Hayes Township

Zoning Ordinance

Adopted: October 12, 2009

Effective: October 31, 2009

Including Amendments Effective:

March 24, 2012

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Article I:
Purpose and Authority

Preamble

An Ordinance to establish zoning districts in the unincorporated portion of Hayes Township, Charlevoix County, Michigan, and to provide for the regulation, government, and administration thereof, in accordance with the provisions of the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

The Township of Hayes ordains:

Article I: Short Title and Purpose

SECTION 1.01 - TITLE

This Ordinance shall be known as the "Hayes Township Zoning Ordinance", and will be referred to herein as "this Ordinance".

SECTION 1.02 - PURPOSE

The purpose of this Ordinance is to:

A. Promote the public health, safety and general welfare;

B. Encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land;

C. Control sprawl and maintain rural character;

D. Control congestion on the public roads;

E. Facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties;

F. Consider the character of each district, its suitability for particular uses, the existing property values and natural resources, and the general and appropriate trend and character of land, building and population development.

SECTION 1.03 – AUTHORITY

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

SECTION 1.04 – VALIDITY

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

SECTION 1.05 – REPEAL

The prior Hayes Township Zoning Ordinance, adopted by the Hayes Township Board, and effective on July 1, 1974 and all amendments thereto are hereby repealed in their entirety.

SECTION 1.06 – SAVINGS

The repeal of the prior Hayes Township Zoning Ordinance, as provided in Section 1.05 of this Ordinance, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder or actions involving any provisions of the zoning ordinance or parts thereof. The prior Hayes Township Zoning Ordinance repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines penalties, forfeitures, liabilities and actions therefor.

Article II:
Rules of Construction and Definitions

Section 2.01 - Rules of Construction

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply, except when clearly indicated otherwise.

1. The particular shall control the general.
2. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.
3. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
4. A "building" or "structure" includes any part thereof.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
6. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either...or", such conjunction shall be interpreted as follows:
   A. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
   B. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
7. "Township" shall refer specifically to Hayes Township.
8. Terms not defined shall be assumed to have the meaning customarily assigned them.
9. Any necessary interpretation of this Ordinance shall be defined by the Hayes Township Zoning Board of Appeals.

Section 2.02 - Definitions

Accessory Structure: Any building or structure that is customarily incidental and subordinate to the use of the principal or main building or structure, including but not limited to, accessory buildings, personal freestanding television and radio reception antennas, satellite dishes and signs. An accessory structure attached to a main building or structure shall be considered part of the main structure.

Accessory Use: A use naturally and normally incidental and subordinate to the main use of the land or building.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated, electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

1. books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, DVD or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of annual sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

Adult Cabaret: A nightclub, bar restaurant, or similar commercial establishment that regularly features:

1. persons who appear in a state of nudity;
2. live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel: A hotel, motel or similar commercial establishment that:

1. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
2. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Agriculture: The act or business of cultivating or using land and soils for the production of crops for the use of animals or humans and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and

poultry husbandry. Flower, vegetable or other gardens maintained only for the property owner(s) use and/or enjoyment are not considered agricultural.

Alterations: Any change, addition or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed".

Alternative Tower Structure: Any structure which, if intended to be used to locate an antenna or tower, may accommodate and conceal or camouflage the presence of said antenna or tower, including but not limited to man-made trees, clock towers, bell steeples, light poles, silos and other similar alternative-design mounting structures.

Anemometer: An instrument for measuring and recording the speed of the wind.

Anemometer Tower: A structure, including all accessory facilities, erected on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio signals, wireless communication signals or other communication signals.

Apartment: A room or suite of rooms, including bath and culinary accommodations, in a multiple dwelling, intended or designed for use as a residence by a single family.

Appearance Ticket: see Municipal Civil Infraction Citation.

Architectural Features: Parts of a building which are not for human occupancy, that shall include but are not limited to cornices, eaves, gutters, courses, sills, lintels, chimneys and decorative ornaments.

Automobile Repair: Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

Automobile Sales Area: Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

Automobile Wash Establishment: A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.

Average: For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.

Basement: That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

Bed and Breakfast Establishment: Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation. For the purpose of this Ordinance, the term bed and breakfast establishment also includes tourist home.

Bedroom: A dwelling room used or intended to be used by human beings for sleeping purposes.

Billboard: An outdoor sign which is used to identify or communicate a noncommercial message such as an idea, belief, or opinion or a commercial message related to an activity conducted, a service rendered, or a commodity sold at a location different than the property on which the billboard is located. However, a billboard shall not include a tourist oriented directional sign for which a permit has been issued by the Michigan Transportation Department pursuant to Public Acts 299 of Public Acts 1996, as amended.

Board of Appeals: As used in this Ordinance, this term means the Hayes Township Zoning Board of Appeals.

Boardwalk: An elevated pedestrian walkway often built to maintain erosion control over steep grades or wetland areas

Boat and/or Canoe Livery and Boat Yard: A place where boats and/or canoes are stored, rented, sold, repaired, docked and serviced.

Buffer Strip: A strip of land for the planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

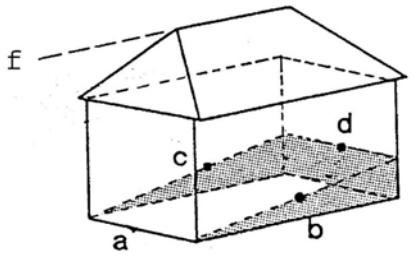
Buildable Area: That portion of a lot remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

Buildable Width: The width of a lot left for building after required side yards are provided.

Building: Any structure, either temporary or permanent, having a roof supported by columns, or walls for the shelter or enclosure of persons, animals, or property of any kind.

Building Envelope: The area upon a lot where a principal building or structure and any attached or detached accessory structures are or are intended to be constructed. For a residential use, the building envelope shall mean the area upon a lot, parcel, or site condominium unit where a dwelling and any accessory structures, including but not limited to garages, storage sheds and decks, are or are intended to be constructed.

Building Height: The vertical distance from the peak of the roof to the average finished grade. When the terrain is sloping, the height shall be computed using the average grade measured at the building wall on all four sides (see Figure).



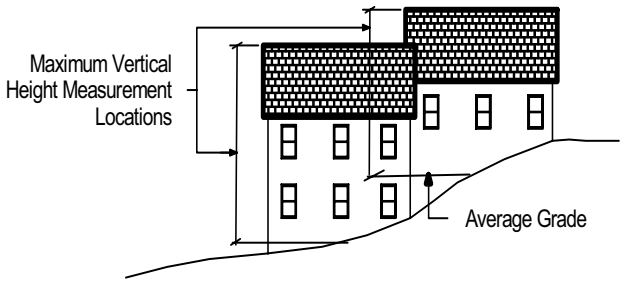
a, b, c, d = avg finisthed grade on each building wall

Average Grade (entire building): (a+b+c+d)/4 = e

Height = f (elevation at peak) – e (average grade)

No portion of the structure's roof may exceed the maximum height allowed in the specific District regulations. As

illustrated in Figure below, buildings may be “stair stepped" up and down slopes. The building height shall be calculated for each “stair stepped” portion separately.



Walkout basements are excluded from the building height calculations, provided that no more than one third of horizontal wall or a maximum twenty feet including doors is primarily exposed, and the basement height is no more than ten (10) feet (measured floor to floor). If a greater portion of the basement wall is exposed or the basement height is greater, the basement shall be included in the height calculation.

Campgrounds: Any parcel or tract of land, under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units.

Church: See Place of Worship.

Clinic: A building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

Club: Buildings and facilities owned or operated by corporation, association, person or persons, for social, educational, or recreational purposes.

Co-Location: The use of a telecommunication tower by more than one wireless telecommunication provider.

Condominium Project: a plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59 of 1978, as amended).

Condominium Unit: That portion of a condominium project designed and intended for use by the unit owner consistent with the provisions of the master deed.

Dock: A temporary or permanent structure, built on or over the water, supported by pillars, pilings, floats, or other supporting devices.

Drive-Thru Business: Any restaurant, bank or business with a vehicle service window.

Driveway: A private lane, which is used for vehicular ingress or egress serving one or two lots, parcels or site condominium units.

Dwelling Unit: A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, food preparation area and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

Dwelling, Single-Family: A detached building containing not more than one dwelling unit designed for residential use.

Dwelling, Two-Family: A building containing not more than two separate dwelling units designed for residential use.

Dwelling, Manufactured: A building or portion of a building designed for long-term residential use and characterized by all of the following:

1. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
2. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
3. The structure is designed to be used as either an independent dwelling or as a module to be combined with other elements to form a complete dwelling on the site.

Dwelling, Mobile: A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

Dwelling, Multiple-Family: A building containing three or more dwelling units designed for residential use.

Efficiency Unit: A dwelling unit consisting of one room, exclusive of bathroom, hallway, closets, and the like providing not less than three hundred and fifty (350) square feet of usable floor area.

Erected: Includes built, constructed, reconstructed, extended, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements, shall be considered part of erection.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Telecommunication towers or facilities, alternative tower

structures, wireless communication antenna and wind turbine generators are not included within this definition.

Excavating: Excavating shall be the earth moving, filling or removal of earth, sand, stone, gravel, or dirt.

Family: An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or a collective number of unrelated individuals whose relation is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however, shall not include any society, club, fraternity, sorority, association, lodge or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

Farm: All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees.

Fence: Any permanent or temporary means, partition, structure or gate erected as a dividing structure, or barrier and not part of a structure requiring a building permit.

Floor Area: The square footage of floor space measured from exterior to exterior wall for all floors, but not including enclosed and unenclosed porches, breezeways, non-commercial garages, attic, unfinished basement and cellar area.

Floor Area, Usable (for the purpose of computing parking): That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Floor area used or intended to be used for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area". All floor levels shall be counted.

Food Preparation Area: A room or part of a room or building in which food is prepared and/or cooked.

Garage-Private: A building used primarily for the storage of vehicles for the use of the occupants of a lot on which such building is located.

Garage-Public: A building, or part thereof, designed or used for equipping, servicing, repairing, hiring, storing, or parking motor vehicles. The term repairing does not include the rebuilding, dismantling or storage of wrecked or junked vehicles.

Gasoline / Service Station: Any land, building or structure used for sale or retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles.

Grade, Finished: The elevation of the ground upon the completion of construction and improvements.

Grade, Natural: The elevation of the ground surface in its natural state, before human alterations.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

Home Business: A profession or occupation, or trade that is accessory to a principal residential use conducted within a dwelling or residential accessory building. Home businesses fall into two classifications defined below:

> **Home Occupations:** A profession or occupation conducted within a dwelling, or an attached garage, which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes. Home occupations are regulated by Section 3.15.1.
>
> **Cottage Industry:** An occupation or trade conducted within a detached residential accessory structure, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by Section 3.15.2.

Hospital: An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, clinics and staff offices.

Hotel or Motel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms.

Impervious Surface: Any surface or structure incapable or highly resistant to penetration by water including, but not limited to, roofs of any type, concrete, asphalt or bituminous paving, compacted gravel, flagstone or brick patios, and driveways.

Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with facilities and services in attractive surroundings among compatible neighbors.

Industry: A use engaged in manufacturing, fabricating, and/or assembly activities.

Junk: Any motor vehicles, watercraft, machinery, appliances, products, or merchandise with parts missing, or scrap metals or other trash, rubbish, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building or otherwise managed as part of a junk yard. Junk includes any inoperable or abandoned motor vehicle or watercraft which is not licensed for use in the State of Michigan for a period in excess of fifteen (15) days and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of fifteen (15) days and which is not in a completely enclosed building. Junk does not include domestic refuse if stored so as to not create a nuisance and is thirty (30) feet or more from any residential structure for a period not to exceed seven (7) days.

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

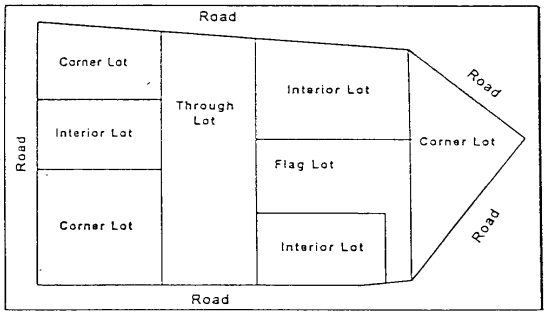
Kennel: Any lot or premises on which three (3) or more dogs, cats, or other household pets of the same species four (4) months of age or older are kept temporarily or permanently. Kennel shall also include any lot or premise where household pets are bred or sold.

Landscape buffer: See Buffer Strip.

Living Space: A conditioned space used for or intended for human occupancy.

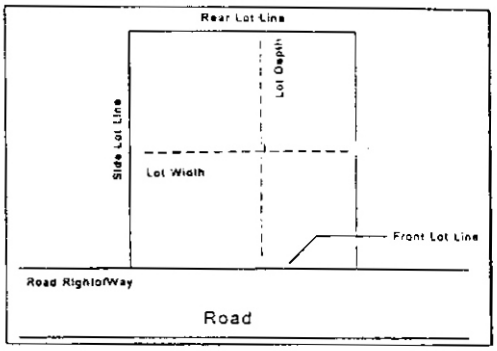
Loading Space: An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as an off-street parking space in computation of required off-street parking.

Lot: The parcel of land or site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane.



Lot, Corner: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two (2) sides of which form an angle of one hundred thirty-five (135) degrees or less.

Lot Coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures and all impervious surfaces.



Lot Depth: The horizontal distance between front and rear lot lines, measured along the median between side lot lines.

Lot, Interior: A lot other than a corner lot with only one (1) lot line fronting on a street.

Lot Line, Front: In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the property line separating such lot from such street right-of-way. In the case of a lot having frontage upon a lake, river or stream, the water frontage shall be considered the front lot line.

Lot Line, Rear: The property line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

Lot Line, Side: Any property line bounding a lot that is not a front lot line or a rear lot line.

Lot of Record: A lawfully created lot defined by a legal description and recorded in the office of the Charlevoix County Register of Deeds on or before the effective date of this Ordinance.

Lot, Waterfront: A lot having frontage directly upon a lake, river, or stream. The portion adjacent to the water is considered the water frontage. The waterfront is considered the front lot line.

Lot Width: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines. See illustration above.

Lot, Zoning: A contiguous tract of land that at the time of filing for a Zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A Zoning Lot may not coincide with a lot of record, but may include one or more lots of record.

Manufactured Home: see Dwelling, Manufactured.

Master Plan: The statement of policy by the Township Planning Commission and approved by the Township Board relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

Mobile Home: see Dwelling, Mobile.

Mobile Home Park: A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use.

Mobile Home Site: A plot of ground within a mobile home park designed for the accommodation of one mobile home.

Motel: See Hotel.

Municipal Civil Infraction Citation: A written complaint prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Natural State: An area where bedrock soil and vegetation is left undisturbed and void of structural improvements. An area that is untouched and undisturbed by man. An area that is declared a natural state will remain as it presently is, without improvements, mowing, removal of trees and shrubs or contouring, filling or removal of soil. Previous land use may show the effects of human use such as fences, foundations, orchards, etc. These may be considered for inclusion as a natural state at the discretion of the planning commission if and only if there is no further use or improvement of these effects. If any of these previous effects are to be utilized they will not be considered as a natural state.

Nonconforming Lot of Record: A lot of record that legally existed on or before the effective date of this ordinance or any amendment to this ordinance and does not meet dimensional requirements of this ordinance or amendment.

Nonconforming Structure: A building, structure, or portion thereof that lawfully existed before the effective date of this ordinance or any amendment to this ordinance and that does not meet the floor area, setback, parking or other dimensional regulations for the zoning district in which such building or structure is located.

Nonconforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

Nudity or a State of Nudity: Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

Nuisance Factor: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being of reasonable sensibility, or the generation of an excessive or concentrated movement of people or things, such as noise; dust; heat; electronic or atomic radiation; objectionable affluent; noise or congregation of people, particularly at night.

Nursery, Plant Materials: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery *does not include* space used for the sale of fruits or vegetables.

Occupancy Permit: A permit issued by the Charlevoix County building official that certifies a structure as being completed and suitable for use and/or occupancy.

Off Street Parking Lot: A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted ingress and egress to at least two (2) vehicles.

Open Air Business: Includes uses operated for profit, substantially in the open air, including:

1. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
2. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
3. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

4. Miniature golf, golf driving ranges, children's amusement park or similar recreation uses operated for profit.

Open Space: Land upon which no structures, parking, rights-of-way, or other improvements have or will be made and that will not be committed for future use other than outdoor recreational use.

Ordinary High Water Mark: The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On Lake Charlevoix the ordinary high water mark shall be the legally established lake level of 582.3 feet IGLD 1985, and on Lake Michigan the ordinary high water mark shall be the legally established lake level of 581.5 feet IGLD 1885.

