

# **Otisco Township**

## **Zoning Ordinance**

**1986 As Amended**  
**Through February 28, 2020**

# Otisco Township

## ZONING & ORDINANCES



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**OTISCO TOWNSHIP**  
**IONIA COUNTY, MICHIGAN**  
**ZONING ORDINANCE**

**Amendment March 13, 2007 by Ordinance No. 2007-02**

**AN ORDINANCE TO ESTABLISH GENERAL POWER OF LOCAL GOVERNMENT UNITS TO REGULATE THE USE OF LAND AND STRUCTURES BY ZONING; UNIFORMITY OF REGULATION; AUTHORITY TO ADOPT REGULATIONS TO ACHIEVE SPECIFIC LAND MANAGEMENT OBJECTIVES OR SOLVE SPECIFIC LAND USE PROBLEMS; AUTHORITY TO ADOPT REGULATIONS DESIGNATING OR LIMITING LOCATION, HEIGHT, BULK, NUMBER OF STORIES, USES, AND SIZE OF DWELLINGS, BUILDINGS AND STRUCTURES THAT MAY BE ERECTED OR ALTERED WITHIN OTISCO TOWNSHIP.**

**ARTICLE I**

**PREAMBLE**

**1.100 Enactment and Authority**

Amendment March 13, 2007 by Ordinance No. 2007-02  
The Township Board of Otisco in the County of Ionia, under the authority of the *Michigan Zoning Enabling Act, PA 110 of 2006 (Effective July 1, 2006)*, as amended, hereby ordains, enacts and publishes this Zoning Ordinance.

**1.110 Short Title**

This ordinance shall be known as the "Otisco Township Zoning Ordinance".

**1.120 Purposes**

The Otisco Township Zoning Ordinance is hereby established in accordance with the needs of Otisco Township. The text, map, and schedules contained herein shall constitute this Ordinance. Said Ordinance is necessary to protect and promote the public health, safety and general welfare of the Township and is adopted for the following purposes:

- 1.121 To insure that new development takes place in an environmentally consistent and sound manner and that the potential for flood hazard, soil erosion, disturbances to the natural drainage network, and surface and groundwater contamination is minimized, thereby protecting natural resources and preserving scenic and environmental quality, as well as minimizing the public burden.

- 1.122 Maintain land use restrictions along the Flat River pursuant to the Natural Rivers Act, P.A. 231 of 1970.
- 1.123 Encourage approaches to land development that take natural features such as soils, topography, steep slopes, hydrology, and natural vegetation into account in the process of site design.
- 1.124 To preserve the agricultural economic base of the township.
- 1.125 Discourage non-farm development in areas consisting primarily of U.S.D.A. designated prime and unique farmland.
- 1.126 Make lands which are less suitable for agricultural use more attractive to develop than prime and unique agricultural land, thereby encouraging development to occur in the areas less suitable for agriculture.
- 1.127 Encourage a general low density pattern of residential development consistent with the rural/agricultural character found in most areas of the township and encourage higher densities in areas appropriate for such development.
- 1.128 Establish density standards that are consistent with the natural capability of soils to handle on-site septic systems and which promote the preservation of the township's rural and agrarian qualities.
- 1.129 Encourage higher densities of development in locations where future public utilities and services can be most economically and efficiently provided.
- 1.130 Provide for the basic service and shopping needs of the township's residents by allowing commercial development to take place in suitable areas in a manner which limits commercial strip development, minimizes conflicts with surrounding land uses and prevents unnecessary conflicts with the movement of traffic along major highways.
- 1.131 Provide for the growth in light industrial development in areas that are easily accessible by major transportation facilities and which are capable of being most economically and efficiently served by public utilities and services.
- 1.132 To increase the tax base of the township and the availability of jobs within the community, thereby increasing the ability of the township to provide services, bettering the economic well-being of residents and improving the overall quality of life in the area.
- 1.133 Minimize delays due to review and processing of development applications.
- 1.134 Prevent the wide scale scattering of intensive and higher density non-farm land uses in the rural countryside.



- 1.135 Provide for the separation between conflicting land uses by avoiding conflicts between incompatible land uses, designating suitable transitional districts and/or requiring greenbelt or buffer areas.
- 1.136 Maximize the efficiency, safety, and ease of maintenance of the road system. Make provisions for road improvements that will promote growth in a way that is consistent with adopted goals and policies relating to land use.
- 1.137 To provide a wide range of housing opportunities within the township.
- 1.138 To adopt regulations requiring the adequate siting and screening of those land uses which tend to have a blighting influence on the community.
- 1.139 To provide necessary resources and expertise to enforce the provisions of the zoning ordinance.

## ARTICLE II

### DEFINITIONS

#### 1.200 Usage

For the purpose of this ordinance, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this article.

1.201 Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words used in the plural number include the singular; the word "herein" means in this ordinance; the word "regulation" means the regulations of this ordinance; and the words "this ordinance" shall mean "the ordinance text, tables and maps included herein, as enacted or subsequently amended".

1.203 A "person" includes a corporation, firm, partnership, as well as an individual, or an unincorporated association of persons such as a club or any other entity; "shall" is always mandatory; a "lot" includes plot or parcel, a "building" includes a structure; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied".

1.204 The "Township" is Otisco Township in the County of Ionia, State of Michigan; the "Township Board", "Board of Appeals", and "Planning Commission" are respectively the Township Board, Zoning Board of Appeals, and Township Planning Commission of Otisco Township.

#### 1.210 Words and Terms Defined

**ACCESSORY BUILDING:** A building or structure located on the same lot with the principal or main building. An accessory building is detached from the main building. Where an accessory building is attached to a main building in any manner by a wall or roof, it shall be considered a part of the main building.

**ACCESSORY USE:** A use customarily and normally incidental and subordinate to the principal use or structure, and located in the same lot with such principal use or structure.

**AGRICULTURE:** Raising and storing of crops, animals and animal products, forestry, the preparation and marketing of certain agricultural products, and other commonly accepted agricultural operations for commercial purposes, including the sale of products. All commercial sales and retailing activities shall be accessory and secondary to the primary farm activity, and seventy-five (75%) percent of the total dollar value of such retailing activities shall include products grown and raised on the premises.

**AGRICULTURAL LAND:** Means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to, forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities. (Amendment March 13, 2007 by Ordinance No. 2007-02)

**AIRPORT:** Means an airport licensed by the Michigan Department of Transportation, Bureau of Aeronautics under Section 86 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.86. (Amendment March 13, 2007 by Ordinance No. 2007-02)

**AIRPORT APPROACH PLAN, and AIRPORT LAYOUT PLAN:** Means a plan, or an amendment to a plan, filed with the Zoning Commission under Section 151 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.151. (Amendment March 13, 2007 by Ordinance No. 2007-02)

**AIRPORT MANAGER:** Means that term as defined in Section 10 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.10. (Amendment March 13, 2007 by Ordinance No. 2007-02)

**AIRPORT ZONING REGULATIONS:** Means airport zoning regulations under the Airport Zoning Act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act. (Amendment March 13, 2007 by Ordinance No. 2007-02)

**ALTERATIONS:** Any change, addition or modification in construction or types of occupancy, and any change in the roof or supporting members of the building or structure, such as bearing walls, partitions, columns, beams, girders, foundations or any change which may be referred to herein as "altered" or "reconstructed".

**AUTOMOBILE REPAIR - MAJOR:** Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair, overall painting and vehicle rust-proofing.

**AUTOMOBILE REPAIR - MINOR:** Any activity involving minor repairs to motor vehicles and the incidental replacement of parts of such vehicles. A place where either gasoline or any other fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and applied directly into motor vehicles, including sale of accessories, greasing, oiling and minor automotive repair on the premises.

**AUTOMOBILE OR CAR WASH ESTABLISHMENT:** A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

**BASEMENT OR CELLAR:** A portion of a building having more than one-half (1/2) of its height below grade.

**BLUFF:** The top of a steep bank rising sharply from the water's edge.

**BOARDING, LODGING, OR ROOMING HOUSE:** A dwelling primarily used for the purpose of providing long term lodging or both meals and lodging for compensation. Such house is to be distinguished from a hotel, motel, or an institutional use such as a convalescent or nursing home.

**BOTTOM LAND:** The land area of an inland lake or stream which lies below the ordinary high-water mark and which may or may not be covered by water. (P.A. 346 of 1972).

**BUILDABLE AREA:** Contiguous land excluding land subject to flooding six (6) months of the year, poor drainage, excessive slopes, rock outcrops, and land encumbered by easements.

**BUILDING:** A structure, either temporary or permanent, having a roof.

**BUILDING HEIGHT:** The building height is the vertical distance measured from the average finished grade at the front building line to the highest point of the roof surface.

**BUILDING, MAIN OR PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is situated.

**BUILDING INTEGRATED PHOTOVOLTAICS (BIVPs):** A private or industrial solar energy system that is integrated into the structure of a building, such as solar roof tiles and solar shingles.

**CEMETERY:** The term cemetery, as used herein, shall be deemed to refer to any public cemetery owned, managed or controlled by the Township and any cemetery located within the Township.

**CONSERVATION EASEMENT:** Means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.2140. (Amendment March 13, Ordinance 2007-02)

**CONSTRUCTION:** The building, erection, alteration, repair, renovation (or demolition or removal) of any building, structure or structural foundation; or the physical excavation, filling and grading of any lot other than normal maintenance shall constitute construction. This does not include agricultural operations other than the erection of buildings.

**CONVALESCENT HOME, NURSING HOME, GROUP HOME OR FOSTER CARE HOME:** A convalescent home, nursing home or group home is a home wherein six (6) or more persons are cared for. Said home is for the aged or infirm, or a place for those suffering bodily disorders, mental illness, mental retardation and for the care of un-parented children. Said home shall conform and qualify for license under State Law.

**COORDINATING ZONING COMMITTEE:** Means a coordinating zoning committee as described under Section 307. [FN1] (Amendment March 13, Ordinance 2007-02)

**DECOMMISSION:** To remove or retire from active service.

**DEVELOPMENT RIGHTS:** Means the right to develop land to the maximum intensity of development authorized by law. (Amendment March 13, Ordinance 2007-02)

**DEVELOPMENT RIGHTS ORDINANCE:** Means an ordinance, which may comprise part of a zoning ordinance, adopted under Section 38. [FN2] (Amendment March 13, Ordinance 2007-02)

**DWELLING, MULTIPLE FAMILY:** A building or portion thereof, used or designed for occupancy by more than two (2) families living independently of each other. This definition does not include single family attached dwellings or two-family dwellings.

**DWELLING, SINGLE FAMILY:** A building or portion thereof containing one dwelling unit and designed for occupancy by one family and meeting all of the minimum requirements of this ordinance, and which is not attached to any other structure except a permitted accessory building. Single family dwelling shall include mobile homes and modular homes.

**DWELLING, SINGLE FAMILY (ATTACHED):** A group of three (3) or more single family dwelling units which are joined to one another by a common party wall, but not a common floor-ceiling. Each unit shall have its own outside entrance. For the purposes of this Ordinance, dwellings such as semi-detached, rowhouses, patio-house and townhouse shall be deemed a single family dwelling.

**DWELLING, TWO-FAMILY:** A detached building used or designed for use exclusively by two (2) families living in separate dwelling units and each doing their own cooking in said building. It may also be termed duplex.

**DWELLING, UNDERGROUND:** See Underground Homes definition.

**DWELLING UNIT OR DWELLING:** A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or temporarily, but in no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling. In case of partial occupancy, where a building is occupied in part as dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Dwelling unit shall include mobile homes and modular homes.

**EFFICIENCY UNIT (STUDIO):** A dwelling unit for one (1) individual or small family consisting of one (1) room, exclusive of bathroom, hallway, closets and the like.

**ESSENTIAL PUBLIC SERVICES:** The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply or disposal systems (including towers, structures, poles, wires,

mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, telephone exchanges and/or repeater buildings, electrical substations, gas regulators, stations, and other similar equipment and accessories in connection therewith) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

**FAMILY:** An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

**FAMILY DAY-CARE HOME and GROUP DAY-CARE HOME:** Means those terms as defined in Section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home. (Amendment March 13, Ordinance 2007-02)

**FARM AND AGRICULTURAL PRODUCTS:** Farm and agricultural products are those plants and animals useful to human beings produced by agriculture and include, but are not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan Commission of Agriculture & Rural Development and, as further defined by the Michigan Right-to-Farm Act, P.A. 93 of 1981, as amended. (Amendment April 23, 2014, Ordinance 2014-02)

**FARM DWELLING:** A dwelling occupied by a person or family engaged in the practice of agriculture on the same parcel or adjacent parcels of land.

**FEEDYARD:** A commercial venture, not part of a principal agricultural use, involving the handling, and feeding of cattle or other livestock.

**FLOOR AREA:** The sum of the gross horizontal areas of the several floors of the building measured from the interior faces of the exterior walls from the center line of walls separating two (2) buildings. Floor area shall not include elevator shafts, stairwells, floor space used for mechanical equipment, attic space having headroom of seven (7) feet or less, or interior balconies or mezzanines. Any space devoted to off-street parking or loading shall not be included in floor area. Areas of basements, utility rooms,

breezeways, porches, or attached garages are not included except, however, that the floor area of the building shall include the basement floor area when more than one-half (1/2) of the basement height is above the established curb level, or finished lot grade, whichever is higher.

**GREENBELT OR BUFFERSTRIP:** The strip of land not less than ten (10) feet in width which is planted and maintained with trees acceptable to the Zoning Administrator of from five (5) to six (6) feet in height spaced not more than ten (10) feet apart; or a hedge row of suitable shrubs not less than four (4) feet in height; not more than three (3) feet apart.

**GREENWAY:** Means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. (Amendment March 13, Ordinance 2007-02)

**HOME OCCUPATION:** Any occupation or profession carried on within a portion of a Residential dwelling that is a use of the residential dwelling unit. (Amendment June 8, 1999, Ordinance 1999-06)

**IMPROVEMENTS:** Means those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval. (Amendment March 13, Ordinance 2007-02)

**Industrial Solar Energy Facility:** A Solar Energy System where the principal design, purpose or use of such system is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

**Industrial Solar Energy Facility Permit:** A permit issued upon compliance with standards of this Ordinance.

**Inhabited Structure:** Any existing structure usable for living or non-agricultural commercial purposes, which includes but is not limited to working, sleeping, eating, cooking, recreation, office, office storage, or any combination thereof. An area used only for storage incidental to a residential use, including agricultural barns, is not included in this definition. If it is not clear by this definition, the Zoning Administrator shall make a determination of any structure regarding whether or not it is inhabited.

**IEC:** International Electrotechnical Commission. The IEC is the leading global organization that prepares and publishes international standards for all electrical, electronic and related technologies.

**ISO:** International Organization for Standardization. ISO is an international standard-setting body composed of representatives from various national standards organizations.

**Non-Participating Parcel:** A property within that is not subject to an Industrial Solar Energy Facility lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing an Industrial Solar Energy facility.

**Participating Parcel:** A property within that participates in a lease or easement agreement, or other contractual agreement, with an entity submitting a Special Land Use Permit application for the purposes of developing an Industrial Solar Energy facility.

**Private Solar Energy System:** A solar energy system used exclusively for private purposes and not utilized for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

**Roof or Building Mounted Solar Energy System:** A private or industrial solar energy system that is attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIVPs.

**INTENSITY OF DEVELOPMENT:** Means the height, bulk, area, density, setback, use, and other similar characteristics of development. (Amendment March 13, Ordinance 2007-02)

**JUNK YARD:** Any land used primarily for outdoor collecting, storage and abandonment of waste paper, rags, scrap metal or discarded materials; or which is used for the outdoor collecting, dismantling, storage and salvaging of machinery, vehicles or other personal property, whether or not such materials or parts thereof are for sale.

**LEGISLATIVE BODY:** Refers to the county board of commissioners of a county, the board of trustees of a township, the council of a city or village, or other similar duly elected representative body of a county, township, city, or village. (Amendment March 13, Ordinance 2007-02)

**LOADING SPACE:** An off-street space on the same lot with the building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking. A loading space is five hundred (500) square feet of area.

**LOCAL UNIT OF GOVERNMENT:** Means a county, township, city, or village. (Amendment March 13, Ordinance 2007-02)

**LOT:** A plot or parcel of land that conforms to the minimum provisions of this ordinance. A lot may or may not be the land shown on a duly recorded plat.



**LOT AREA:** The measurement of the total horizontal area of a lot bounded by lot lines, excluding street or road rights-of-way.

**LOT, CORNER:** A lot in which lot lines form an interior angle of less than one hundred thirty-five (135) degrees at the intersection of two (2) street lines. A lot abutting on a curved street or streets shall be deemed a corner lot if the tangents to the curve (measured at the points of intersection of the side lot lines with the street lines) intersect at an interior angle of less than one hundred thirty-five (135) degrees.

**LOT, COVERAGE:** The measurement of the area of a lot that is covered by all roofed buildings and/or structures located on the lot, stated in terms of a percentage of total lot area. Roofed buildings shall include all buildings, porches, arbors, breezeways, patio roofs, and the like, whether open box-type and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, or swimming pools.

**LOT LINE:** A boundary line of a lot.

**LOT LINE, FRONT:** The exterior line or right-of-way of a road on which a lot fronts or abuts. In the case of a corner lot, the front lot line shall be the shortest boundary line adjacent to a street right-of-way.

**LOT LINE, REAR:** Any lot line, other than a front lot line, which is opposite and most distant from the front lot line.

**LOT LINE, SIDE:** Any lot line not a front or rear lot line.

**LOT OF RECORD:** A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

**LOT WIDTH:** The minimum distance between side lot lines as measured at the front yard setback.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a “mobile home” in this Ordinance. (Amended by Ordinance 2003-02 June 10, 2003)

**MANUFACTURED HOUSING COMMUNITY:** A parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a

manufactured home. Also referred to as a “mobile home park” in this Ordinance.  
(Amendment by Ordinance 2003-02 June 10, 2003)

**MOTEL, HOTEL, OR MOTOR HOTEL:** A building or a series of attached, semi-detached or detached rental units providing long term or transient lodging with motor vehicle parking in an area contiguous to the building.

**NONCONFORMING LOT OF RECORD (Substandard Lot):** A lot of record lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum area requirements of the zoning district in which it is located. If more than one (1) lot of record is held in common ownership and said lots are contiguous, undeveloped and substandard in size to the minimum lot size in the zoning districts, they shall, for the purpose of this ordinance, be held as one (1) lot or as many lots as shall leave no lot substandard.

**NONCONFORMING STRUCTURE:** A structure, or portion thereof, lawfully existing at the effective date of this Ordinance, or affecting amendment, and which fails to meet the minimum yard setback requirements of the zoning district in which it is located.

**NONCONFORMING USE:** A use lawfully existing in a building or on land at the effective date of this Ordinance, or affecting amendment, and which fails to conform to the use regulations of the zoning district in which it is located.

**OTHER ELIGIBLE LAND:** Means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway. (Amendment March 13, Ordinance 2007-02)

**PLANNING COMMISSION:** The Otisco Township Planning Commission which has been authorized by the Township Board to carry out the powers and responsibilities pursuant to according to P.A. 33 2008 as amended, the Michigan Planning Enabling Act. (Amendment April 23, 2014, Ordinance 2014-02)

**POPULATION:** Means the population according to the most recent Federal Decennial Census of according to a special census conducted under Section 7 of the Glenn Steil State Revenue Sharing Act of 1971, 1971 PA 140, MCL 141907, whichever is the most recent. (Amendment March 13, Ordinance 2007-02)

**PRINCIPAL USE:** The primary or predominant use of a lot and the principal purpose for which a premises exists.

**QUARRY, QUARRYING OPERATION:** Any place where stone, gravel, sand, minerals, or other natural materials, including topsoil, is removed for the purpose of sale or any other commercial purposes, other than such as may be incidental to excavating in connection with or in anticipation of building development or landscaping on the site.

**RECREATION VEHICLES:** A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle (Act 419, Michigan P.A. of 1975, as amended).

**RIVER'S EDGE (Ordinary High Water-Mark):** The line between upland and bottomland 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 soil, and the vegetation.

**ROAD FRONTAGE:** The length of the lot line which borders a public road.

**ROAD OR STREET, PRIVATE:** An irrevocable easement running with the land to one or more owners of adjacent properties which provides access to those adjacent properties and which is not dedicated for general public use.

**ROAD OR STREET, PUBLIC:** Any public right-of-way which provides vehicular access to adjacent properties.

**SANITARY LANDFILL:** Any operation that is required to be licensed by the State of Michigan or its agencies as a sanitary landfill and/or is subject to the requirements of having such a license.

**SCHOOL:** Any public or private day care center, elementary, middle, junior high or secondary school accredited or licensed by the State of Michigan that provides education or child care to more than six (6) persons. As used herein, school does not include colleges, universities, dormitories, commercial schools, including art, dance, music, business or technical schools.

**SETBACK:** The minimum horizontal distance from a lot line inward toward the part of the building nearest to that lot line.

**SEWAGE TREATMENT FACILITY:** A sewage treatment facility, also known as waste treatment plant, is a series of tanks, screens, filters, and other processes by which pollutants are removed from the water.

**SEPTIC SYSTEM, SEPTIC TANK:** An individual system or tank approved by the County Health Department and used for waste disposal when a sewer line is not available to carry them to a sewage treatment facility.

**SITE PLAN:** Includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes. (Amendment March 13, Ordinance 2007-02)

**SITE PLAN REVIEW:** The submission of plans for review, as part of the process of securing zoning approval.

**SPECIAL USE PERMIT:** A permit for a use that would not be appropriate generally or without restriction throughout the zoning district; but which, if controlled as to the number, area, location or relation to the Township, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the specific review criteria provided in this Ordinance for them are met.

**STATE LICENSED RESIDENTIAL FACILITY:** Means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or PA 116, MCL 722.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care. (Amendment March 13, Ordinance 2007-02)

**STOCKYARD:** A commercial venture, not a part of a principal agricultural use, involving the buying, selling, or shipping of cattle or other livestock.

**TEMPORARY BUILDING OR USE:** A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main use or for special events, as may be permitted herein, not to exceed six (6) months.

**UNDERGROUND HOME:** A dwelling unit, the roof of which may be covered with earth, and which on at least two (2) sides does not extend upward more than the surrounding grade levels within fifty (50) feet. One side of said dwelling must be entirely exposed.

**UNDEVELOPED STATE:** Means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public. (Amendment March 13, Ordinance 2007-02)

**VARIANCE:** A varying or relaxation of any of the requirements of the zoning ordinance by the Zoning Board of Appeals; where such variance will not be contrary to the public interest.

**YARD:** A required open space on a lot, unoccupied and unobstructed by any building or structure or portion thereof, provided that fences, walls, posts, porches, decks and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to any additional requirements limiting the height or location of such facilities contained herein.

**YARD, REQUIRED FRONT:** The minimum required yard measured from the front lot line into the interior lot area.

**YARD, REQUIRED REAR:** The minimum required yard measured from the rear lot line into the interior lot area.

**YARD, REQUIRED SIDE:** The minimum required yard measured from the side lot line into the interior lot area.

**ZONING ADMINISTRATOR:** The person officially designated by the Township Board to administer and enforce this Ordinance.

**ZONING BOARD OF APPEALS:** The Otisco Township Zoning Board of Appeals (ZBA), the members of which have been duly appointed by the Otisco Township Board, and which is authorized as a body to interpret, hear appeals, and grant variances only in accordance with, the provision of this Ordinance.

**ZONING COMPLIANCE PERMIT:** A permit signifying compliance with the provisions of this Ordinance as to use, activity, bulk and density, and with the requirements of all other development codes and ordinances currently in effect in Otisco Township.

**ZONING JURISDICTION:** Refers to the area encompassed by the legal boundaries of a city or village or to the area encompassed by the legal boundaries of a county or township outside the limits of incorporated cities and villages. The zoning jurisdiction of a county does not include the areas subject to township zoning by a township that has adopted a zoning ordinance under this act. (Amendment March 13, Ordinance 2007-02)

**ARTICLE III**  
**ESTABLISHMENT OF DISTRICTS**

**1.300 Establishment of Districts (Amendment by Ordinance 2003-02 June 10, 2003)**

Otisco Township is hereby divided into the following Districts:

- W-C WATERFRONT CONSERVATION DISTRICT
- A-C AGRICULTURAL CONSERVATION DISTRICT
- R-C RURAL CONSERVATION DISTRICT
- R-1 LOW DENSITY RESIDENTIAL DISTRICT
- R-2 MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT
- PUD PLANNED UNIT DEVELOPMENT DISTRICT
- C-1 COMMERCIAL DISTRICT
- I-1 INDUSTRIAL DISTRICT
- MHC MANUFACTURED HOUSING COMMUNITY DISTRICT

**1.310 Zoning Map**

- 1.311 The areas and boundaries of such districts noted in Section 1.300 are hereby established to scale as shown on a map entitled "Zoning Map of Otisco Township", and is referred to herein as the "Zoning Map." Said Zoning Map, together with everything shown thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- 1.312 Regardless of the existence of copies of the zoning map which may be made or published, the official zoning map shall be located at a place designated by the board and shall be the final authority as to the current zoning status within the Township.
- 1.313 When uncertainty exists as to the boundaries of districts as shown on the zoning map, the following rules shall apply:
- A. Boundaries indicated as approximately following the centerline of rivers, waterways, roads, streets, highways, or alleys shall be construed to follow such centerlines.
  - B. Boundaries indicated as approximately following platted or unplatted lot lines shall be construed to follow such lot lines.
  - C. Boundaries indicated as approximately following Township boundaries shall be construed to follow Township boundaries.
  - D. Boundaries indicated as following shorelines, stream beds, or the perimeter of a waterbody or water course shall be construed to follow the general established seasonal high water limit of such shoreline or stream bed, and in the event of a more than temporary or seasonal change in shoreline or stream bed shall be construed as moving with the newly formed / established seasonal high water limit.

- E. Boundaries indicated as parallel to or extensions of features indicated in sub-section 1.321 through 1.324 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the official Zoning Map.
- F. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning Map, or in other circumstances not covered by sub-sections A. through E. above, the Zoning Administrator shall interpret the district boundaries. Upon appeal, the Zoning Board of Appeals reserves the right to review and uphold or override the interpretation of the Zoning Administrator.

## **1.320 WATERFRONT CONSERVATION DISTRICT (W-C)**

### 1.321 District Objective

This district is established to implement public objectives embodied in the Flat River Natural River Management Plan adopted by the Natural Resources Commission, and endorsed by the Otisco Township Board and those objectives stated in Otisco Township Land Use Plan. These public objectives seek to preserve and enhance the values of the Flat River area as well as to promote the public health, safety and general welfare of this community and the state as a whole.

### 1.322 Uses Permitted as a Matter of Right:

- A. Single family dwellings
- B. Agricultural uses, not including farm buildings
- C. Parks, playgrounds and outdoor recreation uses
- D. Water related uses such as docks and bridges
- E. Residential support uses such as lawns and gardens
- F. State Forest, State Game Area.

### 1.323 Uses permitted by special use permit:

- A. Customary Home Occupations (Resolution No. 2006-07)
- B. Recreation, resorts, and campgrounds
- C. Bed and Breakfast

### 1.324 Permitted Accessory Uses:

Uses and structures which are customarily incidental to the above permitted principal uses, when located on the same lot or parcel as the principal use are also allowed. Accessory structures may be located within the front yard if they are set back a minimum of 170 feet from the front line of the lot or parcel.

Permitted uses include:

- A. Attached or unattached automobile garages or carports
- B. Keeping not more than two roomers or boarders by a resident family
- C. Non-commercial recreational facilities including swimming pool, hot tubs, saunas, outdoor free standing furnace, basketball or tennis court, gazebo, garden shed, playground equipment and similar facilities when located on the same lot as a principal use or structure



D. One unlighted name plate or sign, not over 2 square feet in area identifying a primary or accessory use.

1.325 Bulk Regulations

See Section 1.420, Bulk Table

1.326 Additional regulations

Additional regulations of the natural rivers program apply to all properties in this district.  
See section 1.530

### **1.330 AGRICULTURAL CONSERVATION DISTRICT (A-C)**

#### 1.331 District Objective:

The agricultural conservation district has been established to preserve prime soils for agricultural use and to protect viable agricultural enterprises. It is to be applied to areas which have soils well suited to agricultural activities as identified by the USDA. The district is designed to preserve these areas by restricting the intrusion of incompatible uses into prime agricultural areas. Accessory uses described herein are also allowed, according to their compatibility with existing uses.

#### 1.332 Uses Permitted by a Matter of Right:

The following uses are allowed, except as may be otherwise provided for elsewhere in this Ordinance.

- A. Agricultural, including horticulture, forestry, and the raising or keeping of livestock, poultry or fur-bearing animals, and accessory buildings necessary to such farms including the operation of a roadside produce stand on a seasonal basis.
- B. Greenhouses, sod farms, and garden nurseries
- C. Township Offices
- D. Cemetery

#### 1.333 Uses Permitted by Special Use Permit

When authorized by the Planning Commission, the following uses are allowed in the A-C District, subject to the compliance with special provisions associated with each such use and subject to their compatibility with existing uses.

- A. Single family dwellings may be approved by the planning commission based on the standards contained below.
- B. Churches
- C. Schools and Day Care Centers
- D. Stockyards, feedyards of less than 10 acres where livestock are raised or kept.
- E. Commercial riding stables and dude ranches
- F. Personal Air Strip
- G. Housing for temporary or migratory workers.
- H. Customary Home Occupations, as an accessory to a permitted use.
- I. Wireless Communication Antennas and Towers. (Ordinance No. 99-12, 11/4/1999)

- J. Kennels
- K. Bed and Breakfast

1.334 Permitted Accessory Uses:

Uses and structures which are customarily incidental to the above permitted principal uses, when located on the same lot or parcel as the principal use are also allowed. Accessory structures may be located within the front yard if they are set back a minimum of 170 feet from the front line of the lot or parcel.

Permitted uses include:

- A. Attached or unattached automobile garages or carports
- B. Keeping not more than two roomers or boarders by a resident family
- C. Non-commercial recreational facilities including swimming pool, hot tubs, saunas, outdoor free standing furnace, basketball or tennis court, gazebo, garden shed, playground equipment and similar facilities when located on the same lot as a principal use or structure.

1.335 Bulk Regulations

See Section 1.420. Bulk Table

1.336 Special Standards for the approval of Single Family Dwellings

Single family dwellings are permitted in this district when authorized by the planning commission. In considering such authorization, the planning commission shall consider the following standards:

- A. The location of proposed dwelling and lot in respect to whether the land is presently being utilized or is capable of being used for the production of agricultural crops, and whether the soil characteristics of the proposed lot are such that the land is substantially less productive than other land within the district.
- B. The location of said dwelling and lot in respect to whether it would interfere with or substantially hinder existing or potential farming operations or activity within the area.
- C. Whether the size of the proposed lot exceeds the reasonable size necessary to accommodate the proposed dwelling.
- D. The present or future ability of the township, county, and school district to provide adequate vehicular access, emergency services, educational services, or other necessary public services to the proposed dwelling.

### **1.340 RURAL CONSERVATION DISTRICT (R-C)**

#### 1.341 District Objective:

This is a zoning district for uses which are primarily rural in nature, including residential and agricultural uses undertaken as principal uses. Accessory uses and certain non-residential uses described herein are also allowed, according to their compatibility with existing uses.

#### 1.342 Uses Permitted by a Matter of Right:

The following uses are allowed, except as may be otherwise provided for elsewhere in this Ordinance.

- A. Agriculture, including horticulture, forestry, and the raising or keeping of livestock, poultry or fur-bearing animals, and accessory buildings necessary to such farms including the operation of a roadside produce stand on a seasonal basis.
- B. Single family dwellings
- C. Greenhouses, sod farms, and garden nurseries
- D. State Forest, State Game Area
- E. Township Offices
- F. Cemetery

#### 1.343 Uses Permitted by Special Use Permit:

When authorized by the Planning Commission, the following uses are allowed in the R-C District, subject to compliance with special provisions associated with each such use and subject to their compatibility with existing uses.

- A. Two-family dwellings
- B. Churches
- C. Schools and Day Care Centers
- D. Stockyards, feedyards and other areas of less than 10 acres where livestock are raised or kept.
- E. Commercial riding stables and dude ranches

- F. Recreational and Tourist Resorts, Campgrounds
- G. Private clubs, lodges, social or recreational uses including hunting camps or clubs, shooting ranges, outdoor concerts or festivals, bicycle courses.
- H. Personal Air Strip
- I. Golf Course
- J. Quarry, Quarrying operations
- K. Housing for temporary or migratory workers.
- L. Customary Home Occupations, as an accessory to a permitted use.
- M. Wireless Communication Antennas and Towers. (Ordinance No. 99-12, 11/4/1999)
- N. Kennels
- O. Bed and Breakfast

1.344 Permitted Accessory Uses:

Uses and structures which are customarily incidental to the above permitted principal uses, when located on the same lot or parcel as the principal use are also allowed. Accessory structures may be located within the front yard if they are set back a minimum of 170 feet from the front line of the lot or parcel.

Permitted uses include:

- A. Attached or unattached automobile garages and carports
- B. Keeping not more than two roomers or boarders by a resident family
- C. Non-commercial recreational facilities including swimming pool, basketball or tennis court, gazebo, garden shed, playground equipment, hot tubs, saunas, outdoor free standing furnace, and similar facilities when located on the same lot as a principal use or structure.

1.345 Bulk Regulations

See Section 1.420, Bulk Table

### **1.350 LOW DENSITY RESIDENTIAL DISTRICT (R-1)**

#### 1.351 District Objective:

The regulations of this district are intended to encourage a suitable environment for low density residential development, and compatible supportive uses. To this end, permitted uses are limited to low density residential development together with required recreational, religious, and educational facilities and agricultural uses.

#### 1.352 Uses Permitted as a Matter of Right:

- A. Single family detached dwellings
- B. Agricultural operations subject to the limitations set forth in 1.439
- C. Public parks and playgrounds
- D. Cemeteries

#### 1.353 Uses Permitted by Special Use Permit:

- A. Churches
- B. Schools and Daycare Centers
- C. Customary Home Occupation
- D. Wireless Communication Antennas and Towers (Ordinance No. 99-12, 11/4/1999)
- E. Nursing or Convalescent Homes, Adult Foster Care
- F. Bed and Breakfast

#### 1.354 Permitted Accessory Uses:

Same as 1.324

#### 1.355 Bulk Regulations

See Section 1.420, Bulk Table

### **1.360 MEDIUM TO HIGH DENSITY RESIDENTIAL DISTRICT (R-2)**

#### 1.361 District Objective:

The regulations in this district are intended to encourage the creation of medium density residential subdivisions. Such development is viewed as a desirable alternative to the strip residential development located along existing thoroughfares. Regulations permit medium density residential development and compatible recreational, educational, or religious uses.

