

Article VII: Supplemental Site Development Standards

Section 7.01 Supplemental Site Development Standards

Those permitted uses and uses allowed by Special Use Permit enumerated in any zoning district, if included below, shall be subject to the following conditions and requirements. The uses listed in this article are only allowed as listed in the Article IV: Zoning Districts and Map.

1. Bed and Breakfast Establishments:

Bed and breakfast establishments shall be subject to the following regulations:

- A. **Bed and Breakfast Establishment as an Accessory Use:** The bed and breakfast establishment shall be clearly incidental to the principal residence.
- B. **Principal Residence:** The dwelling unit shall be the principal residence of the operator, and the operator shall live in the dwelling unit when the bed and breakfast facility is in operation.
- C. **Maximum Number of Units:** No more than four (4) bed and breakfast sleeping rooms shall be established.
- D. **Kitchen Facilities:** There shall be no separate cooking facilities for the bed and breakfast establishment, other than those, which serve the principal residence. Food may be served only to those persons who rent a room in the bed and breakfast facility.
- E. **Building Requirements:** A building used for a bed and breakfast establishment shall comply with the following minimum requirements:
 - 1) There shall be at least two (2) exits to the outdoors.
 - 2) Rooms used for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants, plus and additional thirty (30) square feet for each additional occupant. Rooms shall be designed to accommodate no more than four (4) occupants.
 - 3) Each sleeping room shall be equipped with a functioning smoke detector.
- F. **Parking:** An off-street parking spot shall be provided for each bed and breakfast unit, in accordance with this Ordinance. Off-street parking in the front yard is prohibited.
- G. The number of bathrooms and septic system size shall meet District Health Department requirements.

2. Campgrounds:

- A. A minimum lot size shall be ten (10) acres, and not less than six hundred (600) feet width.
- B. The lot shall provide direct vehicular access to a public road. The term "lot" shall mean the entire campground or travel trailer park.

- C. Each campground shall be provided with at least one (1) public phone.
- D. All sanitary stations, privies, or any sanitary facilities shall be located at least one hundred (100) feet from property lines.
- E. Campground perimeter shall be completely screened by natural terrain and well maintained vegetative screening.
- F. Campsites shall be located at least fifty (50) feet from property lines.
- G. All campgrounds shall comply with State of Michigan Health Department requirements.

3. **Cemeteries:**

- A. Location: No portion of any cemetery that is located in a wetland or a hundred year floodplain shall be developed or platted for gravesites.
- B. Accessory Buildings: A crematorium, mausoleum, columbarium, or other accessory building may be permitted within a cemetery provided that any such building shall be designed and located in accordance with a cemetery master plan, which shall be subject to Planning Commission Approval.
- C. Setbacks: No building or structures containing bodies or remains, other than subterranean graves, shall be located closer than fifty (50) feet to the boundary line of any residential or commercial district.
- D. All cemeteries shall comply with applicable state regulations.

4. **Funeral Home or Mortuary:**

Funeral Home or Mortuary property shall have direct vehicular access to a public road. Funeral home or mortuary property shall be at least one hundred fifty (150) feet of lot width. All uses, off-street parking areas, and loading areas are accommodated on site, without encroachment into the setback areas. The service entrance to the building shall be screened from view of adjoining residential properties, or contained within the confines of the building.

5. **Gasoline / Service Station:**

- A. An automobile service station building, repair garage or main building for a filling station shall be located not less than fifty (50) feet from the road right-of-way or less than twenty-five (25) feet from the side or rear lot line of any adjoining residential property or less than twenty-five (25) feet from the side or rear lot line of adjoining commercial or industrial property.
- B. No ingress or egress to an automobile service station, public garage or filling station, shall be closer than fifty (50) feet from any intersection or residential property line abutting the property on which such facility is located.

- C. All lubrication equipment, hydraulic hoists and pits shall be completely enclosed within a building. All gasoline pumps shall be located not less than twenty-five (25) feet from any lot line, except for adjoining residential property line which shall require a fifty (50) foot setback, and shall be arranged so that motor vehicles may be provided easy egress and ingress to and from the adjoining road, and so that no portion of the vehicle while it is stopped for service, shall overhang onto a sidewalk, curb, road or public right-of-way.
- D. When adjoining residential property, screening at least five (5) feet in height shall be constructed parallel to the property line of such residential property. All masonry walls shall be protected by a fixed curb or other barrier to prevent vehicular contact.
- E. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by natural screening at least five (5) feet in height. Outside storage or parking of disabled, wrecked or partially dismantled vehicles shall be allowed for a period not to exceed fifteen (15) days.
- F. All exterior lighting shall comply with **Section 3.20 Outdoor Lighting** of this Ordinance.
- G. On a corner lot, both road frontage sides shall conform to all applicable front yard regulations of this ordinance.
- H. Parking and stacking spaces shall be provided in the rear of the property subject to the **Section 3.23 Parking and Loading Standards**.

6. **Junk and Salvage Material Storage:**

Junk storage and salvage materials shall be located within a completely enclosed building. Any open storage yards or areas shall be entirely enclosed by an obscuring eight (8) foot wall or fence and a vegetative screening, and no salvage yard facilities shall be nearer to the exterior boundary of the Industrial (I-1) District than one-hundred (100) feet.

