

# BARAGA TOWNSHIP

## ZONING ORDINANCE

2008

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**ZONING ORDINANCE**  
Township of Baraga, Michigan

**I. PURPOSE, TITLE, SEVERABILITY, EFFECTIVE DATE, RELATIONSHIP TO OTHER LAWS, ADMINISTRATIVE STANDARDS AND PROCEDURES**

**1.1 PURPOSE**

An ORDINANCE to establish zoning districts and regulations governing the development and use of land within Baraga Township, Michigan, in accordance with the provisions of the MICHIGAN ZONING ENABLING ACT, Public Act 110 of 2006, as amended, to provide for regulations governing nonconforming uses and structures; to provide for a Board of Appeals and for its powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof; to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

**THE TOWNSHIP ORDAINS:**

**1.2 SHORT TITLE.**

This Ordinance shall be known and may be cited as the Zoning Ordinance of Baraga Township.

**1.3 SEVERABILITY.**

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinance shall not be affected thereby. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid as applied to a particular property, building, or other structure, it is hereby provided that the application of such portion of the Ordinance to other property, buildings, or structures shall not be affected thereby. Whenever any condition or limitation is included in an order authorizing a planned unit development or any conditional use permit, variance, grading permit, zoning compliance permit, certificate of occupancy, site plan approval, or designation of nonconformance, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this Ordinance or the requirement of some provision thereof, and to protect the public health, safety, and welfare, and that the officer or board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

**1.4 EFFECTIVE DATE.**

This Ordinance shall take effect and be in force on the date following its final passage by the Township Board.

**1.5 RELATIONSHIP TO OTHER LAWS.**

Whenever regulations or restrictions imposed by this Ordinance are either more or less restrictive than regulations or restrictions imposed by any governmental authority through legislation, rule, or regulation, the regulations, rules, or restrictions which are more restrictive or which impose higher standards or requirements shall govern. Regardless of any other provision of this Ordinance, no land shall be used and no structure erected or maintained in violation of any state or federal pollution control or environmental protection law or regulation.

**1.6 ADMINISTRATIVE STANDARDS AND PROCEDURES**

- (A) Whenever, in the course of administration and enforcement of this Ordinance, it is necessary or desirable to make any administrative decision, then, unless other standards are provided in this Ordinance, the decision shall be made so that the result will not be contrary to the spirit and purpose of this Ordinance or injurious to the surrounding neighborhood.
- (B) Where a public hearing of the Planning Commission or the Zoning Board of Appeals is required in the administration of this Ordinance, said hearing shall be in accordance with the Zoning Enabling Act (Act 110 of 2006)
- (C) Where a public meeting of the Planning Commission or the Zoning Board of Appeals is required in the administration of this Ordinance, said meeting shall be in accordance with the Zoning Enabling Act (Act 110 of 2006)

## **II. DEFINITIONS: As used in this Ordinance.**

**Access:** A way or means of approach to provide vehicular or pedestrian entrance or exit to a property from an abutting property or a public roadway.

**Access Management:** The process of providing and managing reasonable access to land development while preserving the flow of traffic in terms of safety, capacity, and speed on the abutting roadway system.

**Access Point:** a) The connection of a driveway at the right-of-way line to a road.  
b) A new road, driveway, shared access or service drive.

**Accessory:** Uses or structures both subordinate and incidental to a principal use or structure.

**Accessory Building or Structure:** A building or structure customarily incidental and subordinate to the principal building and located on the same lot as the principal building. Except as otherwise permitted by this Ordinance, an accessory building or accessory structure shall not be used for human habitation. An accessory building shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

**Accessory Housing Unit:** A complete, self-contained dwelling unit created within or attached to a permitted existing detached single-family dwelling that provides accommodations for the parent(s) or grandparent(s) of the owners-occupiers of the single family dwelling.

**Accessory Use:** A use which is clearly incidental to, customarily found in connection with, and located on the same lot as the principal use to which it is related.

**Agriculture:** The production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

**Antenna:** A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures for the purpose of communication.

**Apartment:** A suite of rooms or a room in a multiple-family building, including bath and kitchen facilities, arranged and intended as a place of residence for a single-family.

**Applicant:** A person who submits an application under one of the procedures set forth in this Ordinance.

**Attached Dwelling:** A one-family dwelling attached to two (2) or more one-family dwellings by

common vertical walls. A townhouse is an attached dwelling.

**Auto Repair Shop:** General repair, rebuilding, or reconditioning of motor vehicles or trailers, excluding body work.

**Auto Body Repair Shop:** A collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles.

**Basement:** That portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story. A cellar is a basement. However, any walk-out basement, regardless of average grade, shall be considered a story.

**Bed & Breakfast:** A use that is subordinate to a single-family detached dwelling unit in which transient guests are provided sleeping rooms (not to exceed four (4) rooms) and a breakfast only, in return for payment; is the owner's personal residence; is occupied by the owner at the time of rental; and, the length of stay of any guest is not to exceed 14 consecutive days and 30 days in one year.

**Boarding Stable:** A facility, such as a barn or similar structure, where more than four horses, for sale or boarding, are kept.

**Boilers/Units, Outside Wood Burning:** An accessory structure used for heating of main dwelling and related structures; see Section 5.5 for zoning districts, permitted uses and conditions for approval.

**Buffer Strip:** A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts.

**Buildable Area:** The portion of a lot remaining after the minimum yard and setback requirements of this Ordinance have been met.

**Building:** Any structure, either temporary or permanent, having a fixed location and a roof supported by columns, walls or other supports, and used or built for the shelter or enclosure of persons, animals, or property of any kind or for the conduct of business.

This shall include but is not limited to awnings, mobile homes, inflatable structures, fabric or membrane structures, sheds, garages, greenhouses and other similar structures. It shall also include trucks, vans, recreational vehicles or other vehicles or parts of vehicles situated on private property, and used for the purposes of a building, whether or not mounted on wheels.

**Campground:** A parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters consisting of any combination of three or more recreational vehicles, tents or other temporary habitable structures or sites.



**Carport:** A shelter for one or more vehicles which is not fully enclosed by walls and one or more doors.

**Car Wash:** A lot on which motor vehicles are washed or waxed, either by the patron or by others, using machinery specifically designed for the purpose.

**Church:** A building wherein persons regularly assemble for religious worship, which is used only for such purpose and those accessory activities as are customarily associated therewith.

**Clinic:** A place where medical or dental care is furnished to persons on an out-patient basis by two or more health care professionals.

**Common Land:** A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development or condominium project.

**Common Open Space:** Land within or related to a development, not individually owned, that is intended for the common use and enjoyment of the residents, and their guests of the development, or the public at large if dedicated to and accepted by the public, and may include such improvements as are necessary, appropriate and approved as part of the development according to the requirements of this Ordinance.

**Community Residential Care Facilities:** Community residential care facilities provide shelter and care for individuals with special needs in single family dwellings for six or less persons (small) or in larger facilities when more persons are assisted (large). These are all state-regulated facilities.

**Communication Tower:** A structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure which supports one or more antennae, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals. Antennae permitted as an accessory use under this Ordinance are excluded.

**Conditional Use:** A use not essentially incompatible with uses permitted in a zoning district, but which possesses characteristics which require individual review in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. A conditional use is permitted in a particular district only after review by the Planning Commission and issuance of a permit by the Baraga Township Board, in accordance with the standards set forth in this Ordinance. A conditional use is referred to as a special land use in the zoning enabling act.

**Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, and for the purpose of this ordinance shall be interpreted as a lot.

**Condominium Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the

condominium subdivision and the condominium subdivision plan.

**Condominium Project:** A plan or project including not less than two (2) condominium units established and approved in conformance with the Condominium Act (Act 59 of the Public Acts of 1978).

**Condominium, Site:** See definition of Condominium Subdivision.

**Condominium Subdivision:** A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions of the Land Division Act of 1967, Public Act 288 of 1967, as amended. Also known as a site condominium or site condo. As used in reference to a "Condominium Subdivision" in this Ordinance, the terms below are defined as follows:

- A. **Condominium Unit:** That portion of a condominium project that is 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. The owner of a condominium unit also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" or "building site", for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage, and within which a building or other improvements may be constructed by the condominium unit owner. The condominium unit shall not include any limited common elements.
- B. **General Common Area:** That portion of a site condominium project designed and intended for joint ownership and maintenance by the condominium association as described in the Master Deed.
- C. **Limited Common Area:** That portion of a site condominium project designed and intended for separate ownership, but outside the building setbacks for the zoning district the property is located in, as described in the Master Deed.
- D. **Building Envelope:** The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the Master Deed.
- E. **Building Site:** That portion of a condominium project that shall include the condominium unit and that may also include limited common elements as described in the Master Deed. For purposes of determining compliance with the applicable requirements of the Zoning Ordinance (including, without limitation, area, width, and setback requirements) or with other applicable laws, ordinances, or regulations, "building site" shall be considered to be the equivalent of a "lot."
- F. **Limited Common Element:** That portion of a condominium project other than the condominium unit that is reserved in the master deed for the exclusive use of the owner of

the condominium unit.

**Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

**Conservation Design Subdivision:** A Conservation Design Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space.

**Conservation Easement:** An interest in land that provides limitation on the use of land or a body of water or requires or prohibits certain acts on or with respect to the land or body of water, whether or not the interest is stated in the form of a restriction, easement, covenant, or condition in a deed, will, or other instrument executed by or on behalf of the owner of the land or body of water or in an order of taking, which interest is appropriate to retaining or maintaining the land or body of water, including improvements on the land or body of water, predominantly in its natural, scenic, or open condition, or in an agricultural, farming, open space, or forest use, or similar use or condition.

A conservation easement is the grant of a property right requiring that the described land will remain in its existing natural state in perpetuity. Also means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994 when applied to a cluster development or open space development as provided in Section 5.12.

**Contractors Shop:** An enclosed space used for housing, operating, and maintaining, of equipment and fabrication of building-related products.

**Contractors Yard:** Outside area of lot or parcel used for storage, and maintain equipment and other materials customarily used in the trade carried on by the contractor.

**Conveyance:** An instrument or deed transferring the title to property.

**Day Camp:** A camp providing facilities for groups of young people, such as YMCA camps, Boy Scout camps, and Girl Scout camps.

**Day Care Center:** a facility other than a private home receiving preschool-aged children for care and supervision for periods of less than twenty-four hours a day and licensed as a day care center by the Michigan Department of Social Services.

**Deck:** An unroofed structure used for outdoor living purposes which may or may not be attached to a building and which is more than six (6) inches above the finished grade.

**Driveway:** Any entrance or exit used by vehicular traffic to or from land or buildings abutting a road.

**Dune:** a mound or ridge of sand formed by wind or water action, typically located along the Lake Superior coastline.

**Dwelling, Single-Family:** A structure containing not more than one dwelling unit designed for residential use and conforming in all respects to the standards set forth in Section 4.1.

**Dwelling, Multi-Family:** A structure containing two or more dwelling units designed for residential use, with or without separate kitchens or dining facilities, and conforming in all respects to the standards set forth in Section 4.2. These may include apartment houses, apartment hotels, rooming houses, boarding houses, fraternities, sororities, dormitories, row houses, townhouses, and similar housing types, but not including hotels, motels, hospitals, or nursing homes.

**Family:** An individual or a group of two or more persons related by blood, marriage, or adoption, together with not more than three additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit.

**Family Day Care Home:** A private home in which six or less minor children are given care and supervision for periods of less than twenty-four hours a day unattended by a parent or legal guardian, except children related to an adult member of the day care home family by blood, marriage, or adoption.

**Floor Area:** Total gross area on all floors as measured to the outside surfaces of exterior walls, excluding crawl spaces, garages, carports, breezeways, attics without floors, and open porches, balconies, and terraces.

**Floor Area Ratio:** The percentage of floor area to lot area of all buildings, excluding the floor area of garages, carports, and breezeways and excluding the area of any floor more than four feet below average grade where no part of such basement is used for sleeping rooms or quarters.

**Floor Space:** Floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities, and storage and other areas to which patrons do not have regular access.

**Foredune:** The first dune landward behind the beach that typically varies from 10-33 feet in height. The foredune is measured from the erosion hazard line over the crest of the dune and down its backslope (the slope away from the lake) to its base or to a maximum of 100 feet landward, or whichever is less, as measured from the erosion hazard line.

**Frontage Road or Front Service Drive:** A local street/road or private road typically located in front of principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

**Garage:** A fully enclosed building for the storage of motor vehicles, not including buildings in which fuel is sold or repair or other services performed.

**Gas Station:** A place where motor vehicle fuels are sold at retail.

**Golf Course:** A tract of land for playing golf with tees, greens, fairways, hazards, and which may include clubhouses and shelters, excluding miniature golf course.

**Grade, Natural:** Elevation of the ground surface in its natural state, before manmade alterations.

**Ground Coverage Ratio:** The percentage of lots area included within the outside lines of the exterior walls of all buildings located on the lot except garages and carports and including the area of porches, decks, patios, breezeways, balconies, and bay windows, except patios not more than six inches above grade.

**Group Day Care Facility:** A private home, or a facility other than a private home, receiving more than six preschool or school aged children for day care or supervision for periods of less than twenty four hours a day; a facility licensed as a day care center or a home licensed as a group day care home by the Michigan Department of Social Services.

**Group Day Care Home:** A private home in which more than six but not more than twelve minor children are given day care and supervision for periods of less than twenty-four a day unattended by a parent or legal guardian, except children who are related to an adult member of the day care home family by blood, marriage, or adoption.

**Height:** The vertical distance from the average natural grade, prior to any breaking of ground, as determined by the Township Zoning Administrator, to the highest point of the roof.

**Home Occupation:** A use or occupation conducted on the premises which is clearly incidental and secondary to residential occupancy and meets the standards set out in Section 5.9.

**Hotel:** A structure designed, used, or offered for residential occupancy for any period less than one month, including tourist homes, resorts and motels, but not including hospitals and nursing homes.

**Kennel:** Any activity involving the permanent or temporary keeping or treatment of four or more adult dogs, cats, or any combination of, other than ordinary agricultural activities.

**Laundromat:** A place where patrons wash, dry, or dry clean clothing and other fabrics in machines operated by the patron.

**Lot:** The contiguous land in the same ownership which is not divided by any public highway or alley, including any part thereof subject to any easement for any purpose other than a public highway or alley, but excluding any part thereof severed from another lot where the severance creates any nonconformity of use or structure. Such lot shall have access to a public street.

**Lot Area:** The total horizontal area within the lot lines of the lot excluding any part under water.

**Lot, Nonconforming:** A lot, the boundaries are recorded in a plat, deed or land contract executed and delivered prior to the effective date of this ordinance and which the width, depth and/or area of which does not meet the minimum dimensional requirements of the district in which it is located.

**Lot of Record:** A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by township officials, prior to the effective date of this Ordinance, and which actually exists as shown or described.

**Lot Line:** A line marking a boundary of a lot.

**Lot Line, Front:** A line dividing a lot from any public highway except a limited or controlled access highway to which the lot has no access.

**Lot Line, Rear:** Any lot line which is not a front or side lot line and which, if extended in either direction, would not cross the lot.

**Lot Line, Side:** Any lot line which meets the end of a front lot line, or any other lot line within 30 degrees of being parallel to a side lot line.

**Mental Health Center:** A hospital or clinic where the primary activity is the treatment and care of persons suffering from mental or emotional disorders.

**Minimum Landscaped Open Space:** The percentage of lot area which must be maintained in grass or other living vegetation.

**Mobile Home:** A structure designed or used for residential occupancy built upon or having a frame or chassis to which wheels may be attached by which it may be moved upon a highway, whether or not such structure actually has, at any given time, such wheels attached, or is jacked up or skirted.

**Nonconforming Building:** A building lawfully existing on the effective date of this Ordinance or subsequent amendment, and which does not conform to the requirements of this Ordinance.

**Nonconforming Lot:** Any lot of record which at the time it was recorded fully complied with all applicable laws and ordinances, but which does not fully comply with the dimensional or proportional lot requirements of this Ordinance or subsequent amendment.

**Nonconforming Structure:** Any structure other than a sign, lawfully existing on the effective date of this Ordinance or subsequent amendment and which fails to meet the requirements of this Ordinance.

**Nonconforming Use:** An activity using land, buildings and/or structures for purposes which were lawfully established prior to the effective date of this Ordinance or subsequent amendment and that fails to meet the requirements of this Ordinance.

**Nonconformity:** Any nonconforming use, nonconforming building, nonconforming structure or nonconforming lot as defined in this Ordinance.

**Nursery:** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.

**Nursing Home:** A structure designed or used for residential occupancy and providing limited medical or nursing care on the premises for occupants, but not including a hospital or mental health center.

**On-Premises Sign:** A sign which advertises only goods, services, facilities, events, or attractions available on the premises where located, or identifies the owner or occupant or directs traffic on the premises. All other signs are off-premises signs.

**Open Space:** Any unoccupied space open to the sky on the same lot with a building; as well as any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**Ordinary High Water Mark:** The line between upland and bottomland which persists along the shore of Lake Superior. Pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 325, formerly the Great Lakes Submerged Lands Act, P.A. 247 of 1955, as amended, the ordinary high water mark for Lake Superior is 602.6 feet above sea level, International Great Lakes Datum of 1985.

**Overlay District or Overlay Zone:** A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

**Planned Unit Development:** A parcel or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space and other land uses as provided in this Ordinance.

**Premises:** A lot as otherwise used in this Ordinance.

**Professional Engineer:** An engineer registered in the State of Michigan.

**Public Utility:** A person, firm or corporation, municipal department, board or commission, duly authorized to furnish and furnishing under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water.

**Rear Service Drive:** A local street/road or private road typically located behind principal buildings and parallel to an arterial for service to abutting properties for the purpose of controlling access to the arterial.

**Recreational Structure:** A cabin, cottage, camp, hunting camp, mobile home or other similar structure used intermittently for recreational or vacation purposes and which is not a permanent place of domicile or residency.

**Recreational Unit:** A tent or vehicular type structure, primarily designed as temporary living quarters for recreational, camping or traveling use, which either has its own motive power or it is mounted on or drawn by another vehicle which is self powered. (Such unit shall not include a mobile home as defined herein.)

**Resort:** Any parcel or tract of land under the control of any person wherein buildings or building space are offered for the use of the public or members of an organization, either free of charge or for a fee, for temporary living quarters incident to recreational use for any period less than one month.

**Restaurant:** A lot upon which food or beverages are cooked or prepared and offered for sale when consumption is permitted on the premises, whether or not entertainment is offered and includes establishments commonly known as bars, grills, cafes, taverns, nightclubs, drive-ins, and any fast food establishment permitting consumption on the premises.