#### 1.362 Uses Permitted as a Matter of Right:

- A. Single family detached dwellings
- B. Public parks and playgrounds
- C. Agricultural operations subject to the limitations set forth in 1.439

#### 1.363 Uses Permitted by Special Use Permit:

- A. Churches
- B. Schools and Day Care Centers
- C. Customary Home Occupations
- D. Multiple Family housing
- E. Nursing or Convalescent Homes, Adult Foster Homes
- F. Bed and Breakfast

#### 1.364 Permitted Accessory Uses:

Same as 1.324

#### 1.365 Bulk Regulations

See Section 1.420, Bulk Table

**1.370 PLANNED UNIT DEVELOPMENT DISTRICT (PUD)**

See Section 1.520



## **1.380 COMMERCIAL DISTRICT (C-1)**

### **1.381 District Objectives:**

This district is intended to permit local retail business and service uses which are desirable to serve the residents of the community. The intent of the district is also to encourage the concentration of business uses to the mutual advantage of both consumers and merchants, and thereby avoid the encouragement of marginal business throughout the community.

### **1.382 Use Permitted as a Matter of Right:**

- A. Retail businesses which sell products such as groceries, produce, meat, dairy products, drugs, dry goods, clothing, hardware, appliances or furniture.
- B. Personal Service Establishments such as barber or beauty shops, repair shops for shoes, radio, television or jewelry, self-service laundries, and photographic studios.
- C. Professional offices licensed by the State of Michigan
- D. Post offices and Governmental offices.
- E. Commercial schools including art, dance, music, business, and technical.
- F. Automobile service or gas stations, including minor automobile repair.
- G. Skilled trades shops for the commercial sale or repair of items involving carpentry, electrical work, stone or masonry work, plumbing, heating or refrigeration, furniture repair, home decorating, or sign making: provided such uses shall be conducted entirely within an enclosed building no closer than fifty (50) feet to any Residential District.
- H. Hospitals, medical and dental clinics.

### **1.383 Uses Permitted by Special Use Permit of the Planning Commission:**

The following uses are eligible for special use permits only when conducted within an enclosed area, and is no closer than one hundred (100) feet to any residential district:

- A. Amusement and entertainment activities.
- B. Automobile, recreational vehicle and mobile home sales and service establishments.
- C. Industrial cleaning or dry cleaning facilities.
- D. Retail building materials supply yard, excluding cement mixing.
- E. Retail lumber yards.
- F. Storage yards for construction equipment, motor vehicles and draying equipment.
- G. Sale and storage of agricultural products and livestock, and related farm implements.

- H. Sale and storage of combustible fuels, provided that said activity is located at least three hundred (300) feet from any residential district.
- I. Agricultural storage, milling or processing.
- J. Automobile or car wash establishments.
- K. Restaurants
- L. Wireless Communication Antennas and Towers. (Ordinance No. 99-12, 11/4/1999)

1.384 Permitted Accessory Uses:

- A. Accessory uses and structures which are customarily incidental to any of the aforementioned principal uses are permitted when located upon the same lot or parcel.
- B. Signs pursuant to the requirements of 1.540
- C. Off-street parking

1.385 Bulk Regulations:

See Section 1.420, Bulk Table.

1.386 Prohibited Uses:

The following uses are prohibited in the C-1 District:

- A. Residential uses, including convalescent homes.
- B. Those uses permitted in the I-1 zone, unless specifically permitted in the C-1 zone.

### **1.390 INDUSTRIAL DISTRICT (I-1)**

#### 1.391 District Objectives:

This zone provides for appropriate locations for most light industrial uses, including the processing, assembly, treatment and storage of materials. Such uses are to be confined to this district since they are generally incompatible with other uses due to the noise, emissions, and traffic typically associated with such uses. This zone also provides for uses which are lawful but which, due to their nature, would otherwise have an adverse impact on residential or commercial properties in terms of property values, incidence of crime, public health factors and changes in character. (Ordinance 2004-05 June 8, 2004)

#### 1.392 Uses Permitted as a Matter of Right:

- A. The production, testing, manufacture, compounding, processing, packaging, or treatment of products or materials from previously prepared materials or from agricultural products.
- B. Wholesale establishments including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings and lumber and building products.
- C. Warehouses, cartage businesses.
- D. Laboratories including experimental, film and testing.
- F. Trade or industrial schools, veterinary hospitals, clinics or kennels.
- G. Motor freight terminal including garaging and maintenance of equipment, freight forwarding, packing and crating services.
- H. Central dry cleaning plant.
- I. Municipal buildings, public service buildings.
- J. Electricity regulating substations, and pressure control stations for gas, water and sewage.
- K. Grain storage and milling feed store, storage and sales of agricultural products and similar uses.
- L. Retail lumber yards.
- M. Contractor's yards, building materials storage.
- N. Automobile repair establishments including major automobile repair, body shop, and truck service establishment.
- O. Stockyards.

#### 1.393 Uses permitted by Special Use Permit of the Planning Commission:

- A. Wireless Communications Antennas and Towers. (Ord. 1999-12)
- B. Adult-oriented businesses. (Ord. 2004-05)
- C. Massage establishments. (Ord. 2004-05)
- D. Wastewater treatment facilities including incinerators, and licensed sanitary landfills

1.394 Permitted Accessory Uses:

Same as 1.384

1.395 Bulk Regulations:

See Section 1.420 Bulk Table

1.396 Prohibited Uses:

All residential uses are specifically prohibited in the I-1 zone.

**1.3.10.0 MANUFACTURED HOUSING COMMUNITY DISTRICT (MHC)  
(Ordinance 2003-02 June 10, 2003)**

1.3.10.1

The Manufactured Housing Community District is established to provide for higher density single-family detached, residential dwelling units. This district allows the provision of a diversified and affordable housing type within Otisco Township. Through the Manufactured Housing Community District, manufactured homes are intended to serve as an alternative housing type to other forms of residential development.

In recognition of the growing trend toward manufactured housing communities and the need for well-located and properly developed areas to accommodate them, regulations are hereby prescribed for such use with appropriate construction and site development standards.

The regulations established by state law, Michigan Public Act 96 of 1987, as amended, the Michigan Manufactured Housing Commission rules, and the provisions of this district shall govern all manufactured housing communities in the Township. Regulations of this district are intended to insure that manufactured housing communities meet the development standards established by this ordinance and to promote the health, safety, and welfare of the Township's residents.

1.3.10.2 Uses Permitted by a Matter of Right

Land, buildings and structures in the MHC District may be used for the following purposes:

- A. State-licensed manufactured housing communities, as regulated by Sections 1.3.10.4 through 1.3.10.6 of this Ordinance.
- B. Manufactured homes within a state-licensed manufactured housing community, as regulated by Sections 1.3.10.4 through 1.3.10.6 of this Ordinance.
- C. Accessory uses customarily incidental to the permitted use, including:
  - 1. Recreational facilities for use of manufactured housing community residents.
  - 2. Solid waste collection and storage facilities.
  - 3. Laundry and restroom facilities.
  - 4. Open space and recreational uses.
  - 5. Meeting rooms, group kitchen and food service facilities when designed solely for the use of residents of the manufactured housing community.
  - 6. Office, maintenance and storage buildings when designed solely for the operation and maintenance of the manufactured housing community.
  - 7. Temporary buildings or trailer offices, but only when incidental to construction of a manufactured housing community.

1.3.10.3 Uses Permitted by Special Use Permit:

The following uses may be permitted as a special land use upon approval by the Planning Commission in accordance with Article IV, Section 1.470 and Article VI, Section 1.620 of this Ordinance:

- A. Storage warehouses for use by residents of a manufactured housing community which are accessible by the internal roads of a manufactured housing community.
- B. Customary Home Occupations. (Resolution No. 2006-07)

1.3.10.4 Manufactured Housing Community Design Requirements

All manufactured housing communities shall comply with the following design requirements:

- A. Access and Roads.
  1. The community’s internal roads shall have access to a public thoroughfare or shall be connected to a public thoroughfare by a permanent easement.
  2. Two access points shall be provided to a public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of a community road shall be interpreted as satisfying this requirement.
  3. All internal roads shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of the American Association of State Highway and Transportation Officials (“AASHTO”).
  4. An internal road that has no exit at one end shall terminate with an adequate turning area. Parking shall not be permitted within the turning area.
  5. Safe-sight distance shall be provided at intersections.
  6. An offset at an intersection or an intersection of more than two internal roads is prohibited.
  7. The following types of internal roads shall have driving surfaces that are not less than the following widths:
 

(a) One-way, no parking	16 feet
(b) Two-way, no parking	21 feet
(c) One-way, parallel parking, one side	24 feet
(d) One-way, parallel parking, two sides	33 feet
(e) Two-way, parallel parking, one side	31 feet
(f) Two-way, parallel parking, two sides	41 feet
  8. All entrances to communities that have 300 or more home sites shall be a minimum of 30 feet in width. The entrance shall consist of an ingress lane and a left and right egress turning lane at the point of intersection between a public road and the community’s internal road, and shall be constructed as follows:

- (a) All turning lanes shall be a minimum of 10 feet in width and 60 feet in depth, measured from the edge of the pavement of the public road into the community.
  - (b) The turning lane system shall be tapered into the community internal road system commencing at a minimum depth of 60 feet.
  - (c) The ingress and right egress turning lanes of the ingress and egress road shall connect to the public road with a curved line that has a minimum radius of 15 feet. The intersection of the public road and ingress and egress road shall not have squared corners.
9. An orderly street name system and unit numbering system shall be established by the community owner and the plan of such system approved by the Township Fire Department. Manufactured home space numbers shall be located uniformly on each space, housing unit or identification marker, throughout the community, and street names shall be adequately marked at all internal road intersections.
10. Appropriate traffic control signs shall be provided on all internal roads, and a regulation stop sign shall be installed at the point of intersection with a public road, unless a traffic control device is provided.

B. Driveways.

- 1. Improved hard-surface driveways shall be provided on the site where necessary for convenient access to service entrances of buildings, and at delivery and collection points for fuel, refuse, and other materials.
- 2. The minimum width of driveways shall be 10 feet. The entrance to the driveway shall have the flare or radii, and horizontal alignment for safe and convenient ingress and egress.

C. Resident Vehicle Parking.

- 1. All home sites shall be provided with two parking spaces.
- 2. If vehicle parking is provided on the home site, it shall be in compliance with both of the following provisions:
  - (a) The parking space shall be constructed of concrete or bituminous asphalt and supported by a suitable subgrade in compliance with the standards of AASHTO.
  - (b) The parking spaces may be either in tandem or side by side. If spaces are in tandem, then the width shall not be less than 10 feet and the combined length shall not be less than 40 feet. If spaces are side by side, then the combined width of the two parking spaces shall not be less than 19 feet and the length shall be not less than 20 feet.
- 3. If the two resident vehicle parking spaces required by this section are provided off the home site, then the parking spaces shall be within 30 feet of the home site and each parking space shall have a clear parking width of 10 feet and a clear length of 20 feet.

4. If parking bays are provided for resident vehicle parking, they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.

D. Visitor Parking Facilities.

1. A minimum of one parking space for every three home sites shall be provided for visitor parking.
2. Visitor parking shall be located within 500 feet of the home sites the parking is intended to serve, as measured along a road or sidewalk.
3. If parking bays are provided for visitor parking, they shall contain individual spaces that have a clear parking width of 10 feet and a clear length of 20 feet.

E. Sidewalks.

1. Sidewalks shall be constructed in the community and maintained for the safe and convenient movement from all home sites to principal destinations within the community and connection to the public sidewalks outside the community. Sidewalks shall be installed along one side of all internal collector roads within the community and to the public right-of-way and to all service facilities including but not limited to central laundry, central parking, and recreation areas. Sidewalks shall also be required along that portion of a community fronting along public thoroughfares.
2. All common sidewalks shall be constructed in compliance with all of the following requirements:
  - (a) Sidewalks shall have a minimum width of 4 feet and shall be constructed in compliance with Act 8 of the Public Acts of 1973, being Section 125.1361 et seq. of the Michigan Compiled Laws, an act which regulates sidewalks for handicappers.
  - (b) All sidewalks shall meet the standards established in Rule 928 of the Manufactured Housing Commission Rules and AASHTO standards.
3. An individual sidewalk with a minimum width of 3 feet shall be constructed between at least one entrance, or patio, porch, or deck if provided, and the parking spaces on the home site or parking bay, whichever is provided, or the common sidewalk.

F. Lighting.

1. Minimum Illumination Standards.
  - (a) Access points shall be lighted. If the public thoroughfare is lighted, then the illuminated level shall not be more than the average illumination level of the adjacent illuminated thoroughfare.
  - (b) At all internal road intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than .15 foot candle.
  - (c) Internal roads, parking bays, and sidewalks shall be illuminated at not less than .05 foot candle.



- (d) If a community directory is provided, then it shall be illuminated at not less than 3.15 horizontal foot candles on any entry on the directory.
- 2. Outdoor Lighting Regulations and Maximum Illumination.
  - (a) All outdoor light fixtures shall be shielded with I.E.S. full cut-off fixtures.
  - (b) All outdoor light fixtures shall be installed and placed to ensure that light does not spill onto adjacent properties or roadways above an illumination level of 0.1 foot candles and does not produce an unacceptable glare.
  - (c) Outdoor light fixtures shall not exceed a height of 30 feet above the ground, directly below the fixture.
  - (d) An outdoor light fixture shall not have a light source which is greater than 400 watts.

#### G. Utilities.

- 1. All electrical, telephone, cable television, natural gas, and other utility services shall be installed underground and specifically designed in conformance with the Manufactured Housing Commission Rules. When separate meters are installed, each meter shall be located in a uniform manner on each housing site.
- 2. All manufactured housing sites and all other buildings within the community shall be connected to the water system of the Township, if it is available to the community, or to another state-approved system. The community water system shall conform to Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards and shall be subject to review by the Township Engineer.
- 3. Fire hydrants shall be installed in all communities for which public water systems are available and shall be in compliance with the requirements and provisions of the fire code. There shall be no more than 500 feet between hydrants as measured along adjacent roadways within the community.
- 4. All manufactured housing sites and all other buildings within the community shall be connected to the sanitary sewage system of the Township, if it is available to the community, or to another state-approved system. The community's sanitary sewage system shall conform to the Michigan Department of Environmental Quality manufactured housing community standards and shall be subject to review by the Township Engineer.
- 5. All storm water drainage systems shall be constructed in accordance Parts 2-4 of the Michigan Department of Environmental Quality manufactured housing community standards. Additional requirements for a community may be established by the Ionia County Drain Commissioner, pursuant to Section 11(3) of Public Act 96 of 1987, as amended.

#### H. Site Size, Spacing and Setback Requirements.

1. Home Site Area. The manufactured housing community shall be developed with sites averaging 5,500 square feet per manufactured housing unit. This 5,500 square feet average may be reduced by twenty (20%) percent provided that each individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of the average site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code, and Section 1.3.10.4.J of this Ordinance.
2. Required Distances Between Homes and Other Structures.
  - (a) Home sites shall be arranged to allow for, and manufactured homes shall be located to comply with, all of the following minimum separation distances, as measured from the wall/support line or foundation line, whichever provides the greater distance:
    - (i) For a home not sited parallel to an internal road, 20 feet from any part of an attached structure of an adjacent home that is used for living purposes.
    - (ii) For a home sited parallel to an internal road, 15 feet from any part of an attached structure of an adjacent home that is used for living purposes if the adjacent home is sited next to the home on the same internal road or an intersecting internal road.
    - (iii) 10 feet from either of the following:
      - (I) The parking space on an adjacent home site.
      - (II) An attached or detached structure or accessory of an adjacent home that is not used for living purposes.
    - (iv) 50 feet from permanent community-owned structures, such as either of the following:
      - (I) Club houses.
      - (II) Maintenance and storage facilities.
    - (v) 100 feet from a baseball or softball field.
    - (vi) 25 feet from the fence of a swimming pool.
  - (b) Attached or detached structures or accessories that are not used for living space shall be a minimum of 10 feet from an adjacent home or its adjacent attached or detached structures.
  - (c) Any part of a home, or an accessory structure, such as steps, porches, supported or unsupported awnings, decks, enclosed carports or garages, or similar structures shall be set back the following minimum distances:
    - (i) 10 feet from the edge of an internal road.
    - (ii) 7 feet from a parking bay off a home site.
    - (iii) 7 feet from a common sidewalk.
    - (iv) 25 feet from a natural or man-made lake or waterway.

- (d) A carport shall be in compliance with both of the following setbacks if it is completely open, at a minimum, on the two long sides and the entrance side:
  - (i) Support pillars that are installed adjacent to the edge of an internal road shall be set back 4 feet or more from the edge of the internal road or 2 feet or more from the edge of a sidewalk.
  - (ii) Roof overhangs shall be set back 4 feet or more from the edge of the internal road.
- 3. Setbacks From Property Boundary Lines.
  - (a) Homes, permanent buildings and facilities, and other structures (except as noted below) shall not be located closer than 25 feet from the property boundary line of the community.
  - (b) Club houses, maintenance and storage facilities, and pools and their related amenities (including fencing of maintenance and storage facilities) shall not be located closer than 50 feet from the boundary lines of an adjoining property that is zoned or used for residential purposes. Athletic fields shall not be located closer than 100 feet from the boundary lines of an adjoining property that is zoned or used for residential purposes.
  - (c) If homes, permanent buildings and facilities, and other structures abut a public right-of-way, then they shall not be located closer than 50 feet from the boundary line. If the boundary line runs through the center of the public road, then the 50 feet shall be measured from the road right-of-way line.

I. Screening/Landscaping.

Manufactured housing communities shall be landscaped as follows:

- 1. If a manufactured housing community abuts an existing residential use, the community shall be required to provide landscape screening along the boundary abutting the residential use.
- 2. If the community abuts a non-residential development, it need not provide screening.
- 3. In all cases, however, a community shall provide landscape screening along the boundary abutting a public right-of-way.
- 4. The landscaping shall consist of evergreen trees and/or shrubs at least three feet in height at planting which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above.
- 5. Exposed ground surfaces in all parts of the community shall be paved or covered with ornamental stone or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface and all parts of the community shall be graded and equipped to drain all surface water in a safe and efficient manner.
- 6. All grass and shrubbery within a manufactured housing community shall be kept mowed and maintained in a neat and attractive manner. Any dead, diseased or

damaged plant or grass materials shall be replaced with comparable plantings within six (6) months.

J. Open Space Requirements.

Manufactured housing communities shall provide open space in accordance with the following requirements:

1. A community that contains 50 or more home sites shall not have less than 2 percent of the community's gross acreage dedicated to designated open space, but in no case less than 25,000 square feet. At least one-half of the required open space, up to two acres, shall be dedicated to community recreational uses.
2. Community recreation uses within the required open space may include, but are not limited to, picnic areas, athletic fields, playgrounds, walking trails, shuffleboard courts and lawn game areas.
3. Required setbacks may not be used in the calculation of open space area.

K. Site Constructed Buildings and Dwellings.

1. Site constructed buildings within the community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be reviewed by the Township at the time of submission for a building permit.
2. The maximum height of any community or similar building shall not exceed 35 feet, or two stories in height, whichever is less. Storage or service buildings shall not exceed 15 feet, or one story in height.
3. Community or service buildings shall not be located adjacent to an adjoining parcel that is either zoned or developed for single-family residential purposes.
4. Site-built single-family dwellings may be located in a community as follows:
  - (a) One single-family dwelling may be permitted for the exclusive use of the community owner or manager in a community of 30 acres or less.
  - (b) Two single-family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of 30 acres.
  - (c) Any such single-family dwellings permitted under this section shall comply in all respects with the requirements of single-family dwellings in the R-1 Low Density Residential District.

L. Signs.

There shall be a maximum of one sign per road frontage with an entrance which shall bear only the name of the community. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the Manufactured Housing Commission Rules. The sign may be lighted, provided that the source of the light is not visible and is not of the flashing or intermittent type. One sign, not exceeding 32 square feet in area shall be permitted for the first entrance provided to the community. For multiple entrances, a 16 square foot sign shall be permitted at

each entrance after the first. Signs may be double-faced, but each side of the sign shall have identical copy and be flush with the other side.

M. RV Storage.

If boats, boat trailers and utility trailers are permitted to be parked within the manufactured housing community, adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this ordinance and shall be adequately locked, fenced, permanently buffered and surfaced in accordance with Rule R125.1922(1).

N. Minimum Community Area.

A manufactured housing community shall not be located on a parcel of land less than fifteen (15) acres in size.

O. Compliance with Regulations.

The design, layout, construction and use of a manufactured housing community shall in all other respects comply with the regulations on the design, construction and use of manufactured housing communities, the sale and leasing of manufactured housing lots and all other aspects of the construction and use of manufactured housing communities, as set forth in the rules of the Michigan Manufactured Housing Commission, as amended from time to time.

1.3.10. Manufactured Homes Within Manufactured Housing Communities; Operation of Communities.

A. Home Size.

Manufactured homes within a community shall not contain less than 890 square feet, as measured by the outside dimensions, nor have an outside width of less than 13 feet.

B. Installation.

The installation of manufactured housing on each site within the community shall conform with the requirements of Rule 602 and Rule 602A of the Manufactured Housing Commission Rules. All utility connections to homes within the community shall be performed in accordance with the requirements of Rule 603 of the Manufactured Housing Commission Rules.

C. Skirting shall be installed around all manufactured housing units and meet all of the following requirements:

1. All skirting shall be installed prior to the issuance of a certificate of occupancy, and in no case shall it be installed less than 60 days following the placement of the home on the home site, unless weather does not permit compliance with this

schedule. In the event that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed 90 days.

2. Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall meet the requirements established by the rules of the Michigan Manufactured Housing Commission.
  3. Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be properly maintained.
- D. Storage of Personal Property
1. Except as otherwise noted in this Ordinance, no personal property, including tires, shall be stored outside or under any mobile home, or within carports which are open on any side.
  2. Bicycles and motorcycles may be parked in carports. Seasonal outdoor storage of outdoor cooking grills is permitted so long as they are kept on either a finished wooden deck, a concrete or bituminous asphalt patio or equivalent type of surface associated with the home.
  3. Storage sheds with a maximum area of one hundred forty-four (144) square feet may be placed upon any individual mobile home site for the storage of personal property. Storage sheds shall be constructed with durable, weather- and rust-resistant materials, and shall be maintained so as to reasonably maintain their original appearance and so as to be free from mechanical and structural defects.
- E. Towing mechanisms shall be removed from all homes at the time of installation and stored so as not to be visible from the exterior of the community. Towing mechanisms, including axles, may, however, be stored under manufactured homes within a community.
- F. A manufactured home shall be used only as a single-family dwelling. This provision shall not be construed to preclude the siting of model manufactured homes on licensed sites in a manufactured housing community.
- G. No manufactured home shall be occupied for dwelling purposes unless it is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary, prior to building official inspection and approval.
- H. New or pre-owned manufactured homes, which are to remain on-site in the manufactured housing community, may be sold by the resident, owner or a licensed

dealer or broker, provided that manufactured housing development management permits the sale.

- I. The owner or operator of any community shall be responsible for all street maintenance within the confines of the community and shall be responsible for all snow removal within the confines of the community. Streets shall be maintained in reasonable repair so that they are reasonably safe and convenient for vehicular travel. The owner or operator shall also be responsible for picking up trash and garbage within the confines of the community.
  - 1. Where community dumpsters are provided, they shall be set back not less than 50 feet from the boundary line of the community.
  - 2. The owner and operator of the community shall be responsible for ensuring that all community garbage dumpsters do not overflow and that they do not create offensive odors at community home sites or on adjacent properties.
- J. Swimming pools, if provided, shall be in compliance with Act 368 of the Public Acts of 1978, as amended, and the rules promulgated thereunder.
- K. Individual fuel oil, liquid petroleum, or other fuel tanks or combustible personal property shall not be permitted to be stored in or under any home.
- L. Each home site shall have approved garbage containers that meet the requirements of the Manufactured Housing Commission. The containers shall be kept in sanitary conditions at all times. It shall be the responsibility of the community operator to ensure that all garbage containers do not overflow and to ensure that all areas within the community are maintained free from any trash or other discarded materials, and that garbage collection areas do not create offensive odors on community home sites or on adjacent properties.
- M. Every community shall be equipped with fire extinguishment equipment in good working order, with type, size and number so located as to be in compliance with Rule 702A of the Manufactured Housing Commission Rules. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with the regulations of the State Police Fire Marshal Division.

#### 1.3.10. Review and Approval of Preliminary Manufactured Housing Community Plans

##### A. Review.

Prior to the establishment of a new manufactured housing community, an expansion of a manufactured housing community, or construction of any building within the community not previously approved, a plan shall be presented to the Planning Commission for its review and approval.

##### B. Application.

All plans submitted to the Planning Commission for review under this section shall contain the following information:

1. The date, north arrow and scale. The scale shall not be less than one inch equals fifty feet for property under three acres and at least one inch equals one hundred feet for those three acres or more.
2. All site and/or property lines are to be shown in dimension.
3. The location and height of all existing and proposed structures on and within the subject property, and existing within one hundred feet of the subject property.
4. The location and typical dimensions of all existing and proposed internal drives, sidewalks, curb openings, signs, exterior lighting, parking areas (showing dimensions of a typical parking space), unloading areas, community buildings, open space and recreation areas.
5. The location and the pavement and right-of-way width of all abutting roads, streets, or alleys.
6. The name and firm address of the professional civil engineering, registered landscape architect, landscaping firm, or architectural firms responsible for the preparation of the site plan.
7. The name and address of the property owner and developer.
8. The location of all community rubbish receptacles and landscaping and the location, height, and type of fences and walls.
9. Location of all fire hydrants, if applicable.
10. The number of manufactured housing sites proposed.
11. The submittal shall contain a narrative of the arrangements to be made for water supply and sewage disposal service, including approximate capacity, source of water supply, discharge points for sewage disposal, and description of stormwater management facilities.
12. Utility and other easements.
13. Existing wetlands.
14. Proposed sign locations.
15. Demonstration that all required setbacks and separation distances will be met.

Provided, however, that detailed construction plans shall not be required to be submitted to the Township.

#### C. Fee.

Fees for the review of a manufactured housing community plan shall be established by resolution of the Township Board.

#### D. Decision.

1. The plan shall be reviewed by the Planning Commission for compliance with the design standards for manufactured housing communities contained in Section 1.366 of this Ordinance, and the regulations of the State Manufactured Housing Commission. If it is determined that the manufactured housing community complies with the Ordinance and regulations, it shall be approved.



2. The plan shall be approved, approved with conditions, or denied within sixty (60) days after received by the Township, unless the applicant consents to allow a longer period of review. The 60-day review period, or other review period of alternate duration consented to by the applicant, shall not commence, in any case, until the lands for which the plan have been submitted have been zoned in the MHC District.

**ARTICLE IV**  
**REGULATIONS**

**1.400 Effect of Zoning**

Zoning affects every structure and use. Except as hereinafter specified , no building, structure or premises shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except when in conformity with the regulations herein specified for the zoning district in which it is located.

In case any building or part thereof is used, erected, altered or occupied contrary to law or to the provisions of this Ordinance, such building or use shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance.

**1.410 Application of Regulations**

The regulations set by this Ordinance throughout the Township and within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land.

1.411 All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified for the district in which it is located.

1.412 No building or other structure shall hereafter be altered:

- A. To accommodate or house a greater number of persons or families than permitted by the Zoning District; and
- B. To have narrower or smaller rear yards, front yards, or side yards, than permitted in this Ordinance.

1.413 No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

#### **1.420 Bulk Table**

The accompanying table entitled "Section 1.420, Table of General Bulk Regulations", shall be deemed to be part of this section, and is referred to herein as "Bulk Table". The bulk table shall govern the lot size, lot width, lot coverage, required front yard, rear yard, side yard, and building height within the respective districts of the township.

# Otisco Township Zoning Ordinance

## Section 1.420 - TABLE OF GENERAL BULK REGULATIONS

*( Italic is an amendment by ordinance 2003-02 June 10, 2003 )*

District	Identification	Minimum Lot Size	Minimum lot width (feet)	Maximum coverage (percent)	Minimum front yard (feet)	Minimum rear yard (feet)	Minimum side yard (feet)	Maximum building height (feet)
Waterfront Conservation	W-C	1 Acre	150	20	40	25	25	35
Agricultural Conservation	A-C	1 Acre	150	20	40	25	25	35
Rural Conservation	R-C	1 Acre	150	20	40	25	25	35
Low Density Residential	R-1	1 Acre	150	20	35	25	25	35
Medium Density Residential	R-2							
Without Sewer		12,000 Sq Ft	90	30	30	25	10	35
With sewer		8,700 Sq Ft	80	30	30	25	7.5	35
Planned Unit Development	PUD	2 Acres						
Commercial	C-1	1 Acre	150	40	50	10	10	40
Industrial	I-1	1 Acre	150	40	50	10	10	40
<i>Manuf'd Housing Comm'ty</i>	<i>MHC</i>	<i>See section 1.3.10.4 H</i>	<i>-----&gt;</i>					

## **1.430 General Regulations**

- 1.431 Zoning Compliance Permit Required - Conformance to Zoning. In accordance with other Township codes, ordinances and regulations duly adopted by the Township Board, and in accordance with this Ordinance, no building or land use activity shall hereafter be erected, relocated, altered, moved or expanded in its exterior dimension or use, and no excavation for any building shall be begun until a Zoning Compliance Permit has been issued; provided however, that compliance permits for all buildings of 120 square feet or less shall be issued without fee. With respect to this Zoning Ordinance eligibility for a permit shall be established upon conformance with the provisions contained herein. Zoning Compliance Permits are required prior to obtaining a county building permit.
- 1.432 Certificate of Occupancy Required. No building, dwelling or other structure, or platted or unplatted land subject to the provisions of this Ordinance shall be occupied, inhabited, or used until a Certificate of Occupancy is issued. See Article VI for further clarification and application procedures.
- 1.433 Mixed Occupancy. Before issuing a zoning compliance permit for any premises intended for use as a combination of dwelling and commercial occupancy or where an increased number of dwelling units would result from a proposed alteration, the Zoning Administrator shall request a report from the Health Department as to any hazards that exist or may be expected to exist from the proposed use, together with his recommendations for any additional provisions or alterations necessary in the interest of the public safety and health. Such recommendations shall be incorporated into the application and be set forth as conditions of obtaining the compliance permit.
- 1.434 Temporary Permits. The following temporary uses are permitted by temporary permit in certain districts as regulated herein. All such uses shall be terminated within 30 days after expiration of said permit:
- A. For recreational travel trailers and recreation vehicles, see Section 1.438D.
  - B. The use of an individual trailer or mobile home as a temporary dwelling may be approved by the Zoning Administrator in the Agricultural or Residential Districts for a period of up to 90 days for persons temporarily displaced from their home due to fire, flood, wind, or similar natural causes. No such trailer or mobile home may be parked in a required front yard space.
  - C. Signs and Supplies. The storage of construction supplies, machinery, and temporary storage buildings; as well as the customary display of trade, contractor, or architect's identification signs in connection with a construction project may be authorized by the Zoning Administrator for a period up to twelve (12) months.
  - D. Temporary Structures Removed. Temporary buildings for uses incidental to construction work shall be removed promptly upon completion or abandonment of work.

#### 1.435 Structures.

- A. Restoring Unsafe Buildings. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Building Inspector or the County Health Department.
- B. Each dwelling unit and principal structure shall be equipped with adequate sewage disposal facilities to comply with the Sanitary Code in effect at the time of the erection of said dwelling or principal structure. Where public utilities exist within 200 feet, the owner or developer shall be required to hook up with such system.
- C. Structures to Have Access and Yard Space. Every principal structure hereafter erected or moved shall be on a lot adjacent to a public or private street. Every lot must provide front, rear, and side yards as required within its zone district. All front yards must face upon a street.
- D. Erection of More than One Principal Structure is Prohibited. In any district, not more than one structure housing a permitted principal use may be erected on a single lot, except groups of apartment buildings, farm building or retail business buildings or other groups of buildings deemed by the Planning Commission to be a principal use collectively.
- E. Exceptions to Height Regulations. The height limitations contained in the Table of General Bulk Regulations do not apply to parapet walls, grain elevators, silos and farm barns, monuments, towers, spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances, usually required to be placed above the roof level and not intended for human occupancy.
- F. Exceptions to Yard Setback Regulations. The setback limitations contained in the Table of General Bulk Regulations do not apply to steps, awnings, unenclosed porches, or similar facilities which may project into a minimum required yard area; provided however, that said facilities may not extend more than five (5) feet into the minimum required yard area.
- G. Uninhabitable Dwellings. Whenever it shall be certified by the Health Department or the Zoning Administrator that a vacant dwelling is unfit for human habitation, or dangerous to life or health by reason of want of repair, or of defects in drainage, plumbing, ventilation, or the construction of the same, or by reason of existence on the premises of a nuisance likely to cause sickness among occupants thereof, or for any cause, the Township Board may issue an order to the owner of such dwelling not to occupy or cause to be occupied the said dwelling until all dangers therefrom have ceased, and the owner has secured a certificate of occupancy from the Zoning Administrator, as provided in Article VI of this Ordinance.

- H. House Moving. Any person desiring to move any structure upon streets or highways within the Township shall file a written application with the Zoning Administrator which shall become valid when the proper bond of \$25,000.00 has been filed with the Township Board and approved by it. The permit shall state the streets or highways along which the structure shall be moved. No building shall be moved into the Township of Otisco or from one District to another unless such building complies with the district requirements. The owner or contractor shall cause written notice thereof to be given the telephone and electric light companies and others whose property may be affected by such removal. Fees for permits for moving buildings and structures herein provided shall be established by resolution of the Township Board.
- I. Accessory Buildings and Uses. No accessory building or use larger than 144 square feet may be built upon any lot on which there is no principal building, except the following:
1. Farm accessory buildings shall not be subject to above restrictions.
  2. Adjoining lots in single ownership may be considered one lot.
- J. Wireless Communication Antennas and Towers. Under the following guidelines for the installation and maintenance of communication antennas and towers within the Township. (Ordinance No. 99-12, 11/4/1999)
1. An engineering study must be submitted showing that there is a reasonable need for the tower in order to provide for personal wireless services or functionally equivalent services and that it is not reasonably possible to co-locate on an existing tower to provide such service. In addition, a minimum of two alternative site locations shall be submitted.
  2. A copy of engineer's sealed drawings, design calculations and specifications meeting safety regulations shall be submitted.
  3. Show proof that tower meets with FCC, FAA, and National Environmental Acts policy rules. All towers must meet with applicable state and federal statutes, rules and regulations.
  4. Storage of any hazardous or toxic materials must meet all current federal, state and local laws, rules and regulations.
  5. At all times, safety and general welfare of the Township residents is first.
  6. Towers must be built to handle at least three additional antennas.
  7. The total overall height of the tower and antennas shall not exceed 450 feet above the ground level and be no less than the distance of its height from any property line.
  8. The area around the tower and compound must be kept compatible with surrounding areas.
  9. Any equipment used in conjunction with the tower other than antennas placed upon the tower shall be located within a completely enclosed unmanned building. The building shall not be larger than 500 square feet in area. Only one low

wattage ( 150 watts or less ) shielded wall-mounted security light over the entrance to the building is permitted. Shielding of the light shall be to direct light down to the ground. There shall be no storage or placement of personal property outside such building.

