

## **ARTICLE III GENERAL PROVISIONS**

### **SECTION 3.01          REQUIRED AREA**

No lots or lots in common ownership and no yard, parking area or other space shall be so divided, altered or reduced as to make such area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance said area or dimension shall not be further divided or reduced.

### **SECTION 3.02          HEIGHT EXCEPTIONS**

- A. The following buildings and structures shall be exempt from height regulations in all Districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, barns used for agricultural purposes, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind-powered electrical generators and other wind towers, and television and radio reception and transmission antennas and towers which do not exceed one hundred (100) feet in height but excluding towers in excess of fifty (50) feet in height for Wireless Communications Equipment and Wire Communications Support Structures.
- B. Additions to existing buildings and structures which now exceed the height limitations of their District may be constructed to the height of the existing building or structure to which the addition is attached if the lot is large enough to encompass a circular area with a radius at least equal to the height of the tallest structure or building.

### **SECTION 3.03          PRINCIPAL USE**

- A. No lot or parcel of land shall contain more than one (1) main building or one (1) principal use.
- B. Land and buildings may be considered a principal use collectively if any one of the following conditions are met:
  - 1. The land and buildings are planned and designed as a single integral development, including joint parking, compatible architecture, shared driveways, shared signs, and other similar features.
  - 2. All uses, if not the same, shall be similar in function and/or operation.
  - 3. A single-family dwelling located on the same parcel as an agricultural use.

### **SECTION 3.04          STREET ACCESS**

All lots shall front upon a public street or private street right-of-way for the minimum lot width required by this Ordinance.

**SECTION 3.05 BASIS OF DETERMINING FRONT YARD REQUIREMENTS**

- A. The front yard setback line shall be measured from the right-of-way line to an imaginary line across the width of the lot drawn at the minimum required front setback distance for that district, except as noted below.
- B. Where an average setback line less than that which is required by this Ordinance has been established by existing buildings located within two hundred (200) feet of the proposed building on the same side of the street, such average setback shall apply.
- C. On corner lots, the front yard and side yard requirements shall apply as set forth in the site development standards for the applicable zoning district in which the corner lot is located. In the case of a row of double frontage lots, one street will be designated as a front street for all lots. If there are existing structures in the same block fronting on one or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.
- D. On waterfront lots, the front yard requirements shall apply on the street side of the lot.

**SECTION 3.06 MINIMUM LOT WIDTH FOR IRREGULAR SHAPED LOTS**

The minimum lot width for a lot on a cul-de-sac or other irregularly shaped lot shall be measured at the front yard setback line and shall not be diminished throughout the rest of the lot. Such lots shall have a minimum lot width of forty (40) feet at the front property line.

**SECTION 3.07 PROJECTIONS INTO YARDS**

- A. Architectural features may project a maximum of four (4) feet into a front or rear yard setback area, but, except for a corner lot, shall not project into the side yard setback. On a corner lot an architectural feature may project a maximum of four (4) feet into the side yard setback facing the street.
- B. Porches, terraces, decks, balconies, window awnings, and similar structures which are open on all sides, unenclosed and uncovered:
  - 1. may project a maximum of ten (10) feet into a front yard setback area.
  - 2. may project a maximum of fifteen (15) feet into a rear yard setback area; but
  - 3. shall not project into a side yard setback area.
- C. If such structures are permanently enclosed on any side or covered in any manner, they shall be considered a part of the main building.
- D. Eaves may project into any yard setback but shall not project into any such setback more than Twenty-Four inches.

**SECTION 3.08            ACCESSORY BUILDINGS AND USES**

- A.     Accessory buildings attached to dwellings or other main buildings, including enclosed porches and garages, shall be deemed a part of such buildings and must conform to all regulations of this Ordinance applicable to such main buildings.
  
- B.     In addition to the accessory buildings and structures permitted herein, each single-family and each two-family dwelling may provide one garage for use by the occupants of each dwelling unit. The garage may be attached to the dwelling or detached from the dwelling. The maximum size of such garage shall not exceed 1,000 square feet.
  
- C.     On corner lots, accessory buildings or uses shall meet the site development standards for the zoning district in which the accessory building is located, and according to the requirements of Section 2.13 Definitions-L. In the case of double frontage lots, one street shall be designated as the front lot line street for all lots, and accessory buildings or uses shall be located no nearer to the front street than the required front yard setback line. If there are existing structures in the same block fronting on one or more of the streets, the required front yard setback shall be observed on those streets where such structures presently front.
  
- D.     An accessory building or use shall only be permitted on a lot which contains a principal use or main building.
  
- E.     No part of a detached accessory building shall be used for independent living facilities for one or more persons. No accessory building shall include all the permanent provisions for living, sleeping, eating, cooking and bathroom sanitary facilities.
  
- F.     Detached accessory buildings shall:
  - 1.       be located a minimum of ten (10) feet from any building on the lot, as measured from the eaves of the accessory building, or any portions of the structure, whichever is closer;
  - 2.       be placed at least two hundred (200) feet from the road right-of-way if located in the front yard, between the house and road in the RR, LDR, MDR, MHDR, and HDR Districts, with the exception of double frontage lots as regulated by Section 3.08 C. herein.
  
- G.     Setbacks for detached accessory buildings shall be measured to the eaves of the building, or any portion of the structure, whichever is closer.
  
- H.     Accessory building sizes, heights and setbacks.
  - 1.       The total area for all accessory buildings shall not exceed the maximum footprint areas, including any cantilevered or open-sided lean-to, noted below, as required by Section 3.08 H. 2. Herein, except that in no case shall the total square footage of all accessory buildings exceed thirty-two hundred (3,200) square feet.
  
  - 2.       Maximum floor areas and heights (as measured from the ground to the highest point of the roof) and setbacks for buildings accessory to single and two-family dwellings:

MAXIMUM ACCESSORY BUILDING FOOTPRINT SIZE	
Parcel Size	Maximum Building Footprint Size
Less than 1.00 acre	1,200 square feet
1.00 to 1.99 acres	1,500 square feet
2.00 to 2.99 acres	1,800 square feet
3.00 to 4.99 acres	2,100 square feet
5.00 to 9.99 acres	2,400 square feet
10.00 acres and over	3,200 square feet

MAXIMUM ACCESSORY BUILDING HEIGHT	
Building Footprint Size	Maximum Building Height
Less than 2,400 square feet	24 feet
2,400 to 3,200 square feet	35 feet

ACCESSORY BUILDING SIZE AND REAR YARD SETBACK		
Building Footprint Size	Minimum Building Setback	
	Side	Rear
100 square feet or less	10 feet	5 feet
Less than 1,200 square feet	10 feet	10 feet
1,200 to less than 1,500 square feet	15 feet	15 feet
1,500 to less than 2,400 square feet	25 feet	25 feet
2,400 to less than 3,200 square feet	50 feet	50 feet

3. The requirements for accessory buildings and structures in the Lake Michigan Shoreline District shall prevail.
4. The requirements for accessory buildings and structures in the Waterfront Marine District shall prevail.
5. Accessory buildings and structures on lakefront lots shall be subject to the requirements of Section 3.31 herein.
6. The requirements for accessory buildings and structures in the Manufactured Home Park District shall prevail.
7. Requirements for accessory structures and uses for specific uses as regulated by Article XIV, Special Land Uses, shall prevail.
8. Maximum floor areas and heights (as measured from the ground to the highest point of the roof) for buildings accessory to uses other than single and two-family dwellings:
  - a. Multiple-family developments: nine hundred (900) square feet and 24 feet in height.

- b. Other uses in Nonresidential Districts and nonresidential uses in Residential Districts: not to exceed twenty-five percent (25%) of the ground floor area and the allowable height of the main building(s) for the district in which the use is located.
- I. The architectural character of any accessory building shall be substantially compatible with that of the principal building as determined by the zoning administrator.