Park: Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

Parking Space: An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

Person: An individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.

Place of Worship: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

Planning Commission: For the purpose of this Ordinance the term Planning Commission is deemed to mean The Hayes Township Planning Commission.

Planned Unit Development (PUD): A type of development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development. Such developments can be proposed as either single use (such as a residential site condominium project), or mixed use developments (such as a project which includes both residential and commercial components).

Pick-up Camper: See Recreational Unit**.**

Principal Use: The main use to which the lot is devoted and the primary purpose for which the lot exists.

Professional Office: The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like.

Public Sewer Systems: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for

use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

Public Utility: Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.

Recreational Unit: Means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreation unit shall include "Travel trailers", "Camping trailer", "Motor home", "Truck camper", "Slide–in–camper", and "Chassis-mount camper" as defined in Act 171 of the Public Acts 1970, as amended. A recreational vehicle is not a mobile home or manufactured home as defined under this ordinance or under Section 2 of the Mobile Home Commission Act.

Recreational Vehicle: see Recreational Unit.

Road, Private: An area of land which is not a public road, but which is intended for passage to and from three (3) or more lots or site condominium units.

Road Right-of-Way: A street, alley or thoroughfare or easement permanently established for passage of persons or vehicles which, if used to establish a lot front, provides adequate permanent access.

Retail and Retail Stores: Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

School: A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, high schools and colleges. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

Seasonal Use: Any use or activity that reasonably can or should only be conducted during certain months or seasons of a year.

Setback: The minimum required horizontal distance from the applicable right-of-way line, easement, water feature or property line of a lot within which no buildings or structures may be placed, except as otherwise provided in this Ordinance.

Setback, Front: The required setback measured from the front lot line.

Setback, Rear: The required setback measured from the rear lot line.

Setback, Side: The required setback measured from a side lot line.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business: A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

Shopping Center: A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves. Three or more retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

Shoreland Protection Strip: A strip of land fifty feet in depth from the maximum or maximum recorded (IGLD) high water mark bordering the body of water, placed so as to be parallel to the body of water, shall remain in the natural state.

Sign: A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of or for the benefit of any product, place activity, individual, firm, corporation, institution, profession, association, business or organization.

Sign, Animated: Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

Sign, Freestanding or Ground: A sign supported by permanent uprights or braces in the ground.

Sign, Off Premise: Any sign relating to subject matter not conducted on the premises on which the sign is located.

Sign, On Premise: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Sign, Outdoor business or Informational: A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

Sign, Overhanging: A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

Sign, Portable: A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily or permanently to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;

- Menu and Sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

Sign surface: That portion of a sign excluding its base, foundation and erection supports on which information pertaining to a product, use, occupancy, function, service, or activity is displayed.

Site Condominium Unit: That portion of a condominium subdivision designed or intended for occupancy or use by the unit owner consistent with the provisions of the Master Deed.

Site Plan: The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

Special Use Permit: A permit grant with approval by the Township Planning Commission for a use of land in a district that does not conflict with any other permitted land use in the district when such a special use is specified in this Ordinance for that district.

Specified Anatomical Areas: are defined as:

1. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and

2. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Specified Sexual Activities: means and includes any of the following:

1. the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

Stable, Private: A building or structure used to house horses for the property owner's private use; not for hire or sale.

Stable, Commercial: A structure and/or land use where horses are bred, reared, trained and/or boarded for remuneration.

Story: That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it and exclusive of any mezzanine, balcony or basement.

Story, half: An uppermost story lying under a sloping roof having an area of at least two-hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height

between the floor and ceiling, and does not exceed two-thirds of the floor area in the story directly below.

Structural Change or Alteration: See Alterations.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having permanent location on or below the ground.

Telecommunication Towers and Facilities or Tower: All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which fully preempt municipal regulatory authority.

Temporary Building and Use: A structure or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

Thoroughfares: An arterial street which is intended to serve as a traffic way serving primarily the immediate Township area and serving to connect with major thoroughfares.

Tourist Home: See Bed and Breakfast Establishment definition.

Trailer Coach: See Recreational Unit definition.

Travel Trailer: See Recreational Unit definition.

Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

Variance: A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause practical difficulty owing to circumstances unique to the individual property on which the variance is sought.

Wind Turbine Generator: A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

Wind Turbine Generator, Commercial: A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

Wind Turbine Generator, Noncommercial: A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

Wind Turbine Generator Tower Height: The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

Yard: The space between a principal building, excluding steps and unenclosed porches, and a lot line.

Yard, Front: A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

Yard, Rear: A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

Yard, Side: A yard between the side lot line and the nearest side of the principal building, extending between the front yard and rear yard.

Zoning Permit: A zoning permit is written authority as issued by the Zoning Administrator on behalf of the Township permitting the construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.

Article III:
General Provisions

Section 3.01 The Effect of Zoning

1. In order to carry out the intent of this Ordinance, no use or activity on a piece of land shall be allowed or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with this Ordinance, and a zoning permit has been obtained, except in the case of lawful nonconforming uses.

2. If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary and such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.

3. In the event that any lawful use, activity, building or structure which exists or is under substantial construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and be allowed to remain as such, including completion of construction, providing said construction does not require more than one (1) year from the effective date of this Ordinance for completion.

Section 3.02 Nonconformities

1. If a nonconforming building or structure, a building that contains a nonconforming use, or a nonconforming use of land was lawful at the time of enactment of this Ordinance, or any subsequent amendment, then that nonconformity may be continued although it does not conform to the provisions of this Ordinance, or any subsequent amendment, under the terms and conditions of this Section.

2. Normal maintenance and incidental repairs, including repair or replacement of nonbearing walls, fixtures, wiring, or plumbing may be performed on any nonconforming building or structure or on any building containing a non-conforming use. A nonconforming building or structure or a building that contains a nonconforming use which is unsafe or unlawful due to lack of repairs or maintenance, as determined by the Zoning Administrator or County Building Official, may be restored to a safe condition.

3. If a property owner has an intent to abandon a nonconforming use, building or structure and in fact abandons this nonconforming use or structure for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owners to abandon a nonconforming use, building or structure, the zoning administrator shall consider the following factors:
   A. Whether utilities, such as water, gas, and electricity to the property have been disconnected.
   B. Whether the property, buildings, and grounds have fallen into disrepair.
   C. Whether signs or other indications of the existence of the nonconforming use have

been removed.

D. Whether equipment or fixtures necessary for the operations of the nonconforming use have been removed.

E. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use, building or structure.

4. A nonconforming use, building or structure that is damaged by fire, collapse, explosion, an act of God, or an act of the public enemy following the effective date of this Ordinance, or any subsequent amendment, may be reconstructed, repaired or restored, and resumed under the terms and conditions of this subsection. Except as provided herein, if a nonconforming building or structure can be reconstructed, repaired or restored in complete conformance with this Ordinance, then such complete conformance shall be required. However, if the Planning Commission finds that the cost of complete conformance with this Ordinance would be unreasonable due to site specific circumstances, then the nonconforming building or structure shall be reconstructed, repaired or restored to the greatest degree of conformance found by the Planning Commission to be reasonable. In addition, any such reconstruction, repair and restoration, or resumption shall be started within twelve (12) months following the damage, or other reasonable time as determined by the Planning Commission.

5. To avoid undue hardship, nothing in this Ordinance is deemed to require a change in the plans, construction, or designated use of a building or structure on which substantial construction has been lawfully begun prior to the effective date of this Ordinance, or any subsequent amendment.

6. Any national emergency that imposes limitations on construction and repairs shall automatically extend any time limitations from the time of the termination of the emergency.

7. Nothing contained in this Ordinance shall be construed to approve, authorize, or condone any use that is otherwise unlawful, or constitutes a hazard or a nuisance.

8. If two (2) or more contiguous lots, parcels or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth and/or area requirements of this Ordinance, then those contiguous lots, parcels or portions of lots shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth and/or area requirements established by this Ordinance.

Section 3.03 Essential Services Clause Pertaining to Utilities

The erection, construction, alteration, maintenance, and operation by utilities or municipal departments or commission, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, hydrants, structures, towers, poles, electrical substations, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission, or for the public health or safety or general welfare, shall be permitted as authorized or regulated by any laws and the ordinances of the Township of Hayes in any Use District.

Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

Section 3.04 Principal Uses

No lot may contain more than one (1) principal structure or use, except where specifically provided for in this Ordinance. Upon determination by the Planning Commission, groups of apartment buildings, offices, retail business buildings, agricultural structures, or other similar groups of buildings may be considered principal structures or uses.

Section 3.05 Accessory Buildings

1. A building which is structurally connected to principal building by a roofed porch, breezeway or similar structure, shall be considered part of the principal building and thus not subject to the regulations for accessory structures.
2. A detached accessory building shall be located no closer to a front, side or rear lot line than the permitted distance for the principal structure on the same lot, except as otherwise provided in this Section.
3. An accessory building shall comply with all setback requirements and shall be located no less than ten (10) feet from any other building.
4. An accessory building shall be for personal use by the owner or occupant of the property, unless otherwise authorized by this ordinance.
5. A mobile home shall not be used as an accessory building.
6. An accessory building shall not be used, in whole or in part, as a dwelling.

7. Dimensional and Approval Requirements for Accessory Buildings

	A-1 Zoning District	*CR Zoning District*	*R-1and RR-1 Zoning District*		*R-2 and R-3 Zoning Districts*	*R-4 Zoning District*	*R-5 Zoning District*	*C-1. C-2, I-1 Districts*
Setbacks for Accessory Buildings	Meet district setbacks	25 feet	Meet district setbacks and must be located closer to the principal structure than to the road right of way. [(a)]		Meet district setbacks and may not be located in the front yard	Meet district setbacks and may not be located in the front yard	Meet District setbacks [(b)]	Meet District setbacks and may not be located in the front yard
Number of Accessory Buildings per Parcel	No limit	Maximum 1	Maximum of 3		Maximum 2	Max 1 dwelling unit	Maximum 1	No Limit
Maximum Height	35 feet	25 feet	25 feet		25 feet	25 feet	14 feet	District height Regulations
Maximum Size (subject to lot coverage restrictions)	No limit	1,200 sf	Parcel Size	Sq. Footage Per bldg & Cumulative Total	900 sf - total	500sf/dwelling unit	200 sf	No limit [(e)(f)]
			< 2 acres	900 sf -total (c) (d) (f)				
			2-5 acres	2,400 sf/bldg 3,000 sf- total (e) (f)				
			>5 acres	3,000 sf/bldg 3,600 sf-total (e) (f)				
Approval Requirements	None	ZA, Zoning Permit	ZA, Zoning Permit		ZA, Zoning Permit	PC Review & Approval	ZA, Zoning Permit	PC Review & Approval

(a) An accessory structure, on a lakefront lot, shall not be closer to the waterfront than the principal structure
(b) One accessory building having a floor area less than two hundred (200) square feet shall comply with the district front yard setback for principal structure, but the minimum side and rear yard setbacks shall be reduced to ten (10) feet.
(c) At the discretion of the property owner, the square footage may be increased up to 1,200 sf when the dwelling does not have an attached garage. An attached garage shall not be constructed at a later time if an accessory building, which exceeds 900 sf in size, is located on the property.
(d) shall be located at least 25 feet from any public or private road right-of-way or easement.
(e) must be located at least 100 feet from the public road right-of-way, or 25 feet from any private road right-of-way or easement.
(f) Landscaping for screening purposes shall be required and approved by the Planning Commission, unless specifically waived or modified due to building location, adequate existing vegetation and/or topographic screening, with commitment to maintain such. Plant material sizes and spacing shall comply with the requirements of Section 3.24 of this Zoning Ordinance. Landscaping may consist of earthen berms and/or living plant materials planted in staggered rows so as to maintain effective year round screening.

8. Accessory Building as a Principal Use, except on small parcels

One (1) accessory building as a Principal Use shall be allowed per lot in all districts EXCEPT on a lot of record or combination of lots which are less than one (1) acre in size, provided the subject lot is a conforming lot (see Section 4.13) or a nonconforming lot of record, and the proposed accessory building meets the following dimensional requirements:

A. Setbacks:
   1) Front and Rear One hundred (100) feet
   2) Side Twenty-five (25) feet
B. Max. height and size: per chart in Section 3.05.7

Section 3.06 Temporary Dwelling Occupancy during the Construction of a Dwelling

For the express purpose of promoting the health, safety and general welfare of the inhabitants of the Township, and of reducing hazards to health, life and property, no basement-dwelling, cellar-dwelling, garage-house, tent, camper, travel trailer, recreational vehicle, mobile home not installed according the requirements of this Ordinance, or other temporary structure shall hereafter be erected or moved upon any premises and used for dwelling purposes except under the following applicable conditions:

1. The location shall conform to the provisions governing yard requirements of temporary dwellings in the district where located.
2. The use shall be for the sole purpose of providing dwelling facilities for the owner of the premises during the period in which a dwelling conforming to the provisions of this Ordinance is in process of erection and completion, but not to exceed twelve (12) months. One (1) additional six (6) month extension may be obtained from the Zoning Administrator provided the property owner can demonstrate need for the extension, such as by presenting evidence the project encountered unforeseen difficulties beyond the control of the property owner. The temporary dwelling, unless the basement of the dwelling, shall ceased to be used as a dwelling, removed or dismantled upon completion of construction of a dwelling complying with the requirements of this Ordinance.
3. Installation of septic system and water well shall be constructed and maintained in accordance with the standards of materials and installation recommended by local health department, and shall precede occupancy of the temporary dwelling.
4. Application for the erection and use of a temporary dwelling shall be made at the time of zoning permit application for the permanent dwelling. On approval and delivery of the zoning permit, the applicant shall certify in a space allotted for that purpose, and on the copy retained for filing by the township, that he has full knowledge of the limitations of the permit and the penalty pertaining thereto.
5. No annexes shall be added to temporary dwellings.

Section 3.07 Temporary Buildings during Construction

Temporary buildings for use incidental to construction work, and all debris, shall be removed within thirty (30) days after the completion or abandonment of the work. No structure shall be used for temporary dwelling purposed that do not comply with the requirements of the Ordinance or any applicable building codes.

Section 3.08 Water Supply and Sewage Disposal Facilities

All water supply and sanitary sewage disposal systems either public or private, for any building hereafter erected, altered or moved upon any premises shall be subject to compliance with the local health department sanitary code requirements. Plans must be submitted to and approved by the responsible agencies. The written approval of such facilities by local health department shall be filed with application for a Zoning Permit.

Section 3.09 Storm Water Retention

Stormwater drainage in excess of natural conditions shall be retained on site. This provision may require stormwater retention ponds where appropriate. An exception may be made for water leaving the site via an adequately sized existing stormwater ditch, stormwater pipe or through other stormwater facilities that will be developed at the same time as the proposed new use. Stormwater management efforts shall be consistent with the provisions of the Charlevoix County Stormwater and Soil Erosion Control Program. In the case of conflicting regulations, between the Township Zoning Ordinance and the Charlevoix County Stormwater and Erosion Control Program, the more stringent of the two shall apply. Written approval from the Michigan Department of Transportation (MDOT) shall be required for an additional site run-off directed into a state trunkline ditch, i.e.US-31.

Section 3.10 Non-commercial Wind Turbine Generators

1. Non-commercial wind turbine generators and associated anemometer towers erected prior to a noncommercial wind turbine generator may be located in any district, provided the WTG or anemometer tower is setback from the property line a distance at least equal to the total height.

2. The minimum site area for a non-commercial wind turbine generator or associated anemometer tower shall be three (3) acres.

3. The maximum height shall be one hundred ten (110) feet.

4. Minimum blade clearance above the ground shall be fifteen (15) feet.

5. A non-commercial wind turbine generator or associated anemometer tower shall not be artificially lighted.

Section 3.11 Mobile Homes

1. Newly sited mobile homes sited on individual lots shall meet the standards for minimum lot size, yard set-backs, minimum floor area and minimum dwelling unit width for the district in which they are located and shall meet the following additional standards:
   A. Mobile homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Mobile Home Commission requirements.
   B. Mobile homes shall be installed according to manufacturer's set up requirements, and the construction of the unit shall comply with the National Mobile Home Construction and Safety Standards Act of 1974.
   C. The wheels, axles and towing assembly shall be removed from a mobile home before the unit is attached to the foundation. Additionally, no mobile home shall have any exposed undercarriage or chassis.

D. Mobile homes shall not be used as an accessory building.

2. Replacement of lawfully existing non-conforming mobile homes shall be allowed provided the site and age of replacement would be in greater compliance with the Zoning Ordinance, and is located in compliance with the applicable district setbacks. The replacement would not increase the non-conformity or would not be contrary to the intent of the Ordinance and shall comply with the additional standards A-D listed above in subsection 3.11.1.