7. **Kennels or Veterinary Clinic/Hospital:**

- A. All kennels shall be operated in conformance with County and State regulations and shall be on sites of at least five (5) acres. Veterinary clinics or hospitals shall be located on sites of at least one (1) acre in size.
- B. Animals shall be confined in a fenced area to preclude their approaching nearer than five hundred (500) feet to any dwelling on adjacent premises or nearer than fifty (50) feet from the property line, which ever is greater.
- C. Any fenced areas shall be screened from adjacent properties and/or roads with an opaque fence and a vegetated evergreen buffer at least five (5) feet in height.
- D. The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.

- E. Animals shall be kept in a soundproof building between the hours of 10 p.m. and 8 a.m.
- F. All principal use activities shall occur within an enclosed main building.

8. **Manufactured Home Developments:**

Manufactured home developments shall be subject to the following conditions:

- A. Manufactured home developments shall be developed and licensed pursuant to the requirements of the Michigan Manufactured Housing Commission, Public Act 96 of 1987 and any rules promulgated pursuant to this Act, as amended. This includes but is not necessarily limited to compliance with Michigan Manufactured Housing Commission regulations concerning internal roads, parking requirements, fencing, screening, unit spacing and recreational and open spaces.
- B. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require all mobile homes in mobile home parks to be anchored to the ground in accordance with the standards and specifications of the manufacturer and any applicable state and federal statutes and rules.
- C. To the extent permitted by the Michigan Manufactured Housing Commission, this ordinance shall require the underside or chassis of all mobile homes in mobile home parks to be fully skirted or enclosed with durable, weather-resistant materials, as specified by the manufacturer or as specifically manufactured for use as home skirting, and all such skirting shall be maintained in place as designed.

9. **Mobile Homes and Trailers, Other Uses:**

Mobile homes, travel trailers and motor homes may be used as follows:

- A. Mobile homes may be used as temporary dwellings until the owner or occupant thereof completes the construction or erection of a conventional housing unit for which a Building Permit has been issued, subject to the conditions of this Ordinance. The temporary dwelling shall be included on the Building Permit, and maintained as long as diligent progress is being made on the main property use, and shall be removed upon issuance of an Occupancy Permit for the main use.
- B. The unoccupied storage of a motor home or travel trailer, not a mobile home, on any residential property by the owner thereof shall be allowable as a permitted accessory use of the premises where there is a main use, provided such storage is confined to the rear yard when the rear yard is accessible. If the rear yard is not accessible, then storage in the side yard is permissible, if no nuisances, hazards, or blocking of views are created for the adjoining property. The unoccupied storage of a motor home or travel trailer shall comply with the applicable district setbacks.

10. **Motels and Hotels:**

- A. Motels and Hotels shall have a minimum lot width of one hundred fifty (150) feet at the road line.
- B. There shall be at least eight hundred (800) square feet of lot area per guest room.
- C. Each unit shall contain at least a bedroom and bath and a minimum gross floor area of two hundred fifty (250) square feet.
- D. Motels shall provide customary motel services, such as maid service, linen service, telephone and/or desk service, and the use of furniture.
- E. Parking spaces shall be provided subject to the **Section 3.23 Parking and Loading Standards**.

11. **Nursing Homes, and Assisted Living Facilities:**

Nursing and convalescent homes, medical care facilities and similar uses shall meet the following requirements.

- A. The minimum lot size for such facilities shall be five (5) acres.
- B. Such uses shall have access via a public road as the main means of access for residents or patients, visitors, and employees shall be via the road.
- C. Any such facility shall provide a minimum of fifteen hundred (1,500) square feet of outdoor open space for every room used or intended to be used. The open space shall be landscaped and shall include places for walking and sitting. Off-street parking areas, driveways, and accessory uses or areas shall not be counted as required open space.

12. **Public Buildings, Institutions and Places of Worship:**

Public buildings (except public works garages and storage yards), places of worship, public schools, private schools and their local supporting service uses, shall be permitted provided the arrangement of property uses shall minimize the impact on scenic views, and if feasible, the site design shall mitigate negative impacts related to building size, noise, lighting and traffic.

Any uses of church structures or properties for such other purposes as recreation, day care centers, group housing, and the like, shall be separately considered as part of the conditions to granting or denying a special permit in residential districts.

13. **Recreation Camps:**

Recreation camps, recreation lodges and resorts for either profit or non-profit shall be subject to the following conditions:

- A. The use is established on a minimum site of twenty (20) acres.

- B. All outdoor activity areas, parking lots, main buildings and accessory buildings are located at least 100 feet from all property lines. The resulting 100 foot yard shall be maintained as a buffer area wherein all natural tree/shrub cover is retained in healthful growing conditions. Planted greenbelts may be required by the Planning Commission as deemed necessary.
- C. The recreational camp use shall not locate within the confines of a platted subdivision intended for single residential occupancy or parcels which are deemed by the Planning Commission to be a logical extension of such a platted area.