10. No advertising logo, trademark, figurines or other similar marking or lettering shall be placed on the tower or any attachments thereto or any building used in conjunction therewith.
11. Upon discontinued use of the structures by all users, structures will be removed in compliance with applicable zoning and building codes.
12. Special use Permit may require any fees which are in effect for communication towers.
13. The notice for a public hearing concerning “Wireless Communication Antennas and Towers” special use permit shall be published in a newspaper of general circulation in the local unit of government. (Ordinance 2007-02 March 13, 2007)
  - a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 2,500 feet of the property and to the occupants of all structures within 2,500 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
  - b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
    - Describe the nature of the request.
    - Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - State when and where the request will be considered.
    - Indicate when and where written comments will be received concerning the request

#### 1.436 Lots.

- A. New Lots To Be Buildable. All newly created lots shall have buildable area. The net buildable area of a lot shall be a continuous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops, and land encumbered by easements preventing the use of the land.
- B. All new lots created shall meet the minimum lot size regulations of this ordinance.



- C. Corner Lots. On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The owner shall elect, and so designate in his application for permit, which of the remaining two required yards shall be the required side yard and which the required rear yard.
- D. Traffic Visibility and Corner Clearance. In order to prevent traffic safety hazards arising from inadequate visibility at street intersections, only fences, structures or plantings which do not total more than thirty (30) inches in height above the curb line may be erected or be allowed to remain within twenty (20) feet of the intersection of right-of-way lines.

#### 1.437 Utilities

- A. The installation of all electrical work, including equipment, shall in every case be done in a safe and workmanlike manner. The regulations of the current National Electric Code, which is in effect at the time of the beginning of construction of any building, shall be considered as good standard practice by the Zoning Administrator. Installation shall comply with the requirements of the electrical utility company servicing the area.
- B. The installation of all interior plumbing work shall comply with the State Plumbing Code of Michigan.

#### 1.438 Parking and Loading Spaces

- A. Standards For Parking Areas in Non-Residential Zones. Every parcel of land hereafter established as a parking area in a non-residential zone shall be developed and maintained in accordance with the following requirements:
  - 1. Parking areas shall be effectively screened on any side which adjoins premises situated in a residential zone by a screening of evergreen hedge or other natural landscaping. If owners of adjacent residential properties agree, the screening may be a solid, uniformly painted fence or wall. No part of any parking area or access drive shall be closer than five (5) feet to any property line unless connected to another adjoining parking area by driveways. No access drive shall be less than 20 feet in width nor closer than 25 feet to any residentially zoned lot or intersecting street right-of-way lines.
  - 2. Every parking area shall be surfaced with an asphalt or similar durable surface approved by the Zoning Administrator, provided, however, that where access to the parking area is from an unpaved roadway, durable dustless surface may be permitted. Adequate lighting shall be provided to protect the users of the parking area. Such lighting shall be arranged to reflect the light away from any adjoining residential buildings or streets. All drainage and surfacing plans shall be approved by the County Road Commission.

All such parking areas shall be adequately graded and drained so as to dispose of any surface water which might accumulate upon the parking area.

3. The parking area, driveways, signs, lighting, and landscaping shall be reviewed and approved by the Township Planning Commission, prior to issuance of a zoning compliance permit, to insure its adequacy in relation to traffic safety and protection of adjacent property.
- B. Required Off-Street Parking Spaces. Each principal use shall provide adequate off-street parking for expected employees, customers, clients or residents. The following shall be considered the minimum number of spaces to be provided by each use:
1. Residential uses - 2 spaces per dwelling unit
  2. Churches, schools, assembly halls, theaters and similar uses - one space per each 4 seats in the largest assembly room therein.
  3. Retail uses - one space per 400 square feet of floor area
  4. Professional offices, banks, services uses, clinics, government facilities and similar uses - one space per 200 square feet of floor area
  5. Industrial uses and similar uses - one space per employee.
  6. For any use not specified, the required off-street parking shall be determined by the Zoning Administrator.
- C. Required Off-Street Loading and Unloading Space. In all districts, every building erected which is to be occupied by manufacturing, storage, retail store, wholesale store, warehouse market, hotel, hospital, mortuary, laundry or uses similarly requiring the delivery or distribution of materials or merchandise shall provide and maintain on the same premises off-street loading space. Each loading space shall be at least 12 feet in width, 22 feet in length and have a clearance of 14 feet above grade. Such space may occupy all or any part of the required side or rear yard.
- D. Parking and Storage of Recreational Vehicles and Equipment in All Zoning Districts.
- 1) Recreational vehicles and equipment may be parked or stored in the front driveway of a lot containing an occupied dwelling unit.
  - 2) Recreational vehicles and equipment may be stored in the side yard or rear yard of a lot containing an occupied dwelling unit but no closer than five feet to a side or rear lot line.
  - 3) Recreational vehicles and equipment are not to be parked in the designated/required front yard in all Zoning Districts.
  - 4) Recreational vehicles and equipment shall not be parked or stored on a vacant lot or a lot containing an occupied dwelling unit for more than 14 consecutive days, or a total of 30 days during any calendar year, if it is being used for living, housekeeping or for sleeping quarters unless an expressed written request is received by the Township Zoning Administrator and granted by same.

5) Recreational vehicles and equipment must be legally registered and display current registration at all times when parked within the Township. (Inoperable Vehicle Ordinance)

1.439 Animals, Livestock and Fowl (Use, Shelter and Storage).

A. No animals, livestock or fowls, other than common household pets and subject to the limitations set forth herein shall be permitted to be used, sheltered or stored in the Waterfront Conservation District (W-C), Low Density Residential District (R-1), Medium To High Density Residential District (R-2), Planned Unit Development District (Pud), Commercial District (C-1), Industrial District (I-1) and Manufactured Housing Community District (Mhc) (collectively the “Restricted Districts”), unless otherwise specified in this Ordinance.

B. Where animals, livestock and fowl, other than common household pets, are permitted and proposed to be used, sheltered, stored, kept in feed yards, animal pens or other structures used for the keeping of said animals, all such improvements shall be setback no less than a minimum of fifty (50) feet from any side lot line or zoning district boundary, and one hundred (100) feet from any Dwelling Unit.

C: The keeping of household pets, including dogs, cats and small mammals and exotic animals such as reptiles, snakes, and araneae (spiders), is permitted in Restricted Districts and in any agricultural district. However, no more than three (3) dogs over the age of four months old of the same breed are permitted if kept for commercial purposes such as breeding, hunting, sales, sporting and training purposes as such use is considered a Kennel and shall only be allowed in the Agricultural Conservation and the Rural Conservation districts if a Special Use permit is obtained.

D: Except as noted, the keeping of Non Commercial farm animals not normally considered household pets shall be permitted subject to the following acreage ratio:

<u>Animal</u>	<u>Minimum Acreage</u>
Horse/Cow/Pig/Sheep	1st animal - 3 acres  Additional animals -1animal per each  Additional acre.
<u>Poultry/and or/Ducks</u>	<u>Minimum Acreage</u>
25 or less poultry and  or ducks	3 acres an additional10  poultry and/or ducks are permitted  for each additional three (3) acres

Note: The above formula only applies to Non-Commercial Farms.

E: The keeping of commercial farm animals shall comply with (1) the Right to Farm Act, (2) the requirements of the Michigan Department of Agriculture and the Generally Accepted Agricultural Management Practice Standards (GAAMPS), adopted by the Michigan Department of Agriculture, and (3) to this ordinance if not in conflict with the Right to Farm Act.

F: Keeping of Non-Commercial farm chickens and or ducks on Lots under 3 acres. Chickens and/or ducks are the only poultry/ bird allowed on Lots under 3 acres. Any person who keeps chickens and/or ducks in the Township of Otisco on Lots under 3 acres shall meet the following requirements:

1: No more than five (5) chickens and/or ducks may be kept on any Lots less than one (1) acre in size. For each additional acre up to 3 acres, an additional five (5) ducks and/or chickens are permitted, but in no event more than 15 chickens and/or ducks shall be permitted. The chickens, ducks, and eggs produced by the same are to be used for consumption by the occupant(s) of the Lot and shall not be sold to third parties.

2: The number of chickens and/or ducks shall not exceed the limitations set forth in 1.439D of this section

3: The principal use of the property must be used for single-family or two family Dwellings Units

4: No rooster shall be kept on a Lot at any time if such Lot is under 3 acres.

5: The slaughter of chickens on Lots under 3 acres is prohibited.

6: During dark hours, chickens shall be kept with a fully enclosed coop or structure and during the day with a fully fenced and covered area. All chickens shall be contained at all times. Coops and structures must be neatly constructed to not be an eye sore, e.g. not constructed of old weathered, scrap material.

7: If the coop or structure is constructed, a zoning permit is required. If a coop or structure is constructed over 200 sq. ft. then a building permit must be obtained from the county.

8: No containment, coop or fence shall be closer than fifty (50) feet to a property line or closer than one hundred (100) feet to any Dwelling Unit not on the Lot. On waterfront Lots, such structures shall be a minimum of fifty (50) feet from the high water line.



9: Coops or structures shall not be located between a Dwelling Unit and the road or right of way serving such Dwelling Unit.

10: The containment, coop, or fence area must be maintained to prevent any rodents or other animals from harboring within or under such containment areas.

11: All feed and other items associated with keeping chickens that are likely to attract or to become infested with or infected by rodents or any other animal, shall be kept in fully enclosed containers, e- galvanized or plastic garbage cans - to ensure protection from other animals coming in contact with the feed items.

12: Provisions must be made for the storage or removal of manure. No more than three (3) cubic feet of manure may be kept in storage and all such manure must be confined in such a manner so as to not allow the manure or its odors to spread onto abutting properties. All manure, not used for fertilizer, must be removed daily.

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#### **1.440 Additional General Regulations**

- 1.441 Essential Public Services may be located in any zone subject to the approval of the Township Board, provided that the review by the Township Planning Commission shall precede Township Board action where a structure is to be erected. However, the following structures shall not require Township approval: local distribution lines for gas and/or electric power, telephone lines, power poles and telephone poles, and power or communication substations which have a ground floor covering of less than four hundred (400) square feet in area.
- 1.442 Excavation of Top Soil. Top soil shall not be stripped, excavated or otherwise removed from any premises for sale or for use other than on the premises except when in connection with construction and grading operations, the top soil is in surplus amounts; or as a product of authorized excavation of muck, peat, sand, gravel or other mineral deposits.
- 1.443 Refuse. The storage, or dumping ground, collection or placing of discarded material, building materials, inoperable or unlicensed motor vehicles or refuse is prohibited in all zones except when such location has been designated by the Township Board and approved in accordance with the Otisco Township Junk and Salvage Yard Ordinance #7.

1.444 General Lighting and Screening Requirements.

- A. All lighting upon any premises, regardless of zone, shall be so arranged in a manner so as to not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public or public highways.
- B. Walls and Fences. Retaining walls and fences not more than four (4) feet in height are permitted within the required yards of all zones except as regulated in 1.436,D. Walls and solid fences of not more than six (6) feet in height are permitted in side or rear yards in any zone.

A well maintained wire protective fencing without height limitation may be required for nonresidential uses where nuisance impacts are anticipated to occur in the absence of such fence.

- C. It shall be unlawful to install, construct or maintain an electric or barbed wire fence within a platted subdivision.
- D. It is unlawful to construct any private fence or barrier within a public right-of-way.
- E. In the event of any controversy as to the adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to interpret and determine the screening and lighting provisions and the purpose herein sought to be accomplished.

**1.450 Nonconformities.**

1.451 Continuance of Nonconforming Use and Structures. Lawful nonconforming uses or structures as defined in Article II may be continued but shall not be enlarged, extended, added to or altered unless each such enlargement, extension, alteration or addition is in conformity with the provisions of this Ordinance.

1.452 Discontinuance of Nonconforming Uses and Structures. If the nonconforming use of any land or structure shall terminate for a continuous period of over nine (9) months or more, such use shall not be reestablished and any future use of such land or structure shall be in conformity with this Ordinance.

1.453 Restoration and Repair.

- A. Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound condition may be made.
- B. In the event any nonconforming building or structure shall be damaged by fire, wind, or any Act of God or the public enemy, it may be rebuilt or restored within one (1) year, provided the cost of restoration thereof shall not exceed sixty (60) percent of the

replacement value of such building or structure. Such determination shall be made by the Zoning Administrator.

1.454 Change of Use. The use of a nonconforming building may be changed to another nonconforming use if the Board of Appeals finds that such new use would markedly decrease the degree of nonconformance and would enhance the desirability of adjacent conforming uses. This shall not be construed to permit the conversion of a nonconforming use to a prior nonconforming use nor to waive the other provisions of this Article.

1.455 Specific Nonconforming Uses Eliminated. All existing junk yards, as herein defined, with a location which is approved under the regulations may continue if the operator obtains a license from the Township Board or its agent, and complies with the requirements of Section 1.451.

Nonconforming signs and billboards may be maintained until such time as the sign structure, frame or supports must be replaced, renovated, altered or moved. At such time the sign shall comply with all provisions of this Ordinance. This shall not be construed to prohibit the lettering or repainting of a sign or billboard.

1.456 Nonconforming Lots of Record (Substandard Lots). Any lot platted or created prior to the effective date of this Ordinance that fails to comply with the minimum requirements of its zone district may be used in the following manner:

- A. A lot in single ownership at the effective date of this Ordinance which contains less than 80 percent of the Zone District width and area requirements and is not adjacent to lots owned by the same person, family, partnership or corporation may be sold and or utilized for a single family dwelling.
- B. Any lot which meets 80 percent or more of the zone district width and area requirements may be sold and or utilized as a separate lot whether in single ownership or not; provided, however that the front yard must conform to the requirements of the Zone District in which said lot is located.
- C. Two (2) or more adjacent lots containing less than 80 percent of the zone district requirements and owned by the sane person, family, partnership or corporation, at the effective date of this Ordinance, shall be redivided to meet at least 80 percent of the zone district requirements; provided that the Board may permit the use or redivision of less than four (4) such lots in conformity with the established character of existing adjoining homes.

1.457 Expansion

- A. Nonconforming uses shall not be extended, added to or enlarged.



- B. Nonconforming structures shall not be extended, added to or enlarged, unless each such extension, alteration, or addition is intended to bring said structure into conformity with the provisions of this Ordinance.
- C. Nonconforming lots of record (substandard lots) shall not be extended, added to or enlarged, unless each such action results in more conforming lot sizes.

#### **1.460 Site Plan Review and Approval**

It is recognized that land uses and their location may possess distinct characteristics which may affect the community, its residents and its thoroughfares. It is, therefore, necessary to require submission of a site plan for review and approval in accordance with guidelines and criteria set forth herein in order to ensure safe development and to avoid adverse impacts to the Township and its citizens.

- 1.461 Site Plan Review by the Zoning Administrator. All applications for zoning compliance permits, special use permits, rezoning and variances, as governed in this Ordinance, shall first require site plan review by the Zoning Administrator.
- 1.462 Site Plan Approval. Unless otherwise noted herein, all requests for zoning compliance permits must have site plan approval by the Zoning Administrator. All requests for special use permits must have site plan approval by the Township Planning Commission.
- 1.463 Standards for the Review of Site Plans. The site plan is to be reviewed in order to determine:
  - A. That the proposed use conforms to the uses permitted either by right or by special use permit in the respective zoning district;
  - B. That the dimensional arrangement of buildings and structures conforms to the required yards, setbacks and height restrictions of the Ordinance, unless waived by variance granted by the Zoning Board of Appeals (ZBA);
  - C. That the proposed use conforms to all use and design provisions and requirements (if any) as found in the zoning ordinance for certain specific uses, unless waived by variance granted by ZBA;
  - D. That there is a proper relationship between the existing and proposed streets and highways within the vicinity in order to assure the safety and convenience of pedestrian and vehicular traffic;
  - E. That the proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effects upon owners and occupants of adjacent and surrounding properties by providing for adequate design of access/egress, interior/exterior circulation, storm drainage, erosion, grading, lighting and parking, as specified by this zoning ordinance or any county or state law;

- F. That as many natural features of the landscape shall be retained as possible where they can be useful to the development on the site or where they furnish a barrier or buffer between the project and adjoining properties (used for dissimilar purposes) or where they assist in preserving the general safety, health, and appearance of the neighborhood, i.e., controlling erosion or the discharge of storm waters, etc.
- G. That any adverse effects of the proposed developments and activities emanating there from upon adjoining residents or owners shall be minimized by appropriate screening, fencing, or landscaping (as provided or required in the zoning ordinance);
- H. In the case where the current use is commercial or industrial, not publicly sewered, and the application is to change, convert, add or expand such commercial or industrial use, a statement from the Health Department must be submitted certifying that the present on-site septic disposal system is adequate to meet the needs of the changed, converted, added or expanded use after development.
- I. That all buildings and structures are accessible to emergency vehicles; and
- J. That the site plan as approved is consistent with the intent and purpose of zoning which is to promote the public health, safety, and general welfare to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards of life and property; and to facilitate the Township Land Use Plan.

1.464 Conditional Approval.

- A. Reasonable conditions may be required by the Zoning Administrator for zoning compliance permits (or the Planning Commission for special use permits) with the approval of a site plan. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  1. Be designed to protect natural resources, the health, safety and general welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
  2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity; and
  3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

- B. The conditions imposed with respect to the approval of a site plan shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the designated site plan approval body and the landowner. A record of conditions which are changed shall be maintained by the respective approval body.
- Upon approval of the plan, the designated site plan approval body shall sign three (3) copies thereof. Two (2) copies shall be kept by the Township, and the third shall be returned to the applicant. All subsequent actions relating to the activity authorized by the approved site development plan shall be consistent with the plan unless a change conforming with the zoning ordinance receives mutual agreement with the landowner and the respective site plan approval body. For special uses, refer to Section 1.472 C.
- 1.465 Compliance with design standards for certain uses enumerated in this zoning ordinance is required.
- 1.466 Final Approved Site Plan on File. A copy of the Final Approved Site Plan (and all "Revised, Final Approved Site Plans") shall be so marked and placed on file as the officially approved document of the applicant along with copies of any and all permits requested for the property in question Approval of "Revised, Final Site Plans" can be made only by the designate body or the official who first gave final approval.
- 1.467 Conformity to Approved Site Plan. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, and with any revisions, amendments or modifications made thereto. If construction and development does not conform with such approved plan, the approval thereof shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the developer at his last known address. Upon revocation of such approval, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.
- 1.468 Performance Bond. The designated site plan approval body is empowered to require a performance bond or in its discretion, a certified check, as specified in Section 1.630 to be posted by the applicant in order to insure that all zoning requirements and conditions of approval will be completed in accordance with the approved site development plan.
- 1.469 Site Plan Specifications. An applicant shall submit three (3) copies of all required information. The information to be submitted as part of the site plan document must include the following:
- A. A vicinity area map at a convenient scale, showing proximity to any railroads, streams, streets and street intersections; the location of the nearest public roads on all sides; and all public facilities or amenities such as, schools, firehouses, houses of worship, recreational areas, etc.
  - B. A map of applicant's entire subject property and all surrounding properties at a designated scale; and which shall display the following in detail (however, applicants

for zoning compliance permits for single family and two-family residences and agricultural uses need only summarize):

1. The name of all owners of record of adjacent property;
  2. Existing fire, school and other special district boundaries within five (500) hundred feet of the tract, if any;
  3. Boundaries of property and existing lot lines as shown on the existing plat or tax map;
  4. Existing public streets, easements, or other reservations of lands;
  5. Location of all existing structures on the site, as well as those of adjacent properties within one (100) hundred feet of subject lot line;
  6. The proposed location and use of any building or structure;
  7. The proposed location of any use not requiring a structure, including walkways, benches, fences, and recreational facilities;
  8. Location and design of all driveways, parking and loading areas, if any;
  9. Location of all existing and proposed water lines, valves and hydrants, and all sewer lines, if any;
  10. Proposed fencing, screening and landscaping; and
  11. Location of existing watercourses, wooded areas, and rock outcrops, if any.
- C. A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract;
- D. Where the applicant wishes to develop the project in stages, a site plan indicating total development shall be presented for approval of the entire parcel; and
- E. The Zoning Administrator (for zoning compliance permits) and the Planning Commission (for special use permits) may require additional data where it is warranted due to special conditions of the site or complexity of the proposed development.

#### **1.470 Special Use Permits**

In order that this Ordinance be flexible and reasonable, special uses are provided for herein and require special use permits by the Planning Commission. Conformance to special use standards is required, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess characteristics of such unique and distinct form that each specific use shall be considered on an individual case. The granting of a special use permit does not negate the requirement for any other permit(s).

1.471 Standards for the Consideration of Special Uses. The following standards shall be met:

- A. The special use in combination with the location proposed for such use shall not impair the general health, safety and welfare of the community-at-large. In general, there must be:

1. Safe access to the property in question and adjacent properties to fire and police protection;
  2. No dangerous or hazardous traffic circulation on and off the site is created by the proposed use;
  3. Transportation design proposals by the applicant, if necessary, which will mitigate any potential traffic impact by the proposed use; and
  4. An appropriate relationship, similarity and compatibility between the location and scale of the proposed use to the size and type of uses, structures and buildings currently existing in the immediate vicinity, and which collectively comprise the overall character of the area.
- B. The special use shall not decrease the market value of adjacent buildings, uses and structures which are permitted by right under current zoning, if the proposed use is granted;
- C. The special use shall be in harmony with the Township Land Use Plan. This considers whether the location and size of the proposed use, the nature and intensity of the activities involved, the size of the site with respect to existing and future streets, parks and drainage systems will be in harmony with the Township Land Use Plan and the character of land use which is intended by said Township Plan for the area or district in question;
- D. The applicant's proposed use, its location and intensity and the height of its buildings, walls, fences and other structures shall not adversely impact the appropriate character of development intended for the area as deemed desirable by the Otisco Township Land Use Plan;
- E. The special use shall not cause any hazards arising from storage and use of inflammable fluids; and
- F. The special use shall not be environmentally objectionable to nearby properties by reason of noise, fumes, pollution, vibration, or lights to an extent which is more than would be the operations of any use permitted by right for that district wherein the special use is proposed.

#### 1.472 Conditional Approval.

- A. Reasonable conditions may be required with the approval of a special land use by the Planning Commission. The conditions may include, but are not limited to, conditions necessary to insure that public service and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
  2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity; and
  3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.
- C. Before granting a special land use permit in addition to finding that it meets all of the previously stated requirements, the Planning Commission must find:
1. The proposed use will not adversely affect existing adjacent uses within 500 feet; and
  2. That there will be no adverse effect upon the public health, safety or general welfare and that it will not impair the intent of the ordinance.
- 1.473 Compliance with design standards for certain uses enumerated in this zoning ordinance is required.
- 1.474 Site Plan Approval Required. Site plan approval by the Planning Commission is required for all special use permits. Site plans may be initially reviewed by the Zoning Administrator for content.
- 1.475 Time Limitation. A special use permit shall be deemed to authorize only one (1) particular special use and shall expire if the special use shall cease to function for more than twelve (12) months for any reasons, or has not begun within twelve (12) months from date of issuance.
- 1.476 Existing Violations. No permit shall be issued for a special use for a property where there is an existing violation of this Ordinance.
- 1.477 Basis for Decision in Writing. It is further provided that in granting or denying a special use permit. The Planning Commission shall specify in the written decision the particular reason relied upon and its relation to the proposed use.
- 1.478 Appeals. Any and all appeals regarding a decision or condition imposed upon a special use application may be made to the Zoning Board of Appeals within thirty (30) days from the date of decision or imposed condition.

## ARTICLE V

### SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES

#### 1.500 Supplemental Regulations for Specific Uses

In addition to the regulations set forth in Articles III and IV, the following are specific regulations and design standards for uses listed in said articles, and shall be the minimum governing requirements for the protection of the public health, safety and general welfare of the community.

#### 1.510 *Reserved for Future Use*

#### 1.520 Planned Unit Development District (PUD)

1.521 Description and Purpose. The Planned Unit Development (PUD) zoning district is intended to permit and control the development of lands as planned unit developments for compatible uses permitted by this Ordinance. Such planned unit developments, if authorized under the terms of this Chapter, permit a greater degree of flexibility in the use, area, height, bulk and placement of buildings, structures and accessory uses than would otherwise be the case in other zoning districts established by the Ordinance. The PUD provisions of this Chapter have been established in order to:

- A. Encourage the use of land in accordance with its character and adaptability.
- B. To conserve natural resources and energy.
- C. To encourage innovation in land use planning.
- D. To provide enhanced housing, employment, traffic circulation and recreational opportunities for the people of the Township.
- E. To bring about a greater compatibility of design and use between neighboring lands.
- F. To provide for the regulation of legal land uses not otherwise authorized within this Ordinance.

be utilized to circumvent other provisions of the Zoning Ordinance or Land Use Plan. It is intended that land uses resulting from application of the provisions of this Chapter will be those uses which are not substantially inconsistent with other zoning districts and comprehensive land use planning areas existing at the time of application for any PUD approval. Modifications of and departures from the general nature of such districts and

areas are intended to be approved only in such cases where the intents and purposes of this Chapter and the Zoning Ordinance have been complied with.

All zoning of lands pursuant to this Chapter shall, where appropriate, include reasonable conditions regarding the emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, light glare, traffic congestion, ease of police and fire protection, drainage, lateral land support, blighting influences, effect on surrounding property values, light and air, overcrowding of persons, sanitation, surface and groundwater quality, water supply and sewage disposal, general appearance and character of the surrounding area and other similar considerations which have an effect on the achievement of the purposes of this Ordinance.

- 1.522 Uses Permitted in PUD District. Land in the PUD zoning district may be used for all or any of the uses permitted by this Ordinance in other zoning districts, as well as any other legal land use not otherwise authorized by this Ordinance, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development.
- 1.523 Eligibility for PUD Rezoning. In order to be eligible for PUD rezoning the proposed area shall consist of a minimum of two (2) acres.
- 1.524 Procedure for PUD Rezoning. Lands within the Township which are eligible for rezoning to the PUD District may be zoned in such district in accordance with the procedures and requirements set forth in this Chapter. The rezoning of lands to the PUD District is a two stage process, commencing with the submission and approval of a Preliminary Development Plan and concluding with the submission of a Final Development Plan, and the rezoning of lands to the requested PUD land use, by action of the Planning Commission and Township Board. In the discretion of the Planning Commission, a pre-application conference between the Planning Commission and any PUD applicant may be convened before submission of a Planned Unit Development application.
- 1.525 Preliminary Development Plan.
  - A. Preliminary Plan Submission. Each applicant for PUD rezoning, must submit to the Zoning Administrator eight (8) copies of a Preliminary Development Plan. The Zoning Administrator shall transmit one (1) copy to the Secretary of the Planning Commission, one (1) copy to the Township Board, and retain six (6) copies for further use.
  - B. Preliminary Plan Content. Each PUD Preliminary Plan shall include the following, unless waived by the Planning Commission:
    1. All the material required by Sections 1.469 and 1.710 of this Ordinance (site plan review and amendment application materials).
    2. A written legal description of all the lands proposed within the PUD.



3. A narrative describing the following:
  - a. The overall objectives of the PUD.
  - b. Source and method of financing.
  - c. Number of acres allocated to each use.
  - d. Gross residential densities where applicable.
  - e. Proposed method for providing sewage disposal, potable water, and other public and private utilities, and written approval from the Ionia County Health Department for such methods, if applicable.
  - f. Proposed method for providing storm drainage.
  
- C. Review of Preliminary Development Plan. The Planning Commission shall review the Preliminary Development Plan to verify PUD eligibility and make recommendations to the applicant based upon the requirements of this Ordinance and the following specific considerations where applicable:
  1. Pedestrian and vehicle movement areas, vehicle and materials storage and loading areas, refuse storage and pick-up areas, and other service areas with particular reference to: vehicle and pedestrian safety and convenience, traffic flow and control, alternate and marginal access to alleviate excessive peak-hour traffic congestion, and emergency access in case of fire or catastrophe.
  2. Utilities with reference to locations, availability and ownership and compatibility.
  3. Screening and buffering with reference to type, dimensions and character.
  4. Signs, if any, and proposed exterior lighting with reference to size, height, setback, glare, traffic safety, economic effect, and compatibility and harmony with properties within and adjacent to the PUD area.
  5. Yards and other open spaces with reference to the arrangement and densities of land uses within the PUD and those yards required in the existing and surrounding zoning districts.
  6. The height, area and bulk of all structures with reference to the requirements of this Ordinance for such structures within and surrounding the proposed PUD.
  7. General compatibility with adjoining properties and properties within the proposed PUD.
  8. The purpose and intent of this Ordinance, as well as compatibility with other ordinances and statutes which regulate land development.
  
- D. Transmittal of Recommendations on Preliminary Development Plan. The Planning Commission may approve or disapprove the Preliminary Development Plan, either in whole or in part; and may adopt or recommend to the applicant changes or additions in, or conditions upon, the Preliminary Development Plan. After taking any such action, the Planning Commission shall forward to the applicant its written approval or disapproval, together with any recommendations regarding changes, additions, or conditions. A copy of the Planning Commission action shall be forwarded to the

Township Board. In the course of its consideration of the Preliminary Development Plan, the Planning Commission may convene an advisory public hearing for the purpose or receiving comments relative to the Preliminary Development Plan, and give public notice of such hearing in the same manner as is provided in this Ordinance for public hearings on requested special use permits.

1.526 Final Development Plan and Rezoning to PUD.

- A. Submission of Final Development Plan for Rezoning. Within a period not to exceed six (6) months after the date of receiving the action taken by the Planning Commission on the Preliminary Development Plan, the applicant shall submit to the Zoning Administrator eight (8) copies of the Final Development Plan which shall include an application for rezoning to the PUD uses shown in the Final Development Plan. The Final Development Plan shall set forth all of the matters shown and included in the Preliminary Development Plan, except as changed or modified by action of the Planning Commission, and shall also include any conditions or other matters adopted by the Planning Commission with regard to the Preliminary Development Plan. The Zoning Administrator shall promptly transmit copies of the Final Development Plan as follows: one (1) copy to the Township Clerk; five (5) copies to the Planning Commission, with two (2) copies to be retained by the Zoning Administrator. Except as may conflict with other provisions of this Chapter, the application for PUD rezoning shall be reviewed and acted upon in accordance with the provisions of this Ordinance regarding amendments to the Zoning Ordinance and in compliance with the Michigan Zoning Enabling Act PA 110 of 2006, as amended. (Amendment April 23, 2014, Ordinance 2014-01)
- B. Contents of Final Development Plan. Each Final Development Plan shall include all of the following information, except any of such information which is found by the Planning Commission to be not reasonably necessary for consideration of the requested PUD:
1. A site plan, or series of plans, based on an accurate certified land survey, drawn to a scale which renders enough detail to allow the Planning Commission to make accurate interpretations. The site plan shall show all of the information required by Section 1.469 of this Ordinance (site plan review requirements).
  2. Preliminary architectural sketches and/or a general statement as to the type of construction and materials to be used in the proposed buildings or structures. Height and area of buildings and structures shall be described.
  3. The period of time within which the project will be completed.
  4. Proposed staging of the project, if any.
  5. Gross areas of buildings and parking.
  6. Delineation of the one hundred (100) year flood plain, if applicable and any proposed uses therein.

7. A description of all aspects of such plan which might have an adverse effect on public health, safety and welfare.
  8. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase contract.
  9. Method of financing and commitments or other proof of ability to obtain financing.
  10. Additional information which the Planning Commission may request which is reasonably necessary to evaluate the proposed PUD and its effect on the surrounding neighborhood and the Township in general.
- C. Public Hearing by Planning Commission. The Planning Commission shall convene a public hearing on the Final Development Plan PUD rezoning, in accordance with the provisions of the Michigan Zoning Enabling Act, PA 110 of 2006 as amended and all applicable provisions of this Ordinance, for the purpose of considering and receiving comments upon the Final Development Plan PUD rezoning. The Planning Commission shall publish notice of the request in a newspaper of general circulation in the local unit of government, in accordance with this Section and in accordance with Section 1.623 B. 4. a. 1) and 2). (Amendment April 23, 2014, Ordinance 2014-01)
1. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 2,500 feet of the property and to the occupants of all structures within 2,500 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
  2. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
    - a. Describe the nature of the request.
    - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - c. State when and where the request will be considered
    - d. Indicate when and where written comments will be received concerning the request.
- D. Recommendations of Planning Commission. After the required public hearing, the Planning Commission shall make recommendations to the Township Board regarding the approval or disapproval, in whole or in part, of the Final Development Plan PUD rezoning. Such recommendations may include recommended changes in the Final

Development Plan or conditions to be imposed thereon. The Planning Commission shall transmit such recommendations to the Township Board.

E. Action by Township Board.

1. Upon receiving the recommendations of the Planning Commission on the Final Development Plan PUD rezoning, the Township Board shall approve or disapprove, in whole or in part, the Final Development Plan PUD rezoning, following a public hearing with notification as required by Section 1.526 C. If the Final Development Plan is approved or disapproved only in part, or if the Township Board imposes conditions or requirements not previously imposed by the Planning Commission, the matter shall first be referred to the Planning Commission, which shall then forward its recommendations thereon to the Township Board, after which the Township Board may proceed to take action to approve or disapprove the Final Development Plan PUD rezoning. Such action by the Township Board shall take place in the same manner as is provided in the Ordinance and in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, for the rezoning of lands to any zoning district. If approved by the Township Board, a copy of any amendment of this Ordinance rezoning lands to the PUD Zoning District shall be forwarded to the Township Clerk for filing with the Township Zoning Ordinance. (Amendment April 23, 2014, Ordinance 2014-01)
2. In reviewing the Final Development Plan PUD rezoning, the Township Board shall determine:
  - a. Whether the plan complies with the terms and provisions of this Ordinance;
  - b. Whether the proposed project promotes the intent and purposes of the Ordinance, including this Chapter;
  - c. Whether it will be compatible with adjacent uses of lands, the natural environment and the capacities of public services and facilities affected by the project; and
  - d. Whether the proposed project will be consistent with the public health, safety and general welfare.
3. The Township Board may impose reasonable conditions upon its approval of any Final Development Plan. Such conditions may include those necessary to insure that public services and facilities affected by a proposed PUD development will be capable of accommodating increased public service demands caused by the proposed land use or activity, to protect the natural environment and to conserve natural resources and energy, to insure compatibility with adjacent uses of lands in a socially and economically desirable manner. Any conditions so imposed shall satisfy all of the following requirements:
  - a. Be necessary to satisfy the intent and purposes of this Ordinance and be related to the standards established in the Ordinance for the proposed PUD Development.
  - b. Be related to the valid exercise of the police power.

- c. Be designed to protect natural resources, the health, safety and general welfare of those who will use the proposed project and the residents and owners of lands immediately adjacent to the proposed project and the Township as a whole.
- 4. Any conditions imposed in connection with the approval of a Planned Unit Development shall be recorded in the official record of the action of approval and shall remain unchanged except upon the mutual consent of the Township Board and the owners of the lands involved.