**SECTION 3.09            REGULATIONS APPLICABLE TO ALL SINGLE-FAMILY DWELLINGS**

It is the intent of this Section to establish minimum standards of construction and appearance for all single-family dwellings placed in the Township, whether constructed on a lot or manufactured home. Construction and/or placement of a single-family dwelling on any lot or parcel shall be permitted only if the dwelling complies with all the following standards:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be:
  - 1. new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development of 1976, as amended, or any similar successor or replacement standards which may be promulgated; or
  - 2. used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (1) above, and found, on 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, and with applicable federal or state standards or regulations for construction. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including without limitation, the lot area, lot width, residential floor area, yard, and building height requirements of the district in which it is located.
- D. The dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code adopted by the Township. Permanently attached steps shall also be required where a change in elevation requires such steps.
- E. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels and towing mechanism removed.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty-four (24) feet at time of manufacture, placement or construction.

- G. The dwelling unit shall have a roof overhang of not less than twelve (12) inches.
- H. The dwelling unit shall be connected to public sewer and water supply systems, or to private facilities for potable water and disposal of sewage approved by the Muskegon County Health Department.
- I. The foregoing standards shall not apply to a manufactured home located in a manufactured home park licensed by the Michigan Mobile Home Commission and approved by the Township according to the provisions contained in Article IX in this Ordinance except to the extent required by state or federal law.
- J. Additions, rooms or other area of dwellings shall be constructed with materials and craftsmanship of similar quality to the original structure and shall be permanently attached to the principal structure and constructed on a foundation as required by the applicable building code.

**SECTION 3.10            TEMPORARY STRUCTURES OR BUILDINGS REQUIRING ZONING ADMINISTRATOR AUTHORIZATION**

**A.        Temporary Structures for Nonresidential Purposes**

Temporary structures may be allowed in non-residential districts upon issuance of a permit by the Zoning Administrator. Upon application, the Zoning Administrator may issue a permit for a temporary office building or construction trailer that is incidental and necessary for construction at the site where it is located, including the storage of building supplies and machinery, temporary storage buildings, customary trade, contractor or architect identification sign in connection with a construction project. Such structures shall be removed within 15 days after construction is completed. Each permit shall specify a location for such structure and shall be valid for a period of not more than 12 calendar months. Permits may be renewed by the Zoning Administrator for one additional successive period of 180 days or less at the same location and for the same purpose.

**B.        Temporary Dwellings for Residential Purposes**

The Zoning Administrator may issue a permit for temporary use of a structure as a temporary dwelling (1) as a temporary living quarter if there is a dwelling on the same parcel that will be demolished, or (2) for use as a temporary dwelling for the occupants of a dwelling damaged by fire or storm, wind, act of God or other casualty. Temporary structures are not allowed in non-residential zoning districts except as provided above. Temporary dwellings may be allowed according to the following requirements, standards and conditions:

- 1. The temporary dwelling must be located within 100 feet of the principal residential dwelling.
- 2. The temporary dwelling has a water system and septic tank system that meets the requirements of the Health Department. A certificate from said department showing such compliance, including reserve drain field area, shall be filed with the building inspector before any use or occupancy.
- 3. A site plan with lot dimensions showing the proposed location of the temporary dwelling must be provided. A legal description for the lot shall also be provided.

4. There must be sufficient area to meet the minimum set back requirements and the temporary dwelling must be no less than three (3) feet from any lot line.
5. Unless the temporary dwelling is an existing structure that meets code, it must be a manufactured home. Accessory buildings, tents, recreational vehicles, trucks, cars, campers, cardboard boxes or any other vehicle or structure shall not be used as temporary dwellings.
6. If the temporary dwelling is a manufactured home, it shall have skirting of non-corrosive metal or plastic. All plumbing, electrical apparatus, insulation and installation and construction within and connected to the mobile home shall be of a type and quality conforming in all material respects to the safety requirements contained in the mobile home construction and safety standards as promulgated by the rules of the U.S. Department of Housing and Urban Development (HUD) specifications for mobile home construction as amended.
7. The applicant must demonstrate the ability and intent to erect, reconstruct, and/or complete a permanent dwelling on the premises by first submitting plans for, and receive a building permit for the construction or reconstruction of a permanent dwelling upon the premises.
8. The applicant must commence construction or reconstruction of the permanent dwelling within ninety (90) days after issuance of the building permit.
9. The temporary dwelling shall cease to be used as a dwelling upon completion and occupancy of the permanent dwelling upon the premises, and must be removed within thirty (30) days after the purpose for which the permit was issued no longer exists.
10. Permits issued to owners of property under this section shall be revocable upon thirty (30) days notice. Said notice shall be given by the Zoning Administrator or his designee and shall include specific violations of the Zoning Ordinance existent on that date. If the owner demonstrates compliance with the Zoning Ordinance prior to the expiration of said thirty (30) day period, the Zoning Administrator or his designee shall have the authority to rescind the notice.

Each permit shall specify a location for the temporary dwelling and shall be valid for a period of not more than 12 calendar months. Permits may be renewed by the Zoning Administrator for one additional successive period of 180 days or less at the same location for the same purpose. It shall be the property owner's responsibility to renew a permit. Failure to renew a permit within the specified time shall constitute expiration of the permit.

If the parcel already has a dwelling that will be demolished, the following additional conditions shall apply:

1. A written agreement shall be entered into between the property owner and the township setting forth the specific agreement regarding demolition. The agreement shall be signed by all persons having an interest in the property and by two (2) township officials. All signatures shall be notarized and the agreement shall be kept on file at the township hall.
2. All demolition must be completed within 180 days from the date the agreement is signed by all of the parties. The applicant must provide a financial guaranty of performance equal to 150% of the estimated cost of demolition as determined by the Zoning Administrator.

C. Approval Standards and Conditions

In considering authorization for all temporary buildings, the Zoning Administrator shall consider the following standards and may attach reasonable conditions to temporary structures to ensure that the standards of this section are met. The Zoning Administrator shall determine that:

1. The structure will not have an unreasonable detrimental effect upon adjacent properties.
2. The structure is reasonably necessary for the convenience and safety of the construction proposed.
3. The structure does not adversely impact the character of the surrounding neighborhood.
4. Access to the structure is located in a safe location.

In any event, the temporary structures and all debris shall be removed within thirty (30) days after completion of the work or expiration of the permit. Temporary buildings incidental to construction work shall be removed promptly upon completion or abandonment of work.

The fee to be paid for the issuance of a temporary dwelling permit for a temporary dwelling shall be established by the Township Board. If a permit is renewed, an additional fee will be collected. The Zoning Administrator shall revoke the temporary dwelling permit at any time if the usage violates any of the requirements outlined in this section. If a permit is revoked, the unit must be vacated and removed from the property within thirty (30) days, or it constitutes a violation of the Ordinance and is subject to the penalties outlined in this Ordinance.

**SECTION 3.11 FENCES, WALLS, BERMS AND SCREENS**

Notwithstanding other provisions of this ordinance, fences, walls, berms and screens may be permitted with a zoning permit.

1. No fence, wall, berm, sign, screen or any planting shall be erected in the road right-of-way or be maintained in such a way as to conflict with clear vision areas.
2. Fences on platted lots of record shall not contain barbed wire, electric current, charge of electricity, dangerous materials such as, but not limited to broken glass, bottle caps, or chain link type fences with sharp wire edges upwardly exposed. Exception: Fences enclosing domesticated animals, and for bona fide agricultural operations may use barbed wire, electric current, or other materials necessary.
3. Fences which enclose public or privately-owned parks, or recreational grounds or playgrounds, or public landscaped areas, shall not exceed nine (9) feet in height as, measured to the highest part of the fence, and shall not obstruct vision to an extent greater than twenty-five percent (25%) of their total area.
4. Within the limits of the rear yard, no fence, wall, or other screening structure other than evergreens, deciduous trees, shrubs, and bushes shall be erected higher than seven (7) feet above the surface of the ground.



5. Agricultural fencing: No farm animals shall be kept except within an entirely enclosed structure consisting of either a building or an area completely surrounded by fencing. The structure shall be of a height and kind sufficient to prevent animals from wandering at large. Fencing for Cervidae facilities shall be in accordance with State of Michigan guidelines and requirements. Such structures shall be located as required by the applicable provisions of the particular district in which the structure is located.

#### NON-LAKEFRONT LOTS

Any fences, walls, berms or screens erected between the required front yard setback line, or the rear of the house whichever is closest, and up to the street right-of-way, must not be in excess of five (5) feet in height as measured to the highest part of the fence, wall, berm or screen at any point.