Section 3.12 Recreational Vehicles

Temporary occupancy of travel trailers, motor homes and other similar vehicles shall not exceed ninety (90) days in any calendar year and shall not be connected to utility, water supply and sanitary sewer. No more than two (2) recreational vehicles shall be allowed on parcels with an existing dwelling unit. They are to be located in a side or rear yard and the placement must comply with district setbacks. In the event that two or more recreational vehicles occupy a parcel for longer than the ninety (90) day limit, they shall then be required to be stored within an enclosed structure.

Section 3.13 Animals

The keeping of poultry, pigs, horses or other such livestock is allowed in the Agricultural and Rural Residential Districts. In other districts, provided the parcels of land are five (5) acres or greater in size, the keeping of poultry, pigs, horses or other such livestock is allowed, as provided for under the Michigan Right to Farm Act.

Section 3.14 Waterfront Regulations

1. Intent:
   A. The waterways and lakes in and adjacent to the lands of Hayes Township are invaluable assets to the economy and quality of life, and therefore must be preserved in a natural fashion to maintain health of these waterways as well as the natural beauty of Northern Michigan. Thus, owners of waterfront lots have an added responsibility regarding the preservation and protection of these natural resources, water quality and community scenic and recreational values; therefore a shoreland protection strip shall be required on all waterfront lots.
   B. For any new construction or renovation of a nonconforming structure located on a waterfront lot, the establishment, restoration and/or maintenance of a shoreland protection strip shall be required. The shoreland protection strip shall include all of the land area located within fifty (50) feet of the high water mark of a lake or a stream abutting or traversing the property in question. The purpose of the strip is to protect the lake by preventing soil erosion, providing a filter for the removal of pesticides, fertilizers and other potential water pollutants, and to maintain a visual barrier. Within the shoreland protection strip, the following development or use restriction shall apply:

2. Setback area regulations:
   A. No structures, except for launching ramps and docking facilities including steps and retaining walls, shall be allowed within one hundred (100) feet of the shoreline on Lake Michigan and Lake Charlevoix, and within eighty (80) feet of Susan Lake at the maximum recorded high water level, and such excepted facilities shall meet the side yard setback for the district in which they are located.

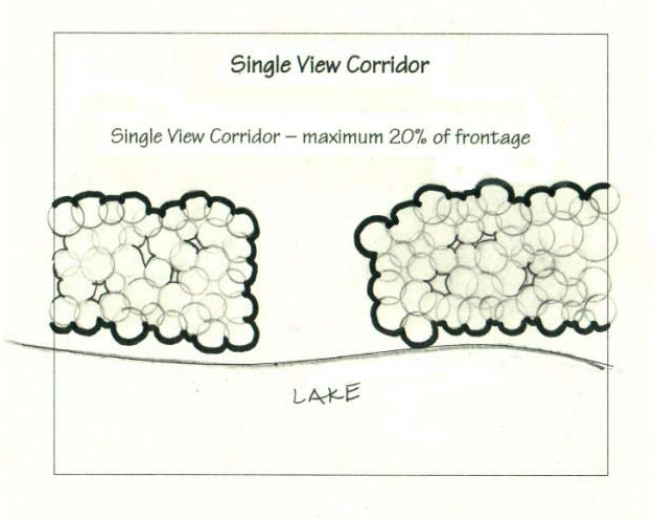
B. The use of asphalt, concrete, wood or other similar surfaces shall be limited to walkways or stairs necessary for water access, and shall not exceed four (4) feet in width.

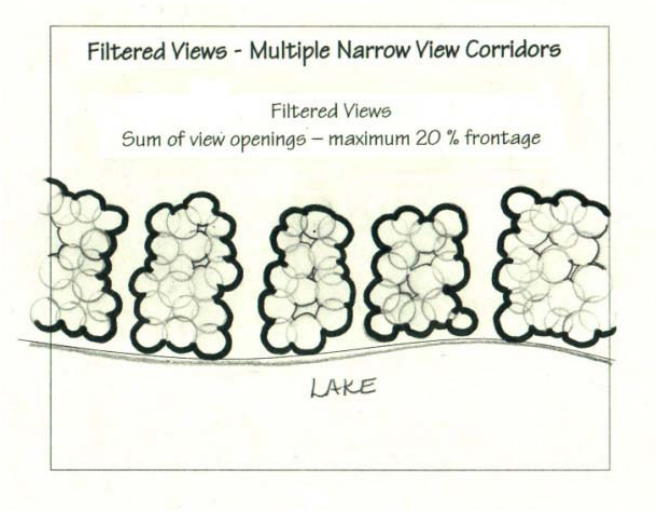
C. The use of pesticides, herbicides and fertilizers is prohibited.

D. Leaves, grass clippings and similar yard/garden wastes may not be burned or stored.

E. Neither septic tanks nor septic system filtration fields may be located within the shoreland protection strip.

F. Natural vegetation cover, including trees, shrubs or herbaceous plants shall be maintained on at least eighty percent (80%) of the lake or stream frontage within the shoreland protection strip. The vegetation on the remaining twenty percent (20%) may be cleared for a single view corridor; or selective trees removed to provide for a filtered view throughout the frontage, provided the cumulative total of the trees removed does not exceed the allowed twenty percent (20%) of the frontage. When trees are removed, root systems shall be left in place for shoreline stabilization. For purposes of this subsection, the natural vegetation coverage within the shoreline protection strip shall be determined by the sum of the area of the waterfront view blocked by all portions of each vegetation plant (trunk, limbs, and leaves) when viewed directly landward behind each plant.





G. Pruning of trees, shrubs or other native vegetation is prohibited within the shoreland protection strip, except for the removal of dead portions of trees, shrubs or other vegetation. When dead trees, shrubs or other vegetation are removed, root systems shall be left in place for shoreline stabilization. No other trees or shrubs shall be removed.

H. Encourage removal of invasive species.

I. The shoreland protection strip shall be shown on any plot plan or site plan submitted for approval during the process of developing a water frontage parcel.

3. The shoreland protection strip shall not be altered under any condition, except to remove dead trees or shrubs or to remove invasive species. If the vegetation and/or soil within the shoreland protection strip is altered or disturbed, the following corrective measures shall be required:

A. Any and all fill material placed within the shoreland protection strip shall be removed. Only soils or rocks, consistent with the composition of the pre-existing

on-site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited.

B. The shoreland protection strip shall be replanted. The replanted area shall consist solely of native vegetation and any replacement trees, similar in size and species to those removed. Any tree greater than 8 inches in diameter which was removed, shall be replaced at a rate of two trees for the first 8 inches in diameter, and one additional tree (8 inch in dia) for each additional 4 inches in diameter of the original tree removed *(i.e. if a 20" tree is removed—5 replacement trees would be required, 2 for the first 8" and 3 for the other [20"-8"] 12 inches of diameter of the removed tree.)* All replacement trees and shrubs shall be planted in a manner to resemble shorelands that have not been disturbed, and shall be suited to soil conditions on the property per recommendations by the Charlevoix Conservation District or the MSU Extension Service.

C. The shoreland protection strip shall not be replanted with invasive and/or exotic species such as: Phragmites, Purple Loosestrife, Reed Canary Grass, Crown Vetch, White and Yellow Sweet Clover, Russian Olive, Autumn Olive, Tartarian Honeysuckle and other invasive or exotic species as identified by the Tip of the Mitt Watershed Council

D. Where native shoreline vegetation does not exist, a combination of native vegetation shall be introduced in a naturalized planting pattern as exemplified by neighboring shorelands that have not been disturbed.

E. Any required replanting shall be installed and maintained in accordance with the requirement of Section 3.24.

4. Limitation of Boat Dockage

Not more than one (1) mooring, or one (1) slip, or one (1) dock space for each one hundred (100) feet of lake frontage, as measured along the water's edge of the natural shoreline at the normal high water mark of the lake, may be provided for mooring or dockage of boats in any zoning district in the Township. "One (1) mooring," or "one (1) slip", or "one (1) dock space," as used herein, means space for a single boat which is powered by an engine, including, a sailboat powered by an auxiliary engine, This Ordinance does not intend to limit, and there is no limit on the number or rowboats, dinghies, rubber boats, canoes or small sailboats which may be kept and used on lake or stream frontage provided that no such boat shall have engine power of any kind other than hand or foot power. In computing the number of feet of natural shoreline, as above described, the measurement shall be along the water's edge of normal high water mark of the lake at the natural shoreline undisturbed by an excavation, channel, lagoon or canal. The measurement shall not be made along any man-made channel, lagoon or canal.

5. Limitation of Funnel Development

Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit shall use or be permitted to use each one hundred (100) feet of lake or stream frontage as measured along the normal high water mark of the lake or stream. This restriction is intended to limit the number of users of the lake or stream frontage to preserve the quality of the waters, avoid congestion, and to preserve the quality of recreational uses of all waters and recreational lands within the Township. This restriction shall apply to any parcel regardless of whether access to the water shall be gained by easement, common fee ownership, single fee ownership or lease. This restriction shall not apply to a "Public Access Site" as hereafter described.

6. Marine Sewage Pump-out Facility

Any dock facility providing dockage for four (4) or more boats with marine sewage holding tanks on board shall provide a marine sewage pump-out facility which shall be capable of providing pump-out service to a local health department approved sewage disposal facility.

7. Public Access Sites

Land abutting a lake or stream, which land is under the possession and control of a governmental agency including Hayes Township, the County of Charlevoix, the Charlevoix County Road Commission, the State of Michigan, or other governmental agency, and which governmental agency allows public access across the site to the lake or stream abutting the site, is herein described as a "Public Access Site." Such Public Access Sites may be owned or leased by the public agency, or dedicated to the use of the public, but shall, in any case, be under the exclusive control of one or more public agencies which have the authority to impose regulations and restrictions upon the use of the site and upon access to the abutting lake or stream.

The restrictions of this Section 3.14(1-3) shall not apply to a "Public Access Site", as above described, provided that such sites are subject to governmental control enabling the controlling governmental agency to limit boat docking, moorage and boat launching, prohibit overnight mooring, camping, vehicle parking, and other controls upon use of the site.

The governmental agency shall have the authority to impose such controls and restrictions upon the use of Public Access Sites and the abutting waters as are deemed necessary to protect the lake or stream and adjoining properties from pollution, congestion, other damage, or unreasonable impositions upon the use and enjoyment of others using the site, using other private property in the proximity of the site, or the waters which the site abuts.

If not otherwise prohibited by law, the Hayes Township board shall also have the authority to pass ordinances and adopt rules restricting the use of such Public Access Sites and the use of the abutting lake or stream in such manner as is deemed necessary in the future to protect the lake or stream, the users thereof, and properties in the proximity thereof from pollution, congestion, other damage or unreasonable imposition upon the use and enjoyment of others. Such ordinances may designate different rules, regulations and restrictions for each individual Public Access Site as shall be deemed appropriate for the protection of the particular site, the waters, or private property in the proximity of the particular site.

Section 3.15 Home Businesses

While Hayes Township recognizes that many residents feel the necessity to work at home, the Township also recognizes the rights of all residents to be free from actual or potential nuisance which may be caused by non-residential activities conducted in a residential zone. The intent of this section is to provide standards to ensure home occupations and cottage industries are compatible with other allowed uses in residential districts, and thus to maintain and preserve the residential character of the neighborhood.

1. **Home Occupations:**
   - A. Home occupations are permitted in all zoning districts in which single-family dwellings are permitted as a matter of right. A zoning permit is required.
   - B. Home Occupations shall be operated in their entirety within the dwelling or an attached garage and shall occupy no more than twenty-five percent (25%) of the dwelling's ground floor area. Attached and detached residential garages may be

used for incidental storage.

C. Home Occupations shall be conducted primarily by the person or persons occupying the premises as their principal residence. Not more than two (2) non-resident persons shall be employed to assist with the business.

D. Additions to a dwelling for the purpose of conducting a Home Occupation shall be of an architectural style that is compatible with the architecture of the dwelling and shall be designed so that the addition can be used for dwelling purposes if the home occupation is discontinued.

E. Home Occupations shall be incidental and subordinate to the principal use of the dwelling for residential purposes and shall not detract from the residential character of the premises or neighborhood.

F. Home Occupations shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition not typically associated with the use of the dwelling for residential purposes.

G. Traffic and delivery or pickup of goods shall not exceed that normally created by residential uses.

H. The outdoor storage of goods and/or materials of any kind is prohibited. No goods or materials shall be sold that are not produced through the conduct of the Home Occupation.

I. There shall be no parking permitted within any setback areas.

J. No process, chemicals, or materials shall be used which are contrary to an applicable state or federal laws.

2. **Cottage Industries:**

A. Cottage industries may be permitted as a special use in any zoning district in which single-family dwellings are permitted, subject to review and approval by the Planning Commission. Cottage industries shall be allowed on the basis of individual merit, a periodic review of each cottage industry shall be performed to ensure the conditions of approval are adhered to. If a premises is sold, leased, or rented to a party other than the applicant, the permit shall be reviewed for compliance with the original permit by the Zoning Administrator. If any changes are necessary, the request will be reheard by the Planning Commission.

B. Cottage industries shall be incidental and subordinate to the use of the premises for residential purposes and shall not detract from the residential character of the premises or neighborhood. There shall be no exterior evidence of such industry.

C. The floor area of such buildings used for a Cottage Industry shall not exceed twenty four hundred (2400) square feet.

D. The outdoor storage of goods and/or materials of any kind is prohibited unless screened (by a tight-board wood fence, landscaped buffer, landscaped berm, etc.) from view from neighboring property and road rights-of-way. If required, the type of screening shall be determined at the discretion of the Planning Commission.

E. Cottage industries shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and surrounding zoning district. Any machinery, mechanical devices or equipment employed in the conduct of a Cottage Industry shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other condition in excess of that typically associated with the use of the premises for residential purposes.

F. Traffic and delivery or pickup of goods shall not exceed that normally created by

residential uses.

G. Cottage industries shall be conducted only by the person or persons residing on the premises. However, if the Planning Commission finds that additional employees or assistants are necessary to conduct the cottage industry, it may allow up to three such additional employees or assistants.

H. To ensure that the cottage industry is compatible with surrounding residential use, a "not-to-exceed" number of vehicles that may be parked at any given time during business operations shall be established by the Planning Commission during the review and approval process.

I. To reduce the any adverse impacts from the cottage industry on adjoining properties, the Planning Commission shall approve the hours of operation for the cottage industry.

3. **Termination, Extensions, Revisions, and Inspections**:

A. Upon written application by the owner, the Planning Commission may, for just cause, grant time extension for compliance with the conditions of this Section.

B. Any home business (home occupation or cottage industry) shall be subject to periodic review by the Zoning Administrator.

C. If the Zoning Administrator has reason to believe the property owner is in violation of his or her permit or grounds for revocation exist, written notice of alleged violation(s) shall be sent to the operator of the home business. The operator shall be afforded the opportunity to appear at a public hearing before the Planning Commission to present his or her case. The hearing notice procedures shall be the same as those for a special use permit (see Section 6.02).

D. Following the public hearing, the decision of the Planning Commission shall be made in writing and shall be based on the findings of fact. Reasonable conditions may be imposed to prevent conflicts with other property uses or to assure compatibility with the standards of this ordinance. The Planning Commission shall have the authority to order a limit on the hours of operation, impose conditions of operation or, if deemed necessary, order the complete termination of the activity.

E. Proposed revisions or additions to a cottage industry shall constitute a change of use and shall be subject to special use review and approval by the Planning Commission.

Section 3.16 Fences, Walls and Hedges

Fences, walls, or hedges may be permitted on any property in any District, provided that no fence, or wall exceed a height of six (6) feet, except where specifically allowed by this Zoning Ordinance, and shall be no closer than five (5) feet to the front property line or road right-of-way, and further provided such fence, wall or hedge shall not obstruct sight distances needed for safe vehicular traffic, nor create a hazard to traffic or pedestrians. Fences may be located on the lot line in the side or rear yards. Fences shall not exceed four (4) feet in height, nor unreasonably restrict views to the water from neighboring properties. Where a lot borders a lake or stream, fencing shall not be constructed on the waterfront side within the required fifty (50) foot greenbelt.

Section 3.17 Hazardous Substances

All business or industries that store, use or generate hazardous substances, as defined in this Ordinance, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits

and approvals.

Section 3.18 Junkyards, Salvage Yards, Sanitary Landfills

Location of a junkyard, salvage yard or sanitary landfill shall be not less than one hundred twenty-five (125) feet from any public highway. All uses of such facilities shall be completely screened from sight by natural terrain, or by a neatly finished and maintained wooden fence at minimum of eight (8) feet in height and by well maintained evergreens.

Glare from any process, such as arc welding, conducted at a junkyard, salvage yard or sanitary landfill, which emits harmful rays shall be screened so as not to constitute a hazard or nuisance to adjacent properties.