1.527 General Provisions for PUD Districts. The following provisions shall apply to all Planned Unit Development Districts:

- A. Time Limitations on Development. Each PUD Development shall be under construction within one (1) year after the date of Township Board approval of the Final Development Plan. If this requirement is not met, The Planning Commission may, in its discretion, grant an extension of time, not exceeding one (1) year, for the commencement of construction, provided that the applicant presents reasonable and valid evidence to the effect that the development has encountered unforeseen difficulties, but is then ready to proceed without further delay. If the development is not commenced within one (1) year after issuance of the building permit, or within the above stated one (1) year extension, if granted, any building permit issued for the development shall thereupon be void and of no further effect, and the Planning Commission and Township Board may initiate and carry out proceedings for the rezoning of the lands to some other zoning district.
- B. Performance Bonds. In its review of any Final Development Plan, the Planning Commission may require reasonable agreement or other undertaking by the applicant to guarantee and assure the completion of the proposed PUD, to the extent and in the manner specified in the Final Development Plan, including a performance bond in such amount and upon such terms as the Planning Commission may determine to be necessary to assure the timely and proper completion of the development in accordance with the Final Development Plan.
- C. Required Improvements prior to Occupancy. The Planning Commission may require that all required improvements be constructed and completed prior to occupancy. In the event that said improvements are partially completed to the point where occupancy would not impair health, safety and general welfare of the residents, but are not fully completed, the Planning Commission may grant occupancy so long as the developer deposits a performance bond with the Township Clerk in an amount equal to the cost of the improvements yet to be made, said improvements to be completed within one (1) year of the date of occupancy.

- D. Additional Provisions. All provisions of this Ordinance and other applicable ordinances of the Township shall apply to the PUD District except where inconsistent therewith, in which case the provisions of this Chapter shall control.
- E. Minor Changes to an approved PUD Plan. Minor changes in the location and siting of buildings, structures, landscaping and buffering, streets or parking areas after the adoption of the Final PUD by the Township Board, may be approved by the Planning Commission without additional public hearings if required by engineering or other circumstances not foreseen at the time the final PUD plan was approved. No change authorized by this subsection may cause any of the following:
1. A change in the use or character of the development.
  2. An increase in overall coverage of structures.
  3. An increase in the intensity of use.
  4. An increase in the problems of traffic circulation and public utilities.
  5. A reduction in approved open space.
  6. A reduction of off-street parking and loading space.
  7. A reduction in required pavement widths.

All other changes must be made by the Township Board in accordance with Article VII following a recommendation by the Planning Commission. Any changes which are approved in the final PUD plan must be filed as amendments in accordance with the procedure established for the filing of the initial final plan documents.

- 1.528 Condominiums. Pursuant to authority conferred by Section 141 of the Michigan Condominium Act (Public Act 59 of 1978 as amended), no lands may be used for a Condominium or Site Condominium as defined herein unless such use has been approved as a planned unit development under the terms of this Chapter.

In determining whether to approve a site condominium subdivision, the Township Board shall consult with the Planning Commission and any other professionals it deems necessary regarding the adequacy of the site condominium plans, deed restrictions, utility systems and streets, subdivision layout and design, and compliance with all requirements of the Condominium Act.

- A. Definitions. The following definitions shall apply:
1. **Condominium Act** means Public Act 59 of 1978, as amended.
  2. **Condominium** includes condominium project and means a plan or project consisting of not less than two Condominium Units established in conformance with the Condominium Act. The term includes projects consisting of detached single family residential units established under the Condominium Act commonly referred to as "Site Condominiums".
  3. **Condominium Dwelling** means the building constructed upon a lot or condominium unit which is intended for residential purposes.

4. **Condominium Structure** means a building or structure constructed upon a lot or condominium unit which is intended for office, industrial, business, or recreational purposes.
  5. **Condominium Unit** means that portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.
  6. **Lot** shall mean the same as "Homesite" and "Condominium Unit".
  7. **Mobile Home Condominium Project** means a condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.
  8. **Master Deed** means the condominium document recording the condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
  9. **Setback - Front Yard** shall be equal to the distance between the front yard area line and the condominium dwelling or condominium structure.
  10. **Setback - Rear Yard** shall be equal to the distance between the rear yard area line and the condominium dwelling or condominium structure.
  11. **Setback - Side Yard** shall be equal to the distance between the side yard area line and the condominium dwelling or condominium structure.
  12. **Site Condominium Subdivision** shall be a division of land on the basis of condominium ownership which is not subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended.
- B. Zoning Compliance. All Condominiums, including Condominium Projects, Condominium Structures and Site Condominiums shall comply with the following requirements:
1. The requirements of Section 1.523 and 1.527.
  2. All minimum lot size, setback, road frontage, lot width, lot width-to-depth ratio, sign, height, density and all other use and dimensional and area requirements applicable within the zoning district where the land is located (prior to a PUD approval) shall also be applicable to the approved PUD except to the extent that any such requirement is expressly waived or altered pursuant to the PUD review and approval process by the Township Board (upon recommendation of the Planning Commission). (Resolution No. 2006-08)
- C. Condominium (including Site Condominium) Review procedure.
1. Except as otherwise provided in this Chapter, the procedure for application, review and approval of planned unit developments set forth in Sections 1.525 and 1.526 shall apply to Condominiums including Site Condominiums. For such

purposes, a Condominium shall be designated a Condominium Planned Unit Development.

2. All applications for Condominium Planned Unit Development approval shall contain the following information, in addition to the requirements of Section 1.525:
  - a. A statement of the general common elements of the Condominium of Condominium Project to be contained in the Master Deed;
  - b. The use and occupancy restrictions of the Condominium;
  - c. Such other information as will reasonably assist the Planning Commission and Township Board in considering and evaluating the Condominium Planned Unit Development.



- D. Consent. All Condominium projects shall provide a "Consent to Submission of Real Property to Condominium Project" stating the names of all parties which have ownership interests in the proposed Condominium or other written evidence that the applicant has a legal right to purchase the subject property from the owners of record.
- E. Mobile Home Condominium Project. All Mobile Home Condominium Projects shall conform to the requirements of this ordinance.
- F. Master Deed. All provisions of the Condominium Planned Unit Development as approved by the Township Board must be incorporated in the recorded Master Deed of the Condominium Planned Unit Development. Subsequent proposed changes to the approved Condominium Planned Unit Development must be reviewed and approved by the township pursuant to this Chapter. A copy of the Master Deed as recorded with the Ionia County Register of Deeds must be provided to the township within ten days after such recording.
- G. Private Streets. All private streets within a Condominium Planned Unit Development shall comply with the requirements set forth in Section 1.550 (F) of this Ordinance.

1.529 Fees. A fee as set by the Township Board and listed in the Township Schedule of Fees shall accompany all PUD applications in order to defray the cost of administration and inspection. The schedule of fees may include the cost of hiring any consultants necessary to evaluate the application.

### **1.530 Natural River Zoning District**

1.531 Area Affected. These regulations apply to that area comprising the Flat River and its designated tributaries, its flood plain and all lands lying between the river's edge and a line, each point of which is three hundred (300) feet horizontal from and perpendicular to the river's edge. This area encompasses all islands and lands on each side of the river, and is as shown on the official Otisco Zoning Map, which is a part of this ordinance.

1.532 Building Setback. The minimum setback for any building or accessory structure shall be one-hundred (100) feet from the ordinary high water mark or twenty-five (25) feet from an identified or documented 100-year floodplain, whichever results in the greatest distance from the edge of the water. (Ordinance 2004-04 April 13, 2004)

1.533 Natural Vegetation Strip. To minimize erosion, stabilize the riverbank, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen man-made structures, and also to preserve aesthetic values of the natural river area, a natural vegetation strip shall be maintained on each parcel or lot between the river's edge and a line, each point of which is twenty five (25) feet horizontal from and perpendicular to the river's edge.

Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for a filtered view of the river upon approval of the Department of Natural Resources or their representative. Said pruning and removal activities shall insure a live root system stays intact to provide for stream bank stabilization and erosion control and shall insure that any footpath to the river's edge is no greater than four (4) feet in width, and any footpath shall meander down to the river's edge in a manner which protects the soil and vegetation from erosion while also screening any structures from a direct river view.

Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 359 of 1941, as amended, may be removed.

Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist, and in reforestation efforts. (Ordinance 2004-04 April 13, 2004)

- 1.534 Removal of Logs and Debris from the River. A riverfront owner may clean deadfall logs and other debris from the river to maintain a safe, clean, and free-flowing river when, after consultation with a Department of Natural Resource's fisheries biologist, removal is undertaken in a manner which will least disrupt fish and wildlife habitat, riverside vegetation and limit sediment disruption on the river bottom.
- 1.535 Earth Changing Activities. All earth changes, including dredging, cutting, filling and grading, within five-hundred (500) feet of the river's edge shall be done in accordance with the requirements of a permit issued by the local soil erosion and sedimentation control enforcement agency pursuant to Public Act 347 of 1972, as amended. Commercial mining and extraction of topsoil or subsurface sand, gravel or minerals is not permitted within three-hundred (300) feet of the river's edge.
- 1.536 Dredge and Fill Activities. All dredge and fill activities and construction of permanent structures, including docks, lying below the ordinary high water mark of the river are subject to the provisions of Public Act 346 of 1972, as amended.

## **1.540 Signs and Billboards.**

(February 10, 2004, Ordinance 2004-01)

Signs and billboards shall be allowed only as expressly permitted in Sections 1.541 through 1.548

### DEFINITIONS:

- (1) **Agriculture Industry Sign:** A sign which identifies items, products, crops, breeds of animals, poultry or fish, materials, or farming methods used on a farm and also including signs for farm organizations, biohazard, or farm name.
- (2) **Balloon Signs:** A sign composed of a nonporous bag filled with air or gas.
- (3) **Banner Sign:** A portable sign of fabric plastic, or other non-rigid material without an enclosing structural framework.
- (4) **Billboard:** A sign which advertises an establishment, service, use, or activity not conducted on the land on which the sign is located, or which advertises a good or products that are not sold, manufactured, processed or fabricated on the land on which the sign is located.
- (5) **Business:** A single commercial or industrial establishment with its own legal identity.
- (6) **Changeable Copy Sign:** “Changeable copy sign” means one of the following:  
**Manual.** A sign on which the copy is changed manually, such as reader boards with changeable letters or pictorials; or  
**Automatic.** An electrical controlled sign where different copy changes are shown on the same unexposed lamp bank or rotating portion of the face of the sign, used as a message center reader board.
- (7) **Community Special Event Sign:** A temporary sign or banner which is erected for a limited time to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are nonprofit and whose purpose is charitable, philanthropic, religious or benevolence.
- (8) **Construction Sign:** A sign that identifies the owners, lenders, contractors, architects and engineers of a project under construction.
- (9) **Directional Sign:** A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrances signs.
- (10) **Flag Sign:** A flag which is attached to a pole and which contains the name, logo, or other symbol of a business, company, corporation or agency of a commercial nature.
- (11) **Freestanding Sign:** A permanent non-moveable sign not attached to a building or wall that is supported by one or more poles or braces or which rests in the ground or in a foundation resting on the ground.
- (12) **Government Sign:** A sign erected by the county, township or the state or federal government, but not including a school district.

- (13) Incidental Sign: A small sign, emblem, or decal informing the public of goods, facilities or services available on the premises (ex., a credit card sign, restroom sign, sign indicating hours of business, signs on gas pumps).
- (14) Mural: A design or representation painted or drawn on a wall, including artistic work or expression, which does not advertise an establishment, product, service or activity.
- (15) Nameplate: A non-illuminated, on-premise sign giving only the name, address and/or occupation of an occupant or group of occupants.
- (16) Noncommercial Sign: A sign either portable or non-portable not advertising commerce, trade, or location, and not otherwise defined herein.
- (17) Permanent Sign: A sign that is designed or intended to be displayed for an unlimited time period.
- (18) Person: A human being, corporation, limited liability company, partnership, governmental unit, firm, sole proprietorship, or any other entity.
- (19) Placard: A sign not exceeding two (2) square feet which provides notices of a public nature, such as “No Trespassing,” “No Hunting,” signs or “Gas Main” signs.
- (20) Pole Sign: A freestanding sign that is supported by a structure, or poles, or braces which are less than fifty percent (50%) of the width of the sign.
- (21) Portable Sign: A moveable sign that is not affixed to a building or structure and by its nature may be or is intended to be moved from one location to another such as “A” frame signs or signs on movable trailers or wheels, whether rented or owned.
- (22) Reader Board: A portion of a sign on which copy is changed manually.
- (23) Real Estate Sign: A sign advertising real estate as being for sale, rent or lease.
- (24) Residential Development: A sign identifying or recognizing a platted subdivision, site condominium, multi-family development, PUD or other residential development.
- (25) Roof Line: The top of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- (26) Roof Sign: A sign erected above the roofline, on or within the roof of a building.
- (27) Sign: A device, structure, fixture or placard which may or may not use graphics, symbols, and/or written copy designed and/or used specifically for the purpose of advertising or identifying an establishment, product, service, activity, or structure. A mural, as defined herein, is not considered a sign.
- (28) Temporary Sign: A sign that is designed or intended to be displayed for a limited time period.
- (29) Vehicle Sign: A vehicle, which is primarily located or used to serve as a sign rather than as transportation. This includes semi-trailers that are either attached or detached from a truck tractor.
- (30) Wall Sign: A sign painted or attached directly and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of a wall to which it is attached or perpendicular to the roof.



1.541 **General Regulations.** The following regulations apply in all zoning districts:

- A. No person shall place, install, maintain, or display within Otisco Township any sign, signal, marking, device, blinking, oscillating or rotating light or lights, decoration or no person shall place, install, maintain, or display within Otisco Township any sign, signal, marking banner which is or purports to be or is in imitation of or resembles or which can be mistaken for a traffic control device or railroad sign or signal, which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. This subsection shall not apply to any government sign when such sign is placed lawfully.
- B. No person shall place, maintain or display along any highway or road any blinking, oscillating, or rotating light or lights sufficiently similar in color and design that they may be mistaken for the distinguishing lights authorized by law for emergency vehicles or that creates a hazard for the safety of any driver using said highways. This subsection shall not apply to any government sign when such sign is placed lawfully.
- C. No permanent, portable or temporary business sign, billboard, or other type of permanent, portable or temporary sign shall be constructed, installed, erected or attached to or painted upon a building, except in full compliance with this Ordinance and prior to the issuance of a permit for such a sign. Political, real estate, and garage sale signs and similar sale signs shall not require a sign permit, but shall comply with all other requirements pertaining to the signs (ex. set-backs, height and area).
- D. All signs shall be maintained in good condition and repair at all times. All lawful nonconforming signs may be maintained until such time as the sign structure must be replaced, after which the sign shall conform to the provisions of this ordinance. This paragraph is not intended to prevent the painting or relettering of a sign. Sections 1.547 and 1.548 also apply to lawful nonconforming signs.
- E. Measurement of Sign Area: The area of a sign shall be computed as including the entire area within a regular geometric form or combination of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing copy or display materials shall not be included in computation of sign area. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that where (2) such faces are placed back to back, parallel to one another, and less than twenty-four (24) inches apart, the area of the sign shall be the area of one (1) face.
- F. Height of Signs: No freestanding sign shall exceed a height of twenty-five (25) feet, except where otherwise specified.

- G. Political campaign signs announcing candidates seeking public and/or political office and other data pertinent thereto are permitted to be erected forty-five (45) days before Election Day. These signs shall be removed within three (3) days after the date of the election for which they were posted, except for winners of the primary election. These shall be removed within three (3) days after the general election. Political campaign signs shall not exceed eight (8) square feet in area.
- H. No outdoor sign for a business, commercial, or industrial use or activity shall be installed or erected prior to the issuance of a permit for such sign by the Zoning Administrator. Installation or erection of any such sign prior to the issuance of a permit by the Township shall constitute a violation of this Ordinance. The Township Board shall set such permit application fees from time to time by resolution.
- I. Real estate signs shall not exceed eight (8) square feet in area and shall be removed within thirty (30) days after completion of the sale or lease of the property. No more than two (2) real estate signs shall be utilized for a property and shall be placed only on the property that is for sale or lease. No real estate signs shall be placed or located on any property other than the property which is for sale or lease, except that one (1) off-site real estate open house sign may be utilized for a property so long as the permission of the owner of the property involved off-site is obtained, the sign is not utilized for more than forty-eight (48) hours prior to the time of the open house, and is removed immediately when the open house is completed, and no such off-site sign is utilized more than four (4) days every calendar month.
- J. Community special event signs, including, banner signs, are permitted in any district, subject to the following restrictions:
1. No more than five (5) such signs shall be displayed within the Township for each special event. Such signs may be located either on the property which the special event is held or off-site with the permission of the property owner.
  2. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event which is being advertised.
  3. Such signs shall have a maximum size of thirty-two (32) square feet in area and a maximum height of eight (8) feet and shall be setback from any side or rear property line a minimum of fifteen (15) feet. The front setback shall be as required for signs in the district in which the sign is to be located.
  4. Such signs shall be removed within forty-eight (48) hours of conclusion of the special event which is being advertised.
- K. Temporary signs include, but are not limited to: garage, estate, barn, yard, neighborhood, basement, block, porch, and similar sale signs and are permitted in all residential districts, R-C, W-C, and A-C districts subject to the following:
1. Such sign shall not exceed six (6) square feet in area or three (3) feet in height.

2. Such sign shall not be placed exceeding seven (7) consecutive days total and shall be removed within one (1) day after the completion of the sale.
3. No property shall utilize such a sign for more than twenty-one (21) days during any calendar year.

1.542 Signs in Rural Conservation and Agriculture Conservation districts. In all Rural Conservation and Agriculture Conservation districts, the following shall be permitted on the same property as a primary use:

- A. One (1) non-illuminated nameplate sign of not more than twelve (12) square feet advertising the name and activities of a permitted nonresidential use and regulated as in section 1.545.
- B. One (1) Agricultural Industry sign on active farms not to exceed thirty-two (32) square feet.
- C. One (1) sign not to exceed sixteen (16) square feet may be located near intersections on private property for the purpose of giving direction to the location of agricultural uses located within Otisco Township. No more than four (4) such signs in total shall be displayed identifying each agricultural use.

1.543 Billboards.

- A. Billboards shall be subject to provisions stated in this section
- B. Billboards are permitted only in the Commercial and Industrial zoning districts and only on lands with the required amount of frontage located on state highways M-44 or M-91. No billboard shall be erected, installed, utilized, or maintained until a special use permit and sign permit are approved.
- C. A billboard shall be located only on a lot or parcel that complies with the minimum lot area requirements of the Commercial and Industrial zoning districts for new lots.
- D. A billboard shall have a sign face not exceeding three hundred (300) square feet. No billboard shall have a height greater than twenty-five (25) feet, as measured at the natural grade at the base of the sign.
- E. A billboard shall be located so as to comply with all of the minimum yard setback requirements of the Commercial and Industrial zoning districts.
- F. Billboards may not be illuminated.
- G. No billboard shall be located within two hundred (200) feet of any other zoned district or within two hundred (200) feet of a dwelling.



H. A billboard may not be located within a five hundred (500) foot radius of another existing billboard.

1.544 Signs in the Commercial and Industrial Districts.

- A. Signs pertaining to the use or occupancy of the building, structure, or premises to which signs are attached are permitted in the Commercial and Industrial Districts.
- B. Billboards are permitted as regulated by Section 1.543.
- C. All signs located on a property, including incidental signs, may not total more than 100 square feet in area, except properties with more than one business may have up to 25 square feet of additional signage for each additional business.
- D. All signs which are not portable must be attached flat against the building, except that one (1) freestanding or pole sign may be permitted, not to exceed thirty-five (35) square feet on a side for a single business, not to exceed fifty (50) square feet total on a side for two or more businesses, provided that the closest edge of the sign is located at least one (1) foot from the road right of way.
- E. A sign facing residentially zoned property shall not be located within fifty (50) feet of a residential lot line.
- F. All roof signs shall require a special use permit issued by the Planning Commission.
- G. Strings of light bulbs, pennants, streamers, flags, banners or strings of any similar type of material used for commercial advertising purposes are permitted in Commercial and Industrial districts and are considered as temporary. These objects shall not obstruct pedestrian or vehicular view.
- H. Community special event signs are permitted.
- I. One (1) portable sign of commercial construction, two (2) sided, with a maximum area of thirty two (32) square feet per side and the option of changeable copy is allowed per commercial or industrial land parcel.

1.545 Signs in Residential Districts.

- A. One (1) non-illuminated nameplate sign of not more than twelve (12) square feet advertising the name and activities of a permitted nonresidential use.
- B. Setbacks:
  - 1. Twenty (20) feet minimum front setback.
  - 2. Thirty (30) feet minimum side setback.

- 3. Twenty (20) feet minimum rear setback.
  - C. Maximum total height: five (5) feet from natural grade.
  - D. Maximum width: five (5) feet including supports.
  - E. Total sign thickness: not to exceed six (6) inches.
- 1.546 A sign not expressly permitted by this Ordinance is prohibited. Any sign not expressly allowed by this Ordinance is prohibited. The following types of signs are also expressly prohibited in all districts:
- A. Portable signs except as allowed under Section 1.544 I.; other than banner signs and community special event signs permitted under Section 1.541 J.
  - B. Balloon signs.
  - C. Any signs, which have flashing, probing, oscillating or blinking lights; but excluding time and temperature signs, barber pole signs and automatic changeable copy signs that changes messages no more than once every three (3) minutes, which are permitted.
  - D. Any sign within the Ionia County Road Commission or State of Michigan road right-of-way clear vision corner.
  - E. Billboards in any area designated as a scenic vista pursuant to the Township Master Plan.
- 1.547 Loss of lawful nonconforming status. If a sign loses its lawful nonconforming status, the sign (and all portions thereof) shall be removed immediately and shall not be repaired, replaced or rebuilt unless it fully complies with all requirements of this Ordinance. A lawful nonconforming sign shall lose its lawful nonconforming status if the Zoning Administrator determines that any of the following is applicable:
- A. The sign is relocated, moved, rebuilt or replaced.
  - B. The sign is destroyed. A sign shall be deemed destroyed if any of the following occurs.
    - 1. The sign is torn down or demolished;
    - 2. The sign is wrecked or ruined;
    - 3. Such damage has been done to the sign that it cannot be returned to its prior state by routine repair, but only by replacement or material rebuilding; or
    - 4. More than 50% of the face of the sign has been destroyed, or a portion of the sign face touches the ground.

If a sign is destroyed, Section 1.548 hereof (which applies only to repairs and maintenance) shall not be applicable.

- C. Even if a sign has not been destroyed, but damage or deterioration has occurred to the point of 50% or more as defined in Section 1.548, the sign shall be deemed to have lost its legal nonconforming status.
- D. The structure or size of the sign is altered in any material way other than a change of copy or normal maintenance that does not physically alter the sign.
- E. There is a change in the use of the premises where the sign is located.
- F. A building permit is issued for any construction on the premises where the sign is located which increases the total building square footage by more than 5% or 5,000 square feet, whichever is less.

1.548 Maintenance and repair of legal nonconforming signs. This section shall not apply if a lawful nonconforming sign has been destroyed, since a destroyed sign automatically loses its lawful nonconforming status. If a lawful nonconforming sign suffers 50% or more damage or deterioration, it must be brought into full compliance with this Ordinance or be removed. In order to determine if a sign has been damaged or has deteriorated by 50% or more, the costs of repairing the sign shall be compared to the costs of replacing the sign. If less than 50% damage or deterioration has occurred pursuant to such comparison, the sign may only be repaired to its original condition.

**1.550 Design Standards and Conditions for Certain Uses.** (Amendments 1998)

In addition to Article III, IV and the Bulk Table, the following site facility and design standards with respect to certain uses, herein specified, shall control:

- A. Single-Family Dwellings and Duplexes (except mobile homes in mobile home parks)
  - 1. AREA.
    - a. Every dwelling unit shall have exclusive of basements, porches, garages, breezeways, terraces or attics, a floor area of not less than:

Single Family	960 square feet
Two Family (duplex)	960 square feet for the first unit and 480 for the second
    - b. There shall be a minimum interior floor to ceiling height of 7 1/2 feet.
  - 2. FOUNDATIONS FOR DWELLINGS. All dwelling units and any additions thereto shall be constructed upon and attached to a solid permanent foundation located under the entire perimeter of the ground floor of the dwelling unit with a depth of at least 42 inches below grade and such foundation shall comply with the County Building Code and all applicable State regulations.

3. STORAGE AREAS REQUIRED. All dwelling units shall provide storage areas (either within a basement or in an attic, or in a separate, fully enclosed structure), of not less than 15% of the living area of the dwelling unit, exclusive of storage space for automobiles. Said storage areas shall not be counted in determining whether the dwelling unit complies with the minimum floor area requirements of this Ordinance.
4. MINIMUM WIDTH REQUIRED. Any single family dwelling unit shall have a minimum width of 24 feet (at the foundation) across any front, side, or rear elevation.
5. MINIMUM INGRESS AND EGRESS. All dwelling units shall provide two separate doors located on the front and side or front and rear of the structure.
6. STEPS OR PORCH AREAS REQUIRED. All dwelling units shall provide permanent steps or porch areas where there exists an elevation differential of more than 1 foot between a door and the surrounding grade.
7. ADDITIONS. All additions or alterations to a dwelling shall be constructed of at least the same quality materials and workmanship as the original structure and be manufactured for that purpose.

B. Multiple-Family housing.

1. Minimum lot size shall be three (3) acres.
2. Units designed for use by senior citizens may provide accessory services such as central dining facilities, indoor and outdoor recreational facilities, lounge areas and workshops.
3. Each dwelling unit shall contain a minimum square footage as follows:

Efficiency	375 square feet
One bedroom	600 square feet
Two or more bedrooms	550 square feet plus 100 square feet for each bedroom.
4. Minimum spacing between detached buildings shall not be less than the height of the higher building as measured from the lowest first floor elevation.

C. Private Open Air Businesses (Permanent and Temporary).

1. Minimum lot area shall be one (1) acre.
2. Minimum lot width shall be two hundred (200) feet.
3. The off-street parking requirements of section 1.438 shall be provided, except that in no case shall fewer than six spaces be provided.
4. Roadside produce stands are limited to seasonal operations and sales of products generally indigenous to Ionia County and may be located in the A-R District. All other open air businesses are to be located in the Commercial District.
5. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district;

6. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- D. Churches and other places of worship.
1. Minimum lot width shall be one hundred, fifty (150) feet.
  2. Minimum lot area shall be three (3) acres.
  3. For every foot of height by which the building, exclusive of spire, exceeds the maximum height limitation for the district, an additional foot of front, side or rear yard setback shall be provided.
  4. The lot shall be located with access to a street or road adequate to handle the expected traffic generated by the church.
- E. Automobile Disposal and Junkyards. For this use, the following more restrictive provisions shall take precedent above all other provisions which may relate to setbacks, screening etc.. All uses shall be established and maintained in accordance with all applicable State of Michigan statutes. If any of the requirements of this subsection are less than those in applicable state statutes, the state requirements shall prevail.
1. The site shall be a minimum of ten (10) acres in size.
  2. There shall be a required yard setback of at least one hundred (100) feet from any public street or any lot line. The front yard setback shall be planted with trees, grass, and shrubs to minimize the appearance of the installation. Nothing shall be piled, stored or accumulated in any required yard area.
  3. A solid fence or wall at least eight (8) feet in height shall be provided along the setback lines of the entire site in order to screen said site from surrounding property. Such fence or wall shall be of sound construction, painted, or otherwise finished neatly and inconspicuously.
  4. All activities shall be confined to within the fenced-in area. There shall be no stocking of material above the height of the fence or wall, except that movable equipment used on the site may exceed the wall or fence height. No equipment, material, signs, or lighting shall be used or stored outside the fenced-in area.
  5. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing or packaging shall be conducted within a completely enclosed building.
  6. Wherever a side or rear lot line of such use abuts a residential use or a residential zoning district, the required yard shall be doubled and shall contain plant materials, grass, and structural screens to effectively minimize the appearance of the installation.
  7. The facility shall be licensed and comply with all other regulations contained in the Otisco Township Auto Salvage Yard Ordinance, adopted by the Township Board of June 29, 1957.

F. Private Roads and Streets. (Ordinance amendment No. 2007-03 December 11, 2007)

See section 1.570 Private Roads

1. All parcels and lots not having the required frontage on a public street must be accessible by a private road, except as otherwise expressly provided in Section 1.570 of this Ordinance. Please see Section 1.570 of this Ordinance for regulations regarding shared drives, private roads, and service drives.
2. Street alignments and curb openings at intersection streets shall conform to the County Road Commission standards for platted streets.
3. Maintenance and repair of private roads shall be the responsibility of the owner or people to whom the easement is intended and shall not be the responsibility of the Township.

G. Home Occupations and Home Based Business's are regulated in the following manner:

**1. Level I Home Occupation:**

A Level I home occupation is an occupation or profession carried on only by a member of a family residing on the premises, which is clearly incidental and secondary to the principal single-family residential use and does not change the character thereof. A Level 1 Home Occupation is permitted in all zoning districts which allow single family dwellings and in all single family dwellings existing in the C-1 and 1-1 Zoning Districts as of the effective date of this amendment.

**(a) Level I Home Occupation Standards:**

- i. Shall be conducted entirely within the dwelling. No portion of the use or operation shall occur out of doors or within any accessory building.
- ii. Shall be carried on only by residents of the dwelling.
- iii. No article is sold or offered for sale on the premises except as is produced within the dwelling or is provided incidental to the service or profession conducted within the dwelling.
- iv. Has no exterior storage of materials, equipment or products.
- v. Creates no nuisance due to heat, glare, noise, smoke, vibration, noxious fumes, odors, vapors or gases any other disturbances at any time resulting from such occupation.
- vi. Does not create a hazard of fire, explosion, radioactivity or any other dangerous condition.

- vii. Displays not more than one non-illuminated sign not greater than 12 square feet in size relating to such Home Occupation, refer to section 1.542 regarding set back of signs.
- viii. Provides adequate off-street parking.
- ix. The use shall not result in the generation of automobile and truck traffic incompatible with the surrounding neighborhood. Vehicles used for the delivery of merchandise shall not exceed step-type vans pursuant to size and weight.
- x. Art and music instruction shall be classified as a permitted Home Occupation subject to the standard of this Ordinance.
- xi. The use of the dwelling for the Home Occupation shall be clearly incidental, secondary and subordinate to its use for single-family purposes by the occupants. The dwelling must be actively used as a residence.

**(b) Level 1 Procedure**

- i. An applicant for a Level 1 Home Occupation shall submit an application to the Zoning Administrator along with a written description of the Home Occupation and how the Home Occupation meets the Level 1 Home Occupation Standards listed above and any fee as may be established by the Township Board. The Zoning Administrator shall review the application materials and if deemed to be complete shall forward the materials to the Planning Commission for consideration at an upcoming meeting.
- ii. The Commission shall review the application materials. If the Commission determines that the proposed Home Occupation meets the Level 1 Home Occupation Standards listed herein then a Level 1 Home Occupation Permit shall be issued and a copy provided to the applicant. The Permit shall be valid provided all Level 1 Home Occupation Standards continue to be met.
- iii. The applicant shall be subject to an annual review of the Home Occupation Permit for same. The review process may include but is not limited to the compliance of the standards set forth in granting the



Home Occupation Permit and any additional standards set by the Township at the time the Home Occupation Permit was granted.

## **2. Level 2 Home Based Business**

A Level 2 Home Based Business is an occupation or profession carried on by a member of a family residing all the premises, which is clearly incidental and secondary to the principal single-family residential use and has one or both of the following characteristics: the occupation is conducted in an attached or detached accessory building; the occupation has one employee who does not reside on the premises. A Level 2 Home Based Business is allowed as a Special Land Use Permit in all zoning districts which allow single family dwellings and in all single family dwellings existing in the C-1 and I-I Zoning Districts as of the effective date of this amendment.

### **(a) Level 2 Home Based Business Standards**

- i. Compliance with Level 1 Home Occupation Standards .v thru xi
- ii. The Home Based Business shall not require external alterations or construction features not customary to dwellings.

### **(b). Level 2 Procedure**

- i. An application for a Level 2 Home Based Business shall be subject to the procedures and requirements or a Home Based Business Special Land Use Permit as set forth herein.
- ii. The applicant shall submit an accurate drawing illustrating the property and buildings, the area within the building used for the Home Based

Business, on-site parking area and distance to the nearest dwelling on adjacent property,

iii. The applicant shall also provide a written description of the Home Based Business, the days and hours of operation, estimated customer and delivery trips per week and how the Home Based Business meets the Level 2 Home Based Business Standards listed above.

iv. The Commission shall review the application materials at a public hearing and may approve the Home Based Business if the Commission determines that the proposed Home Based Business meets the Level 2 Home Based Business Standards listed herein. Conditions may be attached to the approval in accordance with Section 1.472 herein. If approved, a Level 2 Home Based Business Special Land Use shall be issued and a copy provided to the applicant. The Special Land Use Permit shall be valid provided all Level 2 Home Based Business Standards and any conditions imposed by the Commission continue to be met.

v. The applicant shall be subject to an annual review of the Home Based Business and Special Land Use Permit for same. The review process may include but is not limited to the compliance of the standards set forth in granting the Home Based Business and Special Land Use Permit and any additional standards set by the Township at the time the Home Based Business Special Land Use Permit was granted.

**1.560 Adult-Oriented Businesses:** (Ordinance 2004-05 June 8, 2004)

A. Definitions. As used herein, the following terms shall have the indicated meanings:

1. “Adult-Oriented Business” means a business or commercial establishment engaging in one or more of the following enterprises:
  - (a) “Adult cabaret” means a nightclub, restaurant, or other establishment which regularly features or displays:
    - (1) Live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
    - (2) Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
  - (b) “Adult merchandise store” means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area if any one or more of the following applies to the establishment:
    - (1) At least 25% of the establishment’s retail floor space (i.e., excluding bathrooms, office areas, fitting rooms, eating areas, storage rooms/closets, etc.) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
    - (2) At least 25% of the establishment’s visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
    - (3) At least 25% of the establishment’s gross revenues are generated from the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
    - (4) The establishment is operated consistent with its being an adult-oriented business (e.g., advertising is directed to an “adults only” market; the establishment self-imposes [or imposes consistent with state or federal law] prohibitions on minors being present in the establishment).
    - (5) The establishment displays merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting,

describing or relating to any specified sexual activity or any specified anatomical area such that that merchandise is visible to patrons in the store and without cover (as opposed to a situation where a de minimis amount of such merchandise, while available for sale or rental, is covered or otherwise shielded from the view of patrons).