**Riding Stable:** A facility, such as a barn or similar structure, where more than two horses, used for riding as a business other than ordinary agricultural operations, are kept.

**Right-of-Way:** A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

**Road, Public:** A road dedicated to the public, such dedication having been accepted by the appropriate public Road Commission or Department of Transportation, which meets the minimum construction standards of said Road Commission or the Michigan Department of Transportation.

**Rural Character:** The rural character of Baraga Township embodies a quality of life based upon traditional rural landscapes, activities, lifestyles, and aesthetic values. For purposes of this section, rural character shall be defined to mean areas perceived as having a low density pattern of development, being generally void of man-made improvements such as city essential services and exhibiting open fields, farmlands or woodlands as common elements of the visual landscape.

**Rural Cluster Development Subdivision:** A Rural Cluster Development Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space.



**Semi Trailer:** Every vehicle with or without motive power, other than a pole-trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

**Service Station:** Where gasoline and other petroleum products are stored and dispensed for retail, including light maintenance activities such as tune-ups, oil changes and minor repairs.

**Setback:** The required distance between every structure and any lot line on the lot on which it is located except where a front lot line is not defined by any conveyance or recorded plat, in which case it means the required distance between every structure and the nearest land actually used for purposes of a roadway or parallel drainage ditch.

**Sexually Oriented Businesses (SOBS):** Business or commercial enterprises engaging in the provision of sexually oriented products and services to adults. Often of an adult entertainment character. SOBS include but are not limited to adult book or video store, adult entertainment establishment, adult mini-theater, adult motion picture theater, and adult novelty business.

**Sight Distance:** The distance of unobstructed view for the driver of a vehicle, as measured along the normal travel path of a roadway to a specified height above the roadway.

**Sign:** A name, identification, image, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, facility, service, event, attraction, person, institution, organization, or business and which is visible from any street, right-of-way, sidewalk, alley, park, or other public property. Customary displays of merchandise or objects and material without lettering placed behind a store window are not signs or parts of signs.

**Sign Area:** The entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except that where two such faces are placed back to back and are at no point more than two feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.

Where a sign consists solely of lettering or other sign elements printed or mounted on a wall of a building without any distinguishing border, panel, or background, any blank rectangular area which is more than ten percent of the area of the sign as otherwise computed shall be disregarded. All of the lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel, or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

**Special Use:** A special use “S” is a use in Section 4.9 that is not essentially incompatible with the uses permitted in a zoning district, but possesses characteristics which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and/or adjacent uses of land.

**Structure,** means any constructed, erected, or placed material or combination of materials in or upon the ground, including, but not by way or limitation, buildings, mobile homes, radio towers, sheds, signs, and storage bins, but excluding fences, sidewalks, and paving on streets, driveways, parking areas, and patios excluding uncovered open porches not to exceed four feet above grade and not to encroach into the front yard setback by more than six feet in front of the single family dwelling.

**Underlying District:** The base zone below an overlay zone that establishes the fundamental permitted uses, densities and dimensional regulations applicable to lands subject to a zoning ordinance.

**Variance:** A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when standards established in Section 15 of this Ordinance have been met. These standards seek to ensure that no variance is granted unless: (a) strict enforcement of the Zoning Ordinance would cause practical difficulty, (b) doing so would not be contrary to the public interest, (c) there are circumstances unique to the individual property on which the variance is granted, and (d) the variance request is not due to actions of the applicant.

**Wind Energy Conversion Systems, (WECS):** A machine that converts the kinetic energy in the wind into a useable form, commonly known as a “wind turbine, wind generator or windmill,” the WECS includes all parts of the system, including, but not limited to the tower, pylon or other structure upon which any, all or some combination of are mounted. See Section 5.6 for zoning districts, permitted uses and conditions for approval.

**Wireless Communication Facilities:** All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio and television broadcasting or relay towers, wireless or cellular telephone communication receivers and transmitters, telephone devices and exchanges, microwave relay facilities and towers, telephone transmission equipment buildings, and *public*, private and commercial mobile radio service facilities

**Yard:** The area between any lot line and the setback required therefrom.

**Zoning Administrator:** The Township Zoning Administrator is hired for the purposes of carrying out certain duties and responsibilities as defined in this Ordinance.

**Zoning Board of Appeals:** The body appointed by the Township Board to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this Ordinance would involve practical difficulties or would cause unnecessary hardship to the property owner.

### **III. OFFICIAL ZONING MAP**

#### **3.1 APPLICATION OF THIS ORDINANCE**

No structure shall be constructed, erected, placed, or maintained and no land use commenced or continued within the unincorporated parts of the Township, except as specifically, or by necessary implication, authorized by this Ordinance. Conditional uses are allowed only on permits granted by the Township Planning Commission upon finding that the specified conditions exist. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

In all Districts, no more than one (1) principal use or main building shall be placed on a lot, except for groups of related industrial or commercial buildings, or multiple family dwelling contained within a single integrated complex, sharing parking, access, and other similar site features as a conditional use in designated zoning districts.

#### **3.2 EXEMPTIONS**

The location of pipes, wires, poles, and generating and transmission equipment of public utilities or railroad tracks regulated by the State of Michigan or by the United States are exempt from regulation under this Ordinance.

#### **3.3 ESTABLISHMENT OF DISTRICTS**

Baraga Township is hereby divided into zoning districts as named and described in the following sections. The boundaries of said zoning districts are hereby established as shown on the Official Township Zoning Map that is part of this ordinance.

## **IV. ZONING DISTRICT REGULATIONS**

### **4.1 SINGLE FAMILY RESIDENTIAL DISTRICT (R-1)**

- (A) **INTENT.** To establish and preserve quiet single-family home neighborhoods, free from other uses except those which are both compatible with and convenient to the residents of such a district.
- (B) **PERMITTED PRINCIPAL USES.**
1. Detached single-family dwellings.
  2. Family Day Care homes.
- (C) **CONDITIONAL USES.**
1. Schools
  2. Churches
  3. Public and private parks
  4. Swimming pools
  5. WECS on lots of 2 acres or more, including conditions of approval.
  6. Unlighted golf courses on a minimum lot size of 60 acres.
  7. Group Day Care homes
  8. Rural Cluster Development Subdivisions (see Section 5.12)
  9. Accessory Housing Units

### **4.2 MULTI-FAMILY RESIDENTIAL DISTRICT (MFR)**

- (A) **INTENT.** To make provision for multi-family residential developments and mobile home parks not sub-divided into individual lots, in an appropriate, safe, sanitary, and attractive environment.
- (B) **PERMITTED PRINCIPAL USES.**
1. Multi-family residential developments
  2. Mobile homes in mobile home parks
- (C) **CONDITIONAL USES.** The same conditional uses are permitted in this district as in District R-1.

### **4.3 LAKESHORE RESIDENTIAL/RECREATIONAL (LR)**

- (A) **INTENT.** This district is intended to establish and maintain for residential and recreational use those areas with frontage on inland lakes and rivers and the Lake Superior shoreline which, because of their natural characteristics and accessibility, are suitable for development.

**(B) PERMITTED PRINCIPAL USES.**

1. Single-family dwellings.

**(C) CONDITIONAL USES.**

1. Bed & Breakfast establishments
2. Resorts and rental cabins
3. WECS on lots of 2 acres or more
4. Accessory Housing Units
5. Other uses deemed by the Planning Commission to be of the same general character as those permitted and conditional uses.

**4.4 COMMERCIAL DISTRICT (C)**

**(A) INTENT.** To establish and preserve general commercial areas consisting of shopping centers and commercial areas where customers reach individual business establishments primarily by automobile.

**(B) PERMITTED PRINCIPAL USES.**

1. Offices
2. Establishments selling goods and services at retail
3. Gas stations and service stations
4. Hotels
5. Nursing homes
6. Funeral homes
7. Bakeries
8. Drive-in restaurants
9. Indoor theaters and other places of amusement
10. Motor vehicle sales and rentals

**(C) CONDITIONAL USES.**

1. Auto Repair Shops
2. WECS including conditions of approval
3. Outdoor storage including semi-trailers.
4. Hospitals
5. Contractors yards and shops
6. Other uses deemed by the Planning Commission to be of the same general character as those permitted and conditional uses.

**4.5 MIXED USE**

**(A) INTENT.** To establish and preserve a district for a mix of residential and light industrial uses, along with those commercial uses which are more compatible with light industrial than with other commercial uses.

**(B) PERMITTED PRINCIPAL USES.**

1. Single Family Dwellings
2. Motor vehicle sales, service, and rental
3. Construction and farm equipment sales
4. Sales of mobile homes, campers, recreational vehicles, boats, and monuments
5. Wholesale and storage uses
6. Food packaging and bottling works
7. Commercial printing and newspaper offices
8. Contractor's yards and shops
9. Laundry, cleaning and dyeing plants
11. Office buildings

**(C) CONDITIONAL USES.**

1. WECS
2. Other light industrial uses, such as manufacturing, research, high technology, and business parks
3. Wireless Communication Facilities
4. Multi-family Dwellings
5. Other uses deemed by the Planning Commission to be of the same general character as those permitted and conditional uses.

**4.6 AGRICULTURE/RESIDENTIAL DISTRICT (AR)**

**(A) INTENT.** To establish and maintain for low intensity use those areas which because of their location, accessibility and natural characteristics are suitable for a wide range of agricultural, forestry, residential and recreational uses.

**(B) PERMITTED PRINCIPAL USES.**

1. Growing and harvesting of timber and bush fruit
2. Agricultural
3. Wildlife management
5. Single-family residences

**(C) CONDITIONAL USES.**

1. WECS
2. Resorts
3. Bed & Breakfast
4. Hunting and shooting preserves on lots of 40 acres or more
5. Accessory Housing Units
6. Rural Cluster Development Subdivisions (see Section 5.12)
7. Building Contractor yards and shops
8. Wireless Communication Facilities

**4.7 FOREST RESOURCE DISTRICT (FR)**

- (A) **INTENT.** To establish a district to accommodate large tracts of Federal, State and private land for the devoted to land management for timber and recreational uses.
- (B) **PERMITTED PRINCIPAL USES**
  - 1. Forestry, Timber Management and Harvesting
- (C) **CONDITIONAL USES**
  - 1. Hunting Camps

**4.8 DISTRICT PLANNED UNIT DEVELOPMENT (see Section IX)**

- (A) **INTENT.** To accommodate innovative land uses provided stated objectives are met and in conformance with a final development plan.
- (B) **PERMITTED PRINCIPAL USES.**
  - 1. Residential,
  - 2. Commercial
  - 3. Light manufacturing
- (C) **CONDITIONAL USES.** None.

**4.9 SPECIAL USES IN DESIGNATED ZONING DISTRICTS**

Special uses are those uses of land which, because of their possible impact on the environment, the economy, and the health, safety and welfare of the community, require a specific process for their review, consideration, and possible approval, and therefore may not be commenced without first securing the approval of the Township Board in accordance with the applicable procedures and obtaining the required permit from the Zoning Administrator as set forth in this Ordinance. The purpose of this section is to identify those special uses and the zoning districts in which they are permitted, and to identify the procedures for obtaining a permit which would allow a special use.

- (A) **MINING AND/OR MINERAL EXTRACTION AND THE INCIDENTAL ACTIVITIES ASSOCIATED WITH SUCH USE.**
  - 1. A mining and/or mineral extraction operation may be permitted by the Township Board in any and all zoning districts as established in this Zoning Ordinance if such operations and activities meet all established requirements, standards, criteria, and conditions set forth in Section 6.
  - 2. The procedure, standards, and criteria applicable to the Township Board in its consideration of an application for a mining and/or mineral extraction special

use permit shall be as set forth in the provisions of Section 6 of this Zoning Ordinance.

**(B) SITE CONDOMINIUMS**

1. A Site Condominium may be permitted by the Township Board in any and all zoning districts as established in this Zoning Ordinance if such use meets all established requirements, standards, criteria, and conditions set forth in Section 11 of this Zoning Ordinance.
2. The procedures, standards, and criteria applicable to the Township Board in its consideration of an application for a site condominium special use permit shall be as set forth in the provisions of Section 11 of this Zoning Ordinance.



## V. GENERAL PROVISIONS

### 5.1 HEIGHT AND PLACEMENT REGULATIONS.

- (A) Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below and no structure shall be erected or maintained which exceeds the height limit specified below. Where there is no rear lot line as otherwise defined herein, the required rear setback distance shall be measured from a line through the point on the lot most distant from any front lot line of the same lot, which line shall be perpendicular to a line from said point to the closest point on any front lot line. If there is more than one such line, the rear setback shall be maintained from any one of them at the option of the owner. Where a lot fronts on two streets within 30 degrees of being parallel, but not of their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, or side lot line. All distances are measured in feet from the drip lines of said structures. All front yard setbacks and applicable side yard setbacks shall be measured from the right-of-way line of a public and/or private road.

#### SCHEDULE OF REGULATIONS

<u>District</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>	<u>Height</u>
R-1	30	10B	35	30F
MFR	30	30	30	30F
LR	30	10B	30	30F
MU	30	30	30	A
C	30	5	20	30F
I	40	5	20	45F
PUD	E	E	E	E

<u>District</u>	<u>Minimum Lot Size</u>	<u>Minimum Lot Width C</u>
R-1	1 acre	150
MFR	20 acres	None
LR	1 acre	150
MU	1 acre	150
C	1 acre	150
I	1 acre	150
AR	2.5 acres	235
PUD	5 acres	300

#### Footnotes:

1. Height at any point on a structure shall not exceed the horizontal distance to any lot line.
2. A detached accessory building not exceeding 14 feet in height and not exceeding 720 square feet may be located within six feet of a side lot line and 20 feet from a rear lot line.

A detached accessory building less than 100 square feet and so located that no portion is located in the front yard setback is exempt from the provisions of this ordinance.

3. Lot width shall be measured at the location of the front setback line.
  4. 18,750 sq. ft. where lot is served by public sewer and/or water supply.
  5. Setbacks and height limits are to be determined as required by the original zoning district. Any modifications are subject to the final approval of the Final Development Plan.
  6. No detached accessory building shall exceed fifteen (15) feet in average height as determined by the Zoning Administrator nor exceed the exterior perimeter dimensions of the principal structure on the lot.
- (B) In Districts R-1, MFR, LR, and AR, the minimum lot size and lot width regulations do not apply to any nonconforming parcel of land shown as lot in a recorded plat, or described in a deed or land contract executed and delivered prior to the effective date of this Ordinance.
- (C) There shall be a maximum floor area ratio of 25 percent in District MFR and 80 percent in Districts C and I.
- (D) There shall be a maximum ground coverage ratio of 30 percent in District MFR and 40 percent in Districts C and I.
- (E) There shall be a minimum landscaped open space of 30% in District MFR and 10% in Districts C and I. There shall be a minimum of 2.5% landscaped open space within the front yard setback.

## **5.2 ZONING DISTRICT BOUNDARY SETBACK REGULATIONS.**

On lots in Districts C and I, no structure shall be erected or maintained within 30 feet of the boundary line of any R-1, or MFR Districts. Where a district boundary line divides a lot into two districts, it shall be treated as a lot line for purposes of the setback provisions of this Ordinance.

## **5.3 MINIMUM FLOOR AREA FOR DWELLING UNITS**

Every single-family dwelling shall have a minimum floor area of 800 square feet, and every dwelling unit in a multi-family dwelling shall have a minimum floor area of 600 square feet, provided:

- (A) It has a minimum width across any front, side or rear elevation of 14 feet and complies in all respects with the State Building Code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or

regulations for construction are different than those imposed by the State Building Code, then and in that event such federal or state standards or regulations shall apply.

- (B) It is firmly attached to a permanent foundation constructed on a site in accordance with the State Building Code and constructed of such material and type as required in the applicable building code for residential dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (C) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and under carriage removed. Additionally, no dwelling shall have any exposed towing mechanism, under carriage or chassis.
- (D) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (E) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (F) The fore going shall not apply to mobile homes located in a licensed mobile home park or zoning district R-2 except to the extent required by state and federal laws or otherwise specifically required in the ordinance of the Township pertaining to such parks and zoning districts.

#### **5.4 NON-CONFORMING LOTS OF RECORD**

Nonconforming lots, any lot of record may be used for permitted uses even though the lot area and/or dimensions are less than those required for the District in which the lot is located, provided that yard dimensions and other requirements of the District, not involving lot area and width are met. Contiguous parcels under the same ownership are considered combined as necessary to eliminate or reduce to the maximum extent possible all nonconformities. The spirit of this provision is to limit density in areas of historically small lots to provide isolation for wells, septic systems, drainage and similar public health consideration. No vested rights arise to the property owner for any parcel created in violation of any preceding Zoning Ordinance.

## **5.5 OUTDOOR WOOD BURNING BOILERS AND APPLIANCES**

The Township of Baraga does not currently have regulations restricting the installation or use of outdoor wood burning boilers and appliances.

## **5.6 WIND ENERGY CONVERSION SYSTEMS (WECS) CONDITIONS FOR APPROVAL WITHIN ALL DISTRICTS**

- (A) The proposed WECS will not block, interfere or otherwise impair a scenic vista, corridor or the view of a neighboring residential structure.
- (B) The primary purpose WECS will be to provide power for the principal use of the property whereon said WECS is to be located and shall not be the generation of power for commercial purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a WECS designed to meet the energy needs of the principal use.
- (C) The WECS and its location on said properties shall limit any noise from said WECS is located. The additional side and rear yard setbacks from the required structure zoning ordinance setbacks shall be determined by the Planning Commission and shall be based upon the height of the proposed WECS.
- (D) No variance shall be granted in connection with a proposed WECS to permit a height greater than 175 feet of the placement of a WECS so close to a property line as to result in any portion of the WECS at any time, whether erect or in the event the WECS should fall or be toppled, to overhang, cross or otherwise extend beyond the property line.
- (E) No WECS shall be located within the front yard area.

- (F) The Planning Commission may add additional reasonable conditions.
- (G) A grant of zoning compliance permit constitutes an agreement between the land owner and the Township that the Zoning Administrator at any reasonable time may enter the property, for the purpose of inspection to determine compliance with above conditions.
- (H) No WECS shall be erected until final site plan approval has been granted by the Planning Commission and permits issued by all government agencies involved.

The site plan, in addition to the above, shall also show:

1. Location of tower on-site Location of tower on-site and tower height, including blades,
2. Underground utility lines within a radius equal to the proposed tower height, including blades,
3. Dimensional drawings, installation and operation instructions,
4. Design date indicating the basis of design, including manufacturer's dimensional drawings, installation and operation instructions,
5. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind load requirements for structures as established by the State of Michigan building codes,
6. Any other information that the Zoning Administrator, or the Planning Commission deem necessary.

