

**Zoning Ordinance**

**Of the**

**Township of Danby**

**Ionia County, Mi**

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## **Chapter 1: Title and Purpose**

### **Section 1.01 Preamble**

In accordance with the authority and intent of P.A. 110 of 2006, the Michigan Zoning Enabling Act, as amended, the Township desires to protect the public health, safety, and general welfare of the inhabitants of Danby Township, and the lands and resources of the Township, during the period required for the preparation and enactment of an ordinance authorized by said Act. The ordinance will provide for orderly development which is essential to the well being of the community and which will place no undue burden upon developers, industry, commerce, residents, food producers, the natural resources, or the energy conservation. The Township further desires to assure adequate sites for industry, commerce, food production, recreation, and residences; to provide for the free movement of vehicles upon the streets and highways of the Township; to protect industry, commerce, food producers, natural resources, energy consumption and residences against incongruous and incompatible uses of land; to promote the proper use of land and natural resources for the economic well-being of the Township as a whole; to assure adequate space for the parking of vehicles for customers and employees using commercial and industrial areas; to assure that all uses of land and buildings within the Township are so related as to provide for economy in government and mutual support; and to promote and protect the public health, safety, comfort, convenience and general welfare of all persons and property owners within the Township.

### **Section 1.02 Enacting Clause**

The Township of Danby, County of Ionia, State of Michigan, ordains:

### **Section 1.03 Short Title**

This Ordinance shall be known as the "Zoning Ordinance of The Township of Danby" and will be referred to herein as "the Ordinance."

### **Section 1.04 Scope**

It is not intended by this Ordinance to repeal, abrogate, annul or interfere with existing provisions of other laws or ordinances, except those specifically or implied to be repealed by this Ordinance, or with any private restrictions placed upon property by Covenant, deed or other private agreement unless repugnant hereto.

### **Section 1.05 Control**

Where this Ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of this Ordinance shall control.

### **Section 1.06 Enactment and Effective Date**

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective seven (7) days following publication of a "Notice of Ordinance Adoption" in a newspaper circulating within Danby Township.





## Chapter 2: Definitions

### Section 2.01 Construction of Language

The following rules apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In the case of any difference in meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural; and the plural the singular, unless the context clearly indicates the contrary.
- E. A “building” or “structure” includes any part thereof.
- F. The word “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- G. The word “occupied” includes arranged, designed, built, altered, converted to, rented, or leased.
- H. The words “zone” and “district” are the same, meaning a Zoning District as herein defined.
- I. Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - 1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
  - 2. “Or,” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3. “Either . . . or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- J. Terms not herein defined shall have the meaning customarily assigned to them.

### Section 2.02 Definitions - A

**ACCESSORY BUILDING** - A subordinate building on the same premises with a main building or portion of a main building and occupied or devoted to an accessory use; for example, a private garage. (When attached to a main building, the ACCESSORY BUILDING shall be considered part of the main building, for determining setbacks only.)

**ACCESSORY USE, OR ACCESSORY** - A use that is clearly incidental to the principal use of the lot and customarily found in connection with the principal use. An ACCESSORY USE shall be located on the same lot as the principal use.

**ADULT FOSTER CARE FACILITY** - A facility defined as an “ADULT FOSTER CARE FACILITY” by the adult foster care facility licensing act, Act No. 218 of the Public Acts of Michigan of 1979 (MCL

400.701 et seq.), as amended, having as its principal function the receiving of adults for foster care, and licensed by the state under the act. An “adult foster care facility” includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis, but who do not require continuous nursing care.

#### ADULT FOSTER CARE

- A. FAMILY HOME - A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The ADULT FOSTER CARE FAMILY HOME licensee shall be a member of the household, and an occupant of the residence.
- B. GROUP HOME - A private residence with the approved capacity to receive more than six (6) adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The ADULT FOSTER CARE GROUP HOME licensee shall be a member of the household, and an occupant of the residence.

AGRICULTURE - Farms and general farming, including horticulture, floriculture, dairying, livestock, and poultry raising, and other similar enterprises or uses, including animals that have been raised on the premises for the use and consumption of persons residing on the premises.

#### Section 2.03 Definitions - B

BASEMENT - A portion of a building partly below the average grade, that portion being more than one-half (1/2) of its height below the average grade. A basement shall not be counted as a story.

BOARD - The Danby Township Board.

BOARD OF APPEALS, OR ZONING BOARD OF APPEALS - The Zoning Board of Appeals of Danby Township.

BUILDING - An independent structure, temporary or permanent, having a roof supported by columns, walls, or any other support and used for the enclosure of persons, animals, possessions, or the conduct of business activities or other uses.

BUILDING, PRINCIPAL - A building in which the main use of the premises is conducted on which the building is situated.

BUILDING HEIGHT - The vertical distance measured from the average grade adjacent to a structure to the highest point of the structure.

BUILDING OFFICIAL, OR BUILDING INSPECTOR - The person designated by the Township Board to administer the provisions of the adopted Building Codes for Danby Township.

#### Section 2.04 Definitions - C

CAMPGROUND - A publicly or privately owned establishment intended, or used for the purpose of supplying a location for overnight camping.

CERTIFICATE OF OCCUPANCY - A document signed by a person authorized by the Township Board as a condition precedent to the commencement of a use which acknowledges that such use, structure or building complies with the provisions of the Zoning Ordinance.

CHILD CARE CENTER - Is one of the following:

- A. DAY CARE CENTER - A facility, other than a private residence, licensed by the State of Michigan Family Independence Agency, in which one (1) or more preschool or school age children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Child care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.
- B. FAMILY DAY CARE HOME - A private home in which one (1) but less than seven (7) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day-care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- C. GROUP DAY CARE HOME - A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children for more than four (4) weeks during a calendar year.

“Child Care Center” does not include a Sunday School, a Vacation Bible School, or a religious class that is conducted by a religious organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

CHURCH - A building, or group of buildings, which by design and construction are primarily intended for organized religious services and accessory uses associated therewith.

CLUB - An organization of persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

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. (added Oct. 2003)

**Section 2.05 Definitions - D**

DAY CARE CENTER - See “CHILD CARE CENTER.”

DRIVE-THROUGH FACILITY - A business so developed that its retail or service character provides a driveway approach or parking spaces for motor vehicles to serve patrons while in their motor vehicle, either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

DWELLING UNIT - A room, or rooms connected together, constituting a separate, independent housekeeping establishment for one (1) family occupancy, physically separated from any other rooms or DWELLING UNITS which may be in the same structure, and containing independent cooking, bathroom, and sleeping facilities. In the case of mixed occupancy, the part of a building occupied as a dwelling shall be deemed the DWELLING UNIT and shall comply with all applicable provisions of this Ordinance for dwellings.

DWELLING, MULTIPLE-FAMILY - A building containing three (3) or more individual dwelling units.

DWELLING, SINGLE FAMILY DETACHED - A building containing only one (1) dwelling unit.

DWELLING, TWO-FAMILY - A building on a single lot containing two (2) attached dwelling units.

### **Section 2.06 Definitions - E**

ERECTED - Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

ESSENTIAL PUBLIC SERVICES - The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. The term "ESSENTIAL PUBLIC SERVICES" shall not include wireless communication towers, unless located on public property and used as part of a municipal emergency communications network.

EXCAVATION - Any breaking of ground, except common household gardening and ground care.

### **Section 2.07 Definitions - F**

FAMILY - A person living alone in a single dwelling unit, or two (2) or more persons whose domestic relationship is of a continuing, non-transient character and who reside together as a single housekeeping unit in a single dwelling unit. "FAMILY" does not include a collective number of individuals occupying a motel, fraternity, sorority, society, club, boarding, or lodging house, or any other collective number of individuals whose domestic relationship is of a transient or seasonal nature.

FAMILY DAY CARE HOME - See "CHILD CARE CENTER"

FARM - The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

(Note: the above definition was taken from the Michigan right to Farm Act, Public Act 93, 1981.)

FLOODPLAIN - All areas adjoining a lake, stream, river, creek, or a channel which are subject to inundation at a high flood water level as determined by an engineer or agency designated by the Township Board, or by the Michigan Department of Environmental Quality where it has jurisdiction.

FLOOR AREA, GROSS - The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls.

FLOOR AREA, USABLE (For the purposes of computing parking) - That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area

which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of "USABLE FLOOR AREA". Measurement of USABLE FLOOR AREA shall be the sum of the horizontal areas of all floors of the building measured from the interior faces of the exterior walls.

### **Section 2.08 Definitions - G**

**GRADE** - The gradient, the rate of incline or decline expressed as a percent. (A rise of twenty (20) feet in a horizontal distance of eighty (80) feet would be expressed as a grade of twenty-five (25) percent.)

**GRADE, AVERAGE** - The average finished ground elevation at the center of all walls of a building established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building or structure being measured.

**GREENWAY** - A contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes. (Added Oct. 2003)

**GROUP DAY CARE HOME** - See "CHILD CARE CENTER"

### **Section 2.09 Definitions - H**

**HOME BASED BUSINESS** - An occupation or profession that is clearly a customary, incidental, and secondary use of a residential dwelling unit but which has a potential to possess characteristics resulting in non-compliance with the more traditional Home Occupation Standards of this Ordinance. Examples of HOME BASED BUSINESSES include, but are not limited to, automobile repair, machine shop, wood shop, and storage for builder's equipment.

**HOME OCCUPATION** - An occupation or profession carried on within a portion of a dwelling unit that is clearly a customary, incidental, and secondary use of the residence. Examples include, but are not limited to, typing service, answering service, proof reading, a real estate agent's home office, or the use of a single family residence by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a HOME OCCUPATION.

### **Section 2.10 Definitions - J**

**JUNK** - Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable motor vehicles and parts, construction material, household wastes, including garbage and discarded appliances.

**JUNK YARD** - An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

## **Section 2.11 Definitions - K**

**KENNEL** - Any lot or premise on which three (3) or more dogs, cats, or other household pets, four (4) months of age or older, are either permanently or temporarily boarded for commercial purposes. A kennel shall also include any lot or premises where household pets are bred, sold, or treated for commercial purposes.

## **Section 2.12 Definitions - L**

**LOT** - A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for principal and accessory use(s) together with yards and open spaces required under the provisions of this Ordinance. A LOT may or may not be specifically designated as such on public records. A LOT may consist of any of the following, or a combination of any of the following, including any portion of property subject to a public easement or right-of-way for highway purposes, and provided that in no case shall a division or combination of properties create a residual LOT which does not meet the requirements of this ordinance:

- A. A platted lot, or a portion of a platted lot.
- B. A parcel of land described by metes and bounds, or a portion of a parcel of land described by metes and bounds.
- C. A site or land area described as a site condominium lot, or site condominium building site.

**LOT, CORNER** - Any lot having at least two (2) contiguous sides abutting upon a road, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved road or roads shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

**LOT, FLAG** - A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

**LOT, INTERIOR** - A lot other than a corner lot, flag lot, or through lot.

**LOT, THROUGH** - Any interior lot having frontage on two (2) parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and through yard setbacks shall be provided as required.

**LOT, WATERFRONT** - A lot having a property line abutting a shoreline.

**LOT AREA** - The total horizontal area within the lot lines. For the purposes of this Ordinance, where the front lot line is the centerline of the right-of-way or private easement, or a portion of the lot lies in part of the right-of-way or easement, that portion of the lot shall be included to calculate the required LOT AREA.

**LOT COVERAGE** - The part of the lot occupied by any building, including accessory buildings.

**LOT DEPTH** - The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT LINES - The lines bounding a lot as defined herein:

- A. FRONT LOT LINE - In the case of an Interior Lot, it is the line separating the lot from the street right-of-way line. In the case of a Corner Lot or Through Lot, it is that line separating said lot from either street right-of-way line. In the case of a Waterfront Lot, it is the line separating the lot from the water. In the case of a Flag Lot, it is a line parallel to the street right-of-way, from one side lot line to the other side lot line, that measures the required lot width. In the case of a cul-de-sac lot, it is a line from one side lot line to the other side lot line measured at the front yard setback.
- B. REAR LOT LINE - The lot line opposite and most distant from the front lot line. In the case of a lot which is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.
- C. SIDE LOT LINE - Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street right-of-way line is a STREET SIDE LOT LINE. A side lot line separating a lot from another lot is an INTERIOR SIDE LOT LINE.

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 municipal or county officials, which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH - The horizontal straight line distance between the side lot lines, measured between the two (2) points where the required front setback line intersects the side lot lines.

### **Section 2.13 Definitions - M**

MANUFACTURED HOME - A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MANUFACTURED HOME COMMUNITY - A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary trailer park.

MINI-STORAGE FACILITIES – A building or group of buildings in a controlled-access, and normally fenced, compound containing varying sizes of individual, compartmentalized, and controlled-access stalls or lockers strictly for the indoor storage of a customer’s non-hazardous goods or wares.

MINING NATURAL RESOURCES – The removal of sand, soil, stone, natural gas, oil, or other naturally occurring resource from the ground, however, landscaping activities, nor cultivation of land for farming purposes shall not be considered MINING NATURAL RESOURCES.

MUNICIPAL BUILDINGS AND FACILITIES - Township owned property on which a building or other facility is located that provides a benefit, houses offices for township governmental business, serves as a resource center, or provides emergency services to Township residents. Examples of such facilities include, but are not limited to, the Township Hall, Township Libraries, Township Fire Barns, Township Parks, and Township Cemeteries.

## **Section 2.14 Definitions - N**

**NONCONFORMING BUILDING OR STRUCTURE** - A building or structure, the size, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the Zoning District in which it is located.

**NONCONFORMING LOT** - A lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present lot requirements of the Zoning District in which it is located.

**NONCONFORMING USE** - A use or activity that was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the Zoning District in which it is located.

## **Section 2.15 Definitions - O**

**OFFICE** - A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases, and equipment for current use in the office business, including personnel engaged in executive, administrative, professional, political, informative, research or clerical duties, and other similar related or incidental furniture equipment or personnel connected or concerned with the performance of a service.

**OPEN AIR BUSINESS** - Retail sales establishments operated substantially in the open air, including:

- A. Utility truck or trailer, motor vehicle, boats, recreational vehicles, or home service equipment sales or rental.
- B. Outdoor display area for sale or rent of recreation vehicles, manufactured homes, swimming pools, farm implements, commercial construction equipment, and similar goods.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment, but not including lumberyards.

**OPEN SPACE** - The common open space designed and developed for use by the occupants and lot owners of a development, or by others, for recreation (whether active or passive) which space is effectively separated from vehicular traffic and off-street parking that is readily accessible. The term shall not include space devoted to streets, driveways, utility easements, and off-street parking lots. (Amended Oct. 2003)

**OPEN SPACE DEVELOPMENT (OSD)** - A development option as authorized by P.A. 110 of 2006, the Michigan Zoning Enabling Act, MCL 125.3506, and applied for, developed, and completed in accordance with the requirements in this Ordinance in general and the requirements in Section 3.20 of this Ordinance in particular. The term Open Space Development shall also mean the same as “open space preservation regulations” as used in the Act.

## **Section 2.16 Definitions - P**

**PERSONAL SERVICE ESTABLISHMENT** - A commercial business conducting services that are performed primarily on the premises, including but not limited to barber and beauty shops, or small appliance repair.



**PUBLIC UTILITY** - Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications (excluding wireless communications), telegraph, transportation, or water services; provided that this definition shall not include any person, firm, or corporation engaged in radio or television broadcasting.

### **Section 2.17 Definitions - R**

**RESIDENTIAL DISTRICT** - This term shall include the AG, RR, R-1, and MHP Districts.

**ROAD, PUBLIC** - A public dedicated right-of-way controlled and maintained by the Ionia County Road Commission, Michigan Department of Transportation, or the U.S. Department of Transportation, which affords the principal means of access to abutting property.

**ROADSIDE STAND** - A building or structure operated for the purpose of selling products, including but not limited to farm produce, Christmas trees, and other seasonal items to the general public.

### **Section 2.18 Definitions - S**

**SALVAGE YARD** - An open space where waste, surplus, discarded, or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including house wrecking and structural steel materials and equipment and automobile wrecking.

**SETBACK** - The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

**SEXUALLY ORIENTED BUSINESSES** - The term shall include adult bookstores, adult cabarets, adult motion picture theaters, massage establishments, and nude artist and photography studios. These terms shall have the following indicated meanings:

- A. **ADULT BOOKSTORE** - A building used for the sale of motion picture films, video cassettes, magazines, posters, and other printed material, or tapes, or sex objects for other than contraceptive purposes, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for sale to patrons therein.
- B. **ADULT LIVE ENTERTAINMENT THEATER** - A building for presenting live entertainment involving the use of strip dancers, naked individuals, individuals who wear see through clothing which permits the view of "specified anatomical areas," individuals who are partially clothed and partially unclothed so as to permit the view of "specified anatomical areas," or individuals conducting "specified sexual activities."
- C. **ADULT MOTION PICTURE THEATER** - A building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined in this Ordinance, for observation by patrons therein.
- D. **MASSAGE PARLOR** - Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a

nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of massage therapists who meet one or more of the following criteria:

1. Proof of graduation from a school of massage licensed by the State of Michigan.
2. Official transcripts verifying completion of at least three hundred (300) hours of massage training from an American community college or university; in addition three (3) references from massage therapists who are professional members of a massage association referred to in this section.
3. A certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards.
4. A current occupational license from another state.

**E. SPECIFIED ANATOMICAL AREAS - Are defined as:**

1. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola.
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**F. SPECIFIED SEXUAL ACTIVITIES - Are defined as:**

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse or sodomy.
3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

**SIGN** - A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public.

**SIGNIFICANT NATURAL FEATURE** - A natural area as designated by the Planning Commission, Township Board, or the Michigan Department of Environmental Quality which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, flood plain, river, lake, or other unique natural features.

**SITE CONDOMINIUM** - A development site for a dwelling unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 591 of 1997. The term site condominium shall be equivalent to the term "lot" for purposes of determining compliance of the site condominium development with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage. (Added 12/15/05)

**SITE CONDOMINIUM DEVELOPMENT** - A partitioning 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, Public Act 288 of 1967, as amended. (Added 12/15/05)

**SITE CONDOMINIUM UNIT** - A site condominium unit is that portion of a site condominium that is designed, constructed 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 of the site condominium development. (Added 12/15/05)

**SPECIAL LAND USE** - A use that by its nature requires additional review, as opposed to a "Permitted Use" or a use permitted by right. A "SPECIAL LAND USE" is subject to approval by the Planning Commission, as specified by this Ordinance. A permitted SPECIAL LAND USE is not a nonconforming use.

**STATE LICENSED RESIDENTIAL FACILITY (6 OR FEWER PERSONS)** - A structure constructed for residential purposes that is licensed by the State pursuant to the adult foster care facility licensing act (Act No. 218 of the Public Acts of Michigan of 1979; MCL 400.701 et seq., as amended) or the child care organizations act (Act No. 116 of the Public Acts of Michigan of 1973; MCL 722.111 et seq., as amended), which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care. A "STATE LICENSED RESIDENTIAL FACILITY (SIX OR LESS PERSONS)" as defined by this section shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

**STORY** - That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

**STRUCTURE** - Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground.

### **Section 2.19 Definitions - T**

**TRANSPORTATION TERMINAL** - A building or area in which freight brought by truck is assembled or stored for routing or reshipment, or in which semi trailers, including tractor or trailer units and other trucks, are parked or stored.

### **Section 2.20 Definitions - U**

**UNDEVELOPED STATE** - 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. (Added Oct. 2003)

**USE** - The lawful purpose for which land or premises of a building thereon is designated, arranged, intended, or for which is occupied, maintained, let, or leased.

**USE, PRINCIPAL** - The main, primary, or predominate use of the premises.

**USE, TEMPORARY** - A use or building permitted to exist during period of construction of the main building or use, or for special events.

## **Section 2.21 Definitions - V**

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

**VEHICLE SERVICE ESTABLISHMENT** - Building and premises where the primary use is the supply and dispensing at retail of motor fuels, lubricants, batteries, tires, and other similar motor vehicle accessories and including the customary space and facilities for the installation of such commodities, including storage, minor repair, and servicing but not including “vehicle repair” as defined herein.

## **Section 2.22 Definitions - W**

**WAREHOUSING FACILITIES** – Facilities used for the indoor storage of goods or wares.

### **WIND ENERGY CONVERSION SYSTEMS**

- A. **Wind Energy Conversion System (WECS):** Shall mean a combination of:
1. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
  2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
  3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
  4. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
  5. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
- B. **Commercial WECS:** Any WECS that is a Single WECS for Commercial Purposes, any WECS within a wind farm, or any other WECS meant to provide power which is utilized off the site on which the WECS is located.
- C. **Interconnected WECS:** A WECS that is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.
- D. **On-site Service WECS :** A WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.
- E. **Shadow Flicker.** Alternating changes in light intensity caused by the moving blade of a WECS casting shadows on the ground and stationary objects such as dwellings.
- F. **Single WECS for Commercial Purposes:** A single WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the structure is located. Said WECS may or may not be owned by the owner of the property upon which the WECS is placed.
- G. **WECS Testing Facility:** A structure and equipment used to determine the potential for the placement of a WECS.

- H. Wind Farm: Clusters of two (2) or more WECS placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WECS are located. The WECS facilities may or may not be owned by the owner of the property upon which the WECS is placed.

WIRELESS COMMUNICATIONS TOWER, - A structure designed and constructed to support one or more antennas used for licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Section 2.23 Definitions - Y**

YARDS - The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein.

- A. FRONT YARD - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.
- B. REAR YARD - An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line of the main building. In the case of a corner lot, the rear yard shall be opposite the street frontage of the principal street.
- C. SIDE YARD - An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the building line of the main building.

YARD, REQUIRED - The required yard shall be that set forth as the minimum yard setback requirements for each district.

**Section 2.24 Definitions - Z**

ZONING ADMINISTRATOR - The person or persons designated by the Township Board to administer the provisions of this Zoning Ordinance.

ZONING BOARD OF APPEALS - See “BOARD OF APPEALS” in Section 2.03.

ZONING DISTRICT - A portion of the unincorporated area of the Township within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.



## **Chapter 3: General Provisions**

### **Section 3.01 Essential Public Services**

The erection, construction, alteration or maintenance of Essential Public Services shall be permitted in any zoning district. It is the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

### **Section 3.02 Main Building or Use**

No more than one (1) main building or use may be located on a parcel, except for groups of related agricultural, industrial, or commercial buildings; multiple family dwellings; or manufactured homes contained within a single, integrated complex, sharing parking and access.

### **Section 3.03 Required Area or Space**

- A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.
- B. Accessory buildings attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this Ordinance concerning required yards.

### **Section 3.04 Required Access**

No Zoning Permit shall be issued unless the property for which the permit is requested has the continuous required minimum frontage on either an approved public street right-of-way or private street. Corner lots shall have minimum frontage on both front lot lines, whether abutting a public street or private street. Driveway access shall be from the private street when the intersecting street is public and located on the secondary frontage when both streets are public or both are private. In the event that a determination must be made regarding which street is the secondary street that determination shall be made by the Zoning Administrator. (Amended February 26, 2004, amended February 22, 2007)

### **Section 3.05 Water and Sanitary Sewer Service**

No structure for human occupancy shall be erected, altered, moved, or used in whole or in part for dwelling, commercial, industrial, or recreation purposes unless provided with a safe, sanitary, and potable water supply, with a safe and effective means of collection, treatment, and disposal of human, domestic, commercial, and industrial waste. Such facilities, if not from an approved public system, shall conform with the minimum requirements for such facilities set forth by the State of Michigan Health Department and the County Health Department, Building Code, and other applicable ordinances of the Township and County.

### **Section 3.06 Illegal Dwellings**

The use of any portion of a garage or other accessory building for dwelling or sleeping purposes in any zoning district is prohibited.