Fences, walls, berms or screens shall not exceed seven (7) feet in height as measured to the highest part of the fence, wall, berm or screen if erected between the required front yard setback line or the rear of the house whichever is closest, and rear yard lot line.

#### LAKEFRONT LOTS

In the Critical Dunes and High-Risk Erosion areas, any fences, berms and walls built, and any vegetative planting and/or removal, must comply with all State and or Federal regulations.

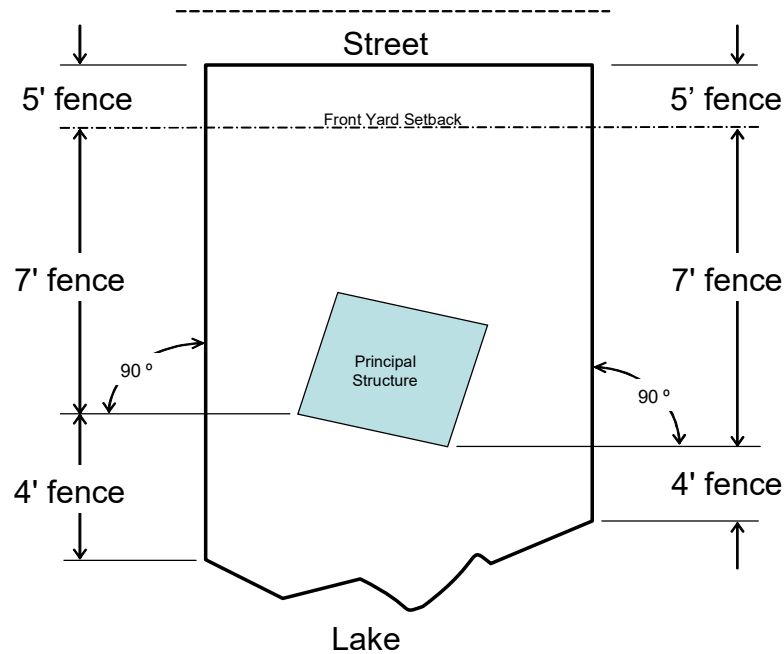
Any fence, wall, berm, or screen erected between the required front yard setback line or the rear of the house whichever is closest, and up to the street right-of-way, must not be in excess of five (5) feet as measured to the highest part of the fence, wall, berm or screen at any point.

Fences, walls, berms or screens shall not exceed seven (7) feet in height as measured to the highest part of the fence, wall, berm or screen at any point if erected between the required front yard setback line, or the rear elevation of the main house whichever is closest. In calculating the rear elevation of the main house to side yard lot line, measure perpendicular from the side yard lot line to the house rear elevation wall. Projections into rear yard, such as porches, dormers or decks shall not be used for this calculation.

For lakefront lots no fence, wall, berm, or screen shall be higher than four (4) feet in height between the shoreline and the lakeside of the home as measured perpendicular to the side yard lot line. On Lakefront lots that have no principal building the height of a fence, wall, berm or screen may not exceed four (4) feet. Fences on lakefront lots may be permitted with a zoning permit within the side setback of any yard provided that such fences meet the following:

1. Such fences must be for the purpose of delineation of property lines, not for the intent of obscuring vision or blocking out of natural light.
2. Such fences must be of man-made material or wood and must be intended for permanent installation.
3. Such fences must not exceed a maximum height of four (4) feet as measured to the highest part of the fence, wall, berm or screen at any point.

4. Fence materials such as plastic or wood/twisted style “snow” fences are not acceptable for permanent installations. Unless otherwise specified, all residential fences must be constructed of wood product, composite wood, rigid vinyl, wrought iron or chain link and shall comply with all State and or Federal regulations in the Critical Dunes and High-Risk Erosion areas.



**SECTION 3.12 CLEAR VISION AREAS**

- A. No plantings, fences, walls, berms or screens shall be established or maintained on any lot which will obstruct the view of a vehicle driver approaching the intersection of public roads, private streets or any combination thereof. Such unobstructed corner shall be a triangular area formed by the street right-of-way, a line connecting them not less than ten (10) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street right-of-way extended. The Zoning Administrator may require a distance of more than ten (10) feet of unobstructed vision, if necessary to provide for a clear vision area.
- B. No plantings, fences, walls, hedges, berms, or screens, shall be established in any setback area which, in the opinion of the Zoning Administrator, will obstruct the view of a driver, or a vehicle, approaching or leaving a driveway or adjacent roadway.

**SECTION 3.13 GREENBELT AND LANDSCAPING**

- A. In order to provide a protective screening for Residential Districts or uses adjacent or near Nonresidential Districts or uses, a landscaped greenbelt may be required by the Township to be installed on the Nonresidential District or use property.

- B. The greenbelt shall be a strip of at least ten (10) feet in width planted and maintained with evergreens such as spruce, pines, or firs at least five (5) feet in height, or a hedge of evergreens at least four (4) feet in height, at time of planting, and situated so as to provide an effective sound and visual permanent buffer.
- C. The portion of the landscaped area not covered by plant materials shall be kept in a healthy growing condition, neat and orderly in appearance.

**SECTION 3.14 ESSENTIAL SERVICES**

The erection, construction, alteration or maintenance of essential services, shall be permitted as authorized or regulated by law and other ordinances in any District, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance.

**SECTION 3.15 TEMPORARY STORAGE OF USED MATERIALS**

The storage, collection, or placing of used or discarded material, such as lumber, scrap iron, ashes, slag or commercial or industrial by-products or waste is prohibited after a period of two (2) weeks.

**SECTION 3.16 ILLEGAL DWELLINGS**

The use of any basement for dwelling purposes is forbidden in any Zoning District unless said basement meets the appropriate building codes for dwellings. Buildings erected as garages or accessory buildings shall not be occupied as a dwelling.

**SECTION 3.17 EXCAVATIONS, HOLES OR PONDS**

- A. The construction, maintenance, or existence within the Township of any unprotected, un-barricaded, open or dangerous excavations, holes, pits, or wells, including dams and weirs which constitute or are likely to constitute a danger, spread of disease, stagnation or menace are hereby prohibited. These requirements are set forth to protect the health, safety, and general welfare of the residents of the township.
- B. Any pond to be constructed having a surface area of more than one (1) acre (43,560 sq ft) or multiple ponds on lots or parcels containing a minimum area of ten (10) acres are subject to the requirements set forth in Section 3.17 C., review by the Planning Commission for Special Land Use approval and such conditions as imposed by the Planning Commission.
- C. Ponds may be constructed with a surface area of not more than one (1) acre (43,560 sq ft) on lots or parcels containing a minimum area of five (5) acres in all Zoning Districts subject to the following requirements:

1. The applicant shall submit an application form and pay an application fee as established by the Township board and submit a surety bond in the amount of five thousand dollars (\$5000), acceptable to the Township. The permit shall be issued if it is determined by the Zoning Administrator that the applicant will meet all requirements of this Section. All work must be completed within six months. The Zoning Administrator may extend the time needed for construction for good cause upon written application prior to the expiration of the six (6) month period. The surety bond shall not be released until all work has been completed in compliance with this section and shall be forfeited to the Township if all work is not completed in compliance with the permit, the Township Zoning Ordinance and within the time limit established herein. The proceeds of any bond forfeited hereunder may be used by the Township to restore any partially completed pond to a safe condition. Any property owner who applies for a pond permit must at the time of making application agree to allow the Township, its agents, or any third-party contractor hired by the Township to come on to the property owner's premises to inspect the pond or to make any physical changes necessary to prevent the pond from becoming a nuisance or hazard. The property owner shall also agree, at the time of making application to pay all sums necessary to prevent any partially completed pond from becoming a nuisance or hazard, that are in excess of any forfeited bond.
  2. Any excavation to a depth of more than two (2) feet covering more than one thousand (1000) square feet in contiguous area shall be considered a pond unless otherwise determined by the Zoning Board of Appeals.
  3. Ponds shall be permitted in the front yard with a minimum front yard setback of one hundred (100) feet from the road right-of-way.
  4. There shall be a minimum setback of one hundred (100) feet from the outside edge of any pond excavation to any dwelling and minimum setback of one hundred (100) feet from any property line.
  5. There shall be a minimum distance of separation from any septic tank or sewage disposal field of not less than one hundred (100) feet from any portion of any pond.
  6. Ponds shall be constructed and the material from the pond excavation shall be placed in such a manner that will prevent runoff, overflow, spillage, or seepage from encroaching on property owned by an adjoining property owner.
  7. Ponds shall be constructed such that there is no slope in excess of 3:1 (three feet horizontal to one (1) foot vertical) until the water depth of the pond exceeds five (5) feet. In no case shall any slope exceed 2:1.
  8. Applicant shall not haul excavated material from the property in an amount exceeding one thousand (1000) cubic yards without first obtaining a Special Land Use permit for surface mining from the Township.
- D. Applicants seeking to construct ponds larger than five (5) acres and/or ponds to be located within five hundred (500) feet of a lake, river, stream, or open county drain shall be required to submit applications to the State of Michigan Department which determines the extent to which the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, applies to the proposal and also to apply for soil erosion permit with the Muskegon County Public Works Department.