- (6) A comparison of (i) the establishment's ratio of general product to merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area, and (ii) other retail establishments' ratio of general product to merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area, indicates that the establishment emphasizes merchandise depicting, describing or relating to any specified sexual activity or any specified anatomical area
- (c) "Adult theater" means a theater, hall, auditorium, or similar establishment which regularly features live performances predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity or which regularly or primarily shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area. This definition includes, without limitation, establishments which offer individual viewing booths.
2. "Massage Establishment" means any building, room, place or establishment where body massage is regularly practiced on the human body, to club members or to the general public for a charge. The term "massage establishment" shall not include:
  - (a) hospitals, nursing homes, medical clinics;
  - (b) the office of a state-licensed physician, surgeon, osteopath or chiropractor;
  - (c) the establishment of a barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties in which massages are administered only to the scalp, face, neck, hands, feet or shoulder; or
  - (d) the establishment of a myomassaologist who is a current member of the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification.
3. "Massage" means any method of applying pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body, for remedial or hygienic or other purposes, with the hands, with or

without the aid of any mechanical, magnetic or electrical apparatus or appliances, with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations.

4. "Material" means anything tangible, whether through the medium of reading, observation, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisc, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of this Ordinance or becomes available after that date.
  5. "Merchandise" means material and novelties.
  6. "Novelty" means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
  7. "Specified anatomical area" means any one or more of the following:
    - (a) Less than completely and opaquely covered human genitals, anus, or female breast at or below the top of the areola; or
    - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
  8. "Specified sexual activity" means any of the following:
    - (a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
    - (b) A sex act, actual or simulated, including intercourse, oral copulation or sodomy; or
    - (c) Masturbation, actual or simulated; or
    - (d) Excretory functions as part of or in connection with any of activities set forth in (a), (b) or (c) above.
- B. Requirements. Adult-oriented businesses and massage establishments must, in addition to all other requirements of Articles III, IV and the Bulk Table, meet each of the following requirements:
1. Such a use may be located only within a zone district where the use is expressly allowed,
  2. An adult-oriented business or massage establishment shall not be located within a 750-foot radius of any lot zoned or occupied for residential purposes, or upon

which is located a school, public park, library, child care facility, or church or place of worship.

3. An applicant seeking approval pursuant to this section shall file a complete application on an application form prepared and made available by the Township. The Planning Commission shall approve the application if the Planning Commission determines that each of the following criteria is met:
  - (a) That the establishment of such a use in the proposed location will not adversely affect the public interest;
  - (b) That the establishment of such a use in the proposed location will not be injurious to nearby uses, particularly lots zoned or occupied for a residential purposes or the school, public park, library, child care facility, or church or place of worship;
  - (c) That the establishment of such a use in the area will not be inconsistent with the spirit and intent of this Ordinance; and
  - (d) That the establishment of such a use in the proposed location would comply with all applicable regulations of this Ordinance and other applicable statutes, ordinances, rules and regulations.

Notwithstanding Section 1.478, within ten (10) days after the Planning Commission makes its decision, any person aggrieved by the decision of the Planning Commission under this section may appeal the decision, in writing, to the Township Board which shall decide the appeal within thirty (30) days after the Planning Commission's decision. The decision of the Township Board (or of the Planning Commission, if a timely appeal to the Township Board is not taken) shall be a final, non-appealable decision.

4. A use regulated by this section shall not be located within a 750-foot radius of any other such use.
5. For the purpose of this Section 1.560, the measurement of a radius shall be measured in a straight line from the actual location of the use to the nearest property line of the residential property, public park, school, child care facility, church or place of worship, or other adult-oriented business or massage establishment.
6. A use regulated by this section shall not be located in the same structure or on the same parcel as another such use.
7. All on-site parking areas shall comply with the requirements of this Ordinance and additionally shall be illuminated on any days the business is open from sunset until at least sixty (60) minutes after closing.

## 1.570. Private Roads.

(Ordinance No. 2007-03 December 11, 2007) (Original Ordinance used 1.480 in place of 1.570)

### A. Purpose.

The Township of Otisco has determined that it is in the best interests of the public health, safety and welfare of Township residents and landowners to establish minimum standards and regulations for private roads, shared drives, and service drives in order to provide safe, convenient and adequate access for servicing, fire protection and emergency vehicles.

- This Section 1.570 shall establish minimum guidelines for the construction of roads, bridges, tunnels, culverts, signage, etc. for private roads, shared drives, and service drives to provide adequate access, maneuverability and load bearing capacity.
- This Section 1.570 shall ensure that the private access ways to a parcel of land or group of parcels shall be so constructed and maintained to provide minimum required protection for wetlands, drainage ditches, waterways, etc.
- This Section 1.570 shall provide minimum maintenance standards to ensure safe access to each principle building on any parcel of land that is accessed by the private road/drive or service drive, including snow removal, for the protection of the public emergency personnel and emergency vehicles.

### B. Definitions.

For purposes of the Otisco Township Zoning Ordinance, as amended, and this Section 1.570, the following words, phrases, and terms shall be defined as follows:

1. **County Engineering Department:** Shall mean the Engineering Department of the Ionia County Road Commission or other County representative designated by the Township Board.
2. **Drain Commission:** The Ionia County Drain Commissioner.
3. **Existing Lawful Private Road:** Shall mean a lawful and legally fully constructed and maintained private road which existed on the effective date of this section. To be considered lawful and legally fully constructed and maintained, a private road must have been constructed and maintained in accordance with then existing Township ordinances. Any portion of a private road which is created, improved, re-routed, expanded, or extended after the effective date of this section, shall not be considered part of the existing lawful private road.
4. **Frontage:** means the continuous linear distance of that portion of a parcel abutting upon a public or lawful private road right-of-way or easement.
5. **MDOT:** The Michigan Department of Transportation.

6. **Parcel:** Means a lawful tract of land which can be legally described with certainty and is capable of being located by survey.
7. **Planning Commission:** Is the body designated by the Otisco Township Board to administer the provisions of this Section 1.570 where specified herein.
8. **Private Road:** Shall mean any undedicated path, trail, or road extending from a public street or private road or right-of-way providing the primary means of access to three (3) or more parcels or principle buildings, dwellings or structures, or any combination thereof, and intended to provide ingress and egress for the occupants thereof, whether such road is created by a private right-of-way agreement, easement, or prescription. The term “road” shall be synonymous with the terms street, avenue, court, place, way, land, boulevard, or any other thoroughfare. The phrase “private road” shall also include any and all portions of a private road or private street.
9. **Private/Shared Driveways:** Shall mean an undedicated path, trail or road extending from a public street or private road, easement, or right-of-way to no more than two (2) parcels or principal buildings, dwellings or structures, intended to provide ingress and egress primarily for the occupants thereof.
10. **Road Commission:** The Ionia County Road Commission.
11. **Service Drive:** Shall mean a private road/street where the movement of through traffic is the primary function and service to adjacent land uses in a secondary function. A service drive does not serve a single family residence or a single family residential parcel.
12. **Soil Erosion and Sediment Control:** Shall be administered by the Ionia County Drain Commission, and/or the Michigan Department of Environmental Quality or its representatives or designees, in accordance with Part 91 of the Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended.
13. **Standards for Construction:** Shall be in accordance to the Current Rules for Street Development as amended by the Ionia County Road Commission, the Michigan Department of Transportation (MDOT) current Specifications for Constructions and the American Association of State Highway and Transportation Officials (AASHTO) Standards for Construction.

C. Location Permitted.

Private roads may be utilized (if approved under this Section 1.570) in any zoning district where residential dwellings are permitted under the Otisco Township Zoning Ordinance, as amended.

D. Private Road Prohibition.

Private roads may be utilized for residential or agricultural purposes. No private road may be created or used for commercial, business, industrial or mercantile uses or



purposes. Notwithstanding such prohibition, commercial, business, industrial, or mercantile facilities or operations may utilize service drives.

E. Special Use Approval Required.

No private road shall be constructed, commenced, or utilized (and no private road construction permit shall be issued for a private road) until and unless the applicant has obtained a special use approval and a zoning compliance permit from Otisco Township.

Upon applying for a special use approval, if the proposed private road is located in the AC/RC District, the Planning Commission shall also determine that the following conditions are met before granting a special use approval:

1. The area to be served by the private road is poorly suited for agricultural production due to existing soil conditions, slope, or due to the presence of natural vegetation such as woodlots, brush land, and wetlands.

The Planning Commission, in making its determination, may consider factors such as, but not limited to, past and present uses of the parcel, past productivity, and the difficulty in making the parcel suitable for farming.

2. There will be a minimal likelihood of conflicts arising between the uses served by the private road and the surrounding agricultural activities.

F. Application and Review.

1. An application for a private road or shared driveway shall be submitted by the applicant to the Township with the following and shall be processed under the following procedures:
  - (a) A completed application form, supplied by the Township, containing the names and addresses of the owners and any other parties having any legal interest in the private road or the property across which the road is to be constructed.
  - (b) A detailed written description of the development to be served by the private road.
  - (c) Identification by parcel number of all properties having any legal interest in the private road.
  - (d) Ten (10) copies of a site plan, drawn to scale, prepared by a registered engineer, showing the precise location, grade, route, elevation contours on a USGS datum within all areas to be disturbed or altered, dimensions, and design of the private road and any proposed extensions thereto, existing and proposed curb cuts, and the location and distance to any public streets which the private road is to intersect.

- (e) A survey of the private road right-of-way or easement by a registered land surveyor, together with surveys for each parcel to be served by the private road.
  - (f) The location of all public or private utilities, including but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private road right-of-way or easement or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting such easements shall be submitted with the application.
  - (g) The location of any lakes, streams, wetlands, and drains within the proposed right-of-way or easement or within one-hundred (100) feet thereof.
  - (h) The location of any other buildings and structures located, or to be located, within one-hundred (100) feet of the proposed right-of-way or easement.
  - (i) A copy of the proposed maintenance agreement or restrictive covenant which provides for the continued maintenance and repair, and the financing thereof by the parties in interest, of the private road or shared driveway, which complies with the requirements of this Section 1.570.
  - (j) An application fee and escrow amount as specified and established by resolution of the Township Board.
  - (k) A shared driveway plan must meet all requirements stated above except providing elevation contours.
2. The Review Procedures will be as follows:
- (a) The application, along with all other required information, shall be forwarded to the Planning Commission.
  - (b) The Planning Commission shall hold a public hearing on the application, after establishing a date for the hearing, and providing notice of such hearing in a newspaper of general circulation in the township and to all owners of property within three-hundred (300) feet of the subject property at least fifteen (15) days prior to such hearing.
  - (c) The Planning Commission shall consider the request based on the standards of this Section 1.570 and the general special use standards located elsewhere in this Ordinance, as well as the design requirements contained in this Section 1.570 and all other relevant provisions of this Ordinance.
  - (d) The Planning Commission shall review the application and such other information available to it through the public hearing or from any other sources, including recommendations and reports of the Planning Consultant, Township Engineer, Fire Chief, Township Attorney, or others; and shall approve, approve with conditions, or deny the request, and shall state the basis for the decision and any conditions which are imposed.
  - (e) No application for a private road approval which has been disapproved shall be resubmitted for a period of one (1) year from the date of disapproval,

except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

- (f) Pursuant to with the “Ionia County Storm Water Guidelines and Standards” as established and administered by the Ionia County Drain Commissioner, all construction shall be in accordance with the provision as stated in Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act.
- (g) There shall be compliance with Act 451 of the Public Acts of 1994, being sections 324.9101 to 324.9123 of the Michigan Compiled Laws Annotated.
- (h) A statement of the method and construction techniques to be used in the crossing of any natural stream, wetland, or drainage course. Such methods shall satisfy the requirements of the Ionia County Drain Commissioner, the local soil erosion enforcing agent, the Township Engineer, Department of Natural Resources/ Department of Environmental Quality, and any other local, state, or federal agencies having jurisdiction thereof.
- (i) Any other requirements from local, state, or federal agencies having jurisdiction thereof.
- (j) Upon completion of construction of the private road, the applicant/owner shall remove and properly dispose of, any and all trees, shrubs, construction debris, and rubbish.
- (k) Once a special use approval has been granted for a private road, the Township may issue a private road construction permit. However, no construction on a private road shall commence until and unless both a special use approval has been granted by the Planning Commission and the Township has issued a private road construction permit.
- (l) All shared driveway reviews will be administered and permitted by the Township Zoning Administrator and will not require planning commission review unless the Zoning Administrator deems necessary.

#### G. Planned Unit Developments.

If the private road is proposed as a part of a planned unit development (PUD) project, the provisions of this Section 1.570 regarding private road standards may be modified for the PUD project by the Township Board at its sole discretion for good cause shown.

#### H. Fees.

Fees for the permits and approvals required hereunder shall be set by the Township Board from time to time by resolution. In addition to normal administrative costs associated with review of the application, said fees may be of sufficient amount to cover the costs of having the Township Attorney, Township Planner, and/or Township Engineer attend meetings, review the application, private road plans, specifications, and maintenance agreement and do the necessary inspection.

Additionally, the Township may require that the applicant put sufficient funds in escrow to cover the costs of having the Township Attorney, Township Planner, and Township Engineer review the private road plans, specifications and maintenance agreement and to do the necessary inspections. All costs associated with the private road shall be paid prior to final approval being granted, with the unused balance of the escrow account returned upon final approval.

I. Design Standards.

The following are the minimum design and construction specifications and materials for private driveways, private roads, and service drives. All construction shall be in accordance to Michigan Department of Transportations (MDOT) current specifications for construction and the American Association of State Highway and Transportation Officials (AASHTO). Any variance from design requirements shall require prior approval from the Township Zoning Board of Appeals (but only if a special use has been approved where applicable and the Planning Commission expressly authorizes the applicant to file a variance request with the Zoning Board of Appeals), the Drain Commissioner and their designees.

1. Private Driveways and Shared Driveways

- (a) A driveway permit shall be obtained from and constructed in accordance with the Ionia County Road Commission specifications for a private driveway extending from a public or private road.
- (b) Private driveways and shared driveways shall be constructed and maintained, such that, in all weather conditions the driveway shall be passable and shall readily afford emergency/maintenance vehicles access to the dwellings, buildings or other structures serviced by such driveways.
- (c) A shared driveway shall have a minimum cleared width of twenty-eight (28) feet, and a minimum cleared height of eighteen (18) feet. The shared driveway roadbed shall be a minimum of twenty (20) feet wide and constructed of a minimum sub base of twelve (12) inches of sand and six (6) inches of finished compacted MDOT 22A gravel.
- (d) The shared driveway shall be constructed with roadside ditches and culverts as required by the Township Engineer to ensure adequate and reasonable drainage runoff.
- (e) All shared drives shall have a recorded, permanent right-of-way and minimum sixty-six (66) foot-wide easement for ingress and egress and utilities. If the drive has the potential to become a private road, sufficient easement shall be maintained to allow for future upgrading, as provided in this ordinance for private roads.
- (f) For shared drives, the applicant may still wish to submit an application for a private road approval if there is any possibility that the property owners involved will want to have more than two parcels or dwellings serviced by the shared drive in the future due to land divisions. Otherwise, the private

easement or right-of-way for the shared drive may not be able to meet the requirements for a private road (including, but not limited to, a proper recorded maintenance agreement, construction standards, etc.).

- (g) No easement or private right-of-way shall serve or provide primary access to a single parcel or lot unless there is a recorded, permanent right-of-way or private easement with a minimum width of sixty-six (66) feet for ingress and egress, and also utilities. In that case, the applicant may still wish to submit an application for a private road approval to the Township if there is any possibility that the property owner will want to have more than one or two parcels or dwellings serviced by the easement or right-of-way in the future due to land divisions. Otherwise, the private easement or right-of-way for the single lot or parcel may not be able to meet the requirements for a private road (including, but not limited to, a proper recorded maintenance agreement, construction standards, etc.).

## 2. Private Roads

- (a) A private road shall have a recorded, permanent right-of-way and easement, with a minimum width of sixty-six (66) feet, and provide a turn-a-round to be constructed to Ionia County Road Commission Rules for Plat Street Development. The instrument establishing the easement and right-of-way shall expressly permit public or private utilities to be installed within the right-of-way or, if not within the right-of-way, then within twenty (20) feet on either side thereof. A permit shall be required from the Ionia County Road Commission for all new road construction and/or utility installations performed after final approval and acceptance of the original development.
- (b) The layout of private roads, with respect to their location, intersections, cul-de-sacs, vertical street alignment, street grades, horizontal curves, curb openings at intersections, street, etc., shall conform to the Ionia County Road Commission Rules for Plat Street Development.
- (c) All gravel roads shall have a road bed not less than twenty-two (22) feet wide and shall have a minimum of twelve (12) inches, Granular Material Class II sub base, unless existing sub-grade materials meet Class II specifications, and six (6) inches of finished compacted, Type 22A Aggregate Base. Final approval of construction dimensions shall be determined by the Township Engineer.
- (d) All hard surfaced private roads shall have a road bed not less than twenty-two (22) feet wide with two (2) foot of Type 23A Aggregate Shoulders, a minimum of twelve (12) inches, Granular Material Class II sub base, unless existing sub-grade materials meet Class II Specifications, and six (6) inches of finished compacted Type 22A Aggregate Base with a minimum of 3.0 inches of Type 13A Hot Mix Asphalt or 6.0 inches of concrete. Final approval of construction dimensions shall be determined by the Township Engineer. All private roads serving ten or more parcels or dwellings shall be hard surfaced.

- (e) All private road approaches off public roadways shall be constructed in accordance to Ionia County Road Commission requirements and approvals before the expiration date of the permit.
- (f) All private roads shall have and maintain a cleared vertical height of eighteen (18) feet above the roadway and shall have and maintain a minimum cleared width of four (4) feet outside of edge of the constructed width on both sides of roadway.
- (g) Any private road designed for fifty (50) or more lots, parcels, or dwelling units shall have multiple road entrances or connections to a public road. A traffic impact study may be required by the Township in order to determine the number of necessary private road approaches and locations.
- (h) No private road shall extend for distance of more than two thousand six hundred forty (2,640) feet in length from the nearest connecting public street right-of-way as measured along a straight line perpendicular to the public road or for more than four thousand (4,000) feet in length as measured along the centerline of the private road, without a second direct access thereto being available from the public street.
- (i) The private road design criteria for crown, horizontal and vertical curves shall be in accordance to the Current Rules for Street Development as amended by the Ionia County Road Commission.
- (j) A private road shall be constructed so as to sufficiently control storm water runoff, by means of leaching basins, culverts, and drainage ditches, or such other effective methods as may be required by the Township Engineer and the Drain Commissioner to ensure adequate drainage and control of storm water runoff.
- (k) Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes and grades shall be determined using the Ionia County Drain Commission storm runoff calculations formula. Applicant(s) shall submit culvert calculations and construction plans to the Drain Commissioner and the Township Engineer for review and approval. Materials for culverts shall also conform to Drain Commission requirements.
- (l) All private roads shall be constructed and continuously maintained in such a manner that (i) their use does not pose a danger to the health, safety and welfare of the inhabitants of the Township or other persons, and (ii) in all weather conditions the roads shall be passable and shall readily afford emergency vehicles access to the dwellings, buildings or other structures serviced by such private roads. All private roads shall be promptly snowplowed when three (3) inches or more of snow has accumulated.
- (m) The applicant/property owner(s) shall record a Private Road Maintenance Agreement between the owners of the lands served by the private road and any other parties having an interest in the property upon which the private road is located. This agreement shall permanently run with the land and shall

be recorded with the Ionia County Register of Deeds and a recorded copy filed with the Township. This agreement shall assure that the costs of maintenance, improvements, and snow removal as required by this Ordinance shall be the responsibility of the owners of the lands served by the private road and any property owners association consisting of the owners of such lands, and shall provide for the equitable apportionment of these costs among those benefited. The Agreement shall provide the Township with the right to assess such costs against the owners of those properties benefited, plus up to a twenty-five (25) percent administrative fee, as authorized in Section 10(2)(n) of this Ordinance, in the event of a failure of those benefited to privately perform those duties.

Prior to the Private Road Maintenance Agreement being executed and recorded, it shall be approved by the Township Attorney.

- (n) The applicant for a private road and the owners of the affected lands agree that by applying for and obtaining approval of the private road, they shall indemnify the Township, the Ionia County Road Commission and the Ionia County Drain Commission and shall hold them harmless for, from, and against any and all claims of personal injury or property damage arising out of or in any way related to the use of the private road or the failure to properly construct, maintain, repair, and replace the private road, in whole or in part. The applicant and the owners of the affected lands further agree that in the event of a failure of the owners and/or applicant to perform these duties for the health, safety and general welfare of the public and the users of the lands served by the private road, the Township shall have the right to perform such improvements and specially assess all costs incurred against the properties benefited by such improvements, including all Township expenses associated with such special assessment and an additional administrative fee up to twenty-five (25) percent of all such costs of improvement incurred.
- (o) Any intersection between a private and a public road or between more than one private road shall be designed and constructed to provide for clear vision and safe turning and travel of vehicles in all directions at the posted speed limit, including not less than a clear vision triangular area extending ten (10) feet along each street right-of-way line as measured from the intersecting right-of-way lines. For roads that present increased safety risks as a result of topographic, vegetative or other factors, the Township may require an additional clear vision triangle of twenty-five (25) feet or more as directed by the Ionia County Road Commission and/or Township Engineer.
- (p) A private road name sign and stop sign shall be erected at the intersection of the private road with another private road or a public road. A sign stating "private road not maintained by Ionia County Road Commission" shall be placed on all private roads that intersect a public road, which is clearly legible when entering onto the private road. The signs must conform to the State Manual of Uniform Traffic Control Devices. The stop sign shall also have the

private road name affixed to it. All signs shall be erected and maintained by those responsible pursuant to the agreement described in this Section 1.570, above.

- (q) All street lighting on a private road and at the intersection of a private road and public road shall be installed at the expense of the project developer and or the property owners served by the private road. All expenses related to the operation and maintenance of the street lighting will be equally assessed to the property owners served by the private road. If requested, the Township may coordinate the installation of the lighting with the electric supplier and or the Ionia County Road Commission. All street lighting shall be of a nature so as to project the light downwards with a minimum of upward lighting.
- (r) A dwelling unit which derives its primary access from a private road shall display a house number in a manner so that the number is at all times readily visible from the private road. The house numbers shall be a minimum of three (3) inches in height.
- (s) Vehicle parking will not be permitted in or along private roads.
- (t) Every resident, occupant or owner of a dwelling with an address within the Township that is not already in conformance with the Article IV (Addressing System) of the Ionia County Address Ordinance of 2000 or current, shall be in conformance within sixty (60) days of the effective date of this subsection.

### 3. Service Drives

- (a) A service drive may include a private drive, which connects some or all of the parcels, subdivision lots or site condominium units, or may simply be a connection lane between the various parking lots servicing the individual parcels, subdivision lots or site condominium units. In any event, the following standards shall apply to whatever is deemed by the Planning Commission or the Township Engineer to be a service drive.
- (b) A service drive shall have a recorded, permanent right-of-way or easement, with a minimum width of 66 feet and shall provide a means of turn-a-rounds to be constructed to Road Commission Rules for Plat Street Development. The instrument establishing the easement or right-of-way shall expressly permit public and private utilities to be installed within the right-of-way or, if not within the right-of-way, then within twenty (20) feet on either side thereof.
- (c) A permit shall be required from the Township for all new drive construction and/or utility installations performed after final approval and acceptance of the original development.
- (d) A minimum of fifteen (15) feet snow storage/landscaping area shall be reserved along both sides of the service drive, and no part of the service drive shall be within fifteen (15) feet of the right-of-way of a state or county highway.
- (e) Vehicles parking will not be permitted in or along services drives.



- (f) A recordable service drive maintenance agreement shall be approved by the Township (in the same fashion and with the same requirements as for a private road maintenance agreement as specified above) and shall be recorded with the Ionia County Register of Deeds and a recorded copy filed with the Township. The maintenance agreement shall also specify the method of private financing of all maintenance, improvements, and snow removal, and apportionment of these costs among those benefited. Such an agreement shall not be recorded until and unless it has been approved by the Township Attorney.
- (g) If two (2) or more businesses are accessed directly off a service drive, it shall require a road name (and road sign) that is not the same or similar to any other public or private street name in Ionia County.
- (h) All street lighting on a service drive and at the intersection of a service drive and public road shall be installed at the expense of the project developer and or the property owners served by the service drive. All expenses related to the operation and maintenance of the street lighting will be equally assessed to the property owners served by the service drive. If requested, the Township may coordinate the installation of the lighting with the electric supplier and or the Ionia County Road Commission. All street lighting shall be of a nature so as to project the light downwards with a minimum of upward lighting.
- (i) Every service drive must be approved by the Planning Commission pursuant to the site plan review and approval process of this Ordinance.

J. Access and safe passage.

Driveways, private roads, existing private roads and service drives shall be constructed and maintained with sufficient width, surface and grade to assure easy year-around access, safe passage and maneuverability of police, fire, ambulance and other safety vehicles. Maintenance shall include the clearing and trimming of all trees and undergrowth necessary to assure such access, safe passage and maneuverability.

K. Disclosure.

The following statement shall be put in a deed restriction and recorded for any parcels serviced by a private road before each parcel is sold: "This property does not abut or front on a public road. If a public road or street does not abut or service the property, it is private and is not required to be maintained by any governmental unit. There may be additional costs borne by the landowners."

L. Performance Guarantee.

The Township may, as a condition of issuing a private road construction permit, require the applicant to post cash, a bond, an irrevocable bank letter of credit or other security in order to ensure compliance with the requirements of this Ordinance.

- The amount of the bond or security, if required by the Township, shall be equal to one hundred twenty-five (125) percent of the total estimated cost for completing construction of the private road, all inspection costs, and related costs.
- The bond, cash deposit, letter, of credit, escrow, or unspent portions thereof, will be returned to the applicant by the Township upon completion of the private road to the standards required by this Ordinance.
- The type, form, language, and amount of such security shall be as specified by the Township.

M. Time Limit.

Each private road shall be under substantial construction within one (1) year after the date the private road is approved as a special land use. If this requirement is not satisfied, the Planning Commission may grant an extension of such period of time (except that in the case of planned unit developments, such an extension may be granted only by the Township Board), provided however, that reasonable evidence is submitted, to demonstrate that the construction or other development of the private road has encountered unforeseen difficulties but is ready to proceed to completion. Should these requirements not be satisfied within a period of one (1) year after the special land use for the private road has been approved, the private road permit and the special land use for the private road shall be deemed null and void.

N. Inspections.

With prior written notification to the applicant, the Township, the Ionia County Road Commission, the Ionia County Drain Commissioner, and/or their respective designees shall have the right to enter upon the property where any private road or driveway is or will be located to conduct such inspections as may be reasonably necessary to assure that the private road or driveway is sufficiently constructed, designed and maintained so as to be in compliance with this Ordinance and to allow access, safe passage and maneuverability of fire department and other emergency vehicles.

The Township, the Ionia County Road Commission, Ionia County Drain Commissioner, and/or their respective designees may notify any property owner or occupant who has failed to comply with the terms of this Ordinance that if the condition of the private road or driveway is not corrected, emergency services may have difficulty in reaching a dwelling or property served by the private road or driveway. It is the responsibility of the property owner or property owners involved to construct, maintain, and repair the private road, service, drive, or driveway involved to ensure that every dwelling, building, and other portion of the property involved is easily accessible by emergency services, including, but not necessarily limited to, police, fire, and ambulance.

O. Certificate of Compliance.

1. Upon completion of construction of the private road, the Township (and/or its designees) shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance.
2. The applicant shall provide the Township with a set of “as-built” construction plans along with a certificate and statement from a registered engineer certifying the private road has been completed in accordance with the requirements of this section and other provision of this ordinance and with the terms of approval granted by the Planning Commission.
3. After receiving the certified as-built construction plans and written approval of the private road by the Zoning Administrator, following the inspector’s review of the completed construction, the Zoning Administrator shall issue and submit to the applicant a Certificate of Compliance stating based upon the inspection of the construction, the private road/service drive complies with this section, other applicable provisions of this ordinance and the Planning Commission approval.
4. If the completed private road or service drive does not fully comply with the requirements of the permit, the special use approval, or this Ordinance, the applicant shall be notified of the noncompliance in writing. Failure to correct the deficiencies will result in the denial of any further permits relating to the development and could subject the applicant (and property owners involved) to the enforcement provisions of this Ordinance as well as other potential delays and sanctions.

P. Permits for Building.

No building permit shall be issued for any building, dwelling, or structure the primary access to which is to be provided by a private road unless a private road construction permit has been issued by the Township and the road has either been completed in accordance with the approved permit and this Ordinance or, at the Township’s discretion, the applicant for the building permit or owner of the private road right-of-way have provided the Township with a performance guarantee in an amount determined by the Township to be sufficient to ensure full completion of the private road in full compliance with the private road permit and this Ordinance within one (1) year from the date of the issuance of the building permit.

Q. Conflict with Other Ordinances.

To the extent that any other ordinances regulate the subject matter regulated by this Section 1.570, the ordinances shall be construed together, if possible, and the remedies of the ordinances shall be cumulative. Where the provisions of any other ordinance conflict with the provisions of this Section 1.570, this Section 1.570 shall prevail and its terms shall control. If any part of this Section 1.570 conflicts with any other part, it shall be administratively appealed to the Township Zoning Board of Appeals for a final determination of intent. The remainder of this Section 1.570 shall remain in full force and effect.

R. Effect.

This Section 1.570 shall apply to all private roads constructed from and after the effective date of this section. In addition, if an existing private road is extended, expanded, or lengthened after the date adoption of this Section 1.570 by an increase in its length for the purpose of providing access to one (1) or more additional principle buildings, dwellings, parcels, or structures, the provisions of this Section 1.570 shall thereupon apply to the entire length of such private road; that is, to both the part of such private road existing on the effective date of this section and the part of such road laid out or constructed after such effective date.

Further, if after the date of adoption of this Section 1.570, one (1) or more additional principle buildings, dwellings, parcels, or structures are created, built, or erected along (or are so situated as to be given access by) an existing private road, the provisions of this Section 1.570 shall thereupon apply to the entire length of such existing private road where parcels or buildings are created or constructed after such effective date of this section.

S. Additional Parcels.

No lot or parcel of land shall be added to or along a private road and no existing lot or parcel with frontage on a private road shall be split or divided unless a special land use permit is obtained pursuant to this Section 1.570, or if a special land use permit has already been approved for such private road, no land split or division along the private road shall occur unless and until the Planning Commission approves an appropriate amendment to the existing special land use. If additional lots or parcels are added to or along a private road or if a lot or parcel fronting on a public road is split or divided, then the entire length of the private road (that is, the total distance from the point where the private road intersects the public street to the very end of this private road) shall fully comply with this Section 1.570, based on the total number of lots or parcels of land then fronting on the private road. [\*Creation of the third parcel on a private drive creates the requirement of that drive being upgraded to a private road.]

- T. If an applicant desires to split or divide one or more lots or parcels along a lawful nonconforming private road or to extend a lawful nonconforming private road and there are difficulties or hardship in upgrading all existing portions of the lawful nonconforming private road to the requirements of this Section 1.570 for a new private road, the Planning Commission may, pursuant to the granting of a special use approval, vary some or all of the requirements of subsections I, K, R, and S of this Section 1.570. The Planning Commission may also attach reasonable conditions to the granting of any such special use approval, including, but not limited to, road improvement or upgrade requirements and modifications to the existing private road.

**1.580. Outdoor Free-Standing Wood-Burning Furnaces.** (Ordinance No. 2008-01 September 9, 2008)

A. Purpose.

Otisco Township (the “Township”) finds that outdoor free-standing wood-burning furnaces, as hereinafter defined, are a potential source of unhealthy amounts of particulate matter and may emit unhealthy amounts of air pollution, including carbon monoxide and other toxic air pollutants. The Township further finds that the unregulated use and placement of outdoor free-standing wood-burning furnaces may result in public and private nuisances and be a threat to the public health, safety, and welfare by the emission of smoke and sparks. Therefore, under the authority granted by MCL 125.3101 et seq., the Township Board for Otisco Township hereby adopts this ordinance/ordinance amendment for the protection of the public health, safety, and general welfare of persons and property within the Township.

B. Definitions.

1. The term, phrase, or word(s) “outdoor free-standing wood-burning furnace”, or “furnace” as used in this Section 1.580 shall mean any device or structure that (1) is designed, intended, or used to provide heat and/or hot water to any residence, dwelling, building, or other structure; (2) operates by the burning of wood, coal, corn, or other solid fuel; and (3) is not located entirely within a residential dwelling.
2. The terms and words “lot”, “lot line”, “side yard”, and “rear yard” shall have the meanings assigned to them in the Otisco Township Zoning Ordinance, as amended.
3. The word “person” shall mean any natural person, corporation, entity, partnership, limited liability company, limited liability partnership, or other incorporated or unincorporated voluntary association.

C. Regulations and requirements.

Every outdoor free-standing wood-burning furnace shall comply with all of the following regulations and requirements:

1. No outdoor free-standing wood-burning furnace shall be installed or located in the front yard of a lot or between a dwelling and the public road right-of-way or private road or access easement. Where the lot involved has frontage on a lake, river or stream, an outdoor free-standing wood-burning furnace may be located between the lake, river or stream and the dwelling (so long as all other setbacks and requirements of this Ordinance are met) and shall not be located between the dwelling and the public road right-of-way or private or access easement. No outdoor free-standing wood-burning furnace shall be located on a lot, or property less than one (1) acre in size or within one hundred (100) feet of a public road right-of-way or private or access easement. Furthermore, no outdoor free-standing wood-burning furnace shall be located in a side yard except where there is not

sufficient room or it is not feasible to place the outdoor free-standing wood-burning furnace in the rear yard and such location in a side yard is approved by the Otisco Township Planning Commission as a special use. In no event shall an outdoor free-standing wood-burning furnace be located within twenty-five (25) feet of any lot line of the lot on which it is located. Finally, no outdoor free-standing wood-burning furnace shall be located within two-hundred-fifty (250) feet from any house or residential dwelling on any lot or property which adjoins the property or lot on which the outdoor free-standing wood-burning furnace is located unless the Township Planning Commission approves a location which is closer to any house or residential dwelling on any adjoining property as a special use.

2. No outdoor free-standing wood-burning furnace shall be installed, used or located within twenty-five (25) feet of the principal residence or structure for which it is intended to supply heat and/or hot water. Furthermore, all brush and shrubbery shall be cleared within a twenty-five (25) foot radius of the location on any outdoor free-standing wood-burning furnace, and such twenty-five (25) foot cleared area shall be maintained free of brush and shrubbery at all times. Any fire wood or other allowed fuel stored within such twenty-five (25) foot radius shall either be covered or otherwise reasonably protected against accidental ignition or combustion.
  3. Every outdoor free-standing wood-burning furnace shall have a smoke stack or chimney that shall not be less than twenty (20) feet tall from the ground and shall include a spark arrester.
  4. Every outdoor free-standing wood-burning furnace shall only be used to burn fuel designed on intended to be burned in the furnace. No garbage, household trash, petroleum products, rubber, construction waste, or other solid waste shall be burned in such a furnace regardless of design or manufacturer's intended fuel source.
  5. Every outdoor free-standing wood-burning furnace shall be kept in good condition and reasonable repair at all times and shall also always comply with all state, federal, and local laws, codes, ordinances, and regulations applicable to such furnaces.
- D. Existing outdoor free-standing wood-burning furnaces.