### **Section 3.07 Regulations Applicable to Single-Family Dwellings Outside Manufactured Home Parks**

Any single-family dwelling on a lot, whether constructed and erected on-site, or a manufactured home, shall be permitted only if it complies with the following requirements:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be certified by the manufacturer or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, (effective June 15, 1976) as amended, or any similar successor or replacement standards which may be promulgated; Or certified by the manufacturer or appropriate inspection agency as meeting the standards referenced above, and found, upon inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are, or may be adopted by the Township. However, where a dwelling unit 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 Township codes, then such federal or state standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all requirements of this Ordinance, including minimum lot area, minimum lot width, minimum floor area, required yard, and maximum building height provisions of the zoning district in which it is located.
- D. If the dwelling unit is a manufactured home, such unit shall be installed with the wheels removed.
- E. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Manufactured Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
- F. No building that has been wholly or partially erected or assembled on any premises located within or outside the Township shall be moved to or placed upon any other premises in the Township without full compliance with the provisions of this Ordinance in the same manner as a new building.

### **Section 3.08 Projections Into Yards**

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four (4) feet into a required front, rear, or side yard.
- B. An open, unenclosed, and uncovered porch, paved terrace, or deck less than twelve (12) inches above grade may project into a required front, rear, or side yard, no further than one-half (1/2) the required setback.
- C. Any porch, terrace, deck, or balcony that is enclosed shall meet the minimum setback requirements of the main building or accessory building to which it is attached.
- D. On pre-existing buildings and structures, the Zoning Administrator shall be authorized to approve encroachments into a required yard for purposes of accommodating the barrier-free access needs



of the residents, tenants, and/or client and patrons of said buildings and structures. Authorization of any encroachment shall be subject to the following:

1. The encroachment shall not be located in a public right-of-way.
2. The encroachment shall not create a clear vision hazard.
3. The clear vision requirements of Section 3.11 shall be met.
4. The encroachment shall be limited to that necessary to accommodate the access requirements of the intended user(s), provided, however an encroachment shall maintain a setback of not less than five (5) feet from a side lot line and fifteen (15) feet from a front lot line.

### **Section 3.09 Building Height Exceptions**

The building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances.

### **Section 3.10 Corner Lots**

- A. A corner lot shall have two (2) front lot lines: a principal front lot line, and a secondary front lot line. The principal front lot line shall be the shorter of the two (2) lot lines. Where the lot lines are of equal length, or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General Provisions
  1. The required front setback shall be measured from both the principal and secondary front lot lines.
  2. The remaining setbacks shall be a rear yard setback, and a side yard setback. The rear yard setback shall be measured from the lot line opposite the principal front lot line.
  3. The width of a corner lot shall be determined by the entire length of that front lot line which is opposite the rear lot line
- C. Commercial and Industrial Zoning Districts. For a corner lot which is completely within a C-1 or I-1 district, the setback along the secondary lot line(s) shall not be less than one-half (½) the required front yard setback. All other setbacks shall comply with the minimum setback requirements of the zoning district within which the lot is located.

### **Section 3.11 Clear Vision**

- A. No plantings shall be established or maintained on any corner lot which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall be a triangular area formed by the road right-of-way lines, and a line connecting them at points twenty-five (25) feet from the intersection of the right-of-way lines, or in the case of a rounded property corner, from the intersection of the right-of-way lines extended.
- B. No plantings shall be established in any required front yard that, in the opinion of the Zoning Administrator, will obstruct the view from driveways or adjacent roadways of vehicles entering or leaving the site.

### **Section 3.12 Accessory Buildings**

- A. Where an accessory building is attached to a main building, it shall conform to all setback requirements of this Ordinance applicable to the main building.
- B. Accessory buildings shall not be located in the required front yard, unless otherwise permitted by this Ordinance.
- C. Accessory buildings shall not be located nearer than ten (10) feet to any other building on the property, nor shall it be located closer than ten (10) feet to any side or rear lot line.
- D. The regulations in this Section do not apply to buildings associated with farming or other agricultural operation.
- E. Accessory Buildings two hundred (200) square feet in area or less, do not require a permit, however, shall conform to the setback requirements for accessory buildings.
- F. Accessory Structures shall have a minimum of a 4:12 pitch. (Added February 26, 2004)
- G. Accessory buildings and structures shall not be erected on a lot or parcel in a residentially or agriculturally zoned district prior to the establishment of a principal structure, unless a permit is approved for both the accessory building and the principal building. At minimum, the foundation (e.g. basement, footings and slab, etc.) of the principal building shall be completed prior to commencing construction and completion of the accessory building. Where two or more abutting lots are held under single ownership or control in a residentially zoned district, the owner may erect an accessory building on a lot separate from that on which the principal building is located, provided both lots are combined and used as one with a single tax description. (Added February 26, 2004, amended August 31, 2006)
- H. Accessory structures shall be properly roofed, sided, and affixed to the ground. The use of items not originally intended to be used as accessory structures is prohibited; this includes, but is not limited to, the following: (Added February 26, 2004)
  - 1. Vehicles
  - 2. Recreational vehicles
  - 3. Mobile homes
  - 4. Condemned structures or structures without a certificate of occupancy
  - 5. Utility trailers
  - 6. Semi-tractor trailers
  - 7. Tents
  - 8. Truck toppers or caps

### **Section 3.13 Fences**

- A. Fences in Residential Districts shall not exceed six (6) feet in height, unless restricted elsewhere in this Ordinance.
- B. Fences erected in any front yard in any residential district shall not exceed four (4) feet in height, nor shall such fence be more than seventy-five (75) percent solid.
- C. Fences in residential districts, or enclosing residential uses, shall not contain barbed wire or be electrified, unless in the AG district, and used in association with a farming or other agricultural operation.
- D. Fences in nonresidential districts which enclose storage lots or other areas requiring security may contain barbed wire, provided that the barbed portion of the fence shall not be nearer than six (6) feet from the surface of the ground. The total height of fences in any non-residential district shall not exceed ten (10) feet.
- E. Fences may be erected along the property line.

### **Section 3.14 Home Occupations**

- A. The Zoning Administrator may approve home occupations, only after receipt of a letter from the applicant stating his or her intent to comply with the requirements of this Section.
- B. Two (2) people, other than members of the immediate family residing on the premises may be engaged in such occupation, provided adequate off-street parking for the employee is available in addition to that required for the dwelling.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than forty (40) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building or in the front yard at least fifteen (15) feet from any property line if approved by the Planning Commission.
- E. The home occupation shall be operated entirely within an enclosed structure, and not within any accessory building.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of such home occupation shall be met off the street, and not in the required front yard.
- G. No equipment or process shall be used in such a home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

- H. Only normal domestic or household equipment and equipment characteristic of small workshops, businesses, and professional offices shall be used to accommodate the home occupation.
- I. The essential residential character of the dwelling, in terms of use and appearance, shall not be changed by the occurrence of the home occupation.

(Amended 12-18-08)

### **Section 3.15 Floodplain**

The floodplain area of lakes, ponds, rivers, and streams and their branches and tributaries shall be determined from time to time by the Federal Emergency Management Agency (FEMA), the County Engineer, the U.S. Army Corp of Engineers, or other official U.S. or Michigan, public agency responsible for defining and determining floodplain areas. No building for human occupancy shall be erected in such designated floodplain areas.

### **Section 3.16 Nonconforming Lots of Record, Uses, and Buildings and Structures**

#### **A. Intent**

1. It is recognized that there exist in zoning districts certain lots, buildings and structures, and uses which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the intent of this Section to permit legal nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.
2. Nonconforming lots, buildings and structures, and uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Section that these non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.
3. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.

#### **B. Nonconforming Lots of Record**

1. Where a lot of record in existence at the time of the adoption or amendment of this Ordinance does not meet the minimum requirements for lot width or lot area, such lot of record may be used for any "Permitted Use" as outlined in the Zoning District which the lot is located, subject to approval of water supply and sanitary sewer or septic system by the County Health Department, or other proper agency having jurisdiction.

#### **C. Nonconforming Uses**

1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater floor or land area that was occupied at the effective date of the adoption or amendment of this Ordinance, except under the following conditions:

- a) In the AG (Agricultural) district, an increase in floor or land area of up to fifty (50) percent of that area occupied at the effective date of the adoption or amendment of this Ordinance shall be permitted.
  - b) In the RR (Rural Residential) district, an increase in floor or land area of up to twenty-five (25) percent of that area occupied at the effective date of the adoption or amendment of this Ordinance shall be permitted.
2. No part of any nonconforming use shall be moved unless such movement eliminates or decreases the nonconformity.
  3. If a nonconforming use is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and which shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
    - a) Utilities, such as water, gas and electricity to the property, have been disconnected.
    - b) The property, buildings, and grounds, have fallen into disrepair.
    - c) Signs or other indications of the existence of the nonconforming use have been removed.
    - d) Equipment or fixtures necessary for the operation of the nonconforming use have been removed.
    - e) Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
  4. A nonconforming use may be changed to another nonconforming use provided that all of the following determinations are made by the Zoning Board of Appeals:
    - a) The proposed use shall be as compatible or more compatible with the surrounding neighborhood than the previous nonconforming use.
    - b) The proposed nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than the previous nonconforming use.
    - c) That appropriate conditions and safeguards are provided that will ensure compliance with the intent and purpose of this Ordinance.

D. Nonconforming Buildings and Structures

1. Where a lawful building or structure exists at the effective date of this Ordinance, or an amendment thereto, that does not comply with the requirements of this Ordinance because of restrictions such as lot area, coverage, width, height, or yards, such building or structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a) No such building or structure may be enlarged or altered in a way that increases its nonconformity, except in cases in which the setback of a building or structure

is nonconforming. Only in these cases may the nonconforming setback be extended along the same building line as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced.

- b) Should a nonconforming building or structure be destroyed by fire, Act of God, or public enemy to any extent, it may be reconstructed only in a way that will not increase its nonconformity.
- c) Should a nonconforming building or structure be moved for any reason and for any distance, it shall be moved to a location that complies with the requirements of this Ordinance.

2. None of the provisions of this Section are meant to preclude normal repairs and maintenance on any nonconforming building or structure that would prevent strengthening or correcting of any unsafe condition of the building or structure.

E. In cases where public health, safety, and general welfare are at risk, the Township may acquire, through purchase, private nonconforming buildings, structures, or land. The Township Board may make this purchase of private property in the manner provided for by law.

### **Section 3.17 Swimming Pools**

- A. A Zoning Permit shall be required for any in-ground swimming pool, spa, hot tub, or similar device that contains twenty-four (24) inches or more of water in depth at any point.
- B. A fence or enclosure shall be erected and maintained surrounding the device sufficient to make such device inaccessible to small children.
- C. Such fence or enclosure, including gates, shall not be less than four (4) feet or greater than six (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade, or otherwise made inaccessible from the outside to small children.
- D. All swimming pools, spas, hot tubs, and similar devices (above ground or in-ground) shall not be located less than ten (10) feet from any lot line.
- E. Swimming pools, spas, hot tubs, and similar devices shall not be located in required front yard.
- F. Above ground pools do not require Zoning Permits, but shall adhere to the above fencing and setback requirements.

### **Section 3.18 Minimum Lot Width For Irregular Lots**

The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the minimum front yard setback line, and shall not be diminished throughout the rest of the lot. Such lots shall have a front lot line of least fifty-five (55) feet, and in no case shall the lot width within the required front yard be less than forty (40) feet.

### **Section 3.19 Permitted Front Yard Setback Reductions**

Where the established front yards for existing main buildings in the vicinity of, and in the same zoning district as a subject lot are less than the required front yard for the zoning district of the subject lot, the

required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street within two hundred (200) feet of the side lot lines of the subject lot, subject to the following provisions:

- A. The front yard reduction outlined above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described above for computing the average front yard.
- B. In no case shall the front yard setback resulting from the application of these provisions, be less than twenty (20) feet.

### **Section 3.20 Open Space/Residential Clustering Regulation**

#### **A. General Provisions; Description; Purpose; and Processing**

- 1. The purpose of an Open Space Development (OSD) is to permit greater flexibility in development than is generally possible under standard District regulations. The intent of the regulations is to foster the preservation of significant natural features, large open spaces, or active agricultural land that would otherwise be developed but will be preserved as a result of the OSD.
- 2. These OSD provisions are not intended as a device for ignoring the requirements of this Ordinance and are not intended simply as a means to increase density. These provisions are intended to result in land development substantially consistent with the underlying zoning, but provide a degree of flexibility in design to allow for customization of design to meet the unique natural conditions of a particular site and innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning.
- 3. Applications for an Open Space Development to be located in a Residential Zone District shall be processed as a use permitted by right with site plan approval, subject to the standards of these regulations. Applications for an Open Space Development to be located in an Agricultural Zone District shall be processed as a special land use, subject to the applicable special land use standards in the Danby Township Ordinance, as well as site plan approval pursuant to the standards set forth in Section 3.20. In requiring special use approval for Open Space Developments proposed for the Agricultural District, it is noted that the Agricultural District is primarily designed to foster the maintenance of agricultural development within the Township. Residential development within the Agricultural District, while permitted, should not result in undue hardship in the carrying-out of normal agricultural practices. Therefore, to help ensure a positive relationship between Residential Open Space Developments and agricultural practices, the special land use process has been employed as a component of the approval process of an OSD application with respect to land located the Agricultural District.

#### **B. Qualifying Conditions**

- 1. Unified control. A proposed OSD must be under the control of a single individual (not a corporation or entity) such that a single person has ultimate responsibility for ensuring the completion and maintenance of the development. The applicant must provide documentation of such control in the form of agreements, contracts, or resolutions indicating to the Township Board's satisfaction that the requirement in this sub-section is

met and that the development will be completed in its entirety as approved and continued to be maintained as approved by the Township.

2. The property which is the subject of an OSD application must be a minimum of forty (40) contiguous acres in total area and may be located within any Residential or Agricultural District. The Planning Commission and Township Board may consider a lesser development size if the proposed project substantially forwards the intent of the Open Space Development regulations and when one or more of the following factors or conditions exist:
  - a) A lesser size would prove beneficial to the preservation of land actively used for agricultural purposes.
  - b) A lesser size would be more compatible with surrounding development.
  - c) A lesser size would be in the best interest of the Township, as determined by the Planning Commission and Township Board.
3. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would be otherwise developed but will be preserved as a result of the OSD.
4. A proposed OSD must pertain to land that is zoned at a density equivalent to either 2 or less dwelling units per acre if not served by a public sewer, or 3 or fewer dwelling units per acre if served by a public sewer.
5. A proposed OSD is available only if the development does not depend on the extension of a public sewer or public water supply system, unless development of the land without the exercise of the OSD option would also depend on such an extension.

#### C. Review Procedures

1. Sketch Plan Approval
  - a) Timing of Application.
    - 1) Agricultural District. With respect to an application for an OSD regarding property located in the Agricultural District, the applicant must first submit to the Township an application for a special land use permit in accordance with the procedure in the Townships Zoning Ordinance regarding special land use requests in the Agricultural District. The Township will then process the request in accordance with the standards and requirements for such requests as articulated in the Townships Zoning Ordinance. Where an applicant's special land use permit request regarding an OSD is granted, the applicant must then submit a sketch plan to the Township, and receive approval of that sketch plan and a final site plan, in accordance with the requirements of Section 3.20.
    - 2) Residential District. With respect to an application for an OSD regarding property located in any Residential District, the applicant must submit a



sketch plan to the Township, and receive approval of that sketch plan and a final site plan, in accordance with the requirements of Section 3.20.

- b) Applications for sketch plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
- c) The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
  - 1) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file such application.
  - 2) A fully scaled and dimensioned site plan of sufficient detail and clarity to demonstrate the design and layout of the proposed development including proposed lots, open space areas, wetlands and water features, roads, and other such site features.
  - 3) If a phased development is proposed, identification of the areas included in each phase, as well as the density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
    - (i) Scheduled Phasing. When proposed construction is to be phased, the project must be designed such that each phase is fully functional on its own with respect to services, utilities, and open space. Each phase must contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the OSD, and the residents of the surrounding area.
  - 4) Arrangement and area calculations for open space, including upland and wetland open space areas.
  - 5) A completed application form, supplied by the Zoning Administrator, and an application fee.
  - 6) Ten (10) copies of a sketch plan meeting the above requirements.
- d) The Planning Commission shall review the sketch plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, the sketch plan.

## 2. Final Site Plan Approval

- a) After receiving approval of a sketch plan from the Planning Commission, the applicant shall within six (6) months submit a final site plan to the Planning Commission.

- b) The final site plan may be for either the entire project or for one (1) or more phases.
  - 1) **Scheduled Phasing.** When proposed construction is to be phased, the project must be designed such that each phase is fully functional on its own with respect to services, utilities, and open space. Each phase must contain the necessary components to ensure the protection of natural resources and the health, safety, and welfare of the users of the OSD, and the residents of the surrounding area.
  - 2) **Timing of Phases.** Each phase of the project must be commenced within twelve months of the schedule set forth in the approved final site plan. If construction of any phase is not commenced within the approved time period, or if there is a failure to complete construction or comply with conditions specified in the approved plan, the approval of the plan becomes null and void (unless the Township Board approved an extension before the expiration of the 12 months, as provided below).
  - 3) An applicant may apply in writing to the Township Board for an extension in which to commence construction, with an explanation of reasons justifying the requested extension. In no event may an applicant request an extension exceeding 12 months. The Township Board may grant a requested extension for good cause. No more than one extension may be given.
- c) Applications for final site plan approval for OSDs shall be submitted to the Zoning Administrator at least thirty (30) days prior to the date of first consideration by the Planning Commission.
- d) The application materials shall include all the following information, unless the Zoning Administrator determines that some of the required information is not reasonably necessary:
  - 1) Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, or a signed agreement from the property owner indicating permission to file such application.
  - 2) A site plan meeting the site plan review requirements of this Ordinance.
  - 3) If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
  - 4) Arrangement and area calculations for open space, including upland and wetland open space areas.
  - 5) A completed application form, supplied by the Zoning Administrator, and an application fee.

- 6) Ten (10) copies of a final site plan for the phase for which approval is requested.
- e) Failure to submit a final site plan for approval within the six (6) month period shall void the previous sketch plan approval and a new application shall be required to be submitted and approved in accordance with these provisions.
- f) For OSDs proposed for location in the Agricultural District, the Planning Commission shall conduct a public hearing prior to considering the proposed final site plan. Notices of the public hearing will be provided in accordance with the requirements of the Michigan Zoning Enabling Act and the Zoning Ordinance of the Township of Danby for special land uses.
- g) The Planning Commission shall recommend to the Township Board to deny, approve, or approve with conditions, the final site plan for the OSD. The Township Board shall review the final plan in accordance with the requirements of this Ordinance and deny, approve, or approve with conditions, approval of the OSD.
- h) Major Changes
  - 1) If an applicant seeks any of the following with respect to an approved sketch plan or approved final site plan, the applicant must submit a written request for such to the Township Planning Commission:
    - (i) Rearrangement or relocation of more than 5% of the approved open space area.
    - (ii) Re-alignment of roads.
    - (iii) Increasing the amount of dedicated open space by more than 5%.
    - (iv) Changes to an approved landscape plan (part of approved site plan).
    - (v) Modifications of the number of approved parcels.
    - (vi) Dimensional changes to lot sized and/or proposed setbacks.
  - 2) Upon receipt of a written request for any of the changes referenced above, the Planning Commission may grant an applicant's request for those changes only after the Planning Commission receives evidence from the applicant that permits the Planning Commission to reasonably conclude that such changes:
    - (i) Will not adversely affect the initial basis for granting approval.
    - (ii) Will not adversely affect the overall OSD development, in light of the intent and purpose of such development.

- (iii) Will not result in the reduction of dedicated open space area as required in this Ordinance.
- (iv) Is otherwise consistent with the standards set forth in this section.

D. Permitted Uses

The following uses may be permitted, either singly or in combination, in accordance with the applicable OSD requirements:

- 1. Uses permitted by the underlying zone district.

E. Site Development Requirements and Density Bonus

- 1. **Maximum Density.** In no case may the density of residential dwellings in an OSD exceed the density allowed by the underlying zoning district. The maximum density in an OSD is to be determined as follows:

- a) The applicant must prepare and submit to the Danby Township Planning Commission a parallel design for the project showing a feasible development under the requirements of all State, County, and Township rules and laws. The design should include all information required for preliminary plat designs. The Planning Commission thereafter must review the design and determine the number of lots that could be feasibly constructed on the subject property according to the parallel design. This number, as determined by the Planning Commission, is the maximum number of dwelling units allowable for the OSD project. It must be determined by the Planning Commission that this parallel plan is feasible and practical to be constructed and that it meets all current applicable regulations should the OSD request be denied or not constructed. The Planning Commission shall determine and declare this number of allowable dwelling units following a public hearing. If there is a question regarding water, septic, wetlands, or floodplains, the Planning Commission may request validation from the proper regulatory authority.
- b) In calculating maximum density under this Section, the Planning Commission may consider only buildable areas; existing water, wetlands, and roadways may not be considered.

- 2. **Density Bonus:** In order to recognize the benefits of connecting to public sanitary sewer and public water facilities, as they become available, an OSD may permit a reduction in minimum lot requirements as follows:

<b>Factor</b>	<b>Standard</b>
Minimum lot area	14,520 square feet
Minimum lot frontage and width	100 feet
Front yard setback	35 feet
Side yard setback	10 feet
Rear yard setback	40 feet

Maximum lot coverage	40%
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3. Open Space (undeveloped state): Any open space provided in the OSD shall meet the following requirements:

- a) Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire OSD may utilize the available open space.
- b) The OSD shall have a minimum of fifty percent (50%) dedicated open space that will perpetually remain in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means that runs with the land. Any area used in the calculation of required undeveloped, dedicated open space shall have a minimum width of fifty (50) feet.
- c) The applicant, in preparing the legal means used to ensure that the dedicated open space will remain perpetually in an undeveloped state and be maintained in a manner approved by the Township, must ensure that the legal means used contains provisions that:
  - 1) Require that either the person or entity having an ownership interest in the dedicated open space, the person or entity having the right to use the open space, or the applicant (or its successor) maintain the open space, as the Township Board determines.
  - 2) Provides standards of scheduled maintenance of the dedicated open space.
  - 3) Provide for maintenance of the dedicated open space to be undertaken by the Township Board, and the costs thereof assessed against the person or entity responsible for maintaining the dedicated open space, if:
    - (i) The person or entity which the Township Board declared to be responsible for its maintenance fails to adequately maintain the open space, or
    - (ii) The Township Board determines that the dedicated open space is a public nuisance.
- d) Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation. Open space is encouraged to be located between neighborhood clusters of housing units.
- e) All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in an undeveloped state in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.

f) Calculating Open Space.

- 1) Except as provided below, any undeveloped land, in the boundaries of the subject parcel that is a buildable area of land may be included as required dedicated open space.
- 2) Areas Not Considered Dedicated Open Space. The following land areas may not be included in calculating dedicated open space for the purpose of this Ordinance:
  - (i) The area of any private or public street, driveway, or right of way.
  - (ii) Any lot including the required setback surrounding a residential structure.
  - (iii) Storm water retention and treatment areas.
  - (iv) Any submerged land area.
  - (v) Utility easements.
  - (vi) Off-street parking lots.

4. Design Principles: The overall intent of the Open Space Development regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the Planning Commission and Township Board in evaluating proposed Open Space Developments.

- a) Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
- b) Open space should generally be used to group areas of residential neighborhoods as clusters of housing units, as shown in the accompanying illustration. This is intended to avoid the suburban development type normally found in urbanized areas. Generally, neighborhood clusters should have not more than 8-10 units per cluster.
- c) The Open Space Development should be designed with due regard for views from adjacent roadways as well as adjacent properties. Where possible, substantial setbacks from adjacent development should be provided, except where internal roadways are designed to connect to adjacent properties for the purposes of providing a network of internal connections between properties.
- d) Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space

segments along the internal roadways will be considered a high priority by the Township. Such areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. Such areas may, however, incorporate trails or other internal pedestrian circulation paths.