14. **Recreational Areas and Facilities:**

All recreation lands and/or facilities, subject to findings that the uses are compatible with the surrounding residential area, the uses respect the environmental qualities of the site, noises typical residential areas and no inordinate obstructions to scenic views are established. Recreational uses permitted herein include parks, playgrounds, and common access sites. No such facilities shall have a commercial appearance or be of a commercial character.

15. **Resource Mining, Extraction and Fill**

The location of mining and extractive operations are dependent in large part, upon the sites which contain natural deposits of material having economic value, particularly to the construction industry. Sites nearest to the built-up areas are generally more viable economically, but they could be more sensitive environmentally, because of their close proximity to homes and smaller building sites. The treatment of extractive operations as a special use (conditional) is necessary to build in the flexibility needed to permit these activities where the resources are found, and at the same time, to afford protection to adjoining properties. Public agencies, government units, and private operations are subject to these regulations.

A. **Site Plan Requirements**

Site plans for Special Use Permits shall be submitted in accordance with the site plan requirements of Section 6.02, and in addition shall show:

- 1) Proposed location, area, boundaries and depth of excavation or fill.
- 2) Pertinent time schedules for starting and concluding dates of the proposed operation per permit.
- 3) Location of spoils dumps, sediment basins, earth stockpiles, machinery, or fuel or hazardous waste, material storage buildings, or tanks.
- 4) Roads to be used by any hauling equipment and all planned ingress/egress points to the excavated area, stockpiled resources, and on-site equipment.
- 5) A statement on general surface and ground water conditions, including source flow, size and location of watershed and wetlands, and any possible impact on permanent bodies of water, water levels and wells in the area. If the operation plans to enter the aquifer a hydro-geological report shall be required.
- 6) A statement outlining the type of material to be extracted or deposited, the type of mining operation and processing equipment to be used and measures to control noise, air and water pollution, run-off/erosion and any

steps to relieve any adverse effects to adjoining properties and the environment. An Emergency Plan for any accidental chemical, or other industrial spill, shall also be included.

- 7) Plans and statements outlining all work to be done on the reclamation, assuring that steps are taken to blend the site into the surrounding landscape or neighborhood as applicable.
- 8) The Planning Commission may accept the documents required for permits under Act 451, of 1994, being Sections 9101 to 9123, of the Soil Erosion and Sedimentation Control of the Natural Resource and Environmental Protection Act, provided, the terms, standards, and review requirements of the Zoning Ordinance are complied with. There shall be compliance with all applicable federal or state regulations. If a federal or state permit is required, then the Special Use Permit shall not be issued or shall not become effective until the federal or state permit has been issued.
- 9) Permits shall contain the full extent of the operation as specified in each Permit, and any deviation or enlargement of the scope of operation shall require a separate permit.
- 10) The map scale of the site plan shall be sufficient to show the site operating details as required by each Permit. The site plan and special use application shall be reviewed and decided pursuant to Section 6.03 and 6.04. The Special Use Permit shall be issued unless the Planning Commission finds after applying the criteria of Section 6.03 that serious consequences are likely to result to the health, safety and welfare of the township, its citizens or the environment from the issuance of the Special Use Permit.

B. Site Plan Review Levels Required

The site plan review procedures required for an extraction/fill site will vary with the scope, extent and complexity of the proposed operation. The following site plan review levels shall apply:

- 1) LEVEL 1 - No Site Plan Review or Permit shall be required if:
 - a) The intended fill/extraction is for earth materials to be used on the same parcel, by tax description.
 - b) The operation involves minor or incidental earth work in connection with a building construction or agriculture project, i.e. berm, regraded slopes, retention ponds, and/or similar work.
- 2) LEVEL 2 - Site Plan approval by the Planning Commission shall be required if:
 - a) Intended or projected extraction/fill sites and any sites other than those included in Level 1.
 - b) Operations expected to include long term access to stockpiled resources.
 - c) On-site processing machinery, batch plant and other equipment that will be used.

C. Performance Standards

The following shall apply to all proposed extraction, mining, fill operations:

- 1) All excavations or extractive work shall maintain a minimum perimeter setback of fifty (50) feet from road right-of-way and all property lines. The minimum perimeter setback may be increased up to 100 feet to compensate for (a) that portion of any boundary contiguous to lands zoned "residential" and/or occupied for residential purposes, or (b) the maximum recorded (IGLD) high water level of Lake Charlevoix and Lake Michigan or (c) any lake, stream, or creek within the Township. Controlled work in the fifty (50) or one hundred (100) feet setback area may be permitted if spoils, over burden, or other earth fill material replaces the resources removed, or if contouring or landscaping is an improvement to this process, as the work progresses (in cases of a pit).
- 2) The working face of an excavation shall maintain slope angles sufficient to prevent erosion or earth disturbances of any kind to adjoining properties.
- 3) Upon completion of the mining operation, or each phase of the project, the entire project shall be restored consistent with the original vegetation and top soil cover and in accordance with Farm Services Agency of U.S.D.A. recommendations. Sufficient native topsoil must be kept on the site as a ready resource to be used in reclamation work unless a guaranteed replacement plan is approved.
- 4) Any open mining face which is higher than three feet (3') shall have fencing placed on the top of the same in such manner as to guard against persons from falling over the working face. Such fencing shall be at least four feet (4') high, and shall consist of at least a woven wire farm fence. In addition berm, walls, and visual screening devices may be required, if necessary, to protect adjoining properties and/or persons in the vicinity of the site. Factors of safety and aesthetics shall be addressed.
- 5) The operation of mechanical equipment of any kind shall be limited by the day and/or the hour if the site is in a location that directly impacts homes, by creating an operating nuisance.
- 6) All structures, equipment, and machinery of any kind shall be considered temporary and shall be removed from the site upon completion of the terms of the Special Use Permit. This item shall not apply to industrially zoned sites.
- 7) Air pollution, noise, vibration, and safety factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
- 8) If necessary to protect the area, access routes serving the site may be limited as stated on the permit or as illustrated on the site plan, it being the intent to minimize the exposure of residential streets to earth moving vehicles.
- 9) The location of earth stockpiles, machinery, equipment, and any buildings or fuel or hazardous material storage or containment structure, shall be approved by Permit but only in terms to protect adjoining properties, and obtain the optimum use of the site. Topography, vegetation, screening devices, refueling tanks or vehicles and physical isolation from residential properties shall be considered in locating site facilities and earth stockpiles.

D. Site Reclamation

The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. Excavations shall be finished with evenly contoured grades to blend in with the adjoining terrain. In Residential Districts, the final grade of an excavation may be required to be brought to a level to permit future residential development.

- 1) Reclamation and rehabilitation of mined areas shall be accomplished as soon as practical following the mining or excavation of an area. Where possible, such rehabilitation and reclamation shall be accomplished concurrently with the mining or excavation operations. An alternate reclamation plan may be filed for cases where continuous reclamation is not practiced or feasible, and a surety bond is provided therewith. A time table for the reclamation and rehabilitation of mined areas shall be agreed upon at the time of a permit being issued.
- 2) Excavations which encounter groundwater or trap surface water, shall be treated in one or more of the following, as applicable to a particular situation:
 - a) Stagnant water conditions shall not be permitted to continue and back filling with approved materials may be required.
 - b) Where water is to remain, either by planned re-use or because no other option exists, the depth shall be sufficient to avoid stagnation, and the shoreline and bottom-land grade shall be uniform at one foot vertical to four feet horizontal (1:4) to a minimum distance of twenty (20) feet from the shoreline. The water depth shall be posted.
 - c) Depending on the nearness of residential neighborhoods, and access by children, the created water body may be required to erect a safety fence four feet high consisting of at least a woven wire farm fence, posted for no trespassing, or similar safety precautions deemed appropriate for the site.
- 3) The final banks of all excavations shall be sloped at a grade which is not steeper than one (1) foot vertical to three (3) feet horizontal (1:3) from the top to the pit bottom, or otherwise be established to blend in with the adjacent terrain and/or stabilize at the soils natural angle of repose.
- 4) The original topsoil from the site shall be retained and replaced on excavated areas not covered by water, except where streets, beaches, or other planned improvements are desired.
- 5) Vegetation shall be required to be restored by seeding of grasses or sodding and/or the planting of trees and shrubs.
- 6) Upon cessation of mining operations, and within a reasonable period of time not to exceed twelve (12) months thereafter, all plant structures, buildings, and equipment shall be removed, except for that necessary to manage on-site stockpiled materials. On site stockpiled materials shall be removed within twenty four (24) months of the cessation of the mining operations. This does not preclude a re-start at another time upon permit renewal.

Specific site reclamation requirements may vary somewhat depending on the location of the site in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or re-use potential

(or plan). The Planning Commission shall rule on such variations with reasons stated.

E. Performance Guarantees

In those instances where a resource excavation/fill operation entails extensive reclamation work and/or safety precautions, financial guarantees or assurances as prescribed in Section 9.06 of the Zoning Ordinance may be required as a condition to issuing a Special Use Permit under the terms of this Ordinance.

The Planning Commission may substitute a staged or phased excavation program wherein performance on reclamation shall be substantially completed prior to undertaking the next phase.

16. **Sanitary Landfill:**

All sanitary landfill operations shall comply with standards prescribed by applicable State and County health regulations.

17. **Sawmills and other Mills:**

Sawmills, planing mills, veneer mills and accessory or incidental mill operations involving logs, "unprocessed timber" and/or rough sawn lumber, are permitted provided:

- A. The use involves the processing of raw timber and/or rough lumber and shall not include hardware supplies, paints, or retail lumberyard businesses except on-site milled lumber may be sold. Log and lumber storage uses are permissible accessory uses.
- B. The land area of the mill site shall be at least ten (10) acres.
- C. Structures housing mechanical wood cutting devices (head saws, cut-off saws, planers, lathers, etc.), shall not be located closer to an off-premises residence than one hundred (100) feet.
- D. Log storage and sawn timber or lumber shall not be located nearer than one hundred (100) feet from an off-premises.
- E. The location of a proposed mill is determined by the Planning Commission to be compatible with other uses in the general vicinity taking into account traffic flow, noise, scenic values, and residential environments where applicable and Township Community Master Plan for the area. The mill location shall be determined to be good land use.