### **SECTION 3.18 FILLING OF LAND**

No land shall be used for filling or disposal of inert material, such as barrow, fill sand, gravel, cinders, industrial waste or any material of any form or nature, without the issuance of a permit as provided herein.

- A. Definition: The terms fill, filling or disposal shall mean to accumulate, place, deposit, or to allow or permit the accumulation, placing or depositing of material.
- B. Application: Every application for a permit to fill any land shall be accompanied by a specification sheet showing the existing and finished grade level proposed for the fill, a statement as to the materials to be used, the period of time over which the fill will be brought in and the contour of the lot after which the proposed fill is completed. The application will be made in writing to the Zoning Administrator.
- C. Permit to Fill. The Zoning Administrator will issue the permit to fill land, after it is determined:
  - 1. That such filling will not cause additional surface water to collect or to run off onto adjoining lands contrary to normal and natural drainage.
  - 2. That such fill material will not unreasonably cause blowing dust, grime, fumes or odors.
  - 3. That such fill will not decay or rot in such a manner as to cause holes or soft areas to develop in the lands so filled.
  - 4. That upon completion of such fill the property will be left in such a condition that it may be properly used for the use designated for the area in the Zoning Ordinance and Maps.
  - 5. That such fill shall not operate to prohibit light and air to the adjoining properties.
  - 6. That such filling operations will not be conducted before sunrise or after 10:00 P.M. local time.
  - 7. That the transportation of such fill material will be made in trucks or vehicles properly suited to such transport so that it will not be spread upon the highways and roads in the Township.
  - 8. That such fill will not cause any hazard of fire and that combustible material shall not become any part of fill material.
  - 9. That the filling will be carried out under the terms and conditions set forth and that the Township may require a performance guarantee running to the Township and conditioned upon the applicant faithfully carrying out all the terms and conditions of the permit.
  - 10. All applicants are advised that if they change the existing grade of property, the change could cause increased water runoff to other nearby property, which could subject them to civil liability for any damage caused to nearby property as a result of the increased water runoff.
  - 11. Up to three hundred (300) cubic yards of clean fill sand or topsoil for the purpose of a septic system, driveway, or landscaping may be imported without a permit provided it is used immediately. Culverts will be placed at all natural drainage courses or other waterways as determined by the Zoning Administrator.

### **SECTION 3.19            SATELLITE DISH ANTENNAS**

- A.     These regulations shall not apply to dish antennas that are one (1) meter (39.37 inches) or less in diameter in Residential Districts or two (2) meters or less in diameter in Nonresidential Districts.
  
- B.     In any Nonresidential District, the following restrictions shall apply:
  - 1.     The dish antenna shall be permitted in the side or rear yard or mounted on top of a building, securely anchored.
  - 2.     The nearest part of the antenna shall be at least fifteen (15) feet from any property line.
  - 3.     The height shall not exceed the height restriction in the district in which the proposed device is to be located.
  - 4.     No portion of the dish antenna shall contain any name, message, symbol, or other graphic representation.
  - 5.     A site plan shall be prepared and submitted to the Zoning Administrator for approval prior to issuance of a building permit. The site plan shall include the proposed location and an elevation drawing showing the proposed height and foundation details.
  
- C.     In any Residential District, the following restrictions shall apply:
  - 1.     The dish antenna shall be permitted in the rear yard only.
  - 2.     The nearest part of the antenna shall be at least fifteen (15) feet from any property line.
  - 3.     The unit shall be securely anchored as determined by the Building Inspector.
  - 4.     The maximum height measured from the ground to the top edge of the dish shall be fourteen (14) feet.
  - 5.     The antenna shall be an unobtrusive color, as approved by the Zoning Administrator. Nor shall any portion of the dish antenna contain any name, message, symbol, or other graphic representation.
  
  - 6.     A site plan shall be submitted to the Zoning Administrator for approval prior to the issuance of a building permit. The site plan shall include the proposed location of the antenna and an elevation drawing showing the proposed height, color, and foundation details.
  
- D.     These regulations are formulated to ensure that adequate protection measures are provided in the Ordinance for ensuring that sight distance is not impaired, that such dish antennas are located and constructed in a manner which will not afford the potential for injury, and to ensure that the intent and purposes of this Ordinance are met.
  
- E.     The Zoning Administrator shall permit any waivers or modifications of these restrictions to the minimum extent necessary to permit full reception and use of the dish antenna, if existing buildings, vegetation, topography, or other factors cause interference with reception.

## **SECTION 3.20 EXTERIOR LIGHTING**

All lighting of a high intensity nature, intended to illuminate broad areas, shall be directed away from, and if necessary, shall be shielded to prevent the shedding of light onto adjacent properties or roadways. Light poles shall be limited to twenty (20) feet in height.

## **SECTION 3.21 HOME OCCUPATIONS**

- A. No person(s) other than the resident occupant(s) shall be engaged in the home occupation.
- B. 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. The home occupation shall be operated in its entirety within the principal dwelling or attached accessory building, but shall not, in any case, exceed a total floor area equal to not more than twenty five percent (25%) of the gross floor area of the dwelling unit and attached accessory building.
- C. There shall be no change in the outside appearance of the dwelling, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the dwelling.
- D. Any traffic generated by such home occupation shall not be so great as to cause serious adverse effects within or upon the surrounding neighborhood. Parking areas for such home occupation shall be located off the street and in areas used for such purposes by the residence.
- E. No retail or other sales of merchandise or products shall be conducted except for incidental products directly related to the home occupation or those goods actually produced on the premises.
- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses outside the dwelling in which the home occupation is conducted.

## **SECTION 3.22A TEMPORARY SALES**

- A. The Zoning Administrator may issue a permit, with conditions if deemed necessary for the temporary sale of merchandise in any district, related to a seasonal or periodic event. Such seasonal sales shall include the sale of Christmas trees, or other similar activities, but shall not be deemed a permanent structure designed for such use.
- B. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine:
  - 1. that the use does not have a detrimental effect upon adjacent properties;
  - 2. that the use does not impact the nature of the surrounding neighborhood;

3. that access to the area will not constitute a traffic hazard due to ingress or egress;  
and
4. that adequate off-street parking is available to accommodate the use.

Each permit shall be valid for a period of not more than thirty (30) days, and may be renewed by the Zoning Administrator for up to fourteen (14) days, provided the season or event to which the use relates is continued.

### **SECTION 3.22B RESIDENTIAL GARAGE/ BASEMENT/ YARD SALES**

The owner or occupant of the principal single-family dwelling shall be entitled by right to hold two (2) garage/ basement/ yard sales per calendar year, not to exceed a maximum of three (3) consecutive days per sale.

### **SECTION 3.23 NON-CONFORMING BUILDINGS, STRUCTURES AND USES**

- A. General Conditions. Subject to the provisions of this Section, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or such amendment.
- B. Expansion and Substitution of Nonconforming Buildings or Structures.

Non-Conforming buildings and structures may be maintained and repaired to be kept in sound condition and may be restored or rebuilt whether the non-conforming building or structure is damaged by fire, wind, act of God, or other casualty or is demolished and regardless of the cost of such rebuilding or restoration. A building permit shall be obtained within one (1) year of loss, or else restoration or rebuilding shall not be permitted as described above.