- e) The overall design of the Open Space Development should emphasize the rural character of the Township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.

F. Review Standards

The following review standards will be used by the Planning Commission and Township Board in their consideration of an OSD application. Before such developments may be approved the Township Board shall find:

1. That the OSD meets the stated purposes of Section 3.20.A.
2. That the OSD does not substantially alter the character of the general neighborhood in which the development is proposed.
3. That the location of the buildings of the OSD do not unduly impact other single family uses in the vicinity of the proposed development.
4. That the OSD preserves, in perpetuity, unique site conditions, such as significant natural features, large open space areas, or active agricultural land.
5. That the OSD can accommodate adequate and safe disposal of sanitary sewer and can provide an adequate, assured source of water for domestic use.
  - a) To evaluate this review standard, the Planning Commission and/or Township Board may specify what additional evidence it deems to be acceptable to ensure the review standards are met, including additional soil borings, soil reports, hydrological tests, and other such evidence which will be submitted by the applicant and reviewed by the Township prior to approval of the OSD.
  - b) Such additional information may also include the following provisions related to the objective of groundwater protection.
    - 1) The Planning Commission and/or Township Board may require specific evidence from the applicant that groundwater sources will be protected and that other environmental concerns are met. Approval of the Ionia County Health Department or other agencies, while required to develop the site, will not be the sole determining factor in this regard.
    - 2) The Planning Commission and/or Township Board may specify what additional evidence it deems to be acceptable to make this determination, including additional soil borings, soil reports, hydrological tests, and other such evidence which will be submitted by the applicant and reviewed by the township prior to approval of the OSD.

- 3) Such additional studies may be required by the Planning Commission and/or Township Board where one (1) or more of the following conditions are present:
  - (i) Existing studies or reports showing evidence of groundwater contamination problems either on the lot or parcel on which the OSD is to be placed, or on lots or parcels within a one (1) mile radius of the OSD site.
  - (ii) Existing sites identified by Act 451 of the Michigan Public Acts of 1994, as amended (MCL 324.20101 et seq.) and Michigan Department of Environmental Quality identified LUST (Leaking Underground Storage Tanks) sites within a one (1) mile radius of the OSD site.
  - (iii) Existing licensed landfills (active or inactive) within a three (3) mile radius of the OSD site.
  - (iv) Industrially used or zoned sites within a one (1) mile radius of the OSD site.
  - (v) Existing agricultural development totaling more than five hundred (500) acres within a one (1) mile radius of the OSD site.
  - (vi) Any other condition which in the view of the Planning Commission and/or Township Board may require additional information regarding protection of groundwater.
6. The proposed OSD complies with all requirements of Section 3.20 and other applicable provisions of the Danby Township Zoning Ordinance.
7. The proposed OSD complies with all applicable federal, state, and local rules and regulations, including rules relating to the suitability of groundwater for on-site water supply for land not served by public water and rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers.
8. The proposed OSD is consistent with the Design Principles set forth in Section 3.20.E.4 (“Design Principals”).

G. Recording of Action

Upon approval of a final site plan by the Township Board, the applicant must record an affidavit in the Ionia County Register of Deeds within 30 days of the approval. The affidavit must contain the full legal description of the property in the OSD, specify the date of Township approval, state the conditions imposed (if any), and declare that all improvements will be carried out pursuant to the OSD plan. The deed restrictions and conservation easement, or other legal means used to ensure that the dedicated open space at issue remains perpetually in an undeveloped state must be duly filed with the Ionia County Register of Deeds, and copies of such recorded documents must be delivered to the Township Clerk immediately after recording.



### **Section 3.21 Private Streets**

#### **A. Purpose**

The Township determines that it is in the best interest of the public health, safety, and welfare to regulate the construction, improvement, extension, relocation, and use of private streets. These provisions have been enacted to assure that private streets:

1. Will not be detrimental to the public health, safety, or general welfare.
2. Will not adversely affect the long term development policies of Danby Township.
3. Will be designed and constructed with sufficient width, surface, and grade to assure safe passage and maneuverability of private vehicles, police, fire, ambulance, and other safety vehicles.
4. Will be constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.

#### **B. Definitions**

1. **DRIVEWAY:** An improved or unimproved drive, path, trail, or similar way extending from a public road or private street to a single building, dwelling, lot, or structure intended to provide ingress and egress for that single building, dwelling, lot, or structure. A driveway is located entirely upon the lot or parcel which it serves.
2. **EASEMENT:** An area permanently established for a private street for the passage of persons, vehicles, or the location of utilities. The easement is delineated by legally established and registered property description lines or boundaries.
3. **FRONTAGE:** The continuous linear distance of that portion of a parcel abutting upon a public street right-of-way or private street easement. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under “Yards” in the Zoning Ordinance.
4. **MAINTENANCE AGREEMENT:** A legally prepared written agreement that specifies who shall grade, plow, repair and otherwise maintain the private street in compliance with this Ordinance.
5. **PERSON:** Person shall mean any individual, firm, association, partnership, corporation, public corporation, school, or any combination thereof.
6. **PRIVATE STREET\*:** A registered, privately controlled and maintained easement that provides the means of access to two (2) or more abutting lots or parcels and which is constructed and maintained by the owner or owners and is not dedicated to and accepted by the Ionia County Road Commission for general public use. The term “street” shall be synonymous with the terms road, avenue, place, way, lane, boulevard, highway or other thoroughfare.

7. PRIVATE STREET, EXISTING: A private street that was legally constructed , maintained, and used to provide access to lots, buildings or dwellings on the date of adoption of the private street ordinance.
8. SAFE AND UNIMPEDED ROUTE OF TRAVEL: A roadway of adequate width to accommodate the safe, two-way passage of vehicles in all weather conditions, and of sufficient construction to accommodate any fire, police, rescue, or other emergency vehicle which may be utilized by the Township or other governmental agencies.
9. TRAVELED SURFACE: The portion of a private street improved and intended to accommodate or provide for the through movement of vehicular traffic, but not including required shoulders. Traveled surface shall be measured between opposing curb faces whenever valley gutters and curbing is required or utilized.

\*See appendix illustration for examples of driveways and private streets.

#### C. Scope

Any lot or parcel of land that does not abut and have frontage on a public street shall abut and have frontage on a private street. This Section shall not apply to access streets internal to any individual lot or parcel of land as defined in this Ordinance, which has direct public street frontage access and is under the control of one person, provided that the access street does not provide access to any abutting lot. Examples of access streets that may be exempted from the provisions of this Section include those serving apartment complexes, manufactured home parks, office parks, schools and shopping centers, which are otherwise subject to site plan review and approval under the provisions of the Danby Township Zoning Ordinance.

#### D. Frontage and Access

1. Any lot created after the effective date of this amendment shall have frontage on either a public street or a private street.
2. All private streets shall have a minimum of one (1) point of access to a public street, as approved by the Township and the Ionia County Road Commission.
3. In no case shall the required frontage be measured along a driveway.

#### E. Private Street Application, Review and Approval

1. APPLICATION:
  - a) No person, public or private, shall construct a private street without first having obtained a permit from the Township Board or Planning Commission, as applicable.
  - b) Prior to consideration of a permit, an application shall be filed with the Zoning Administrator and shall contain the following:
    - 1) A completed application on a form provided by the Township. Provide the names(s) of the owners and any other parties having any legal interest in the private street, permanent parcel number or legal description of the

property, and a small site location map not to scale which shows the location of the parcel to surrounding properties and roadways within one-half mile of the site.

- 2) A detailed written description of the development to be served by the private street.
- 3) A copy of a draft maintenance agreement and proposed restrictive covenants.
- 4) For private streets serving three (3) or more lots or parcels, twelve (12) copies of the private street construction plan shall be submitted, drawn to scale, prepared by a registered surveyor or engineer. The private street plan shall show, at a minimum:
  - (i) Precise location, grade, route, elevation, dimensions, and design of the private street.
  - (ii) Any proposed future extensions of the private street.
  - (iii) Existing and proposed curb cuts.
  - (iv) Adjacent public streets which the private street is to intersect.
  - (v) A survey of the easement by a registered land surveyor, together with surveys for each parcel to be served by the private street.
  - (vi) The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private street easement or within twenty (20) feet of either side thereof. Copies of the instruments describing and granting of such easements shall be submitted with the application.
  - (vii) The location of any lakes, streams, wetlands, and drains within the proposed easement or within one-hundred (100) feet thereof.
  - (viii) The location of any other buildings and structures located, or to be located, within one-hundred (100) feet of the private street easement.
  - (ix) The name of the proposed private street(s).
  - (x) An approved permit from the Ionia County Road Commission, if the private street is to intersect with a public street.
- 5) For private streets serving only two (2) lots or parcels, twelve (12) copies of the plan shall be submitted, drawn to scale, prepared by a registered surveyor or engineer. The plan shall show, at a minimum:
  - (i) Property lines of the lots or parcels served by the private street.

- (ii) Location of the proposed private street and required easement.
- (iii) Required setback lines for all buildings measured from the easement line.
- (iv) Location of any streams, wetlands, drains, or other similar natural features that may affect or be affected by the location of the private street.
- (v) Proposed construction materials, specifications, and dimensions of the private street.
- (vi) An approved driveway permit from the Ionia County Road Commission, if the private street is to intersect with a public street.

## 2. REVIEW and APPROVAL

- a) The application for a private street, along with all other required information, shall be forwarded to the Planning Commission at its next scheduled meeting and to the Township fire department, zoning administrator, engineer, and/or planner. A copy of the proposed maintenance agreement, restrictive covenant, or other applicable legal instrument shall be forwarded to the Township attorney.
- b) For applications for private streets serving three (3) or more lots or parcels, the Planning Commission shall hold a public hearing, after establishing a date for the hearing, and providing notice of such hearing in the same manner as for Special Land Use applications, in accordance with Chapter 13. A public hearing shall not be required for applications for private streets serving only two (2) lots.
- c) The Planning Commission shall consider the request for a private street serving three (3) or more lots or parcels based on: conformance with the standards of Sec. 3.21E.2.(e), as well as the design requirements of Sec. 3.21G.2.; comments from the Township fire department, zoning administrator, engineer, planner, attorney, or other applicable staff; and all other relevant provisions of this Ordinance. The Planning Commission shall make a recommendation to the Township Board to approve, approve with conditions, or deny the private street request.

In the case of private streets serving only two (2) lots or parcels, the Planning Commission shall make the final decision, with or without conditions, based on the standards of Sec. 3.21E.2.(e) and the design requirements of Sec. 3.21G.1. The Planning Commission may also require a performance guarantee according to Sec. 15.04. An applicant may appeal the conditions or denial of a request to the ZBA.

- d) For requests for private streets serving three (3) or more lots or parcels, the Township Board shall review the application and such other information available to it including the public hearing comments or from any other sources, including recommendations and reports of the Planning Commission, and shall approve, approve with conditions, or deny the request, and state the basis for the decision and any conditions which should be imposed. The Township Board may require that the applicant comply with reasonable conditions relative to the design and construction of the private street. A performance guarantee, in accordance with Sec. 15.04 of the Zoning Ordinance, shall be required for all

private streets serving eight (8) or more lots or parcels, and any private street that is 500 or more feet in length. In all other cases, the Township Board may, as a condition of the construction permit, require that the applicant provide a performance guarantee, also in accordance with Sec. 15.04.

- e) Review Standards: Prior to approving a private street permit application, the Planning Commission or Township Board, as applicable, shall determine that the following standards have been met:
  - 1) The proposed private street will not be detrimental to the public health, safety, or general welfare.
  - 2) The proposed private street will not adversely affect the use of land.
  - 3) That the private street is constructed to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
  - 4) That the private street is constructed so as to protect against or minimize soil erosion and prevent damage to the lakes, streams, wetlands, and natural environment of the Township.
  - 5) The location, lots served, and construction of the private street will conform to the requirements of this Ordinance.

#### F. Permits

- 1. The building inspector shall not issue building permits for any residential unit or other structure on lots served by a private street until a safe and unimpeded route of travel as approved by the Township fire chief and engineer is available for emergency equipment.
- 2. The building inspector shall not issue occupancy permits for any residential unit or other structure requiring a building permit on lots served by a private street until construction has been completed, as approved.
- 3. A permit shall be obtained from the Ionia County Road Commission for any access to a public street.
- 4. A Soil Erosion and Sedimentation Control permit shall be obtained from the Ionia County Drain Commission, as may be required by the Soil Erosion and Sedimentation Control Act of 1972, as amended.
- 5. All other required permits from a State, County or Local Agency or Authority, shall be obtained.
- 6. Fees for the permits and approvals required by this Section shall be set by the Township Board from time to time by resolution. Additionally, the Township may require that the applicant(s) put sufficient funds in escrow to cover the costs of having the Township attorney, engineer, planner, and/or other professional review the private street plans, specifications, and maintenance agreements, and to do the necessary inspections.

7. The applicant(s)/owner(s) of the private street agree that by applying for or securing a permit to construct the private street that they shall indemnify and will hold the Township harmless from any and all claims for personal injury and/or property damage arising out of the use of the private street, or of the failure to properly construct, maintain, use, repair, and replace the private street.

G. Design Requirements

The following design, construction, and materials specifications are applicable to all newly established, extended or reconstructed private streets:

1. PRIVATE STREET SERVING ONLY TWO (2) LOTS OR PARCELS

- a) No private street serving only two (2) lots or parcels shall exceed three thousand nine hundred sixty (3,960) feet in length as measure along its centerline.
- b) A private street serving only two (2) lots or parcels shall have a minimum traveled surface of twelve (12) feet in width, and shall be constructed with a minimum six (6) inches of finished compacted gravel (MDOT 22A) on the top, or other material approved by the Township Engineer.
- c) An access easement shall be a minimum of sixty-six (66) feet in width or within a thirty-three (33) foot easement if subject to a permanent deed restriction to prevent further extension to any additional parcels.
- d) A six (6) inch gravel, or other material approved by the Township Engineer, shoulder depth shall be provided on each side of the drive surface with each shoulder a minimum width of two (2) feet, and containing a slope of twenty-two hundredths of one foot (0.22) from the outside edge of the drive surface to the toe of the slope.
- e) A maintenance agreement shall be entered into by the owners of both properties served by the private street, as provided in section 3.21K.3.
- f) All utilities shall be placed within the private street easement, as near as possible to the outer edge of the easement.
- g) A private street name shall not be required for a private street serving only two (2) lots or parcels.
- h) A private street serving only two (2) lots or parcels that is located along the property line of an abutting property, but does not serve that abutting property, shall not cause the abutting property to be considered a corner lot.

2. PRIVATE STREETS SERVING THREE (3) OR MORE LOTS OR PARCELS (General Provisions)

- a) Private streets shall have an easement width of not less than sixty-six (66) feet and at a dead end or cul-de-sac the easement shall widen to a minimum radius of seventy-five (75) feet. The easement shall expressly permit the installation and maintenance of public or private utilities.

- b) Private streets which terminate at a dead-end shall have a means for vehicle turnaround by use of a cul-de-sac, with a minimum radius of sixty (60) feet of improved surface, or by a continuous loop private street system, all of which must be constructed in accordance with the standards set forth in this section.
- c) The street surface shall have a minimum crown of .02 foot per foot from the centerline of the private street to the outside edge thereof.
- d) The private street shall be constructed with such stormwater runoff, culverts, and drainage contours as is required by the Township Engineer and the Ionia County Drain Commissioner to ensure adequate drainage and runoff.
- e) The method and construction technique to be used in the crossing of any natural stream, wetland, or drainage course shall satisfy the requirements of the Township Engineer and any other agency having jurisdiction thereof such as the Ionia County Drain Commissioner and Michigan Department of Environmental Quality.
- f) The maximum longitudinal street grade shall not exceed six percent (6%). The Township Board may allow up to a ten percent (10%) grade provided that the applicant produces written justification satisfactory to the Township Engineer that an increase in the street grade will not adversely affect public safety and the design of the street system(s) and the Township Engineer approves thereof in writing.
- g) The area in which the private street is to be located shall have a minimum cleared width of twenty-eight (28) feet, which clearing shall always be maintained.
- h) On any corner lot, a clear vision area shall be provided extending fifteen (15) feet back from the intersection of the right-of-way or easement lines, allowing for safe vehicular and pedestrian movement for streets.
- i) Private streets shall be constructed on a sand sub-base of at least twelve (12) inches and a top base of at least six (6) inches of MDOT 22A compacted gravel, or other material approved by the Township Engineer. The traveled surface of the private street shall be at least eighteen (18) feet wide with a six (6) inch gravel shoulder depth on each side of the private street surface with each a minimum width of two (2) feet, containing a slope of twenty-two hundredths of one foot (0.22) from the outside edge of the road surface to the toe of the slope.
- j) A clear, unobstructed envelope shall be maintained at a minimum height of fifteen (15) feet above the street surface along its entire length.
- k) The private street shall be given a name and street signs shall be installed in accordance with the standards and approval of the Ionia County Road Commission. Private streets shall have a standard stop sign where the private street abuts any public street and/or where two or more private streets abut. All required street signs shall meet the Road Commission sign standards.

- l) If a proposed private street(s) adjoins a vacant parcel(s) of land, the Township Board may require that a legally dedicated public access easement be provided to connect to the vacant parcel. In addition, a street shall be constructed according to the private street standards up to the property line. If the private street project adjoins an established private street project already containing the access easement and roadway, then the above mentioned elements shall be provided.
- m) No private street may be gated with anything that would restrict emergency vehicles from responding to an emergency situation.
- n) The layout and intersection of the private street with either a public or private street shall be such that clear vision, safe turning and travel in all directions at the posted speed limit is assured, as determined by the Township Engineer.
- o) The minimum distance between the nearest intersections of public and/or private street rights-of-way shall meet the requirements of the County Road Commission.
- p) All utilities shall be placed within the private street easement, as near as possible to the outer edge of the easement.
- q) Length of Private Streets
  - 1) Street lengths shall be measured from the edge of the public street right-of-way along the centerline of the private street to the furthest point of any private street easement. Private streets shall not exceed the maximum length without a private street access complying with this section being provided to another public street.
  - 2) Maximum private street lengths shall not be more than three thousand (3000) feet measured along a straight line perpendicular to the public road or more than three thousand nine hundred sixty (3960) feet in length as measured along the centerline of the private street.
  - 3) The Township Board, upon a finding that at least one (1) of the following conditions exists, may permit the maximum length of the private street to be exceeded. Upon reaching such finding, the Township Board shall establish the maximum permitted length of the proposed private street.
    - (i) That topography or other significant natural features preclude access to any other public street or adjoining property on which a public street may be constructed. Such significant natural features shall be clearly identified and marked on the proposed private street plans.
    - (ii) That not allowing a longer private street would result in inefficient use of land. Alternate development plans demonstrating that no other development is feasible shall be submitted by the applicant and reviewed by the Township Board prior to confirming this finding.



- (iii) That other methods of access are available such that emergency vehicles are assured a safe and unimpeded route of travel to the properties served by the private street. Such access shall be reviewed by the fire chief and the recommendation forwarded to the Township Board.
- (iv) In the interest of public health, safety, and welfare any private street exceeding eight hundred (800) feet, measured on the nearest edge of the public street easement to the center of the furthest cul-de-sac or street end, shall be provided with a vehicle turnout for the parking of an emergency vehicle and equipment which shall meet the following requirements:
  - (a) Shall be constructed of the same materials as the street surface.
  - (b) Shall be located along the shoulder of the private street at intervals not to exceed eight hundred (800) feet.
  - (c) Shall be an area of at least forty (40) feet long and twelve (12) feet wide.
  - (d) Shall be maintained in a usable condition year round, free of snow and debris.
  - (e) Shall not be used for parking or storage of non-emergency vehicles or equipment.
  - (f) A no parking sign shall be posted at each turnout, which shall contain the following: “No Parking – For Emergency Use Only.”

3. PRIVATE STREETS SERVING EIGHT (8) OR MORE LOTS OR PARCELS

- a) In addition to the standards above, a private street which is to serve eight (8) or more lots or parcels shall be provided with a paved asphalt or concrete surface. The private street shall be paved to a minimum width of twenty-four (24) feet, and shall meet the minimum construction standards for a paved road established by the Ionia County Road Commission, as amended. If the private street is to include a storm sewer system, the minimum width of the private road surface, including valley gutters and curbing, shall be twenty-eight (28) feet.
- b) Any portion of a residential street which provides direct or indirect means of access to more than fifty (50) lots or parcels shall be dedicated as a public street and shall be constructed in conformance with the then existing Ionia County Road Commission requirements and specifications for residential plat standards or similar successor regulations of Ionia County.

- c) A private street which is to serve commercial or industrial uses shall be paved and constructed to the then existing Ionia County Road Commission requirements and specifications for commercial and industrial plats or similar successor regulations of Ionia County.

H. Modification of Requirements:

Upon application, the Township Board may modify any of the private street requirements of this Section after finding that all of the following conditions exist:

- 1. Topography, soils, and/or other significant natural features physically preclude or prevent compliance with the requirements of this section without substantial alteration of such natural features. Such natural features shall be clearly identified and described in the application of any such modification.
- 2. The justification of any modification is not due solely to financial considerations which, upon approval of the requested modification, would provide a financial benefit.
- 3. That no other reasonable design alternatives are available that would comply with the requirements of this section.
- 4. That the request for modification was reviewed by the Fire Chief or Township Engineer, or any other person or official designated by the Township Board.

I. Existing Private Streets

1. STATUS OF EXISTING PRIVATE STREETS

- a) A private street existing on the effective date of this section may continue in existence and be maintained and used, though it may not comply with the provisions of this section. Such private street shall be continuously maintained so as to provide a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
- b) Private streets in existence as of the effective date of this amendment whose easement width is less than required need not provide additional easement width, but such width shall not be subsequently reduced so as to increase its noncompliance with these requirements.

2. ADDITION OF LOTS OR PARCELS TO AN EXISTING PRIVATE STREET

In the event that additional lots or parcels are created along an existing private street resulting in an increase in the number of lots or parcels served, such private street shall be treated as a new private street and shall comply with all requirements for such private street for its entire length.

3. EXTENSIONS OF EXISTING PRIVATE STREETS

- a) Any private street created in accordance with the requirements of this Ordinance and subsequently extended shall comply in all respects to this section.

- b) If a private street existing on the effective date of this section is extended, the entire private street, including the existing and new segments, shall comply with the applicable requirements of subsection G, Design Requirements.

J. Inspections/Certificate of Compliance

1. All private streets shall be periodically inspected during construction by the Township Engineer. Reasonable notification (five (5) working days) shall be given to the Township Engineer's office before commencing construction of the road.
2. Upon completion of construction of a private street, the Township Engineer, Building Inspector, Zoning Administrator or their designee shall inspect the completed construction to determine whether it complies with the approved plans, specifications, permit, and this Ordinance. All street name signs and other regulatory signs shall be installed prior to this inspection; provided street name signs shall not be installed on private streets serving only two (2) lots or parcels.
3. For a private street the applicant(s) shall, at their own expense, provide the Township with a set of as built drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit and the Ionia County Road Commission, if applicable.
4. If the Township Engineer's final inspection concludes that the private street was built in compliance with the approved plans, then a letter of the inspection results shall be forwarded to the Township Board with a recommendation to accept the street as properly completed. Upon acceptance, building permits may then be issued on the lots or parcels served.
5. If the completed private street does not satisfy the requirements of the permit or this Ordinance, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this Ordinance.
6. If, at any time during construction, a material deviation from the information provided in the plan which has received preliminary approval occurs or is anticipated to occur, the applicant shall stop construction and submit a revised plan on that portion of the private street, which materially deviates from the approved plan and consult with the Township Engineer to determine whether the deviation is material. If, in the opinion of the Township Engineer, the deviation is not material, construction may continue. If the deviation in the opinion of the Township Engineer is material, the applicant shall submit a request to materially deviate from the plan to the Planning Commission including:
  - a) A revised site plan which conspicuously identifies location and nature of the material deviation.
  - b) A written explanation of the cause of and reason justifying the material deviation.
7. Consideration of Request to Materially Deviate: Within 45 days of receipt of the written request, the Planning Commission shall hear and recommend to the Township Board

whether to permit the material deviation. If a special meeting is requested, the Township may require that the applicant pay any actual and necessary expenses for the meeting. The Township Board shall have the final authority to approve, approve with conditions, or deny the request.