In considering applications for forest industries the Planning Commission may permit modifications to the standards in items A through E, where owing to natural or man-made conditions, no good purpose would be served by requiring strict compliance. Such conditions may include, but need not be limited to, steep topography, intensely wooded areas, other natural barriers, existing uses, and the like.

Nothing in this Ordinance shall be interpreted to exclude temporary and itinerant sawmill operations on property where the timber harvesting involves only those resources found

on the same property. No permit shall be required where the operation involves a period of less than six (6) months on the same property or zoning lot.

18. **Sexually Oriented Business**

The purpose and intent of the section of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities which are prohibited by Township ordinance, state or federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The Township further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

- A. No sexually oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000) feet of any principal or accessory structure of another sexually oriented business.
- B. No sexually oriented business shall be established on a parcel which is within one thousand (1,000) feet of residentially zoned parcel (R-1, R-2, R-3, R-4, R-5, RR).
- C. No sexually oriented business shall be established on a parcel within five hundred (500) feet of any residence.
- D. The proposed use shall conform to all specific density and setback regulations, etc. of the zoning district in which it is located.
- E. The proposed use must meet all applicable written and duly promulgated standards of Hayes Township and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.

- F. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent roadways.
- G. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.
- H. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that: 1) "persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- I. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed so as to be visible from the nearest adjoining roadway or a neighboring property.
- J. Hours of operation shall be limited to 12:00 PM (noon) to 12:00 AM. (Midnight)
- K. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:
 - 1) Shall be handicap accessible to the extent required by the Americans With Disabilities Act;
 - 2) Shall be unobstructed by any door, lock, or other entrance and exit control device;
 - 3) Has at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;
 - 4) Is illuminated by a light bulb of wattage of no less than 25 watts;
 - 5) Has no holes or openings in any side or rear walls.
- L. Review Procedures for Sexually Oriented Businesses
 The Planning Commission shall adhere to the following procedures when reviewing a special approval application for a sexually oriented business.
 - 1) If the Zoning Administrator or Planning Commission determine that a special approval application for a sexually oriented business is not complete when it is first presented to the Planning Commission, it shall provide written notice by first class mail within five (5) business days of said determination detailing the items required to complete the application. Upon payment of a new filing fee, the applicant may resubmit the amended application for review by the Planning Commission for completeness.
 - 2) If the Planning Commission determines that the application is complete, it shall within sixty (60) days of said determination make and adopt specific

findings with respect to whether the proposed sexually oriented business is in compliance with the standards designated in **Section 18 (A-K)**. If the Planning Commission has not made and adopted findings of fact with respect to a proposed sexually oriented business and either approved or denied the issuance of a special approval for the same within sixty (60) days of its determination that a completed application has been filed, then the special approval shall be deemed to have been approved.

- 3) Prompt judicial review of adverse determination: If the Planning Commission denies a special approval application for a sexually oriented business pursuant to the above paragraphs, then the applicant shall be entitled to prompt judicial review by submitting a written request to the Zoning Administrator. The Township shall have within five (5) business days of the receipt of such written notice to do the following:
 - a) File a petition in the Circuit Court for the County seeking a judicial determination with respect to the validity of such denial, and in conjunction therewith, apply for a preliminary and permanent injunction restraining the applicant from operating the sexually oriented business in violation of the Township Zoning Ordinance;
 - b) Request that the application for issuance of a preliminary injunction be set for a show-cause hearing within ten (10) business days or as soon thereafter as is possible after the filing of such petition. In the event the applicant appears at or before the time of such show-cause hearing, waives the notice otherwise provided by Michigan Court Rules, and requests that at the time set for such hearing the Court proceed to hear the case under applicable rules of civil procedure for the issuance of such permanent injunction on its merits, the Township shall be required to waive its application for preliminary injunction and shall join in such request.

In the event that the applicant does not waive notice and/or does not request any early hearing on the Township's application for permanent injunction, it shall never the less be the duty of the Township to seek the earliest possible hearing date under Michigan law and the Michigan Court Rules.

The filing of written notice of intent to contest the Planning Commission's denial of a special approval shall not in any way affect the validity of such denial, but such denial shall be deemed invalid and the special approval application automatically approved if, within fifteen (15) business days of the filing of the Township's petition, a show-cause hearing has not been scheduled.

19. **Storage Facilities:**

- A. Storage uses as allowed in Industrial (I-1), including mini-storage, shall meet the following regulations:
 - 1) All proposed storage buildings nearest to the primary access road shall be site planned to be perpendicular to the road; landscape screening

shall be required by the Planning Commission per subparagraph 3) of this section.