All required licenses from any state or federal agency shall be obtained prior to the issuance of a permit to operate the above listed facilities. The loss of or expiration of any necessary licenses shall prohibit the continued operation of the above facilities on the site until such time as the required licenses are reinstated.

Section 3.19 Access Management

In order to protect public safety, preserve rural character, maintain traffic flow, consider future transportation needs, provide adequate and safe access to property, promote efficiency and economy in public utility requirements, minimize land use conflict, protect natural resources, promote consistent development patterns and enhance the visual characteristics of entryways to Hayes Township, the following site development standards shall apply to all properties with frontage on US-31.

1. Building Setback Requirements. Development of highway corridor property, regardless of zoning district, shall have a minimum front yard setback of fifty (50) feet from edge of the road right-of-way.

2. Property Access Requirements. The access drive shall comply with either subsection (a) or (b) below, whichever results in the least number of possible access drives, and with both subsections (c) and (d).
   A. Not more than one driveway shall be allowed access to U.S. 31 within a lot of record, as the parcel exists on the effective date of this Ordinance, regardless of the number of future divisions of that parcel; and
      1) The access drive and its right-of-way shall be designed and shown on a site plan to accommodate all possible future divisions of the lot of record, as it exists on the effective date of this Ordinance; and
      2) The access drive and its right-of-way shall be designed and shown on a site plan to provide access to any adjoining parcel of land which would otherwise become, or is, landlocked.
   B. The location of a driveway with access to U.S. 31 shall comply with all of the following:
      1) The location shall be at least seventy (70) feet from the intersection of any two roads.
      2) The location shall be at least two hundred (200) feet from another access drive on the same side of the road.
      3) The location shall be either directly across from or a minimum of fifty (50) feet from any access drive on the opposite side of the road.
      4) Two access drives on adjacent parcels may share the same driveway entrance, and thereby have zero space between them, but shall comply with other

driveway separation distances noted above.

C. Where there is a choice, driveways shall access adjacent local or minor streets in preference to U.S. 31, and/or provide a rear service drive to access such local or minor street.

D. Access drive width shall be between twenty (20) and thirty-five (35) feet.

3. Prior to review by the Planning Commission. Any site plan for a commercial use proposing new or altered access drives onto U.S. 31 shall be accompanied by written documentation of consultation with the Michigan Department of Transportation.

4. Special Use Review for High-Traffic Uses. In addition to other provisions of this ordinance, when a high-traffic commercial use in the highway corridor adjoins an existing residential use or a residentially zoned parcel, the high-traffic use shall be subject to review as a Special Use. The designation of a proposed use as a high-traffic use shall be determined by the Planning Commission. The designation may include, but is not limited to, gasoline stations, convenience stores and businesses with drive-through service windows.

5. Landscape requirements for Commercial Uses.

A. Parking areas. In off-street parking areas containing greater than twenty (20) spaces, at least five (5) percent of the total parking area shall be used for interior landscaping. Parking lot landscape areas shall be no less than five (5) feet in any dimension and at least one hundred fifty (150) square feet in any single area. A minimum of one (1) tree at least two and one-half (2.5) inches caliper (diameter at 6 inches above grade) shall be planted in each area.

B. Residential buffer area. Where commercial, office, or industrial uses abut an existing residence or residentially zoned property, the intervening side or rear yard of the non-residential use shall provide a completely obscuring wall, fence or landscape screen at least six (6) feet in height, measured from the surface of the ground of the abutting residential district.

C. General landscaping. All developed portions of a site not occupied by buildings or pavement shall be planted with grass, ground cover, shrubs or other suitable plant material. A mixture of evergreen and deciduous trees of species native to northwestern Michigan shall be planted at a rate of one (1) tree per three thousand (3,000) square feet of landscaped open space on-site.

D. Landscape preservation. Preservation of existing trees and site vegetation is encouraged and may be used to meet the landscaping requirement listed above.

E. Landscape maintenance. All vegetation used to meet the landscaping requirements listed above shall be maintained in a healthy, living condition and any damaged, dead or dying materials shall be replaced within one (1) year of damage or death or the next appropriate planning period, which ever comes first.

Section 3.20 Outdoor Lighting

In order to minimize light pollution, and promote the dark sky principles, all outdoor lighting, whether for illuminating sites, parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Lighting fixtures are to be of the full cut-off design with horizontally aligned flush mounted (non-protruding) lens, directing light on-site only, and no more than twenty (20) feet in height.

The Planning Commission may permit taller or require shorter fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or size of light

fixtures; not adversely impact neighboring properties and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.

Section 3.21 Signs

The purpose of this section is to preserve the desirable character of Hayes Township, as well as to recognize the need for and privilege of advertising, so that people unfamiliar with the area, such as tourists and transients, may avail themselves of the goods and services afforded by the local business places. At the same time, the Township recognizes right of residents to be free of advertising that could affect property values and create an unpleasant or less than desirable atmosphere. The use and erection of all outdoor signs and media shall be subject to all state and local codes and statutes, in addition to the provisions of this ordinance.

1. Signs Not Requiring a Sign Permit. The following signs may be placed in any zoning district without a sign permit, provided such signs comply with any applicable federal or state law or regulation and are located so as not to cause a nuisance or safety hazard:
   A. One (1) non-illuminated identification sign per use, not exceeding two (2) square feet of sign surface.
   B. Street name signs, route markers and other traffic control signs erected or approved by state, county or village agencies when necessary to give proper directions or to otherwise safeguard the public.
   C. Non-advertising signs erected by any organization, person, firm or corporation that is needed to warn the public of dangerous conditions and unusual hazards including but not limited to: road hazards, high voltage, fire danger, explosives, severe visibility, etc.
   D. Non-advertising signs exclusively devoted to controlling property access (no trespassing, private property, keep out, no hunting, hiking trail, day use only, and similar instructional messages), provided the sign surface does not exceed the maximum size limitations of subsection 2. below.
   E. Non-advertising signs marking an historically significant place, building or area when sanctioned by a national, state or local historic organization recognized by the planning commission, provided the sign surface does not exceed the maximum size limitations of subsection 2. below.
   F. Signs that have been approved in conjunction with a valid site plan or zoning permit for any principal or accessory use, and signs required by federal or state agencies in connection with federal or state grant programs.
   G. Temporary real estate signs, not exceeding ten (10) square feet per side, on individual lots advertising a premise for sale or rent.
   H. Signs advertising sales such as garage, estate, auction, moving, and yard sales, which last no more than seven (7) consecutive days, provided the sign surface does not exceed the maximum size limitations of subsection 2. below.
   I. Political and noncommercial signs, provided the sign surface does not exceed the maximum size limitations of subsection 2. below.

2. Size Restrictions.
   The size of any publicly displayed sign, symbol or notice on a premises to indicate the name of the occupant, to advertise the business there transacted, to express non-commercial political views, or directing to some other locale, shall be regulated as follows:

Use District.	Maximum Size of Sign per Side.
Residential Districts (R-1, R-2, R-3, R-4, R-5)	Six (6) square feet
Rural Res, Agric., Cons. Reserve Districts (RR, A, CR)	Twenty-four (24) square feet
Commercial and Industrial Districts (C-1, C-2, I-1)	Thirty-two (32) square feet

3. General Sign Regulations.

In addition to the size limitations stated in Subsection 3.21.2, the following conditions shall apply to all signs and billboards erected in any use district:

A. No sign, except non-illuminated residential name plates and signs specifically identified in subsection 1 above, shall be erected or altered until approved by the Zoning Administrator (ZA) or authorized by a Planning Commission (PC) approved site development plan. After the ZA or PC approval, the required sign permit shall be issued.

B. No signs or billboards shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any streets. No signs shall obstruct the vision of drivers at any driveway, parking lot or other route providing ingress or egress to any premises.

C. Illumination of signs shall be directed, shaded or designed so as not to interfere with the vision of persons on the adjacent highway, streets or properties. The projected light shall not emanate beyond the sign and unnecessarily illuminate the night sky. Illuminated signs shall not be of the flashing, moving or intermittent type.

D. In those instances where a business use or tourist service facility is not located directly on a major route, but is dependent upon passer-by traffic for support, not more than two (2) signs per business may be permitted in C-1, C-2 or I-1 Districts subject to review and approval of location by the Zoning Administrator. Not more than one (1) freestanding sign per six hundred sixty (660) feet of road frontage or per lot, may be allowed, EXCEPT if the signs are directional signs as provided by the Michigan Department of Transportation or part of a local Township approved directional sign program and approved by the Zoning Administrator. No off-premise signs shall be permitted in the Residential Districts (R-1, R-2, R-3, R-4, R-5) or the Conservation Reserve District (CR).

E. All directional signs located along the highway, to direct traffic to a business off the highway, must conform to the standards used by the Michigan Department of Transportation for such signs. Wherever possible such directional signs will be clustered.

F. Freestanding signs, pole signs or advertising pylons may be permitted in a required front yard for uses set ten (10) feet or more behind the front property line. No freestanding sign shall exceed a maximum of twenty (20) feet height, measured from the ground to the top of the sign, regardless of the zoning district.

G. Both sides of any freestanding or overhanging sign may be used for display.

H. No sign shall project beyond or overhang the wall, roof or any architectural feature by more than five (5) feet. However, prior to the erection or overhanging of a sign in a public right-of-way, the sponsor of such sign shall receive the approval of the proper governmental agency having jurisdiction over such right-of-way (county or state).

I. Roof position signs or billboards are specifically prohibited.

J. The number of signs allowed will be decided by the Planning and Zoning Commission at the time of development plan review. Factors considered will include

building size, location and length of street frontage, and lot size.

K. In no case shall a sign or signs exceed a total of ten percent (10%) of the building face to which they are attached.

L. Portable signs shall be prohibited, except where allowed for in this section or such signs have been approved by the Planning Commission as meeting a special purpose need and/or being appropriate for the particular need. Approved sandwich board portable signs shall not exceed twenty four (24) inches in width by forty eight (48) inches in height.

M. Advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics are prohibited, except when used temporarily for period not to exceed fifteen (15) days to announce the opening of a new type of business or use by a new owner.

N. In the case of Commercial Special Events, which occur no more than once every six (6) months, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with Planning Commission approval, for a period of not more than seven (7) days prior to the event and shall be removed within one (1) day of the completion of the event.

O. In the case of seasonal recurring events, advertising devices such as banners, balloons, flags, pennants, pinwheels, searchlights or other devices with similar characteristics, are permitted with seasonal Planning Commission approval, such advertising devices shall not be used for a period of more than twenty-four (24) hours prior to the event and shall be removed immediately following the event.

P. Political signs: Political signs shall be removed within five (5) days after the election.

Q. The use of any outdoor business or informational sign erected and in use at the date this amendment is enacted, may be continued. Such signs shall be designated as "Nonconforming Signs". The maintenance, reconstruction, alteration, discontinuation, and change in the nonconforming nature of a Nonconforming Sign shall be governed by Article III, Section 3.02 – Nonconformities of this ordinance the same as for other nonconforming uses under this ordinance.

4. Off-premise signs and billboards regulated by the Michigan Department of Transportation under the Highway Advertising Act, P.A. 106 of 1972 and amendments, shall not exceed Thirty two (32) square feet in size. All other off-premise signs shall be subject to the limitations of Subsections 3.21 2 and 3.

Section 3.22 Antenna Co-location on an Existing Tower or Structure

1. No antenna or similar sending/receiving devices appended to the tower, following its approved construction, shall be permitted if it exceeds the engineered design capacity of the tower thereby jeopardizing the tower's structural integrity.

2. The installation and/or operation of the above mentioned, antennas or facilities shall not interfere with normal radio/television reception in the area. In the event interference occurs, it shall be the sole responsibility of the owner to rectify the situation with the parties involved.

3. No antenna or similar sending and receiving devices appended to the tower or structure shall increase the overall height of the tower or structure by more than ten (10) feet.

Section 3.23 Parking and Loading Standards

1. For each dwelling, business, commercial, industrial, or similar building hereafter erected or altered, and located on a public highway in the Township, including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable off-street parking in accordance with the following schedule:

   A. Residential Uses: Two (2) parking spaces per primary dwelling unit.
   B. Commercial, Service and Office Uses: Two (2) parking spaces per 1,000 square foot of gross floor area. Maximum five (5) parking spaces per 1,000 square feet of gross floor area.

   C. Industrial Uses: one parking space for every 1,000 square foot of gross floor area.

2. Two (2) or more buildings or uses may collectively provide the required off-street parking. In such a case, the required number of parking spaces for the individual uses may be reduced by up to twenty-five (25%) percent if a signed agreement is provided by the property owners and, upon approval, the agreement is recorded with the Charlevoix County Register of Deeds for both properties.

3. Parking Lot Deferment: Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area. Area of sufficient size to meet the parking space requirements of this Article shall be retained as open space, and the owner shall agree to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. Any required landscaping placed in this area shall be relocated when the parking area is expanded.

4. In order to minimize excessive areas of pavement, which are unsightly and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirements by greater than ten (10%) percent shall not be allowed, except as approved by the Planning Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence, to accommodate the use on a typical day.

5. In case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.

6. Exits and entrances may be combined or provided separately. Approval of location of such exit and entrance shall be obtained in writing from the Charlevoix County Road Commission and/or Michigan Department of Transportation which approval shall include the design and construction thereof in the interest of safety, adequate drainage and other public requirements.

7. On the same premises with every building, structure or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on-the-lot space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated streets or alleys.

Section 3.24 Landscaping

All plans requiring Planning Commission review and approval shall be required to provide landscaping, according to the following standards. Wherever in this Ordinance planting is required, it shall be planted prior to obtaining a Certificate of Occupancy (through the County Building Department) if possible and no later than six (6) months from date of issuance. All landscaping thereafter shall be reasonably maintained, including permanence and health of plant materials to provide a screen to adjacent properties and be free of weeds and foreign debris. Spacing and plant sizes, as required by this section shall be provided in any landscape buffer or designated planting.

1. Landscape Elements
   The following minimum standards shall apply:

   A. Plant materials and grasses shall be of generally acceptable varieties and species, free of insects and diseases, hardy to Charlevoix County, conform to the current minimum standard of the American Association of Nurseryman, and shall have proof of any required governmental regulations and/or inspections.

   B. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.

   C. Berms shall be constructed with slopes not to exceed a 1:3 gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected by sod, seed, shrubs or other form of natural ground cover.

   D. Existing Trees:

      1) If existing plant material is labeled "To Remain" on site plans by the applicant or required by the Planning Commission, protective techniques, such as, but not limited to, fencing or barriers placed at the drip line around the perimeter of the plant material shall be installed during construction. No vehicle or other construction equipment shall be parked or stored within the drip line of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the Planning Commission.
      2) In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled “to remain” are cut down, destroyed, damaged, or excavated at the drip line, as determined by the Zoning Administrator, the owner shall replace them with trees of similar size and type.

2. Plant Material - size and spacing

   A. Plant material shall not be closer than four (4) feet from the fence line or property line, except for vines intended to grow on fence structures.

B. Where plant materials are installed in two or more rows, planting shall be staggered to provide for maximum screening and shall consist of a mixture of evergreen and deciduous plants to provide effective year round screening.

C. Maximum plant spacing and minimum allowable sizes shall be as follows:

General Plant Type	Maximum Spacing Center to Center (feet)		Minimum Allowable Size	
Trees	**Single Row**	**Grouping**	**Height**	**Caliper**
Large Deciduous (Canopy)	30	40		2 ½”
Large Evergreen	15	20	7’	
Medium-Small Deciduous	10	15		1 1/2”
Columnar Deciduous	8	10	10’	
Narrow Evergreen	5	8	8’	

General Plant Type	Maximum Spacing Center to Center (feet)		Minimum Allowable Size	
Shrubs	**Single Row**	**Grouping**	**Height**	**Spread**
Large: Upright Spreader	4 6	6 8	4’	3’
Medium: Upright Spreader	3 4	4 6	3’	2’
Small: Upright Spreader	1 1/2 1 1/2	2 2 1/2	18”	15”
Conical	2	3	2’	

3. Site Landscaping

A. In addition to any landscape buffer and/or parking lot landscaping required by this section, ten (10%) percent of the site area, excluding thoroughfare right-of- way, shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials.

B. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area, but may not exceed five (5%) percent of the site area or one half (1/2) of the required site landscaping area.

4. Landscape Buffer

   A. A strip of land with a minimum width of fifteen (15) feet, shall be located between the buildable area and the abutting road right-of-way, and shall be landscaped with a minimum of one (1) canopy or large evergreen tree for each thirty linear feet. The remainder of the landscape buffer shall be landscaped in grass, groundcover, shrub and/or other natural, living landscape materials.

   B. Access ways from public rights-of-way through the required landscape strips shall be permitted, but such access ways shall not be subtracted from the linear dimension used to determine the minimum number of trees required unless such calculation would result in a violation of the spacing requirement set forth in this section.