## **5.7 FRONTAGE ROAD REQUIREMENTS.**

All lots in all zoning districts shall be located and have frontage on a public road. Any lot of record created before the effective date of this ordinance without any frontage on a public street or an approved private road shall not be occupied on a year round basis without access to a street provided by an easement or other right-of-way not less than sixty-six (66) feet wide. Property owners with lots on existing private roads shall be encouraged to improve their road to meet County Road Commission standards, in order that the road can be accepted as a public road and become part of the County public road system.

Camps and seasonal housing units may be located on private roads and easements created for such use, however, these housing units may not be occupied more than on a seasonal basis. Future access easements should be 66 feet in width to provide for the development of a public road in the future.

## **5.8 WATERFRONT SETBACK.**

All new structures on lots abutting any body of water, including but not limited to inland lakes, rivers, streams, creeks, impoundments, and Lake Superior, shall maintain a minimum setback of 75 feet from Lake Superior and 40 feet from inland lakes and rivers as measured

from the edge of a river or the edge of a lake's shoreline. Setbacks may be extended beyond the stated minimums, if after site plan review by the Zoning Administrator or the Planning Commission finds that the environment quality, scenic or aesthetic value, water quality, or recreational value of the water resource or use would be endangered or create harm or nuisance to adjacent property.

The part of that setback which lies within 30 feet of the water's edge shall be maintained in its natural condition. Natural conditions may be modified if the Zoning Administrator finds that such modifications will be consistent with management practices which will prevent soil loss, will not increase run-off, and will provide the shoreline with adequate protection without altering the inherent characteristics of the water body. Trees and shrubs in a space 50 feet wide may be trimmed or pruned for a view of the fronting waters and for access thereto. No change shall be made in its natural grade. A lot shall be regarded in its natural condition when there is at least one tree or shrub having a height of at least 15 feet for each 100 square feet of area thereof in wooded areas or sufficient natural ground cover in open areas. All uses shall be subject to this setback except marinas, boat liveries, bathing facilities, fishing piers, commercial fishing docks, recreational docks.

In areas identified as erosion control districts in this Ordinance, the restrictions and regulations imposed in those districts shall govern if such restrictions or regulations impose higher standards or requirements.

## **5.9 HOME OCCUPATIONS**

Home occupations that are permitted without any Township review or approval required include any home occupation that does not have any exterior evidence, other than the permitted sign, and complies with all of the following:

- (A) Is conducted entirely within an enclosed dwelling but does not occupy more than  $\frac{1}{4}$  of the floor area of the residential single family dwelling unit on the property or not more than  $\frac{1}{2}$  of the square footage of an accessory structure.
- (B) Home occupation shall employ only those inhabitants residing on the premises.
- (C) A sign shall not exceed four (4) square feet in area and shall be attached to the building used for the home occupation or a two (2) square foot sign may be placed in the yard.
- (D) Commercial vehicles, or personal vehicles with signage, are permitted to be parked in association with the home occupation as long as they are of customary personal vehicle size (e.g. cars, trucks, vans, etc.). Up to one (1) 25 foot or smaller truck or van not exceeding 16,000 GVW (Gross Vehicle Weight) may be parked at a residence in the R-1, and MFR Districts in conjunction with the home occupation.

- (E) Specifically excluded is the storage and display of merchandise not produced by such home occupation or any activity similar to a generally recognized retail store or service establishment as permitted in any commercial district.

Any Home Occupation that does not comply with items 1 through 4 above requires review and approval by the Township Planning Commission under the provisions of Section 15 (Conditional Use Permits). Home Occupations shall be reviewed to assure that the use or structure does not become contrary to the public health, safety, or welfare or the spirit and purpose of this Ordinance. In completing this review, the Planning Commission shall take into account the zoning district, the size of the property, distance to adjacent land uses, screening, buffering, and other factors. The Planning Commission may attach conditions, including any time limit for future review, as warranted.

#### **5.10 ACCESSORY HOUSING UNIT:**

It is the intent of this section to provide standards that will allow extended family living in what have traditionally been detached single-family only zoning districts or neighborhoods. Such provisions will permit the conversion of a single-family dwelling to include an accessory apartment as a means of accommodating an elderly parent(s), grandparent(s), or immediate family members with special needs. It is the intent that by providing housing opportunities for the elderly that a vital need can be met without diminishing the quality of the affected neighborhood; this allows independence and yet close contact to younger family members.

- (A) Accessory Housing Units shall meet the following requirements:

1. Only owner-occupiers are permitted to install and/or maintain accessory housing units.
2. Occupancy of the accessory housing unit is limited to the parent(s), grandparent(s), or immediate family member(s) with special needs of the occupants of the single-family dwelling.
3. Accessory housing units are required to be attached to the single-family dwelling and shall not increase the floor area of the single family dwelling by over 30%, and in no case shall any accessory housing unit exceed 1,000 square feet.
4. There shall be no visible change in the exterior appearance of the dwelling containing the accessory housing unit that will alter the single-family appearance of the dwelling. Exterior elevation drawings, architectural renderings and floor plans of the existing/proposed structure are required to be submitted for review as part of the Conditional Use application.
5. All improvements associated with construction of the accessory housing unit

shall meet current applicable codes including approval of the Health Department for any needed improvements to the on-site septic system if applicable. Utilization of the existing septic system, without creating a new/separate system is encouraged and Health Department permits shall be provided to the Township by the applicant.

6. Separate sale or ownership of the accessory housing unit from the primary dwelling on a lot or parcel is prohibited. Upon conditional use approval of any accessory housing unit, the owner(s) shall file an affidavit with the Registrar of Deeds giving notice that the accessory housing unit of the involved parcel is for temporary use by a parent(s), grandparent(s), or immediate family member(s) with special needs related to the owner.
7. Any additional parking as needed or required by this Ordinance shall be provided in off-street space.
8. Conditional Use approval of accessory housing units are valid for a period of five (5) years subject to Planning Commission review of requested five (5) year extensions.
9. Upon the cessation of use of the accessory housing unit by the parent(s), grandparent(s), or immediate family member(s) with special needs of the owner-occupiers of the single-family home, said accessory housing unit shall be removed or converted to remove the individual floor plan elements (such as a separate/duplicate kitchen facilities) that functionally create a separate dwelling unit.
10. The Planning Commission may impose any other reasonable conditions deemed necessary to protect adjoining properties, to retain the residential character of the neighborhood and to protect the public health, safety and welfare.

#### **5.11 COMMERCIAL VEHICLE PARKING IN RESIDENTIAL DISTRICTS**

- (A) Commercial vehicles, or personal vehicles with signage, are permitted to be parked at a residence as long as they are of customary personal vehicle size (e.g. cars, trucks, vans, etc.) without any Township review or approval required.
- (B) Up to one (1) 25 foot or smaller truck or van not exceeding 16,000 GVW (Gross Vehicle Weight) may be parked at a residence in the R-1 and MFR districts without any Township review or approval required.
- (C) Up to one (1) 27 foot or smaller truck or van may be parked at a residence in all other residential zoning districts without any Township review or approval required.



- (D) Any larger commercial vehicles or equipment, or for more than one (1) vehicle as specified in item 2 or 3 above requires review and approval by the Township Planning Commission under the Home Occupation provisions of the Ordinance. (This does not include equipment used for one's own snowplowing, farming, etc.).

## 5.12 **RURAL CLUSTER DEVELOPMENT SUBDIVISIONS**

- (A) **PURPOSE:** A Rural Cluster Development Subdivision is a new form of residential development that encourages the preservation of open space and natural features incorporated into a subdivision. The standard approach to residential development is to divide the land into parcels typically corresponding to the minimum lot size required by zoning regulations. In rural areas, these minimum lot sizes are sometimes large in an effort to maintain rural character and low density. The resulting development fragments land and spreads low density development out over a larger area.

Under the Rural Cluster Development approach, a higher density is permitted on one-half (1/2) of the site, with the balance of the land left as open space. This option also can reduce development costs by limiting infrastructure needed to serve the development, such as roads and community sewage treatment systems. Baraga Township is encouraging the development of residential areas using this method as an alternative to the standard approach in order to preserve rural character and open space.

- (B) **REQUIREMENTS AND PROCEDURE:** This residential open space development option is available as a Conditional Use in the R-1-Single Family Residential and AR-Agriculture/Residential Districts when in conformance with the following requirements:

1. At least fifty (50) percent of the lot (or parent parcel) to which this development option is applied, shall be retained permanently in agriculture, woods or other natural open space use.
2. Density shall be as established in the District, but measured as described under the section on Procedures below.
3. Procedures: The applicant shall prepare a drawing to scale that divides the site into the maximum number of lots permitted under this Ordinance without clustering. That means dividing the total area of the site by the minimum lot area requirements per lot, while still conforming to minimum lot width or frontage requirements, and ensuring that each lot has sufficient area to meet District Health Department requirements for septic waste disposal, unless the site is served by public sewer, and ensuring that adequate right-of-way for a public road meeting County Road Commission standards is provided, and ensuring that no parcel so created for a dwelling unit violates state or federal

wetland, floodplain, sand dune or high risk erosion regulations. No existing or proposed easement shall be counted as available for development. The whole number of lots that results from this calculation, is the maximum number of lots, or dwelling units that may be clustered on the site under this Section.

For example, in the AR District, if a parcel had two hundred (200) contiguous acres, it could have eighty (80) residential lots at 2.5 acres per lot. Under the Rural Cluster provisions, the cluster development would be permitted on 100 of the 200 acres, if all land was developable, and before land for a road were subtracted (which might further reduce the number of permitted lots). The procedure would be to divide the developable land acreage by 2.5 and these units would be placed on one-half of the site. So 200 acres divided by 2.5 equals 80 and when placed on 100 of the 200 acres, would result in a typical lot size of 1.25 acres.

In the R-1 District, if a parcel had 40 contiguous acres, it could have 40 sites in the gross calculation of density. A cluster of these home sites could be permitted on one-half or 20 acres of the original 40 acres. If five (5) of the forty (40) acres were undevelopable due to wetlands, then a maximum of 35 residential lots could be constructed, before land were subtracted for a road.

4. The site shall have direct access to a county road or state highway via a new public road built to County Road Commission standards.
5. The density of the Rural Cluster Development shall conform with all the following standards:
  - a. At least fifty (50) percent of the lot or parent parcel shall remain in agriculture, woods or other open space in an undeveloped state after the single family dwellings in the rural cluster development are constructed. Land in an undeveloped state means a natural state preserving natural resources, natural features, or 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.
    - 1) The proposed open space shall be clearly depicted on the site plan and differentiated from the land proposed for clustering the single family dwelling units.
    - 2) Specific uses for the proposed open space shall be clearly indicated on the site plan and described in appropriate detail in the accompanying application.

- 3) Open space is encouraged around the perimeter of a site to screen and buffer the clustered units from abutting property.
  - 4) New development should be separated by at least one hundred (100) feet from wetlands, surface waters or other sensitive open space.
  - 5) Open space shall be reasonably shaped and contiguous, and located for convenient use by residents of the development.
  - 6) The open space shall be permanently protected by recording the use restriction with the County Register of Deeds in a form approved by the County Attorney such as by means of a conservation easement, plat dedication, restrictive covenant or other legal means that keeps the open space undeveloped in perpetuity.
- b. The common open space may be retained by the original landowner or held in common by one or more of the new landowners in the rural cluster development, or by a public land trust or conservancy organization approved by the Township Planning Commission.
  - c. Up to twenty (20) percent of the useable common open space may be used for septic drainfields for individual dwelling units, provided a homeowners association assumes liability for any problems, and if the method is approved by the District Health Department and the Michigan Department of Environmental Quality. No part of the preserved open space shall be used for an access road.
  - d. Lot size for individual lots within the rural cluster shall not be more than ten (10) acres nor less than one-third (1/3) acre in size and no parcel shall have an area less than that required to meet District Health Department septic waste disposal requirements if served by individual septic systems. If public sewer is available, individual lot size could be reduced to one-quarter (1/4) of an acre.
  - e. Minimum width of an individual lot in a cluster at the building line shall not be less than sixty (60) feet.
  - f. Dwelling units shall be separated from nearby farm structures by at least five hundred (500) feet, unless a lesser amount is approved by the farm structure owner.
  - g. The cluster development design shall protect roadside character and improve public safety and preserve vehicular carrying capacity by not fronting lots along an existing county road or state highway.

6. The application shall be accompanied by a Site Plan that conforms to the requirements of Section 5 of the Zoning Ordinance.
7. A pre-application conference between the applicant, the site designer, the chairperson of the Planning Commission and the Zoning Administrator shall be held prior to submittal or review of any site plan for a Rural Cluster Development. A site visit may be scheduled as a part of the pre-application conference. The purpose of the pre-application conference is to review Ordinance requirements as they apply to the site, before the applicant spends any significant money on even preliminary site designs. The Zoning Administrator will direct the applicant to various publications on Rural Cluster Development available from MSU Extension and the American Planning Association to help the applicant step through the design process with the least amount of difficulty.

(C) **DENSITY & LOT BONUS:** In order to further encourage cluster development under this procedure, Baraga Township will award a bonus of additional lots that may be created above and beyond the allowable density in a qualified cluster development. An additional two (2) lots for every 40 acres of open space preserved will be granted under this procedure.

### **5.13 FEES IN ESCROW FOR PROFESSIONAL REVIEWS**

Any application for rezoning, site plan approval, a Conditional Use Permit, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance above the following threshold, may also require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee may be required by either the Zoning Administrator or the Planning Commission for any project which has more than twenty (20) dwelling units, or more than twenty-thousand (20,000) square feet of enclosed space, or which requires more than twenty (20) parking spaces, or which involves surface or below surface mining or disposal of mine materials. An escrow fee may be required to obtain a professional review of any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public roads, other infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

(A) The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise Baraga Township values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the Planning Commission indicating the extent of conformance or nonconformance with this Ordinance and identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a

copy of any professional review hired by Baraga Township and a copy of the statement of expenses for the professional services rendered, if requested.

- (B)** No application for which an escrow fee is required will be processed until the escrow fee is deposited with the Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
- (C)** If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any land use or other permit issued by Baraga Township in response to the applicant's request. Any unused fee collected in escrow shall be promptly returned to the applicant once a final determination on an application has been made or the applicant withdraws the request and expenses have not yet been incurred.
- (D)** Disputes on the costs of professional reviews may be resolved by an arbitrator mutually satisfactory to both parties.

## **VI. MINING AND MINERAL EXTRACTION**

- (A) Mining and mineral extraction is the removal and/or processing of iron ore, copper, gravel, sand, fill dirt, stone, gypsum, peat, topsoil, (but not including sod production and/or removal) silver, gold, uranium, and other precious metals or minerals. It is the intent of these regulations to:
1. Provide for the best management practices to assure environmental protection during the site planning, operational and reclamation stages of the mining and mineral extraction process, including, but not limited to:
    - a. Proper drainage and erosion protection;
    - b. Aquifer/groundwater protection;
    - c. Surface water protection;
    - d. Air quality protection as it may pertain to:
      - 1) Smoke;
      - 2) Fumes;
      - 3) Odor;
      - 4) Dust; and,
      - 5) Other airborne pollutants;
    - e. Compliance with applicable Federal, State and local laws, rules and regulations;
    - f. Providing for proper handling and disposal of hazardous material generated and/or used in the mining and mineral extraction process;
    - g. Providing assurances that upon cessation of the mining and mineral extraction operation the property will be returned to a condition such that it can be used for those uses which are permitted in the zoning district in which the property is located.
  2. Provide for the health, safety and welfare of the general public, the community at large and adjacent properties, including but not limited to:
    - a. Protection from effects of increased traffic;
    - b. Protection from any adverse effects of noise, dust, vibration, blasting and glare;
    - c. Providing for visual and/or aesthetic quality during, and upon cessation of, the mining and mineral extraction operation; and,

- d. Protection from the use and/or transportation of hazardous materials.
3. Provide the Township with information important to overall planning and orderly economic growth, including, but not limited to:
    - a. Public facility and service needs;
    - b. Number of potential employees;
    - c. Proposed transportation routes;
    - d. Duration of mining and mineral extraction operations;
    - e. Descriptions and amounts of materials to be extracted; and,
  4. Provide for the right to extract mineral deposits where located, provided the standards, regulations and conditions as set forth in this Ordinance are met.
- (B)** No mining and/or mineral extraction operation or any mining related buildings, structures, processing equipment or tailing ponds, basins or mounds may be built, operated or maintained:
1. Until an impact area is determined. One thousand (1,000) feet shall be presumed to be an appropriate distance from any adjoining land uses or structures. The area encompassed by that distance shall be designated the “impact area”. If, as a result of review and analysis by the Planning Commission, a site-specific reason based upon health, safety or welfare, as specified in Section 6, A, 2 a-d would allow a reduced “impact area” or require an enlarged “impact area” such adjustment may be made as is found to be reasonable.
  2. Within 500 feet of the nearest edge of the right-of-way of any of the following:
    - a. State highway,
    - b. Federal highway,
    - c. County road.
  3. Within 1,500 feet of any public or private well with the exception of such wells as are necessary for the proposed mining and/or mineral extraction operation.
  4. Where the mining and/or mineral extraction operation would violate applicable local, state, or federal groundwater standards, rules, or regulations.

5. Within a floodplain where no permit pursuant to the Michigan Floodplain Control Act, P.A. 245 of 1929, as amended by P.A. 167 of 1968 has been issued.
  6. Within a wetland, as determined by the Michigan Department of Natural Resources, where no permit pursuant to the Goemaere-Anderson Wetland Protection Act, P.A. 203 of 1979, as amended has been issued.
- (C) No mining or mineral extraction shall be undertaken without first obtaining a mining and mineral extraction permit from the Baraga Township Zoning Administrator, and paying a reasonable fee to be established from time to time by resolution of the Baraga Township Board. The Zoning Administrator shall not issue a permit until such time as the Township Board has reviewed and approved the application for a permit, in accordance with the provisions of Sections 6.1 through 6.3 of this Zoning Ordinance.
1. Before submitting a permit application each applicant shall meet and confer with the Baraga Township Zoning Administrator and interested Township officials regarding the preparation of the application. It shall be the responsibility of the Zoning Administrator to contact and invite the appropriate Township officials to such a meeting. The general outlines of the Mining and Mineral Extraction operation evidenced by sketch plans are to be reviewed at the meeting before submission of a permit application. Thereafter, the Zoning Administrator shall furnish the applicant with his written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a mining and mineral extraction application.
  2. The Zoning Administrator, upon receipt of the application for a permit, shall provide to the Township Planning Commission the application and the Zoning Administrator's written review within forty-five (45) days for its review and consideration. The Planning Commission shall review the application and all documentation submitted therewith, and if the said application meets the minimum requirements set forth in this Ordinance, the Planning Commission shall schedule and hold a public hearing in accordance with the provisions of Section 1.6 of this Zoning Ordinance, with notices being sent out to property owners and occupants of property within 1320 feet of the subject property.
  3. Following the public hearing, the Planning Commission shall make a recommendation to the Township Board on the application by applying the standards relating to mining and mineral extraction permits set forth in Sections 6.1 through 6.3 of this Zoning Ordinance, and shall recommend approval, approval with conditions, or denial of the permit application, and shall prepare a written explanation of its recommendation.