8. Stop Work Orders: The Township Supervisor, Building Inspector, Engineer, Zoning Administrator or their designee shall have authority to stop construction of any portion of a private street which, in that person's opinion, materially deviates from the application or if the construction creates any unnecessary and unreasonable disturbance beyond the limits of construction.

K. Maintenance and Repairs

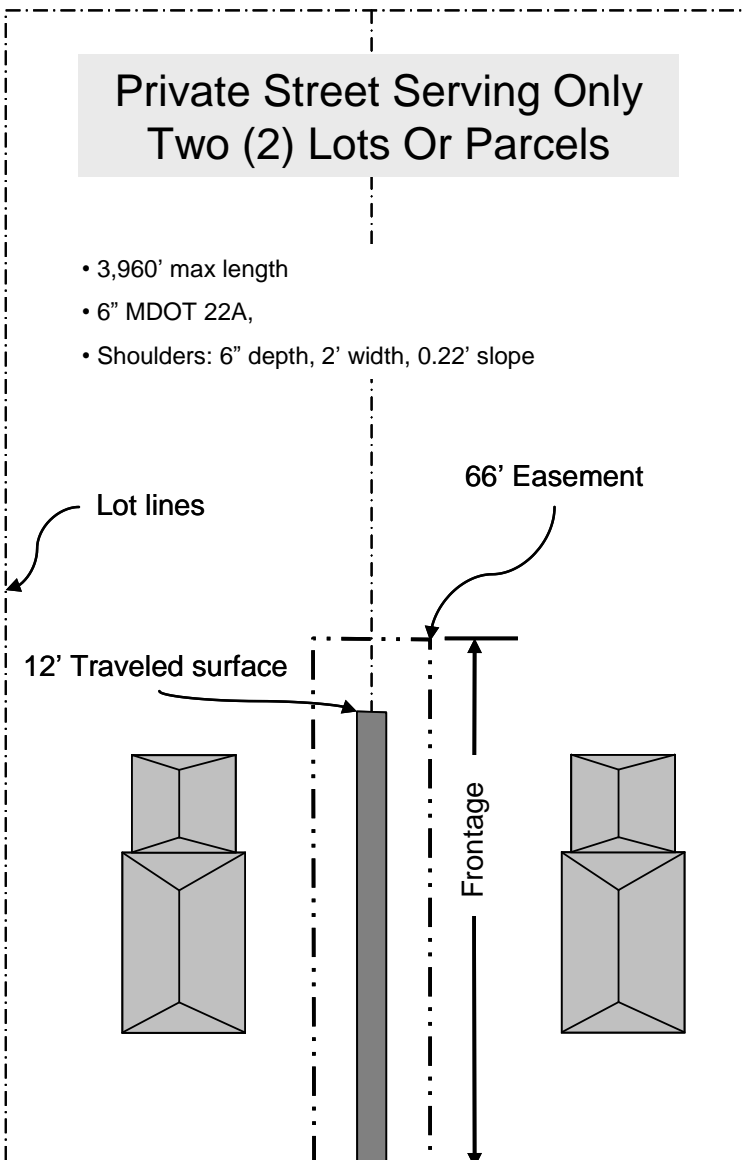
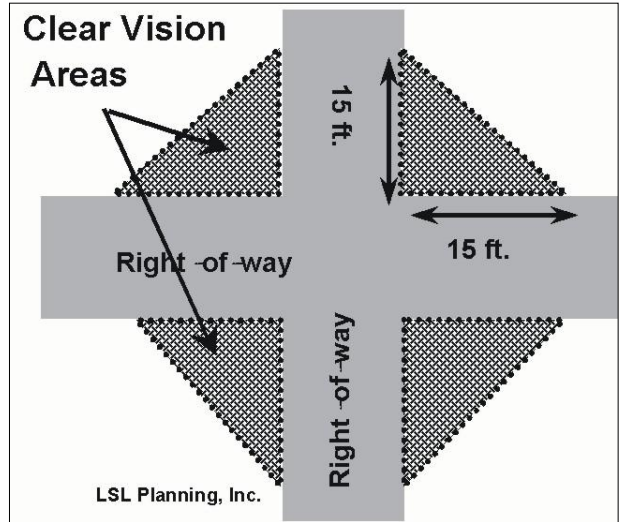
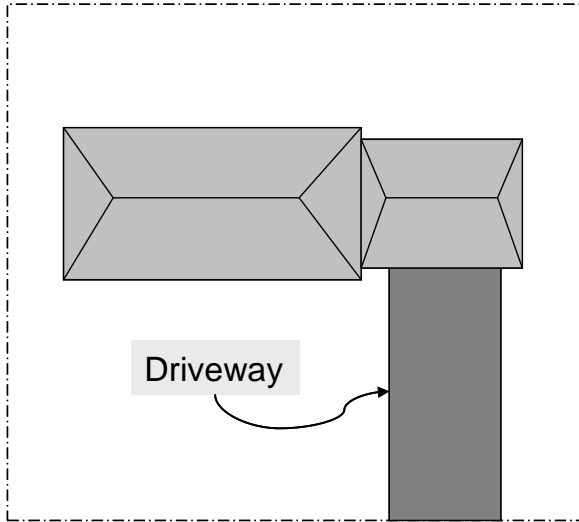
Private streets shall be maintained in a manner that complies with the provisions of this section.

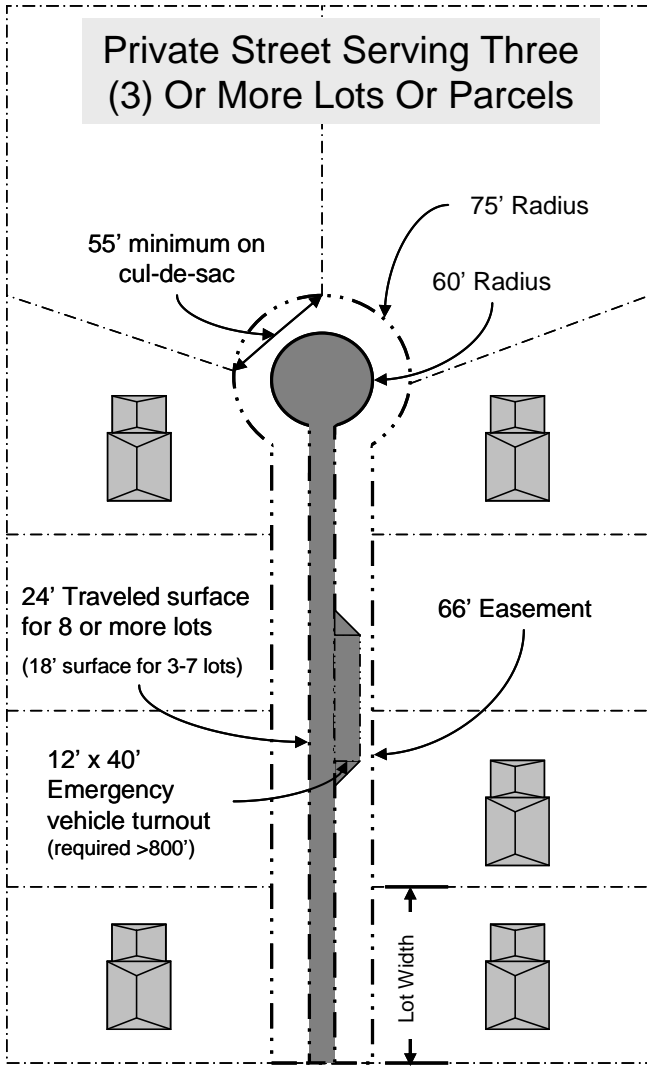
1. All private streets shall be continuously maintained in such a way that they will not constitute a danger to the health, safety, and welfare of the inhabitants of the Township and will assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians, and emergency vehicles in all weather conditions.
2. All costs for maintenance and repair of the private street shall be the responsibility of the property owners or any property owners association served by the private street.
3. Private street maintenance or restrictive covenant agreements.
  - a) The applicant(s)/owner(s) of the proposed private street easement shall provide the Township Board with a recordable maintenance agreement or restrictive covenant between the owner(s) of the easement and any other parties having any interest therein, or other documentation satisfactory to the Township Board that shall provide for and assure that the private street shall be regularly maintained, repaired, and snow plowed at all times and the cost thereof paid.
  - b) The applicant(s)/owner(s) agree, by filing an application for and receiving a permit under this Ordinance that they will assure that any building or parcels thereafter created or constructed on the private street shall also be subject to the street maintenance or restrictive covenant agreement and that said agreement shall be recorded and shall run with the land. A copy of said agreement shall be furnished to the Township Board and approved by the Township Attorney prior to the issuance of the permit.
  - c) The maintenance agreement or restrictive covenant agreement shall additionally contain the following provisions:
    - (i) A method of financing such street and/or easements in order to keep the street in a reasonably good and useable condition.
    - (ii) A workable method of apportioning the costs of maintenance and improvements.
    - (iii) A notice that no public funds are to be used to build, repair, or maintain the private street, including road cuts, curb and gutter, or other

improvements that may be required at the entry of the private street onto a public road.

- (iv) Easements to the public for purposes of public and private utilities, or access for emergency and other public vehicles for whatever public services are necessary.
- (v) A provision that the owners of any and all of the property using the private street shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family guests, invitees, tradesmen, employees, and others bound to or returning from any of the properties having a right to use the street.
- (vi) A method of apportioning any costs of street improvement required under this ordinance occasioned by an extension of the private street.
- (vii) A requirement that any future amendments to the maintenance agreement, easement agreement, master deed and/or deed restrictions shall be provided to the Township and shall be recorded with the Ionia County Register of Deeds.
- (viii) A provision placing on notice all future purchasers, mortgagees and others with possible interest in the property that development on the property is subject to the terms of the Danby Township Private Street regulations and issuance of building permits for development on the property may be contingent on full compliance with the terms of the Private Street regulations.
- (ix) Applicant must provide parcel number and legal description of all parcels that have legal access to the private street easement.

(Amended 2-22-07)





- May use "loop" instead of cul-de-sac
- 0.02 foot-per-foot slope from centerline to edge of surface
- 6% max grade
- 28' min cleared area within easement
- 12" sand sub-base, 6" top MDOT 22A
- Shoulders: 6" depth, 2' width, 0.22' slope
- 15' high clear area above street surface
- Street name & stop signs required
- 300' min between streets (private or public)
- 3,960' max length
- No parking sign for turnout
- Shall not serve more than 49 lots

### **Section 3.22 Site Condominium**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon provided the unit meets the use and District Regulations for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the Planning Commission in accordance with Chapter 11.
- D. Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
  - 1. The Zoning Administrator and the Township Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the Township Board, on condition that the developer deposit with the Township Clerk cash, a certified check, or an irrevocable bank letter of credit running to the Danby Township, whichever the developer selects, in an amount as determined from time to time by resolution of the Township Board.
  - 2. The 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.
  - 3. If the developer defaults, the Township Board shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- E. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
  - 1. 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.
  - 2. The developer shall dedicate to the Danby Township, Ionia County, or such other public agency, as applicable, all easements for utilities. Water, sewer and electrical easements may be placed within public rights-of-way, subject to the approval of the Township Engineer.
  - 3. All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance and other applicable ordinances of the Danby Township and Ionia County.

(Added 12/15/05)



**Section 3.23                      Temporary Dwellings**

- A.     The Zoning Administrator may issue a temporary land use permit for a temporary dwelling in any district where single-family dwellings are permitted provided that the following determinations are fulfilled.
  - 1.     The temporary dwelling will be used only as a temporary residence on the same lot or parcel on which a permanent residence is being constructed and only for the duration of the construction or the time period for which the permit is issued, whichever is less.
  - 2.     The temporary dwelling shall be:
    - a)     a manufactured home located on the lot or parcel on which a permanent dwelling is being constructed; or
    - b)     an existing dwelling located on a lot or parcel on which a new permanent dwelling is being constructed and after such construction is completed the original dwelling will be demolished or otherwise removed from the property; or
    - c)     a recreational vehicle such as a trailer, motor home, camper, or similar wheeled vehicle located on the lot or parcel on which a permanent dwelling is being constructed.
  - 3.     Upon applying for a temporary land use permit, the applicant shall pay an application fee, as established by the Township Board, along with other fees or guarantees as may be required.
  - 4.     The temporary land use permit shall be limited to a period of twelve (12) months. If the permanent residence is not completed within this period, the Zoning Administrator may grant one (1) extension of up to six (6) additional months; provided a request for such extension is received by the Township, in writing, prior to the expiration of the original permit period. If construction is not completed within the initial or extended time period, the Township shall cause to have the temporary dwelling removed.
  
- B.     The Zoning Administrator may issue a temporary land use permit for a temporary dwelling during construction of a permanent dwelling, only when the following conditions are met:
  - 1.     For a temporary manufactured home, the following shall apply:
    - a)     The temporary manufactured home shall be certified by the manufacturer or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, (effective June 15, 1976) as amended, or any similar successor or replacement standards which may be promulgated.
    - b)     The temporary manufactured home shall be a minimum of fourteen (14) feet wide at its narrowest dimension and shall contain at least six hundred (600) square feet of living area.

- c) The temporary manufactured home location shall be approved by the Zoning Administrator.
  - d) The proposed location of the temporary manufactured home will not be detrimental to property within three-hundred (300) feet of the parcel intended to be the location of the temporary dwelling.
  - e) Proposed water supply and sanitary sewer facilities shall have been approved by the Ionia County Health Department.
  - f) The temporary manufactured home shall be removed within ninety (90) days of the issuance of a Certificate of Occupancy for the new dwelling.
  - g) Both dwellings shall not be occupied at the same time.
  - h) In addition to the application fee, the applicant shall post a bond, cash deposit, or other financial guarantee acceptable to the Township Board, in accordance with the provisions of section 15.04 of this Ordinance in the amount of one-thousand dollars (\$1,000.00). In the event the temporary manufactured home is not removed as required, the Township may use any or all of the guarantee to have the manufactured home removed.
2. For a temporary existing dwelling to be replaced, the following shall apply:
- a) The location of the new dwelling shall meet all required setbacks for the district.
  - b) Water supply and sanitary sewer facilities shall have been approved by the Ionia County Health Department.
  - c) The existing dwelling shall be removed from the property within ninety (90) days of the issuance of a Certificate of Occupancy for the new dwelling.
  - d) Both dwellings shall not be occupied at the same time.
  - e) The applicant shall submit a written statement describing the method to be used for removing the existing dwelling.
  - f) A written bid shall be submitted from a qualified contractor quoting the cost for the removal or demolition of the existing dwelling.
  - g) In addition to the application fee, the applicant shall post a bond, cash deposit, or other security acceptable to the Township Board, in accordance with the provisions of section 15.04 of this Ordinance. The financial guarantee shall be in an amount at least equal to the quoted cost for removing the existing dwelling, plus ten percent (10%). In the event the temporary home is not removed as required, the Township may use any or all of the guarantee to have the home removed.
3. For a recreational vehicle occupied during construction of a permanent dwelling, the following shall apply:

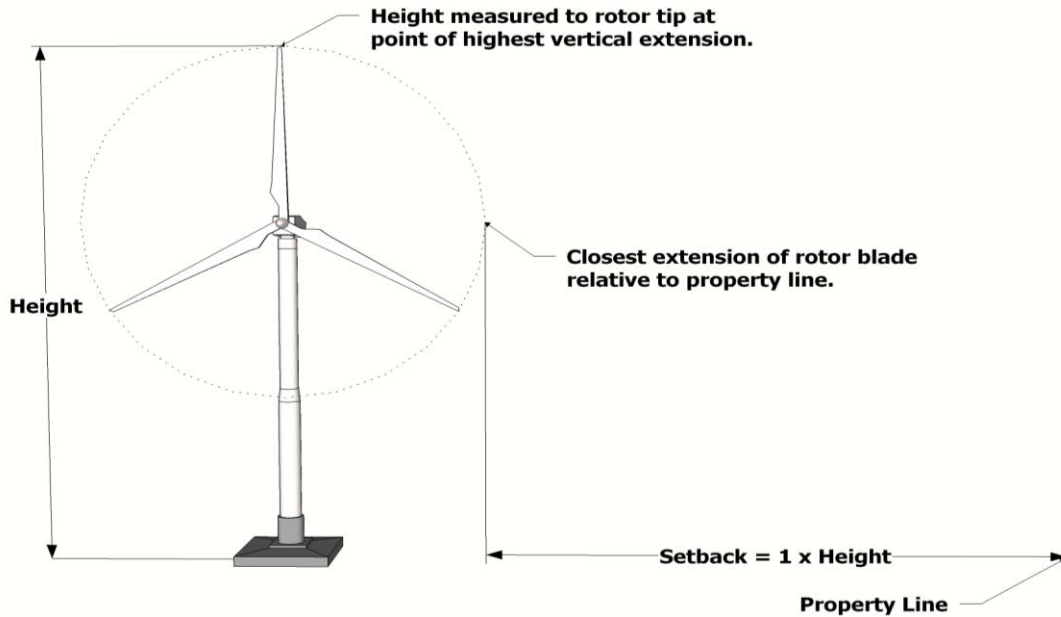
- a) The vehicle shall be licensed and registered, in compliance with the Michigan Motor Vehicle Code and has properly inflated tires and working signals and brake lights.
  - b) The vehicle shall be designed for sleeping.
  - c) The recreational vehicle location shall be approved by the Zoning Administrator.
  - d) Both dwellings shall not be occupied at the same time.
  - e) Proposed water supply and sanitary sewer facilities shall have been approved by the Ionia County Health Department.
  - f) The recreational vehicle shall be removed, or stored in accordance with the provisions of this Ordinance, within thirty (30) days of the issuance of a Certificate of Occupancy for the new dwelling.
- C. The Zoning Administrator may attach reasonable conditions to ensure that the requirements of this Section are met.
- D. A Recreational Vehicle such as a trailer, motor home, camper, or similar wheeled vehicle may otherwise be used as a temporary dwelling for recreational purposes or seasonal occupancy, provided:
- 1. A temporary use permit shall be issued by the Zoning Administrator for use of a recreational vehicle as a temporary dwelling and a fee paid, as established by the Township Board for occupancy of more than thirty (30) days.
  - 2. The vehicle shall be licensed and registered, in compliance with the Michigan Motor Vehicle Code and has properly inflated tires and working signals and brake lights.
  - 3. The vehicle shall be located on a lot or parcel on which there is a permanent principal dwelling.
  - 4. The vehicle shall be designed for sleeping and camping and shall contain, at a minimum, portable sanitary facilities.
  - 5. A permit shall be issued for sixty (60) days in the first instance, and a ninety (90) day extension may be granted by the zoning administrator so long as the requirements of this section continue to be met.
  - 6. The vehicle shall be located within the rear yard and shall not be located closer to the side lot line than required for a principal building.

(Added 1/19/06)

**Section 3.24 Wind Energy Conversion Systems**

- A. Purpose: This section establishes requirements and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) shall be governed within Danby Township.

- B. Definitions: all definitions related to WECS are found under “Wind Energy Conversion Systems” in Section 2.22, Definitions – W.
- C. Review Requirements:
1. An On-Site Service WECS shall be allowed as an accessory use in any zoning district, subject to the requirements of this Section. On-site service WECS shall be subject to the general requirements of this Section as well as Site Plan Review, as required in Chapter 11.
  2. Commercial WECS and WECS Testing Facilities associated with a Commercial WECS are a special land use in the AG Agricultural District and the RR Rural Residential District and are subject to the general requirements of this Section as well as the general standards for Special Land Uses in Chapter 13, Section 13.04 and the specific standards in Chapter 13, Section 13.07, W.
- D. General Requirements for all WECS
1. WECS Height: The height of a WECS shall be the distance measured between the ground (at normal grade) and the highest point of the WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).
  2. WECS Setback. Setbacks shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic). No part of a WECS (including guy wire anchors, if present) shall be located within or above any required setback.
  3. No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
  4. Except as required for commercial WECS, there shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed near the base of the tower or to the nacelle. No sign shall exceed three (3) square feet in area.
  5. There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
  6. The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
  7. A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.
  8. A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.



**Measuring WECS Height and Setback**

9. The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to Township ordinances.
  10. All WECS installations shall comply with applicable ANSI (American National Standards Institute), NEC (National Electric Code) and National Building Code standards.
  11. A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months or longer.
- E. On-Site Service WECS:
1. On-Site Service WECS Test Facility. The Zoning Administrator may issue a permit to erect a test facility for testing if adequate wind potential exists on the site proposed for an on-site service WECS, provided that the tower meets the height maximum and setback requirements for an on-site service WECS on the same site. The WECS Test Facility permit shall be valid for a period of up to one (1) year.
  2. On-site Service WECS General Requirements:
    - a. Power rating of the on-site service WECS turbine shall not be greater than 50 kW.
    - b. The on-site service WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company, through net metering, of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
    - c. An existing and approved on-site service WECS may be repaired and maintained; however, a WECS may only be replaced with a new or replacement

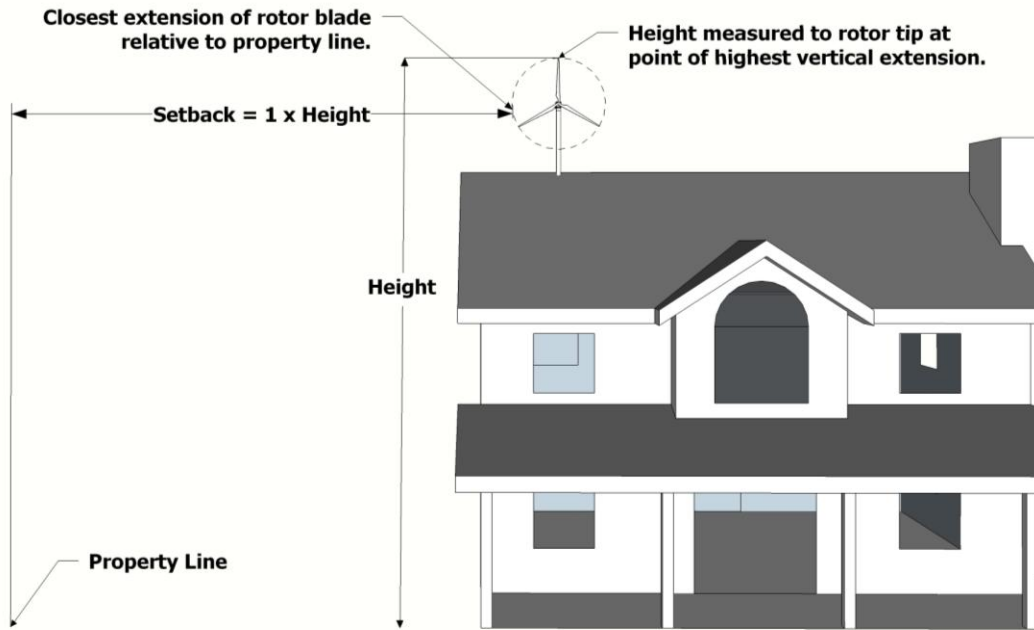
WECS upon approval of the Zoning Administrator, subject to a finding that the new WECS is of the same or lesser height, rotor diameter, setback, etc. as the WECS it replaces. Any new or replacement WECS that is larger in any respect than the one it replaces must be approved via the Site Plan Review process. For the purposes of this paragraph, a “new or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.