1. Meet all site development standards of that zoning district thereby eliminating the non-conformity.
2. On lakefront properties if the side and rear setbacks are met expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district.
3. On lakefront properties if the side or rear setbacks are not met then only that portion which meets the setback requirements may be expanded or enlarged up to 50% of the gross floor area as it existed as of January 1, 2012. Any such expansion or enlargement shall comply with the setback and height requirements and all other applicable requirements of that zoning district. **A topographical survey prepared by a licensed surveyor shall be required for all lakefront non-conforming structures to assure proper existing grade elevations and placement.**



4. On non-lakefront properties buildings and structures may be maintained, repaired, expanded or rebuilt on the existing footprint but may not be expanded or rebuilt into any setback requirement beyond the original height or location other than the front setback may be expanded along the line of the existing structure as long as the side yard setback of the zoning districts are maintained.
- C. Change or Discontinuance. The nonconforming use of a building or structure or land shall not be:
1. Changed to any other nonconforming use unless the Board of Zoning Appeals finds that such change in use will have a less harmful effect on neighboring properties than the existing nonconforming use.
  2. Re-established after discontinuance, vacancy, lack of operation or otherwise for a period of six (6) months.
  3. Re-established after it has been changed to a conforming use or less nonconforming use.
- D. Building or Structure under Construction on the Effective Date of this Ordinance. Any building or structure shall be considering existing, lawful and to have been in use for the purpose for which it was constructed if on the effective date of this Ordinance, or amendment, a building permit has been obtained therefor, if one is required, or, if no building permit is required, then if a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.
- E. Lots of Record.
1. Lots of Record – Residential. Any parcel created or recorded prior to the effective date of this Ordinance, or amendment, in a district permitting a dwelling as a matter of right may be used for a single-family dwelling even though the lot area, lot width and/or dimensions are less than those required for the district in which the lot is located, provided that the dwelling and/or any other structures on the lot comply with the minimum floor area, height, lot coverage, and yard setbacks required in that district or those setbacks previously approved for subdivisions or condominiums being no less than thirty (30) feet for front and rear setbacks and ten (10) feet side yard setbacks.
  2. In the event that any parcel that conformed with the dimensional requirements of this ordinance at the time that a dwelling was erected upon said parcel and thereafter said parcel becomes dimensionally nonconforming as a result of a foreclosure over a portion of the parcel or a partial taking by eminent domain then the use of the remaining parcel for residential purposes shall be allowed to continue, however any structures on the parcel shall not be further enlarged without compliance with such other applicable requirements of this ordinance or as may be allowed by way of variance.

3. Lots of Record – Non-Residential. Any parcel created and recorded prior to the effective date of this Ordinance, or amendment, in a district that does not permit a dwelling as a matter of right may be used for a purpose lawful in that district even though the lot area and/or dimensions are less than those required for the district in which the parcel is located, but only if such use is authorized as a variance by the Board of Zoning Appeals, in accordance with the variance provisions of the Ordinance.
  4. In all residential zoning districts, if two or more adjacent nonconforming vacant lots of record are held in common ownership, said lots shall be considered to be an undivided parcel for purposes of obtaining a zoning permit and shall be combined into a parcel (s) that has a lot width of at least 90 feet and a lot size of at least 50 percent of the minimum lot area required in the zoning district where the parcel (s) are located.
- F. Change in Tenancy or Ownership. There may be a change in tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.
- G. Elimination of Nonconforming Use, Building, or Structure. The Township Board may acquire by purchase, condemnation or other means, private property or an interest in private property for the removal of any nonconforming use, building or structure. The cost or expense or a portion thereof may be paid from general funds or assessed to a special district in accordance with applicable statutory provisions.

**SECTION 3.24 DEMOLITION PERMITS**

No buildings shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond in such amount according to a schedule as determined by the Township Board. Such bond shall be conditioned on the applicant completing the razing within a reasonable period as prescribed in the permit and complying with such requirements as to health and safety as the Building Inspector may prescribe, including, but not limited to, filling excavations and proper termination of utility connections.

**SECTION 3.25 MAXIMUM DEPTH TO WIDTH RATIO**

- A. In all Residential Districts, no lot shall be created whose lot depth exceeds four (4) times its width, except for residentially zoned lots or parcels that have more than one half (1/2) of their street frontage on a cul-de-sac. For purposes of this Section, the beginning points of a cul-de-sac shall be deemed to be the intersections of the radius of the cul-de-sac with the right-of-way lines of the street connected to the cul-de-sac.
- B. In the case of an unimproved corner lot or corner parcel, the depth of a lot or parcel shall be measured midway between the side lot lines and from the front lot line to the rear lot line along the dimension of the lot comprising the greatest distance.

- C. The Planning Commission may allow parcels having a depth greater than four (4) times their width providing any three of the following conditions are met.
1. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio contains slopes greater than 12%.
  2. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio has a high groundwater table, such that the County Health Department requires significant alteration of the site such as mounding of soil to meet septic system requirements.
  3. At least 50% of that portion of the parcel that would otherwise meet the 4:1 ratio is within the 100-year floodplain as determined by the township, the U.S. Corp of Engineers, or the Federal Emergency Management Agency (FEMA).
  4. That portion of the parcel that would otherwise meet the 4:1 ratio contains creeks, rivers, lakes or other surface water features that make compliance with the 4:1 ratio impractical.
  5. That portion of the parcel that would otherwise meet the 4:1 ratio contains natural vegetation such as mature stands of trees or thick brush. It must be demonstrated that without relief from the 4:1 ratio, residential construction activities would destroy habitat or woodlots.
- D. The Planning Commission, in making its determination, may consider factors such as, but not limited to:
1. Past and present uses of the parcel and adjoining parcels.
  2. Past productivity, vegetation, and the difficulty in making the parcel suitable for residential construction activities.
  3. The likelihood of conflicts arising between the proposed uses and surrounding land uses.
  4. The precedent set by allowing the proposed use in the circumstances under consideration will not adversely affect the long-term plans and development policies of the Township.
  5. Must have proof that the water supply and septic systems are approved by the County Health Department.
- E. Under no circumstances shall:
1. the parcel be located within the Agricultural Overlay District.
  2. the depth of any parcel exceed six times the width.

**SECTION 3.26 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a 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 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in such zoning district provided such unit meets the 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 by the Planning Commission in accordance with Article XV.

**SECTION 3.27 SWIMMING POOLS**

- A. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a building permit has been obtained.
- B. The outside edge of the pool wall shall not be located closer than thirty (30) feet from any rear lot line or twenty (20) feet from any side lot line. Swimming pools shall not be located in the front yard unless it is placed at least two hundred (200) feet from the road right-of-way.
- C. All swimming pools shall be constructed and enclosed by a barrier in accordance with applicable construction codes as adopted by Fruitland Township.

**SECTION 3.28 STORAGE AND REPAIR OF VEHICLES**

The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any Residential District, shall be conducted entirely within the interior of a building, in accordance with Dismantled Car Ordinance, 35-2-0, except as follows:

- A. Procedures or projects which require the vehicle immobile or inoperable fourteen (14) days or less within any six (6) month period may be carried out outside a building.
- B. Inoperable vehicles and vehicle parts shall be stored inside a building.

**SECTION 3.29 OUTDOOR STORAGE IN RESIDENTIAL DISTRICTS**

The outdoor storage or parking of recreational vehicles or recreational equipment, in all Residential Districts shall be subject to the following minimum conditions:

- A. All such vehicles or equipment, if stored or parked outside, must be operable and must be licensed where applicable.
- B. All such vehicles or equipment, if stored or parked outside, shall be located in a rear yard or side yard, adhering to side yard setbacks of zoning district in which it is located.
- C. Recreational vehicles or equipment shall be parked or stored on a lot or parcel of land containing a dwelling or commercial building. The lease of space for storage or parking of recreational vehicles or equipment for compensation shall not be permitted in a Residential District.

- D. Unless otherwise authorized by this Ordinance, travel trailers and other recreational vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water, or gas, provided that such equipment may be parked and used for living or housekeeping purposes for a period not exceeding fourteen (14) days in any twelve (12) month period, provided that running water or indoor sewage facilities within such equipment is not utilized.