- 2) Proposed storage buildings are positioned to the rear of other approved non-storage or non-warehousing buildings, e.g., retail or office uses, or, the storage buildings are set back at least one hundred (100) feet from public road right-of-way lines.
- 3) Effective year-round landscape screening is required to shield storage buildings from bordering public roads upon installation of proposed plant materials.
- 4) Nothing in this section shall prohibit or inhibit storage space as a necessary accessory use to any principal commercial use of the property, and these standards do not apply to internal roads within a planned industrial or commercial park.
- 5) Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, shall be within an enclosed building or behind an obscuring wall or fence on those sides abutting any Residential District and on any yard abutting a public thoroughfare.

20. **Telecommunication Tower or Alternate Tower Structure**

A. Purpose

The purpose of this Section is to establish general guidelines for the location of wireless telecommunication towers, alternative tower structures and antennas. The Township recognizes that it is in the public interest to permit the location of wireless telecommunication towers, alternative tower structures and antennas within the Township. The Township also recognizes the need to protect the scenic beauty of Hayes Township from unnecessary and unreasonable visual interference, and that wireless telecommunication towers, alternative tower structures and antennas may have negative aesthetic impacts upon adjoining and neighboring uses. As such, this Section seeks to:

- 1) Protect residential areas from potential adverse impact of towers and antennas;
- 2) Encourage the location of towers in nonresidential areas;
- 3) Minimize the total number of towers throughout the community;
- 4) Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- 5) Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
- 6) Enhance the ability of providers of telecommunication services to provide such services to the community quickly, effectively, and efficiently;
- 7) Consider the public health and safety issues of telecommunication towers and alternative tower structures; and
- 8) Avoid potential damage to adjacent property from tower failure.

B. Additional Standards for Telecommunication Tower or Alternative Tower Structure. In addition to the standards set forth in a particular zone and the standards set forth in Articles V and VI of this Ordinance, the uses below must meet the following additional standards:

- 1) Application Requirements. The following information shall be provided in support of an application to construct a wireless telecommunication tower:
 - a) Certification from a Michigan licensed professional engineer as to the manner in which the proposed wireless telecommunication tower is designed to collapse, and that the proposed tower, as built, will withstand, at a minimum, winds of 70 miles per hour with one half inch of radial ice on the tower.
 - b) A map depicting the existing and known proposed location of wireless telecommunications facilities, including wireless telecommunication antenna attached to alternative tower structures, within Hayes Township as well as within the proposed service area radius.
 - c) The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
 - d) A statement which indicates the applicant's intent to allow the collocation of other antenna, provided that the cost of modifying the existing tower is borne by the co-locating entity and reasonable compensation is paid by the co-locating entity.

- 2) Evidentiary Requirements. The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Hayes Township Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna shall consist of all of the following:
 - a) No existing tower or alternative tower structure is located within the geographic area which meets applicant's engineering requirements.
 - b) Existing towers or alternative tower structures are not of sufficient height to meet applicant's engineering requirements.
 - c) Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d) The applicants proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structures, or the antenna on the existing towers or alternative tower structures would cause interference with the applicants proposed antenna.
 - e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g) The applicant demonstrates that an alternative technology that

does not require the use of towers or alternative tower structures, such as cable microcell network using multiple low-powered transmitters or receivers attached to a wireline system is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

- 3) Setbacks. The following setback requirement shall apply to all towers for which a special use permit is required:
 - a) Towers must be set back a distance equal to at least one hundred percent (100%) of the height of the tower from any adjoining lot line.
 - b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- 4) Security Fencing. Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6') in height and shall also be equipped with an appropriate anti-climbing device.
- 5) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required:
 - a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screen the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4') wide outside the perimeter of the compound.
 - b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- 6) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations re changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- 7) Aesthetics. Towers and antennas shall meet the following requirements:
 - a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d) Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
 - e) The tower is of monopole or lattice design.
- 8) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
 - 9) Compliance with Codes. Antenna and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
 - 10) Interference with Residential Reception. Transmission shall not interfere with television and radio reception to neighboring residential areas.
 - 11) Signs. No signs other than signs required pursuant to federal, state, or local law or ordinance shall be allowed on an antenna or tower. A sign will be placed on the fence indicating the ownership of the tower and a telephone number of who to contact in case of an emergency. The name and telephone number must be 50 point print.
 - 12) Spacing. A tower shall not be located within two hundred feet (200') or three hundred percent (300%) of the height of the tower, whichever is greater, of an existing single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the base of the single family or multiple family dwelling unit, church, school or other structure normally used and actually used for the congregation of persons.
 - 13) Removal of Abandoned Antennas and Towers. Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall

remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require the applicant to file a bond equal to the reasonable cost of removing the tower, antenna, alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

- 14) Limitation on Tower Height. No tower shall be constructed which is greater than 199.5 feet in height as measured from the point where the tower meets the earth to the highest point of the tower structure, including antenna. The restrictions in the building height definition of Section 2.02 do not apply to these towers.

21. **Wind Turbine Generators**

Commercial wind turbine generators and anemometer towers shall be permitted in the CR, A, C-2, and I-1 districts pursuant to a special use permit obtained following the procedures of Article VI of this Ordinance and the requirements of this subsection.