5. Parking Lot Landscaping

   A. Separate landscaped areas shall be required either within or at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with a minimum landscaped space within a designated parking area of fifty (50) square feet.

   B. A minimum distance of three (3) feet shall be established between proposed shrub plantings and the backside of the curb or edge of pavement, and five (5) feet between tree trunk and backside of curb and edge of pavement.

   C. Plant materials sizes shall meet or exceed the sizes specified in subsection 3.24.2.C. above.

6. Installation and Maintenance

   A. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workman-like manner and according to accepted good planting and grading procedures.

   B. The owner of property required to be landscaped by this Ordinance shall maintain such landscaping in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.

Section 3.25 Medical Use of Marihuana

1. The medical use of marihuana by both qualifying patients and primary caregivers, as those terms are defined in Section 3 of Initiated Law 1 of 2008, as amended (Michigan Medical Marihuana Act), being MCL 333.26423, shall be a use by right in all zoning districts. Because of the confidential nature of the medical use of marihuana, no zoning permit shall be required.

2. A property at which a primary caregiver is providing medical marihuana services shall have no sign related to the use as a primary caregiver visible from outside the dwelling.

Article IV:
Zoning Districts and Map

Section 4.01 Classification of Zoning Districts

1. Zoning Districts

For the purpose of this Ordinance, the following Zoning Districts shall be established in Hayes Township.

CR	Conservation Reserve
A	Agricultural
RR	Rural Residential
R-1	Low Density Residential
R-2	Small Lot Residential
R-3	One and Two-family Residential
R-4	Multiple Family Residential
R-5	Mobile Home Park District
C-1	Neighborhood Commercial
C-2	General Commercial
I-1	General Industrial

2. Zoning Map

The areas assigned to each Zoning District and the boundaries thereof shown on the map entitled "Hayes Township Zoning Map, Charlevoix County, Michigan" are hereby established, and said map and all proper notations and other information shown thereon are hereby made a part of this Zoning Ordinance.

3. Boundaries of Districts

Unless otherwise specified, the boundary lines of the Zoning Districts shall be interpreted as following along section lines, or customary subdivisions of sections, or centerlines of highways or streets, or the shoreline of waterways, or property lines of legal record at the office of the Charlevoix County Register of Deeds on the date of the enactment of the Zoning Ordinance. The official Zoning Map shall be the final authority in any dispute concerning district boundaries. The official map shall be kept up to date, with any amendments to the Ordinance involving changes to the official map noted and portrayed on said map.

The official zoning map, including legally adopted amendments, shall be designated as such by the signature of the Township Clerk. Where uncertainty exists as the exact district boundaries, the following shall prevail:

A. Where boundary lines are indicated as approximately following streets, alleys, or highways; the center lines of the said streets, alleys, or highways shall be considered to be exact boundary lines.

B. Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.

C. Where the application of the above rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district

shall govern the entire parcel in question, unless determined otherwise by the Zoning Board of Appeals.

4. Zoning of Vacated Lands

Whenever any street, alley, highway, or other public right-of-way within the Township has been abandoned by official government action, such right-of-way lands attach to and become part of the land adjoining. Such right-of-way property shall automatically acquire and be subject to the provisions of the Zoning District of the abutting property. In the case of an abandoned right-of-way which also serves as the district boundary, the centerline of the right-of-way shall be the district boundary.

5. Zoning of Filled Areas

Whenever, after appropriate permits are obtained, any fill material is placed in any lake, stream, or wetland so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said property emanates. No fill material shall be placed in any lake or stream within the Township unless appropriate permits are obtained from the Michigan Department of Environmental Quality and U.S. Army Corp of Engineers, as required.

6. Zoning District Changes

When district boundaries change, any non-conforming use may continue subject to all other applicable provisions of this Ordinance.

Section 4.02 Conservation Reserve District (CR)

The following provisions shall apply to the Conservation Reserve District (CR).

1. Intent

The land uses in this district are intended to promote the proper use, enjoyment and conservation of water, land, topographic and forest resources of the Township particularly adapted to recreational and forest uses. The provisions of this section also recognize the gradual extension of other property uses into the district, and the importance of adopting good standards to guide such developments. If properly integrated, the inclusion of such uses is provided for by special approval.

2. Permitted Uses

A. Parks, playgrounds, recreational areas and community centers
B. Conservation areas for fauna and flora
C. Accessory buildings and uses customarily incidental to the above permitted uses

3. Uses Subject to Special Use Permit

Special approval use of lands and premises, and the erection and use of buildings and structures shall, after the effective date of this Ordinance, be limited to the following uses and shall be subject to the provisions of **Section 6.02** *Uses Subject to Special Use Permit* and the applicable portions of **Article VII** *Supplemental Site Development Standards.*

A. Docks and launch ramp
B. Recreation Camps
C. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
D. Accessory buildings and uses customarily incidental to the above special uses

4. Dimensional Regulations

Structures and uses in the Conservation Reserve District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations.*

Section 4.03 Agricultural District (A)

The following provisions shall apply to the Agricultural District (A).

1. Intent

The Agricultural District is designed to promote the use of wooded and rural areas of the Township in a manner that will retain the basic attractiveness of the natural resources and provide enjoyment for both visitors and the community at large. The primary intent of the District is to hold the rural Township areas for agriculture and forestry purposes and to allow some multiple uses of marginal farm-forest lands. Residential uses are considered secondary in this district.

2. Permitted Uses

A. Single family dwellings.
B. Agriculture, including both general and specialized farming, tree farms and forestry.
C. Roadside stands for the sale of farm product, provided that not less than fifty (50) percent of the goods offered for sale shall have been produced on the premises; and provided further, that the facilities for entry to and exit from the premises and adequate off-street parking are available.
D. Agricultural warehouses and non-animal agricultural processing plants.
E. Plant nurseries and greenhouses.
F. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*
G. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
H. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

A. Bed and breakfast facilities.
B. Clustered residential development (Open Space Preservation Option), subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards*
C. Public buildings and facilities.
D. Places of worship and related religious buildings.
E. Cemeteries.
F. Golf courses and country clubs.
G. Public and private campgrounds.

H. Private airports and landing strips.
I. Fire control structures.
J. Kennels, veterinary clinics and animal hospitals.
K. Non-domestic furbearing animals when confined in cages not less than two hundred (200) feet from any property line.
L. Planned Unit Developments
M. Additional farm employee dwellings, provided the property is at least 20 acres in size. The additional dwellings must be sited such that the property could be split in the future with all setbacks met for all parcels created.
N. Migratory labor dwellings, provided the property is at least 20 acres in size and subject to the provisions of **Section 7.01** *Supplemental Site Development Standards.*
O. Forest product processing and sales.
P. Sand and gravel excavation, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
Q. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
R. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*
S. Accessory buildings and uses customarily incidental to the above special approval uses.

4. Dimensional Regulations

Structures and uses in the Agricultural District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.04 Rural Residential District (RR)

The following provisions shall apply to the Rural Residential District (RR).

1. Intent

It is the intent of the Rural Residential District to provide for a variety of comparatively low density residential lifestyles in a manner which preserves open spaces and natural resources of the Township and the Township's rural character. The expanses of open spaces and natural resources, including woodlands, wetlands, hillsides, fields, and farmland comprise the fundamental rural character of the Township which residents wish to protect for future generations. This District includes limited existing farms and it is not the intent of this District to encourage the conversion of these agricultural lands to more intensive land uses, but to provide opportunities for residential development in a manner more compatible with the continuation of agricultural activities than traditionally provided for. However, neither is it the intent of this District to encourage the establishment of more intensive agricultural uses, such as confined livestock operations, which are incompatible with residential use of adjoining lands. Permitted land uses within this District are established based upon, in part, the limited public services available and accompanying natural constraints. The Rural Residential District is intended to implement, in part, the Rural Residential portion of the Future Land Use Plan in the Hayes Township Master Plan.

2. Permitted Uses

A. Single family dwellings

B. Agriculture, including both general and specialized farming, tree farms and forestry.
C. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*
D. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
E. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

A. Bed and breakfast facilities.
B. Clustered residential development (Open Space Preservation Option), subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
C. Public buildings and facilities.
D. Places of worship and related religious buildings.
E. Cemeteries.
F. Kennels, veterinary clinics and animal hospitals.
G. Planned Unit Developments
H. Sand and gravel excavation, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
I. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*
J. Accessory buildings and uses customarily incidental to the above special approval uses.

4. Dimensional Regulations

Structures and uses in the Rural Residential District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.05 Low Density Residential District (R-1)

The following provisions shall apply to the Low Density Residential District (R-1).

1. Intent

The Low Density Residential District is designed to accommodate and encourage single family residential development and associated uses, in keeping with the residential goals and policies specified in the Hayes Township Master Plan. The permitted uses are intended to provide for residential and related uses and those compatible with such, with the intent to keep residential areas relatively quiet and free from detrimental influences.

2. Permitted Uses

A. Single family dwellings
B. Parks, playgrounds, recreational areas and community centers
C. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
D. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

   A. Clustered residential development (Open Space Preservation Option), subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
   B. Public buildings and facilities.
   C. Places of worship and related religious buildings.
   D. Accessory buildings and uses customarily incidental to the above special approval uses.
   E. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*

4. Dimensional Regulations

   Structures and uses in the Low Density Residential District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.06 Small Lot Residential District (R-2)

The following provisions shall apply to the Small Lot Residential District (R-2).

1. Intent

   The Small Lot Residential District is designed to accommodate and encourage single family residential use in existing residential areas with platted lots or small parcels, consistent with the residential goal of the Hayes Township Master Plan.

2. Permitted Uses

   A. Single family dwellings
   B. Parks, playgrounds, recreational areas and community centers
   C. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
   D. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

   A. Public buildings and facilities.
   B. Places of worship and related religious buildings.
   C. Accessory buildings and uses customarily incidental to the above special approval uses.
   D. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*

4. Dimensional Regulations

   Structures and uses in the Small Lot Residential District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.07 One and Two-family Residential District (R-3)

The following provisions shall apply to the One and Two-family Residential District (R-3).

1. Intent

It is the intent of One and Two-Family Residential District to provide opportunities for the mix of both single family dwellings and two family dwellings to be adequately accommodated. Development shall be based on the recognition of lack of public sewer and water. This district characterized by both existing residential neighborhoods and vacant land available to accommodate additional residential development of similar character.

2. Permitted Uses

A. Single family dwellings
B. Two family dwellings
C. Parks, playgrounds, recreational areas and community centers
D. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
E. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

A. Public buildings and facilities.
B. Places of worship and related religious buildings.
C. Accessory buildings and uses customarily incidental to the above special approval uses

4. Dimensional Regulations

Structures and uses in the One and Two-family Residential District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.08 Multiple Family Residential District (R-4)

The following provisions shall apply to the Multiple Family Residential District (R-4).

1. Intent

The Multiple Family Residential District is designed to accommodate and encourage higher density residential development through a mix of residential structures and associated uses, including both one-family and multiple family dwelling structures, in keeping with the residential goals and objectives specified in the Hayes Township Master Plan. The uses permitted are intended to promote land uses for residential and related uses and those compatible with such, with the intent to keep residential areas relatively quiet and free from detrimental influences.

2. Permitted Uses

A. Single family dwellings
B. Two family dwellings
C. Multiple family dwellings
D. Parks, playgrounds, recreational areas and community centers
E. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
F. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

   A. Public buildings and facilities.
   B. Places of worship and related religious buildings.
   C. Accessory buildings and uses customarily incidental to the above special approval uses

4. Dimensional Regulations

   Structures and uses in the Multiple Family Residential District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.09 Mobile Home Park District (R-5)

The following provisions shall apply to the Mobile Home Park District (R-5).

1. Intent

   The Mobile Home Park District is intended to provide for the location and regulation of mobile home parks. It is intended that mobile home parks be provided with necessary community services in a setting that provides a high quality of life for residents. These districts should be located in areas where they will be compatible with adjacent land uses.

2. Permitted Uses

   A. Single family dwellings
   B. Two family dwellings
   C. Multiple family dwellings
   D. Manufactured or mobile home developments
   E. Parks, playgrounds, recreational areas and community centers.
   F. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*
   G. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
   H. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

   A. Public buildings and facilities.
   B. Places of worship and related religious buildings.
   C. Accessory buildings and uses customarily incidental to the above special approval uses

4. Dimensional Regulations

   Structures and uses in the Mobile Home Park District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.10 Neighborhood Commercial District (C-1)

The following provisions shall apply to the Neighborhood Commercial District (C-1).

1. Intent

The Neighborhood Commercial District is designed to give the Township a local business district that is somewhat more selective than a General Commercial District, to provide for the establishment of small-scale neighborhood and shopping areas, personal services, and professional office areas that are compatible with and of service to township residential uses. Tourist services are also included as being in character with the District.

2. Permitted Uses

A. Single-family dwellings.
B. Two-family dwellings.
C. Public parks, playgrounds or recreation facilities.
D. Restaurants and bars, except drive-through restaurants.
E. Retail sales, within an enclosed building, and without a drive through window.
F. Banks and financial services, except facilities with drive-through windows.
G. Business and personal services.
H. Professional offices.
I. Public utility buildings without storage yards.
J. Public buildings and facilities.
K. Civic, social and fraternal organization facilities.
L. Motels and resorts.
M. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*
N. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
O. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

A. Multiple-family dwellings.
B. Residential dwellings on the second floor of commercial structures.
C. Gasoline / Service Station.
D. Outdoor sales facilities.
E. Places of worship and related religious buildings.
F. Child or adult daycare facilities serving more than six (6) clients
G. Group foster care facilities.
H. Convalescent or nursing homes.
I. Carpentry, plumbing and electrical sales, services and contracting offices.
J. Transmission and Communication Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
K. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
L. Sand and gravel extraction, subject to the provisions of **Section 7.01** Supplemental Site Development Standards.
M. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*
N. Accessory buildings and uses customarily incidental to the above special approval uses.

4. Dimensional Regulations

Structures and uses in the Neighborhood Commercial District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.11 General Commercial District (C-2)

The following provisions shall apply to the General Commercial District (C-2).

1. Intent

The intent of the General Commercial District is to provide for retail, service, and office development that offers a variety of goods and services to primarily address the needs of Township residents. Because of the variety of business types permitted in the General Commercial District, special attention must be focused on site layout, building design vehicular and pedestrian circulation, and coordination of site features between adjoining uses. Accordingly, it is the intent of this ordinance that commercial development be:

- Compatible in design with adjacent commercial development
- Buffered from or located away from residential areas, and non-commercial uses in coordination with development on adjoining sites

2. Permitted Uses

A. Public parks, playgrounds or recreation facilities.
B. Restaurants and bars, except drive-through restaurants.
C. Retail sales, within an enclosed building, and without a drive through window.
D. Banks and financial services, except facilities with drive-through windows.
E. Business and personal services.
F. Professional offices.
G. Funeral Homes.
H. Public utility buildings without storage yards.
I. Public buildings and facilities.
J. Civic, social and fraternal organization facilities.
K. Motels and resorts.
L. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*
M. Home occupations conducted completely inside the residence, subject to the provisions of ***Section 3.15*** *Home Businesses.*
N. One residential dwelling unit, as an accessory use to an on-site commercial/business use.
O. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

A. Gasoline / Service Station.
B. Any use permitted in the “C-2” district with a drive-through window.
C. Places of worship and related religious buildings.
D. Child or adult daycare facilities serving more than six (6) clients
E. Group foster care facilities.
F. Convalescent or nursing homes.
G. Building materials sales.

H. Carpentry, plumbing and electrical sales, services and contracting offices.
I. Machine shop.
J. Car Wash Facilities, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
K. Sale of motor vehicles.
L. Outdoor sales facilities
M. Warehouses and storage buildings, but not including commercial bulk storage of flammable liquids and gases.
N. Transmission and Communication Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
O. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*
P. Sand and gravel extraction, subject to the provisions of **Section 7.01** Supplemental Site Development Standards.
Q. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of ***Section 3.15*** *Home Businesses.*
R. Accessory buildings and uses customarily incidental to the above special approval uses.

4. Dimensional Regulations

Structures and uses in the General Commercial District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.12 General Industrial District (I-1)

The following provisions shall apply to the General Industrial District (I-1).

1. Intent

It is the intent of the General Industrial District to provide for a variety of manufacturing and industrial uses that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, excessive heavy truck traffic and similar characteristics. This district is also intended to accommodate commercial establishments not engaging primarily in retail sales. Such industrial areas should be free of incompatible uses, and designed to avoid negatively impacting adjacent conforming uses. Public sewer or water is not available in this District and all future land uses and activities in this District shall provide for safe sewage disposal and potable water.