3. Ground-Mounted On-Site Service WECS

- a. There shall be no more than one (1) ground mounted on-site service WECS per parcel or lot.
- b. The on-site service WECS shall be located on the property so that it is set back from the nearest property line a distance equal to the WECS height, measured to the closest vertical extension of the rotor blade relative to the property line (see illustration).
- c. Lot Area. The on-site service WECS height shall be limited by available setbacks as required in paragraph b, above; however, no WECS height shall exceed fifty (50) feet on a property less than one (1) acre in area; seventy-five (75) feet on a property at least one acre but less than three (3) acres in area; or one hundred (100) feet on a property three (3) acres in area or greater.
- d. The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
- e. The minimum rotor blade tip clearance from any structure shall be twenty (20) feet.
- f. The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
- g. The tower used to support a WECS shall be adequately anchored meeting applicable codes and standards, as certified by an engineer.

4. Building Mounted On-Site Service WECS

- a. There may be more than one (1) on-site service WECS mounted on a single building; however, each individual WECS shall meet all of the requirements in this subsection, and each WECS shall be separated from any other WECS no less than ten (10) feet, measured between the maximum extension of the rotors.
- b. The diameter of the rotor shall not exceed twenty (20) feet.



#### Building Mounted WECS Height and Setback

- c. The WECS height shall not exceed the maximum height for principal buildings in the district, plus fifteen (15) feet.
  - d. The WECS shall be mounted so that it is set back from the nearest property line(s) a distance equal to the combined height of the WECS and the height of the portion of the structure on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).
  - e. The mount and the structure used to support a building mounted WECS shall meet applicable codes and standards, as certified by an engineer.
5. Approval of On-Site Service WECS
- a. All on-site service WECS shall be reviewed and approved through the site plan review process, as outlined in Chapter 11.
  - b. Discretionary Conditions: The Planning Commission and the Township Board may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any on-site service WECS. Such other terms and conditions may include, but are not limited to, the following:
    - i. The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
    - ii. The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.

- iii. Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
- iv. Requiring a performance guarantee in the form of a bond or letter of credit, in favor of the Township, and conditioned upon the timely and faithful performance of all required conditions of the site plan approval, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. Such performance guarantee shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

(Added 11/19/09)



## Chapter 4: Zoning Districts - General

### Section 4.01 Districts Established

For the purposes of this Ordinance, Danby Township is hereby divided into the following Zoning Districts:

Zoning District Designation		Chapter
AG	Agricultural District	5
RR	Rural Residential District	6
R-1	Low Density Residential District	7
MHP	Manufactured Home Park District	8
C-1	General Commercial District	9
I-1	Light Industrial District	10

### Section 4.02 District Boundaries

- A. Boundaries - The boundaries of the districts listed in Section 4.01 are hereby established as shown on the Danby Township Zoning Ordinance Map, which is part of this Ordinance.
- B. Interpretation of District Boundaries - Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules shall apply:
1. Boundaries indicated as approximately following the centerlines of streets, roads, highways, or alleys shall be construed to follow such centerlines.
  2. Boundaries indicated as approximately following platted lot lines or Township limits shall be construed as following such lot lines or Township limits.
  3. Boundaries indicated as following railroad lines shall be construed to be the midpoint between the main tracks.
  4. Boundaries indicated as parallel to or extensions of features indicated in Section 4.02, B, 1, 2, and 3, shall be so construed. The scale of the map shall determine distances not specifically indicated on the Zoning Map.
  5. Where physical or natural features existing on the ground differ from those shown on the Zoning Map, or in other circumstances not covered by this Section, the Zoning Board of Appeals shall interpret the district boundaries.
  6. For the sake of map clarity, various districts may not cover public rights-of-way. It is intended that such district boundaries extend to the center of any public right-of-way.

### Section 4.03 Zoning of Vacated Areas

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the District to which it attaches. If a vacated area is bordered by two (2) different Districts, the area is divided along a line half way between, unless the Township Board shall otherwise designate.

## **Chapter 5: Agricultural (AG) District**

### **Section 5.01 Purpose**

This District is intended to provide for the continuation and preservation of the existing general farming and related activities in the Township. The regulations for this District recognize the need to conserve and protect existing farms, and to provide areas where agriculture is best suited. Further the regulations of this Chapter shall be used to discourage untimely and scattered residential and commercial development in areas where food production is taking place.

### **Section 5.02 Permitted Uses**

No land or buildings in the AG District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. Crop farming
- B. Animal or fowl husbandry
- C. Single family detached dwellings
- D. State licensed residential family care facilities
- E. Churches and accessory uses
- F. Roadside stands
- G. Public Parks, playgrounds, playfields and other public uses of an open space recreational character
- H. Greenhouses and nurseries
- I. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 5.03 Special Land Uses**

No land or buildings in the AG District may be used, erected, altered, or converted except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Mining of natural resources
- B. Veterinary hospitals and clinics
- C. Home based businesses
- D. Wireless communication towers
- E. Clubs, lodges, and fraternities including but not limited to gun and shooting clubs, and riding clubs for exclusive use of its members
- F. Golf courses and country clubs
- G. Adult foster care group homes

- H. Public or private schools
- I. Municipal buildings and facilities
- J. Recreational camps of a private non-commercial character
- K. Raising of fur bearing animals or game birds
- L. Migratory labor housing associated with agricultural enterprises and constructed in conformance with applicable State and Federal Regulations
- M. Airports, landing fields, and heli-ports
- N. Riding stables
- O. Commercial campgrounds
- P. Racetracks, miniature golf courses, and golf driving ranges
- Q. Bed and breakfast establishment
- R. Processing of agricultural products, not raised or grown on the property, for use finishing, or assembly off-site; provided this shall not include: canneries, slaughterhouses, or tanneries.
- S. Mini-storage warehouses
- T. An Open Space Development pursuant to Section 3.20
- U. Two-family dwelling units
- V. Planned Unit Development (added 12/15/05)
- W. Commercial wind energy conversion systems (WECS) and WECS Testing Facilities associated with a Commercial WECS.

**Section 5.04 Site Development Requirements**

All Permitted Uses and Special Uses are subject to the following Site Development Requirements:

- A. General Provisions outlined in Chapter 3.
- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may be required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.
- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Lot Width to Lot Depth Ratio. All lots or parcels created by either platting, lot splitting, land contract, leasehold, or any other legal means, including site condominium, shall have a lot depth

which does not exceed four (4) times the average width of the lot. In accordance with Section 109 (1) (b) of the Land Division Act, this ratio does not apply to the remainder of the parent parcel or parent tract retained by the proprietor (applies only to land divisions). (Amended 5/31/07)

G. All dwellings shall contain a minimum floor area in accordance with the following, unless otherwise specified in this Ordinance:

1. Single family dwellings, seven hundred sixty (760) square feet of living space.
2. Two-family dwellings, seven hundred twenty (720) square feet of living space for each unit.

<b>Agricultural (AG) District</b>	
Minimum Lot Size	1 acre
Minimum Lot Width	110 feet
Front Yard Setback	40 feet
Side Yard Setback	15 feet
Rear Yard Setback	40 feet
Maximum Height of all buildings*	45 feet
Maximum Lot Coverage*	20%

\*Except for buildings associated with farming or other agricultural operations.



## **Chapter 6: Rural Residential (RR) District**

### **Section 6.01 Purpose**

This District is intended to provide for single family residential living environment and to foster stable, high quality neighborhoods free from other uses that are incompatible with residential uses. The regulations for this district provide large enough parcels to sustain a healthy on-site water supply and liquid wastewater disposal. Through this District, low density residential development will be permitted through the construction and occupancy of single family dwellings on large urban lots.

### **Section 6.02 Permitted Uses**

No land or buildings in the RR District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. Single family detached dwellings
- B. State licensed residential family care facilities
- C. Churches and accessory uses
- D. Roadside stands
- E. Public parks, playgrounds, playfields and other public uses of an open space recreational character
- F. An Open Space Development pursuant to Section 3.20
- G. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 6.03 Special Land Uses**

No land or buildings in the RR District may be used, erected, altered, or converted except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Golf courses and country clubs
- B. Veterinary hospitals and clinics
- C. Adult foster care group homes
- D. Group day care homes
- E. Public or private schools
- F. Municipal buildings and facilities
- G. Home based businesses
- H. Clubs, lodges, and fraternities, including but not limited to, gun and shooting clubs for exclusive use of its members

- I. Multiple family dwellings
- J. Convalescent homes, housing for the elderly, and nursing homes
- K. Private non-commercial recreation for the use of the property owner, and not for fee or commercial gain
- L. Two-family dwelling units
- M. Planned Unit Development (Added 12/15/05)
- N. Commercial wind energy conversion systems (WECS) and WECS Testing Facilities associated with a Commercial WECS.

**Section 6.04 Site Development Requirements**

All Permitted Uses and Special Uses are subject to the following Site Development Requirements:

- A. General Provisions outlined in Chapter 3.
- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.
- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Lot Width to Lot Depth Ratio. All lots or parcels created by either platting, lot splitting, land contract, leasehold, or any other legal means, including site condominium, shall have a lot depth which does not exceed four (4) times the average width of the lot. In accordance with Section 109 (1) (b) of the Land Division Act, this ratio does not apply to the remainder of the parent parcel or parent tract retained by the proprietor (applies only to land divisions). (Amended 5/17/07)
- G. All dwellings shall contain a minimum floor area in accordance with the following, unless otherwise specified in this Ordinance:
  - 1. Single family dwellings, seven hundred sixty (760) square feet of living space.
  - 2. Two-family dwellings, seven hundred twenty (720) square feet of living space for each unit
- H. All multiple family dwellings shall comply with the following minimum floor area requirements:
  - 1. Four hundred eighty (480) square feet of floor area living space for each one (1) bedroom unit.
  - 2. Six hundred (600) square feet of floor area living space for each two (2) bedroom unit.
  - 3. Seven hundred twenty (720) square feet of floor area living space for each three (3) bedroom unit.



4. Seven hundred twenty (720) square feet of floor area living space, plus one hundred (100) square feet for each additional bedroom for units with more than three (3) bedrooms.

<b>Rural Residential (RR) District</b>	
Minimum Lot Size	1 acres
Minimum Lot Width	110 feet
Front Yard Setback	40 feet
Side Yard Setback	15 feet
Rear Yard Setback	40 feet
Maximum Height of all buildings*	35 feet
Maximum Lot Coverage*	20%

\*Except for buildings associated with farming or other agricultural operations.



## **Chapter 7: Low Density Residential (R-1) District**

### **Section 7.01 Purpose**

This District is intended to provide areas for the preservation and establishment of residential neighborhoods. Lot sizes are small, and may eventually allow for public sewer and water service. The district will promote a higher density residential environment, at the same time preserving those natural features that are important to the character of the Township.

### **Section 7.02 Permitted Uses**

No land or buildings in the R-1 District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. Single family detached dwellings
- B. State licensed residential family care facilities
- C. Public parks, playgrounds, playfields and other public uses of an open space recreational character
- D. An Open Space Development pursuant to Section 3.20
- E. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 7.03 Special Land Uses**

No land or buildings in the R-1 District may be used, erected, altered, or converted except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Group day care homes
- B. Adult foster care group homes
- C. Churches
- D. Convalescent homes, housing for the elderly, and nursing homes
- E. Private non-commercial recreation for the use of the property owner, and not for fee or commercial gain
- F. Two-family dwelling units
- G. Planned Unit Development (Added 12/15/05)

### **Section 7.04 Site Development Requirements**

All Permitted Uses and Special Uses are subject to the following Site Development Requirements:

- A. General Provisions outlined in Chapter 3.

- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.
- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Lot Width to Lot Depth Ratio. All lots or parcels created by either platting, lot splitting, land contract, leasehold, or any other legal means, including site condominium, shall have a lot depth which does not exceed four (4) times the average width of the lot. In accordance with Section 109 (1) (b) of the Land Division Act, this ratio does not apply to the remainder of the parent parcel or parent tract retained by the proprietor (applies only to land divisions). (Amended 5/31/07)
- G. All dwellings shall contain a minimum floor area in accordance with the following, unless otherwise specified in this Ordinance:
  - 1. Single family dwellings, seven hundred sixty (760) square feet of living space.
  - 2. Two-family dwellings, seven hundred twenty (720) square feet of living space for each unit.

<b>Low Density Residential (R-1) District</b>	
Minimum Lot Size	1 acre, unless public water and sewer serves the lot, then 15,000 square feet shall be permitted
Minimum Lot Width	110 feet, unless public water and sewer serves the lot or if an approved private water and sewer system is in place, then 85 feet may be permitted
Front Yard Setback	40 feet
Side Yard Setback	15 feet
Rear Yard Setback	40 feet
Maximum Height of all buildings*	35 feet
Maximum Lot Coverage*	25%

\*Except for buildings associated with farming or other agricultural operations.

## **Chapter 8: Manufactured Home Community (MHP) District**

### **Section 8.01 Purpose**

To provide for manufactured home park development, of long-term duration of stay, in areas that are appropriate by means of traffic access and public utilities and services. Public water and sewer facilities, or a suitable alternative method shall be provided for each development. Any such development is to be located near essential community services and abutting public roads. All manufactured home parks shall comply with the applicable requirements of Public Act 419 of 1976, as amended, and Public Act 96 of 1987, as amended.

### **Section 8.02 Permitted Uses**

Land and buildings in this District may be used for the following purposes, by right:

- A. Manufactured homes when located within an approved manufactured home park
- B. Public parks, playgrounds, play fields, and similar public open space recreation uses, not including campgrounds
- C. Community Centers
- D. Single family detached dwellings
- E. State licensed residential family care facilities.
- F. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 8.03 Regulations**

All manufactured home parks shall comply with the applicable requirements of Act 419, P.A. 1976 as amended provided further that said developments meet the standards and conditions and all other provisions as herein established.

### **Section 8.04 Installation and Occupation of Manufactured Homes**

- A. No manufactured home shall be placed, parked, or installed in a manufactured home park until such time as a building permit is obtained from the Township Building Inspector.
- B. No manufactured home shall be occupied by any person as a residence, or for any other purpose until such time as said manufactured home is placed or situated on a specific lot in the manufactured home park. Further, such home shall be inspected by the Township Building Inspector and issued an Occupancy Permit.
- C. Such inspection shall include the placement, connection to utilities, and compliance with all necessary State or Township ordinances and regulations. Such permit shall be issued by the Building Inspector on payment of inspection fee as may be authorized by resolution of the Township Board from time to time.
- D. In the event said manufactured home is moved to another lot or another manufactured home is placed on the specific lot, a new Occupancy Permit must be obtained by the owner or resident from the Township Building Inspector.

**Section 8.05 Application Procedures**

Any application for the extension, alteration, or construction of a manufactured home park shall be accompanied by a site plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said site plan shall be in conformance with the provisions and requirements of Chapter 11, of this Ordinance.

**Section 8.06 Standards and Regulations**

- A. Each manufactured home park shall have at least one (1) access to a County Class “A” road, as defined by the Ionia County Road Commission. Additional access points may be required by the Township as necessary to accommodate additional traffic and safety vehicle access.
- B. No access to the site shall be located closer than two hundred (200) feet from the intersection of any two (2) arterial streets. Minimum street widths within the manufactured home park shall be accordance with the following schedule:

<b>Permitted On-Street Parking</b>	<b>Street Direction</b>	<b>Minimum Street Width</b>
No on-street parking permitted	one way	13 feet
	two way	21 feet
Parallel parking on one side of the street	one way	23 feet
	two way	31 feet
Parallel parking on both sides of the street	one way	33 feet
	two way	41 feet

- C. No manufactured home or other building for residential purposes shall be in excess of two and one-half (2½) stories, or exceed a height of twenty five (25) feet, whichever is greater.
- D. The manufactured home development shall be developed with sites averaging 5,500 square feet per manufactured home unit. This 5,500 square feet for any one (1) site may be reduced by twenty (20) percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R125.1946, Rule 946 and R125.1941 and R 125, 19944, Rules 941 and 944 of the Michigan Administrative Code.
- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Each lot shall front on concrete sidewalks at least three (3) feet in width, located directly next to, and parallel to the street.
- G. Each lot shall provide a minimum of four hundred (400) square feet for parking.

- H. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be at least one (1) shade tree provided for every other lot.
- I. The manufactured home park shall provide a buffer zone strip separating the manufactured home park from adjacent property. In the following manner:
  - 1. If a manufactured home development abuts an existing residential development, the park shall be required to provide screening along the boundary abutting the residential development.
  - 2. If the development abuts a non-residential development, it need not provide screening.
  - 3. In all cases, however, a development shall provide screening along the boundary abutting a public right-of-way.
  - 4. The landscaping shall consist of evergreen trees or shrubs at least three (3) feet in height at the time of planting which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured home development, both visually and audibly, as effectively as the required landscaping described above.
- J. The manufactured home park shall have minimum setback from any public street of fifty (50) feet, which shall be properly landscaped as required by the Planning Commission.
- K. All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO standards for public streets.
- L. The manufactured home park shall contain two (2) percent of its gross area, or 25,000 square feet, whichever is greater as open space.
- M. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than fifteen hundredths (0.15) foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than five hundredths (0.05) foot candles. All on-site lighting shall be located and designed to prevent light from spilling onto adjacent properties.
- N. All common use areas of the manufactured home park shall be maintained by the owner of such park or by their designated agent.

**Section 8.07 Utility Standards**

- A. All utilities shall be underground.
- B. All lots shall be provided with a public water and sanitary sewer service, or such water and sanitary services that may be approved by the Ionia County Health Department, or other applicable agencies.
- C. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the Michigan Department of Health. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the Ionia County Drain

Commissioner. On site storm water retention shall be provided so that the rate of discharge shall not exceed undeveloped discharge rates.

**Section 8.08 Manufactured Home Standards**

- A. Every manufactured home shall be installed per Rules 602 and 602a of Michigan Administrative Code.
- B. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of seven hundred and twenty (720) square feet of floor area, exclusive of porches, decks, carports, garages, and cabanas.
- C. Each manufactured home lot shall have no more than one (1) detached storage building, not including a garage or carport.

**Section 8.09 Manufactured Home Sales**

- A. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc., as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.
- B. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in the Zoning Ordinance, provided such sales and occupations are permitted by the park regulations. A commercial manufactured home sales lot shall not be permitted in this District.

**Section 8.10 General Development Standards**

All Uses in this district are subject to the following requirements:

- A. General Provisions outlined in Chapter 3.
- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may be required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.



## **Chapter 9: General Commercial (C-1) District**

### **Section 9.01 Purpose**

This District is intended to provide areas for the establishment of retail sales and personal service uses, catering to the general public, as well as the residents of Danby Township. The uses in the District will remain small in scale to be well integrated into a rural setting, and possess appropriate traffic safety components that will limit potential negative impacts resulting from adjacent non-residential uses. These areas will be generally located near Interstate 96.

### **Section 9.02 Permitted Uses**

No land or buildings in the C-1 District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. Retail sales uses conducted entirely within an enclosed building, and where no assembly, treatment, or manufacturing takes place on site
- B. Banks, credit unions, and other financial institutions with no drive-through facilities
- C. Restaurants with no drive-through facilities
- D. Personal service uses including but not limited to, barber shops and beauty salons, shoe repair, electronics repair, or dry cleaning and laundry service
- E. Medical offices including clinics
- F. Hospitals
- G. Commercial schools including art, business, music, dance, professional, and trade
- H. Assembly buildings including dance pavilions, auditoriums, and private clubs
- I. Health and physical fitness salons
- J. Warehouses with a floor area of ten thousand (10,000) square feet or less
- K. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 9.03 Special Land Uses**

No land or buildings in the C-1 District may be used, erected, altered, or converted except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Vehicle service establishments
- B. Open-air businesses
- C. Lumber yards and building material sales areas
- D. Funeral homes and mortuaries

- E. Veterinary hospitals and clinics
- F. Wireless communication towers
- G. Drive-through facilities for uses including, but not limited to, restaurants, banks and other financial institutions, and personal service establishments like dry-cleaning pick-up stations and pharmacies
- H. Salvage yards and recycling centers
- I. Billboards
- J. Mortuaries and funeral homes
- K. Vehicle Wash Establishment
- L. Public or private business schools or colleges
- M. Commercial recreation facilities such as indoor theaters, bowling alleys, indoor skating rinks, billiard parlors or similar uses
- N. Commercial enterprises producing merchandise on the premises to be sold at retail and/or wholesale
- O. Warehouses with a floor area greater than ten thousand (10,000) square feet
- P. Hotels and motels
- Q. Building supply and equipment establishments
- R. Greenhouses and plant nurseries selling retail
- S. Mini-storage warehouses
- T. Permit mini-storage facilities in the C-1, Commercial District
- U. Planned Unit Development (Added 12/15/05)

**Section 9.04 Site Development Requirements**

All Permitted Uses and Special Uses are subject to the following Site Development Requirements:

- A. General Provisions outlined in Chapter 3.
- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may be required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.

- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Lot Width to Lot Depth Ratio. All lots or parcels created by either platting, lot splitting, land contract, leasehold, or any other legal means, including site condominium, shall have a lot depth which does not exceed four (4) times the average width of the lot. In accordance with Section 109 (1) (b) of the Land Division Act, this ratio does not apply to the remainder of the parent parcel or parent tract retained by the proprietor (applies only to land divisions). (Amended 5/31/07)

<b>General Commercial (C-1) District</b>	
Minimum Lot Size	2 acres
Minimum Lot Width	200 feet
Front Yard Setback	50 feet
Side Yard Setback	20 feet
Rear Yard Setback	30 feet
Maximum Height of all buildings	35 feet
Maximum Lot Coverage	30%



## **Chapter 10: Light Industrial (I-1) District**

### **Section 10.01 Purpose**

This District is intended primarily for light industrial uses and the processing, fabrication, and assembly of goods or products to be sold to the general public generally at a different location. These areas will provide manufacturers with sites close to primary roads for ease of transportation and away from residential areas to minimize potential incompatibilities. Due to the lack of potential for the Township to provide public utilities like water and sanitary sewer, the uses that locate in this District should be limited to low density industrial uses that would not depend heavily on extensive public services.

### **Section 10.02 Permitted Uses**

No land or buildings in the LI District shall be used, erected, altered, or converted, in whole or in part, except for the following purposes by right:

- A. Research and development facilities, including production activities
- B. Assembly of processed goods
- C. Laboratories (experimental, film, research, or testing)
- D. Converted paper and paperboard products
- E. Printing, publishing, and allied industries
- F. Warehousing facilities
- G. On-site service wind energy conversion systems (WECS), per Section 3.24

### **Section 10.03 Special Land Uses**

No land or buildings in the LI District may be used, erected, altered, or converted except for the following purposes when approved in accordance with the requirements of Chapter 13:

- A. Salvage yards and recycling centers
- B. Sexually oriented businesses
- C. Transportation terminals
- D. Wireless communication towers
- E. Tool, die, gauge, and machine shops
- F. Vehicle repair establishments
- G. Vehicle service establishments
- H. Open air businesses

- I. Billboards
- J. Planned Unit Development (Added 12/15/05)

**Section 10.04 Site Development Requirements**

All Permitted Uses and Special Uses are subject to the following Site Development Requirements:

- A. General Provisions outlined in Chapter 3.
- B. Site Plan Review as may be required in accordance with Chapter 11.
- C. Off-Street Parking as may required in accordance with Section 12.01.
- D. Signs are permitted in accordance with the requirements of Section 12.02.
- E. See Section 3.12 for General Provisions applicable to Accessory Buildings and Uses.
- F. Lot Width to Lot Depth Ratio. All lots or parcels created by either platting, lot splitting, land contract, leasehold, or any other legal means, including site condominium, shall have a lot depth which does not exceed four (4) times the average width of the lot. In accordance with Section 109 (1) (b) of the Land Division Act, this ratio does not apply to the remainder of the parent parcel or parent tract retained by the proprietor (applies only to land divisions). (Amended 5/31/07)

<b>Light Industrial (I-1) District</b>	
Minimum Lot Size	2 acres
Minimum Lot Width	200 feet
Front Yard Setback	50 feet
Side Yard Setback	30 feet
Rear Yard Setback	40 feet
Maximum Height of all buildings	45 feet
Maximum Lot Coverage	35%

## **Chapter 10A: PUD - Planned Unit Development**

### **Section 10A.01 Intent**

Planned Unit Development in Danby Township may be established as a Special Land Use when approved by the Township Board in accordance with the procedures specified herein. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this Chapter permits the relaxation of the conventional requirements found in other zoning districts. The use of land and the construction and use of buildings and other structures as Planned Unit Development shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Chapter.