A. **Application Requirements**

In addition to the application requirements of Article VI of this Ordinance, an application for a special use permit for a commercial wind turbine generator or for an anemometer tower shall include all of the following information, unless expressly indicated otherwise. If the zoning administrator determines that all required information was not supplied, he or she shall send written notification to the Applicant of the deficiencies. The application for the wind turbine generator or anemometer tower shall not proceed until all required information has been supplied.

- 1) A site plan meeting all of the requirements of Article V of this Ordinance.
- 2) A detailed analysis by a qualified registered engineer describing the specific commercial wind turbine generator structure(s) or anemometer tower proposed and all phases for implementing the development, if any.
- 3) A study prepared by a qualified registered engineer documenting that the site of the commercial wind turbine generator has sufficient wind resources for the proposed wind turbine generator equipment. Provided, however, this application requirement shall not apply to an anemometer tower.
- 4) A resume or other written summary of the education, experience, and other qualifications of all experts providing information concerning the commercial wind turbine generator or anemometer tower project.

- 5) A detailed written statement, with supporting evidence, demonstrating how the proposed commercial wind turbine generator or anemometer tower will comply with all of the applicable standards for approval specified in this Ordinance.
- 6) Written documentation establishing whether the location of a proposed commercial wind turbine generator on the site will create shadow flicker on any existing structures located off the property on which the wind turbine generator will be constructed, and if so, the extent and duration of the shadow flicker on these existing structures and neighboring properties, and the steps to be taken to minimize the shadow flicker on these existing structures. Provided, however, this application requirement shall not apply to an anemometer tower.
- 7) Written documentation that the applicant has notified the FAA and any other applicable state and federal regulatory agencies of the proposed commercial wind turbine generator or anemometer tower.
- 8) Written documentation that the applicant has notified the operators of any microwave or communication link towers or similar facilities of a proposed commercial wind turbine generator when the proposed location of the wind turbine generator is within the line of sight between two or more microwave or communication link towers or similar facilities. Provided, however, this application requirement shall not apply to an anemometer tower.
- 9) Elevation drawings, computer generated photographic simulations or other images, or other visual aids that depict how the commercial wind turbine generator tower and all accessory structures or anemometer tower will appear as constructed on the proposed site from vantage points north, south, east, and west of the commercial wind turbine generator tower or anemometer tower. Provided, however, this application requirement shall not apply to an anemometer tower.
- 10) Any additional information reasonably deemed necessary by the Planning Commission to determine compliance with the standards for approving a commercial wind turbine generator or an anemometer tower specified in this Ordinance and the impact of the proposed wind turbine generator or anemometer tower on adjacent properties, public infrastructure, and the township as a whole. This information may take the form of, but is not limited to, traffic impact analyses, environmental impact assessments, and/or information from officials representing federal, state, or county departments or regulatory agencies.

B. Standards for Approval of Wind Turbine Generators and Anemometer Towers

The Planning Commission shall approve, or approve with conditions, an application for a commercial wind turbine generator or for an anemometer tower only upon a finding that the proposed wind turbine generator or anemometer tower complies with the standards contained in Section 6.02 of this Ordinance and all of the following applicable standards:

- 1) Sufficient Wind Resources. The proposed site shall have documented annual wind resources sufficient for the operation of the proposed wind turbine generator; provided, however, this standard shall not apply to an anemometer tower. No commercial wind turbine generator shall be approved without submission of a wind resource study documenting wind resources on the site over a minimum of one year.
- 2) Minimum Site Area. The minimum site area for a commercial wind turbine generator or an anemometer tower erected prior to a wind turbine generator shall be as necessary to meet required setbacks and any other standards of this ordinance.
- 3) Setbacks. Each proposed commercial wind turbine generator or anemometer tower shall meet the following applicable setback requirements:
 - a) Each commercial wind turbine generator shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to 1,500 feet. The setback shall be measured from the outermost point on the base of the wind turbine generator. The Planning Commission shall reduce this setback to the shortest distance, not less than 735 feet, where the proposed commercial wind turbine generator meets standards 6), 7), and 8) below.
 - b) Each anemometer tower shall be setback from any adjoining lot line and any adjoining public or private road right-of-way or easement a distance equal to the height of the anemometer tower. The setback shall be measured from the outermost point on the base of the anemometer tower.
 - c) For any newly proposed commercial wind turbine generator a wind access buffer equal to a minimum of five (5) rotor diameters shall be observed from any existing off-site wind turbine generator tower.
- 4) Maximum Height.
 - a) The maximum commercial wind turbine generator tower height or the height of an anemometer tower erected prior to a commercial wind turbine generator shall be 300 feet.
 - b) The Planning Commission may approve an increased height for a commercial wind turbine generator tower or an anemometer tower, not to exceed 400 feet, if all of the following conditions are met:
 - (i) The need for the increased height is the result of a stand of trees, existing land forms, or structures that would

substantially hinder the operation of the commercial wind turbine at the normal height limitation.