### **SECTION 3.30 OUTDOOR FURNACES**

- A. Outdoor furnaces are allowed in all districts except the Medium High Density and High-Density Residential Districts.
- B. There shall be a minimum side yard setback of 200% of the side yard setback for the prescribed district.
- C. Fuels that may be burned in an outdoor furnace:
- Wood without additives
  - Wood pellets without additives
  - Agricultural seeds in their natural state
- D. Fuels that may not be burned in an outdoor furnace:
- Leaves and grass and other similar waste
  - Rubbish/garbage including food waste, food packaging
  - Animal carcasses
  - Furniture
  - Composite shingles
  - Construction or demolition debris
  - Household or business waste
  - Waste oil or other oily products
  - Treated or painted wood
  - Rubber including tires and synthetic type products
  - Newspapers or corrugated cardboard
- E. A mechanical permit will be required to install an outdoor furnace.

### **SECTION 3.31 AVERAGE SETBACK LINES**

- A. Front (Non-lakefront Lots). When the required front yard setback can not be met if there are existing principal buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest principal building on each side located within two hundred (200) feet on the same side of the street. If there is an existing principal building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of the nearest principal building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer than fifty (50) feet to an arterial street or thirty-five (35) feet to a residential Street right of way.

- B. Front (Lakefront Lots on Arterial Streets). For lakefront lots served by arterial streets the front yard setback for any building including accessory buildings is 100 feet. When the required front yard setback can not be met if there are existing buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest building on each side located within two hundred (200) feet on the same side of the street. If there is an existing building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of nearest building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer to the street right-of-way than the average setback of those buildings, but in no case closer than fifty (50) feet.
- C. Front (Lakefront Lots on Residential Streets). For lakefront lots served by residential streets the front yard setback for any building including accessory buildings is 50 feet. When the required front yard setback can not be met if there are existing buildings within two hundred (200) feet on each side of a proposed building location, the average setback line shall be determined as the average distance of the nearest building on each side located within two hundred (200) feet. If there is an existing building within two hundred (200) feet of the proposed building location on only one (1) side, the proposed building location shall be the average of the distance of the nearest building within two hundred (200) feet and the otherwise required setback. The building shall not be located closer to the street right-of-way than the average setback of those adjacent buildings, but in no case closer than thirty-five (35) feet.
- D. Rear (Shoreline). For parcels on White Lake and Duck Lake if there are existing principal buildings on adjacent lots within two hundred (200) feet on each side of a proposed building location, a proposed building or structure must be located no closer to the ordinary high-water mark than the average distance from the ordinary high-water mark of the nearest principal buildings located within two hundred (200) feet on each side from the proposed structure. If there is a vacant waterfront lot within two hundred (200) feet, the one hundred (100) foot setback shall be used for averaging.

The average setback line shall be determined by extending a line perpendicular to the ordinary high-water mark to the existing structure. The length of the shortest setback distance of each adjoining lot will be averaged, establishing the proposed average building setback line.

A proposed structure may be located an additional five (5) feet closer to the water than averaging may allow so long as the proposed structure satisfies twice the required setback on each side.

- E. Lake Michigan Shoreline Setback. The required setback for all structures, buildings, and new construction above and below ground, including septic systems, is a minimum of one hundred (100) feet landward from the Ordinary High-Water Mark of 580.5 IGLD 1985 or one hundred (100) feet landward of the bluff line, whichever is further landward. If a greater setback is required by any agency or division of the State of Michigan or

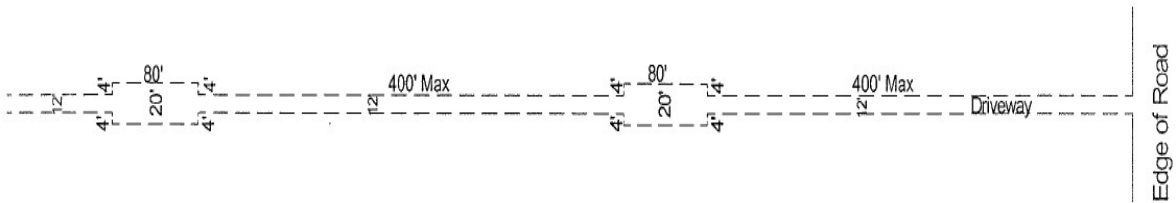
Michigan statute (or by the federal government) than is required by this section, then such greater setback requirement shall apply. If there are existing principal buildings on adjacent lots within two hundred (200) feet on each side of a proposed building location, a proposed building or structure may be located the same distance from the top of bluff as the average distance from the principal building located within two hundred (200) feet on each side from the proposed structure. If there is a vacant waterfront lot within two hundred (200) feet, the one hundred (100) foot setback shall be used for averaging for the adjacent vacant lot.

A principal structure more than three hundred (300) feet from the top of the bluff shall not be used and the one hundred (100) foot setback shall be averaged. Please also see Section 6.04a hereof.

A proposed structure located twice the required side yard setback can be placed five (5) feet closer to the lake than the averaging allows. No proposed new structure shall be allowed closer than one hundred (100) feet from the top of the bluff without the benefit of a variance.

**SECTION 3.32 DRIVEWAYS**

Each building site is to be serviced by a driveway. All new driveways must have a travel surface of 12 foot wide constructed of gravel, concrete, asphalt, crushed limestone, crushed concrete, slag or combination of these or other materials as may be approved by the Zoning Administrator with an additional cleared 3 feet on each side, a cleared height of 13 ½ feet and for every 400-foot interval a 20 X 80-foot area for pass or re-pass of emergency vehicles. Driveways shall not be closer than 80 feet to an intersection, except for exceptional circumstances as approved by the Fruitland Township Board, or their designated representative, and the Muskegon County Road Commission. Except for building sites on private streets, an approved driveway permit must be obtained from the Muskegon County Road Commission (MCRC) and submitted to the Building Inspector prior to the issuance of a building permit. Adjacent to and on both sides of a driveway, the area between the right-of-way line and the pavement edge shall be maintained clear of any objects that obstruct the vision of the roadway from the driveway.



**SECTION 3.33 ROUNDING TO THE NEAREST FOOT**

Dimensional requirements contained in this ordinance may be met provided the required dimension is satisfied to the nearest foot. However, one-half (0.5) shall not be satisfactory for rounding up.

**SECTION 3.34            AGRICULTURE USES**

1.        Except as may be otherwise regulated elsewhere in this ordinance, Agricultural Buildings accessory to agricultural uses:
  - a)        Greater than 2,400 square feet but less than 3,200 square feet in size shall be located no nearer than 100 feet to any property line.
  - b)        3,200 square feet in size and larger shall be located no nearer than 200 feet to any property line.
2.        The combined total of all Accessory Buildings shall not exceed 1/2% of parcel size, or 3,200 square feet, whichever is greater.

**SECTION 3.35            REQUIREMENTS FOR WIRELESS COMMUNICATION TOWERS AND ANTENNAS WHICH DO NOT EXCEED A HEIGHT OF 50 FEET.**

The following regulations shall not apply to satellite dishes regulated by Section 3.19, wind energy systems regulated by Article XXIII, MET towers as regulated by Article XXIV, and towers and antennas which are otherwise specifically regulated by this Zoning Ordinance. All other towers and antennas which do not exceed a height of fifty feet shall comply with the following regulations:

- A.        Towers and Antennas Allowed by Right. The following antennas are allowed in the RR and LDR zoning districts subject to the requirements of the district, approval by the Township Zoning Administrator and the issuance of a building permit:
  1.        An antenna which is no more than fifty feet in height when attached to a new or existing structure such as a tower or monopole. The height shall be measured from the top of the antenna to the average finished grade within twenty-five feet of the base of the new or existing structure;
  2.        An antenna which is attached to or placed on the roof of an existing structure provided the antenna does not exceed a height of fifty feet as measured from the top of the antenna to the average finished grade at the base of the existing structure\_or the antenna does not extend above the highest point of the new or existing structure whichever is greater;
  3.        The antenna or tower shall be permanently secured to a stable foundation; and
  4.        All antennas and towers must be grounded against damage from lightning.



