very serious consequences” would result from the applicant’s proposed extraction, by mining of natural resources, to the extent each is relevant:

- a. The relationship of applicant’s proposed extraction and associated activities with existing land uses; and
- b. The impact of applicant’s proposed extraction and associated activities on existing land uses in the vicinity of the property; and

- c. The impact of applicant’s proposed extraction and associated activities on property values in the vicinity of the property and along the proposed hauling route serving the property; and
- d. The impact of applicant’s proposed extraction and associated activities on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property; and
- e. The impact of applicant’s proposed extraction and associated activities on identifiable health, safety, and welfare interests in the Township. For purposes of this provision, “health, safety, and welfare” shall have the meaning attributed to such terms by the courts, e.g., *Berman v Parker*, 348 U.S. 26 (1954); *Village of Belle Terre v Boraas*, 416 US 1 (1974), *Kyser* (majority opinion), *Cady v City of Detroit*, 289 Mich. 499 (1939), and *Hess v Charter Township of West Bloomfield*, 439 Mich. 550 (1992), including the manner in which such meaning has been expressed by the Township legislative body in the Master Plan and Zoning Ordinance, read as a whole, including the crucial and material stability and quality of life achieved by establishing the fixed boundaries of the Gravel Zoning District (e.g. dissenting opinion of Judge (later Justice) Davis in the Court of Appeals opinion in *Kyser v Kasson Township*, 278 Mich.App. 743, 773 [referenced with approval by the Michigan Supreme Court in *Kyser*; 486 Mich. 514, 519 (2010)]); and
- f. The overall public interest in the extraction of the specific natural resources on the property; and
- g. Any other standard from *Silva*.

2. Burden of Proof

Considering that the boundaries of the Gravel Zoning District are presumed reasonable, as dictated by *Silva*, at 162, and taking into consideration that zoning regulations seek to serve the interests of the community as a whole, *Silva*, at 158, the applicant shall have the burden of overcoming the presumption of validity of the boundaries of the Gravel Zoning District, including the burden of proving that, if approved, the applicant’s proposed Extractive Operation would result in “no very serious consequences,” as such standard is defined above.

3. Review Process – Planning Commission

- a. The applicant shall submit an application to amend the Gravel Zoning District to permit natural resource extraction on the applicant's property if the Township Board has found and concluded under Section 12.5. D. that the applicant has shown all of the following in the administrative procedure provided for above: (a) The sufficiency of applicant’s property interest; and (b)

That the resources sought to be extracted are “valuable,” that is the petitioner can receive revenue and reasonably expects to operate at a profit if the natural resources are extracted and (c) The Need for the Natural Resources.

- b. The application submitted by the applicant shall provide written documentation and evidence describing in detail and making the requisite demonstration with regard to each of the criteria on the issue of whether “no very serious consequence” shall result in relation to the property and haul route, and in the community, as set forth in MCL 125.3205(5) and as defined above. Prior to conducting a public hearing, the Zoning Administrator shall review the petition and documentation submitted in support of the application, and report any deficiencies to the applicant and the Planning Commission within a reasonable time. The public hearing on the application to amend the Gravel Zoning District shall not be noticed until the applicant has cured the deficiencies found to exist in accordance with this procedure. Notice shall be given in accordance with Section 12. 4.
 - c. The Planning Commission shall conduct a public hearing on the application. The hearing shall begin with an introduction by the Planning Commission chairperson, or a person designated by the chairperson. The applicant shall then be given the opportunity to make the showings required in this Subsection E. At the completion of the applicant's presentation, the Township Zoning Administrator and/or the Township Planner, any expert retained by the Township or other interested person and all interested citizens may address these issues.
 - d. Following completion of the public hearing, the Planning Commission shall make findings and a recommendation on whether the applicant has made a sufficient showing on whether there would be “no very serious consequences” as a result of the proposed natural resources extraction operation, as defined in this Section.
 - e. Following all of the hearing procedures and requirements specified above, the Planning Commission shall forward its findings and recommendation on whether to amend the boundaries of the Gravel Zoning District to include the applicant's property in accordance with Section 12.4.F.
4. Review Process – Review by County Planning and Township Board

The proceedings following the findings and recommendation of the Planning Commission shall be in accordance with Section 12.4 of this Ordinance, subsections F through I., above. As part of the Township Board’s action of adopting or rejecting the proposed amendment of the boundaries of the Gravel Zoning District (with or without changes as provided in subsection 12.4.G), if the Board adopts the proposed amendment, the Board may consider that “extraction

of natural resources is frequently a temporary use of the land and that the land can often be restored for other uses, and appropriate assurances with adequate security can properly be demanded as a precondition to the commencement of extraction operations.” *Silva*, at 160-161. Thus, the Board may take into consideration its findings with regard to the matter of “Need for the Natural Resources” and/or “public interest” with the view that, if reasonably feasible, a finite time period in which the applicant shall have a vested right to undertake the extractive operation shall be established, and following such time period, applicant shall be required to demonstrate a new “Need for the Natural Resources” and/or “public interest” as a condition to being entitled to continue the use. If such a time period is included in the Board’s adoption of an amendment to the Gravel Zoning District with regard to the property at issue, the property owner shall not be authorized to make any improvements on the property and commence any operation unless and until the owner of the property files an affidavit with the Register of Deeds attaching the adoption action of the Board under this Section, including such time limitation. At the conclusion of the time limitation established for mining, if any, as such time may be extended consistent with this provision, the Township may rezone the property to a new reasonable classification. In such event, after giving the property owner a right to a hearing before the Township Board, the Board may order the stoppage of all mining activities and a reclamation of the property.

AMENDMENTS TO THIS EDITION

Ordinance 2016-03 (May 2, 2016)

- Amended Section 4.7.3 Development Standards.
- Amended Section 4.11.11 Time Limit for Approved Planned Developments
- Amended Section 7.3 Reviewing Authority
- Amended Section 8.4 Reviewing Authority
- Deleted in its entirety Section 8.14 Appeal of Site Plan Review Decisions
- Added Section 10.10 Escrow Deposits for Variable Costs and Expenses
- Published May 12, 2016

Ordinance 2017-01 (February 13, 2017)

- Amended Section 2.2, Definition of Dwelling, Single Family
- Amended Section 2.2. Definition of Mobile Home
- Published February 23, 2017.

Ordinance 2018-01 (March 13, 2018)

- Amended Section 4.5.3.A, Development Standards
- Added a new Subsection 4.11.6.G, Conceptual Development Plan:Application Requirements
- Added a new Section 7.5.A.(8), Data Required
- Amended Section 7.7.E, Special Land Uses and Special Land Use Permit Requirements
- Added two new Sections 7.16 and 7.17, Special Land Uses and Special Land Use Permit Requirements
- Published March 28, 2018.

Ordinance 2018–3 (December 11, 2018)

- Repealed Chapter 9 (Sign Regulations) of the Kasson Township Zoning Ordinance in its entirety and replaced with new language.
- Published December 27, 2018.

Typographical Error on Page 94 (April 3, 2019)

- “Proposed <https://www.priorityhealth.com/medicare/select-county-?year=2016> of accessory structures...” replaced by “Proposed **location** of accessory structures...”