2. Permitted Uses

A. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of ***Section 3.22*** *Antenna Co-location on an Existing Tower or Structure.*

3. Uses Subject to Special Use Permit

A. Building materials sales.
B. Carpentry, plumbing and electrical sales, services and contracting offices.
C. Machine shop.
D. Warehouses and storage buildings, but not including commercial bulk storage of flammable liquids and gases.

E. Production, processing, assembly, manufacturing or packaging of goods or materials which do not emanate noise, smoke, odors, dust, dirt, noxious gases, glare, heat, vibration, electrical, or any similar nuisances. Such facilities may include testing, repair, storage, distribution and sale of such products.

F. Junkyard and salvage material storage.

G. Sand and gravel excavation, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*

H. Outdoor storage facilities, including self-storage facilities.

I. Sexually Oriented Businesses, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*

J. Sanitary landfill.

K. Transmission and Communication Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*

L. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of ***Section 7.01*** *Supplemental Site Development Standards.*

M. Accessory buildings and uses customarily incidental to above special approval uses.

4. Dimensional Regulations

Structures and uses in the General Industrial District are subject to the area, height, bulk and placement requirements in ***Section 4.13*** *Schedule of Regulations*

Section 4.13 Schedule of Regulations

Zoning District	District Name	Minimum Lot Area		Max. Ht. Structure	Minimum Yard Setbacks			Minimum Square Footage	Max % of Impervious Surface
		Area	Width	Feet	Front	Side	Rear		
CR	Conservation Reserve	NA	NA	35 (d)	NA	NA	NA	NA	15
A-1	Agricultural	10 Ac	330 ft	35 (b) (d)	25	50	50	600	30
RR-1	Rural Residential	5 Ac	330 ft	35 (b)	25	25	25	900	15
R-1	Low Density Residential	2 ac	200 ft	35 (a)	25	15	25	900	15
R-2	Small lot Residential	¾ ac	120 ft	35 (a)	25	15	25	900	20
R-3	One and Two Family Residential	20,000 sf /unit	100 ft	35	25	15	25	900	30
R-4	Multiple Family Residential	(e)	200 ft	35	40	30	40	900 (f)	50
R-5	Mobile Home Park - Residential	5,000 sf/unit	50 ft	35	20	10	20	900	NA
C-1	Neighborhood commercial	1 Ac	100 ft	35 (c) (d)	35	15	35	NA	60
C-2	General Commercial	2 Ac	100 ft	35 (c) (d)	35	15	35	NA	60
I-1	General Industrial	2 Ac	200 ft	50 (c) (d)	50	25	50	NA	60

a. Maximum height shall be 30' for structures located within 1,000 feet of the ordinary high water mark of lakes, unless specifically waived by the Planning Commission upon finding the proposed structure is separated from the lake by an existing topographic feature so that the lake is not visible from a distance 1,000' from the ordinary high water mark.

b. Exceptions to height standards for Agricultural Uses. The maximum height of permitted agricultural accessory structures that are essential and customarily used in agricultural operations associated with a farm shall be forty-five (45) feet, except that the maximum height of silos shall be one hundred (100) feet, provided that all such accessory farm structures shall be located at least one hundred (100) feet from any residential dwelling other than the dwelling on the lot or parcel where the accessory farm structures are located.

c. Telecommunication towers, alternative tower structures, transmission and communication towers, utility microwaves, and public utility T.V. or radio transmitting towers shall not be subject to the height regulations of this Section, but shall be regulated pursuant to Section 7.01.20 of this ordinance.

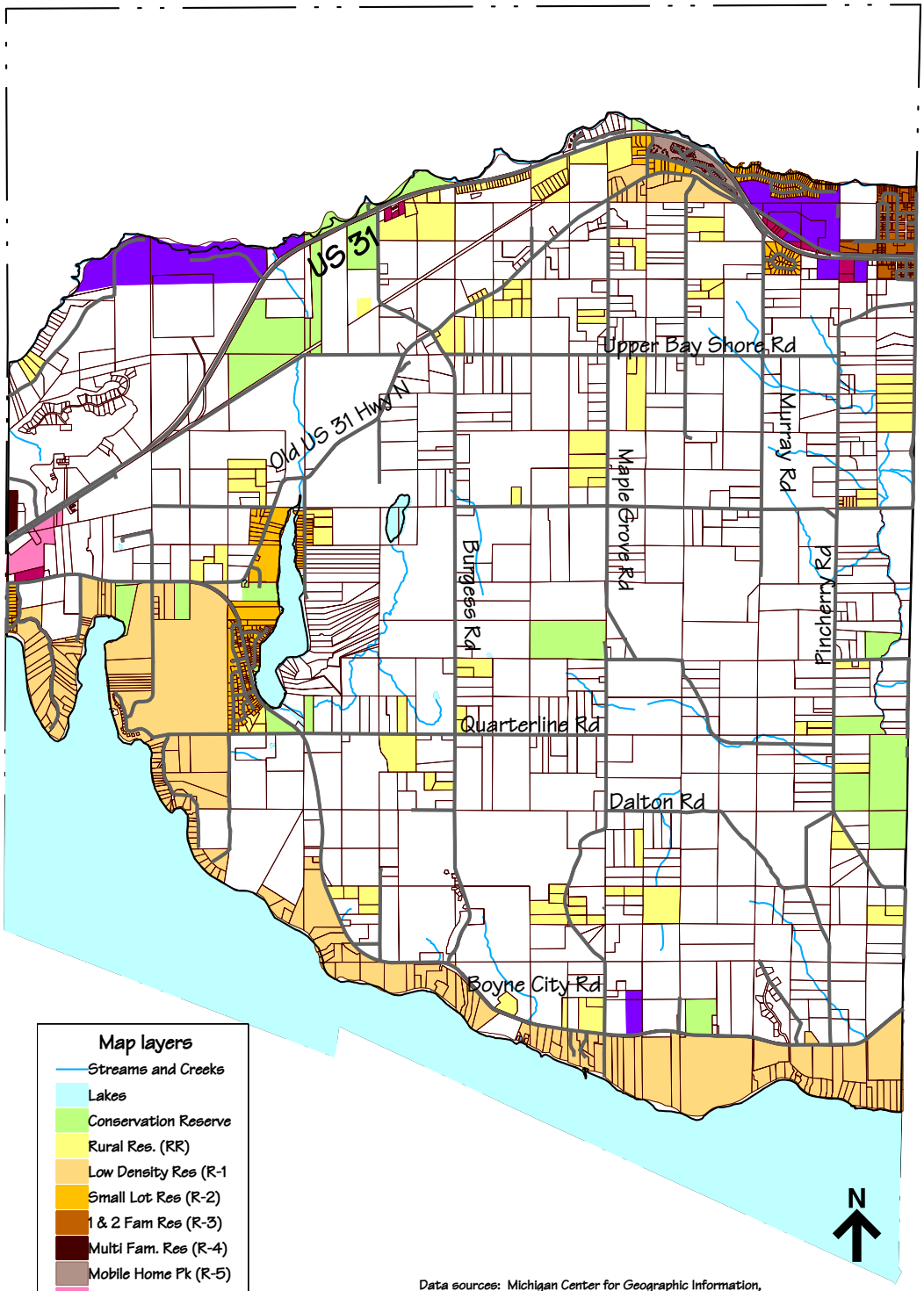
d. Wind Turbine Generators or Anemometer Towers shall not be subject to the height regulations of this Section, but shall be regulated pursuant to Section 3.10- Noncommercial Wind Turbine Generators or Section 7.01.21-Wind Turbine Generators of this ordinance.

e. Density regulations of this zone district –Not more than four (4) dwelling units per net acre shall be permitted in this zone district, except as otherwise herein provided. There shall be a minimum of fifty (50) percent of the gross area of the proposed "R-4" Zone District maintained as open space or non-profit recreational uses. In the process of determining the usable net acreage in a particular 'R-4" project, the developer shall not consider lands having a slope greater than 20% (20 feet of vertical fall in 100 lineal feet).

f. If the developer proposes a mixture of units having differing floor plans, a minimum floor space of eight hundred fifty (850) square feet shall be maintained.

HAYES TOWNSHIP ZONING MAP

Charlevoix County, Michigan



Map layers

- Streams and Creeks
- Lakes
- Conservation Reserve
- Rural Res. (RR)
- Low Density Res (R-1
- Small Lot Res (R-2)
- 1 & 2 Fam Res (R-3)
- Multi Fam. Res (R-4)
- Mobile Home Pk (R-5)
- Neighborhood Comm
- Gen Commercial (C-2)
- Gen Industrial (I-1)
- Agricultural (A)
- Roads

0 2,000 4,000 6,000

Feet

Data sources: Michigan Center for Geographic Information, Charlevoix County GIS Department, and Hayes Township.

Map Prepared by: M.C. Planning & Design

Adopted: October 12, 2009

Effective: October 31, 2009

Article V:
Site Plan Review

Section 5.01 – Purpose

The purpose of this article is to specify the documents and/or drawings required, to ensure that a proposed land use or development activity is in compliance with this ordinance, other local ordinances, and state and federal statues and regulations. Furthermore, its purpose is to ensure that development taking place within the Township is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts.

Section 5.02 – Plot Plan

The Zoning Administrator shall require that all applications for Zoning Permits, which do not require a site plan, be accompanied by plans and specifications including a Plot Plan, drawn to scale, showing the following:

1. The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.

2. The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to confirm the height of the proposed structures.

3. The location and configuration of the lot access and driveway, drawn to scale.

4. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.

5. Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

Section 5.03 – Site Plan Review (All Districts)

Required site plans give the Planning Commission an opportunity to review development proposals in a concise and consistent manner. The use of the site plan ensures that the physical changes in the property meet with local approval and that development actually occurs as it was planned and represented by the developer.

1. <u>Circumstances Requiring a Site Plan</u>: Site plans are required for the following uses:

    A. All new uses and/or structures except one-family or two-family residential units, associated accessory structures to one-family or two-family residential units, agricultural buildings in the Agricultural district and accessory buildings as a principal use, provided all requirements are met

B. Expansion or renovation of an existing use, other than one-family or two-family residential use, which increases the existing floor space more than twenty five (25) percent.
C. Changes of use for an existing structure or lot.
D. Any special use permit.
E. Any use requiring off-street parking, as stated in the off-street parking schedule of this ordinance.
F. Other uses as required by this Ordinance.

2. Pre-application Conference: The Zoning Administrator and Planning Commission Chair and/or Planning Commission member shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the Site plan review process, and other ordinance requirements; and to provide insight as to what portions of their proposed development may be of special concern to the Planning Commission.

This conference shall not be mandatory, but is recommended of small and large projects alike. It is recommended for large projects that a pre-application conference be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review. In no case, however, shall any representations made by the Planning Commission at the pre-application conference be construed as expressing a position on whether the site plan should be denied, approved, or approved with conditions.

3. Site Plan Data Required: Each site plan submitted shall contain the following information unless specifically waived, in whole or in part by the Township Planning Commission. The Planning Commission can waive any or all of the below site plan requirements, when it finds those requirements are not applicable to the proposed development.

A. The name and address of the property owner.
B. The date, north arrow, scale and name of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = fifty (50) feet for parcels under three (3) acres and not less than one (1) inch = one hundred (100) feet for parcels three (3) acres or more.
C. A certified survey of the property prepared and sealed by a professional licensed surveyor, showing at a minimum the boundary lines of the property, to include all dimensions and legal description.
D. The location of all existing structures and all proposed uses or structures on the site, including proposed drives, walkways, signs, exterior lighting, adequate parking for the proposed uses (show the dimensions of a typical parking stall and parking lot), loading and unloading areas, if necessary, common use areas and recreational areas and facilities. An elevation drawing of the proposed building(s) shall be required in order to review the proposed building bulk and verify height.
E. The location and width of all abutting rights-of-way, easements and utility lines within or bordering the subject project.
F. The location of existing environmental features, such as watercourses, wetlands, shorelines, man-made drains, mature specimen trees, wooded areas or any other unusual environmental features.

G. The location and identification of all existing structures, lighting, signs, ingress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.

H. The existing zoning district in which the site is located and the zoning of adjacent parcels.

I. The location of all existing and proposed landscaping as well as all existing and proposed fences or walls.

J. The location, size and slope of all surface and subsurface drainage facilities.

K. Summary tables, cross-sections and/or floor plans should be included with site plans for proposed structures, giving the following information:

1) The number of units proposed, by type, including a typical floor plan for each unit.

2) The area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.

3) Typical elevation drawings of the front and rear of each building.

L. The topography of the existing and finished site shall be shown by contours or spot elevations. Where the existing slope on any part of the site is ten percent (10%) or greater, contours shall be shown at height intervals of two (2) feet or less.

M. Generalized soil analysis data, which may include data prepared by the Charlevoix County Soil Conservation District regarding the soils and their adaptability to the use. More detailed information may be required where the Planning Commission determines that the site and use warrant a more critical review of soils.

N. All site plans shall comply with the terms of any applicable soil erosion sedimentation and stormwater runoff control ordinance. It shall be the applicant's responsibility to provide documentation of compliance with any applicable ordinance.

O. Anticipated hours of operation for proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.

P. The impact statement shall address the following as applicable to the type of use:

1) A complete description of the proposed development including: areas of the site, the number of lots or units; and the number and characteristics of the population impact such as density, elderly persons, school children, tourists, family size, income, and related information as applicable.

2) Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to ground water reserves or community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.

3) Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

4. <u>Application Submittal Procedures</u>:

A. Ten (10) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered. The Zoning

Administrator shall review the application and information submitted to determine if all required information was supplied. 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 site plan approval shall not proceed until all required information has been supplied. Once a complete application meeting the requirements of this ordinance has been submitted, the Zoning Administrator shall introduce the application at the next meeting and place on the agenda for the following regular meeting.

B. The Planning Commission may distribute the site plan to the following agencies or any other agency deemed appropriate for comment prior to consideration for approval.
   1) The Charlevoix County Planning Department
   2) The Charlevoix County Soil Erosion and Sedimentation Control Officer
   3) The Charlevoix County Drain Commissioner
   4) The Charlevoix County Road Commission and, if appropriate, the Michigan Department of Transportation
   5) District Health Department
   6) Local fire and ambulance service providers

C. Application fees as determined pursuant to ***Section 9.05*** of this Ordinance shall be paid when the application and site plan are submitted to cover the estimated review costs.

D. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.

E. The applicant or his/her representative shall be present at each scheduled review or the matter may be tabled for a maximum of two consecutive meetings due to lack of representation, the application shall be designated as inactive and all fees forfeited.

5. <u>Standards for Granting Site Plan Approval:</u>

A. The Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below, unless the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance. The Planning Commission's decision shall be in writing and shall include findings of fact, based on evidence presented on each standard. These standards are listed in subsection 1-12 listed below.

   1) All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development of surrounding property for uses permitted in this Ordinance.

2) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.

3) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.

4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

5) All buildings or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.

6) Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.

7) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.

8) Exterior lighting shall be arranged as follows:
   a) It is deflected away from adjacent properties.
   b) It does not impede the vision of traffic along adjacent streets.
   c) It does not unnecessarily illuminate night skies.

9) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way.

10) All streets shall be developed in accordance with the Township private road standards, or if a public road, the County Road Commission specifications.

11) Site plans shall conform to all applicable requirements of state and federal statutes and the Hayes Township Master Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before the actual zoning permit authorizing the special land use is granted.

B. The Planning Commission shall seek the recommendations of the Fire Chief, the Charlevoix County Road Commission, the County Health Department, and the Michigan Department of Natural Resources, where applicable.

6. Approval Site Plan: If approved by the Planning Commission, three (3) copies of the site plan shall be signed and dated by both the applicant and Zoning Administrator or Planning Commission Chair. One signed and dated site plan shall be provided to the applicant; one shall be retained by the Zoning Administrator as part of the Township's permanent zoning file, and; one copy shall be made part of the Planning Commission's permanent record of proceedings on the site plan.

7. Conformity to Approved Site Plan Required. Following approval of a site plan by the Planning Commission, the applicant shall construct the site plan improvements in complete

conformity with the approved site plan. Failure to do so shall be deemed a violation of this Ordinance.

8. Amendment of Approved Site Plan:
Amendment of an approved site plan shall be permitted only under the following circumstances:

A. The owner of property for which a site plan has been approved shall notify the zoning administrator of any desired change to the approved site plan. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
   1) Reduction of the size of any building and/or sign.
   2) Movement of buildings and/or signs by no more the than (10) feet.
   3) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
   4) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking, and do not exceed lot coverage requirements.
   5) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
   6) Changes related to item 1) through 5) above, required or requested by Hayes Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
   7) All amendments to a site plan approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the Applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

B. An amendment to an approved site plan that cannot be processed by the zoning administrator under subsection (A) above shall be processed in the same manner as the original site plan application.