4. The Zoning Administrator shall then submit the application and all related materials, as well as the recommendation of the Planning Commission, to the Township Board for its review and action. The Township Board shall not be required to hold another public hearing, but may make its decision based upon its application of the standards set forth in Sections 6.1 through 6.3, inclusive, of the Zoning Ordinance, and may approve, approve with conditions, or deny the application for a permit.
5. Mining and mineral extraction permits shall be reviewed on a five (5) year basis. Permits may be revoked if not in full compliance with all ordinances, laws, regulations, and conditions applicable to the current permit, including site, operation and reclamation plans. The review process shall include the updating of the information and requirements set forth in Section 6.1, as well as compliance with the standards established in this Ordinance.
6. If any of the application information or requirements are available in the form of an environmental impact assessment or other appropriate document which is required by various county, state and/or federal agencies, a copy of such information or document shall be submitted as a part of the application for mining and mineral extraction permit.
7. If in the process of reviewing and/or considering the mining and mineral extraction permit application the Township Planning Commission and/or Township Board determines that additional information is necessary in order to fully evaluate the application, then the Planning Commission and/or Township Board may defer taking action on such application until such information is provided.
8. As a part of the application, and as a condition of the granting of a mining and mineral extraction permit, the Township Zoning Administrator shall be granted permission by the owner or its designated agent to enter upon the site where the mining and mineral extraction operations are being conducted, at any reasonable time, for the purpose of conducting appropriate inspections to determine compliance with permit requirements, operation and reclamation plans, or to investigate complaints.
9. The Township Planning Commission may recommend, and the Township Board may impose, conditions upon the approval of a mining and mineral extraction permit which are deemed to be necessary to assure compliance with the requirements of this Ordinance. Such conditions shall be considered an integral part of the mining and mineral extraction permit and shall be enforced by the Zoning Administrator. In addition, the Township Board shall also consider the activity levels of the mining and mineral extraction operation and may impose conditions to insure the preservation and

protection of adjacent properties and the health, safety and welfare of the general public.

10. No individual or entity to which a mining and/or mineral extraction permit has been granted shall sell, lease, assign, or transfer in any manner any such permit, or any of the rights granted thereunder, without first securing the approval of the Township Board. No such transfer shall relieve the original permit holder from any liability for violation of the permit, any conditions imposed thereon, this Ordinance, or the plans approved by the Township Board, or from any damages resulting from such violation, where such violation occurred prior to the date of transfer. As a condition of approving such transfer, the Township Board shall require that:

- a. All existing violations of the permit, any conditions imposed thereon, the plans approved by the Township Board, or this Ordinance, shall be remedied by the proposed transferee as soon as may be practicable; and,
- b. The proposed transferee provide all the financial guarantees described in this Ordinance which were required as a condition of the original issuance of the permit; and,
- c. The proposed transferee agree to, and demonstrate an ability to, comply with all of the terms and conditions of the original permit, any conditions imposed thereon, the plans approved by the Township Board, and this Ordinance; and,
- d. The proposed transferee agree to and demonstrate an ability to comply with any new or additional conditions which the Township Board might see fit to impose upon said permit by reason of the proposed transfer thereof, and the Township Board may reject any proposed transfer of such a permit if it determines that said criteria cannot be met. An application for permission to transfer such a permit shall first be submitted to the Planning Commission, which shall review said application and make an appropriate recommendation to the Township Board. No public hearing shall be required either before the Planning Commission or the Township Board.

**(D)** A permit for mining and/or mineral extraction may be denied if any of the following situations may be expected to occur during or subsequent to mining and/or mineral extraction.

1. Landslides or deposition from the proposed operations into streams, lakebeds or wetlands,

2. Surface subsidence which cannot be reclaimed.
3. Operations resulting in damage to any of the following:
  - a. Surface waters,
  - b. Groundwaters,
  - c. Soils,
  - d. Air,
  - e. Dwellings,
  - f. Public structures,
  - g. Schools,
  - h. Churches,
  - i. Cemeteries,
  - j. Commercial or institutional structures,
  - k. Agricultural activities,
  - l. Public roads,
  - m. Habitat required for the survival of vegetation and/or wildlife designated as endangered through prior inclusion in rules by the Michigan Department of Natural Resources or the U.S. Fish and Wildlife Service.

(E) The following activities shall not require a mining and mineral extraction permit:

1. Any mining or mineral extraction operation which is active and lawful at the date of enactment of this amendment provided that the continued action of such mining or mineral extraction is limited to existing holes, pits, shafts, or cells. However, no such lawful nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of this amendment, nor shall any new holes, pits, shafts, or cells be commenced without first securing a mining and mineral extraction permit.

2. In the case of sand, fill dirt and/or gravel extraction operation, existing holes and/or pits may be worked and enlarged on the land which constituted the lot of record on which operations were conducted at the time of becoming nonconforming, predicated upon compliance with the following restrictions:
  - a. The amount of material extracted on an annual basis does not exceed the maximum annual amount extracted during the preceding five (5) year period from adoption of this amendment; and,
  - b. The amount of waste material produced on an annual basis in the mineral extraction process does not exceed the maximum annual amount extracted during the preceding five (5) year period from adoption of this amendment; and,
  - c. The amount of mining and processing equipment used in the operation does not increase; and,
  - d. The normal hours of operation do not increase;
  - e. The amount of noise, vibration, and dust from the operation does not increase; and,
  - f. The extent of the area of the mining operation does not increase beyond the limits of the lot of record used for that purpose at the time of adoption of this amendment.
3. The mining or mineral extraction of less than *five hundred (500) cubic yards of material one (1) time from a parcel.*
4. Site preparation authorized by a zoning compliance permit or a grading permit required by Section 10.6 of this Ordinance.

A mining and mineral extraction permit shall be obtained for all lawful nonconforming mining and/or mineral extraction operations not meeting these criteria.

## **6.1 APPLICATION FOR MINING AND MINERAL EXTRACTION PERMIT**

An application for a mining and mineral extraction permit must contain a Site Plan, Hydrologic Study, Operation Plan, and Reclamation Plan as described herein. Any federal, state, or county requirements that address those points listed here may be substituted for the required application forms.

The applicant shall submit to the Zoning Administrator the following documents, including a cover letter with the signature of the applicant or the applicant's authorized agent.

**(A) SITE PLAN REQUIREMENTS**

A site plan shall be drawn to a scale adequate to illustrate the proposed activity, and shall include, at a minimum:

1. A legal description of the lot or parcel upon which the proposed activity is to be conducted; the name, address and telephone number of the owner, developer, proposed operator and designer;
2. Date, north point, and scale;
3. The actual dimensions of the area upon which the activity is to be conducted, (as shown by a surveyor or engineer, with the survey stakes visible), showing the relationship of the subject property to abutting properties;
4. The location of all existing and proposed structures on the subject property and all existing structures and wells on land immediately adjacent to the site within 100 feet of the site's parcel lines;
5. The location of all existing and proposed drives and parking areas;
6. The location and dimensions of rights-of-way of all abutting streets, alleys, and private easements;
7. The location of proposed planting and screening, required landscaping, fencing, signs, and advertising features, if any;
8. The height, floor area and uses of all proposed structures, if any;
9. The size and location of all existing and proposed public and private utilities, if any;
10. Proposed location, area extent, and estimated depth of proposed excavations, if any;
11. Proposed location of waste dumps, tailing ponds, sediment basins, stockpiles, and other permanent or temporary facilities used in mining, if any;
12. Any other information necessary to establish compliance with this Ordinance.

**(B) HYDROLOGIC STUDY REQUIREMENTS**

A hydrologic study shall be completed as part of the permit application process by an independent consultant agreeable to the applicant and the Township. The consultant

shall be retained by, and all fees and costs related to the hydrologic study shall be the responsibility of, the applicant.

The hydrologic study shall include if determined necessary by the Planning Director:

1. Information necessary to establish baseline data on the quality and quantity of the groundwater from all public and private wells within a specified radius as determined by the Zoning Administrator, based on recommendations from the Michigan Department of Natural Resources, the Baraga County Health Department and the independent consultant, of the proposed mining and/or mineral extraction operation. This information shall include well information for at least the previous two (2) years if available.
2. A plan for the ongoing monitoring of all wells within the identified radius of the mining and/or mineral extraction operation if permitted by the private well owners. The well monitoring intervals shall be determined at the time of the permit application based on recommendations from the Michigan Department of Natural Resources, the Baraga County Health Department and the independent consultant. Additional monitoring wells may be required around the perimeter of the operation if it is determined to be necessary due to the location of other wells within the specified radius.
3. A plan for continued well monitoring upon cessation of the mining and/or mineral extraction operation, which may be required to extend for up to 30 years.

**(C) OPERATION PLAN REQUIREMENTS**

1. A narrative description outlining the estimated time span which the operation will cover; the type of material to be extracted; the type of mining operation and processing equipment to be used; measures to control noise, vibration, and pollution from the operation; the anticipated effect on groundwater condition; proposed travel routes to be used to transport the mined material to the processing plant or markets, and the proposed steps to be taken to relieve adverse effects.
2. A narrative description of the social, environmental and economic impact on Baraga Township including an estimate of the number of potential employees, proposed transportation routes for employees and any changes in the present road system that might be made necessary by the proposed operation.
3. Buffers shall be required along boundaries of the mining operation. Proposed buffers shall be included in the operational plan, and shall be established so as to make the mining and/or mineral extraction operation as inconspicuous

as may be possible from adjoining properties. Buffers may be by, but are not limited to, the following techniques:

- a. Buffer Zone: An area of sufficient depth to screen the operation from view from adjoining properties.
  - b. Plantings: Plantings of coniferous or other suitable species in rows parallel to the boundaries of the property with the spacing of rows and the spacing of trees in the rows sufficient to provide effective screening. Screening vegetation that dies must be replaced within one year.
  - c. Earth Berms: Earth berms, constructed to a height of at least six feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or six feet above the general level of the terrain along property lines. These berms shall have slopes not in excess of one foot vertical to four feet horizontal, and shall be planted with trees and shrubs.
  - d. Fencing: Solid fences or masonry wall constructed to a height of six feet and inconspicuous in color.
4. A description of the measures to be taken to assure that any dangerous excavations, shafts, pits, pond areas, banks, or slopes will be adequately guarded or fenced and posted with signs to prevent injury to individuals.
  5. A description of the measures to be taken to assure proper handling and use of explosives, in the event any are to be used, including, but not limited to:
    - a. Notification of intended dates of use to:
      - 1) Adjacent property owners; and,
      - 2) Baraga County Sheriff; and,
      - 3) Township Supervisor;which shall be accomplished either by written notice or personal contact.
    - b. Providing to the Planning Commission by way of the Zoning Administrator a photographic survey of all buildings which might suffer damage from a blast. If the necessary permission to photograph private structures is refused by the owners of such structures, evidence of this refusal shall be filed with the Zoning

Administrator. After consultation with the applicant, explosive experts and the County Mine Inspector and after considering all relevant factors and information the Zoning Administrator shall establish the scope of the survey by determining the radius of the survey area as measured from the point or points of the blasting area. The survey shall include a photographic inventory and the foundations of buildings as well as exterior views of all sides of structures by means of photographs or video tapes. In determining the proper scope of the photographic inventory, the Zoning Administrator in concurrence with the Township Supervisor and the applicant shall ensure that the radius of the survey is adequate to provide baseline data for determining the validity of any claims which might be reasonably asserted for damage to structures caused by blasting.

- c. Providing for proper financial security should it be recommended by either the Zoning Administrator, or the Planning Commission and approved by the Township Board to be necessary to insure that proper compensation be available if such use of explosives may cause damage to adjacent properties; and,
  - d. Compliance with laws, rules and regulations of the Department of Alcohol, Tobacco and Firearms.
- 6. Identification of plans for utilities, access roads, drainage, traffic plans, and other site improvements showing appropriate measures that have, need, or will be provided.
  - 7. A narrative description outlining the operating schedule; the hours of operation; the days of operation; and the seasonal uses of the facility.
  - 8. A plan for the care, handling, storage and disposal of any harmful, chemical or toxic materials that might be part of the mining and/or extraction process including plans for contacting the necessary agencies involved with possible emergency response mobilization in the event of possible contamination.

**(D) RECLAMATION PLAN REQUIREMENTS**

A reclamation plan shall include a map and description showing:

- 1. Final grading, anticipated final slope angles, well head protection, benching and terracing of slope stabilization and re-vegetation, and erosion control, returning land to a condition that can appropriately be used within the guidelines of existing zoning districts. The re-vegetation plan shall be



reviewed and approved by the soil conservation district with an emphasis on using native species.

2. Description of topsoil stripping and conservation during storage and replacement.
3. Plan and description of anticipated final topography, water impoundments, and artificial lakes on property, if any.
4. Plans for disposition of surface structures, roads, and related facilities after cessation of mining and extraction.
5. A plan for disposal or treatment of any harmful or toxic materials found in any formation penetrated by the mining operations or produced during the processing of minerals, and of chemicals or materials used during the mining or processing operations, if any.
6. Plans and description to provide for the ongoing reclamation of areas that have been mined but are no longer a part of the present mining operation.
7. A timetable for completion of reclamation requirements.

**(E) AMENDMENT TO FINAL PLANS**

Minor changes from the approved plans may be approved by the Baraga Township Planning Commission without the prior approval of the Township Board, if required by engineering or other circumstances not reasonably foreseeable at the time the plans were approved. The Township Planning Commission may request certification in writing from officials and agencies concerned that the proposed revision constitutes a minor alteration and does not alter the basic design nor any specific conditions of the Plans as approved by the Township Board.

**6.2 FINANCIAL SECURITY**

In order to assure compliance with the reclamation plan required by Section 6 of this Ordinance, the applicant may, at the time of issuance of a mining and mineral extraction permit and prior to the disturbance of land, be required to provide financial security to the Township, in one or a combination of the following arrangements:

- (A) PERFORMANCE BOND.** A performance or surety bond issued by an acceptable bonding company authorized to do business in the State of Michigan;
- (B) ESCROW FUND.** A cash deposit or certified check;

- (C) **IRREVOCABLE LETTER OF CREDIT.** An irrevocable letter of credit issued by a bank authorized to do business in the State of Michigan.

The security shall be filed with the Township Clerk and shall be for the same time periods as the mining and mineral extraction permit, and in an amount established by the Township Board, based upon the recommendation of the Zoning Administrator as determined to be reasonably necessary to assure compliance with the approved reclamation plan, as required by Section 6.1 D. of this Ordinance.

The bond shall be conditioned upon the faithful performance of the requirements set forth in the approved plans required by Section 6.1 D. Liability under the bond shall be maintained as long as the reclamation is not completed in compliance with the approved plan.

If the reclamation plan provides for ongoing reclamation during the mining and mineral extraction process and identifies areas or units of land that will be reclaimed prior to cessation of mining or extraction operations the financial security may be filed for a minimum of 3 areas or units of land and shall be transferable to other areas or units of land contained within the permit upon the faithful compliance with the approved reclamation plan as required by Section 6.1 D.

Written notification shall be given upon completion or acceptance by the Township Zoning Administrator of the reclamation activity. Copies of this notification shall be sent to the Township Board and Planning Commission and shall also be filed with the permit application.

### **6.3 MINING AND MINERAL EXTRACTION GENERAL STANDARDS**

The Planning Commission and Township Board shall review the particular facts and circumstances of each application for Mining and Mineral Extraction Permit in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (A) Will be harmonious with and in accordance with the general policies and/or with any specific objectives of the Township Comprehensive Development Plan;
- (B) Will provide for adequate environmental protection during the site planning, operational and reclamation stages of the mining and mineral extraction process, including, but not limited to:
  - 1. Proper drainage and erosion protection;
  - 2. Aquifer/groundwater protection;
  - 3. Surface water protection;
  - 4. Air quality protection as it may pertain to:

- a. Smoke;
  - b. Fumes;
  - c. Odor;
  - d. Dust; and,
  - e. Other airborne pollutants.
5. Compliance with applicable Federal, State, and local laws, rules and regulations;
  6. Providing for proper handling and disposal of hazardous material generated and/or used in the mining and mineral extraction process;
  7. Providing assurances that upon cessation of the mining and mineral extraction operation the property will be returned to a condition such that it can be used for those uses which are permitted in the zoning district in which the property is located.
- (C)** Will provide for the health, safety and welfare of the general public, the community at large and adjacent properties, including, but not limited to:
1. Protection from the effects of increased traffic;
  2. Protection from any adverse effects of noise, dust, vibrations and glare;
  3. Providing for visual and/or aesthetic quality upon cessation of the mining and mineral extraction operation; and,
- (D)** Will be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed mining and mineral extraction operation shall be able to continually provide adequately for the services and facilities deemed essential to the mining and mineral extraction operation under consideration; and,
- (E)** Will not place demands on public facilities and services in excess of current capacity; and,
- (F)** Will not be detrimental to the economic welfare of the community."