This Section 1.580 shall not apply to any outdoor free-standing wood-burning furnace that was lawfully installed, connected and operating as of the effective date of this Section 1.580.

E. Permit.

Prior to the installation, connection or operation of any outdoor free-standing wood-burning furnace after the effective date of this Section 1.580, a Zoning Compliance Permit shall first be obtained. An application for such permit must be made to the Otisco Township Zoning Administrator. Furthermore, no such furnace shall be

installed or used prior to the issuance of any other required permit under an applicable mechanical, building, or other code.

The PUD Zoning District is also intended to permit and control the development of lands for detached single family residential dwelling units established under the Michigan Condominium Act and commonly referred to as Site Condominiums.

It is intended that all land uses in a PUD district shall be afforded reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection from PUD land uses also be afforded to uses adjacent to or affected by each PUD District. It is not intended that the provisions of this Chapter

**1.590. Industrial Solar Energy Facilities.**

**I. Permitted Zones & Procedure**

The Township Board, with recommendation from the Township Planning Commission shall have the power to grant a Special Use Permit to allow an Industrial Solar Energy Facility in the Agricultural and Rural Conservation Districts, subject to the restrictions contained in this Ordinance. The procedure for review and approval of a Special Use Permit for an Industrial Solar Energy Facility shall be as follows:

**A. The Zoning Administrator:**

1. Reviews application package:
  - a. To make sure that it is the right application for zoning action requested;
  - b. To see that all required information is submitted, and;
  - c. To make sure that the proposed use is permitted in a particular district by special use permit.
2. Takes one or more of the following actions:
  - a. Requests from the applicant that any omitted necessary information now be submitted;
  - b. If necessary, seeks ordinance interpretation from the Board of Appeals;
  - c. Makes advisory comments about the site plan based on site plan review standards, and/or
  - d. Forwards the complete application with comments to the Planning Commission for review.



**B. The Planning Commission:**

1. Reviews the site plan according to site plan review standards, as set forth in the zoning ordinance. See Section 1.463.
2. Reviews the proposed special use according to standards for special use permits, as set forth in this Ordinance. See Section 1.471.
3. Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this Ordinance.
4. Notice of application for a special land use shall be published in a newspaper of general circulation.

a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

1) In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, a single notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

2) In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.

b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

The notice shall do all of the following:

Describe the nature of the request.

Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

State when and where the request will be considered.

Indicate when and where written comments will be received concerning the request.

5. Holds a public hearing.
6. Following the public hearing, the Planning Commission shall then make a recommendation to the Township Board regarding the proposed use by special permit, based on the requirements and standards of this Ordinance. The Planning Commission may recommend approval, approval with conditions, or denial of the application as follows:
  - a. Approval. Upon determination by the Planning Commission that the final plan for the use by special permit is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission shall recommend approval of the use by special permit.
  - b. Approval with conditions. The Planning Commission may impose reasonable conditions upon the approval of a use by special permit, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
  - c. Denial. Upon determination by the Planning Commission that a use by special permit proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Planning Commission shall recommend denial of the use by special permit.

### **C. The Township Board:**

1. The Township Board shall review the recommendation of the Planning Commission, together with the public hearing findings and reports and recommendations from the Zoning Administrator and other reviewers. The Board shall then make a decision regarding the proposed use by special permit, based on the requirements and standards of this Ordinance. The Board may approve, approve with conditions, or deny the use by special permit application as follows:
  - a. Approval. Upon determination by the Board that the final plan for the use by special permit is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Board shall approve the use by special permit.
  - b. Approval with conditions. The Board may impose reasonable conditions upon the approval of a use by special permit, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
  - c. Denial. Upon determination by the Board that a use by special permit proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Board shall deny the use by special permit.

This special use permit, if denied by the Township Board, may be appealed in the same manner as any special land use permit.

## II. Industrial Solar Energy Facility Standards

The following standards will be used when preparing, submitting and reviewing a Special Use Permit application for an Industrial Solar Energy Facility.

### A. Avian Analysis

The applicant shall have a third party qualified professional conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

- 1) Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
- 2) At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species Act and Michigan's Endangered Species Protection Law. The applicant shall follow all pre-construction and post-construction recommendations of the United States Fish and Wildlife Service.
- 3) The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted. Power lines should be placed underground to prevent avian collisions and electrocutions. All above-ground lines, transformers, or conductors should follow any Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) guidelines to prevent avian mortality.

### B. Environmental Impact

- 1) The applicant shall have a third party qualified professional conduct an analysis to identify and assess any potential impacts on the natural environment

including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis.

- 2) The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts. The applicant shall comply with applicable parts of the Michigan Natural Resources and Environmental Protection Act (Act 451 of 1994, MCL 324.101 et seq.) including but not limited to Part 31 Water Resources Protection (MCL 324.3101 et seq.), Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.), Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.), Part 303 Wetlands (MCL 324.30301 et seq.), Part 323 Shoreland Protection and Management (MCL 324.32301 et seq.), Part 325 Great Lakes Submerged Lands (MCL 324.32501 et seq.), and Part 353 Sand Dunes Protection and Management (MCL 324.35301 et seq.). The applicant shall be responsible for making repairs to any public roads, drains and infrastructure damaged by the construction of the industrial solar energy facility.

#### C. Height, Setbacks, Separation and Security

The following setbacks and separation requirements shall apply to all Industrial Solar Energy Facilities:

- 1) Industrial Solar Energy Facilities shall not exceed twenty five (25) feet above the ground when oriented to maximum tilt.
- 2) All fences and improved areas located on the site shall comply with the applicable setback for the district in which it is located. Furthermore any structures or other improved areas located within the fence shall be at least thirty (30) feet from the fence line.
- 3) An Industrial Solar Energy Facility shall be located at least one hundred (100) feet from any residential dwellings, churches, schools, family or group child day-care homes, bed and breakfast establishments, residential facilities, and any other residence.
- 4) An Industrial Solar Energy Facility shall be located at least 300 feet from the road.
- 5) An Industrial Solar Energy Facility shall be located at least one hundred (100) feet from any non-participating parcel.
- 6) All roads, drives and storage areas shall be established on a 36 foot minimum easement to a public right of way, which shall be paved or graveled in a manner sufficient to provide a solid base at all times of the year and to allow access throughout the Industrial Solar Energy Facility at all times by any emergency service vehicles, such as fire, police and repair.

7) All Industrial Solar Energy Facilities shall have a minimum landscape buffer on each side of the property of 20 feet. The buffer shall contain evergreen trees or bushes planted no more than 8 feet apart and be at least 4 feet tall at time of planting. The buffer shall obtain a height of 10 feet within 3 growing seasons. The trees may be trimmed but no lower than a height of 10 feet.

8) Each owner, operator or maintainer of the Industrial Solar Energy Facility to which this ordinance applies shall utilize good husbandry techniques with respect to said vegetation, including but not limited to, proper pruning, proper fertilizer, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time.

9) Industrial Solar Energy Facilities shall be surrounded by an eight (8) foot tall chain link fence woven with a green opaque material to restrict the view into the facility. The fence will be designed to restrict unauthorized access. The gate will be the same height and constructed of the same material as the fencing.

10) The manufacturer's or installer's identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner; furthermore, an information sign shall be posted at all the entrances which shall list the name and phone number of the operator of the facility.

11) Industrial Solar Energy Facilities shall not be located on parcels of land less than 40 acres in size.

#### D. Responsibility for Erosion and Flooding

Any erosion or flooding of property as a result of the construction of Industrial Solar Energy Facility structures or access roads is the responsibility of the developer/owner of the structures.

#### E. Safety

- 1) All collection system wiring shall comply with all applicable safety and stray voltage standards.
- 2) All access doors to the Industrial Solar Energy Facility and electrical equipment shall be lockable and kept secured at all times when service personnel are not present.
- 3) A sign shall be posted near the entrance to the Industrial Solar Energy Facility that will contain emergency contact information.
- 4) The project shall be designed and operated in compliance with all applicable provisions of local, state, and federal laws and regulations, including, but not limited to, building and electrical code and permitting requirements.
- 5) The applicant shall be responsible for maintenance of the access roads. At the landowner's discretion, the entrance of each access road from the public right of way shall be gated, with wings as appropriate, to discourage trespassers.

#### F. Complaint Resolution

- 1) The Industrial Solar Energy Facility applicant shall submit a detailed, written complaint resolution process developed by the Industrial Solar Energy Facility applicant to resolve complaints from the Township board or the property owners or residents concerning the construction or operation of the Industrial Solar Energy Facility. The complaint resolution process must be approved by the Planning Commission as a condition of approval of the special land use permit application.
- 2) The Planning Commission shall participate in all complaint resolution discussions or meetings between the Township property owner or resident and the Industrial Solar Energy Facility owner.
- 3) The Township board shall be kept apprised of all complaints and shall receive a report outlining the issues, the progress, and the resolution of each such complaint.

#### G. Change of Ownership

- 1) Upon change or assignment of ownership, operator or parent company, the Township shall receive from the new owner, operator or parent company notification and updated documents within 90 days including, but not limited to, legal proof of change, corporate legal contact, security bond updates, emergency contact, and local contact.

### **III. Application Procedures**

A developer/operator of any Industrial Solar Energy Facility shall follow the following procedures for application for a special use permit to construct an industrial solar energy facility.

A. Make application for special land use permit for alternative energy structures to the Planning Commission as required. The application for special land use permit for solar energy structures will be accompanied by the required fees and information as requested in this ordinance.

B. The Planning Commission will review the application in a public meeting which shall be posted pursuant to the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006, MCL 125.3101 *et seq.*

C. Procedure: The Planning Commission review of a Special Land Use Permit application for a Industrial Solar Energy Facility will hold a public hearing and decision by the Planning Commission, per the procedures for review in Section 1.620 *et seq.* A decision on the Special Land Use Permit application by the Township Board is inclusive of all proposed Industrial Solar Energy Facility components, underground electrical lines, sub-station(s), junction boxes, laydown yard(s), concrete batch plant(s), and any operations/maintenance building(s).

### **IV. Special Use Permit and Site Plan Review Requirements**

An applicant proposing an Industrial Solar Energy Facility must submit the following materials with the Special Use Permit Application:



A. Applicant Identification: Applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved in the application (substitution may include a legal description or parcel identifications number(s)), and any additional contact information. Each application for a Industrial Solar Energy Facility shall also be dated to indicate the date the application is submitted to Otisco Township.

B. Project Description: A general description of the proposed project including a legal description of the property or properties on which the project would be located and an anticipated construction schedule.

C. Insurance: Proof of the Applicant's public liability insurance for at least Ten Million (\$10,000,000.00) dollars to cover the Industrial Solar Energy Facility, the Township, and the Landowner.

D. Certifications: Certification that Applicant will comply with all applicable state and federal laws and regulations. Note: Land enrolled in the Michigan Farmland Preservation Program through Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as PA 116, must receive approval from the Michigan Department of Agriculture to locate an Industrial Solar Energy Facility on the property prior to construction. Such approval documentation shall be provided to the Township prior to approval of the special land use.

E. Environmental Impact: Copy of the Environmental Impact analysis.

F. Avian and Wildlife Impact: Copy of the Avian and Wildlife Impact analysis.

G. Manufacturers' Material Safety Data Sheet(s): Documentation shall include the type and quantity of all materials used in the operation of all equipment.

H. Decommissioning: Copy of the decommissioning plans and a description of how any surety bond, if required, is applied to the decommissioning process.

I. Complaint Resolution: Description of the complaint resolution process.

J. Fire Suppression Plan: A plan describing the fire suppression process and procedure, as well as training for emergency personnel. Plans on-site for emergency responders to have access to.

K. Site Plan: The site plan shall include maps showing the physical features and land uses of the project area, both before and after construction of the proposed project. The site plan shall include:

- 1) Survey of the property showing existing features such as contours, large trees, buildings, structures, roads (rights-of-way), utility easements, land use, zoning district, ownership of property, and vehicular access with details regarding dimensions, composition and maintenance of proposed access driveways;
- 2) Water bodies, waterways, wetlands, and drainage channels;
- 3) Lighting plan describing all lighting that will be utilized. The plan shall include, but is not limited to the planned number and location of lights, light color, activation methods, effect on township residents and whether any lights blink. Due to complexity in describing lighting effects for health, welfare and safety, Applicant shall, if available, provide example locations, with product descriptions, where similar, or proposed, lighting solutions are currently deployed;
- 4) Plan(s) showing the location of proposed Industrial Solar Energy Facility, underground and overhead wiring (including the depth of underground wiring), new drainage facilities (if any), access drives (including width), substations and accessory structures;
- 5) A description of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary in the Township to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction;

- 6) Anticipated construction schedule;
- 7) Description of operations, including anticipated regular and unscheduled maintenance;
- 8) The Applicant must also obtain a permit from the Ionia County Road Commission and/or Michigan Department of Transportation (MDOT) for permission to connect access roads to existing County roads and from the Ionia County Drain Commission for any culverts or other drainage facilities;
- 9) Proof of approval by the Ionia County Airport Zoning board of appeals;
- 10) Any other relevant studies, reports, certificates, or approvals as may be reasonably required by the Planning Commission;
- 11) A copy of the agreement between the Applicant and the utility company that will be purchasing electricity from the proposed Industrial Solar Energy Facility;
- 12) The Industrial Solar Energy Facility shall not have any on-site battery storage;
- 13) All electrical connection systems and lines from the Industrial Solar Energy Facility to the electrical grid connection shall be located and maintained a minimum of 6 feet underground both on the property where the solar energy facility is located and off site;
- 14) An affidavit or evidence of an agreement between the lot owner or operator confirming the owner or operator has the permission of the property owner to apply for the necessary permits for construction and operation of an Industrial Solar Energy Facility;
- 15) A complete description of the proposed technology to include type of solar panel and system, fixed mounted versus tracking, number of panels and angles of orientation;
- 16) An escrow deposit shall be provided to the Township in an amount included in the Township's Annual Fee Schedule; and
- 17) A complete set of Photos of the entire development area prior to construction.

## **V. Application Fee**

An Applicant for a Industrial Solar Energy Facility shall remit a special use permit application fee, a site plan review fee per acre, and required escrow fee to the Township in the amount specified in the fee schedule. This schedule is based on the cost to the Township of the review which may be adjusted from time to time.

An escrow account shall be set up when the Applicant applies for a Special Use Permit for an Industrial Solar Energy Facility. The monetary amount filed by the Applicant with the Township shall be in accordance with the fee schedule set by the Township Board. These funds are used to cover all reasonable costs and expenses associated with the special use permit and site plan review and approval process, which costs can include, but are not limited to, fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates it may have done related to the zoning review process for the particular application. At any point during the zoning review process, the Township may require that the Applicant place additional monies into escrow with the Township should the existing escrow amount filed by the Applicant prove insufficient. If the escrow account needs replenishing and the Applicant refuses to do so within fourteen (14) days after receiving notice, the zoning review and approval process shall cease until and unless the Applicant makes the required escrow deposit. Any escrow amounts which are in excess of actual costs shall be returned to the Applicant.

## **VI. Abandonment and Decommissioning**

A. Abandonment: An Industrial Solar Energy Facility that ceases to produce energy on a continuous basis for 12 months will be considered abandoned. It is the responsibility of the responsible party or parties to remove all equipment and facilities and completely restore the parcel to its original condition prior to the installation of the solar facility.

- 1) Upon determination of abandonment, the Zoning Administrator shall notify the party or parties responsible that they must remove the Industrial Solar Energy Facility and restore the site to its condition prior to the development of the facility within 6 months of notice by the Planning Commission or its designee.
- 2) If the responsible party or parties fails to comply, the landowner is then responsible for removal of the facility.

- 3) If the facility is not removed and the land restored to its prior condition within the 6 month time period, the Planning Commission or its designee may remove the solar facility, sell any removed materials, and initiate judicial proceedings or take any other steps legally authorized against the responsible parties to recover costs required to remove the solar facility and restore the site to a non-hazardous pre-development condition.
- 4) Some type of metering system approved by the Planning Commission must be part of the project showing that the system is operational.

B. Decommissioning: A decommissioning plan signed by the party responsible for decommissioning and the landowner addressing the following shall be submitted prior to issuance of the zoning permit which shall include:

- 1) The anticipated life of the project;
- 2) The estimated decommissioning costs net of salvage value in current dollars;
- 3) Proof of financial security in effect - The security shall be in the form of (1) cash deposit or (2) performance (surety) bond selected by the Planning Commission and bonded by a top institution from the Department of the Treasury's Listing of Approved Sureties -Department Circular 570, T-list. Additionally, security is to be backed with parent company assets, and lease holder assets approved by the Planning Commission. The amount of such security guarantee (surety) shall be the average of at least two independent (of Applicant) demolition (removal) quotes, obtained by the Planning Commission and approved by the Board, plus 10%. The formula shall be  $(\text{quote1} + \text{quote2})/2 * 1.10$ . but no less than \$650,000 per system. Such financial guarantee shall be deposited or filed with the Township Clerk after a special use has been approved but before construction operations begin on the project. Failure to keep such financial security in full force and effect at all times while the structure exists shall constitute a material and significant violation of a special use approval and this ordinance, and will subject the Applicant to all available remedies to the Township, including enforcement action, fines, revocation of the special use approval and system removal. The Planning Commission will review the financial security amount on an annual basis and may increase it to account for inflation; and
- 4) The anticipated manner in which the project will be decommissioned and the site restored.

**1.591. Private Solar Energy Systems.**

Private Solar Energy Systems shall be permitted as an accessory use in all zoning districts, provided that:

A. No part of a Private Solar Energy Systems erected on a roof shall extend beyond the peak of the roof. If the Private Solar Energy System is mounted on a building in an area other than the roof, no part shall extend beyond the wall on which it is mounted.

B. Prior to the installation of a ground mounted Private Solar Energy Systems, the property owner shall submit a site plan to the Zoning Administrator. The site plan shall include setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. Setbacks shall conform with the current setback requirements set forth in the Otisco Township Zoning Ordinance. The site plan must be drawn to scale.

C. A ground mounted Private Solar Energy System shall not exceed the maximum building height for adjacent accessory buildings, but in no case shall the maximum height of any ground mounted system exceed twenty five (25) feet above the ground when oriented to maximum tilt.

D. A ground mounted Private Solar Energy System shall be located in the rear yard and shall meet the rear yard setback requirements of the Otisco Township Zoning Ordinance.

E. All power transmission lines, wires or conduits from a ground mounted Private Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the ground mounted Private Solar Energy System, they must be placed in a secured container or enclosure. Signage will be provided with disconnection procedures for emergency first responders in case of fire or other emergency.

F. A Township land use permit and building permits shall be required for the installation of any Private Solar Energy System.

G. BIVPs, Ground Mounted or Roof Mounted Private Solar Energy Systems shall conform to applicable County, State, and Federal Regulations, and safety requirements including Michigan Building codes.

H. In the event that a Private Solar Energy System has been abandoned for a period of one (1) year, it shall be removed by the property owner within six (6) months from the date of abandonment.

#### SECTION 7: Validity and Severability

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

#### SECTION 8: Repealer

Any ordinances or parts of ordinances in conflict herewith are hereby repealed but only to the extent necessary to give this Ordinance full force and effect.

#### SECTION 9: Effective Date

This ordinance shall become effective seven days following publication as provided by law.

**1.592. Wind Alternative Energy:**

I. Permitted Zones & Procedure

The Township Board, with recommendation from the Township Planning Commission shall have the power to grant a Special Use Permit to allow an Industrial Solar Energy Facility in the Rural Conservation Districts, subject to the restrictions contained in this Ordinance. The procedure for review and approval of a Special Use Permit for a Wind Alternative Energy shall be as follows:

A. The Zoning Administrator:

1. Reviews application package:

- a. To make sure that it is the right application for zoning action requested;
- b. To see that all required information is submitted, and;
- c. To make sure that the proposed use is permitted in a particular district by special use permit.

2. Takes one or more of the following actions:

- a. Requests from the applicant that any omitted necessary information now be submitted;
- b. If necessary, seeks ordinance interpretation from the Board of Appeals;
- c. Makes advisory comments about the site plan based on site plan review standards, and/or
- d. Forwards the complete application with comments to the Planning



Commission for review.

B. The Planning Commission:

1. Reviews the site plan according to site plan review standards, as set forth in the zoning ordinance. See Section 1.463.
2. Reviews the proposed special use according to standards for special use permits, as set forth in this Ordinance. See Section 1.471.
3. Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by this Ordinance.
4. Notice of application for a special land use shall be published in a newspaper of general circulation.
  - a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
    - 1) In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, a single notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
    - 2) In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing.
  - b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

The notice shall do all of the following:

Describe the nature of the request.

Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not

need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

State when and where the request will be considered.

Indicate when and where written comments will be received concerning the request.

5. Holds a public hearing.
6. Following the public hearing, the Planning Commission shall then make a recommendation to the Township Board regarding the proposed use by special permit, based on the requirements and standards of this Ordinance. The Planning Commission may recommend approval, approval with conditions, or denial of the application as follows:
  - a. Approval. Upon determination by the Planning Commission that the final plan for the use by special permit is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission shall recommend approval of the use by special permit.
  - b. Approval with conditions. The Planning Commission may impose reasonable conditions upon the approval of a use by special permit, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
  - c. Denial. Upon determination by the Planning Commission that a use by special permit proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Planning Commission shall recommend denial of the use by special permit.

### C. The Township Board:

1. The Township Board shall review the recommendation of the Planning Commission, together with the public hearing findings and reports and recommendations from the Zoning Administrator and other reviewers. The Board shall then make a decision regarding the proposed use by special permit, based on the requirements and standards of this Ordinance. The Board may approve, approve with conditions, or deny the use by special permit application as follows:
  - a. Approval. Upon determination by the Board that the final plan for the use by special permit is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Board shall approve the use by special permit.
  - b. Approval with conditions. The Board may impose reasonable conditions upon the approval of a use by special permit, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
  - c. Denial. Upon determination by the Board that a use by special permit proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Board shall deny the use by special permit.

This special use permit, if denied by the Township Board, may be appealed in the same manner as any special land use permit.

## **II. Purpose, Findings, Intent and Definitions**

### **A. Purpose and Intent.**

1. The most common and prevalent land use in Otisco Township is the Agricultural District (AG) and its preservation has been an ongoing goal within the community for many years. This Ordinance is intended to protect the health, safety and welfare of the residents of the Township and to encourage the orderly and beneficial development of alternative energy resources in the Township while preserving and protecting the character and the stability of agricultural, recreational, commercial and other areas within the Township.
2. With advances in technology of “wind development” in general, according to the latest maps generated by the Michigan Department of Labor and Economic Growth, specific locations within Otisco Township may support the implementation of Utility Scale Wind Energy Systems. To prepare for potential “wind development projects” within the Township, this Ordinance will require such developments to obtain a Special Use Permit to ensure wind development sites are located so as to protect the character and stability of the Township’s agricultural, recreational, commercial and/or industrial areas while simultaneously preserving and protecting the Township’s sensitive environmental and ecological assets and areas.
3. Michigan’s Public Act 295 of 2008 is known as the Clean, Renewable, and Efficient Energy Act (the Act). The Act’s purpose is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard. Naturally occurring wind has been acknowledged and referred to as a new “crop” within the State of Michigan. Traditional farming operations require large tracts of land not typically located near densely populated areas due to their inherent nature and necessity for mass production of grains, animal husbandry, dairying, horticulture and other agricultural activities. Farming has been and is expected to continue to be an ongoing and economically viable means of employment for many throughout the State and more specifically in Otisco Township for future land owners. Wind regulations are necessary for agricultural districts to further the goal of agricultural preservation and minimize the potential adverse effects of this emerging land use on adjacent properties.

B. Findings. This Ordinance has been developed with the intention of obtaining an appropriate balance between the need for clean, renewable energy resources and the need to protect the public health, safety, and welfare of the community. Based on evidence concerning the adverse secondary effects of wind energy systems on the community presented in hearings and in reports made available to the Board, and on findings from the *Wind Turbine Health Impact Study: Report of Independent Expert Panel*, prepared for the Massachusetts Department of Environmental Protection (2012); *Strategic Health Impact Assessment on Wind Energy Development in Oregon*, prepared for the State of Oregon (2012); *Potential impact on the Public's Health from Sound Associated with Wind Turbine Facilities*, prepared for the State of Vermont's Department of Health (2010); *Analysis of the Research on the Health Effects from Wind Turbines, Including Effects From Noise*, prepared for the Maine Department of Health and Human Services (2012); Jeffrey et al, "Adverse Health Effects of Industrial Wind Turbines," 59 *Can Fam Physician* 473-475 (2013); Salt, A., and Kaltenbach, J, *Infrasound From Wind Turbines Could Affect Humans*, 31(4) *Bulletin Science, Technology and Society*, 296-302 (2011) and that the following are among the potential harmful secondary effects of wind energy systems presented in those studies:

1. Falling ice or "ice throws" is physically harmful and measures should be taken to protect the public from the risk of "ice throws."
2. Nighttime wind turbine noise can cause sleep disturbance. Generally, sleep disturbance can adversely affect mood, cognitive functioning and one's overall sense of health and well-being. Chronic stress and sleep disturbance could increase the risk for cardiovascular disease, decreased immune function, endocrine disorders, and mental illness. In addition, possible health effects include increased heart rate, insomnia, fatigue, accidents, reduction in performance and depression.
3. Sound from wind energy facilities could potentially impact people's health and well-being if it increases background sound levels by more than 10dBA or results in long term outdoor community sound levels above 35-40 dBA.
4. There is evidence that wind turbine sound is more noticeable, annoying and disturbing than other community industrial sounds at the same level of loudness.
5. People who live near wind turbines are more likely to be impacted by wind turbine than would those far away.

6. The general welfare, health, and safety of the citizens of the Township will be promoted by the enactment of this ordinance.
7. Alternating changes in light intensity caused by the moving blades of wind turbines on the ground and stationary objects, also known as shadow flicker.
8. In addition to protecting the health, safety and welfare of the public, the Township also desires to protect ecological and environmentally sensitive areas within the Township. Some or all of these areas are habitats for endangered species like the Indiana bat or heavily used migration routes for species of waterfowl and other migratory birds (some of which are protected species), including tundra swans and sand hill cranes. Thus, the Township has determined, with the assistance of the United States Department of the Interior, Fish and Wildlife Service (“USFWS”), that wind development sites can adversely impact wildlife and their habitats and makes evaluation of proposed wind development sites essential. Thus, the Township finds that any wind development sites should have the lowest potential for negative impacts on wildlife resources and avoid locations with higher concentrations of migratory birds and bats. Further, any wind development sites that would fragment sensitive habitat areas, like rivers, streams and wetlands, should be avoided. To avoid negative impacts on wildlife habitat, the Township finds that it is necessary and prudent to rely, in whole or in part, on Service Guidance recommended by USFWS in developing and implementing the requirements of this Ordinance.

C. Definitions.

Ambient. The sound pressure level that exists at least 90% of the time L90

ANSI. American National Standards Institute.

dB(A). The sound pressure level in decibels. Refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

dB(C). The sound pressure level in decibels of frequencies below 1k Hz. Refers to the “c” weighted scale defined by ANSI SI.43-1997.

Decibel. The unit of measure used to express the magnitude of sound pressure and sound intensity.

Horizontal Axis Wind Energy System. A wind turbine design in which the shaft is parallel to the ground and the blades are perpendicular to the ground.

Hub Height. The vertical distance measured from ground to the center of the turbine hub.

MET (meteorological) Tower. The structure and equipment used to determine the placement or potential placement of a WES, containing instrumentation such as anemometers designed to provide wind data.

Non-participating Parcel. Any property within the Township other than Participating Parcels.

On-Site Use Wind Energy System (“On-Site WES”). A WES with the purpose of providing energy to only the property where the structure is located, or to adjacent properties under the same ownership or control as the property where the structure is located, or to adjacent properties with the consent of the owners of the property where the structure is located and the owners of the adjacent properties.

Participating Parcels. Any property or portion thereof in the Agricultural zoning district owned or under the control of any person (by lease, easement or any other agreement) and proposed for (i) the placement of an On-Site WES, (ii) inclusion within a Wind Energy Conversion Facility, or (iii) the placement of a MET Tower, transmission line or any other Wind Energy System or easements which are directly or indirectly related to a Wind Energy Generation Facility.

Pre-Existing Sound Pressure Level. The amount of background sound at a given location prior to the installation of WES which may include, but shall not be limited to traffic, machinery, lawnmowers, human activity, and the interaction of wind with the landscape. The sound levels are to be measured on a dB(A) weighted scale as defined by the American National Standards Institute.

Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a WES casting shadows on the ground and stationary objects.

Sound Pressure. Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level. The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Total Height. Vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the Wind Energy System (WES) whichever is greater.

Utility Scale Wind Energy System. A WES designed and constructed to provide electricity to the electric utility grid and occupied by a number of turbines that exceed combined total potential power output greater than a maximum of ten (10) kW.

Vertical Axis Wind Energy System. A wind generator design where the rotating shaft is perpendicular to the ground and the cups or blades rotate parallel to the ground.

WES Rotor Diameter. The distance measured across the central potential swept area of a WES blade's pattern.

Wind Energy System (WES). Equipment that converts and then stores or transfers energy from the wind into forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. Also refers to the term "wind turbine" or "wind generator".

Wind Energy Generation Facilities (WEGF). Electricity generating facilities consisting of one or more Utility Scale wind turbines under common ownership or operational control, and includes substations, MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity to off-site customers.

### **III. On-Site WES or MET towers**

A. Use. On-Site WES or MET towers shall only be permitted in the Rural Conservation (R-C) District and only by special use permit along with site plan approval. Prior to any installation efforts taking place upon a participating parcel, an application for a Special Use Permit and site plan review and approval is required. The cost and expense of any information required by this Ordinance or any review of the application shall be the sole obligation of the applicant and the Township may require an escrow account be established to cover any such costs or expenses.



B. Application Requirements. In addition to any other requirements in the Zoning Ordinance, applications for an On-Site WES or MET towers shall include the following:

1. Name of property owner(s), parcel identification number and address.
2. Zoning classifications of the participating parcel.
3. Proposed type, number and height of the On-Site WES or MET towers to be constructed including the manufacturer and model, product specifications regarding noise output (measured in decibels dB(A), total rated generating capacity, dimensions, rotor diameter, description of ancillary facilities (including but not limited to tower design, color and wiring), and MSDS, Material Safety Data Sheets.
4. Evidence that the Michigan Public Service Commission, the subject utility company and regional transmission operator have been informed of the applicant's intent to install an interconnected, customer-owned generator and that such connection has been approved.
5. A map drawn to scale depicting the participating parcel's property lines, locations of existing roads and access drives, structures including above and below grade utility lines, public easements and existing mature vegetation.
6. The required setbacks shall be displayed upon the participating parcel's site plan, in addition to the information required by Section 307.4.
7. The location(s) of the On-Site WES or MET towers and its supporting electrical system's components including distances from existing structures, utility lines or any other possibly impacted items on site.
8. An engineered set of plans illustrating the proposed On-Site WES or MET towers must be prepared or reviewed by a registered engineer.
9. Standard drawings of any proposed equipment for review of the structural components of the On-Site WES or MET towers, including structures, towers, bases and footings. A registered engineer's certification is required for all drawings and any necessary calculations that indicate that the system complies with all local, state, and federal building, structural and electrical codes.

C. Design Standards. In addition to the required standards and findings contained in Article IV, On-Site WES or MET towers may be permitted as a special use in the Rural Conversation (R-C) District if they comply with the following requirements:

1. Installation of the proposed On-Site WES or MET towers shall be consistent with the public health, safety and welfare of Otisco Township.
2. MET towers are specifically designed to gather data for located WES. Notwithstanding any other provision of this Zoning Ordinance to the contrary, the Township has determined that special use permits for such data gathering should not extend beyond two (2) years. Accordingly, as a condition of approval, no MET tower shall continue in operation for a period exceeding two (2) years after the MET tower is erected or becomes operational. The two (2) year special use permit expiration is an express condition to issuance of any special use permit whether or not such limitation is stated in the permit and violation of that condition shall subject the special use permit to revocation pursuant to Section 1603.F.
3. On-Site WES and MET towers must comply with all state, federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration (FAA), the Michigan Airport Zoning Act and the Michigan Tall Structures Act both prior to and after installation. No On-Site WES or MET towers shall be located on any property in such a manner as to interfere with the safe take off, approach and landing of aircraft at any non-publically owned airport as defined by the Michigan Airport Zoning Act as amended.
4. The On-Site WES and MET towers must minimize the adverse impacts of technological obsolescence of such equipment.
5. Height
  - a. No On-Site WES shall exceed a total height of 35 feet.
  - b. No MET tower shall exceed a total height of 175 feet.
6. Visual Appearance
  - a. On-Site WES and MET towers shall be required to be a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the product.

- b. On-Site WES and MET towers shall not be artificially lighted except to comply with the applicable FAA or other federal, state or local requirements, or to the extent necessary for the reasonable safety and security thereof.
  - c. No advertising is permitted upon an On-Site WES and MET tower. Additional items such as banners, streamers, flags and the similar items are prohibited from being attached to any On-Site WES and MET towers or their support structures.
  - d. Support structures, such as the tower and base, for an On-Site WES and MET tower may utilize guy wires. Guy wires must be clearly visible from ground level to a vertical height of six (6) feet via altered coloring, striping methods or other administratively approved methods of delineating or highlighting this part of the structure.
  - e. Any electrical system components related to the On-Site WES and MET tower, except necessary wiring from the base of the support structure to the turbine, are required to be placed underground within the boundary of each participating parcel at a depth as to accommodate the existing land use to maximum extent practical.
  - f. There shall be a minimal negative visual impact of On-Site WES and MET towers on neighborhoods, community landmarks, historic sites and buildings, naturally environmentally sensitive areas and public right of ways.
7. Ground Clearance
- a. The horizontal axis of the On-Site WES must have a minimum distance of twenty (20) feet between the lowest extension of a rotational blade and the average grade at the base of the structure within a thirty-two (32) foot radius.
  - b. The vertical axis of the On-Site WES is exempt from a minimum height standard.
8. Sound
- a. Sound originating from any On-Site WES or MET tower may not exceed 40 dB(A) when measured at the property line of any non-participating parcel. During short-term weather events, including but not limited to severe wind, snow or rain storms, if the ambient sound pressure levels exceeds 40 dB(A), the sound originating from any On-Site WES or MET tower shall not exceed the ambient sound pressure level plus five (5) dB(A). However, in no event shall sound

originating from any On-Site WES or MET tower exceed 55 dB(A) during short term weather events when measured at the property line of any non-participating parcel.

9. Parcel Size and Number of On-Site WES and MET towers

- a. No On-Site WES or MET towers shall be located on any parcel less than 1 ½ acres in size.
- b. A participating parcel shall not be occupied by a number of On-Site WES exceeding a combined total of potential power output greater than ten (10) kW per hour nor shall the number of MET towers on a participating parcel exceed two (2) MET towers for each whole five (5) acres.