**SECTION 3.36            EXISTING WIRELESS COMMUNICATION TOWERS AND ANTENNAS EXCEEDING A HEIGHT OF FIFTY FEET AS A USE BY RIGHT**

A.     Collocation of New Wireless Communications Equipment and Modification of Existing Wireless Communications Support Structures Permitted by Right: The collocation of new or the replacement of existing wireless communications equipment as defined herein and the modification of existing wireless communications support structures shall be permitted by the Zoning Administrator subject to compliance with all of the following requirements and the issuance of the applicable Township building and electrical permits:

1.     The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound;
2.     The existing wireless communications support structure or existing equipment compound is in compliance with the Ordinance;
3.     The proposed collocation will not do any of the following:
  - i.        Increase the overall height of the wireless communications support structure by more than twenty feet or twenty-percent of its original height, whichever is greater. The height shall be measured from the top of the support structure to the average ground finished grade within twenty-five feet of the base of the wireless communications support structure;
  - ii.       Increase the width of the original wireless communications support structure by more than the minimum necessary to permit collocation; or
  - iii.      Increase the area of the existing equipment compound to greater than two thousand-five hundred square feet.
4.     The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of Fruitland Township; and
5.     Any wireless communications equipment which meets the requirements of Section 3.36 B. a. and b. but does not meet the requirements of Section 3.36 B. c. or d. shall only be approved if it is approved as a special land use according to the requirements of Section 14.04 EE. of the Ordinance.

B.     Application and Submittal Information. The applicant shall file with the Township an application for wireless communications equipment and wireless communication support structures under Section 3.36 B. that shall include the following information:

1.     A complete written and graphic description of the proposed wireless communications equipment and wireless communications support structure. This shall include an illustration of the antenna and support structure to be installed and its design including cross section and elevation drawings and a diagram of how the tower/antenna will be anchored;

2. A statement that the proposed wireless communications equipment and wireless communication support structure will be installed in accordance with the manufacturer's specifications and applicable Township codes. A set of drawings sealed by a professional engineer for the installation of the wireless communications equipment and wireless communications support structure shall also be provided;
  3. A description of the tower ordinary maintenance program;
  4. A decommissioning plan explaining the process to be undertaken by the applicant for tearing down the tower and removing all wireless communications equipment, materials and support structures and restoring the property so it can be used by a use permitted in that Zoning District;
  5. Security measures including emergency contact personnel;
  6. The applicant shall provide documentation that indemnity and insurance coverage exist for the wireless communications equipment and wireless communications support structure in the event that damage or personal injury occurs or the provider abandons the wireless communications support structure. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township; and
  7. All required fees shall be paid to the Township at the time of application.
- C. Site Plan Requirements. The applicant shall also file with the Township three copies of a site plan accurately drawn at a scale of not more than one-inch equals one-hundred feet containing the following information unless specifically waived by the Zoning Administrator:
1. The date on which the site plan was prepared as well as the name of the preparer;
  2. A north arrow and legal description of the property;
  3. The area and dimensions of property containing the tower and antenna including any area leased for the tower;
  4. A location map sufficient to show the character of the area surrounding the proposed antenna and the zoning and land use on adjacent properties;
  5. The height of the tower and antenna and its distance to all property lines;
  6. Any buildings or existing structures on the property;
  7. The distance to the closest building on adjacent property;
  8. The location of any overhead transmission lines on the site or on adjacent property which might be affected by the tower;

9. Any tower supporting structures or devices;
10. Type and height of fencing to be installed around the tower or wireless communications equipment shelter;
11. Elevation drawings of any buildings designed to serve the tower;
12. Access road, width and construction standards along with access easement;
13. Any lighting proposed to be located on the tower; and
14. The applicant shall demonstrate how the visual impact of the proposed towers and attached antennas will be reduced through the use of color or other techniques.

D. Procedures:

1. The application materials shall be reviewed for completeness by the Zoning Administrator or their agent. An application shall be considered complete if it contains all of the information contained in Sections 3.36 B. 2. and 3. The Zoning Administrator shall notify the applicant in writing of any missing items;
2. Upon receipt of a completed application, the Zoning Administrator shall make a decision regarding approval or denial; and
3. Upon approval of the application, the applicant may proceed to obtain the applicable building and electrical permits.

**SECTION 3.37          Solar Energy Systems**

A. Purpose and Intent

1. The purpose of this section is to establish guidelines for the appropriate placement and use of Solar Energy Systems as defined herein and applicable to all zoning districts except as may be limited herein, with the goals of:
  - a. Promoting the safe, effective, and efficient use of Solar Energy Systems, in order to contribute to the reduction in consumption of fossil fuels for generating electricity.
  - b. Preserving and protecting public health, safety, welfare and quality of life;
  - c. Maintaining the integrity, rural character, property values, and aesthetic quality of the township by minimizing the potential adverse impacts of Solar Energy Systems;

- d. Establishing standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a Solar Energy System shall be governed.

B. Definitions:

**Concentrating Solar Thermal Devices (CSP):** Generates solar power by using mirrors or lenses to concentrate a large area of sunlight onto a receiver. Electricity is generated when the concentrated light is converted to heat which drives a heat engine (usually a steam turbine) connected to an electrical power generator.

**Decommissioning:** The process of terminating operation and completely removing a solar energy system and all related buildings, structures, foundations, access roads, and associated equipment.

**Greenbelt:** A greenbelt consists of shrubbery, trees, or other noninvasive plant species that provide a visual screen. Typically, to include 2-4 staggered rows of evergreen trees, 5-8 feet high, intermixed with intermediate sized shrubs, within a total depth of approximately 25 feet.

**Impervious surface:** A hard surface area that either prevents or retards the entry of water into the soil. Common impervious surfaces include but are not limited to rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, and solar panels.

**Interconnection:** Refers to the process of connecting renewable technologies to the larger electrical grid.

**Inverter:** Equipment that is used to change voltage level or waveform, or both, of electrical energy, such as converting direct current electricity (DC) produced by a solar system into the alternating current electricity (AC) that can be used in a home or building.

**Landowner:** The individual or entity, including their respective successors and assigns that have equity interest or own the property on which the solar energy system is situated in accordance with this ordinance chapter.

**National Electric Code (NEC):** The National Electrical Code (NEC), is a regionally adoptable standard for the safe installation of electrical wiring and equipment in the United States. It is typically adopted by states and municipalities in an effort to standardize the enforcement of safe electrical practices.

**Off-Grid:** Refers to living autonomously without reliance on a utility for power. Typically, it works by generating electricity from solar panels and using it to charge a battery. That electricity is then converted using an inverter so that it can power the home or business.

**On-site:** A solar energy system designed to help meet the electrical needs within the limits of the area encompassed by the tract area or parcel of record on which the activity is conducted.

**Operator:** The individual or entity, including their respective successors and assigns that have equity interest in the solar energy system as a lessee of the real property parcel on which the solar energy system is located.

**Photovoltaic (PV) device:** A solid-state electrical device that converts light directly into direct current electricity of voltage-current characteristics that are a function of the characteristics of the light source and the materials in and design of the device.

**Power transmission lines:** Are sets of wires, called conductors, which carry electric power from generating plants to the substations that deliver power to customers.

**Solar Array:** Any number of Photovoltaic Devices connected together to provide a single output of electric energy.

**Solar Energy System:** Any device or structural design feature used for the collection, storage, and distribution of solar energy for space heating, space cooling, lighting, electric generation, or water heating.

**Solar Energy System, Building-Mounted:** A solar energy system that is structurally mounted to the side of a building or structure.

**Solar Energy System, Ground-Mounted:** A solar energy system that is structurally mounted to the ground and is not roof-mounted.

**Solar Energy System, Roof-Mounted:** A solar energy system that is structurally mounted to the roof of a building or structure.

**Solar Energy System – Small (SES-S):** A single residential or small commercial business scale solar energy conversion system consisting of roof/building mounted panels, ground-mounted solar arrays, or other solar energy fixtures, and their associated control or conversion electronics, occupying an area of not more one (1) acre of land, and that will be used only to produce utility power for on-site users, except for the incidental sale of surplus electrical energy back to the electrical grid. These installations are permitted in addition to “accessory uses or structures” and are not to be included in calculations for determining total accessory structure square footage in all Zoning Districts so long as satisfying the standards for each district and after the issuance of a Zoning Compliance Permit, Building Permit, and Electrical Permit.