## VII. OFF STREET PARKING AND LOADING REQUIREMENTS

### 7.1 OFF-STREET PARKING REQUIREMENTS

Except in the AR District, there shall be provided off-street parking for motor vehicles, and the minimum number of parking spaces to be provided shall be as shown in the following list:

USE	SPACES REQUIRED
Single and Two-family dwellings	2 per dwelling unit
Rooming houses, fraternities, sororities, dormitories, convalescent homes.	.4 times maximum lawful number of occupants.
Hotels	1.2 per room in addition to spaces required for restaurant
Apartment and townhouses	2 per dwelling unit or floor area in square feet divided by 440, which ever is greater.
Senior Housing	1 per dwelling Unit
Mobile home subdivisions and parks	2 per mobile home & 1 per 300 sq. ft. for offices.
Churches, theaters, facilities for spectators sports, auditoriums, concert halls	.35 times the seating capacity.
Community Center	.35 times the seating capacity.
Golf courses	7 per hole
Barber shops and beauty parlors	2 plus 1.5 per chair
Bowling alleys	5 per lane in addition to spaces required for restaurant facilities
Fast food take-out establishments and drive-in restaurants	1.5 per 100 sq. ft. of floor area
Restaurants (except drive-ins)	1.2 per 100 sq. ft. of floor space
Hardware stores, household equipment, repair shops including shoe repair, contractor's showroom and others.	1 per 200 sq. ft. of floor space
Museums and galleries	1 per 100 sq. ft. of floor space
Furniture, appliance, carpet	1 per 250 sq. ft of floor space
Funeral parlors	1 per 50 sq. ft of floor space
Gas stations	1 per fueling location plus 2 per lift
Auto Body Repair Shops	1 Space per bay and 1 per employee
Motor Vehicle Sales	1 space per each 1000 sq. ft. of display area
Laundromats	.33 per machine

Doctor's and dentist's offices	1 per 100 sq. feet of waiting room area and 1 per doctor or dentist
Day Care Center	1 space per 5 children
Banks	1 per 150 sq. ft. of floor space
Warehouses	1 per 1500 sq. ft. of floor area
For uses not specifically listed above, the requirements listed below are applicable:	
Retail stores and service establishments	1 per 200 sq. ft. of floor space and outdoor sales space
Offices	1 per 300 sq. ft of floor space
Bed & Breakfast	One space per room for transient guests in addition to spaces required for single family dwellings.
Other commercial and industrial Uses	.75 times maximum number of employees on premises at any one time

With the exception of residential housing of 4 units or less, Notes #1 through #8 shall also apply.

1. Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one half or more shall require one space.
2. Required off-street parking shall be provided on the lot to which it pertains. All spaces shall be provided by adequate access by means of a maneuvering lane. Backing directly onto a street is prohibited.
3. The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.
4. All required parking spaces shall be clearly defined by use of a car wheel or bumper stops, and or painted lanes.
5. No off street parking shall be constructed or altered until approval has been issued by the Baraga Township Planning Commission under site plan review.
6. Lighting fixtures used to illuminate off-street parking areas shall be designed to reflect light downward and away from adjoining residential properties, institutional premises, or streets and highways. Lighting shall not emanate from fixtures above a point 15 degrees below horizontal as measured at the light fixture.
7. Handicap parking spaces shall be provided in accordance with the applicable building code and shall be provided in sufficient number.
8. Parking lot layout should include consideration for snow removal and on-site

drainage and be provided for on the site plan.

For a use not specifically identified the off street parking facilities shall be in accordance with a use, which the Zoning Administrator considers as similar in type.

Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one half or more shall require one space.

Required off-street parking shall be provided on the lot to which it pertains.

The use of any required parking space for the storage of any motor vehicle for sale, or for any other purpose other than the parking of motor vehicles is prohibited.

The following minimum design standards shall be observed in laying out off-street parking facilities.

Parking Angle	Stall Width	Aisle Width	Parking Stall Length	Curb to Curb
0 to 15	10 ft.	12 ft.	23 ft.	30 ft.
16 to 37	10 ft.	11 ft.	19 ft.	47 ft.
38 to 57	10 ft.	13 ft.	19 ft.	54 ft.
58 to 74	10 ft.	18 ft.	19 ft.	61 ft.
75 to 90	10 ft.	24 ft.	19 ft.	63 ft.

Note: Minimum aisle width is 24' for 2-way traffic

## **7.2 REQUIRED OFF-STREET LOADING SPACES.**

Loading spaces required under this section shall be at least 50 feet long and 12 feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet shall be provided with off-street loading space. An additional off-street loading space shall be required for every additional 20,000 square feet of floor area of fraction thereof.

## **VIII. SITE PLAN REVIEW**

### **(A) PURPOSE**

The purpose of this Section is to provide for consultation between the applicant, the Planning Commission, and the Township Zoning Administrator to review an applicant's planned objectives in the utilization of land within the regulations of this Zoning Ordinance.

### **(B) USES SUBJECT TO SITE PLAN REVIEW**

A Zoning Compliance Permit for any proposed use or building or any other improvement requiring a site plan shall not be issued until a Final Site Plan has been reviewed and approved under the following procedure:

1. The following uses shall be subject to Site Plan Review by the Planning Commission:
  - a. All uses within the R-1, MFR, MU, C, I, and District Planned Unit Development Districts, except the following:
    - 1) One and two-family dwellings
    - 2) Temporary buildings and uses
    - 3) Accessory uses or structures
    - 4) A change of use to another principal permitted use in the zoning district, or an expansion of an existing permitted structure, which, in either case, does not increase the floor area by more than twenty (20) percent, nor the parking already developed on site by more than twenty (20) percent, and in which there are no changes in access locations or other site improvements, including, but not limited to landscaping.
  - b. Conditional uses in any zone district.
  - c. Site condominiums in any district.
2. All site plans shall be subject to site plan review by the Zoning Administrator.
  - a. Such review shall ensure that setbacks, yards, parking and other specific zoning ordinance requirements are met. No person shall commence any use or erect or enlarge and structure without first obtaining the approval of a site plan by the Zoning Administrator as set forth in this Section, and no use shall be carried on, no structure erected or enlarged, and no other improvement or construction undertaken except as shown upon an approved site plan.

- b. Upon receipt of any site plan not subject to Planning Commission review, the Zoning Administrator shall review it to determine whether it is in proper form, contains all the required information, shows compliance with this and all other ordinances of Baraga Township, and demonstrates the adequacy of utility service.
- c. Upon demand by the applicant submitting the site plan, the Zoning Administrator shall, within ten business days, approve it in writing or deny approval in writing, setting forth in detail his reasons which shall be limited to any defect in form or required information, any violation of any provision of this or any other Ordinance, or the inadequacy of any utility, and any changes which would make the plan acceptable. The applicant may appeal any denial to the Township Planning Commission.
- d. Upon obtaining zoning approval of the Zoning Administrator those applicable for Planning Commission or Zoning Board of Appeals site plan review can proceed to request such approval.

**8.1 APPLICATION AND REVIEW PROCEDURES**

**(A) APPLICATION PROCEDURES**

- 1. An application for Site Plan Review by the Planning Commission shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting to the Zoning Administrator to ensure that the requirements of Section 8.1, A.2 are met, then transmit it to the Planning Commission.
- 2. An application for Site Plan Review shall consist of the following:
  - a. A completed application form, as provided by the Township.
  - b. Ten (10) copies of the Site Plan as outlined in Section 8.1, B.2.
  - c. Payment of a fee, in accordance with a fee schedule, as determined by Township Board resolution.
  - d. A legal description, including the permanent parcel number, of the subject property.
  - e. Other materials as may be required by this Section, the Planning Director, the Zoning Administrator or the Planning Commission.

**(B) SITE PLAN REVIEW PROCEDURES**

- 1. Preliminary Site Plan Review



- a. A Preliminary Site Plan review is strongly encouraged and may be submitted to the Planning Commission for review prior to Final Site Plan review. The purpose of the Preliminary Site Plan Review is to allow discussion between the applicant and the Planning Commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be necessary for the review of the Final Site Plan.
- b. Preliminary Site Plans shall include the same information as required for Final Site Plan Review, unless deemed unnecessary by the Zoning Administrator.
- c. The Planning Commission shall review the Preliminary Site Plan and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Section and this Ordinance. To this end, the Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impact studies; analysis of impacts on significant natural features and drainage; soil tests; and other pertinent information.

## 2. Final Site Plan Review

- a. Final Site Plans shall include the following information.
  - 1) Small scale sketch of properties, streets and use of land within one quarter (1/4) mile of the area.
  - 2) Ten (10) copies of a site plan at a scale not to exceed one (1) inch equals sixty (60) feet (1" = 60'). The following items shall be shown on the plan:
    - a) Date of preparation/revision.
    - b) Name and address of the preparer who shall be a registered engineer, land surveyor, landscape architect, community planner, architect, or related professional.
    - c) The existing and proposed topography of the size at a minimum of two (2) foot intervals and its relationship to adjoining land.
    - d) Existing man-made features.
    - e) Locations and dimensions of property lines, setbacks; locations, heights and size of existing and proposed buildings and structures, including the locations of existing buildings or structures within one-hundred (100) feet of the boundaries of the property.

- f.) Street right-of-ways, indicating proposed access routes, internal circulation, relationship to existing rights-of ways, and curb cuts within one-hundred (100) feet of the property.
  - g) Proposed grading.
  - h) Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants.
  - i) Location, sizes, and type of fences, landscaping, buffer strips, and screening.
  - j) Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of this Ordinance.
  - k) Easements, if any.
  - l) Dimensions and number of proposed lots.
  - m) Significant natural features, and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, flood plains, hills, and similar natural assets.
  - n) Exterior lighting shall be so arranged that it is deflected away from and downward from adjacent properties, institutional premises, and so that it does not impact the vision of traffic along adjacent street/s. Flashing or intermittent lights shall not be permitted.
- b. The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impact studies; analysis of impacts on significant natural features and drainage; soil tests; and other pertinent information.
- c. The Planning Commission shall approve, deny, or approve with conditions the Final Site Plan based on the requirements of this Ordinance, and specifically, the standards of Section 8.2.

## **8.2 SITE PLAN REVIEW STANDARDS**

- (A) All Final Site plans shall be approved, approved with conditions, or denied based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable:
- 1. The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall be planned to take into account topography, climate considerations, size of the property, the uses on

adjoining property and relationship and size of buildings to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

2. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.
3. Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission or Zoning Administrator may require that landscaping, buffers, and/or green belts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
4. The site plan shall comply with the general purposes and spirit of this Ordinance and the Land Use Plan of the Township.

### **8.3 APPROVED PLANS AND AMENDMENTS**

- (A) Upon approval of the Final Site Plan, the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Township's files; one (1) copy of the Final Site Plan shall be forwarded to the Zoning Administrator for issuance of a Zoning Compliance permit; and one (1) copy shall be returned to the applicant.
- (B) Each development shall be under construction within one (1) year after the date of approval of the Final Site Plan, except as noted in this Section.
  1. The Planning Commission may grant one (1) six (6) month extension if the applicant applies for such extension prior to the date of the expiration of the Final Site Plan and provided that:
    - a. the applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
    - b. the site plan requirements and standards, including those of the Zoning Ordinance and Comprehensive Plan, that are reasonably related to said development have not changed.

2. Should neither of the provisions of Section 8.3, B.1 be fulfilled, or a six (6) month extension has expired without construction underway, the Final Site Plan approval shall be null and void.
3. Amendments to an approved Final Site Plan may occur only under the following circumstances:
  - a. The holder of a valid Final Site Plan approval shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
  - b. Minor changes, requested by the applicant, may be approved by the Zoning Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. In considering such a determination, the Zoning Administrator shall consider the following to be a minor change:
    - 1) Reduction of the size of any building and/or sign.
    - 2) Movement of buildings and/or signs by no more than ten (10) feet.
    - 3) Landscaping approved in the site plan that is replaced by similar landscaping to and equal or greater extent.
    - 4) Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
    - 5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design or reduced required landscaping.
    - 6) Changes required or requested by the Township, Baraga County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
  - c. Should the Zoning Administrator determine that the requested modification to the approved site plan is not minor; a new site plan shall be submitted and reviewed as required by Sections 8.3.

**(C) APPEAL**

If any person shall be aggrieved by the action of the Planning Commission, appeal in writing to the Township Board may be taken within five (5) days after the date of such action. The Township Board shall set a time and place for a public hearing. The appellant shall be notified in writing of the hearing and a notice shall be published in a newspaper of general circulation ten (10) days prior to the hearing. All interested parties shall be afforded the opportunity to be heard thereat. After such hearing, the Board shall affirm or reverse the action of the Planning Commission, stating its findings and the reasons for its action. A written copy of such findings, reasons, and action shall be given to the appellant.

## **IX. PLANNED UNIT DEVELOPMENT.**

### **(A) INTENT**

The Planned Unit Development (PUD) is a zoning district intended to accommodate innovative land use developments with mixed or varied uses, sites with unusual topography or unique settings within the community, or land which exhibits difficult or costly development problems, and shall not be allowed where Planned Unit Development approval is sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated objectives below.

### **(B) OBJECTIVES**

The Planned Unit Development provisions of this ordinance are designed to accomplish the following objectives:

1. To permit more flexibility in land development than is generally allowable under conventional zoning regulations where such development will not be contrary to the intent of the Township Zoning Ordinance or inconsistent with the Township Land Use Plan;
2. To achieve efficiency and economy in the use of land, natural resources, energy, and the provision of public services and utilities;
3. To encourage innovative approaches in developing land and to allow variety in design, layout, and type of structures constructed;
4. To encourage the provision of useful open space and development of recreational opportunities;
5. To provide a desirable living environment through the preservation of the natural character of open fields, tree stands, brooks, ponds, floodplains, hills, and similar natural assets;
6. To provide a procedure for use in encouraging and assisting in the orderly development of uses of property within the township which will result in economic benefit to the township and its residents.
7. To provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township;

8. To provide a procedure by which the Township Board can grant preliminary approval of a proposed development without first requiring the developer thereof to expend complete design monies, while providing Township officials with assurances that a proposed development will retain the character envisioned at the time such preliminary approval was granted;
9. To provide for adequate protection and safeguards for the site and the surrounding area;
10. To recognize that the timing of development should be consistent with capital improvement planning and that it is both a public and private responsibility to minimize adverse community impacts;
11. Encourage and ensure a continual pattern of compatible land use; and,
12. To provide for public hearings and input in reviewing a Planned Unit Development proposal.

**9.1 USES PERMITTED, MINIMUM SIZE AND FEES**

**(A) USES PERMITTED WITHIN A PLANNED UNIT DEVELOPMENT DISTRICT**

1. The following uses may be included in a PUD district:
  - a. all residential uses
  - b. all commercial uses
  - c. all light manufacturing uses; or
  - d. a combination thereof
2. All zoning districts are eligible for consideration for rezoning to a Planned Unit Development District.
3. No use shall be permitted except in conformity with a specific and precise Final Development Plan pursuant to the procedural and regulatory provisions hereinafter set forth.
4. Where the Planned Unit Development contains residential uses, non-residential development is permitted provided that:
  - a. Such non-residential uses are primarily for the service and convenience of the residents of the Planned Unit Development and the immediate neighborhood, or;
  - b. Where such non-residential uses are proposed to be situated in an existing district not permitting such uses and/or where such

non-residential uses are intended primarily for residents from outside of the Planned Unit Development, it must be shown that:

- 1) such non-residential development can be justified economically at the location proposed;
- 2) that such uses are desirable and convenient to the immediate neighborhood: and
- 3) such uses are site planned, designed and so located as to assure that they will not materially alter the existing character of the neighborhood.

**(B) MINIMUM PLANNED UNIT DEVELOPMENT SIZE**

The Planned Unit Development District shall not be less than five (5) acres in actual lot size and shall be capable of being planned and developed as one integral unit. The minimum lot width of a parcel zoned PUD shall be not less than 200 feet.

**(C) OWNERSHIP REQUIREMENTS**

An application for rezoning to a Planned Unit Development district shall be made by the fee owners of the property for which the application is being made. Any other interested parties may also join in the application.

**(D) PROCESSING FEES**

For consideration of an application for rezoning to a Planned Unit Development District there shall be a processing fee, paid with the application. If additional or special meeting of the Planning Commission or Township Board are held at the request of the applicant an additional fee per meeting will be assessed to the applicant and must be paid prior to each such meeting. (See “charge for services” fee chart)

**9.2 APPLICATION AND APPROVAL PROCEDURES**

**(A) PRE-APPLICATION CONFERENCE**

Before submitting an Application for rezoning to PUD District, each applicant shall meet and confer with the Township Zoning Administrator, and interested Township officials regarding the preparation of the Application. It shall be the responsibility of the Zoning Administrator to contact and invite the appropriate Township officials to such a meeting. The general outlines of the proposed PUD, evidenced by sketch plans are to be reviewed at the meeting before submission of a Planned Unit Development application. Thereafter, the Zoning Administrator shall furnish the applicant with their written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a Planned Unit

Development application. The applicant may then informally discuss the proposal with the Township Planning Commission at his/her option.

**(B) PRELIMINARY APPLICATION AND PLAN**

The applicant of the Planned Unit Development shall submit an application for rezoning to PUD District and Preliminary Development Plans to the Township Planning Commission through the Zoning Administrator within ninety (90) days of the preliminary meeting(s). The Preliminary Development Plan shall consist of written and graphic documents.

1. The written documents shall consist of:
  - a. A legal description of the total site proposed for development;
  - b. A statement of the nature and character of the proposed development and the methods to be used in achieving the objectives of the Planned Unit Development provisions;
  - c. A schedule of the approximate date or dates if the development is to be divided into phases, when construction will begin and be completed;
  - d. A statement of the applicant's intentions with regard to future ownership of all or parts of the development;
  - e. Quantitative data for the following: Total number and type of dwelling and non-residential units, the proposed floor area, ground coverage, outdoor livability and open space ratios the proposed gross residential density and the net residential density of any separate stages, the number of parking spaces for each use proposed, and any market or feasibility studies the applicant wishes to submit in support of this plan;
  - f. A market analysis and/or environmental assessment statement may be required showing economic need for commercial facilities or to insure that environmentally sensitive areas are not disturbed.
  - g. Such additional documentation as may be required by the Planning Commission.
2. The graphic documents shall consist of:



- a. A grading plan may be required if deemed necessary by the Zoning Administrator. The grading plan shall show contour lines at intervals of five (5) feet and the existing and proposed site conditions as well as any bodies of water, unique natural features, rock outcroppings and vegetation.
- b. A preliminary plat showing proposed lot lines and plat lines if the land is to be platted.
- c. A site plan or plans showing the location and floor area and use of all existing and proposed buildings, structures, and improvements, including maximum heights, the location and size of all areas to be conveyed, dedicated, or reserved as outdoor livability space, recreational areas, school sites, and similar public or semi-public uses; the proposed circulation system, including private and public streets, parking and loading areas, pedestrian ways, and access to existing and planned streets outside of the development: the existing and proposed utilities, including sanitary and storm sewers and water, gas, electric, telephone, and television cable lines: and preliminary landscape plan;
- d. A plan at an appropriate scale showing land areas adjacent to the proposed development, their uses, zoning, and general character, and the effects of the proposed development on such land, including the treatment of the perimeter areas of the Planned Unit Development;
- e. Sketch plans of land uses, densities, site design, adjacent uses, and circulation of remaining lands to be developed in future stages, if any of the project even though not presently under consideration for approval: and,
- f. Such additional material as may be required by the Township Planning Commission to assist the Commission in visualizing and understanding the proposals, including, but not limited to, architectural renderings of typical structures and improvements and three-dimensional work study models.