### **Section 10A.02 Qualifying Conditions**

Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for the PUD District:

- A. The PUD site shall be not less than ten (10) acres in area. If the PUD is to contain a mixture of residential and non-residential uses, the minimum required area shall be forty (40) acres. Recreational amenities such as golf courses and health clubs, and ancillary commercial activities such as club houses and pro shops, shall not be considered non-residential uses for purposes of this section.
- B. All PUDs shall be capable of being adequately served with public or private water and sanitary sewer facilities.
- C. The tract of land for which a PUD application is received must be either in one (1) ownership or the subject of an application filed jointly by the owners, or by person(s) with legal interest, of all properties.
- D. The proposed uses of the PUD must be consistent with the recommended uses and densities of the Danby Township Basic Zoning Plan for the subject property.
- E. A minimum of twenty-five (25) percent of the PUD site shall be preserved as common open space, exclusive of rights-of-way, easements, required yards, parking areas, storm water detention basins, and commercial recreational facilities such as golf courses.

### **Section 10A.03 Permitted Uses and Modifications of District Requirements**

- A. Any use permitted by right or special approval in any district shall be permitted within a PUD; provided such use(s) conforms to the recommendations of the Danby Township Basic Zoning Plan for the subject property.
- B. The area, width, and setback requirements of the underlying zoning district may be reduced up to a maximum of fifty (50) percent; provided Ionia County Health Department approval is obtained for on-site water and septic systems, if applicable. Further, any reduction in required lot area

shall result in a corresponding increase in common open space (one (1) square foot of additional open space for each one (1) square foot of reduced lot area) in addition to the minimum twenty-five (25) percent required for all PUDs.

**Section 10A.04 Pre-application Conference**

- A. A pre-application conference may be held with the Planning Commission for the purpose of determining the eligibility of the request for consideration as a PUD.
- B. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time with the Planning Commission. As part of the pre-application conference, the applicant shall submit nine (9) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.
- C. The Planning Commission shall advise the applicant of the conformance of the PUD concept with the intent and objectives of PUDs in the Township, whether it qualifies under the minimum requirements of Section 10A.02 and whether the general concept is consistent with the Basic Zoning Plan. In no case shall any representations made by the Planning Commission be construed as an endorsement of the PUD or an approval of the concept.

**Section 10A.05 PUD Application and Preliminary Development Plan**

Applicants seeking approval of a PUD District shall submit a complete application for review and a preliminary development plan to the Zoning Administrator who shall schedule a date and time for a public hearing and Planning Commission review. The application shall include the following:

- A. A completed application form, supplied by the Zoning Administrator.
- B. Payment of a fee, as established by the Township Board.
- C. A narrative statement describing:
  - 1. The objectives of the PUD and how it relates to the Intent of the PUD District, as described in Section 10A.01.
  - 2. The relationship of the PUD to the Basic Zoning Plan.
  - 3. Phases of development and approximate time frame for each phase.
  - 4. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
  - 5. Anticipated start and completion of construction.
  - 6. Location, type, and size of areas to be dedicated for common open space.
- D. Fifteen (15) copies of a preliminary development plan. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the following:



1. Name of development, applicant's name, name and address of firm and individual who prepared the plan, scale, and north arrow.
2. Property lines, dimensions of all property lines, and size of the PUD (and individual phases) in acres.
3. Existing zoning and land use of all abutting properties.
4. Existing natural features on the site including water, stands of trees, drainage ways, flood plains, wetlands, steep slopes, and similar features.
5. Existing buildings on the site.
6. Proposed uses and their approximate locations.
7. Right-of-way and pavement edges of existing streets abutting the PUD.
8. Approximate locations of proposed access drives and streets within the PUD.
9. Proposed method of providing water, sanitary sewer, and storm water drainage facilities.
10. Layout and typical dimensions of proposed lots.
11. Approximate phases of development.
12. Proposed residential density by area or phase.

**Section 10A.06 Notice and Public Hearing for PUD**

- A. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the Zoning Act. The notice shall:
  1. Describe the nature of the proposed PUD.
  2. Describe the property which is the subject of the PUD application, by both legal description and street address.
  3. State the time, date, and place of the public hearing.
  4. State when and where written comments will be received concerning the application.
- B. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD, for the purpose of receiving public comment on the application.

**Section 10A.07 Planning Commission Recommendation**

Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the Basic Zoning Plan, compatibility with surrounding uses, and consistency with the intent and qualifying conditions of this Chapter and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the PUD request. In its recommendation to the Board, the Planning Commission shall include the reasons for such

recommendation, specifically citing appropriate standards and sections of the Ordinance and identify those specific conditions, if any, it considers necessary.

#### **Section 10A.08 Township Board Action**

After receiving the recommendation of the Planning Commission and following the standards of Section 10A.07, the Township Board shall review the application package, preliminary development plan, the record of the Planning Commission proceedings and the recommendation. The Board shall then make its findings as to approval, approval with conditions, or denial. An approval with conditions shall not be considered final until the applicant submits a written acceptance of the conditions and all necessary revisions to the final development plan are submitted to the Township Board and approved.

#### **Section 10A.09 PUD Application and Final Development Plan**

Within twelve (12) months of the Township Board's approval of the PUD district and the preliminary development plan, the applicant shall submit a request for final PUD approval. Such application shall consist of the following.

- A. A completed application form, supplied by the Zoning Administrator.
- B. Payment of a fee, as established by the Township Board.
- C. A written response to the findings, review comments, and conditions, if any, from the Planning Commission's review of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
- D. A site plan containing all of the information required in Section 11.02D. For developments consisting of three (3) or more phases, a plan meeting the requirements of 10A.05 D may be submitted for the overall PUD and a detailed plan as required for final development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.

#### **Section 10A.10 Planning Commission Review of Final Development Plan**

- A. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and the conditions, if any, of the PUD district approval. If it is determined that the final plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Sections 10A.06 – 10A.08.
- B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the criteria of Sec. 10A.11.
- C. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
- D. The decision of the Planning Commission may be appealed to the Township Board, which shall review the record of the proceedings, along with all materials submitted, and shall make its decision in accordance with the standards of Sec. 10A.11.

**Section 10A.11 Standards for Approval**

A PUD shall be approved only if it complies with each of the following standards:

- A. The proposed PUD complies with all qualifying conditions of Sec. 10A.02.
- B. The uses to be conducted within the proposed PUD are consistent with the Basic Zoning Plan.
- C. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- D. The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety, or welfare of the community.
- E. The proposed project is consistent with the spirit and intent of the PUD District, as described in Sec. 10A.01 and represents a development opportunity for the community that could not be achieved through conventional zoning.
- F. The proposed PUD meets all the review standards of Section 11.04, Site Plan Review Standards.

**Section 10A.12 PUD Agreement**

Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Township in recordable form, setting forth the applicant's obligations with respect to the PUD. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the Township Board. The agreement shall also establish the remedies of the Township in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Ionia County Register of Deeds.

**Section 10A.13 Changes to an Approved PUD**

Changes to an approved PUD shall be permitted only under the following circumstances:

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 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 final development plan that is replaced by similar landscaping to an equal or greater extent.

4. Changes in floor plans, of up to five (5) percent of the total floor area, 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.
  6. Changes required or requested by the Township, County, State or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application.
- D. The Zoning Administrator shall notify the Planning Commission, in writing, of any minor changes to a PUD that have been approved.

**Section 10A.14 Time Limit for Approved PUD District**

Each development shall be under construction within one (1) year after the date of approval of the PUD final development plan, except as noted in this Section.

- A. The Township Board may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the PUD and provided that:
1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
  2. The PUD requirements and standards, including those of the Zoning Ordinance and Basic Zoning Plan, which are reasonably related to the development have not changed.
- B. Should neither of the provisions of Section 10A.14A. be fulfilled, or an extension has expired without construction underway, the PUD approval shall be null and void.

**Section 10A.15 Financial Guarantee**

In accordance with section 15.04, the Township Board may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.

## Chapter 11: Site Plan Review

### Section 11.01 Site Plan Review Procedures

- A. The purpose of this Chapter is to consider and evaluate the applicant's planned objectives in the utilization of land and to ensure compliance with the regulations of this Ordinance.
- B. Uses Subject to Site Plan Review. No Building Permit for any proposed use or building or any other improvement requiring a site plan shall be issued until a Site Plan has been reviewed and approved under the following procedure:
  - 1. The following uses shall be subject to Site Plan Review in accordance with the provisions of this Section.
    - a) All land uses, new construction, new uses established, or additions to existing buildings in excess of twenty five (25) percent of the gross floor area of the main building in the MHP, C-1, and I-1 Districts, EXCEPT the following:
      - 1) Single family dwellings
      - 2) Temporary buildings and uses
      - 3) Accessory uses or structures
    - b) All new construction of nonresidential and non-agricultural uses, or additions to existing buildings serving nonresidential and non-agricultural uses in excess of twenty-five (25) percent of the gross floor area of the building in the AG, RR and R-1 districts. Construction of new accessory structures or expansion of accessory structures in excess of twenty-five (25) % of the gross floor area of the building, serving nonresidential uses in the above listed districts, are also subject to site plan review.
    - c) Special land uses in any zone district.
  - 2. All uses for which site plan review is not required under Section 11.01, B, 1, Single Family Dwellings, Temporary Buildings and Uses, and Accessory Uses or Structures, shall be subject to review by the Zoning Administrator. Such review shall be limited to ensuring that the proposed use conforms to the applicable setbacks, yards, parking, and other specific Zoning Ordinance requirements.

(Amended 7-23-09)

### Section 11.02 Application Procedures

- A. An application for Site Plan Review shall be submitted at least thirty (30) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator, who will review the application materials to ensure that the requirements of Section 11.02, C, and 11.02, D, are met, then transmit the application and materials to the Planning Commission.
- B. Review comments shall be submitted by such departments and consultants to the Planning Commission for consideration prior to the meeting at which the request is to be considered.
- C. An application for Site Plan Review shall consist of the following:
  - 1. An application form provided by the Township, completed by the property owner, or

their authorized agent.

2. Ten (10) copies of the Site Plan.
3. Payment of a fee, in accordance with a fee schedule, as determined by Township Board resolution.
4. A legal description, including the permanent parcel number, of the subject property and a boundary survey map.
5. Based on the scope and size of the development, the Planning Commission may request a traffic study and environmental impact assessment.

D. **Site Plan Requirements.** Site Plans shall be prepared in a neat and orderly manner, drawn to a scale, showing the existing and proposed arrangement of the site, and shall include the following information unless specifically waived by the Planning Commission:

1. Small sketch of streets and use of land within one-quarter (1/4) mile of the subject property.
2. Existing adjacent streets and proposed streets and existing curb cuts within one hundred (100) feet of the property.
3. All lot lines with dimensions.
4. Parking lots and access points.
5. Existing and proposed vegetation and landscaping.
6. 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.
7. Location and size of any signs.
8. Existing and proposed buildings, including existing buildings or structures within one hundred (100) feet of the boundaries of the property. If no buildings are within one hundred (100) feet the property lines, the use of the adjacent property shall be indicated.
9. Except for manufactured home developments, general topographical features including existing contours at intervals no greater than five (5) feet.
10. Dwelling unit densities by type, if applicable.
11. Proposed method of providing sewer and water service, as well as other public and private utilities.
12. Proposed method of providing storm drainage.
13. Name, address, and phone number of applicant.
14. Name, address, phone number, of the individual responsible for preparing the plan.

### **Section 11.03 Review Procedure**

- A. The Planning Commission shall review the Site Plan, along with any comments submitted by agencies, departments or consultants, 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.
- B. The Planning Commission shall recommend to the Township Board approval, denial, or approval with conditions any site plan it reviews based on the requirements of this Ordinance, and specifically the review standards of Section 11.04.
- C. The Site Plan shall be forwarded to the Township Board with any additional findings of the Planning Commission, and its recommendation before the Township Board's next scheduled meeting. The Township Board shall review the findings and recommendation of the Planning Commission, consider the review standards of Section 11.04, and shall approve, deny, or approve with conditions the Site Plan.
- D. No petition submitted for Site Plan review which has been denied, shall be resubmitted for a period of one (1) year from the date of denial, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

**Section 11.04 Site Plan Review Standards**

All 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:

- A. The relationship of uses proposed will not adversely affect the public health, safety, or welfare.
- B. 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.
- C. Safe, convenient, uncongested, 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.
- D. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall provide a safe and efficient circulation system for traffic within Danby Township.
- E. 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 may require that landscaping, buffers, or greenbelts be preserved or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
- F. The general purposes and spirit of this Ordinance and the Land Use Plan of Danby Township shall be maintained.

**Section 11.05 Approved Plans and Amendments**

- A. Upon approval of the Site Plan, the Township Clerk shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Township's files; one (1) copy shall be forwarded to the Zoning Administrator for issuance of a Zoning 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 Site Plan, except as noted in this Subsection.
- C. The Township Board may grant one (1) extension of up to an additional one (1) year period if the applicant applies for such extension prior to the date of the expiration of the Site Plan and provided that:
  - 1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant.
  - 2. The site plan requirements and standards, including those of the Zoning Ordinance and land Use Plan, that are reasonably related to said development have not changed.
- D. Should neither of the provisions of Section 11.05, C, be fulfilled, or an extension has expired without construction underway, the Site Plan approval shall be null and void.
- E. Amendments to an approved Site Plan may take effect only after the applicant has submitted an amended site plan for review and approval as required by this Chapter for new site plans.



## Chapter 12: Off-Street Parking and Sign Requirements

### Section 12.01 Off-Street Parking and Loading Provisions

#### A. General Requirements

1. Off-street parking for all nonresidential zone districts and uses shall be either on the same lot, or within three hundred (300) feet of the building or use it is intended to serve, as measured from the nearest public entrance of the building to the nearest point of the off-street parking lot.
2. The storage of merchandise or products, motor vehicles displayed for sale, or the repair of vehicles is prohibited in any off-street parking lot.
3. Residential off-street parking spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. Such parking spaces shall occupy no greater than forty percent (40%) of the required front yard.
4. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal facilities are provided elsewhere, in compliance with this Section.
5. No building shall be permitted to change use, be enlarged, or expanded until the required number of spaces have been constructed, or waived under subsection 12.01, A, 8, below.
6. Off-street parking existing at the effective date of this Ordinance, or amendment thereto, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for a similar new building or new use.
7. (2) or more buildings or uses may collectively provide the required off-street parking.

#### B. Parking Lot Design Standards

1. Minimum dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

Parking pattern	Two-way aisle width	One-way aisle width	Parking space width	Parking space length
Parallel Parking	18 feet	12 feet	10 feet	25 feet
30-75 degree angle	24 feet	12 feet	10 feet	21 feet
76-90 degree angle	24 feet	15 feet	10 feet	20 feet

2. Minor adjustments of the dimensions prescribed in this Section may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.
3. All parking lots shall be constructed with a durable and dustless surface, and properly maintained at all times.

4. All parking lots shall be constructed so as to permit proper drainage and prevent excessive ponding or storage of water within the lot. Drainage shall be in accordance with the requirements of Danby Township and the Ionia County Drain Commission.
5. All parking lots shall be provided with adequate lighting. Parking lot lighting shall be shielded so as to prevent light from spilling onto adjacent properties.

C. Off-Street Parking Requirements

1. Required off-street parking spaces are noted in the table below for the uses listed. For those uses not specifically mentioned, the requirements for off-street parking shall be in accord with a use that the Zoning Administrator considers similar in type.
2. When units of measurement determining the number of required off-street parking spaces result in the requirement of a fractional space that fraction shall require one (1) parking space.
3. The minimum number of off-street parking spaces shall be determined in accordance with the following tables:

Use	<b>PARKING SPACE PER UNIT OF MEASUREMENT</b>
<b>Institutional</b>	
Churches	One (1) space for each 3 seats in the main unit of worship; or one (1) space for each 6 feet of pew length, whichever is less.
Group day care homes and group foster care homes	One (1) space for each 4 clients, plus one (1) space for each employee
Schools, elementary and middle	One and one-half (1.5) spaces for each classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary and institutions of higher learning	One (1) space for each 8 students, plus One and one-half (1.5) spaces for each classroom, plus amount required for auditorium or gymnasium seating
<b>Commercial</b>	
Beauty/barber shop	Three (3) spaces for each chair
Funeral homes and mortuary establishments	One (1) space for each fifty (50) square feet of usable floor area
Open air businesses and roadside stands	One (1) space for each two hundred (200) square feet of indoor floor area, plus one (1) space for each 1,000 square feet of outdoor display area
Personal service establishments	One (1) space for each fifty (50) square feet of usable floor area
Restaurants - without drive-through facilities	One (1) space for each one-hundred (100) square feet of usable floor area; or one (1) space for each 2 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each two-hundred (200) square feet of usable floor area; or one (1) space for each 3 persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	One (1) space for each two-hundred (200) square feet of usable floor area

<b>Offices</b>	
Banks, credit unions, and other similar financial institutions	One (1) space for each one-hundred fifty (150) square feet of usable floor area, plus 3 spaces for each non-drive through automatic teller machine.
Medical and dental offices and clinics	One (1) space for each seventy-five (75) square feet of waiting room area, plus one (1) space for each examining room, dental chair, or similar use area.
Professional offices	One (1) space for each three hundred (300) square feet of gross floor area.
<b>Industrial</b>	
Manufacturing, processing, assembly, and research establishments	One (1) space for each employee working during the largest shift
Warehouses	One (1) space for each 2,000 square feet of gross floor area, plus those spaces required for offices located on the premises

**D. Off-Street Loading Requirements**

1. On the same premises with every building or structure involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained adequate space for loading and unloading. This space shall be placed so as to avoid undue interference with public use of dedicated rights-of-way and parking areas.
2. In the C-1 District all loading spaces shall be located in the rear yard in the ratio of at least ten (10) square feet per front linear foot of building, and shall be computed separately from off-street parking requirements.
3. In the I-1 District:
  - a) At least one (1) loading space shall be provided for each twenty thousand (20,000) square feet of floor area, or fraction thereof. All loading spaces shall be at least twelve feet by seventy feet (12' x 70'), and a minimum fourteen (14) feet clearance above shall be provided.
  - b) All loading spaces shall be off the street, and in the rear yard or interior side yard.
4. All dedicated loading spaces shall be provided with a pavement having an asphalt or portland cement binder so as to provide a permanent, and durable surface.

**Section 12.02 Sign Regulations**

- A. This section is intended to protect and further the health, safety, and welfare of the residents of Danby Township; to maintain and improve the appearance of Danby Township; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. These regulations are further intended to provide reasonable identification for businesses and other uses within the community, but are not intended to serve as a means of advertising.

B. Sign Definitions

1. **BILLBOARD:** A sign that advertises an establishment, product, service, or activity not available on the premises on which the sign is located, and which is subject to the Highway Advertising Act. (Amended 5/31/07)
2. **DIRECTIONAL SIGN:** A sign that gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
3. **FREESTANDING SIGN:** A sign supported on poles not attached to a building or wall.
4. **GOVERNMENT SIGN:** A temporary or permanent sign erected by Danby Township, Ionia County, or the state or federal government.
5. **GROUND SIGN:** A sign resting directly on the ground or supported by short poles not attached to a building or wall.
6. **OFF PREMISES SIGN:** A sign advertising and giving directions to a use, but which is not located on the same lot or parcel as the use, and which is not subject to the Highway Advertising Act. (Added 5/31/07)
7. **PLACARD:** A sign not exceeding two (2) square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
8. **POLITICAL SIGN:** A temporary sign used in connection with a noncommercial message or an official Danby Township, school district, county, state, or federal election or referendum.
9. **PORTABLE SIGN:** A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.
10. **READER BOARD:** A portion of a sign on which copy is changed manually.
11. **REAL ESTATE SIGN:** A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
12. **SIGN:** A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
13. **WALL SIGN:** A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than twelve (12) inches from the exterior face of the wall to which it is attached.
14. **WINDOW SIGN:** A sign installed inside a window and intended to be viewed from the outside.

C. General Sign Provisions

1. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a Zoning Permit. The following signs shall not require a Zoning Permit:
  - a) Directional signs of six (6) square feet in size or less
  - b) Government signs
  - c) Placards
  - d) Window signs
  - e) Political signs
2. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition that impairs legibility or intelligibility.
3. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
4. Signs may be internally illuminated or if externally illuminated, except for home occupation signs that shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
5. No sign shall be placed in, upon, or over any public right-of-way, alley, or other public place, except as may be otherwise permitted by this Section.
6. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
7. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
8. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light, provided variable time-temperature signs may be permitted.
9. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.

D. Exempted Signs. The following signs shall be exempt from the provisions of the Danby Township Zoning Ordinance, except for the provisions of Section 12.02, C:

1. Government signs
2. Historical markers and Memorial signs or tablets
3. Window signs
4. Murals
5. Signs not visible from any street

6. Signs for essential services
7. Placards not exceeding two (2) square feet
8. Signs with address, owner, or occupant name, of up to two (2) square feet in area attached to a mailbox, light fixture or exterior wall.
9. Flags or insignia of any nation, state, Township, community organization, or educational institution.
10. Political Signs.

E. Units of Measurement

1. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other 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 only the structure necessary to support the sign.
2. The area of a freestanding or ground sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
4. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

F. Sign Regulations Applicable to All Zoning Districts

1. All freestanding signs shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground. . Ground signs shall not exceed a height of six (6) feet as measured from the ground to the highest point of the sign or supporting structure. (Amended 5/31/07)
2. Real estate signs shall be removed within thirty (30) days after completion of the sale or lease of the property.
3. Construction signs are permitted within any zone district, subject to the following restrictions:
  - a) Construction signs shall not be erected until a Building Permit has been issued for the project that is the subject of the proposed sign and construction activity has begun.

- b) Construction signs shall be removed within fifteen (15) days of the issuance of any Occupancy Permit for the building or structure that is the subject of the construction sign.
4. Off premises signs are permitted within any zone district, subject to the following restrictions:
- a) A use may have one (1) off premises sign, which shall be reviewed and approved by the Planning Commission.
  - b) The applicant must show a need for the off premises sign, which the Planning Commission shall consider in its review. A proven need will meet the following minimums:
    - 1) The premises upon which the use is located does not have frontage upon, or visibility from, a county primary road or state trunkline, according to the Ionia County Road Commission road classification system;
    - 2) The off premises sign will be located on a premises with frontage on a county primary road.
  - c) The sign shall contain only the name of the use and a directional arrow.
  - d) Maximum size is six (6) square feet and shall be no higher than six (6) feet.
  - e) The sign shall be located only on private property, in any zoning district, and may only be erected in a front yard at least fifteen (15) feet from any property line.
  - f) Written permission of the property owner upon which the off premises sign will be located is required.
  - g) No property shall have more than one (1) off premises sign, and the off premises sign shall count towards the sign allotment for the property on which it is located. A mid-block business may have one off premises sign at each end of the block.

(Added 5/31/07)

G. Signs in each Zoning District shall be subject to the following regulations:

<b>AG, RR, R-1, and MHP Zoning Districts - Permitted Signs</b>	
<b>Ground signs for residential subdivisions, manufactured home parks, schools, or other nonresidential uses allowed in the district</b>	
Number	One (1) per major entrance
Size	No greater than thirty-two (32) square feet
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet

<b>Signs for home occupations</b>	
Number	One (1) per lot or parcel
Size	No greater than four (4) square feet
Location	On wall of principal building facing street, or in the front yard at least fifteen (15) feet from any property line if approved by the Planning Commission. (Amended 5/31/07, 12/18/08)
<b>Signs for home based businesses</b>	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	On the wall of the building in which the use takes place, or in the front yard placed no closer than one-half (½) the required front yard setback from the front property line.
<b>Signs for nonresidential uses</b>	
Number	One (1) per street frontage
Size	No greater than five (5) percent of the wall area to which the sign is affixed.
Location	On wall of building facing street
<b>Real estate signs</b>	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet for developed properties or lots; thirty-two (32) square feet for vacant lots or parcels
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
<b>C-1 and I-1 Zoning Districts - Permitted Signs</b>	
<b>Ground signs</b>	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than sixty-four (64) square feet
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than six (6) feet
<b>Freestanding signs</b>	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
Size	No greater than sixty (60) square feet
Location	Minimum of fifteen (15) feet from any property line
Height	No higher than twenty (20) feet, with a minimum clearance of eight (8) feet between the ground and the bottom of the sign.