- (ii) The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the commercial wind turbine generator given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.
 - (iii) The increased height will not result in increased intensity on lighting of the tower due to FAA requirements.
- 5) Minimum Rotor Wind Vane or Blade Clearance. The lowest point of the arc created by rotating wind vanes or blades shall be fifty (50) feet on a commercial wind turbine generator. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.
 - 6) Maximum Noise Levels. Any proposed wind turbine generator shall produce sound levels that are no more than fifty (50) decibels as measured on the dB(A) scale at the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.
 - 7) Maximum Vibrations. Any proposed wind turbine generator shall not produce vibrations beyond the property lines of the site in question of such intensity, duration, frequency or character which annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on any reasonable person of normal sensitiveness. Provided, however, this standard shall not apply to an anemometer tower.
 - 8) Blade Throw. The potential blade and ice throw from any commercial wind turbine generator shall not cross the property lines of the site in question. Provided, however, this standard shall not apply to an anemometer tower.
 - 9) Rotational Controls. All commercial wind turbine generators shall be equipped with controls to limit the rotational speed of the blades within design limits for the specific wind turbine generator. Provided, however, this standard shall not apply to an anemometer tower.
 - 10) Transmission Lines. The on-site electrical transmission lines connecting the commercial wind turbine generator to a public utility electricity distribution system shall be located underground. Provided, however, this standard shall not apply to an anemometer tower.
 - 11) Interference with Residential Reception. All commercial wind turbine generators and any anemometer tower shall be constructed and operated so that it does not interfere with television, radio, or microwave reception

in neighboring areas. If degradation of television, radio, or microwave reception occurs as the result of the wind turbine generator or anemometer tower, the developer shall pay to correct the television, radio, or microwave reception.

- 12) State or Federal Requirements. All commercial wind turbine generators and any anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate wind turbine generators or other tall structures in effect at the time the special use permit is approved.
- 13) Aesthetics and Lighting. All commercial wind turbine generators and any anemometer tower shall meet the following requirements:
 - a) The wind turbine generator or anemometer tower shall, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness. Excessively bright or neon colors are not acceptable. The Planning Commission, however, may approve an alternate color if the wind turbine generator or anemometer tower is located within an avian migratory route or if an alternate color would otherwise benefit the neighborhood.
 - b) A commercial wind turbine generator shall be a monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. A temporary anemometer tower (to be removed within three years) may utilize a lattice-style tower and/or may utilize guy wires. Safety marking and/or physical barriers for all guy wires anchors may be required by the Planning Commission. Any anemometer tower which is to remain for greater than three (3) years shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires.
 - c) Commercial wind turbine generator or anemometer tower shall not be artificially lighted unless required by the FAA. Where the FAA requires lighting, the lighting shall be the lowest intensity allowable under FAA regulations, the fixtures shall be shielded and directed to the greatest extent possible to minimize glare and visibility from the ground, and no strobe lighting shall be permitted, unless expressly required by the FAA. Unless the FAA requires otherwise, the lighting shall be a nonpulsating or nonblinking red light.
 - d) Each wind turbine generator or anemometer tower shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.

- e) Each commercial wind turbine generator or an anemometer tower shall have no advertising painted on or attached to the tower or any other structure of the wind turbine generator.
 - f) Each wind turbine generator tower shall be designed to aesthetically complement the color and design of any existing wind turbine generator tower within a one-mile radius. The Planning Commission may require design changes in order to lessen the visual clutter associated with the siting of multiple wind turbines with non-complementary, inconsistent design within sight of each other.
- 14) Sign. A commercial wind turbine generator or anemometer tower shall have posted on the site in a visible, easily accessible location a sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours and on weekends or holidays. Provided, however, this standard shall not apply to a noncommercial wind turbine generator.
- 15) Access limitation. The commercial wind turbine generator or anemometer tower shall be designed and constructed in such a manner that access is limited, to the extent possible, to authorized personnel only. Provided, however, this standard shall not apply to a noncommercial wind turbine generator.
- 16) Shadow Flicker. All commercial wind turbine shall be designed and sited in such a manner to minimize shadow flicker expected to fall on a roadway and on any existing structures located off the property on which the wind turbine generator is constructed. Provided, however, this standard shall not apply to an anemometer tower.
- 17) Removal of Abandoned or Unsafe Wind Turbine Generators or Anemometer Towers. Any wind turbine generator or anemometer tower that is not mechanically capable of operating for more than 4,380 hours over any twelve (12) month period or sits idle for more than 12 months shall be considered abandoned. Any tower found to be unsafe or not in compliance with the special land use conditions related to noise or shadow flicker placed upon it by the Planning Commission, shall be found to be in violation of the special land use permit. The owner of any wind turbine generator tower or anemometer tower that is abandoned or in violation of the special land use permit shall remove the same within ninety (90) days of receipt of notice from the Township of such abandonment or violation. In addition to removing the wind turbine generator, or anemometer tower, the owner shall restore the site of the wind turbine generator or anemometer tower to its original condition prior to location of the wind turbine generator or anemometer tower, subject to reasonable wear and tear. Any foundation associated with a wind turbine generator or anemometer tower shall be removed to a minimum depth of four (4) feet below the final grade, the location of the remaining

foundation shall be recorded with the Charlevoix County Register of Deeds and site vegetation shall be restored. Failure to remove an abandoned wind turbine generator or anemometer tower within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the wind turbine generator or anemometer tower at the owner's expense.