**(C) PRELIMINARY DEVELOPMENT PLAN REVIEW AND PUBLIC HEARING**

- 1. The Zoning Administrator shall notify the appropriate State and County government agencies to review the preliminary development plans and proposed rezoning and may obtain the recommendation of a professional planning advisor, and shall submit such review information and recommendations to the Township Planning Commission for its consideration along with a report which evaluates the planning aspects of the

project as well as its impact on present and future development plans of the township.

2. Within 60 days following the submission of the application for rezoning and the Preliminary Development Plan the Planning Commission shall hold a public hearing:
  - a. Pursuant to the requirements of Sec. 1.6 of the Township Zoning Ordinance.
  - b. At which time the applicant shall present the Planned Unit Development preliminary development plan.
  - c. At which time the Zoning Administrator shall present his/her recommendation;
  - d. At which time the public will be afforded an opportunity to comment upon the proposed Planned Unit Development.
3. After reviewing all of the evidence, the Planning Commission must take formal action on the application within 45 days of the public hearing. Such formal action to consist of one of the following:
  - a. Recommendation for approval of the preliminary development plan as presented and a recommendation that the application for rezoning, to PUD district be granted; or
  - b. Recommendation for approval of the preliminary development plan subject to compliance with specified conditions, which, if met by the applicant, will also be deemed to be a recommendation that the application for rezoning to PUD District be granted; or,
  - c. Recommendation for disapproval of the preliminary development plan and recommendation that the application for rezoning to PUD District be denied.
4. The Township Board shall thereafter conduct a preliminary review of the written report of the Planning Commission and all related documentary materials, and shall, upon consideration of that documentation take any one of the following actions:
  - a. Issue preliminary approval of the preliminary development plan and the proposed rezoning to PUD District; or

- b. Issue preliminary approval of the preliminary development plan and proposed rezoning to PUD District subject to certain specified conditions; or
  - c. Issue a preliminary disapproval of either the preliminary development plan or the proposed rezoning to PUD District or both, and provide written notice to the applicant(s) of the reasons for such preliminary disapproval.
5. The preliminary approval by the Township Board of either the Preliminary Development Plan or the proposed rezoning to a PUD district does not constitute a final approval of the Proposed Development Plan or of the proposed rezoning, and no zoning permits shall be authorized until a Final Development Plan has been approved and a rezoning amendment has been adopted.

**(D) FINAL DEVELOPMENT PLAN**

1. Within a maximum of one (1) year following the preliminary approval by the Township Board of the Preliminary Development Plan and proposed rezoning to PUD District, the applicant shall file with the Township Board, in a final detailed form, a Final Development Plan which shall be in substantial compliance with the preliminary approval previously issued by the Township Board. The Zoning Administrator shall have thirty (30) days within which to review the Final Development Plan. At its discretion and for good cause, the Township Board may extend for six (6) months the period for filing of the Final Development Plan. If the applicant fails to file the Final Development Plan for any reason, within the time allowed, the preliminary approval shall be deemed to be revoked and the Township Board shall take appropriate action to deny the application for rezoning to PUD District. All that portion of the area included in the Preliminary Development Plan and proposed rezoning for which final approval has not been given shall thereby remain subject to the existing zoning and subdivision ordinance otherwise applicable thereto.
2. The Township Board shall make a determination as to whether the final development plan is in substantial compliance with the Preliminary Development Plan. The Final Development Plan shall be deemed in substantial compliance with the Preliminary Development Plan, provided any modifications made thereto by the applicant do not:
  - a. Violate any provision of Section 9 of the Zoning Ordinance;
  - b. Vary the lot area requirement by more than ten (10) percent;

- c. Involve a reduction of more than ten (10) percent of the area reserved for the common open space and/or usable open space;
  - d. Increase the floor area proposed for non-residential use by more than ten (10) percent; and
  - e. Increase the total ground area covered by buildings by more than five (5) percent.
3. If the Final Development Plan is not in substantial compliance with the Preliminary Development Plan or if it contains substantial or significant changes from the Preliminary Development Plan, the Township Board, shall hold an additional public hearing before it may grant final approval of such Final Development Plan.
  4. The Final Development Plan stage includes review of all of the information required for the Preliminary Development Plan in its finalized, detailed form to ensure substantial compliance with the preliminary development plan. This shall include a review of site plans sufficient for recording and engineering drawings. Any schematic plans presented in the Preliminary Development Plan stage, such as a landscape plan, must be presented in their final detailed form. All items previously reviewed and any final plats and public dedication documents shall be submitted at this time.
  5. If the Township Board determines that the Final Development Plan is in substantial compliance with the standards specified in this Ordinance and with the Preliminary Development Plan through the review of finalized site plans and specifications, the Final Development Plan and proposed rezoning to PUD District shall be approved and adopted by the Township Board.
  6. The decision of the Township Board shall be made within sixty (60) days of submission of the Final Development Plan, unless said time is agreed to be extended by the applicant in writing; provided that the Township Board may extend such time for periods not to exceed thirty (30) days each if such extensions are necessary for adequate review.

**(E) ISSUANCE OF PERMITS**

Formal Approval by the Township Board of the Final Development Plan and adoption of the rezoning to PUD District shall entitle the applicant to apply for zoning permits.

**(F) TIME FOR COMPLETION OF DEVELOPMENT**

Implementation of the Final Development Plan including all proposed buildings parking spaces, landscaping, usable open space, and amenities must be started within one (1) year of the final approval of the Final Development Plan and work must be continued in a reasonably diligent manner and completed within three (3) years of such final approval. If construction of the entire development or established stages is not significantly complete within the time limits provided by the construction schedule or if time schedule extensions are requested by the applicant, the Township Board shall review the progress being made in implementing the Final Development Plan and, may extend the time for completion or revoke final approval of the Final Development Plan or take such other action as it deems appropriate.

**(G) AMENDMENTS TO THE FINAL DEVELOPMENT PLAN**

- l. Minor changes from the approved final development plan may be approved without the necessity of a public hearing by the Township Board, if required by engineering or other circumstances not reasonably foreseeable at the time the Final Development Plan was approved. The Township Board may request certification in writing from the officials and agencies concerned that the proposed revision constitutes a minor alteration and does not alter the basic design or any specific conditions of the Final Development Plan as approved by the Township Board. Revisions permitted under this Section shall be limited to:
  - a. Shifting of building location, heights and elevations, providing such shifting does not exceed ten (10) percent of the previously approved dimension and providing such shifting does not significantly alter the conceptual integrity of the plan;
  - b. Construction of additional or alteration of approved sidewalks provided that pedestrian movement through and around the site is not inhibited thereby;
  - c. Shifting of, additions to, or changes in species of landscaping materials, provided that such change does not reduce the minimum landscape requirements;
  - d. Relocation of refuse collection stations;
  - e. Internal rearrangement of parking lots and curb cut locations, provided such functional rearrangement does not reduce the total number of parking spaces required and further provided that the minimum landscape requirements are maintained and further provided that such rearrangement does not inhibit smooth traffic flow or circulation;

- f. An increase or decrease in the floor area of any building, provided such increase or decrease does not exceed five (5) percent of that previously approved;
  - g. Construction and location of bus stop stations; and
  - h. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.
2. All major changes in the final development plan may be formally approved after a public hearing held by the Township Board in accordance with Section 1.6 of the Zoning Ordinance. Any changes must be formally adopted and recorded as amendments to the Final Development Plan as approved.

**9.3 STANDARDS FOR DECISION**

**(A) GENERAL STANDARDS**

A Final Development Plan and proposed rezoning to PUD District shall be denied, approved, or approved with conditions by the Township Board based on findings of conformity or lack of conformity with the following standards:

- 1. The Final Development Plan and proposed rezoning to PUD District shall be consistent with the Township Comprehensive Plan and any land use plans and land use regulations adopted by the township board except as hereinafter set forth.
- 2. The Final Development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area and shall be developed so as not to be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor diminish property values within the neighborhood.
- 3. Each development shall provide reasonable visual and acoustical privacy for dwelling units within the development. Fences, insulation, walls, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses, and reduction of noise.
- 4. The proposed development shall not involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of noise, dust, smoke, odor, fumes, or glare. Provisions shall be made for the prevention of erosion

and dust and to insure that the removal of surface waters will not adversely affect nearby properties.

5. Yard, setback requirements, height, limits, and buildings size limits, density and intensity limits may be altered for the proposed development, provided that the spirit and intent of this section are complied with in the total development plan, as determined by the Township Board. Clustering of dwelling units in one or more locations upon the development is permitted. All buildings or groups of buildings shall be arranged as to permit convenient and direct emergency vehicle access and final determination shall be based on the visual, acoustical, and aesthetic layout as determined by the Township Board.
6. The existing landscape shall be maintained in as natural a state as possible through preservation of trees, groves, waterways, floodplains, scenic points, historic spots, and other community assets and landmarks. The location of such must be considered when planning common open space, location of buildings, underground services, walks, paved area, playgrounds, parking areas, and finished grade levels. The Township Board shall inquire into the means whereby trees and other natural features will be protected during construction.
7. Design of the proposed streets, common vehicular ways, and pedestrian circulation shall be adequate to allow for safe, convenient, and uncongested circulation. Streets in a proposed development shall be dedicated to public use. They shall be constructed in accordance with the standards required by the County Road Commission.
8. Off-street parking shall be sufficient to meet the minimum required by Section 7 of the Zoning Ordinance. If deemed appropriate and for good cause, the Township Board may require more or less parking for a proposed development than that required by Section 7.
9. The proposed development shall be so located in relation to sanitary sewers, water lines, storm and surface drainage systems, and other utilities systems and installations that neither extension nor enlargement of such systems will be required in manner, form, character, location, degree, scale, or timing resulting in higher net public cost or earlier incursion of public cost than would develop in a form generally permitted in the area, or it shall be demonstrated that the person responsible for the proposed development shall be able to install such systems at his own expense and continually provide adequately for the utilities systems and installations deemed essential to the proposed development.

10. Exterior lighting shall be so arranged that it is deflected away from adjoining properties and so that it does not impede vision of drivers along adjacent streets.
11. If topographical or other barriers within 25 feet of the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the Township Board shall impose either of the following requirements, or both:
  - a. Structures located on the perimeter of the development must be set back in accordance with the provisions of the zoning ordinance controlling the area within which the development is situated; and
  - b. Structures located on the perimeter of the development must be well screened in a manner which is approved by the Board.
12. Layout of parking area, service areas, entrances, exits, yards, courts and landscaping, and control signs, lighting, noise or other potentially adverse influences shall be such as to improve visual amenity and protect the residential character within the development itself and the adjoining area district.
13. Fifty (50%) percent of the dwelling units within a development must be physically constructed and occupancy permits approved prior to any non-residential use construction.

**(B) CONDITIONS**

The Township Board may impose conditions with the approval of a final development plan which are necessary to insure compliance with the standards for approval contained in this ordinance. Such conditions shall be considered an integral part of the Final Development Plan approval and shall be enforced by the Zoning Administrator. In addition the Township Board shall also consider activity levels of the proposed uses and may impose conditions to insure the preservation and protection of property values and the overall health, welfare, and safety of adjacent properties and surrounding area.



## **X. LANDSCAPE AND GRADING REQUIREMENTS**

### **10.1 APPLICABILITY OF LANDSCAPE REQUIREMENTS**

The provisions of the following five sections are applicable to every lot with respect to which a zoning compliance permit or a building permit for any new structure or enlargement of any existing structure is hereafter required.

### **10.2 REQUIRED PLANTING SCREENS**

In Districts C, and I, wherever any parking lot, trash collection, outdoor storage, merchandising, or service area lies within 50 feet of any adjoining residential districts, and all conditional uses in all districts, where these conditional uses abut any of the principal uses in said Districts, a planting screen with a minimum width of 40 feet shall be required to interfere with the view thereof from the adjoining district, except where the view is blocked by change in grade or other natural or manmade features. Where, because of intense shade or soil conditions, the planting screen cannot be expected to thrive, an opaque wooden fence, a chain link fence with interwoven redwood or cedar slats, or a masonry wall may be substituted.

### **10.3 PLANTING SCREEN SPECIFICATIONS**

All planting screens required by this ordinance shall consist of plants, at least 30 inches high when planted, maintained in a healthy condition, and so pruned as to provide maximum opacity from the ground to a height of five feet. Any of the plant materials in the following list may be used and plants shall be located no farther apart than the distance indicated in each case.

<b><u>Plant</u></b>	<b><u>Distance Apart</u></b>
Forsythia	3 feet
Lilac	3 feet
Privet	1 1/2 feet
Arbor vitae	4 feet
Pfitzer Juniper	4 feet
Scotch Pine	5 feet

Substitution of other plant materials shall be permitted upon certification by the Zoning Administrator that the proposed plantings can be expected to thrive and provide equivalent screening and will create no nuisance or hazard.

### **10.4 PARKING LOT PLANTING**

Where the provision of off-street parking for 50 or more vehicles is required, there shall be landscaped open space within the perimeter of the parking area, or areas, in the minimum

amount of 18 sq. ft. for each parking space, which shall be so located that no parking space is more than 120 feet from a portion of the landscaped open space required by this Section. Landscaped open space required by this Section shall be kept continuously planted with living vegetation. The required landscaped open space need not be contiguous, but there shall be at least one tree in each separate area. Required trees shall be at least 12 feet high when planted or when this Ordinance becomes applicable thereto, shall be maintained in a healthy condition, and shall not be pruned, except to remove dead wood, in such a manner as to prevent growth to a height of at least 15 feet or to reduce existing heights below 15 feet. The following varieties of trees are prohibited in meeting the requirements of this ordinance: poplars, willows, American elms, seed-bearing locusts, and box elders. All plant materials shall be kept pruned to maximize visibility through them between the heights of three and eight feet except where located so as to create no hazard to drivers or pedestrians.

### **10.5 TIME OF COMPLETION**

All plantings required by this Ordinance shall be installed prior to occupancy or commencement of use. Where compliance with the preceding sentence is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay but no permanent certificate of occupancy shall be issued until completion of all required plantings. Any certificate of occupancy may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever plantings are not maintained as required in this Ordinance.

### **10.6 GRADING PERMITS**

No grading, including any act by which soil, rock, or mineral matter is cut into, dug, quarried, uncovered, removed, displaced, or relocated, and including the removal of vegetable cover, excavation, and land balancing, shall be undertaken without first obtaining a grading permit from the Zoning Administrator and upon payment of a fee of \$10 per acre or fraction thereof, but not exceeding \$200, and a performance bond or other security in the amount necessary to insure compliance with the requirements of Section 5.13. No grading permit shall be required for agricultural, horticultural and forestry activities, the construction of a driveway which does not at any point vary from the surrounding grade by more than one foot, the normal graveling or grading of a road or driveway, any project that does not involve, in any one year, an area exceeding 2,000 sq. feet or more than 1,000 cubic yards of material, or construction or maintenance of a septic tank or associated drain field. No grading permit for operations requiring more than one year for completion shall be issued.

In addition, no grading permit shall be required for activities for which a permit has been issued pursuant to the provisions of the Soil Erosion and Sedimentation Control Act, Act 347, Public Acts of 1972.

### **10.7 GRADING REQUIREMENTS**

Anyone engaged in grading shall at all times take all appropriate and reasonable steps to prevent erosion including the construction of silt traps, the mulching and temporary or permanent planting of all areas exposed by grading, the construction of diversions, channel linings, grade stabilization structures, and bank protection structures, and shall limit, insofar as is practical, the area of land exposed to erosion resulting from grading at any one time and length of time that any area is exposed, and shall, upon completion of operations, leave the area in a condition where further erosion will not take place and the land is at least as suitable for uses permitted under this Ordinance as when grading operations commenced.

## **10.8 APPLICATIONS FOR GRADING PERMITS**

An application for a grading permit must contain sufficient information to enable the Zoning Administrator to determine that the applicant proposes to take such measures as are necessary to meet the requirements of the preceding section. Where necessary, the Zoning Administrator shall require the submission of topographic maps, soil boring reports, or other necessary technical information. Upon receiving an application meeting the requirements set forth in this section, and the fee required in Sec. 10.6, the Zoning Administrator shall issue a grading permit to the applicant. No grading permit shall be valid except for work described in the application. The Zoning Administrator shall impose such conditions or requirements in granting the permit as may be necessary to insure compliance with the requirements of the preceding section and shall impose such limits on working hours and time limits for completion of operations and various stages thereof as may be necessary to minimize incompatibility with nearby land uses, and failure to take any action or refrain from any action specified either in the application or on the face of the permit shall constitute a violation of this Ordinance.

## **10.9 FINANCIAL SECURITY**

Pursuant to the provisions of this zoning ordinance, the applicant shall provide financial security in one or a combination of the following arrangements:

**(A) PERFORMANCE BOND**

A performance or surety bond issued by an acceptable bonding company authorized to do business in the State of Michigan.

**(B) ESCROW FUND**

A cash deposit or by certified check.

**(C) IRREVOCABLE LETTER OF CREDIT**

An irrevocable letter of credit issued by a bank authorized to do business in the State of Michigan.

The security shall be filed with the Township Treasurer and shall be for same time periods as the grading permit and of an amount estimated by the Zoning Administrator as necessary to

make the site as suitable for uses permitted in this ordinance as before grading operations commenced.

#### **10.10 GRADING OPERATIONS**

Whenever, during or following grading operations, conditions arise which require the taking of any measures or precautions or the imposition of any limits or restraints to assure compliance with the requirements of Sec. 10.7, the Zoning Administrator shall make a written order requiring the taking or refraining from any such action and post such order on the premises, and any violation thereof shall constitute a violation of this Ordinance. Wherever it appears that measures or precautions previously required are unnecessary, the Zoning Administrator shall waive them in writing.

# **XI. SITE CONDOMINIUM**

## **11.1 PURPOSE**

The purpose of this Section is to provide for a consistent consultation, review and approval process for all condominium and site condominium projects within the Township. The review and approval process will ensure that these projects comply with the Township Land Use Plan and Zoning Ordinance.

## **11.2 SITE CONDOMINIUM PROJECTS APPROVAL PROCEDURES**

Prior to recording the master deed as required by Section 72 of the Condominium Act, as amended, all Site Condominium Projects shall undergo a pre-application conference, site plan review and approval pursuant to this ordinance. Pursuant to the authority conferred by Sec 141 of the Condominium Act, preliminary and final site plans for all site condominium projects shall be approved by the Township Board. In determining whether to approve a site plan for a condominium project the Township Board shall consult with the following persons and organizations regarding the adequacy of the master deed, deed restrictions, utility systems and streets, site layout and design and compliance with all the requirements of the condominium act and this ordinance:

- A. The Township Planning Commission
- C. The Township Zoning Administrator
- D. The Township Attorney
- F. The County Health Department
- G. The County Road Commission
- H. The Michigan Department of Transportation
- I. The Michigan Department of Environmental Quality
- J. The County Drain Commissioner

## **11.3 DEFINITIONS**

The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of the Township Zoning Ordinance and the Subdivision Control Ordinance with the Condominium Act.