<b>Wall signs</b>	
Number	One (1) per street frontage
Size	No greater than ten (10) percent of the wall area to which the sign is affixed, not-to-exceed a maximum sign area of one hundred (100) square feet.
Location	On wall of building facing street
<b>Real estate signs</b>	
Number	One (1) per lot or parcel
Size	No greater than sixteen (16) square feet; thirty-two (32) square feet for vacant lots or parcels
Location	Minimum of fifteen (15) feet from any side or rear property line
Height	No higher than six (6) feet
<b>Billboards are permitted in the C-1 and I-1 districts only</b>	
Billboards shall be permitted as a principal use with Special Land Use approval (see Section 14.07, C) in the C-1 and I-1 Districts, and only as provided for in the Highway Advertising Act, being Act 106 of 1972, as amended.	



## **Chapter 13: Special Land Uses**

### **Section 13.01 Purpose**

This Chapter provides a set of procedures and standards for special uses of land or structures that, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards, herein, are designed to allow practical latitude for the applicant, at the same time maintain adequate provisions for the protection of the health, safety, convenience, and general welfare of Danby Township. For purposes of this Ordinance, all Special Land Uses within the various districts are subject to the conditions and standards of this Chapter. In addition, the following uses shall conform to the specific standards cited in Section 13.07, as applicable.

### **Section 13.02 Application Procedures**

Application for a Special Land Use permit shall be made to the Zoning Administrator and shall include the following:

- A. Ten (10) copies of a site plan containing the information required by Section 11.02.
- B. A completed application form as required by Section 11.02, Application Procedures for Site Plan Review.
- C. Payment of an application fee, which shall be non-refundable, as established from time to time by resolution of the Township Board.

### **Section 13.03 Notification, Hearing, and Review Procedures**

- A. Notification. Upon receipt of an application for a Special Land Use permit, the Zoning Administrator shall cause:
  1. A notice to be published in a newspaper that circulates in the Township, that a request for Special Land Use approval has been received.
  2. Send by mail or personal delivery a notice of Special Land Use request to the owners of the property for which the request is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupant of all structures within three hundred (300) feet regardless of whether the property or occupant is located in the zoning jurisdiction.
  3. The notice shall be given not less than fifteen (15) days before the date of the public hearing.
  4. If the name of the occupant is not known, the term “occupant” may be used in making notification.
  5. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, the occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different

individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance of the structure.

6. The notice shall:
  - a) Describe the nature of the request.
  - b) Indicate the property which is the subject of the special land use request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - c) State when and where the request shall be considered.
  - d) Indicate when and where written comments will be received concerning the request.
- B. Following notice, the Planning Commission shall hold a public hearing on the Special Land Use permit application.
- C. The Planning Commission shall make its recommendation of approval, approval with conditions, or denial of the special land use permit request to the Township Board. The Planning Commission shall base its recommendation upon the review and consideration of materials submitted with the application and the applicable standards of this Chapter.
- D. If the Township Board finds the request meets all required standards, they shall approve the Special Land Use request.

#### **Section 13.04 General Standards For Approval**

- A. The Township Board shall approve, or approve with conditions, a Special Land Use permit request only upon a finding that all of the following general standards for approval are complied with:
  1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
  2. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, and schools. Adequate water and sewer facilities must be available.
  3. The use does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.

- 4. The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.
  - 5. The site plan proposed for such use demonstrates compliance with the specific design standards for the special land use as contained in Section 13.07.
- B. The basis for the decision, including conditions imposed on any approval, shall be kept and made a part of the Township Board minutes.
  - C. No request for Special Land Use approval that has been denied shall be resubmitted for one (1) year following such disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

**Section 13.05 Conditions of Approval**

- A. The Township Board may impose reasonable conditions in conjunction with approval of a Special Land Use permit that are deemed necessary to ensure compliance with the general standards for approval in Section 13.04 and the Specific Design Standards of Section 13.07.
- B. Conditions shall be imposed in a manner in accordance with the Michigan Zoning Enabling Act.

**Section 13.06 Approval Term and Expiration**

A Special Land Use permit, including conditions imposed, is attached to, and shall run with the land for which the permit is granted. The Special Land Use permit shall be binding upon subsequent owners and all occupants of the subject land. However, a time limit for the Special Land Use may be imposed as a condition of approval.

**Section 13.07 Special Land Use Specific Design Standards**

The following Special Land Uses shall be subject to the requirements of the District in which located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

- A. Adult foster care group homes
- B. Billboards
- C. Churches
- D. Clubs, lodges, and fraternities, including but not limited to, gun and shooting clubs, for the exclusive use of its members
- E. Drive-through facilities for uses including, but not limited to, restaurants, banks and other financial institutions, and personal service establishments like dry-cleaning pick-up stations and pharmacies
- F. Funeral homes and mortuaries
- G. Golf courses and country clubs

- H. Group day care homes
- I. Home based businesses
- J. Lumber yards and building material sales areas
- K. Mining of natural resources, excluding forest related programs
- L. Multiple family dwellings
- M. Municipal buildings
- N. Open-air businesses
- O. Public or private schools
- P. Salvage yards and recycling centers
- Q. Sexually oriented businesses
- R. Tool, die, gauge, and machine shops
- S. Transportation terminals
- T. Vehicle repair establishments
- U. Vehicle service establishments
- V. Veterinary hospitals and clinics
- W. Wireless communication towers
- X. Two-Family Dwelling Units
- Y. Commercial Wind Energy Conversion Systems (WECS) and WECS Testing Facilities associated with a Commercial WECS

**A. Adult foster care group homes.**

- 1. The use may not be closer than 1,500 feet to any of the following:
  - a) Another licensed Foster Care Facility or Group Day Care Home.
  - b) Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act, Act 218 of the Public Acts of 1979.
  - c) A facility offering substances abuse treatment and rehabilitation service to seven (7) or more people licensed under Article 6 of the Public Health Code, Act 368 of Public Acts of 1978.

- d) A community correction center, resident home, half-way house, or other similar facility that houses an inmate population under the jurisdiction of the Department of Corrections.

This distance shall be measured along a street, road, or place maintained by the state, county, or Township of Danby and generally open to use by the public as a matter of right for the purpose of vehicular traffic, not including an alley.

2. A drop off/pick up area shall be provided for motorists off the public street, which permits vehicles to exit the property without backing into the street, and which provides off street parking in accordance with Chapter 12.
3. Fencing at least fifty-four (54) inches, and no more than six (6) feet in height shall be provided around all outdoor areas accessible to children.
4. All playground equipment, and areas for playing and exercise shall be in the rear yard of the property. This area shall be at least two thousand five hundred (2,500) square feet in size.
5. The property shall be consistent with the characteristics of the neighborhood.
6. One non-illuminated sign measuring no more than four (4) square feet may be permitted if attached to the principal structure.
7. Hours of operation shall not exceed 16 hours during any 24 hour period. Between the hours of 10 p.m. and 6 a.m. the Planning Commission may limit the operation.

**B. Billboards.**

1. Two (2) signs may count as a single billboard, if the signs are placed back-to-back. The maximum height of the signs shall be no higher than that permitted in the district in which the billboard is located.
2. No billboards may be located within five hundred (500) feet of another billboard.
3. The billboard may be illuminated, however, such illumination shall be so arranged as to not cause a hazard to drivers on the adjacent roadway.
4. No animation or moving parts may be permitted, nor any flashing lights, or intermittent lights that may simulate movement.
5. All provisions in this Ordinance related to billboards shall be consistent with the Highway Advertising Act of 1972, as amended.

**C. Churches.**

1. The property location shall be such that at least one (1) side of the property abuts and has access to a county primary road.
2. At least three (3) acres shall be required for the use.

**D. Clubs, lodges, and fraternities, including but not limited to, gun and shooting clubs for the exclusive use of its members.**

1. The main building shall be set back at least two hundred fifty (250) feet from all property lines.
2. The use shall not be located any closer than one-quarter (1/4) mile from any church or public or private school.
3. Rifle, pistol, and archery ranges shall have adequate backstops.

**E. Drive-through facilities for uses including, but not limited to, restaurants, banks and other financial institutions, and personal service establishments like dry-cleaning pick-up stations and pharmacies.**

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of four (4) stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as to not interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility.
2. In addition to parking space requirements, at least one (1) parking space shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Access driveways shall be located no less than one hundred (100) feet from the centerline of the intersection of any street or seventy-five (75) feet from the centerline of any other driveway.
4. Waste dumpsters shall be enclosed by a structure screened on at least three (3) sides.
5. Outdoor speakers for the drive through facility shall be located in a way that minimizes sound transmission toward neighboring property and uses.

**F. Funeral homes and mortuaries.**

1. Lighting for parking areas or outdoor activity areas shall not be a nuisance to adjacent properties.
2. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities.
3. No waiting lines of vehicles shall extend off-site or onto any public street.
4. Access driveways shall be located at least seventy-five (75) feet from the nearest right-of-way line of any intersecting street or from the nearest edge of any other driveway.

**G. Golf courses and country clubs.**



1. Minimum lot size of one hundred (100) acres is required for a regulation eighteen (18) hole golf course, or forty (40) acres for each nine (9) holes of a par-3 style course.
2. All structures shall be at least one hundred (100) feet from any neighboring building to be occupied for human occupancy.
3. The off-street parking area shall be so arranged as to provide the most safety for pedestrians, and ease of vehicular maneuvering.
4. Accessory uses like pro shops, restaurants and lounges, and golf driving ranges may be permitted to serve the golf course or country club customers or members.

**H. Group day care homes shall meet the standards for Adult Foster Care Group Homes, in Section 13.07, A.**

**I. Home based businesses.**

1. With the Special Land Use application, the following information shall be included:
  - a) Type of business.
  - b) Hours of operation.
  - c) Number of employees.
  - d) Amount and type of waste (material and effluent) to be generated and the method of handling and disposing of all wastes.
  - e) Anticipated levels of noise, odor, glare, dust, fumes, and related impacts.
  - f) Anticipated traffic levels (customer, delivery vehicles, etc.).
2. No more than six (6) persons who are not residents of the dwelling shall be employed on the premises at which the home business is conducted.
3. Any need for parking generated by the conduct of such home business shall be provided off the street.
4. The home based business may be conducted entirely within the dwelling and an approved accessory building.
5. The home based business shall not result in the alteration of the dwelling, nor the construction of an accessory building, which is not customary to dwellings and residential accessory buildings. Special building code requirements such as automatic fire suppression systems, explosion proof construction, paint booths, hazardous waste containment systems (except for the containment of small quantities of motor oil, lubricants, and anti-freeze), and other such systems shall not be permitted.
6. In addition to meeting the standards of this section and the special land use standards for approval, it shall be demonstrated that the home based business will not be detrimental to the commercial viability of the Township's commercially zoned districts.

**J. Lumber yards and building material sales areas.**

1. Principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential use.
2. Any outside storage shall be so screened to obstruct outside vision of the materials from any public road, or adjacent property.
3. Outdoor sales and display areas shall be limited to ten (10) square feet for each linear foot of building frontage.
4. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved or treated so as to prevent dust.

**K. Mining of natural resources.**

Mining of natural resources, provided, however, the mining of natural resources does not include general, on-site, landscaping activities, nor the cultivation of land for farming purposes.

1. A minimum setback for the mining operation of fifty (50) feet from any property line, and seventy-five (75) feet from any public road.
2. The permanent processing plant and its accessory structures shall not be closer than two hundred (200) feet from any property line, including the road right-of-way.
3. When practicable, the permanent processing plant shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual impact of the plant structure.
4. A minimum of twenty (20) acres is required for the use.
5. With application for the Special Land Use, an Operational Plan must be submitted for review by the Planning Commission and Township Board. If the Operational Plan meets the intent and purpose of this Ordinance, the goals and objectives of the Township Land Use Plan, and is consistent with sound planning principles, the Township Board may approve the plan. The plan should provide at least the following information, but not limited to:
  - a) The areas to be mined
  - b) The location of permanent structures
  - c) Locations for storage piles
  - d) The points of access upon public roads
  - e) Screening, and reclamation plans

6. Upon commencement of mining operations, the mining area shall be enclosed within a five (5) foot high fence, and "No Trespassing" signs shall be posted at most one hundred (100) feet apart.
7. Noise and vibration shall not be nuisance to the general health, safety, and welfare of the residents in Danby Township, and shall be minimized in their effect on adjacent properties by the proper use of berms, walls, and screen plantings.
8. Air pollution in the form of dust and dirt shall be kept at a minimum.
9. All equipment used for the mining operation shall be operated in such a manner as to minimize, insofar as is practicable, dust, noise and vibration conditions that are injurious or substantially annoying to persons living in the vicinity.
10. Interior roads serving the mining operation shall be paved, treated, or watered insofar as is practicable, to minimize dust conditions.
11. No mining shall take place within the specified distance from the margin of any stream or waterway as established by the Michigan Water Resources Commission, Department of Environmental Quality.
12. All natural resource extraction areas shall be reclaimed and rehabilitated as soon as may be practicable after each mining phase has been completed, and in accordance with the plan approved by the Planning Commission. Reclamation may be conducted concurrently with phased mining operations, for example, a mined-out phase section of the area may be undergoing rehabilitation while a second phase may be undergoing active mining.
13. Reclamation shall be completed in accordance with the plan approved by the Planning Commission within one (1) year after all extraction has been completed.
  - a) The excavated area shall not retain stagnant water.
  - b) The surface of the excavated area shall be graded or backfilled to produce gently rolling surface that will minimize wind and water erosion, and be compatible with the adjoining land area.
  - c) The finished grade resulting from excavation shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
  - d) Topsoil of a quality equal to that occurring naturally in the surrounding area, shall be replaced on all excavated areas, except on roads, beaches, or other planned improvements. The depth of the topsoil shall be at least four (4) inches deep.
  - e) Vegetation shall be restored by the appropriate planting of grass, trees, and shrubs in order to establish a permanent vegetative cover on the land surface, and to minimize erosion.
  - f) All processing plant structures, buildings, stockpiles, and equipment shall be removed from the area no later than one (1) year after extraction has ceased.

14. The mining company shall post a minimum financial guarantee in the amount of \$10,000 for the first five (5) operational acres. The financial guarantee shall be increased on the yearly anniversary date of the mining permit at a rate of \$2,000 per each additional operation acre that exceeds the first five. The guarantee shall be provided in one (1) of the following forms:

- a) Cash
- b) Certified check
- c) Irrevocable bank letter of credit
- d) Surety bond acceptable to the Planning Commission.

Upon rehabilitation of mined acreage, and reduction of net operational area, the bond or security shall be released in accordance with the amount or security required per acre.

15. Inspections shall be made of the mining site, not less often than twice in each calendar year, by the Zoning Administrator. Failure to correct a reported violation shall be reason for revocation of the special land use permit. Additional time for correction of the cited violation may be allowed upon submission to the Zoning Administrator of proof of good and sufficient cause by the operating company.

**L. Multiple family dwellings.**

1. Maximum density of five (5) dwelling units per acre may be permitted with an adequate water and sewer disposal system approved by the County Health Department.
2. The use shall have frontage on at least one (1) county primary road.
3. A screened buffer shall be installed/planted of at least twenty (20) feet when adjacent to a single family dwelling, thirty (30) feet when adjacent to a nonresidential use, and forty (40) feet when adjacent to an active farming or other agricultural land use.

**M. Municipal buildings and facilities.**

1. The proposed site shall front upon a public road. All ingress and egress shall be from said thoroughfare.
2. Outside storage yards shall be setback at least one hundred (100) feet from the road right-of-way.

**N. Open-air businesses.**

1. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy-five (75) feet from the nearest edge of any other driveway.
2. The main building shall be one hundred (100) feet from any property line.

3. Outdoor display and sales areas shall not be located closer than one-half (½) the required setback for the yards in which such sales area is located.
4. In the case of a automobile or light truck sales area, the outdoor display area and parking surface shall be hard-surfaced with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
5. In the case of an automobile or light truck sales area, if vehicle repair is proposed accessory to the main use, the standards outlined in Section 13.07, U, for Vehicle Repair Establishments shall also be met.

**O. Public or private schools.**

1. Minimum lot size:
  - a) For Elementary schools a minimum of five (5) acres.
  - b) For Secondary schools a minimum of ten (10) acres.
  - c) For trade, martial arts, or other professional or technical schools, a minimum of two (2) acres.
2. Playground equipment may only be located in the side or rear yard of the lot, and must have a five (5) foot fence around its border. The playground must be at least fifty (50) feet from any side or rear property line.
3. The off-street parking shall be arranged so the bus loading and unloading of students area will not be in the path of vehicular traffic.
4. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school.
5. The main building shall be one hundred (100) feet from any property line.
6. Practice and playing fields, tracks, and ball diamonds shall be setback at least fifty (50) feet from any property line.

**P. Salvage yards and recycling centers.**

For Salvage Yards

1. Requests for a Special Land Use approval for establishment of a salvage yard shall also require submission of a detailed proposal identifying the predominant type of salvage material to be received, the methods of separation or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
2. The site shall abut and have suitable access to a paved County primary road to ensure safe, direct transport of salvage to and from the site.

3. No portion of the storage area shall be located within five hundred (500) feet of any residential use or district, or any church, school, park, or cemetery.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least ten (10) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvaged material is not visible from outside the storage area.
5. The fence or wall shall have a minimum of two (2) non-transparent gates, providing an opening not to exceed twenty-four (24) feet in width. Such gates shall provide access to the storage area for vehicles, but shall not allow direct view of the storage area from adjacent properties or streets.
6. The fence or wall shall be of uniform appearance and continuously maintained in good condition and shall contain only approved signs.
7. The fence or wall enclosing the storage area shall meet all applicable building setback requirements for the zoning district.
8. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
9. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
10. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage material be stored at a height exceeding the height of the storage area fence or wall.
11. Piles of material shall be limited to encompassing not more than three hundred (300) square feet in area, and a twenty (20) foot separation shall be required between each pile.
12. All portions of the storage area shall be accessible to emergency vehicles.
13. Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot wide, with continuous loop drives separating each row of vehicles.
14. All batteries shall be removed from any vehicle, and all radiators and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage. No fluids removed from vehicles shall be applied as a dust control method.
15. Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
16. The property shall be no less than twenty (20) acres in size.
17. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.

18. The Township Board may impose other conditions that have a reasonable relationship to the health, safety and general welfare of Danby Township. These conditions can include a provision for an annual inspection by the Zoning Administrator to ensure continuing compliance with the above standards.

For Recycling Centers.

1. A minimum lot size of five (5) acres is required for the use.
2. Plans and specifications shall be submitted to the Planning Commission and shall include the following:
  - a) Specific location of the facility shown on a vicinity map.
  - b) Location of public roadways, habitable structures, and places of public use on the site and other properties influenced by the project.
  - c) Legal description and site boundaries.
  - d) Means of limiting access including fencing, gates, natural barriers, or other methods.
  - e) Details of the method of treating or disposing of liquid waste resulting from operation of the facility.
  - f) The location of all structures and equipment.
  - g) A detailed description and statement of appurtenances and procedures intended to handle heavy or bulky items, store refuse beyond the end of the working day, and control dust, odors, and fire as they comply with state and federal regulations.
  - h) The location of existing and proposed utilities available to the site.
  - i) The method of final reduction, such as compacting, grinding, shredding, compression, or tamping equipment.
  - j) Daily clean up procedures.
  - k) Other details necessary as required by the Planning Commission.
3. A facility shall be located not less than five hundred (500) feet from the nearest residential zone and must be screened by a fence of not less than eight (8) feet in height and not less than ninety percent (90%) solid. It must also be screened by fences from streets, roads, or highways open to public vehicle travel.
4. The site must be located on a major paved County road, and not on residential-or collector-type roads. Roadways on the property shall be all-weather roads and shall maintain a condition to prevent a dust nuisance.
5. Dust and odor resulting from unloading and operation of the facility shall be reasonably controlled at all times. Operation of the facility shall be carried on in a manner to prevent noise and vibration, or a nuisance to an adjoining property.

6. Highly flammable or explosive materials shall not be accepted unless approved by the Health Department.
7. Open burning shall not be carried on in a recycling facility.
8. The recycling area shall be maintained in a sanitary manner at all times so as not to create general unsightliness or health and safety hazards.
9. Necessary operations of the recycling center shall be carried out promptly in a systematic manner so that conditions are unfavorable for harborage and production of insects and rodents.
10. Adequate provisions shall be made for routine operational maintenance of the facility and all appurtenances.

**Q. Sexually oriented business.**

In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them is located in proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this subsection. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities that are prohibited in other sections of the Zoning Ordinance. A sexually oriented business shall be permitted if:

1. The use is not located within a one thousand (1,000) foot radius of another such use except that the Township Board may waive such restrictions, if the following findings are made:
  - a) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this subsection will be observed.
  - b) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
  - c) That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation.
  - d) That all applicable state laws and local ordinances will be observed.
  - e) Prior to the granting of any waiver as herein provided, the Township Board may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may, in its judgment, be necessary for the protection of the public interest. Any evidence



and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

2. Parking spaces shall be provided at the ratio of one (1) space per person permitted by the maximum occupancy load established by the Township Building Code.
3. No sexually oriented business shall remain open at any time between the hours of eleven o'clock (11:00) P.M. and ten o'clock (10:00) A.M., and no such use shall be open on Sundays.
4. No alcohol shall be served at any sexually oriented business.
5. No sexually oriented business shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted noting that such minors are not allowed.
6. All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour after closing each night.
7. The lot or parcel on which the use is located shall not be closer than one thousand (1,000) feet from any school, church, or park, and five hundred (500) feet from any residential use or zoning district, measured from lot line to lot line.

**R. Tool, die, gauge, and machine shops.**

1. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any Residential district or use property line.
2. Access driveways shall be located no less than seventy five (75) feet from the nearest part of the intersection of any street or any other driveway.

**S. Transportation terminals.**

1. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or any other driveway.
2. Trucks and trailers parked overnight shall be set back from the front lot line a minimum of one hundred (100) feet.
3. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential use or district.
4. The lot area used for parking or display shall be paved or treated so as to prevent dust.
5. The parking area shall be graded and drained so as to dispose of all surface water in a safe and effective manner without causing ponding, or harm to adjacent property owners.
6. Any vehicle or equipment stored outside of an enclosed building shall not be located within the required front yard.

**T. Vehicle repair establishments**

Vehicle repair establishments shall meet the standards outlined in Section 13.07, V, for Vehicle service establishments, except part 3, regarding storage of vehicles awaiting repair. Such area may be up to five thousand (5,000) square feet in area.

**U. Vehicle service establishments.**

1. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential use or district.
2. All equipment and activities associated with vehicle repair operations, except those in incidental use, such as air hoses, shall be kept within an enclosed building.
3. Inoperative vehicles left on the site shall be stored within an enclosed building or in an area screened by a solid fence or wall, not less than six (6) feet in height. Such fence shall be continuously maintained in good condition. This area shall be paved with asphalt or concrete, and shall be no larger than one thousand (1,000) square feet.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited, except in designated and approved storage areas as outlined in subsection 3.
5. Access driveways shall be located at least one hundred (100) feet from the nearest right-of-way line of any intersecting street or seventy-five (75) feet from the nearest edge of any other driveway.
6. The lot area used for parking shall be paved, graded, and drained so as to dispose of all surface water free from ponding, and not harmful to adjacent property owners.