**Solar Panel:** A structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

**Substation:** Any electrical facility containing power conversion equipment designed for interconnection with power lines. Part of the electrical transmission system converting high voltage to low voltage or converting low voltage to high voltage for incorporation into the electrical power grid.

**UL, Underwriters Laboratories:** UL is a safety certification company participating in the safety analysis of many of that century's new technologies.

C. Applicability:

1. This ordinance applies to SES-S to be installed and constructed after the effective date of the ordinance.
2. Solar energy equipment which provides electricity or heat solely for the principal use of the lot on which it is located, is permitted as an accessory structure, subject to this section. Solar Equipment as described, shall be considered as an additional structure and shall not prohibit the placement of an accessory building on the same lot, nor be included in any calculation for determining total accessory structure square footage, subject to site development standard for the affected zoning district.
3. Any Solar Energy System other than SES-S is not allowed in Fruitland Township except as may be allowed and regulated by the Michigan Public Service Commission.
4. Any upgrade, modification, or structural change that materially alters the size or placement of an existing solar energy system shall comply with the provisions of his ordinance.

D. Small Solar Energy Systems (SES-S) On-Site Use:

An on-site use solar energy system is intended to first serve the needs of the private owner. Small systems may be approved in the all-zoning districts upon issuance of a zoning permit, building permit, and an electrical permit provided that the application meets the requirements and standards of this section.

E: Specific Requirements for Small Solar Energy Systems (SES-S):

1. **Setbacks:** All Small Solar Energy Systems (SES-S), including associated equipment, shall meet all the required setback requirements from all property lines.
2. **Screening:** PV panels and associated mechanical equipment except SES-S shall be screened from residential districts and public rights of way by a greenbelt or six (6) foot high privacy fence.
3. **Submitted plans:** A sketch plan, drawn to scale, shall show existing and proposed structures, driveways, adjacent structures within 100 feet, and any other information requested by the Zoning Administrator that is necessary to determine compliance with this ordinance.

4. **Height: Building Mounted:** accessory to structure: Solar energy systems shall be such a weight to be safely supported by the building. Building inspector approval is required. Solar Energy Systems shall be considered part of the building and meet all the required building height and setback requirements. On a flat roof installation, the Solar Energy Systems shall not project more than **five (5)** feet above the highest point, and shall be setback from the building edge at least **three (3) feet** distance. Solar energy systems on pitch roof installations shall not be located within three (3) feet of any peak, eave, or valley to maintain adequate accessibility, and shall not project more than two (2) feet above the roof surface.
5. **Ground Mount Solar Panels:**
  - a. If more than 2,000 square feet of impervious surface, including hard surface driveways is proposed, a drainage plan shall be submitted.
  - b. Ground mounted solar equipment shall comply with the same location and setback requirements as are applicable to accessory buildings. If it is demonstrated that a front yard location is necessary for proper solar exposure, ground mounted solar energy equipment may be permitted in a front yard, provided it is located at least twice the applicable setback from the front line required for a principal building in the district.
6. **Solar Energy Systems - General Requirements:** All solar energy systems, whether building mounted or ground mounted, are subject to the following general requirements:
  - a. All Solar Energy Systems must conform to all applicable federal, state, county and township regulations, as well as any applicable industry standards.
  - b. A Solar Energy System shall not have a negative impact on the health and safety of humans or animals; nor diminish the value of neighboring properties.
  - c. No signage will be allowed except for public and employee safety, and that required by federal, state, county and township regulations.
  - d. No Solar Energy System shall be installed until evidence has been given to the Zoning Administrator that the electric utility company has approved the developer's intent to install an interconnected customer-owned generator to the grid. "Off Grid" systems shall be exempt from this requirement.
  - e. Any on-site electrical storage, Battery Energy Storage Systems (BESS) must conform to industry standards and applicable federal, state and local regulations.

- f. No Solar Energy System shall produce electromagnetic interference that adversely affects normal operation of radio, television, Internet, or cellular telephone service or exceeds any applicable standards established by federal or state regulations. Such interference is grounds for the Township to restrict the operation of the Solar Energy System until it is resolved.
- g. Concentrating solar thermal devices or any other various experimental solar technologies are not allowed in any zoning district, except by approval of Fruitland Township unless authorized and regulated by the Michigan Public Service Commission
- h. All power transmission lines from a ground-mounted Solar Energy System to any building or other structure shall be located underground, and comply with the National Electrical Code (NEC). The Planning Commission may modify this requirement if, in its sole discretion, it determines that it would be impractical to install, place or maintain such transmission lines underground.
- i. Any Solar Energy System and the surrounding premises must be maintained in good repair and condition at all times, and must continuously conform to all applicable building and electrical codes. This shall include, but is not limited to, ensuring that any fencing is maintained to provide sufficient protection and screening, that the property is kept clear of trash and other debris, that all aspects of the Solar Energy System are maintained according to industry standards, and that no portion of the Solar Energy System including Greenbelts is in a blighted, unsafe, or substandard condition.
- j. Drainage, including stormwater, soil erosion and sediment control, and snowmelt runoff shall be managed in a manner consistent with all applicable federal, state, and local regulations. All drainage infrastructures on-site, including drain tile and ditches, shall be maintained during the operation of the Solar Energy System, and shall not impact setback/buffer areas or neighboring properties.
- k. No Solar Energy System shall produce glare that would constitute a nuisance to occupants of neighboring properties or to persons traveling neighboring roads. Upon written notice to the owners of the Solar Energy System from the Township **Official**, that glare from the Solar Energy System is causing a nuisance to neighboring residents, or to persons traveling neighboring roads, the owner of the Solar Energy System shall have a reasonable time (not to exceed six (6) months) from the date of such notice to remediate such glare.



- l. No System or any of its components shall be illuminated, except to the degree necessary for public safety or maintenance. Lighting shall not extend beyond the Solar Energy System perimeter.
- m. The Photovoltaic Panels shall meet all UL (Underwriters Laboratories) standards in effect at the time of construction; and pass IEC 61215-1 testing. The applicant shall provide written specifications, material safety data sheets (MSDS), and countries of origin of the panels used, and include updated specifications as panels are replaced.
- n. In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of the **Solar System within six (6) months** the owner or operator shall provide a Rehabilitation Plan to remedy the damage and said plan shall be submitted to, and approved by, the Township Board. Said plan will outline the necessary protocol and time schedule for returning the **Solar System** to energy production and must be submitted to the Township within sixty (60) days of the date the damage was incurred or a time determined reasonable by the Township Board.
- o. No operating Solar Energy System shall produce noise that exceeds Forty-Five (45) dBA, as measured at the property line of any neighboring lot. Adequate setbacks shall be provided to comply with this requirement.

**7. Height, Backyard Residential:**

**Shall not exceed a height of 16-foot**, measured at maximum tilt. Solar PV panels shall not be mounted in a manner that will obstruct the view or access to sunlight on any neighboring property. All ground arrays shall be set back a distance of 2.0 times their structure height from all property lines and building setbacks, whichever is greater.

- 8. Height, Backyard Commercial/Industrial Zone:** A ground mounted Solar Energy System – Small (SES-S) shall be in the rear yard and shall meet the rear yard setback requirements. Maximum height shall be 16 feet measured at maximum tilt. All other buildings and accessory structures must meet the height requirements of the underlying zoning district. All ground mounted solar arrays shall be set back a distance of 1.5 times their structure height from all property lines and building setbacks, whichever is greater.

10. **Decommissioning:** If the solar energy system ceases to operate, is abandoned, or in disrepair for a period of six (6) months or is deemed by the Zoning Administrator or Building Inspector to be unsafe or not consistent with code, the current landowner shall repair and restore the system to good working order within a reasonable time set by the Zoning Administrator or Building Inspector or, if no longer operating or, no longer in compliance with federal, state or local codes, the current landowner shall remove the system in its entirety. This shall include removing posts, equipment, panels, wiring, foundations and other items so that the ground is restored to its preconstruction state.