10. Safety

- a. An On-Site WES shall have a governing, breaking, feathering or other fail –safe system designed by a certified engineer in order to mitigate and prevent uncontrolled rotation during adverse weather conditions.
- b. On-Site WES and MET towers must possess protection measures from lightning strikes.
- c. A structural analysis must be provided demonstrating the structural integrity of the proposed On-Site WES and MET tower support system in the event of adverse weather conditions.
- d. Anchor points for an On-Site WES and MET tower utilizing guy wires must not be located within the road right-of-way and must be anchored entirely upon the participating parcel.

11. Setbacks

- a. On-Site WES
  - i. Except as provided in subsection 11.a.iv, all setbacks required for On-Site WES towers shall be measured from the outside edge of the base of the tower which shall not be located closer than 1.5 times the total height of the proposed structure to the nearest adjacent property line of a non-participating parcel.

- ii. The base location for any On-Site WES tower located on a participating parcel shall not be located within any other necessary setbacks related to the site, including but not limited to utility easements, well/septic separations, or drain easements.
- iii. A minimum separation distance equal to or greater than a one to one (1:1) ratio to total height is required between multiple On-Site WES or MET towers.
- iv. If an On-Site WES is mounted to any building or accessory structure, then the placement of the On-Site WES upon such structure shall be opposite to the structure's façade facing the road right-of-way. In the case of a corner lot or lake property, the township's Zoning Administrator must determine which façade is the participating parcel's principal frontage and the On-Site WES tower shall be opposite of that façade. The location of any On-Site WES mounted to a residential building or residential accessory structure shall not be closer than fifty (50) feet to the nearest adjacent property line of a non-participating parcel.
- v. All On-Site WES towers must maintain a one to one (1:1) total height to setback ratio from existing utility easements, power lines or other public infrastructure related items which may exist upon the participating parcel.

b. MET Towers

- i. Except as provided in subsection 11.b.vii, all setbacks required for MET towers shall be measured from the outside edge of the base of the tower which shall not be located closer than 1.5 times the total height of the proposed structure to the nearest adjacent property line of a non-participating parcel.
- ii. The setback from a MET tower to the boundary of the any lake shoreline shall be three (3) miles from the ordinary high water mark set forth in MCL 324.32502 as maintained by the Michigan Department of Environmental Quality and adjacent wetlands or other ecological and environmentally sensitive areas.
- iii. The setback from a MET tower to the boundary of any river shall be a minimum of one (1) mile.

- iv. The base location for any MET tower located on a participating parcel shall not be located within any other necessary setbacks related to the site, including but not limited to utility easements, well/septic separations, or drain easements.
- v. A minimum separation distance equal to or greater than a one to one (1:1) ratio to total height is required between multiple On-Site WES or MET towers.
- vi. If a MET tower is mounted to any building or accessory structure, then the MET tower shall not be greater than thirty-five (35) feet in total height and placement of the MET tower upon such structure shall be opposite to the structure's façade facing the road right-of-way. In the case of a corner lot or lake property, the township's Zoning Administrator must determine which façade is the participating parcel's principal frontage and the MET tower shall be opposite of that façade. The location of any MET tower mounted to any building or accessory structure shall not be closer than fifty (50) feet to the nearest adjacent property line of a non-participating parcel.
- vii. All MET towers must maintain a one to one (1:1) total height to setback ratio from existing utility easements, power lines or other public infrastructure related items which may exist upon the participating parcel.

## 12. Co-location

- a. No co-location of any wireless communication facilities shall be permitted on any On-Site WES or MET towers.

## **IV: Utility Scale WES or Wind Energy Generation Facilities**

A. Use. Utility Scale WES or Wind Energy Generation Facilities shall only be permitted in the Rural Conversation (R-C) District and only by special use permit. An application for a Special Use Permit and site plan review for Utility Scale WES or Wind Energy Generation Facilities is required. Prior to any installation efforts taking place upon a participating parcel, an application for a Special Use Permit and site plan review and approval. The cost and expense of any information required by this Ordinance or any review of the application shall be the sole

obligation of the applicant and the Township may require an escrow account be established to cover any such costs or expenses.

B. Application Requirements. In addition to any other requirements in Article IV, applications for Utility Scale WES or Wind Energy Generation Facilities shall include the following:

1. Electromagnetic Interference and Signal Degradation

- a. A report shall be produced by a third party, qualified professional acceptable to the Township to review any adverse impacts to existing telephone(including cellular and land line), microwave, navigational, any wireless technology or radio reception within the township. The report required shall, at a minimum, include the cumulative impact of all proposed, existing and permitted utility scale WES or WEGF in Ionia County to existing telephone (including cellular and land line), microwave, navigational, or radio reception within two and a half (2.5) miles of the utility scale WES or WEGF participating parcel boundaries.
- b. A report shall be produced by a third party, qualified professional acceptable to the Township to review any adverse impacts and degradation to the signal of any existing television provider and FCC licensed television station(s) whose DTV service area includes the location of the proposed utility scale WES or WEGF. The report required shall, at a minimum, include the cumulative impact of all proposed, existing and permitted utility scale WES or WEGF in Ionia County to each station included in the report. If the report shows that a geographical area within the DTV service area(s) of an affected station(s) will lose the ability to receive a signal level of at least 35dBuV/m using a receive antenna height of ten (10) feet as result of the proposed turbines, an acceptable mitigation plan shall be submitted to restore coverage of that signal(s) to the residents in those areas.

2. Soil Conditions

- a. The applicant must produce a soils analysis to research the geologic characteristics of the site based upon on site sampling and testing. This report must be certified by a registered professional engineer licensed in the State of Michigan.

### 3. Shadow Flicker

- a. The applicant shall provide a detailed report from a qualified third party professional acceptable to the Township that includes without limitation, elevation drawings, computer and/or photographic simulations or other models and visual aids, illustrating the locations of any Utility Scale WES or WEGF potential shadow areas produced by the Utility Scale WES or WEGF, including a summation of the impacts of proposed Utility Scale WES or WEGF may have upon neighboring /adjacent properties and homes, including the number of hours per year of impact and mechanisms or mitigation efforts that could be implemented to minimize any negative effects.

### 4. Sound

- a. A report of the existing and expected audible and low frequency sound conditions related to the Utility Scale WES or WEGF participating parcels must be conducted to identify a baseline sound presence and expected compliance with the sound limits established by this ordinance prior to any installation of any Utility Scale WES or WEGF. The report must be produced in accordance with standards established by ANSI by a qualified sound professional acceptable to the Township and must include:
  - i. A description and map of the sound producing features of the Utility Scale WES or WEGF, including the range of decibel levels expected (to be measured in dB(A) and dB(C), and the basis for the expectation.
  - ii. A description and map of the existing land uses and structures including any sound receptors, (i.e. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers) within one (1) mile of the proposed Utility Scale WES or WEGF participating parcel boundaries. The description shall include the location of the structure/land use, distances from the proposed Utility Scale WES or WEGF and expected decibel readings for each receptor.
  - iii. The pre-existing ambient sound (including seasonal variation) and the affected sensitive receptors located within one (1) mile of the proposed participating parcel(s). Potential sensitive receptors at relatively less windy or quieter locations shall be emphasized and any problem areas identified.



- iv. A description of the project's proposed sound control features must be explained within the sound report, including specific measures to mitigate noise impacts for sensitive receptors to a level consistent with this ordinance.

## 5. Wind Resource Availability

- a. The U.S. Department of Energy and National Renewable Energy Laboratory has adopted standards to measure and classify the wind based on several factors including wind speed and density. Prior to the application being accepted for a Utility Scale WES or WEGF, a through wind assessment study must be submitted to the Township. The study must indicate the viability of a potential development by assessing the potential participating parcel's wind resource within the U.S. Department of Energy National Renewable Energy Laboratory classification system.

## 6. Technical Documentation

- a. The following information is to be assembled and submitted during review of a Utility Scale WES or WEGF Special Use Permit as a separate report from the final site plan to address the physical characteristics of the proposed Utility Scale WES or WEGF. The information will be placed on file with the Township for review purposes.
  - i. Wind energy facility technical specifications including manufacturer and model, rotor diameter, tower height/type, and foundation type/dimensions.
  - ii. Typical tower foundation blueprints or drawings signed by a professional engineer licensed to practice in the State of Michigan.
  - iii. Typical tower blueprints or drawings signed by a professional engineer licensed to practice in the State of Michigan.
  - iv. Electrical schematic illustrating the proposed support infrastructure, wires, location, and depth of the Utility Scale WES or WEGF to the point of inter-connection with any other electrical transmission lines.

## 7. Fire Prevention and Emergency Response Plan Requirements

- a. Description of the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders.
  - b. Designation of the specific agencies that would respond to potential fire or other emergencies.
  - c. Description of all emergency response training and equipment needed to respond to a fire or other emergency including an assessment of the training and equipment available to the designated agencies.
8. Environmental Impact Issues: Documentation demonstrating the expected ability to comply with the applicable parts of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, MCL 324.101 et seq.), including but not limited to:
- a. Part 31 Water Resources Protection (MCL 324.3101 et seq.)
  - b. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.)
  - c. Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.)
  - d. Part 303 Wetlands (MCL 324.3030 1 et seq.)
  - e. Part 365 Endangered Species Protection (MCL 324.36501 et seq.)
9. Site Plan: Requirements and Additional Data. Any site plan for a Utility Scale WES or WEGF shall include all requirements in Section 307.4 and the following information.
- a. The site plan and other documents shall illustrate and describe mitigation measures to minimize potential impacts on the natural environment including, but not limited to wetlands, avian and wildlife (migratory bird patterns and bat population effects), other fragile ecosystems, historical/cultural sites and antiquities.
  - b. A map drawn to scale depicting the participating parcel's property lines, locations of existing roads and access drives, structures including above and below grade utility lines, public easements and existing mature vegetation.

- c. The required setbacks for a Utility Scale WES or WEGF shall be displayed upon the participating parcel's site plan.
- d. The location(s) of the Utility Scale WES or WEGF and its supporting electrical system's components including distances from existing structures and utility transmission.
- e. Identification and location of the participating parcels on which the proposed Utility Scale WES or WEGF will be located, including distances from occupied structures on participating parcels. The applicant shall provide written documentation that will be recorded at the Register of Deeds from all property owners of participating parcels that provides evidence they agreed to be a participating parcel.
- f. Identification and location of occupied structures on non-participating parcels and distances from property lines of non-participating parcels within a three quarter (3/4) mile of each participating parcel property line.
- g. Illustrations, including without limitation, elevation drawings, computer and/or photographic simulations or other models and visual aids of the proposed Utility Scale WES or WEGF as they will appear from vantage points at various distances from north, south, east and west.
- h. Proof of the applicant's liability insurance for the subject property(s).
- i. A written description of decommissioning and reclamation plan, including initial contact information for the owner, those performing maintenance upon the structures, and operators of the development, and participating parcel owners.
- j. The owner shall have a continuing obligation to provide the Township with up to date contact information.
- k. A site grading, erosion control and storm water drainage plan must be submitted and approved by the Ionia County Drain Commission prior to commencement of construction of a Utility Scale WES or WEGF.
- l. A description, or travel plan, of the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment or other deliveries, and an

agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the development must be submitted to and approved by the Ionia County Road Commission prior to commencement of construction of a Utility Scale WES or WEGF.

- i. The travel plan must include the load capacity of the affected road, an assessment of the roadway prior to and after the construction efforts have been completed and an intersection display or diagram indicating where and what type of improvements are necessary for transportation, delivery or maintenance purposes for any Utility Scale WES or WEGF related items. Any necessary post construction road repairs and reconstruction shall be the responsibility of the owner/operator of the Utility Scale WES or WEGF and such necessary road repairs or reconstruction must be performed in compliance all applicable requirements of the Ionia County Road Commission.
- m. A statement indicating what hazardous material will be used and stored on the site.
- n. An anticipated construction schedule and project phasing plan shall be required prior to final site plan approval.
- o. A statement certifying that every Utility Scale WES or WEGF shall be inspected on an annual basis to ensure that all equipment related to the development is in proper working condition. The Township shall be provided with a copy of the inspection. The owner shall maintain with the Township up to date name and contact information for the person or organization responsible for the general maintenance of the structures.

C. Design Standards.

- 1. The proposed Installation of the Utility Scale WES or WEGF shall be consistent with the goals and objectives related to agricultural preservation including the public's health, safety and welfare within Otisco Township.
- 2. The proposed Installation of the Utility Scale WES or WEGF shall minimize the adverse impacts of technological obsolescence of such equipment, including a requirement to remove obsolete and/or unnecessary Utility Scale WES or WEGF in a timely manner.

3. The proposed Installation of the Utility Scale WES or WEGF shall minimize negative externalities related to but not limited to noise, shadow flicker, soil erosion and physical road conditions.
4. Any proposed equipment fifty (50) feet or greater in height shall be required to provide certified drawings of the structural components of the Utility Scale WES or WEGF, including structure's components, towers, bases and footings. A registered engineer's certification is required for all drawings and any necessary calculations that indicate that the system complies with all local, state, and federal building, structural and electrical codes.
5. Height
  - a. No Utility Scale WES or WEGF shall exceed a total height of 500 feet.
6. Visual Appearance
  - a. Utility Scale WES or WEGF shall be required to be a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the product to mitigate visible oxidation or corrosion.
  - b. Lighted safety beacons may be installed upon the top of the structure's nacelle to adhere to FAA or other federal, state or local requirements, or to the extent necessary for the reasonable safety and security thereof. Any lighting shall be implemented at the lowest intensity allowable under law, including but not limited to FAA regulations, and must be reasonably shielded to reduce glare and visibility from the ground.
  - c. No advertising is permitted upon a Utility Scale WES or WEGF. Additional items such as banners, streamers, flags and the similar items are prohibited from being attached to any Utility Scale WES or WEGF or their support structures.
  - d. Support structures, such as the tower and base, for a Utility Scale WES or WEGF shall not utilize guy wires.
  - e. The proposed installation of the Utility Scale WES or WEGF shall minimize negative visual impact upon neighborhoods, community landmarks, historic sites and buildings, natural environmentally sensitive areas and public right of ways.
7. Audible Sound

- a. Sound originating from the operation of any Utility Scale WES or WEGF shall not exceed 40 dB(A) when measured at the property line of any non-participating parcel. During short-term weather events, including but not limited to severe wind, snow or rain storms, if the ambient sound pressure levels exceeds 40 dB(A), the sound originating from any Utility Scale WES or WEGF shall not exceed the ambient sound pressure level plus five (5) dB(A). However, in no event shall sound exceed 55 dB(A) during short term weather events when measured at the property line of any non-participating parcel.
- b. The sound pressure level generated by the Utility Scale WES or WEGF shall not exceed 35 dB(A) when measured at a habitable structure located on a non-participating parcel.
- c. An annual report shall be required to ensure compliance with this ordinance. The report must be produced in accordance with standards established by ANSI by a qualified sound professional acceptable to the Township. This report shall be at the cost and expense of the owner(s) and/or operator and shall be submitted to the Otisco Township Board of Trustees.

## 8. Setbacks

- a. All setbacks required for Utility Scale WES or WEGF shall be measured from the outside edge of the base of the tower to the nearest adjacent property line or adjacent road right-of-way.
- b. The setback from a Utility Scale WES or WEGF to the boundary of any lake shoreline shall be three (3) miles from the ordinary high water mark set forth in MCL 324.32502 as maintained by the Michigan Department of Environmental Quality and adjacent wetlands or other ecological and environmentally sensitive areas.
- c. The setback from a Utility Scale WES or WEGF to the boundary of any river shall be a minimum of one mile.
- d. The base of any Utility Scale WES or WEGF shall be set back a minimum of 2 times the total height from any habitable structure located on a participating parcel.

- e. The base of any Utility Scale WES or WEGF shall be set back a minimum of four (4) times the total height of the Utility Scale WES or WEGF or 1700 feet, whichever is greater, from any property line of a non-participating parcel.
- f. Each Utility Scale WES or WEGF shall be setback a minimum of four (4) times the total height of the Utility Scale WES or WEGF or 1700 feet, whichever is less from a public road right-of-way, communication tower, existing electrical lines or any other public utility, except for the interconnection between a Utility Scale WES or WEGF and the transmission facilities of a public utility.
- g. All Utility Scale WES or WEGF shall have a minimum separation distance between structures of not less than one and one half (1.5) times the WES rotor diameter, the minimum industry standards or minimum manufacturer's recommendations. The applicant is required to provide documentation and rationale certified by a registered engineer supporting the separation distance.

#### 9. Low-Impact Design Layout

- a. The placement of Utility Scale WES or WEGF must minimize the impacts on existing agricultural endeavors and farmland activity including, but not limited to, tiling systems, harvest and planting patterns or pasture areas.
- b. Appropriate locations for potential Utility Scale WES or WEGF with existing agricultural lands shall be encouraged along fence rows, tree lines, forest areas and other portions of land that are not typically utilized for agricultural production.
- c. Land clearing, soil erosion, habitat impact and clearing of natural vegetation shall be limited only to that which is necessary for construction, operation and maintenance of the Utility Scale WES or WEGF and is otherwise prescribed by applicable laws, regulations, and ordinances.
- d. Any cooling system ventilation, generators or other potential sources of sound must be referenced by location and type per Utility Scale WES or WEGF upon a final site plan. Any sound generative device must be oriented upon the machine or site in such a manner which will minimize any negative impacts to neighboring parcels.

#### 10. Safety

- a. Utility Scale WES or WEGF shall not be designed to be climbable on the exterior of the structure.
- b. All access doors and interior access points shall be lockable and accessible only to those either constructing or maintaining the Utility Scale WES or WEGF.
- c. Appropriate warning signs shall be placed at the base of the Utility Scale WES tower or WEGF upon any associated electrical equipment and at every Utility Scale WES tower or WEGF entrance.
- d. Any access drives or roads remaining on the site shall be gated and locked at night or when not in use. Gates shall be located no closer than fifty (50) feet from the road right-of-way.
- e. The blade tip on any Utility Scale WES or WEGF shall not be less than seventy-five (75) feet from the ground when measured from the lowest rotational position.
- f. Each Utility Scale WES or WEGF shall be equipped with both manual and automatic braking device capable of stopping the operation in high winds and adverse weather conditions.
- g. All Utility Scale WES or WEGF must have lightning protection.
- h. Spills of any hazardous materials shall be reported to the Otisco Township Zoning Administrator immediately upon discovery of release and shall be removed and disposed of in accordance with applicable state and federal law.
- i. The Township or any emergency service provider who services the Township has the authority to order any Utility Scale WES or WEGF to cease its operation if they determine in good faith that there is an emergency situation involving the Utility Scale WES or WEGF that may result in danger to life or property. The owner and/or operator shall provide the Township and emergency service providers with contact information for personnel with access to the braking device who shall be available at all times in person or by phone with remote access. The owner and/or operator may be required to be available and present in such an emergency situation.
- j. All Utility Scale WES or WEGF must comply with all state, federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration (FAA), the Michigan Airport Zoning Act and



the Michigan Tall Structures Act both prior to and after installation. No Utility Scale WES or WEGF shall be located on any property in such a manner as to interfere with the safe take off, approach and landing of aircraft at any non-publically owned airport as defined by the Michigan Airport Zoning Act as amended.

11. Shadow Flicker. A Utility Scale WES or WEGF shall not be allowed to cast a shadow upon an adjacent or nearby non-participating parcel's principal structure in excess of thirty (30) hours measured on a continuous 365 day basis. Equipment and software such as "Shadow Impact Module SIM by NorthTec GMBH" or equivalent with all necessary cabling and receptors may be necessary and shall be installed and maintained by the owner and/or operator to abate any shadow flicker in excess of the thirty (30) hours permitted by this subsection.
12. Maximum Vibrations and Low Frequency Sound
  - a. A Utility Scale WES or WEGF shall not produce vibrations humanly perceptible upon a non-participating parcel.
  - b. Sound emanating from the operation of a Utility Scale WES or WEGF shall not exceed 50 dB(C) measured at the property line of a non-participating parcel.
13. State/Federal Requirements. A Utility Scale WES or WEGF shall meet or exceed any applicable standards and regulations of the FAA, Michigan Public Service Commission, National Electric Safety Code, U.S. Fish and Wildlife Services and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures.
14. Environmental Impact Issues. Utility Scale WES or WEGF shall comply with the applicable parts of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451, MCL 324.101 et seq.), including but not limited to:
  - a. Part 31 Water Resources Protection (MCL 324.3101 et seq.)
  - b. Part 91 Soil Erosion and Sedimentation Control (MCL 324.9101 et seq.)
  - c. Part 301 Inland Lakes and Streams (MCL 324.30101 et seq.)
  - d. Part 303 Wetlands (MCL 324.3030 1 et seq.)
  - e. Part 365 Endangered Species Protection (MCL 324.36501 et seq.)

## 15. Avian and Wildlife Impact

- a. The applicant shall have a third party qualified professional, approved by the township, conduct an analysis to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
- b. Sites requiring special scrutiny include bird refuges and other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptors.
- c. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the federal Endangered Species act and Michigan's Endangered Species Protection Law.
- d. A post construction wildlife mortality study shall be conducted annually. Power lines shall be placed under ground to prevent avian collisions and electrocutions. All power lines, transformers, or conductors shall comply with the Avian Power Line Interaction Committee (APLIC, <http://aplic.org>) published standards to prevent avian mortality.
- e. The Township shall be provided with a copy of the analysis required in this subsection.

## 16. Co-location

- a. No co-location of any wireless communication facilities shall be permitted on any Utility Scale WES or WEGF without the express approval of the Township.

### D. Additional Requirements.

#### 1. Security Bond Requirements

- a. Prior to final approval of a Special Use Permit the applicant shall engage a certified professional engineer acceptable to the Township to estimate the total cost of decommissioning the Utility Scale WES or WEGF and reclamation efforts needed to return affected land back to its original physical condition. The applicant shall pay for the costs of obtaining such estimate. The estimated shall be submitted to the Otisco Township Board of Trustees for review.
  - b. The owner(s) and/or operator of the Utility Scale WES or WEGF shall post a security bond, in a form acceptable to the Township, equal to one hundred fifty percent (150%) of the total estimated decommissioning and reclamation costs.
  - c. Said bond shall be posted and maintained with a bonding company licensed in the State of Michigan or federal or state chartered lending institution chosen by the owner(s) or operators acceptable to the Township.
  - d. Any lending institution shall be required to notify the Township ninety (90) days prior to expiration of the applicable security bond and the owner(s) and/or operator shall renew the security bond with the lending institution of their choosing and acceptable to the township. Until each Utility Scale WES or WEGF is decommissioned and the property reclaimed, the owner(s) and/or operator is required to maintain a security bond in accordance with this section. In the event a security bond is not maintained, the Township may (i) take any action permitted by law, (ii) revoke the Special Use Permit, (iii) order a cessation of operation, and (iv) order that the Utility Scale WES or WEGF be removed and the land reclaimed.
  - e. When decommissioning and site reclamation has been completed, written correspondence to the Otisco Township Board of Trustees is required before the Board of Trustees may authorize a release of security bonds associated with a Utility Scale WES or WEGF.
2. Decommissioning and Removal Procedures
- a. As part of the Special Use Permit process, the applicant shall submit a decommissioning plan to describe the anticipated life of the project, estimated decommissioning costs net of salvage value in current dollars, methods of ensuring that funds will be available for decommissioning, including a method of reclamation for restoration of the land.

- b. Any Utility Scale WES or WEGF that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner(s) of such structure shall be required to either provide to the Township a written explanation regarding why the tower is inoperable and a timeline no longer than sixty (60) days to bring the tower back into operation or compliance or apply for the necessary demolition permits for removal within ninety (90) days of receipt of written notice from the Township.

If the owner(s) fail to provide explanation within sixty (60) days as described above or fails to apply for the necessary demolition permits within ninety (90) days for removal of an abandoned Utility Scale WES or WEGF, the Township shall provide the owner(s) with written notice of the violation. If the owner(s) fails to cure the violation within sixty (60) days of the date of the notice, the Township may begin the process of removing the Utility Scale WES or WEGF and all associated equipment or appurtenances at the owner(s) expense. The Township shall sell any salvageable material and deduct any monies generated from said sales from the balance of the required security bond. The remedies provided to the Township pursuant to this subsection shall be in addition to and not in place of any other remedy available to the Township at law or in equity to enforce the provisions of this ordinance.

- c. When a Utility Scale WES or WEGF is decommissioned, all items must be removed from the subject property and Otisco Township, including buildings, electrical components, any roads, structure foundation, or other associated components. Reclamation of the site includes the planting of grasses or cover crops, which may have been present prior to construction or can be utilized to effectively maintain soil erosion.
  - d. Any removal and reclamation must be documented and recorded upon a certified survey and recorded with the Ionia County Register of Deeds.
  - e. The property owner may be exempt from removing the entrance or roadway on the property, if the Township grants written permission.
3. Post Construction Activities. To ensure compliance with the requirements of this ordinance, the following actions must be taken pending completion of any Utility Scale WES or WEGF.

- a. A final inspection with the Ionia County Drain Commissioner shall take place to ensure that soil erosion matters have been finalized at each site hosting a Utility Scale WES or WEGF.
  - b. Within 90 (90) days of project completion, any roadway utilized for moving or construction purposes shall be inspected by the Zoning Administrator and representatives from the Ionia County Road Commission to ensure compliance with the travel plan.
  - c. A sound pressure level analysis is required to be completed by the applicant from a sample of locations throughout the perimeter of the participating parcels to demonstrate compliance with the requirements of this ordinance. Proof of compliance with audible sound standards shall be submitted to the Township for review within one hundred-eighty (180) days of the date the Utility Scale WES or WEGF project becoming operational. Sound shall be measured by a third-party, qualified sound professional approved by the Township.
  - d. Following the completion of construction, the applicant shall provide the Township written certification that all construction was completed pursuant to the Special Use Permit and approved site plan.
4. Public Inquiries and Complaints. Should an aggrieved property owner allege that a Utility Scale WES or WEGF is not in compliance with the requirements of this ordinance, the procedure shall be as follows:
- a. Complaints must be submitted to the Township Clerk in writing from the affected property owner including their name, address and contact information.
  - b. Upon receiving a complaint the township Clerk shall present the complaint to the Township Board for review at its next regular meeting or a special meeting called for that purpose. If the Township Board deems the complaint sufficient to warrant an investigation, the Township Board shall advise the owner(s) and/or operator of the Utility Scale WES or WEGF of the complaint. Within ten (10) days of the date of the notice, the owner and/or operator of the Utility Scale WES or WEGF shall deposit funds with the Township in an amount determined by the Township Board sufficient to pay for an independent investigation of the complaint, including but not limited to an investigation related to decibel level testing and shadow flicker analysis. All such independent investigations and analyses shall be conducted by qualified professionals acceptable to the Township to determine compliance with the requirements of this ordinance.

- c. If the Utility Scale WES or WEGF is in violation of this ordinance, the owner(s) and/or operator shall reimburse the Township from the deposit required in this subsection (b) above for the investigation or analysis and shall take immediate action to bring the Utility Scale WES or WEGF into compliance. In the event that the owner(s) and/or operator fails or refuses to bring the Utility Scale WES or WEGF into compliance the Township may seek relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation as provided by Chapter 87 of the revised Judicature Act of 1961, being MCL 600.8701, as amended. Each violation for which the owner(s) and/or operators are deemed responsible shall be fined \$500.00 each day of non-compliance shall be a separate offense.

**V. Validity and Severability.** Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

**VI. Repealer Clause.** Any ordinances, resolutions or parts of ordinances or resolutions, in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**VII. Effective Date.** This Ordinance shall be effective seven (7) days after publication.

**ARTICLE VI**  
**ADMINISTRATION**

**1.600 Zoning Administrator**

A Zoning Administrator shall be designated and appointed by the Otisco Township Board to perform such tasks, for such term, subject to such conditions, and at such rate of compensation as the Township Board shall determine.

1.601 Duties of the Zoning Administrator. It shall be the responsibility of the Zoning Administrator to enforce and administer the provisions of this Ordinance and in so doing shall perform the following duties;

- A. Issue Permits. All applications for zoning compliance permits and special use permits shall be submitted to the Zoning Administrator, who may issue such permits and certificates of occupancy when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.
- B. Record Applications. The Zoning Administrator shall maintain and keep in an orderly, accessible manner, files of all applications for all of the above permits, and for variances; and shall keep records of all such permits and variances issued. These shall be filed at a location designated for such purpose and shall be open to public inspection.
- C. Inspections. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this Ordinance.
- D. Enforcement. The Zoning Administrator shall investigate alleged violations and enforce corrective measures when required.
- E. Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. It shall be the responsibility of the Township Board to assure that the Zoning Administrator enforces the provisions of this Ordinance.

**1.610 Application Procedures for Zoning Compliance Permits**

Prior to the construction, development or razing of any use, structure or building, or the moving of any structure or the restoration and structural improvement (other than normal repairs and minor improvements) of any existing use or structure, or the conversion from one use to any other use, a zoning compliance permit shall first be obtained. An application for a required zoning compliance permit must be made to the Zoning Administrator. For uses permitted only by special use permit, see Section 1.620.

- 1.611 Contents of Application. Among the information to be supplied by the applicant and which shall constitute the application package, the following shall be included:
- A. An "Application For Zoning Compliance Permit" completed as fully as possible with all data, descriptions and information, as called for therein;
  - B. A site plan where required;
  - C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvements;
  - D. The yard, open space and parking space dimensions (as shown on a site plan);
  - E. A statement from the County Health Department must be submitted certifying that the present or proposed on-site septic disposal system is adequate to meet the needs of the proposed use.
- 1.612 A fee as may be set by the Township Board and listed in the Township's Schedule of Fees shall accompany any plans or applications in order to defray the cost of administration and inspection.
- 1.613 General Procedural Steps. Upon submission of an application, the Zoning Administrator:
- A. Reviews the application package:
    - 1. To make sure that it is the proper application for the zoning action requested.
    - 2. To see that all required information is submitted.
    - 3. To determine conformance with zoning regulations, unless waived by variance from the Zoning Board of Appeals.
  - B. Takes one or more of the following preliminary actions:
    - 1. Requests from the applicant that any omitted or pertinent and necessary information now be submitted.
    - 2. If necessary, requests the Board of Appeals to interpret an unclear ordinance provision.
    - 3. Where required, reviews site plan according to site plan review standards for approval as set forth in Section 1.4.6
    - 4. If necessary, discusses the application and site plan with the Planning Commission for advisory comments.
    - 5. Makes a site inspection to verify accuracy of the application and to gather additional information.
- 1.614 Upon satisfaction of the standards for site plan review/approval, and of any additional requirements or conditions that may be needed to meet those standards, the Zoning Administrator shall approve site plan and issue a zoning compliance permit. One copy of the zoning compliance permit shall be returned to the owner or applicant. A performance



bond may be required to ensure compliance with any imposed or proposed public improvements, requirements, specifications, and conditions.

- 1.615 Denial of Zoning Compliance Permit. If the application for Zoning Compliance Permit is denied by the Zoning Administrator the reason or cause for denial shall be stated in writing.
- 1.616 A Zoning Compliance Permit shall be valid for one (1) year. A valid Zoning Compliance Permit is eligible for one (1) additional one-year extension granted by the Zoning Administrator as a reasonable length of time within which to begin construction.
- 1.617 Inspection. At least one site inspection by the Zoning Administrator must be held to ensure compliance with the provisions of this ordinance.

**1.620 Application Procedures for Special Use Permits by Planning Commission.**

Prior to construction or physical development of a proposed special use, as specified by this ordinance, an application for a required special use permit must be obtained. An application for a special use permit must be made to the Zoning Administrator.

- 1.621 Contents of Application. Among the data to be supplied by the applicant and which shall constitute the application package, the following shall be included:
  - A. Names and address of applicant or applicants;
  - B. Location, shape, area and dimension of the lot, and of the proposed structure or improvement (shown on the site plan);
  - C. Description of proposed use and of the building (dwelling, structure, barn, garage, etc.) or improvements;
  - D. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers and other users;
  - E. The yard, open space and location of parking spaces (as shown on the site plan), and;
  - F. A required site plan which must be approved before any granting of a special use permit.
- 1.622 A fee as set by the Township Board and listed in the Township Schedule of Fees shall accompany any plans or applications in order to defray the cost of administration and inspection. The schedule of fees may include the cost of hiring any consultants necessary to evaluate the application.
- 1.623 General Procedural Steps. Upon submission of an application for a special use permit:
  - A. The Zoning Administrator:

1. Reviews application package:
    - a. To make sure that it is the right application for zoning action requested;
    - b. To see that all required information is submitted, and;
    - c. To make sure that the proposed use is permitted in a particular district by special use permit.
  2. Takes one or more of the following actions:
    - a. Requests from the application that any omitted necessary information now be submitted;
    - b. If necessary, seeks ordinance interpretation from the Board of Appeals;
    - c. Make advisory comments about the site plan based on site plan review standards, and/or
    - d. Forwards the complete application with comments to the Planning Commission for review and approval.
- B. The Planning Commission:
1. Reviews the site plan according to site plan review standards, as set forth in the zoning ordinance. See Section 1.463.
  2. Reviews the proposed special use according to standards for special use permits, as set forth in this Ordinance. See Section 1.471.
  3. Reviews for compliance with any and all additional site facility design requirements and standards, as may be required by the Ordinance.
  4. Notice of application for a special land use shall be published in a newspaper of general circulation in the local unit of government. (Ordinance 2007-02 March 13, 2007)
    - a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
      - 1) In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, a single notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
      - 2) In structures containing four or fewer dwelling units, only one occupant of each unit must be given notice for a public hearing. (Amendment April 23, 2014, Ordinance 2014-01)
    - b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
      - Describe the nature of the request.

- Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
- State when and where the request will be considered
- Indicate when and where written comments will be received concerning the request.

5. Holds a public hearing.

1.624 Conditional Approval. Reasonable conditions may be required with the approval of a special use permit by the Planning Commission. See Section 1.472, Conditional Approval.

1.625 Final Approval, Denial or Approval with Conditions to be in Writing. When an application for a special use permit is finally approved, denied, or approved subject to conditions, the decision must be incorporated into an official written statement which contains the conclusions relative to the special use permit request. The decision shall specify the basis for the decision, and any conditions which may be imposed in the case of approvals.

1.626 An approved special use permit must be utilized within one (1) year during which time construction of the approved special use must begin. A valid special use permit is eligible for one additional one-year extension granted by the Planning Commission as a reasonable length of time within which to begin construction. See Section 9.475.

1.627 Inspection. At least two (2) site inspections by the Zoning Administrator must be held: one during development, and one before the use or structure is occupied. If development is phased or in stages, then one inspection per phase or stage shall be made.

1.628 Appeals. See Section 1.478 and 1.660.

### **1.630 Performance Bonding for Compliance**

Upon authorizing any Zoning Compliance Permit, Special Use permit PUD or variance, the body or official which administers the requests, as designated by this Ordinance, may require that a cash or surety bond be submitted to: (1) insure compliance with any and all the requirements, specifications and conditions imposed with such permit or variance; and (2) to insure the discontinuance of a temporary use by a stipulated time.