**V. Veterinary hospitals and clinics.**

1. The minimum lot size shall be two (2) acres for the first ten (10) animals, plus one acre for each additional five animals, over the first ten (10).
2. Buildings in which animals are kept, runs, or exercise areas shall not be located nearer than one hundred (100) feet to any lot line.

**W. Wireless communication towers.**

The applicant must demonstrate that the construction of a new tower is necessary to best suit the applicant's needs, rather than placing an antenna on an existing tower, spire, or municipal structure. If the Township Board is convinced no other method is applicable, the following standards must be met:

1. The tower and any other related appurtenances, shall be fenced with a six (6) foot high fence.
2. The tower base must be at least one hundred (100) feet from any lot line.
3. The maximum height of the tower shall be three hundred (300) feet.

4. The tower facility shall be equipped to accommodate at least three (3) antennae, to encourage co-location.
5. No new tower shall be permitted within one (1) mile of an existing tower.

**X. Two-Family Dwelling Units.**

1. Two-family dwellings shall have a minimum lot area of two acres and a minimum lot width of 220 feet.
2. Off-street parking facilities shall be provided, as required, for each unit.
3. Two wholly separated dwelling units are to be created, with individual separate entrances into each dwelling unit.
4. All applicable permits and building code provisions are to be complied with.
5. Accessory structures shall not be converted to living space.

**Y. Commercial Wind Energy Conversion Systems (WECS) and WECS Testing Facilities associated with a Commercial WECS.**

1. Site Requirements
  - a. Compliance with General Requirements. In addition to the requirements of this Section, all requirements of Chapter 3, Section 3.24, C, General Requirements for All WECS, shall be met.
  - b. Minimum Area. Minimum project area shall be twenty (20) acres. Multiple parcels may be assembled to create a project area, but all parcels shall be contiguous along adjoining property lines for no less than fifty (50) feet. All setback requirements shall be measured from the project limits.
  - c. Height. The permitted maximum height of a WECS or WECS Testing Facility shall be two hundred and fifty (250) feet, subject to setback limitations. Towers shall be required to be less than two hundred and fifty (250) feet in height under the following circumstances:
    - i. Where setbacks require a lesser height per subparagraph d, below.
    - ii. When state or federal regulations require a lesser height.
    - iii. As part of special land use review, a determination is made that lesser tower heights would be more appropriate for a certain area of the community.
  - d. Setbacks. No part of a WECS or Testing Facility (including guy wire anchors) shall be located within or above any required front, side or rear yard setback. WECS towers shall be setback from the closest property line a minimum distance equal to one and a half (1.5) feet for every one (1) foot of WECS height. No portion of a WECS or WECS Testing Facility shall be located within thirty (30) feet of an above ground utility line.

- e. Separation. Each WECS shall be separated from any other WECS a distance equal to or greater than the diameter of the largest rotor of any two adjacent WECS.
  - f. Rotor Clearance. Blade-arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure, overhead power line, land or tree.
  - g. Tower Access. To prevent unauthorized climbing, WECS and Testing Facility towers must comply with one of the following provisions:
    - i. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
    - ii. A locked anti-climb device shall be installed on the tower.
    - iii. A tower capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
  - h. Signs. In addition to signs allowed by Article 4, each WECS and WECS Testing Facility shall have one sign, not to exceed three (3) square feet in area, posted near the base of the tower. The sign shall contain the following information:
    - i. Warning high voltage.
    - ii. Manufacturer's name.
    - iii. Emergency phone number.
    - iv. Emergency shutdown procedures.
  - i. Utility Company Interconnection (Interconnected WECS).
    - i. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented upon it. The interconnection of the WECS with the utility company shall adhere to the National Electrical Code as adopted by the Township.
    - ii. All wiring from the WECS facility to the connection to the utility grid shall be underground.
2. Application Requirements. In addition to the application requirements for site plans in Chapter 11 and for special land uses in Chapter 13, an application for a Commercial WECS or WECS Testing Facility shall be accompanied by the following:
- a. Site Plan requirements:
    - i. Lot lines and dimensions. All exterior lot lines of the project area shall include bearings and distances.
    - ii. Location and height of all buildings, structures, towers, guy wires, guy wire anchors, security fencing, and other above ground structures associated with the WECS.
    - iii. Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the site housing the WECS and/or Testing Facility. The boundaries shall include the outermost locations upon which towers, structures, fencing, facilities, and other items associated with a WECS are placed. Specific distances to other on-site buildings, structures, and utilities shall be provided.

- iv. Existing and proposed setbacks of all WECS and other structures located on the project site.
  - v. Sketch elevation of the premises accurately depicting the proposed WECS installation and its relationship to all structures within three hundred (300) feet. For wind farms in which case numerous towers of similar height are planned, sketches are necessary only at borders of proposed project and when adjacent to other established structures within three hundred (300) feet.
  - vi. Access road to the WECS and Testing Facility with detail on dimensions, composition, and maintenance.
- b. Planned security measures to prevent unauthorized trespass and access.
  - c. WECS and Testing Facility Maintenance Programs – Provide a description of the maintenance program used to maintain the WECS and Testing Facility, including removal when determined to be obsolete.
  - d. Shadow flicker studies, to show how shadow flicker can be minimized or eliminated.
  - e. A copy of the manufacturer’s installation instructions and blueprints shall be provided to the Township.
    - i. Included as part of or as an attachment to the installation instructions shall be standard drawings of the structural components of the WECS and support structures, including base and footings provided along with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code as adopted by the Township.
    - ii. Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
  - f. Additional detail as required by this Section.
  - g. At the Township’s request, the applicant shall fund an environmental assessment or impact study and/or other relevant report(s) or studies (including, but not limited to, assessing the potential impact on endangered species, avian species and other wildlife) as required by the Township for review by the Township regarding the area or surrounding areas where the WECS will be placed.
3. Approval of Testing Facilities. Township grant of a Special Land Use permit for a WECS Testing Facility does not guarantee subsequent approval of a Commercial WECS. Should the Testing Facility prove the viability of a Commercial WECS, a separate Special Land Use application to establish one or more Commercial WECS is required.
4. Performance Requirements
- a. Inspection: The Township shall have the right upon issuing any WECS and WECS Testing Facility Special Land Use permit to inspect the premises on which the WECS facility is located at all reasonable times. The Township may hire a consultant to assist with any inspection of a WECS or Testing Facility at the applicant’s cost.
  - b. Each WECS and Testing Facility must be kept and maintained in good repair and condition at all times. If a WECS is not maintained in operational and reasonable condition or poses a potential safety hazard, the applicant shall take expeditious

action to correct the situation. The applicant shall keep a maintenance log on each WECS which the Township can review on a monthly basis.

- c. Security: If a Special Land Use is approved pursuant to this Chapter, the Township Board shall require a performance guarantee in accordance with the provisions of Section 15.04 of this Ordinance, which will be furnished by the applicant to the Township in order to ensure full compliance with this subsection and any conditions of approval.
  - i. When determining the amount of the required guarantee, the Township may also require an annual escalator or increase based on the Federal Consumer Price Index (or the equivalent or its successor).
  - ii. The performance guarantee shall be deposited or filed with the Township Clerk after a Special Land Use has been approved but before approval of a building permit for construction of the WECS or WECS Testing Facility.
  - iii. At a minimum, the performance guarantee shall be in an amount determined by the Township to be sufficient to have the WECS or Testing Facility fully removed (and all components properly disposed of and the land returned to its original state) should the structure or structures become abandoned, dangerous or obsolete, or not in compliance with this ordinance or the special use approval. The performance guarantee shall be kept in full force and effect during the entire time while a WECS or WECS Testing Facility exists or is in place.
  - iv. The performance guarantee shall be irrevocable and non-cancelable (except by the written consent of both the Township and the then-owner of the WECS or WECS Testing Facility) for at least thirty (30) years from the date of the Special Land Use approval. Failure to keep the performance guarantee in full force and effect at all times while a WECS or WECS Testing Facility exists or is in place shall constitute a material and significant violation of a Special Land Use approval and this Ordinance, and will subject the applicant to all available remedies to the Township, including possible enforcement action and revocation of the Special Land Use approval.
- d. Road repair: Any damages to a public road located within the Township resulting from the construction, maintenance, or operation of a WECS or Testing Facility shall be repaired at the applicant's expense.
- e. Liability: The applicant shall insure each Commercial WECS at all times for at least \$2,000,000 for liability to cover the applicant, Township and land owner.
- f. The applicant shall be responsible for compensation to persons damaged by a WECS, including damage caused by stray voltage from a WECS.

(Added 11/19/09)

## Chapter 14: Zoning Board of Appeals

### Section 14.01 Membership

- A. Zoning Board of Appeals - The Zoning Board of Appeals is hereby established concurrently with the adoption of this Ordinance, to perform its duties and exercise its powers as herein provided.
- B. Composition and Terms - The Zoning Board of Appeals shall consist of three (3) members appointed by the Township Board for a three (3) year term.
  - 1. One (1) member shall be from the Planning Commission.
  - 2. The Chairman of the Zoning Board of Appeals shall not be an elected official.
  - 3. The first member shall be appointed for a term of one (1) year, the second shall be appointed for a two (2) year term, and the third member shall be appointed for a three (3) year term, each appointment thereafter shall be for a three (3) year term.
- C. Alternate Members - Up to two (2) alternate members may be appointed by the Township Board for three (3) year terms. If two (2) alternate members have been appointed, they may be called on a rotating basis, as they are available to sit as regular members of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. An alternate member shall only serve to discuss or vote upon a case considered in the absence of a regular member or upon the conflict of interest of a regular member.
- D. Vacancies - Any vacancies in the Zoning Board of Appeals shall be filled by appointment by the Township Board not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.
- E. Officers - The Zoning Board of Appeals shall annually elect its own Chairman, Vice Chairman and Secretary.
- F. A member of the zoning board of appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

### Section 14.02 Meetings, Applications, and Notices

- A. Meetings - All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as the Zoning Board of Appeals may determine.
  - 1. All hearings conducted by the Zoning Board of Appeals shall be open to the public.

2. The Secretary to the Board or their representative shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action on file with the Township Clerk.
  3. Two (2) members of the Zoning Board of Appeals shall constitute a quorum for the conduct of its business.
  4. The Zoning Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.
- B. Hearings - The Zoning Board of Appeals shall make no decision regarding a variance except after the Zoning Board of Appeals conducts a hearing.
- C. Applications – Variance requests shall be submitted according to ZBA policy.
- D. Notices – The Zoning Board of Appeals shall publish a notice as follows:
1. The ZBA shall publish notice of a public hearing for a variance request in a newspaper that circulates in the Township. The notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.
  2. The notice shall be given not less than 15 days before the date the application will be considered for approval.
  3. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
  4. The notice shall:
    - a) Describe the nature of the request.
    - b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - c) State when and where the request will be considered.
    - d) Indicate when and where written comments will be received concerning the request.
- E. Upon receipt of a written request seeking an interpretation of the Zoning Ordinance or an appeal of an administrative decision, a notice stating the time, date, and place of the public hearing shall be published in a newspaper that circulates in the Township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the



request for an interpretation or appeal of an administrative decision involves a specific parcel, written notice stating the nature of the interpretation request and the time, date, and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

- F. At the hearing, a party may appear in person or by agent or attorney. The ZBA may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

### **Section 14.03 Jurisdiction**

The Zoning Board of Appeals shall not have the power to make any change in the terms of this Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Chapter and the laws of the State of Michigan. The Zoning Board of Appeals shall have the authority to hear appeals from a decision made in respect to a rezoning, and in respect to a special land use request. The powers of the Zoning Board of Appeals include:

- A. Hearing of Appeals - To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing the provisions of this Ordinance.
- B. Granting of Variances - A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Chapter.
- C. Zoning Ordinance Interpretation - The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provision is uncertain.
- D. Granting of Temporary Uses and Buildings
  - 1. The Zoning Board of Appeals may permit, upon proper application, temporary uses or buildings.
    - a) Except for temporary dwellings for the constant care and attention of a lineal blood relative due to age, illness, or infirmity, such temporary uses or buildings shall not exceed a duration of six (6) months, however, the Zoning Board of Appeals may grant one (1) extension, of up to an additional six (6) concurrent months, when appropriate.
    - b) In the case of a temporary dwelling for the constant care and attention of a lineal blood relative due to age, illness, or infirmity, a permit of one (1) year may be granted and concurrent extensions may be permitted as long as the need for the care remains necessary.
  - 2. The Zoning Board of Appeals, in granting permits for temporary uses or buildings, shall do so under the following conditions:

- a) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district, nor on the property where the temporary use is permitted.
- b) The granting of the temporary use or building shall be issued in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of the temporary permit.
- c) All setbacks, land coverage, off-street parking, lighting and other requirements shall be made at the discretion of the Zoning Board of Appeals.
- d) The use or building shall be in harmony with the general character of the district.
- e) No temporary permit shall be granted without first giving notice to owners of adjacent property of the time and place of a public hearing to be held as provided for in this Ordinance.
- f) Prior to granting a temporary permit the Board may seek the review and recommendation of the Planning Commission.

**Section 14.04 Decisions**

- A. Procedure - An appeal may be taken by a person aggrieved, or by an officer, department, or board of the Township. Such appeal shall be taken within twenty-one (21) days, as prescribed by the rules of the Zoning Board of Appeals, by the filing with the officer or body from whom the appeal is taken and with the Zoning Board of Appeals of a notice of appeal specifying the grounds for the appeal.
- B. Filing - The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan, including the following, unless determined to be inapplicable to the request and specifically waived by the Zoning Board of Appeals:
  - 1. Project Information, including:
    - a) The applicant's name
    - b) The preparer's name
    - c) North arrow
    - d) Complete and current legal description and size of property in acres
    - e) Small scale location sketch of sufficient size and scale.
  - 2. Existing Features
    - a) Property lines and dimensions
    - b) Zoning and current land use of applicant's property

- c) Lot lines and all structures on the property

3. Proposed Construction

- a) Building footprints, setbacks, floor plans and elevations showing height and materials for all proposed structures, including any residential units, with the acreage allotted to each use
- b) Location and dimensions of parking spaces, if applicable
- c) Details of site circulation and access design if applicable, including:
  - 1) Indication of street right-of-way and pavement widths and pavement type
  - 2) Names of abutting public roads, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths
  - 3) Written verification of access easements or agreements, if applicable.

C. Stay of Proceedings - An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.

D. Decisions

- 1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance, except in granting a Use Variance, a 2/3 vote of the membership of the Board shall be required.
- 2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within a reasonable time after the hearing.
- 3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.

E. Record of Actions - For each decision of the Zoning Board of Appeals, a record shall be prepared. Such record shall include, at a minimum, the following items:

- 1. Description of the applicant's request.
- 2. The Zoning Board of Appeal's motion and vote.

3. A summary or transcription of all relevant material and evidence presented at hearing.
  4. Any conditions attached to an affirmative decision.
- F. Appeals to Circuit Court - The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. An appeal shall be filed within 30 days after the Board certifies its decision in writing or approves the minutes of its decision. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the Michigan Zoning Enabling Act. The court shall have jurisdiction to make such further orders as justice may require.
- G. Resubmission - No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Board finds that at least one of the following conditions exist:
1. That the conditions involving all of the reasons for the original denial have been significantly altered.
  2. That new conditions or circumstances exist which change the nature of the original request.

#### **Section 14.05 Conditions of Approval**

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision that they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the Michigan Zoning Enabling Act, and related to the standards by which the decision is reached.

#### **Section 14.06 Variance Procedures**

- A. Authority for Variances - The Zoning Board of Appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.
- B. Granting of Non-Use Variances - A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
  1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district.
  2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include:

- a) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter;
  - b) By reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
  - c) By reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties.
3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
  4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
  5. The variance will not impair the intent and purpose of this Ordinance.
  6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.
- C. Granting of Use Variances - A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:
1. That the building, structure, or land cannot yield a reasonable return if required to be used for a use allowed in the zone district in which it is located;
  2. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is unique to that property and not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Such unique conditions or situations may include:
    - a) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter.
    - b) Exceptional topographic conditions or other extraordinary situation on the land, building or structure.
    - c) the use or development of the property immediately adjoining the property in question.
  3. That the proposed use will not alter the essential character of the neighborhood or the intent of the Land Use Plan.
  4. Prior to Zoning Board of Appeals decision on a request for a Use Variance, the Board of Appeals may request that the Planning Commission, upon presentation of the application by the applicant, consider such request and forward a report to the Board of Appeals. If

requested by the Board of Appeals, such report shall be limited to the Planning Commission's review of the effect of the proposal on the existing or intended character of the neighborhood and the ability of the property owner to use the property for a use already permitted under the existing zoning classification.

**Section 14.07 Fees**

The Township Board may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. The fee shall be paid to the Township Treasurer at the time the application for the appeal or variance is filed.

## Chapter 15: Administration

### Section 15.01 Zoning Administrator

Except where herein otherwise stated, the provisions of this Ordinance shall be administered by the Zoning Administrator, or such other official or officials as may be designated by the Township Board. The Zoning Administrator shall have the power to:

- A. Issue Zoning Permits.
- B. Make inspections of buildings and premises necessary to carry out the duties of administration and enforcement of this Ordinance.
- C. Issue and serve appearance tickets on any person with respect to any violation of this Ordinance where there is reasonable cause to believe that the person has committed such an offense.
- D. Perform such other functions necessary and proper to enforce and administer the provisions of this Ordinance.

### Section 15.02 Permits

- A. Zoning Permits
  - 1. No building, structure, or sign shall be erected, altered, or moved unless a Zoning Permit shall have been first issued for such work. Permits are not required for basic property maintenance such as painting, siding, roofing, replacement of porch steps, and other such repairs.
  - 2. No Zoning Permit shall be issued for the erection, alteration, or use of any building or structure, or for the use of any land that is not in accordance with all provisions of this Ordinance.
  - 3. A record of all Zoning Permits issued shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person owning or renting the property that is the subject of the Permit.
  - 4. No vacant land shall be used and no existing use of land shall be changed to a different class of use unless a Zoning Permit is first obtained for the new or different use.
- B. Building Permits and Certificates of Occupancy
  - 1. No Building Permit for the construction, erection, alteration, repair, or moving of any building or structure shall be issued until a Zoning Permit, or Zoning approval for such work has been issued by the Zoning Administrator.
  - 2. No building or structure that is hereafter erected or altered shall be occupied or used unless and until a Certificate of Occupancy shall have been issued for such building or structure.
  - 3. Certificates of Occupancy, as required by the currently adopted Building Code for Danby Township, shall also constitute certification of compliance with the Zoning Ordinance.

4. A record of all Certificates of Occupancy issued shall be kept on file in the office of the Ionia County Building Inspector, and copies shall be furnished upon request to any person owning or renting the property that is the subject of the Certificate.
- C. Fees for the inspection and issuance of Zoning Permits, Building Permits, or Certificates of Occupancy, or copies required or issued under the provisions of this Ordinance, may be collected by the Township in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

### **Section 15.03 Enforcement and Violations**

- A. Any person, firm, or corporation, or any owner of any building, structure, or premises, or part thereof, where any condition is in violation of this Ordinance exists, or has been created, and who has assisted knowingly in the commission of such violation, shall be guilty of a municipal civil infraction, for which the fine shall be not less than one hundred (100) dollars nor more than five hundred (500) dollars for the first offense and not less than five hundred (500) dollars nor more than one thousand (1,000) dollars for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages, and expenses provided by law.
1. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility, or was adjudicated to be responsible; provided however, that offenses committed on subsequent days within a period of one (1) week following the issuance of a citation for a first offense shall all be considered separate first offenses. Each day during which any violation continues shall be deemed a separate offense.
- B. Any building which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance, and is in violation of any of the provisions herein, is hereby declared to be a public nuisance per se.
- C. Each day the violation occurs or continues shall be deemed a separate offense.
- D. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

### **Section 15.04 Performance Guarantees**

- A. As a condition of approval of a site plan review, special use, or planned unit development, the Township Board may require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as “improvements,” may include, but shall not be limited to, roadways, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- B. Performance guarantees shall be processed in the following manner:
1. Prior to the issuance of a Zoning Permit, the applicant shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee,



which shall then be reviewed by the person designated by the Township Board. The amount of the performance guarantee shall be one hundred (100) percent of the cost of purchasing materials and installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.

2. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.
3. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a Zoning Permit for the subject development or activity, provided it is in compliance with all other applicable provisions of this Ordinance and other applicable Ordinances of the Township.
4. The Township Treasurer will refund to the obliger portions of the performance guarantee, only after written notice from the Building Inspector, that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
5. When all of the required improvements have been completed, the obliger shall send written notice to the Building Inspector of completion of said improvements. Thereupon, the Building Inspector shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections. If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obliger shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
6. The Zoning Administrator shall maintain a record of authorized performance guarantees.

#### **Section 15.05 Amendments**

The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented or changed. Proposals for amendments may be initiated by the Board, the Planning Commission or by petition of one (1) or more owners of property in Danby Township affected by such proposed amendment. The procedure for amending this Ordinance shall be as follows:

- A. Each petition shall be submitted to the Zoning Administrator, accompanied by a fee as established by the Township Board, and then referred to the Planning Commission to set a hearing date and publish notices.
- B. The Planning Commission shall set a time and place for at least one public hearing, notice of which shall be given as follows:
  1. Notice of the public hearing for a text amendment or map amendment (rezoning) shall be published in a newspaper of general circulation in the Township not less than 15 days prior to the date of the hearing.
  2. For rezonings, the notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

3. The notice shall be given not less than 15 days before the date the application will be considered.
  4. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.
  5. The notice shall:
    - a) Describe the nature of the request.
    - b) Indicate the property that is the subject of a rezoning request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - c) State when and where the request will be considered.
    - d) Indicate when and where written comments will be received concerning the request.
  6. If 11 or more adjacent properties are proposed for rezoning, is not required that the notice be provided to the recipients listed in 15.05, B.2, and further, the notice need not contain the individual addresses of properties required to be listed under section 15.05, B.5.b.
  7. Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.
- C. The Planning Commission shall make a recommendation that shall be transmitted, along with the request and its findings, to the Township Board and to Ionia County for review, as provided in Section 307 of the Michigan Zoning Enabling Act. The County shall, within thirty (30) days of receiving the request make a recommendation to the Township. If a recommendation is not received within such time period, a recommendation of approval shall be presumed.
- D. The Township Board may hold additional hearings if it considers it necessary. Notice of such hearing shall be given in the same manner as required under section 15.05 for any other text amendment or rezoning. The Township Board shall grant a hearing on a proposed ordinance provision to a property owner who requests a hearing by certified mail, addressed to the Township Clerk..
- E. If the Township Board considers any amendments to the text forwarded by the Planning Commission, it may refer the proposed amendments back to the Planning Commission for a report thereon within a time specified by the Township Board.
- F. After the public hearing, if held as allowed under this section, the Township Board shall consider and vote upon the adoption of the Ordinance, with or without amendments. A majority vote of the members of the Township Board shall be required to adopt any Ordinance or amendment.

- G. Amendments shall be effective 7 days after publication, or at such later date after publication as may be specified by the Township Board.
- H. A notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption, and shall be mailed to the airport manager of an airport entitled to notice under section 15.05, B.7. Said notice shall include the following:
1. In the case of a newly adopted zoning Ordinance, the following statement: “A zoning Ordinance regulating the development and use of land has been adopted by the Danby Township Board.”
  2. In the case of an amendment to an existing zoning Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
  3. The effective date of the Ordinance.
  4. The place and time where a copy of the Ordinance may be purchased or inspected.
- I. No petition for rezoning or other ordinance amendment, which has been disapproved, shall be resubmitted for a period of one (1) year from the date of disapproval, except as may be permitted after learning of new and significant facts or conditions which might result in favorable action upon resubmittal.

#### **Section 15.06 Severability**

Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.