“Condominium Act” means Act 59 of 1978, as amended.

“Site Condominium” shall be equivalent to the term “subdivision” as used in the Zoning Ordinance and the Subdivision Control Ordinance.

“Condominium Subdivision Plan” means the site, survey and utility plans; floor plans’ and sections, as appropriate, showing the existing and proposed structures and improvements including the location thereof on the land. The condominium subdivision plan shall show the size, location, area, boundaries’ acreage and volume for each condominium unit comprised

of enclosed air space. A number shall be assigned to each condominium unit. The condominium subdivision plan shall include the nature, location, and approximate size of common space elements.

“Condominium Unit” means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.

“Consolidating master deed” means the final amended master deed for a contractible site condominium project, and expandable site condominium project or a site condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

“Contractible site condominium” means a site condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the site condominium documents and in accordance with this Ordinance and the Condominium Act.

“Conversion site condominium” means a site condominium project containing site condominium units some or all of which were occupied before the establishment of the site condominium project.

“Convertible area” means a unit or a portion of the common elements of the site condominium project referred to in the site condominium documents within which additional site condominium units or general or limited common elements may be created pursuant to express provision in the site condominium documents and in accordance with this Ordinance and the Condominium Act.

“Expandable site condominium” means a site condominium project to which additional land may be added pursuant to express provision in the site condominium documents and in accordance with this Ordinance and the Condominium Act.

“Front setback” shall be equal to the distance between the front lot line of the condo unit and the structure of that unit.

“Lot” shall mean the same as “site condominium unit.”

“Mobile home site condominium project” means a site condominium project which mobile homes are intended to be located upon separate sites as condominium units.

“Master deed” means the condominium document recording the site condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved site condominium plan for the project.

“Rear setback” shall be equal to the distance between the rear line and the structures on said unit.

“Side setback” shall be equal to the distance between the side line of the site condominium unit and the structures on said unit.

#### **11.4 GENERAL REQUIREMENTS**

- (A) The applicant shall pay a reasonable fee, as determined from time to time by resolution by the Township Board.
- (B) No construction, grading, work, or other development shall be done upon the land intended to be used for a site condominium until a final site plan has been approved, except with express permission of the Township Board. This requirement shall include contractible, conversion, and expandable site condominiums.
- (C) If a building, structure, or use to be placed on a condominium unit requires site plan approval under Section 8 herein, a site plan for that building, structure, or use shall be approved in accordance with Section 8 herein, before a zoning compliance permit may be issued.
- (D) The Township Board shall have the authority to review and approve or deny preliminary and final site plans for site condominiums based on whether or not the site plans comply with the provisions of this ordinance.
- (E) Each condominium unit shall be located within a zoning district that permits the proposed use.
- (F) For the purposes of this Ordinance, each site condominium unit shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which located. In the case of a site condominium containing single-family detached condominium unit, no more than one single condominium unit shall be located on a condominium unit, nor shall a dwelling unit be located on a condominium unit with any other principal structure or use. Required setbacks shall be measured from the boundaries of a condominium unit. Ground floor coverage and floor area ratio shall be calculated using the area of the condominium unit.
- (G) Each condominium unit shall be connected to public water facilities and to sanitary sewer facilities if available.
- (H) Relocation of boundaries between adjoining condominium units, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.

- (I) Each condominium unit that results from a subdivision of another condominium unit, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
- (J) All information required by this Ordinance shall be updated and furnished to the Zoning Administrator until applicable zoning compliance permits have been issued per Section 11.4 herein.

## **11.5 APPLICATION AND APPROVAL PROCESS**

### **(A) PRE-APPLICATION CONFERENCE**

Before submitting any formal documents for approval of a site condominium each applicant shall meet and confer with the Zoning Administrator and interested Township officials regarding the preparation of the Application. The general outlines of the proposed site condominium evidenced by sketch plans are to be reviewed at the meeting before submission of a site condominium application. Thereafter, the Zoning Administrator shall furnish the applicant with his written comments regarding the meeting including appropriate recommendations to inform and assist the applicant prior to preparing a site condominium. The applicant may then informally discuss the proposal with the Township Planning Commission at his/her option.

### **(B) PRELIMINARY SITE PLAN REQUIREMENTS**

1. A preliminary site plan shall be filed for approval at the same time the notice of proposed action is filed with the Township.
2. The preliminary site plan shall include all land that the developer intends to include in the site condominium project.
3. The preliminary site plan shall include all information required in Section 8, herein, except in the case of a development that consists only of condominium units and not buildings or other structures at the time of site plan application, the location and dimensions of condominium units and all required yards, rather than individual buildings, shall be shown on the preliminary site plan.
4. A final site plan for any phase of development shall not be filed nor reviewed by the Planning Commission unless a preliminary site plan has been approved by the Planning Commission and is in effect.

### **(C) FINAL SITE PLAN REQUIREMENTS**



1. A final site plan shall be filed for review for each phase of development shown of the approved preliminary site plan.
2. A final site plan shall include all information required in Section 66 of the Condominium Act, and the master deed and bylaws. The final site plan shall also include all information required in Section 8, herein, except in the case of a development that consists only of condominium units and not buildings or other structures at the time of site plan application, the location and dimensions of condominium units rather than individual buildings, and required yards shall be shown on the final site plan.
3. The applicant shall provide proof of approvals by all County and State agencies having jurisdiction over the improvements in the site condominium development, including but not limited to the County Drain Commissioner and the County Road Commission and the County Health Department. The Planning Commission shall not approve a final site plan until each County and State agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.

**(D) REVISION OF CONDOMINIUM SUBDIVISION PLAN.**

If the condominium subdivision plan is revised, the final site plans shall be revised accordingly and submitted for review and approval or denial by the Township Board before building permit may be issued, where such permit is required.

**(E) STREETS/ROADS**

All streets/roads proposed for any site condominium shall be developed according to Section 5.7, herein.

**(F) AMENDMENT TO MASTER DEED OR BYLAWS**

Any amendment to a master deed or bylaws that affect the approved preliminary or final site plan, shall be reviewed and approved by the Planning Commission before any building permit may be issued, where such permit is required. The Planning Commission may require review of any amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the approved site plan.

**(G) RELATION TO SUBDIVISION ORDINANCE**

All site condominiums shall conform to the plan preparation requirements, design, layout, and improvements standards as listed, and any financial guarantees determined to be necessary by the Township Board. The standards and requirements

of these sections that are intended to apply to lots in a subdivision shall apply instead to site condominium units. Nothing in this Section shall be construed as requiring a site condominium to obtain plat approval under the Subdivision Ordinance of the Subdivision Control Act.

**(H) DEVELOPMENT AGREEMENT**

The Township Board may require, as a condition of approval that the applicant enters into a development agreement with the Planning Commission and the Township, incorporating the terms and conditions of final site plan approval and record the same in the County Register of Deeds.

**(I) CONSTRUCTION LOCATED IN GENERAL COMMON ELEMENT**

Any application for a building permit for construction to be located in a general common element shall include written authorization by the Condominium Association for the application.

**(J) MONUMENTS AND LOT IRONS**

Monuments shall be set in accordance with the Michigan Condominium Act and all other State rules and regulations. The Planning Commission may grant a delay in the setting of required monuments for a reasonable time, but not to exceed one year, on condition that the developer deposit with the Township Clerk cash, a certified check, or any irrevocable bank letter of credit endorsed to the Township, whichever the developer selects, in an amount as determined from time to time by resolution of the Township Board. Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified, If the developer defaults, the Township Board shall promptly require a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plans, at a cost not to exceed the amount of the security deposit.

**(K) RIGHT-OF-WAY AND UTILITY EASEMENTS**

All right-of-way and utility easements shall be described separately from individual condominium lots and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities. Water, sewer and electrical easements may be placed within streets, subject to the Township and the standards of the County Road Commission.

**(L) COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW**

All condominium projects shall comply with Federal and State statutes and local ordinances.

## **XII. WIRELESS COMMUNICATION FACILITIES**

### **12.1 PURPOSE**

The Township has a clear and identifiable interest in accommodating the communication needs of residents and businesses but also has an interest in regulating highly visible structures such as large, high communication towers. It is the Township's interest, also, to induce, to the extent reasonable, cooperative use and collocation of such towers and their associated facilities and structures.

### **12.2 WIRELESS COMMUNICATION FACILITY REQUIREMENTS**

- (A) Wireless Communication Facilities located in the I Districts are subject to the following qualifying conditions and/or regulations:
1. The height of the wireless communication facility shall not exceed 175' unless a variance has been granted by the Zoning Board of Appeals.
  2. All sites must contain a minimum area sufficient to contain the wireless communication facility and all related accessory uses. The site shall have legal documented access to a public road.
  3. Any wireless communication tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been certified by a licensed mechanical, civil, professional engineer or architect, or other engineer licensed and competent in assessing the structural integrity of such towers, verifying a safe fall zone. All towers shall be certified by an above licensed engineer verifying that the structural design will withstand wind speeds and icing under the worst conditions experienced in the area.
  4. Accessory structures shall not exceed six hundred (600) square feet of gross building area.
  5. No wireless communication facility shall be approved unless the applicant is able to establish that any existing tower, structure or facility is not available for co-utilization based upon technical inadequacy or incapacity, unreasonable or prohibitive cost, denial by owner or other practical impediment to use or access.
  6. There shall not be displayed on the wireless communication facility advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.

7. The wireless communication facility shall be maintained in a predominate color, coating or material which matches the exterior surroundings. The predominant color scheme shall be designed to minimize off-site visibility of the structure.
8. All wireless communication facilities must comply with the standards of the Federal Aviation Administration, the Federal Communications Commission, the Airport Zoning Ordinance for the County and all applicable State or Local codes.
9. The wireless communication facility shall be located and operated so that they do not interfere with radio, television, audio, video, electronic, microwave or other reception in nearby areas.
10. All wireless communication facilities shall be removed by the property owner or lessee within six (6) months of being abandoned by all users.
11. Minimum spacing between wireless communication facilities shall be one (1) mile in order to prevent a concentration of towers in one area.
12. Wireless communication facilities shall not be artificially lighted unless required by the Federal Aviation Administration.
13. The base of any tower and any cable supports shall be fenced with a minimum six (6) foot high security fence and all fencing shall be screened with landscaping. Accessory structures shall match the construction characteristics of other existing buildings in the surrounding area.
14. All wireless communication facilities shall be inspected after being constructed and then once every three (3) years for compliance with all ordinance, structural and operational requirements and shall be certified as in compliance by a licensed mechanical, civil, professional engineer or architect, or other engineer licensed and competent in assessing the structural integrity of such towers, and said certification shall be submitted to the Township.

**(B)** Wireless Communication Facilities located in the AR District are subject to the above qualifying conditions and/or regulations (1 through 14) with the following exceptions or additional requirements in order to reduce the impact of wireless communication facilities on the low intensity intent of the AR District and the tourism related aesthetic qualities of the Township's outlying areas:

1. The height of the wireless communication facility shall not exceed 75' unless a variance has been granted by the Zoning Board of Appeals.
2. The wireless communication facility and any accessory structures shall be set

back a minimum of 150' from all public or approved private road rights-of-way. Said set back shall be left in its natural state in order to provide screening or buffering to the roadway.

3. The wireless communication facility and any accessory structures shall be set back a minimum of 300' from any existing residential dwellings.
4. The applicant shall make every attempt in the design of the wireless communication facility to disguise the structure (e.g. as a light pole, tree, etc.) to reduce/eliminate the aesthetic impact to the surrounding area.

## **XIII. NONCONFORMING USES AND STRUCTURES**

### **13.1 DEFINITIONS OF LAWFUL NONCONFORMING USES AND STRUCTURES.**

Nonconforming uses and structures are those which do not conform to a provision or requirement of this Zoning Ordinance or an amendment thereto, but were lawfully established and in existence at the time of the enactment of this Zoning Ordinance or such amendment thereto; PROVIDED, HOWEVER, that for purposes of Section 13, inclusive, of this Ordinance, any such structure which does not conform to a provision or requirement of this Zoning Ordinance solely because it does not comply with the minimum front yard setback requirements of this Ordinance shall be deemed to be in conformance with this Ordinance if the actual front yard setback of such a structure is eighty percent (80%) or more of the minimum front yard setback required by the provisions of this Ordinance, in which event such structure shall not be considered to be a nonconforming structure.

### **13.2 REGULATIONS PERTAINING TO LAWFUL NONCONFORMING USES AND STRUCTURES**

All lawful nonconforming uses and structures shall be subject to the following regulations:

- (A) No lawful nonconforming use shall be extended, expanded, enlarged, or increased in intensity without first securing the approval of the Zoning Board of Appeals. The activities prohibited by this Subsection (A) shall include, but not necessarily be limited to, the following:
1. Extension, expansion, or enlargement of a lawful nonconforming use to any building or other structure other than the one occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming);
  2. Extension, expansion, or enlargement of a lawful nonconforming use within a building or other structure to any portion of the floor area that was not occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming), provided, however, that a lawful nonconforming use may be extended throughout any part of such building or other structure that was lawfully and specifically constructed, designed, and arranged for such use prior to such effective date;
  3. Operation of a lawful nonconforming use in such a manner as to conflict with, or to further conflict with if already conflicting on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that results in such use becoming nonconforming), any performance standards established for the district in which the use is located;

4. The movement of such lawful nonconforming use, in whole or in part, to any other portion of the premises or parcel occupied by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming): Provided, however, that notwithstanding anything to the contrary hereinbefore or hereinafter contained, in no event shall approval be granted for the extension, expansion, enlargement, or increase in intensity of a lawful nonconforming use beyond the boundary lines of the premises or parcel occupied in whole or in part by such use on the effective date of this Ordinance (or on the effective date of a subsequent amendment thereto that causes such use to become nonconforming).

**(B)** As a condition of securing the approval of the Zoning Board of Appeals required by Subsection (A), the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion, enlargement, or increase in intensity of the existing lawful nonconforming use:

1. Would not be contrary to the public health, safety, or welfare, or to the spirit of this Zoning Ordinance, the Township Land Use Plan, or any other land use plans and/or Ordinances enacted by the Township or any of its Boards, Commissions, or other agencies; and
2. Would not be more objectionable in external effects than the lawful nonconforming use in its existing status with respect to:
  - a. Traffic generation and congestion, including truck, passenger car and pedestrian traffic;
  - b. Noise, smoke, fumes, dust, noxious matter, heat, glare, vibration;
  - c. Indoor or outdoor storage or parking of machinery, equipment, or vehicles;
  - d. Indoor or outdoor storage of building, construction, or other business related materials;
  - e. Indoor or outdoor storage or display of items or materials offered for sale, rent, or lease;
  - f. Waste disposal;
  - g. The existence and safety of aboveground or underground storage tanks;
  - h. Appearance; and

- i. The property values of nearby properties.
  - 3. Will not displace, inhibit, or otherwise limit a permitted or conforming use upon the subject premises, or any nearby premises; and,
  - 4. Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals as a condition to the granting of the Application.
- (C)** No lawful nonconforming structure shall be extended, expanded, or enlarged without first securing the approval of the Zoning Board of Appeals.
- (D)** As a condition of securing the approval of the Zoning Board of Appeals required by Subsection (C) the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that the proposed extension, expansion, or enlargement of the existing lawful nonconforming structure:
- 1. Would not be contrary to the public health, safety, or welfare, or to the spirit of this Zoning Ordinance, the Township Land Use Plan, or any other land use plans and/or ordinances enacted by the Township or any of its Boards, Commissions, or other agencies; and
  - 2. Would not displace, inhibit, or have any type of harmful effect upon a permitted or conforming structure, either on the subject premises or upon any nearby premises;
  - 3. Will not increase any existing nonconformity such as, but not limited to, setbacks, height limitations, absence of sufficient parking space, or the like;
  - 4. Will not result in any new nonconformity which did not exist prior to the proposed change; and,
  - 5. Will meet all reasonable conditions which might be imposed by the Zoning Board of Appeals as a condition to the granting of said Application.
- (E)** No lawful nonconforming use may be substituted for by, or changed to, another nonconforming use without first securing the approval of the Zoning Board of Appeals.
- (F)** As a condition of securing the approval required by Subsection (E), the applicant must, at a minimum, establish to the satisfaction of the Zoning Board of Appeals that:
- 1. The existing lawful nonconforming use cannot reasonably be changed to a use permitted in the district where such existing lawful nonconforming use is located; and,



2. The proposed change will be less objectionable in external effects than the existing lawful nonconforming use with respect to:
  - a. Traffic generation and congestion, including truck, passenger car and pedestrian traffic;
  - b. Noise, smoke, fumes, dust, noxious matter, heat, glare, vibration;
  - c. Indoor or outdoor storage or parking of machinery, equipment, or vehicles;
  - d. Indoor or outdoor storage of building, construction, or other business related materials;
  - e. Indoor or outdoor storage or display of items or materials offered for sale, rent, or lease;
  - f. Waste disposal;
  - g. The existence and safety of aboveground or underground storage tanks;
  - h. Appearance; and
  - i. The property values of nearby properties.

**(G)** Nothing herein contained shall prevent the reconstruction or restoration of a lawful nonconforming structure damaged by wind, fire, flood, earthquake, act of God, act of public enemy, or any other calamity, where the cost of such reconstruction or restoration will not exceed seventy-five percent (75%) of the cost of reproduction of the entire structure as it existed immediately prior to the time of such damage, or the continuation of a lawful nonconforming use within said structure, if such restoration or reconstruction is commenced within six (6) months following the occurrence of said damage, and completed within twelve (12) months of the occurrence of such damage. Failure to commence such reconstruction or restoration within six (6) months of the occurrence of such damage shall be conclusively presumed to be an abandonment of such lawful nonconforming use or structure. Where the cost of restoration or reconstruction of such a structure exceeds seventy-five percent (75%) of the cost of reproduction of the entire structure as it existed immediately prior to the time of such damage, such lawful nonconforming structure may not be restored or reconstructed, nor shall any lawful nonconforming use which may have been occurring within said structure be resumed or continued upon the premises upon which said structure was located, and the lawful nonconforming structure shall be conclusively presumed to be abandoned.