1.631 Amount of Bond. The amount of bond to be submitted by the applicant shall be equal to the total estimated cost of all required improvements and conditions of site plan and zoning approval, including contingencies. If development is staged or phased over time, a separate bond for each stage or phase shall be submitted at the beginning of each stage or phase as a prerequisite.

- 1.632 Return of Performance and Rebates. During project development, as specific improvements and conditions of site plan and zoning approval are satisfactorily completed, as attested to by the Zoning Administrator, the Township Board shall direct the Township Clerk to return or rebate a portion of the cash or surety bond equal to the cost of the specific improvement or condition complied with.
- 1.633 Withholding and Partial Withholding of Performance Bond. Upon the failure to comply with any or all of the requirements of this Ordinance, an approved site plan, or with any or all conditions of zoning approval, the bond, or portion thereof, shall be forfeited by the applicant. The Township Board shall determine the cost of the zoning and site plan requirement to be completed according to the most current construction prices, including the cost of administration. The amount determined shall be the amount of bond forfeited. The Township Board shall apply said forfeited bond toward zoning enforcement upon the site, and/or toward completing the necessary improvements, requirements or conditions of zoning approval upon the site.
- 1.634 Performance Bond For Moving of Buildings Other Than Mobile Homes. The Zoning Administrator shall require a bond prior to the relocation off the premises of principal structures (other than mobile homes) and any accessory structure having more than one hundred, forty-four (144) square feet of floor area. The bond shall be determined according to a guideline of \$5,000 for each 1,000 square feet or fraction thereof of floor area of the structure to be moved. Said bond shall be conditioned on the applicant completing the move within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Zoning Administrator, Fire Inspector or the Township Board may from time-to-time prescribe, including filling or excavation and proper treatment of utility connections.

#### **1.640 Schedule of Fees**

Upon the filing of an application for a Zoning Compliance Permit, Special Use Permit, Board of Appeals review, variance or rezoning, an administrative fee shall accompany said application. The Township Board shall determine and set a schedule of fees to be charged. Fees shall be collected prior to processing of any requested permit, variance, appeals, rezoning, etc.

#### **1.650 Zoning Board of Appeals**

A Zoning Board of Appeals (ZBA) is hereby authorized in accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, to carry out the responsibilities provided therein, and those delegated herein. (Amendment April 23, 2014, Ordinance 2014-01)

- 1.651 Membership. Membership to the Zoning Board of Appeals (ZBA) shall consist of three (3) members. The first member shall be a member of the Planning Commission. The second and third members shall be appointed by the Township Board from among the electors of the Township residing outside of any incorporated areas. Membership shall

be representative of the local population including the various interests located in the township.

- A. A member of the Township Board may serve as a member of the Zoning Board of Appeals. No elected official shall serve as a Chairperson. (Amendment April 23, 2014, Ordinance 2014-01)
- B. No employees or contractors to the Township Board may serve on or be hired by the Zoning Board of Appeals.
- C. Terms of office shall be three (3) years, except for the representative from the Planning Commission, whose term shall be limited to term of office as a member of the Planning Commission.
- D. Successive members shall be appointed within one (1) month after the preceding member's expiration date.
- E. The Zoning Board of Appeals is authorized to prepare an annual budget.
- F. Members may be removed by the Township Board for non-performance of duty or misconduct in office, based on written charges and after a public hearing.
- G. Where member conflicts of interest exist, such member shall disqualify himself from voting. Failure to do so constitutes misconduct in office.

H. (Ordinance 2007-02 March 13, 2007)

The legislative body may appoint not more than two alternate members for the same term as regular members to the Zoning Board of Appeals. A member of the Township Board may serve as an alternate member of the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals. (Amendment April 23, 2014, Ordinance 2014-01)

- 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. The member may consider and vote on the other unrelated matters involving the same property. (Amendment April 23, 2014, Ordinance 2014-01)
- 1.652 Powers and Duties. The Zoning Board of Appeals shall have all the power and duties prescribed by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and by

this ordinance which are specified as follows: (Amendment April 23, 2014, Ordinance 2014-01)

- A. Hear Appeals. The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance. Upon appeal, the Zoning Board of Appeals may reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination, as in its opinion ought to be made in the premises, and to that end shall have all the power of the official from whom the appeal is taken, and may direct the issuance of a permit.
- B. Interpretation. The Zoning Board of Appeals shall have the power to:
  - 1. Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Ordinance.
  - 2. Determine the precise location of the boundary lines between zoning districts, where uncertainty exists.
  - 3. Classify a use which is not specifically mentioned as part of the use regulations of any zoning district providing that it conforms to a comparable permitted or regulated use (in accordance with the purpose and intent of each district), until such time when the unclassified use is properly assigned or classified by amendatory legislation.
- C. Variances. The Zoning Board of Appeals shall have the power to authorize, upon appeal, variances from the specific requirements of this ordinance, such as, lot area and width regulations, building height and other bulk regulations, off-street parking and loading space requirements, provided all of the conditions listed in Section 1.670 can be satisfied.

#### 1.653 Organization and Conduct of Business.

- A. Rules of Procedure and Decision-Making. The Zoning 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 its own chairperson, and in his absence, an acting chairperson. The Zoning Board of Appeals shall formulate decisions based upon the standards and other various provisions of this Ordinance.
- B. Meetings. Meetings shall be held at the call of the Chairperson and at such times as the Zoning Board of Appeals may determine. All meetings by the Board shall be open to the public. The Board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. A quorum of three (3) members is required.
- C. Records. Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such

minutes shall be filed at a location designated by the Township Board and shall be made available to the general public.

- D. Procedure for Appeals / Variance and the Decision Process. See Section 1.660.
- E. Hearings. All appeals and requests before the Zoning Board of Appeals shall require public hearing with proper notification as required by Section 1.623 B. 4. (Amendment April 23, 2014, Ordinance 2014-01)
- F. Decisions. A concurring vote of a majority of the members of the Zoning Board of Appeals is necessary in order to take any action on a matter before the Zoning Board of Appeals.

1.654 Conditions of Zoning Board of Appeals Approval.

- A. Reasonable conditions may be required with the approval of a variance by the Zoning Board of Appeals. The conditions may include, but are not limited to, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
  - 1. Be designed to protect natural resources, the health, safety and welfare, and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - 2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - 3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- B. The conditions imposed with respect to the approval of a special land use shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Zoning Board of Appeals shall maintain a record of conditions which are changed.
- C. In the event the Zoning Board of Appeals grants a variance, the individual or his successor in interest shall not use the property in question in such a way that it would exceed those rights given by the zoning ordinance or the variance, or fail to follow any conditions placed thereon by the Zoning Board of Appeals. In the event the use of the property exceeds those rights given by the zoning ordinance or the variance, or fails to follow the conditions placed upon the variance, the variance shall immediately terminate and it shall be deemed a violation of this ordinance.

- 1.655 Time Limit on Decision of Zoning Board of Appeals. Any decision of the Zoning Board of Appeals on an appeal or application for a variance which has resulted in granting a zoning compliance permit, special use permit or variance shall be valid for a period of one (1) year with an additional one (1) year extension granted by the Zoning Administrator. This is construed to be a reasonable period of time within which to begin construction.
- 1.656 Final Action on Appeals. The decision of the Zoning Board of Appeals shall be final. (Ordinance 2007-02 March 13, 2007)
- A. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to circuit court for the county in which the property is located. The circuit court shall review the records of the Zoning Board of Appeals of the decision to ensure that the decision meets all of the following requirements: (Amendment April 23, 2014, Ordinance 2014-01)
1. Complies with the constitution and laws of the state.
  2. Is based upon proper procedure.
  3. Is supported by competent, material, and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.
- B. If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.
- C. An appeal under this section shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing signed by the chairperson or 21 days after the Zoning Board of Appeals approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals. (Amendment April 23, 2014, Ordinance 2014-01)
- 1.657 Effect of Appeals Proceedings (Stay of proceedings). An appeals shall stay all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the Board of Appeals (after the Notice of Appeal shall have been filed with that officer or body), that by reason of facts stated in the certificate, a stay would cause immediate peril of life or property.

**1.660 Application Procedure for Appeals / Variances and the Decision Process.**

When any order, requirement, decision or determination is subsequently appealed to the Zoning Board of Appeals or when a variance is requested, as provided for in this ordinance, the appellant shall file a Notice of Appeal with fee to the Zoning



Administrator who shall forward all records and materials to the Zoning Board of Appeals. If appealing a determination or order, the Zoning Administrator shall also send copies of all materials to the official or body of officials from whom the appeal is taken. Such body or official shall also make all records available to the Zoning Board of Appeals for review.

1.661 General Procedural Steps by Zoning Board of Appeals.

- A. The Zoning Board of Appeals reviews the appeal form to make sure that it is the proper form for the action requested, and to see that all required information is submitted.
- B. The Township Clerk shall place said appeal form on the calendar for hearing at the next meeting of the Zoning Board of Appeals, and shall publish notice of the request in a newspaper of general circulation in the local unit of government, and in accordance with the requirements of Section 1.623 B. 4. (Amendment April 23, 2014, Ordinance 2014-01)
  - a. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
  - b. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
    - Describe the nature of the request.
    - Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - State when and where the request will be considered.
    - Indicate when and where written comments will be received concerning the request.
- C. At the hearing, rules and procedures for the conduct of the hearing as may be established in the Bylaws of the Zoning Board of Appeals shall be followed:
  1. Any party may be heard in person or by agent or attorney;
  2. The Zoning Board of Appeals may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal. If the hearing is adjourned, persons previously notified and persons already heard, need not be notified of the time of resumption of said hearing.

- D. Following the hearing, the Zoning Board of Appeals shall formulate its decision, as follows:
1. The Zoning Board of Appeals shall consider the merits of the individual application or appeal within the context of any and all standards and considerations established in this ordinance. In the case of variances, the standards of Section 1.670 shall control.
  2. The Zoning Board of Appeals may reverse or affirm, wholly or part, or may modify the order, requirement, decision or determination of issue, as in its opinion ought to be made, and to that end shall have all the powers of the official or body of officials from whom the appeal was taken, and may direct the issuance of a permit.
  3. The written decision of the Zoning Board of Appeals shall not be final until five (5) days after it is made unless the Zoning Board of Appeals shall find the immediate effect of such order is necessary for the preservation of property or personal rights, and shall so certify on the record. In the written decision on the application or appeal, the Zoning Board of Appeals must include the reasons, for decision and facts supporting such decision.

#### **1.670 Standards for Variances**

Where there are practical difficulties in the way of carrying out the strict letter of this ordinance, the Zoning Board of Appeals shall have the power, in passing on appeals, to vary or modify any of its rules, regulations, or provisions of the zoning ordinance by granting variances only when all of the following conditions exist: (Amendment April 23, 2014, Ordinance 2014-01)

- 1.671 Zoning requirements cannot be met by an existing lot or that the physical topography inhibits the lawful location of a structure or its accessories such as garage, sheds, etc. If the Zoning Board of Appeals finds that local requirements, as written, can be met, variance must be denied. Increased financial return alone shall not be deemed sufficient to warrant a variance.
- 1.672 The appellant must show that a variance:
- A. Will not be contrary to the public interest and it is not for a self-made hardship;
  - B. Will not cause a substantially adverse effect upon adjacent property values;
  - C. Will relate only to the property under control of the appellant
  - D. Will not jeopardize the preservation of a substantial right, although the spirit of the ordinance shall be observed, public safety secured, and substantial justice be done;
  - E. Will not adversely affect or diminish the purpose of this ordinance;
  - F. Will not increase the hazard of fire, flood or similar dangers;

- G. Will not increase traffic congestion;
- H. Will not produce nuisance conditions to occupants or nearby premises, whether by reason of dust, noise, fumes, odor, vibrations, smoke or lights; and
- I. Will not otherwise impair public health, safety, comfort, or general welfare of the residents of the township.

**1.680 Violations** (Ordinance 2006-02 March 14, 2006)

Any building erected, moved, altered, razed, or converted, or any use of land which is begun or changed subsequent to the effective date of this ordinance, or its amendment, and is in violation of any provision of this ordinance or the requirements thereof or any condition attached to a zoning compliance permit, occupancy permits, site plan, special use permit, decision of the Zoning Board of Appeals or a variance, is hereby declared to be a public nuisance per se, and shall be abated by any court of competent jurisdiction.

Any person, corporation, or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this ordinance or any condition attached to a zoning compliance permit, certificate of occupancy, special use permit, Zoning Board of Appeals decision, variance or other zoning approval granted hereunder shall be responsible for a civil infraction violation.

A violation of this ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this ordinance, shall be in violation of this ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the Court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, 'subsequent offense' means a violation of the provisions of this ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this ordinance or similar provision of this ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

**ARTICLE VII**  
**AMENDMENTS**

**1.700 Amendment Procedure**

This ordinance may be amended or supplemented in accordance with the Zoning Enabling Act. Amendments may be initiated by the Township Board, the Planning Commission, or by any person, firm or corporation filing an application with the Zoning Administrator.

1.710 Amendment Application Procedure.

Any application for amendment to this Ordinance shall be submitted and reviewed in accordance with the Zoning Enabling Act and the following procedures:

1.711 Application. Applications for an amendment shall be submitted to the Zoning Administrator who shall review the application for completeness and, if complete, transmit it to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by resolution of the Township Board to cover the costs of processing the application.

1.712 Required Information. An application for an amendment shall be accompanied by the following documents and information:

- A. A completed application for an amendment on a form supplied by the Zoning Administrator.
- B. A map, if applicable, drawn to scale containing the following:
  - 1. Legal description of the area affected by the proposed amendment.
  - 2. Present and proposed zoning classifications of the area affected by the proposed amendment.
  - 3. Present and proposed use of any property to be rezoned.
  - 4. Small scale sketch of properties, streets and uses of land within one-half (1/2) mile of the area affected by the proposed amendment.
- C. Language of the proposed amendment, if applicable.
- D. A statement with regard to compliance with the Township Land Use Plan and the reason and necessity for such amendment.



**1.720 Amendment Review Procedure.**

Any proposed amendment initiated by any of the methods enumerated above shall be reviewed in accordance with the following procedures:

1.721 (Ordinance 2007-02 March 13, 2007)

The Planning Commission shall hold not less than (1) public hearing on the proposed amendment, and shall publish notice of the request in a newspaper of general circulation in the local unit of government and in accordance with the requirements of Section 1.623 B. 4. (Amendment April 23, 2014, Ordinance 2014-01)

- A. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
- B. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
  - Describe the nature of the request.
  - Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - State when and where the request will be considered.
  - Indicate when and where written comments will be received concerning the request.

1.722 (Ordinance 2007-02 March 13, 2007)

If an individual property or several adjacent properties are proposed for rezoning, the township Planning Commission shall publish notice of the request in a newspaper of general circulation in the local unit of government.

- A. Except for rezoning requests that are proposed for 11 or more adjacent parcels, notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction, and in accordance with the requirements of Section 1.623 B. 4. (Amendment April 23, 2014, Ordinance 2014-01)

- B. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
- Describe the nature of the request.
  - Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - State when and where the request will be considered.
  - Indicate when and where written comments will be received concerning the request.
- 1.723 Following the hearing, the township Planning Commission shall submit the proposed zoning ordinance amendment including any zoning maps to the County Planning Commission for review and recommendation. If the recommendation of the County Planning Commission has not been received by the township within thirty (30) days after receipt of the amendment by the county, it shall be conclusively presumed that the county has waived its right for review and recommendation.
- 1.724 The township Planning Commission shall transmit a summary of comments received at the public hearing and its recommendation to the Township Board.
- 1.725 The Township Board may hold additional hearings if the Township Board considers it necessary. The Township Board shall publish notice of the request in a newspaper of general circulation within Otisco Township. The notice shall be given not less than 15 days before the date the application will be considered for approval and in accordance with the requirements of Section 1.623 B. 4. (Ordinance 2007-02 March 13, 2007) (Amendment April 23, 2014, Ordinance 2014-01)
- 1.726 The zoning ordinance, as well as subsequent amendments or supplements shall be filed with the township clerk and one (1) notice of ordinance adoption shall be published in a newspaper of general circulation in the township within fifteen (15) days after adoption. The notice of ordinance shall include the following information:
- A. In the case of a newly adopted zoning ordinance the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the township board of the Township of Otisco, Ionia County, Michigan".
  - B. In the case of an amendment to an existing zoning ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
  - C. The effective date of the ordinance or amendment.

D. The place and time where a copy of the ordinance may be purchased or inspected.

- 1.727 The Township Board may give the ordinance or amendment immediate effect upon publication as set forth above or upon any date specified by the board. In the absence of an effective date, the ordinance shall take effect thirty (30) days after publication.
- 1.728 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 lands may be adopted by the township board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this act.
- 1.729 The Township Board may refer any proposed amendments to the Zoning Ordinance to the Planning Commission for a report thereon within a time specified by the Township Board. (Amendment April 23, 2014, Ordinance 2014-01)
- 1.730 Concurrent Review and Approval

If an application for a zoning map amendment for a proposed use which would require special land use and/or site plan review is received by the Planning Commission, then proceedings for special land uses, and/or site plan review may occur concurrently with the review of the proposed map amendment.





## **ARTICLE IX**

(Amendment Resolution 2003-02, Jan. 21, 2003)

### **OPEN SPACE PRESERVATION**

#### **1.9.0.0 Applicability**

The provisions of this Article are intended to carry out the provisions of Public Act No. 110 of 2006, as amended, being MCLA 125.3101 et seq. (“The Michigan Zoning Enabling Act”). In order for a landowner to exercise the open space preservation option of that statute, the land involved must be rezoned to a planned unit development (“PUD”) zoning designation pursuant to this Article and all of the requirements of this Article must be met. Additionally, the PUD provisions of Section 1.520 of this Ordinance shall also apply except to the extent that an express provision of this Article modifies the PUD process. Act No. 110 requires that townships having a population of 1,800 or more and which have a zoning ordinance must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit lands satisfying certain criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than 50%, that, as determined by the townships could otherwise be developed under existing ordinances, laws, and rules on the entire land area. The purpose of this Article is to adopt open space preservation provisions consistent with the requirements of Act No. 110.

#### **1.9.1.0 Definitions**

For purposes of this Article, the following definitions shall apply:

- 1.9.1.1 “Land zoned for residential development” shall mean any land located in the AC, RC, R1 and R2 (single-family dwellings only) zoning districts pursuant to this Ordinance.
- 1.9.1.2 “Act No. 110” shall mean Public Act No. 110 of 2006, as amended, being MCLA 125.3101 et seq.

#### **1.9.2.0 Qualifying Conditions**

- 1.9.2.1 Land may be developed pursuant to the provisions of this Article and Act No. 110 only if all of the following requirements and conditions are met:
  - A. The land is located in the AC, RC, R1 or R2 (single-family dwellings only) zoning districts pursuant to this Zoning Ordinance;
  - B. The development of land pursuant to this Article shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering or open space option provided for by this Article would also depend on such extension; and

(1) The clustering or open space option provided pursuant to this Article shall not have previously been exercised with respect to the same land.

C. If all of the preceding conditions and requirements listed in this – Qualifying Conditions are satisfied, the land may be developed, at the option of the landowner, in accordance with the provisions and requirements of this Article.

### **1.9.3.0 Permitted Uses**

Only those residential land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this Article.

### **1.9.4.0 Process**

Only land located in the AC, RC, R1 and R2 (single-family dwellings only) zoning districts is eligible for the open space preservation option provided for in this Article and pursuant to Act No. 110. Should the owner of a property within the AC, RC, R1 and R2 (single-family dwellings only) zoning districts desire to take advantage of such option, the landowner must apply for a PUD rezoning approval pursuant to the procedural requirements of Section 1.520 of this Zoning Ordinance. Once the land is zoned for a PUD pursuant to this Article, it will be deemed a “Residential-Open Space Preservation PUD.” All of the normal minimum lot size, setback, road frontage, lot width, width-to-depth ratio, and other dimensional, frontage, and area requirements governing the development of land within the zoning district where the land is located shall apply except to the extent that such standards are expressly varied pursuant to this Article or where the Planning Commission and Township Board approve such a variation pursuant to the PUD approval process.

### **1.9.5.0 Application and Review Procedure**

1.9.5.1 The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this Article shall be those stated in Sections 1.460 and 1.520 of this Ordinance, governing site plans and planned unit developments, except as otherwise expressly provided in this Applications and Review Procedure and this Article.

1.9.5.2 In addition to the application materials required by Sections 1.460 and 1.520 of this Ordinance, an application for the development of land under the provisions of this Article shall also include the following:

A. The Existing Zoning Plan. The applicant shall prepare and submit to the Township a site plan for the purpose of demonstrating the number and location of dwelling units that could be developed on the land at issue under its existing zoning if the clustering or open space option provided for by this Article were not exercised. The Existing Zoning Plan may be conceptual in nature, but shall include at least the following information:

- (1) Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the site development plan illustrating the proposed development using the clustering option permitted by this Article.
  - (2) Location of all streets and driveways, existing and proposed.
  - (3) Location of all lots, illustrating lot area, frontage, and the width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
  - (4) Location of all utilities that would be necessary to serve a development under the Existing Zoning Plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems and community water supply facilities.
  - (5) If development under the Existing Zoning Plan would require the use of septic tanks and drain fields, the Existing Zoning Plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Ionia County Health Department.
  - (6) The location of all portions of the land that are unbuildable for residential purposes due to the presence of wetlands, severe slopes, flood plains, or other features prohibiting development for residential purposes.
  - (7) If any portion of the land has frontage on a lake, river, or street, the Existing Zoning Plan shall show each such body of water, as well as the number and location of dwelling units that could be developed with frontage on or access to each such body of water under existing zoning if the open space or clustering option provided for by this Article were not exercised.
- B. The Site Development Plan. The applicant shall also submit a site plan for the open space or clustering option permitted by this Article, which, in addition to the site plan requirements specified Sections 1.460 and 1.520 of this Ordinance, shall also include all of the following information:
- (1) Date, north arrow and scale, which shall not be more than 1" = 100', and, in all cases, the scale shall be the same as that utilized for the Existing Zoning Plan.
  - (2) The site development plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
  - (3) The site development plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for cluster development, and the percentage of each, as compared to the total site acreage.
  - (4) The site development plan shall illustrate the location of all lots and proposed building envelopes and shall indicate the lot area, frontage, and width of each lot, and the proposed front, side and rear yard building setbacks. The number of lots on the site development plan shall not exceed the number of lots on the Existing

Zoning Plan, as approved by the Planning Commission, and reduced to accommodate non-dwelling structures, if necessary, as described later in this Article.

- (5) The site development plan shall also illustrate the location and type of all proposed structures or improvements that are not dwellings.
  - (6) If the proposed clustered development will include septic tanks and drain fields, the site development plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot has been approved by the Ionia County Health Department.
  - (7) If the development is to be served by public streets, proof that the Ionia County Road Commission has approved the design, layout and construction of the streets.
  - (8) If any portion of the land has frontage on a lake, river, or street, the site development plan shall show the proposed location and number of dwelling units with proposed frontage on or access to a body of water.
  - (9) The location of any proposed private street(s).
  - (10) The site development plan shall demonstrate that each of the proposed residential lots and proposed building envelopes is “buildable” and fully suited for the construction and use of a single-family residential dwelling.
- C. Developable Area. When reviewing an application submitted under the terms of this Article, the Planning Commission shall determine whether the Existing Zoning Plan accurately reflects the number and location of dwelling units that could be developed on the land under its existing zoning if the clustering or open space option provided by this Article were not exercised. If the Planning Commission determines that the number and/or location of dwellings shown on the Existing Zoning Plan exceeds the number of dwellings that could be permitted or developed on the land if it were developed under its existing zoning if the clustering or open space option provided by this Article were not exercised (or the locations are not accurate), the applicant shall submit a revised Existing Zoning Plan which accurately reflects the number and location of dwellings which could have been developed under existing zoning if the Act No. 110 option were not exercised pursuant to this Article. For purposes of determining the number and location of dwellings that would have been permitted or developed on the land under its existing zoning if the clustering or open space option were not exercised, the following shall be deemed land not developable and shall be excluded from the formula of determining otherwise developable land area under existing ordinances:
- (1) Wetlands as defined by Michigan law.
  - (2) Land located under a lake, pond, river, or stream.
  - (3) Land with slopes exceeding 30%.
  - (4) Land for which an on-site private septic system or private well could not be utilized under Ionia County Health Department regulations.
  - (5) Land located within a flood plain or which is subject to periodic flooding.

- D. The Restrictions Document. The applicant shall submit a copy of the proposed deed restrictions, restrictive covenants, conservation easement, plat dedication, or other legal document which the applicant proposes to utilize if the proposed open space or cluster development is approved pursuant to this Article and which would have the legal effect of preserving in perpetuity the open space required by this Article in an undeveloped state. Such document shall be reviewed and approved by the Township and the Township Attorney (as to form and content) prior to recording. At a minimum, the document(s) shall provide for all of the following:
- (1) Indicate the proposed permitted use(s) of the undeveloped open space.
  - (2) Require that the open space be maintained forever in an undeveloped condition, without buildings, structures, or other improvements, except such drainage improvements, utilities, riding trails, hiking trails, picnic areas, park or playground equipment, growing of crops, agricultural structures, or similar improvements which are approved by the Planning Commission.
  - (3) Require that the undeveloped open space be maintained by the parties who have an ownership interest in it.
  - (4) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of trees and new plantings.
- The approved restrictions document shall be fully executed by all of the owner(s) of the land and shall be recorded with the Ionia County Register of Deeds before any lots are sold and before any building permits are issued.

- E. If the site development plan complies and all aspects of the proposed development satisfy all requirements of this Article, the Planning Commission and Township Board shall approve the site development plan and the planned unit development rezoning for the proposed development.

#### **1.9.6.0 Requirements for Open Space**

1.9.6.1 Required Open Space. At least 50%, but no more than 80%, of the land proposed for development under the provisions of this Article shall remain in a perpetually undeveloped state (i.e., “open space”) by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land as approved by the Township Board (upon recommendation by the Planning Commission) and the Township Attorney.

1.9.6.2 Lands to be Set Aside as Open Space. It shall be the Township Board (upon recommendation from the Planning Commission) that determines which 50% or more of the land shall be set aside for open space, as well as which portion or portions of the land may be developed. At the discretion of the Township Board (upon recommendation from the Planning Commission), the land to be set aside as permanent open space need not be contiguous. The Township Board (upon recommendation from the Planning Commission) shall also determine what percentage of the total land area (between 50% and 80%) shall be set aside as permanent open space.

1.9.6.3 The following areas shall not constitute open space and may not be utilized to satisfy the open space requirement:

- A. Any areas located within or under any public street easement or right-of-way.
- B. Property located under or within any private street or road easement.
- C. The land located under or the area within any easement for overhead utility lines.
- D. The area within a platted lot or site condominium unit.
- E. Off-street parking areas.
- F. Detention and retention ponds.
- G. Community drain fields.
- H. The lands or area located underneath a lake, pond, river, or stream.
- I. The area within a wetland as defined by Michigan law.
- J. Lands with slopes exceeding 30%.
- K. Areas subject to flooding or within a flood plain.

1.9.6.4. Standards for Open Space. The following standards shall apply to the open space required pursuant to this Article:

- A. The open space shall not include a golf course.
- B. The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, an agricultural use or other use which, as determined by the Planning Commission, is substantially similar to these uses.
- C. The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
- D. If the land contains a lake, stream or other body of water, the Planning Commission may require that a portion of the open space about the body of water.
- E. A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help to preserve or enhance the existing views.
- F. A portion of the open space shall be reasonably useable by the residents of the land for passive recreational uses such as hiking or picnicking.

- G. Open space shall be located so as to be reasonably accessible to the residents of the development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
- H. Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands or agricultural land.

1.9.6.5. Use of Open Space. All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the Township Board (upon recommendation by the Planning Commission), at its discretion, may permit structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use, or agricultural structures could be permitted on open space designated for agricultural use.

#### **1.9.7.0 Individual Lots, Streets, and Other Improvements; Miscellaneous Provisions**

- 1.9.7.1 Underlying Zoning District. The development of land under this Article shall comply with all requirements of this Ordinance applicable to the zoning district in which the land is located, except those setback, area, lot width to depth ratio, and yard size requirements that must be adjusted to allow the clustering option permitted under this Article where approved by the Township Board (upon recommendation from the Planning Commission).
- 1.9.7.2 Uniform Lot Size. Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission).
- 1.9.7.3 Building Envelopes. The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the Township Board (upon recommendation from the Planning Commission). The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
- 1.9.7.4 Required Street Frontage. Each lot shall have a minimum of at least 60 feet of frontage on a lawful street, measured at the street right-of-way line.
- 1.9.7.5 Lot Width. Each lot shall have a minimum width equal to no less than 1/2 the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the Township Board (upon recommendation from the Planning Commission). Notwithstanding the provisions of this subsection, each lot which abuts or has frontage on a lake, river, stream or creek shall have frontage on such body of water equal to or greater than the minimum lot width requirement for the zoning district in which the land is located.



- 1.9.7.6 Maximum Number of Lots. The clustered portion of the development shall contain no more than the maximum number of lots, as determined from the Existing Zoning Plan approved by the Planning Commission and Township Board, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection (1.9.7.8).
- 1.9.7.7 Non dwelling Unit Structures. Lots containing non-dwelling structures such as a clubhouse and its related amenities, shall be subject to all requirements of this Article applicable to lots containing dwellings and shall further be subject to all other requirements of this Ordinance and other Township ordinances applicable to the type of structure proposed. However, the Township Board (upon recommendation by the Planning Commission) may, at its discretion, permit the enlargement of a lot containing a non-dwelling structure so as to reasonably accommodate it.
- 1.9.7.8 Reduction in Lots for Non-dwelling Structures. If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced as follows:
- A. The area of a lot or lots occupied by non-dwelling structures, shall be calculated and then divided by the average area of a dwelling lot that could be situated in the clustered development if the non-dwelling structures were not included in the clustered development, as determined from the approved Existing Zoning Plan. If this number is a fraction, it shall be rounded up to the nearest whole number.
  - B. The number calculated under subsection (A) shall be subtracted from the number of dwelling lots that could be permitted in the clustered development in the absence of the non-dwelling structures, as determined from the approved Existing Zoning Plan, in order to determine the maximum number of dwelling lots permitted to be included in the clustered portion of the development with the non-dwelling structures included.
- 1.9.7.9 Perimeter Lots. Notwithstanding any other provision of this Article, the Township Board (upon recommendation from the Planning Commission) may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- 1.9.7.10 Sidewalks. The Township Board (upon recommendation from the Planning Commission) may require sidewalks.
- 1.9.7.11 Grading. Grading within the clustered development shall comply with the following requirements:
- A. To preserve the natural appearance of the land, all graded areas, cuts and fills shall be kept to a minimum. Specific requirements may be placed by the Township Board on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required by the Township Board.

- B. All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures or otherwise, except as permitted by the Township Board (upon recommendation from the Planning Commission). Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the Township Board (upon recommendation from the Planning Commission).
- C. Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding or other adverse effects upon the land, and so as to have only such minimal effect upon lakes, streams, wetlands, and the environmental characteristics of the land as may be reasonably feasible.

1.9.7.12 Private Streets. Private streets within a clustered development shall conform to the private street requirements (and approval process) of this Ordinance. The Township Board (upon recommendation from the Planning Commission) may, however, modify the requirements for private streets and in doing so, shall consider the following criteria:

- A. The number and type of dwelling units served by the private street;
- B. Traffic generation;
- C. Existing topography and vegetation;
- D. Security provisions;
- E. Inter-relationship with the public street network;
- F. Future installation of public utilities; and
- G. Likelihood of public dedication of the roadway.

1.9.7.13 Other Laws. The development of land under this Article is subject to all other applicable Township ordinances, and state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.

1.9.7.14 Access to or Frontage on Lakes and Streams.

- A. An approved Residential – Open Space Preservation PUD or other approved development pursuant to Act No. 110 and this Article, shall comply fully with the lake access, frontage, and other requirements contained in Section 1.320 of this Ordinance with regards to lakes, rivers and streams if the property at issue has frontage on a lake, river or stream.

- B. No approved Residential – Open Space Preservation PUD or other development approved pursuant to Act No. 110 and this Article shall permit any more lots or dwellings to have access to or frontage upon a lake, river or stream than would be otherwise legally permissible under existing zoning.

1.9.7.15 County Drain Commissioner Approval. Any matters involved with drainage, retention/detention ponds, water runoff, and similar matters associated with any proposed development pursuant to this Article shall require the approval of the Ionia County Drain Commissioner and shall be subject to the applicable rules and regulations of the same.

### **1.9.8.0 Amendments to an Approved Residential-Open Space PUD**

1.9.8.1 An approved site plan and any conditions imposed upon its approval pursuant to an approved Residential-Open Space Preservation PUD shall not be changed except upon the mutual consent of the Township Board (after recommendation by the Planning Commission) and the applicant, except as otherwise stated below with respect to minor changes.

1.9.8.2 A minor change may be approved by the Planning Commission. The following items shall be considered minor changes:

- A. Reduction of the size of any building, building envelope, or sign.
- B. Movement of buildings or signs by no more than ten (10) feet.
- C. Plantings approved in the landscaping plan may be replaced by similar types of plantings.
- D. Changes requested by the Township for safety reasons.
- E. Changes which will preserve natural features of the land without changing the basic site layout.

### **1.9.9.0 Performance Guarantees**

The Township Board, at its discretion, may require reasonable performance guarantees. Such guarantees shall be conditioned upon faithful compliance with all of the provisions and requirements of this Article and the approved site plan and PUD. Such performance guarantees shall be in the form of a performance bond, irrevocable letter of credit, or cash deposit in an amount and form deemed by the Township Board to be appropriate.

### **1.9.10.0 Time Limitations for Development**

Each development approved and permitted pursuant to this Article shall be under substantial construction within one (1) year after the date of approval of the site plan and PUD by the Planning Commission and Township Board. If this requirement is not met, the Planning Commission may, at its discretion, grant an extension not exceeding one (1) year, provided that the applicant submits reasonable evidence showing that unforeseen difficulties or special circumstances have occurred which caused excusable delay in the commencement of the cluster or open space development. If the approved development has not been commenced within the above-stated time period or any authorized extension thereof, any zoning permits and building permits issued for the development or any part

thereof shall be of no further effect. The applicant shall then be required to seek a new approval (as if starting over again) from the Planning Commission and Township Board pursuant to the requirements of this Article.

#### **1.9.11.0 Savings Clause**

If for any reason a court of competent jurisdiction determines that the Township cannot require an applicant to obtain a PUD rezoning approval as a prerequisite for exercising the clustering or open space/preservation development option pursuant to Act No. 110 or this Article, all other procedures and requirements of this Article shall remain applicable, including the site plan approval requirements of Section 1.460 of this Ordinance. If a court of competent jurisdiction determines that zone district(s) in addition to those listed in Section 1.9.1.1 of this Article are considered “lands zoned for residential development,” the requirements of this Article shall apply to the lands in such additional zone district(s).