9. Expiration of Site Plan:

A. The site plan shall expire unless substantial construction of an approved site plan improvement has begun within 365 days of approval. Thirty days prior to expiration of an approved final site plan, an applicant may make application to the Planning Commission for a one year extension of the site plan at no fee. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the site plan approval have not changed since the approval.
B. Any subsequent re-submittal shall be processed as a new request with new fees.

10. Conditional Approvals. The Planning Commission may impose reasonable conditions with the approval of a site plan, pursuant to ***Section 9.03*** of this Ordinance.

11. Performance Guarantee Required. The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a site plan, pursuant to ***Section 9.06*** of this Ordinance.

12. As-Built Site Plan. Upon completion of the installation of required improvements as shown on the approved site plan, the property owner shall submit to the Zoning Administrator two (2) copies of an "as-built" site plan, certified by the engineer or surveyor, if such professional prepared the original site plan, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as-built plans to the officials listed in ***Section 5.03.4B*** that provided comments to the planning commission during the initial review process for review and further comments. Any further comments shall be submitted to the Zoning Administrator within seven (7) days of sending the as-built plans. After receiving the comments or the expiration of the seven (7) day comment period, whichever comes first, the Zoning Administrator may make the final inspection of the project to determine whether the project conforms to the approved site plan.

Article VI:
Special Use Permit and Planned Unit Development

SECTION 6.01 PURPOSE

It is the purpose of this Article to specify the procedure and requirements for the review of special land uses, as specified in this Ordinance. Uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics), which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

SECTION 6.02 USES SUBJECT TO SPECIAL USE PERMIT

Uses requiring special use permit shall be subject to the general provisions and supplemental site development standards of this Ordinance, the provisions of the Zoning District where located in addition to applicable provisions of this Article to prevent conflict with or impairment of the other uses or uses permitted by right of the district. Each use shall be considered an individual case.

1. Application

   Application shall be submitted through the office of the Zoning Administrator, to the Planning Commission, on a special form provided for that purpose, and shall include the following:

   A. Site plan prepared under the requirements of ***Article V –*** *Site Plan Review.*

   B. Name and address of applicant and owner of the premises.

   C. Anticipated description of proposed use, including parking facilities, if required, and any exceptional traffic situations.

   D. A statement by applicant appraising the effect on the neighborhood.

   E. The application shall be accompanied by the fee established by the Township Board of Trustees.

   F. A detailed written statement, with supporting evidence, demonstrating how the proposed special land use will comply with the applicable general provisions, supplemental site development standards, and the standards for special use permit of this Ordinance.

2. Zoning Administrator's Review

   A. The Zoning Administrator shall review the application and information submitted under ***Section 6.02.1*** above to determine if all required information was supplied. 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 special use permit cannot proceed until all required information has been supplied.

B. Once all required information is submitted, the Zoning Administrator shall forward the application to the Planning Commission for its review under the procedures of this Article.

3. Notice Requirements for Planning Commission Public Hearings

The notices for all public hearings before the Planning Commission concerning requests for special use permits and planned unit developments shall comply with all of the following:

A. The content of the notice shall include all of the following information:

1) A description of the nature of the proposed special use or planned unit development request.
2) A description of the property on which the proposed special use or planned unit development will be located. The notice shall include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
3) The time, date, and place the proposed special use or planned unit development request will be considered.
4) The address where written comments will be received concerning the proposed special use or planned unit development request and the deadline by which such comments must be received.

B. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.

C. The notice shall be sent by first-class mail or personal delivery to the owners of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing.

D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the proposed special use or planned unit development will be located and to the occupants of all structures within 300 feet of the property on which the proposed special use or planned unit development will be located not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

E. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

4. Standards for granting Special Use Permit

The Planning Commission shall approve, or approve with conditions an application for a special land use permit only upon finding that the proposed special land use complies with the following standards:

A. Allowed Special Land Use

The property subject to the application is located in a Zoning District in which the proposed special land use is allowed.

B. Compatibility with Adjacent Land Uses

1) The proposed use subject to a special use permit shall be designed, constructed, operated and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
2) The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public road or seen from any adjacent land owned by another person.
3) If deemed necessary by the Planning Commission, the hours of operation that the special use is allowed to operate, be open or otherwise occur, shall be imposed as a condition of approval to ensure compatibility with the surrounding land uses.

C. Public Services

1) The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.
2) The proposed special land uses will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

D. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole.

E. Compatibility with Natural Environment

The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the Township or the natural environment as a whole.

F. Compliance with Specific Standards

The proposed special land use complies with all applicable specific standards required under this Ordinance.

G. Conditional Approvals

The Planning Commission may impose reasonable conditions with the approval of a special use permit, pursuant to **Section 9.03** of this Ordinance.

H. Performance Guarantee Required

The Planning Commission may require an applicant to provide a performance guarantee in connection with the approval of a special use permit, pursuant to **Section 9.06** of this Ordinance.

I. Amendment of Approved Special Use Permits

Amendment of an approved special use permit shall be permitted only under the following circumstances:

1) The owner of property for which a special use permit has been approved shall notify the Zoning Administrator of any desired change to the approved special use. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
   a) Reduction of the size of any building and/or sign.
   b) Movement of building and/or signs by no more the ten (10) feet.
   c) Landscaping approved in the special use that is replaced by similar landscaping to an equal or greater extent.
   d) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
   e) Internal re-arrangement of parking lots which does not affect the number of parking spaces or alter access locations or design.
   f) Changes related to item a. through e. above, required or requested by Hayes Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval.
   g) All amendments to a special land use approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.

2) An amendment to an approved special use permit that cannot be processed by the Zoning Administrator under subsection I.1 above shall be processed in the same manner as the original special land use application.

J. Expiration of Special Use Permit

1) An approved special use permit shall expire one (1) year following approval by the Planning Commission, unless substantial construction has begun pursuant to the permit prior to the expiration, or the property owner applies to the Planning Commission for an extension prior to the expiration of the special use permit. The Planning Commission shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the special use permit approval have not changed since the approval.

2) If the special use permit expires pursuant to subsection J.1 above, no work pursuant to the special use permit may be undertaken until a new special use permit is obtained from the Planning Commission following the procedures for a new special use permit.

K. Reapplication

No application for a special use permit which has been denied, wholly or in part, by the Planning Commission shall be re-submitted for a period of one (1) year from the date of such denial, unless a rehearing is granted pursuant to this Ordinance.

L. Jurisdiction of the Zoning Board of Appeals

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Planning Commission in regard to matters concerning the granting of special use permits.

M. Inspection

The Zoning Administrator shall have the right to inspect any special use permit use, to ensure continued compliance with the conditions of the special use permit.

SECTION 6.03 PLANNED UNIT DEVELOPMENT (PUD)

1. Intent and Purpose

As used in this section, "planned unit development" (or PUD) means cluster zoning, planned development, community unit plan, planned residential development, and other planned development. The purposes of a PUD are:

A. To accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

B. To permit flexibility in the regulation of land development.

C. To encourage innovation in land use in variety and design, layout, and type of structures constructed.

D. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.

E. To encourage usable open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.

F. To encourage the clustering of development to result in the preservation of larger areas of open space.

2. Use and Area Regulations

A. *Planned Unit Development Eligibility Requirements.* To be eligible for a planned unit development, a parcel shall meet all of the following:

1) The parcel shall be ten (10) contiguous acres or more in area. Provided, however, if the proposed PUD will contain a mixture of residential and

non-residential uses, the parcel shall be twenty (20) acres or more in area. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.

2) The parcel on which the proposed PUD will be located shall be served by public water and sanitary sewer facilities, if available.

3) The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.

4) The proposed uses within the PUD shall be consistent with the Hayes Township Master Plan for the subject parcel.

B. *Permitted Uses.* Planned unit developments shall be permitted in any Zoning District according to the following:

1) **Conservation Reserve or Agricultural** (CR, A) **and Residential** (R-1, R-2, R-3, R-4, R-5, RR) **Districts** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Institutional and commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted, provided the total area devoted to institutional and commercial uses shall not exceed twenty (20%) percent of the PUD development area (i.e. the gross land areas less the protected open space).

2) **Commercial & Business** (C-1, C-2) **District** - Except as noted, PUD uses may include any of the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Residential uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted provided the total area devoted to residential uses shall not exceed forty (40%) percent of the PUD development area (i.e. the gross land areas less the protected open space).

3) **Industrial** (I-1) **District** - Except as noted, PUD uses shall be limited to the range of uses provided for within the underlying Zoning District classification. Such uses may be placed either singularly or in combination. Commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding area may also be permitted provided the total area devoted to commercial uses shall not exceed twenty (20%) percent of the PUD development area (i.e. the gross land areas less the protected open space).

4) In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

C. *Area Regulations.* Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations.

1) *Perimeter Setbacks.* The setback maintained along the perimeter of the PUD shall equal or exceed the required setback of the underlying Zoning District, provided:

   a) Any portion of a commercial or industrial use shall maintain a perimeter setback of not less than fifty (50) feet from any adjoining or abutting property which is developed residential or is located in a zoning district that permits residential development.

   b) With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped.

2) *Density and Bonus Units*: A PUD project shall be permitted an initial number of units equal to the number of lots possible based on the applicable zoning district and the gross property acreage. For each ten (10) acres of contiguous protected open space within the PUD, excluding state regulated wetlands, other areas characterized with hydric soils and areas with slopes of greater than 25 percent, the PUD project shall be eligible for one (1) additional bonus unit.

3) *Open Space.* A PUD project shall have open space totaling no less than fifty (50%) percent of the entire project area. The PUD project required open space is encouraged to be contiguous, and the open space shall have a minimum width of 100 feet and is subject to approval by the Planning Commission. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD, and shall remain perpetually in an undeveloped state. Dedicated open space does not include parking lots, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.

   The required open space shall be protected by the developer in a conservation easement, or other legal means acceptable to the township. Said conveyance placed on the property shall specify that the open space is an integral component in the overall development for the use and enjoyment of the public or the residents within the Planned Unit Development.

   Such conveyance shall:

   a) Provide for the privately owned open-space to be maintained and the provisions of the conservation easement or deed restriction to be enforced by the private property owners.

   b) Provide maintenance standards and a maintenance schedule.

   c) Grant the Township the right, but not the obligation, to enforce the provisions of the conservation easement or other legal means, if in the Township's opinion such provisions are not adequately enforced by the property owners.

   d) Be held by two entities, one being the Hayes Township and the

other the landowner's association, land conservancy or other entity found acceptable to the Hayes Township Planning Commission.

4) *Height Regulations.* The height of all buildings and structures within a PUD project shall not exceed the height limit of the underlying Zoning District.

5) *Other Dimensional Regulations.* To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, reduce the other dimensional regulations, as required by the underlying Zoning District, including but not limited to minimum lot size, density, and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the Township as a whole.

Any reductions by the Planning Commission shall be limited as follows:

a) Underlying Zoning District Setback requirements shall not be reduced by more than fifty (50%) percent. Perimeter setbacks as specifically required by the PUD regulations may not be reduced.

b) Required parking shall not be reduced by more than sixty (60%) percent of the parking normally required of the proposed use. In no case shall a single-family home, mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.

Prior to approving a reduction in dimensional regulations, the Planning Commission may require the applicant to demonstrate through bonafide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the reduction will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the Township as a whole.

D. *Pre-application Conference.*

1) A pre-application conference shall be held with the Planning Commission or its representative, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Planning Commission, or its representative, with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Planning Commission's initial, but unofficial reaction to the application. In no case

shall any representations made by the Planning Commission, or its representative, at the pre-application conference be construed as an endorsement or approval of the PUD.

2) A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

E. *PUD Application Requirements.* An applicant seeking approval of a PUD shall submit a complete application to the Zoning Administrator. The Zoning Administrator shall then forward the application to the Planning Commission for its review under the procedures of this section. The application shall include all of the following:

1) A completed application form, supplied by the Zoning Administrator.
2) Payment of a fee as established by resolution of the Township Board.
3) A narrative statement describing:
   a) The objectives of the proposed PUD and how they relate to the intent of the Zoning Ordinance as described in subsection 1), above.
   b) The relationship of the proposed PUD to the Hayes Township Master Plan.
   c) Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
   d) Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
   e) Anticipated dates for the start and completion of the PUD construction.
   f) The location, type, and size of areas to be dedicated for common open space.
4) The PUD application shall include all information required by ***Article V*** and ***Section 6.02.1***, and the following:
   a) Required setbacks of the Zoning Districts.
   b) The area (and square footage) percentage of subject property to be covered by buildings.
   c) Percentage of the total site devoted to open space and the proposed uses of that open space.
   d) Such other information regarding the development area that may be required to determine conformance with this Ordinance.

F. *Public Hearing on PUD Request; Notice.*
See ***Section 6.02.3.***

G. *Planning Commission Review of PUD.* Following the public hearing the Planning Commission shall review the PUD application and shall approve, deny, or

approve with conditions the PUD application based on the standards for PUD approval contained in subsection H. below. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

H. *Standards for PUD Approval; Conditions; Waiver of PUD Standards.*

1) *General Standards.* The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets the standards of ***Article V*** and ***Section 6.02.4*** and all of the following:

a) The planned unit development shall be consistent with the Hayes Township Master Plan.

b) The planned unit development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.

c) The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the Township's current master plan.

d) The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.

e) The planned unit development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.

f) The planned unit development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.

g) The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.

h) The design of the planned unit development shall exhibit a

reasonably harmonious relationship between the location of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.

i) The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control.

j) The planned unit development shall provide for underground installation of all utilities.

2) *Conditions.* The Planning Commission may impose reasonable conditions with the approval of a final site plan, pursuant to ***Section 9.03*** of this Ordinance.

3) *Waiver of PUD Standards.* The Planning Commission may waive any of the standards for a PUD contained in subsection H. above where all of the following findings are documented along with the rationale for the decision:

a) No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.

b) The spirit and intent of the PUD provisions will still be achieved.

c) No nuisance will be created.

I. *Planned Unit Development Permit.* Following final approval of a PUD application, a permit shall be obtained from the Zoning Administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.

J. *Continuing Adherence to Approved PUD Application.* Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

K. *Recording of Action.* The applicant shall record an affidavit acceptable to the Township with the Charlevoix County Register of Deeds that contains the full legal description of the project site, specifies the date of final Township approval, specifies the description or identification number which the Township has assigned to the PUD project, and declares that all improvements will be carried

out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the Township that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Charlevoix County Register of Deeds and copies of all recorded documents filed with the Zoning Administrator, prior to issuance of a zoning permit.

L. *Amendment of an Approved Planned Unit Development.* Amendments to an approved PUD shall be permitted only under the following circumstances:

1) The owner of property for which a PUD has been approved shall notify the Zoning Administrator of any desired change to the approved PUD. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
   a.) Reduction of the size of any building and/or sign.
   b) Movement of buildings and/or signs by no more than ten (10) feet.
   c) Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
   d) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
   e) Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
   f) Changes related to items (a) through (e) above, required or requested by Hayes Township, Charlevoix County, or other state of federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
2) All amendments to a PUD approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator to sign and date all approved amendments.
3) An amendment to an approved PUD that cannot be processed by the Zoning Administrator under subsection 1) above shall be processed in the same manner as the original PUD application.

M. *Expiration of Approved PUD; Extension.*

1) An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the

Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:

a) The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and

b) The PUD requirements and standards that are reasonably related to the development have not changed.

2) If the PUD approval expires pursuant to subsection 1) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the Planning Commission following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

N. *Performance Guarantee.*

The Planning Commission may require the applicant to obtain and maintain a performance guarantee in connection with the PUD project, pursuant to ***Section 9.06*** of this Ordinance.

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 legitimatize 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. <u>Review Procedures for Sexually Oriented Businesses</u>
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 lightening 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. <u>Standards for Approval of Wind Turbine Generators and Anemometer Towers</u>
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.

Article VIII:
Zoning Board of Appeals

SECTION 8.01 ZONING BOARD OF APPEALS CREATION AND MEMBERSHIP

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act 110, of Public Acts of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. This Board shall consist of five (5) regular members, appointed by the Township Board.

1. The first member shall be a member of the Township Planning Commission for the term of his/her office.

2. The remaining members must be selected from the electors of the Township residing outside of incorporated cities and villages and shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board.

3. An elected officer of the Township shall not serve as chairman. An employee or contractor of the Township Board may not serve as a member or an employee of the Zoning Board of Appeals.

4. The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified to serve as a member of the Zoning Board of Appeals in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

SECTION 8.02 MEETINGS

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine or specify in its rules of procedure. All hearings conducted by said ZBA shall be open to the public. The Zoning Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the Township Clerk, and shall be a public record. The <u>concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary</u> to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance or to effect any variation of this Ordinance.

The Zoning Board of Appeals shall not conduct business unless a majority of the Board of Appeals regular members are present.