- (H)** A lawful nonconforming use of a structure or premises which has been abandoned shall not thereafter be returned to such nonconforming use, or to any other nonconforming use. A lawful nonconforming use shall be considered abandoned:
1. When such use has been discontinued for a continuous period of twelve (12) months or more; or,
  2. When the intent of the owner to discontinue the use is otherwise apparent; or,
  3. When the characteristic equipment and furnishings of the nonconforming use have been removed and have not been replaced by similar equipment within twelve (12) months; or,
  4. When the use has been replaced by a conforming use.
- (I)** A request for the approvals required by the provisions of Section 13 of this Ordinance may be initiated by the Zoning Administrator or by any person having an interest in the premises upon which the lawful nonconforming use or structure exists by filing with the Township Zoning Board of Appeals a written Application, upon forms to be provided by the Zoning Administrator, and by paying the appropriate filing fee. Such Application shall include, but not necessarily be limited to, all of the information described in Section 13 of this Ordinance, and shall also include a detailed description of the changes or modifications for which approval of the Zoning Board of Appeals is being sought. The procedure to be followed by the Zoning Board of Appeals in hearing and deciding such Application shall be the same as described in Section 14 of this Ordinance, to the extent applicable.

## **XIV. ZONING BOARD OF APPEALS--POWERS, DUTIES, RULES**

There is hereby established a Zoning Board of Appeals as provided for in the Michigan Zoning Enabling Act, Public Act 110, of 2006, which shall have all of the powers and duties provided by State law and no others except as specifically set forth in this or any other Ordinance of Baraga Township. The Zoning Board of Appeals shall not except, nor grant “use variances”. The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property or to authorize any use of land not expressly permitted in the district, nor to make any change in the terms or intent of this Ordinance; these powers are reserved to the Planning Commission and Township Board.

The Zoning Board of Appeals shall have five members plus not more than two alternate members, appointed by the Township Board; the first member shall be a member of the Township Planning Commission, the second member may be a member of the Township Board, and the remaining members shall be selected and appointed from among the electors residing in the unincorporated area of the township. It shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official charged with enforcement of this or any other Ordinance of Baraga Township. It may make any rules or procedure, consistent with law, which may be necessary or convenient for carrying out its functions. Copies of such rules shall be made available to the public by the Zoning Administrator at cost, be filed with the Township Clerk, and be open to public inspection.

## **XV. CONDITIONAL USE PERMITS**

No conditional use shall be established in any zoning district except upon permit issued by the Township Planning Commission, which shall be guided in making a decision by the standards set forth in this Ordinance. Any person seeking a conditional use permit shall provide to the Township Planning Commission such information as it may reasonably require to determine whether the grant of the requested permit is authorized by law. Procedure shall be pursuant to Section 1.6 of this Ordinance and shall require a public hearing.

### **15.1 PURPOSE**

Conditional uses are those uses of land which are essentially compatible with the uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this Section is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish conditional uses. The criteria for decision and requirements provided for under the provisions of this Article shall be in addition to those required elsewhere in this Ordinance which are applicable to the conditional use under consideration.

### **15.2 BASIS OF DETERMINATION AND GENERAL STANDARDS**

The Township Planning Commission shall review the particular circumstances of the conditional use request under consideration in terms of the following standards, and shall approve a conditional use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance.

- (A) The conditional use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- (B) The conditional use shall not change the essential character of the surrounding area.
- (C) The conditional use shall not interfere with the general enjoyment of adjacent property.
- (D) The conditional use shall represent an improvement to the property under consideration and the surrounding area in general.
- (E) The conditional use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.

- (F) The conditional use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed conditional use shall be able to continually provide adequately for the services and facilities deemed essential to the conditional use under consideration.
- (G) The conditional use shall not place demands on public services and facilities in excess of current capacity.
- (H) The conditional use shall be consistent with the intent and purpose of this Ordinance, and the objectives of any currently adopted township development plan.

### **CONDITIONS**

The Township Planning Commission may impose conditions with the approval of a conditional use which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the Conditional Use Permit and shall be enforced by the Zoning Administrator. In addition, the Township Planning Commission shall also consider the activity levels of the proposed use and may impose conditions to insure the preservation and protection of property values of adjacent properties.

### **15.3 FEES**

Neither the Township Planning Commission nor the Zoning Board of Appeals shall consider any matter until there is first paid a fee, except that such fee shall not be required where the township or any official body thereof is the moving party. The Township Board, by resolution, shall set all fees. The Township Board, by resolution, may change these fees, from time to time, as they determine appropriate.

## **XVI. ZONING ADMINISTRATION**

### **16.1 THE ZONING ADMINISTRATOR**

The office of Zoning Administrator is hereby established. The Zoning Administrator shall be appointed by the Township Board and shall serve at its pleasure. He shall receive such compensation as the Township Board may, from time to time, determine. The Zoning Administrator may also serve in some other capacity as an employee or appointed officer of the Township. He shall administer the provisions of this Ordinance and shall have all administrative powers in connection therewith which are not specifically assigned to some other officer or body. He shall have no power to vary or waive Ordinance requirements.

### **16.2 ZONING COMPLIANCE PERMITS**

Hereafter, no land use shall be commenced or changed and no structure shall be erected or enlarged until the person conducting such use or erecting or enlarging such structure has obtained a zoning compliance permit from the Zoning Administrator. The Zoning Administrator shall issue such permit upon the furnishing in writing, over the signature of the applicant, of such information as may be necessary to establish that the proposed use, structure, or addition is in full compliance with all provisions of this Ordinance, a finding by the Zoning Administrator that such is the case, and payment of a permit fee as established by resolution of the Township Board. No zoning compliance permit shall be issued where it appears that any land area required to conform to any provision of this Ordinance is also required as a part of any adjoining property to keep the development or use thereof in conformity with this Ordinance, or to keep it from becoming more non-conforming, if such land area was, at any time subsequent to the commencement of development or use of such adjoining property, in common ownership with such adjoining property. Any zoning compliance permit based on any material false statement in the application of supporting documents is absolutely void ab initio and shall be revoked. No zoning compliance permit shall remain valid if the use or structure it authorizes becomes non-conforming.

### **16.3 CONVEYANCE**

The applicant for a Zoning Compliance Permit shall agree that neither he nor his successor in title, shall sell, convey, lease, or otherwise dispose of any land surrounding a structure if such conveyance will result in the structure being left on a lot which fails to meet the minimum requirements set forth in this Ordinance.

### **16.4 VIOLATIONS AND PENALTIES**

Any person who violates any provision of this Ordinance or any amendment thereto, or who fails to perform any act required hereunder or does any prohibited act, shall be responsible for a civil infraction, and, upon a finding of responsibility therefore shall be punishable by a fine of not more than Two Hundred Dollars (\$200.00), plus court costs, for each offense. Each and every day on which any violation is committed or permitted to continue shall

constitute a separate offense and shall be punishable as such hereunder. Any violation of this Ordinance is hereby declared to be a public nuisance per se and in addition to the penalties specified herein for such violations, the Township may seek to enforce compliance with the terms and provisions on this ordinance by means of any and all other remedies or measures available to it by Statute, Ordinance, Resolution, Regulation, or Civil or Criminal Law.

## **XVII. SIGNS and FENCES**

It is hereby determined that regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion, to prevent wasteful use of natural resources in competition among businesses for attention, to prevent hazards of life and property, and to assure the continued attractiveness of the community and protect property values. It is further determined that signs which may lawfully be erected and maintained under the provisions of this Ordinance are consistent with customary usage, and that signs which may not lawfully be erected or maintained under the provisions hereof are not consistent with customary usage, are an abuse thereof, and are an unwarranted invasion of the rights of legitimate business interests and of the public.

### **17.1 ENLARGEMENT FACTOR**

Whenever the nearest part of any sign is set back from the nearest front lot line (50) fifty feet or more, its area may be increased pursuant to the following schedule: Determined by the Zoning Administrator.

#### SETBACK-IN-FEET

50 to less than 100	10%
100 to less than 150	20%
150 to less than 200	30%
200 to less than 250	40%
250 or more	50%

### **17.2 SIGNS PERMITTED IN THE R-1, SINGLE FAMILY AND MFR RESIDENTIAL DISTRICTS**

One sign identifying each subdivision or mobile home park per vehicle entrance, having an area not exceeding 20 square feet and a height not exceeding eight feet is permitted. During development of a subdivision or other property for a period not exceeding two years, one sign, naming the subdivision or other property, developer, contractors and subcontractors, engineers, architects, brokers, and financial institutions involved, and advertising the development, having an area not exceeding 50 square feet and height and not exceeding 12 feet, is permitted in the subdivision, together with signs having an area not exceeding six square feet each and a height not exceeding six feet, directing the public to or identifying models. Signs permitted by this Section are exempt from the setback requirements of Section 5.

### **17.3 SIGNS PERMITTED IN THE C, COMMERCIAL and I, INDUSTRIAL DISTRICTS**

On-premises signs are permitted. Total area of signs on premises is not to exceed six square feet for each ten feet or fraction of frontage, or 60 square feet for each acre or fraction of the area of the premises, whichever is larger. No sign shall have an area exceeding 100 square



feet. Where any premises have more than one occupant, the permitted area shall be divided among them in the same proportion as floor space and outdoor sales space is occupied by them. Where the premises have more than two occupants and have a name distinct from that of any occupant, as in a shopping center, an additional two square feet of sign area for each ten feet or fraction of street frontage, with a maximum to 200, is permitted only for signs advertising the premises. On-premise signs shall be located so that no portion of the sign area is within five (5) feet of the front lot line or easements/right-of-ways. Signs shall be subject to the other height and set-back rules applicable to buildings in the zoning district where located. In District C, off-premises signs are permitted and may have a maximum area of 400 square feet per sign, but such signs must be included in the sign area permitted on the premises. Individual off-premises signs must be at least 300 feet apart and shall be setback 40 feet from the front lot line.

#### **17.4 EXEMPTIONS FROM SIGN REGULATIONS**

Signs exempt from regulation under this Ordinance:

- (A) Signs having an area of not more than two square feet, the message of which is limited to conveying street numbers, the name of the premises, the name of the owner of the premises, and the name of the occupant of the premises.
- (B) Signs having an area of not more than six square feet each, the message of which is limited to warning of any danger, prohibition or regulation of the use of the property, or traffic or parking thereon, or advertising the premises for sale or rent. Signs advertising commercial real estate and subdivision/development signs of 32 square feet or less provided they are located outside the right-of-way.
- (C) The flag of any state or nation respectfully displayed.
- (D) Signs located on the rolling stock of common carriers or on motor vehicles or trailers bearing current license plates which are traveling or lawfully parked upon public highways, or lawfully parked upon any other premises for a period not exceeding four hours or for a longer period where the primary purpose of such parking is not the display of any sign and where the number of vehicles bearing a sign or signs of any one advertiser does not exceed one plus one more for each 25,000 square feet of area of the premises.
- (E) Church or institutional bulletin boards without interior illumination having an area not exceeding 32 square feet.
- (F) On-premises signs located inside an enclosed building and visible through a window or windows thereof where the area of such signs does not exceed 20 percent of the area of the window or windows.

- (G) On any election day, signs advocating or opposing a candidate for public office or a position on an issue to be determined at the election located at least 100, and not more than 200 feet from any entrance to a building in which a polling place is located.
- (H) Signs visible only from the premises on which located or visible off the premises only through a window or windows from which they are set back at least ten feet.
- (I) Labels identifying the source, brand name, or manufacture of merchandise exhibited for sale.
- (J) Signs indicating only the name and date of erection of a building and having an area not exceeding six square feet.
- (K) Signs posted by duly constituted public authorities in pursuance of their public duties.
- (L) Political signs which are intended to advertise a public election, issues to be balloted upon in that election, promote individuals and/or parties participating in the election are exempt providing that no sign shall have an area exceeding four square feet in area. Sign areas may be increased to sixteen square feet provided the sign is so located that no portion of the sign area is located on the public right of way or lands of which are being used for public right of way and further provided that all political signs be removed within ten days after the election, and provided that all signs authorized are authorized only 90 days prior to any election.

**17.5 TEMPORARY SIGNS**

Temporary signs shall be authorized by the Zoning Administrator for not more than two months at a time by written permit which shall show the size, shape, content, height, type of construction, and location of such signs and the period during which authorized, upon a finding by the Zoning Administrator, on the basis of written information furnished by the applicant, that the proposed sign or signs are necessary for the direction of the public, advertising a local event and not contrary to the spirit and purpose of this Ordinance.

**17.6 NONCONFORMING SIGNS**

- (A) It is intended to eliminate nonconforming signs except as otherwise specifically set forth in this Section as rapidly as the police power of the township permits. Any lawfully erected sign, the maintenance of which is made unlawful by this Ordinance, may continue to be maintained exactly as such existed at the time when the maintenance thereof became otherwise unlawful under the provisions of this Ordinance. No sign shall be designated as lawful Nonconforming.
- (B) **NO NONCONFORMING SIGN**

1. Shall be changed to another nonconforming sign;
  2. Shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is an off-premises advertising sign, or a bulletin board, or substantially similar type of sign, specifically designed for periodic change of message;
  3. Shall be structurally altered so as to prolong the life of the sign or as to change the shape, size, type, or design of the sign;
  4. Shall be re-established after the activity, business, or usage to which it relates has been discontinued for thirty (30) days or longer;
  5. Shall be re-established after damage or destruction if the estimated expense of reconstruction exceeds fifty percent (50%) of the reproduction cost.
- (C) The Zoning Board of Appeals shall permit variances from subsection (B) of this Section or variances permitting the erection or maintenance of a nonconforming sign only upon the grounds established by law for the granting of zoning variances or upon a finding that the grant of a variance will reduce the degree of nonconformance of an existing sign or will result in the removal of one or more lawfully nonconforming signs and replacement by a sign or signs more in keeping with the spirit, purpose, and provisions of this Ordinance.

### **17.7 OBSOLETE SIGNS**

It is unlawful to maintain for more than 30 days any sign which has become obsolete because of discontinuance of the business, service, or activity which it advertises; removal from the location to which it directs; or for any other reason. The fact that an obsolete sign is nonconforming shall not be construed as modifying any of the requirements of this Section.

### **17.8 TOURIST DIRECTIONAL SIGNS**

In addition to the signs permitted in Section 17.2, 17.3, and 17.4, off- premises signs directing motorists to facilities within the township required by tourists, hunters, and fishermen shall be permitted upon permit granted by the Zoning Board of Appeals upon finding that substantial number of motorists who might seek the advertised establishments pass the proposed location; that such establishment has no other sign visible from the same road; that consent of the property owner has been obtained; and that placement of the sign will not cause any hazard or significant obstruction of any scenic view; provided, however, no such sign shall have any area exceeding 100 square feet, a height in excess of 10 feet, or shall be located in any R-1 District. Snowmobile business tourist directional signs shall be located at designated turnoffs and on the right-of-way of the D.N.R. snowmobile trail, signs shall be 12 inches x 12 inches or smaller, shall be limited to the “Standard International Symbols for food, gas, and lodging,” one sign post per approved location. No business

names allowed on any signs. (Signs shall not be in violation of any State ordinances, pamphlets, guides or directives).

**17.9 SIGN ILLUMINATION**

No sign shall be illuminated by other than electrical means, unless specifically approved by the Zoning Administrator. All lighting for signs shall be internally illuminated, and shielded from any residential districts. No ground or bottom mounted lighting is permitted. Illumination shall be so arranged as to not adversely affect driver visibility on adjacent thoroughfares. No sign except time and temperature and similar signs shall have blinking, flashing, fluttering lights, exposed bulbs, or other illuminating devices which have a changing light intensity, heightness of color, or any form of animation or moving device.

**17.10 SIGNS PERMITTED IN THE AR DISTRICT IN CONJUNCTION WITH CONDITIONAL USES**

Signs permitted in the AR District in conjunction with conditional uses shall not exceed 60 square feet and shall be subject to the height and setback requirements of Sec. 5.1.

**17.11 FENCES**

**(A) PURPOSE**

The purpose of this ordinance is to limit and regulate the size, type, and location of fences within the Township.

**(B) DEFINITIONS**

For the purpose of enforcing the provisions of this ordinance, certain terms and words herein have the following meanings:

1. The term "Fence" means any permanent partition, structure, or gate erected as a dividing marker, barrier, or enclosure, including hedges or living bushes or shrubs, within or along the bounds of a lot or parcel.
2. The term "Height" means the distance from the grade (ground) to the top of the highest point of the fence at any given point along the fence.
3. The Term "Setback" means the distance from the property owner's property line to the fence.
4. The term "Material" means the product that is used to construct said fence, including wood, metal, plastic, or vegetation.

5. The Term “Person” means an individual, firm, corporation, or other entity of any kind.

**(C) APPLICATION AND PERMIT**

A person desiring to build or cause to be built a fence upon his or her property, shall follow the application and permit regulations in place by the State Building Code.

**(D) REGULATIONS**

It shall be unlawful for any person to construct or cause to have constructed any fence upon any property within the limits of the Township, except in accordance with the requirements and restrictions herein provided.

1. No person shall install, construct or maintain any fence on easements, right-of-ways or any properties not owned by that person.
2. All fences shall have a minimum setback of six (6) inches from the property owner’s lot line.
3. Electric fences and barbed wire shall be setback ten (10) feet from lot lines.

**(E) NUISANCE**

Any violation of the provisions of this ordinance is hereby declared to be a public nuisance which may be enjoined or subject the violator to civil damages, fines and penalties herein provided for under Section 16.4.

Fences must be maintained so as not to endanger life or property. Any fence which, through lack of repair, nature of construction, or otherwise, that creates an unreasonable risk of harm to person or property, shall be deemed a nuisance. In the case of immediate danger to life or property the Township Zoning Administrator may require immediate abatement.

**(F) CONSTRUCTION**

This Ordinance shall not prevent operations or uses legally authorized under the Zoning Ordinance of the Township and conducted in conformance therewith.

**(G) SEVERABILITY CLAUSE**

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of the ordinance other than said part of portion thereof.

## **XVIII. ZONING MAPS**

The location and boundaries of the zoning districts established by this Ordinance are set forth on the zoning maps of the Township which accompany this Ordinance and which maps, with all notations, references, and other information shown thereon, is incorporated herein and is as much a part of the Ordinance as is fully described and set forth herein.

### **18.1 INTERPRETATION OF THE ZONING MAP**

Where, due to the scale, lack of detail or illegibility of the zoning map in Section 18, there is any uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Appeals. The Zoning Administrator and the Zoning Board of Appeals, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

- (A) Zoning district boundary lines are intended to follow lot lines or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way, or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.
- (B) Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.
- (C) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary lines, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon.
- (D) If, after the application of the foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary line, the boundary line shall be determined in a reasonable manner, considering the history of uses of property and the history of zoning ordinances and amendments in the Township as well as all other relevant facts.