SECTION 8.03 JURISDICTION

1. Except for Planning Commission decisions concerning special use permits and Planned Unit Developments, an appeal concerning the administration of the provisions of this Ordinance may be taken to the Zoning Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the official or body from which the appellant seeks relief.

2. The ZBA may hear appeals made by any person who alleges he or she has been aggrieved by a decision of the official or body, except for Zoning Administrator decisions regarding enforcement of this Ordinance.

3. The ZBA may grant variances as provided for in ***Section 8.07*** *Variances*.

4. The ZBA may also interpret the location of Zoning District boundaries and may interpret the provisions of this Ordinance.

5. An appeal may be made by any person, firm or corporation, or by any Officer, Department or Board of the Township. The appellant shall file with the Zoning Board of Appeals, on blanks or forms to be furnished by the Zoning Administrator, a notice of appeal specifying the grounds for the appeal.

6. The Zoning Administrator shall transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The final decision of such appeal shall be in the form of a resolution either reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Reasons for the decision must be stated.

7. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

SECTION 8.04 EXERCISING POWER

In exercising the above powers, the Zoning Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the official or body from whom the appeal is taken.

SECTION 8.05 APPLICATION REQUIREMENTS

The applicant shall submit seven (7) copies of a completed application, with associated fee, surveys, plans and data as required in **Article V**: Site Plan Review, or other information deemed reasonably necessary for making any informed decision on his or her appeal, not less than thirty (30) days prior to the date of the hearing.

SECTION 8.06 NOTICE REQUIREMENTS FOR ZONING BOARD OF APPEALS PUBLIC HEARINGS

The notices for all public hearings before the Zoning Board of Appeals concerning appeals, interpretations, and variances shall comply with all of the following applicable provisions:

1. For an appeal or a request for an interpretation, the notice shall comply with all of the following:

   A. The content of the notice shall include all of the following information:
      1) A description of the nature of the appeal or interpretation request.
      2) If the appeal or interpretation request involves a specific parcel, then the notice shall describe the property involved. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no such street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
      3) The time, date, and place the appeal or interpretation request will be considered.
      4) The address where and the deadline when written comments will be received concerning the appeal or interpretation request.

   B. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.

   C. The notice shall be sent by first-class mail or personal delivery to the person filing the appeal or requesting the interpretation and, if the appeal or interpretation request involves a specific parcel, to the owners of the property involved not less than 15 days before the scheduled public hearing.

   D. If the appeal or interpretation request involves a specific parcel, then the notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property involved and to the occupants of all structures within 300 feet of the property involved not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant or tenant is not known, the term “occupant” may be used in making notification under this subsection.

2. For a variance request, the notice shall comply with all of the following:

   A. The content of the notice shall include all of the following information:
      1) A description of the nature of the variance request.
      2) A description of the property on which the requested variance will apply. The notice shall also include a listing of all existing street addresses within the property. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property.
      3) The time, date, and place the variance request will be considered.
      4) The address where and the deadline when written comments will be received concerning the variance request.

B. The notice shall be published in a newspaper of general circulation within the Township not less than 15 days before the scheduled public hearing.

C. The notice shall be sent by first-class mail or personal delivery to the owners of the property seeking the variance not less than 15 days before the scheduled public hearing.

D. The notice shall also be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property on which the requested variance will apply and to the occupants of all structures within 300 feet of the property to which the requested variance will apply not less than 15 days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

3. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Zoning Board of Appeals may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 8.07 VARIANCES

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty. To establish practical difficulty, the applicant must establish all of the following:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area and/or zoning district, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

2. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).

3. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for any permitted purpose, or will render conformity with those regulations unnecessarily burdensome.

4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or Zoning District.

SECTION 8.08 CONDITIONS OF APPROVAL

The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in section 9.03 of this Ordinance.

SECTION 8.09 EXPIRATION OF ZBA APPROVALS

No order of the Zoning Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period and substantial construction has occurred.

SECTION 8.10 REAPPLICATION

No application for a variance, interpretation, or appeal which has been decided, in whole or in part, by the Zoning Board of Appeals shall be re-submitted for a period of one (1) year from the date of such decision, unless a rehearing is granted pursuant to section 9.04 of this Ordinance.

SECTION 8.11 STAY

An appeal to the Zoning Board of Appeals and an appeal of a decision by the Zoning Board of Appeals to Circuit Court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Zoning Administrator certifies to the Zoning Board of Appeals after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Zoning Board of Appeals or the Circuit Court.

Article IX:
Administration and Enforcement of Ordinance

SECTION 9.01 ZONING ADMINISTRATOR

The provisions of this Ordinance shall be administered and enforced by a Township Zoning Administrator, appointed by the Township Board of Trustees for such term and subject to such conditions and at such rate of compensation as said Board shall determine as reasonable.

The Zoning Administrator shall have the power to grant or deny Zoning Permits and to make inspections of buildings or premises necessary to carry out the duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any Permits for the excavation or construction until such plans have been inspected in detail and found to conform to this Ordinance.

The Zoning Administrator shall under no circumstances be permitted to make changes to this Ordinance or to vary the terms of this Ordinance in carrying out the duties of Zoning Administrator.

The Zoning Administrator shall not refuse to issue a Permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements that may occur upon the granting of said Permit.

SECTION 9.02 ZONING PERMIT

1. No building or structure subject to the provisions of this Ordinance shall hereafter be erected, structurally altered, reconstructed, used, or moved, nor shall any associated excavation or filling of land commence until a Zoning Permit application has been filed with the Township Zoning Administrator and a Zoning Permit has been issued by the Zoning Administrator, except as otherwise permitted for in this Ordinance. No Zoning Permit shall be required for any lawful use of any building or structure in existence as of the adoption date of this Ordinance. No Zoning permit shall be required for an accessory structure without a permanent foundation and which is less than two hundred (200) square feet in size. All structures shall comply with applicable district setback requirements regardless of whether a zoning permit is required.

2. The application shall be signed by the owner of the premises or his agent and shall certify that all provisions of this Ordinance and other applicable laws and requirements are to be complied with. Any application requiring approval from the Planning Commission must be submitted not less than thirty (30) days prior to a scheduled meeting for consideration at that Planning Commission meeting. The application shall be accompanied by:
   A. A site plan, if required (see Section 5.03), or a plot plan/sketch in duplicate (see Section 5.02), in a scale sufficient to clearly detail as determined by the Zoning Administrator, the location and dimensions of the premises including the boundary lines of all parcels of land under separate ownership contained therein; the size, dimensions, location on the premises, and height of all buildings, structures or other impervious surfaces in existence, to be erected and/or altered; the width and alignment of all abutting streets, highways, alleys, utility locations, easements and public open spaces; the front yard dimensions of the nearest building on both sides

of the proposed building or structure; the location and dimensions of sewage disposal facilities both on adjoining land or lots and those to be erected on the lot under consideration; and the location of all wells on adjoining lands or lots and those to be erected on the lot under consideration.

B. The Zoning Administrator shall have the authority to require a legal survey (not a mortgage survey) in the cases where there may be encroachment on the setbacks by the proposed structures or when the exact locations of lot lines are not known.

C. Copies of permits or waivers of permits by other agencies as may be required by statute and/or by the Zoning Administrator of this Ordinance.

D. Such other information as may be required to determine compliance with the Ordinance.

3. A Zoning Permit may not be issued until all other necessary permits required by statute have been obtained or waived with exception of those permits issued by the Charlevoix County Building Department.

4. The location of the property boundaries and all structures shall be staked on the ground for Zoning Administrator approval prior to the issuance of the Zoning Permit.

5. Any Zoning Permit under which substantial construction has not started or if no substantial construction has been done in the furtherance of the zoning permit, the zoning permit shall expire after twelve (12) months from date of issuance.

6. The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with the provisions of the Ordinance, all other necessary permits have not been obtained or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing.

7. No Zoning Permit shall be valid until the required fees have been paid. Except for an accessory building or structure less than two hundred (200) square feet in size (which does not require a zoning permit pursuant to ***Section 9.02.1*** of this Ordinance), no separate fee shall be required for accessory buildings or structures when part of the application for the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the Township Board of Trustees.

SECTION 9.03 CONDITIONS

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under their jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

1. Be designed to protect natural resources, the health, safety, welfare, as well as the

social and economic well being of those who will use the land under consideration, residents and landowners immediately adjacent to the proposed land use, and the community as a whole.

2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

SECTION 9.04 REHEARING PROCESS

1. Final Decisions: Except as provided in this section, a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. Exceptional circumstances shall mean any of the following:

   A. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.

   B. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.

   C. The Township Attorney, by written opinion, states that in the Attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

2. Rehearing Procedure: A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

   A. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date of approval of the Planning Commission's or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.

   B. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.

   C. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicants' last known address, or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete

upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a meeting at which it considers whether to grant a rehearing.

D. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all applicable notice requirements have been satisfied.

SECTION 9.05 FEES

1. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees, such as those fees related to the following:

   A. Zoning permits.

   B. Special land use permits.

   C. Ordinance interpretations by the Zoning Board of Appeals: appeals of administrative interpretation or request for interpretation. Appeals and requests for interpretation initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.

   D. Classification of unlisted property uses.

   E. Requests to change a non-conforming use to another non-conforming use.

   F. Requests for variances from the Zoning Board of Appeals.

   G. Requests for rezoning of property by individual property owners or amendments to the Zoning Ordinance text. Rezoning of property or text amendments initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.

   H. Site plan reviews.

   I. Requests for a planned unit development (PUD).

   J. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

   The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

2. If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten (10%) percent of the initial escrow deposit or less than ten (10%) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

SECTION 9.06 PERFORMANCE GUARANTEE

In connection with the construction of improvements through site plan approval, special land use approval, or a PUD project, the Planning Commission may require the applicant to furnish the Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the Township Clerk at or before the time the Township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Township Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

1. One-third of the cash deposit after completion of one-third (monetary value), of the public and site improvements;

2. Two-thirds of the cash deposit after completion of two-thirds of the public and site

improvements; and

3. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

SECTION 9.07 VIOLATIONS AND PENALTIES

SECTION 9.07.1 NUISANCE PER SE

Any land, dwellings, buildings or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this Ordinance are hereby declared to be a nuisance per se.

SECTION 9.07.2 INSPECTION

The Zoning Administrator shall have the duty to investigate each alleged violation and shall also have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.

SECTION 9.07.3 PENALTIES

1. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction and shall be subject to a fine of not more than Five Hundred and 00/100 ($500.00) Dollars. Every day that such violation continues may constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the Township from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this Ordinance.

2. The Township Zoning Administrator is hereby designated as the authorized Township official to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court. The Township Board may also designate from time to time other officials to issue municipal infraction citations on behalf of the Township in connection with alleged violations of this Ordinance.

3. In addition to or in lieu of enforcing this Ordinance, as a municipal civil infraction, the Township may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.

SECTION 9.07.4 STOP WORK ORDER

If construction or land uses are being undertaken contrary to a zoning permit, the Michigan Zoning Enabling Act, or this Ordinance, the Zoning Administrator or Deputy of the Zoning Administrator or any other official authorized by the Township Board is authorized to post a stop work order on the property at a suitable location, such as at an entrance, in order to prevent the work or activity from proceeding in violation of the Ordinance.
A person shall not continue, or cause or allow to be continued, construction or uses in a violation of a stop work order, except with permission of the enforcing agency to abate a dangerous condition or remove the violation, or except by court order. If an order to stop work is not obeyed, the enforcing agency may apply to the circuit court for an order enjoining the violation of the stop work order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal or civil prosecution for failure to obey the order.

SECTION 9.08 CONFLICTING REGULATIONS

In the interpretation of this Ordinance, this Ordinance shall control unless there exists a conflict with any other Township Ordinances, in which case the more stringent regulations will rule.

Article X:
Adoption and Amendments

SECTION 10.01 AMENDMENT TO THIS ORDINANCE

1. The Township Board is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in the Michigan Zoning Enabling Act, Act 110 of the Public Acts of 2006, as amended.

   A. The regulations and provisions stated in the text of this Ordinance and the boundaries of Zoning Districts shown on the Hayes Township Zoning Map may be amended, supplemented or changed by action of the Township Board following a recommendation from the Township Planning Commission.

   B. Proposals for amendments, (including rezonings), supplements or changes may be initiated by the Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.

   C. The procedure to be followed for initiating and processing an amendment shall be as follows:

      1) Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided and shall be accompanied by the fee as prescribed by the Township Board. No part of such fee shall be returnable to a petitioner if the public hearing is held.

      2) The Zoning Administrator shall notify, in writing, the Township Clerk and Chair of the Planning Commission at or before the time he or she transmits the amendment request to the Planning Commission.

      3) The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.

      4) Before ruling on any proposal the Planning Commission shall conduct at least one (1) public hearing, notice of which shall be provided as specified in ***Section 10.02*** of this Ordinance.

      5) The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.

         a) Is the proposed rezoning consistent with the Hayes Township Master Plan?

         b) Is the proposed rezoning reasonably consistent with surrounding uses?

         c) Will there be an adverse physical impact on surrounding properties?

         d) Will there be an adverse effect on property values in the adjacent area?

         e) Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?

         f) Will rezoning create a deterrent to the improvement or

development of adjacent property in accord with existing regulations?

g) Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

h) Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?

i) Is the rezoning in conflict with the planned use for the property as reflected in the Land Use Plan?

j) Is the site served by adequate public facilities or is the petitioner able to provide them?

k) Are there sites nearby already properly zoned that can be used for the intended purposes?

l) Are other local remedies available?

6) Following the public hearing the Planning Commission shall submit the proposed amendment including any Zoning Map changes to the County Planning Commission. If the recommendation of the County Planning Commission has not been received within thirty (30) days after the receipt of the Ordinance by the County, it shall be conclusively presumed that the County has waived its right for review.

7) The Planning Commission shall submit a final report/recommendation to the Township Board along with a summary of the comments received at the public hearing.

8) The Township Board may hold additional public hearings, if they decide it is necessary. Notice of such hearing shall be provided in accordance with ***Section 10.02*** of this Ordinance.

9) Once adopted by the Township Board, amendments to this Ordinance shall be filed with the Township Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption. Any amendments to this Ordinance shall take effect eight (8) days after publication or at a later date as may be specified by the Township Board at the time of adoption.

10) No application for a rezoning which has been denied by the Township shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found valid upon inspection by the Township Planning Commission.

SECTION 10.02 PUBLIC HEARING NOTICE REQUIREMENTS FOR ZONING ORDINANCE AMENDMENTS

The notices for all public hearings before the Planning Commission or Township Board concerning proposed Zoning Ordinance amendments (zoning text or map amendments) shall comply with the following applicable notice provisions:

1. For a proposed amendment to the text of the Zoning Ordinance, the notice shall comply with all of the following:

   A. The content of the notice shall include all of the following information:

      1) A description of the nature of the proposed Zoning Ordinance amendment.

2) The time, date, and place the proposed Zoning Ordinance will be considered.
3) The places and times at which the proposed Zoning Ordinance amendment may be examined.
4) The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.

B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.

C. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.

2. For a proposed Zoning Ordinance amendment rezoning an individual property, any number of non-adjacent properties, or ten (10) or fewer adjacent properties the notice shall comply with all of the following:

A. The content of the notice shall include all of the following information:
1) A description of the nature of the proposed Zoning Ordinance amendment.
2) A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.
3) The time, date, and place the proposed Zoning Ordinance amendment will be considered.
4) The places and times at which the proposed Zoning Ordinance amendment may be examined.
5) The address where and the deadline when written comments will be received concerning the proposed Zoning Ordinance amendment.

B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.

C. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.

D. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the property or properties proposed for rezoning and to the occupants of all structures within 300 feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the Township. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection.

E. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.

3. For a proposed Zoning Ordinance amendment rezoning eleven (11) or more adjacent properties, the notice shall comply with all of the following:

   A. The content of the notice shall include all of the following information:
      1) A description of the nature of the proposed Zoning Ordinance amendment.
      2) The time, date, and place the proposed Zoning Ordinance will be considered.
      3) The places and times at which the proposed Zoning Ordinance amendment may be examined.
      4) The address where and the deadline when written comments can be sent concerning the proposed Zoning Ordinance amendment.

   B. The notice shall be published in a newspaper of general circulation within the Township not less than fifteen (15) days before the scheduled public hearing.

   C. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than 15 days before the scheduled public hearing.

   D. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Township Clerk for the purpose of receiving the notice of public hearing.

4. After providing the notice required under this section and without further notice, except that as required under the Open Meetings Act, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

SECTION 10.03 ENACTMENT AND EFFECTIVE DATE

1. The original zoning ordinance for Hayes Township was adopted by the Hayes Township Board of Trustees, and became effective on July 1, 1974.

2. This Ordinance shall become effective eight (8) days after being published in a newspaper of general circulation within the Township.