

HAYES TOWNSHIP ZONING ORDINANCE

- Table of Contents -

Article I - Title and Legal Basis

Section 1.1 - Title	
Section 1.2 - Legal Basis	
Section 1.3 - Severability.....	
Section 1.4 - Repeal of Previous Zoning Ordinance	

Article II - Purpose, Interpretation and Effective Date

Section 2.1 - Purpose	
Section 2.2 - Interpretation.....	
Section 2.3 - Effective Date	

Article III - Definitions

Section 3.1 - General Interpretation	
Section 3.2 - Definitions	

Article IV - WF - Waterfront Regulations

Section 4.1 - Intent.....	
Section 4.2 – Setback Area Regulations.....	
Section 4.3 – Shore Land Protection Strip (SPS)	
Section 4.4 – Waterfront Development Review	

Article V - R-1 – Zoning Districts and Maps

Section 5.1 - Purpose	
Section 5.2 - Zoning Map	
Section 5.3 - Interpretation of Zoning District Boundaries	
Section 5.4 - Lot Area, Lot Width, and Setback Requirements	
Section 5.5 - Lot Area, Lot Width, and Setback Illustrations.....	
Section 5.6 – Classification of Zoning Districts	
Section 5.7 – Conservation Reserve District (CR)	
Section 5.8 – Agricultural District (AG)	
Section 5.9 – Residential District (R)	
Section 5.10 – Multiply Family District (MRF)	
Section 5.11 – Mobile Home Park District (MHP).....	
Section 5.12 – Commercial District(CD).....	
Section 5.13 – Industrial District (I-1)	

Article VI – Planned Unit Development (PUD)

Section 6.1 - Purpose	
Section 6.2 – General Requirements	
Section 6.3 – PUD Overlay Districts are Established on Case by Case Basis.....	
Section 6.4 – PUD Pre-Application Process	
Section 6.5 – PUD Application	
Section 6.6 – Review Process	
Section 6.7 – Public Hearing Requirements.....	
Section 6.8 – Design and Approval Standards	
Section 6.9 – Actions Following Final PUD Approval	
Section 6.10 – PUD Rezoning Considerations.....	
Section 6.11 – Statement of Compliance Required.....	
Section 6.12 – Recorded Affidavit Requirement	
Section 6.13 – Modification of Approved PUD	
Section 6.14 – PUD Plan Expiration and Renewal	

Section 6.15 – Reasonable Conditions.....	
Section 6.16 – Waiver of PUD Standards.....	

Article VII– Special Use Permit (SUP)

Section 7.1 - Purpose	
Section 7.2 - Procedures	
Section 7.3 – General Standards for Approval of SUP	
Section 7.4 – Conditional Approval.....	
Section 7.5 – Reapplication.....	
Section 7.6 – Jurisdiction of Zoning Board of Appeals.....	
Section 7.7 – Performance Guarantee.....	
Section 7.8 – Compliance with Conditions of Approval Required	
Section 7.9 – Inspection and Certification Requirements	
Section 7.10 – Termination Provisions	

Article VII – Site Plan Review

Section 8.1 - Purpose	
Section 8.2 – When Required	
Section 8.3 – When not Required	
Section 8.4 – Prohibitions on Excavation and Construction Prior to Approval	
Section 8.5 – Responsibility for Site Plan Review	
Section 8.6 – Optional Preapplication Conference.....	
Section 8.7 – Application and Review Process	
Section 8.8 – Content of Site Plans	
Section 8.9 – Planning Commission Options for Action	
Section 8.10 – Conditional Approval	
Section 8.11 – Standards of Site Plan Approval.....	
Section 8.12 – Certification of Approved Site Plan.....	
Section 8.13 – Completion Requirements	
Section 8.14 - Site Plan Expiration of Approval	
Section 8.15 – Resubmittal Required in Event of Expiration	
Section 8.16 – Inspection and Certification Requirements	
Section 8.17 – Performance Guarantees	

Article IX– Supplemental Site Development Standards

Section 9.1 – Bed and Breakfast Establishments.....	
Section 9.2 - Campgrounds.....	
Section 9.3 - Cemeteries.....	
Section 9.4 -Funeral Home or Mortuary.....	
Section 9.5 – Gasoline/Service Station	
Section 9.6 – Junk and Salvage Material Storage	
Section 9.7 – Kennels or Veterinary Clinic/Hospital	
Section 9.8 – Manufactured Home Developments	
Section 9.9 – Mobile Home and Trailers, other uses.....	
Section 9.10 – Motels and Hotels	
Section 9.11 – Nursing Homes, Assisted Living Facilities.....	
Section 9.12 - Public Buildings, Institutions and Places of Worship.....	
Section 9.13 – Recreation Camps	
Section 9.14 – Recreational Areas and Facilities	
Section 9.15 – Resource Mining, Extraction and Fill.....	
Section 9.16 – Sanitary Landfill.....	
Section 9.17 – Sawmills and other Mills	
Section 9.18 - Sexually Oriented Business.....	

Section 9.19 – Storage Facilities	
Section 9.20 – Telecommunication Tower or Alternative Tower Structure	
Section 9.21 – Wind Turbine Generators	

Article X – Zoning Board of Appeals

Section 10.1 – Zoning Board of Appeals Creation and Membership.....	
Section 10.2 - Meetings	
Section 10.3 - Jurisdiction	
Section 10.4 – Exercising Power	
Section 10.5 – Application Requirements.....	
Section 10.6 – Notice Requirements for Zoning Board of Appeals Public Hearings	
Section 10.7 – Variances.....	
Section 10.8 – Conditions of Approval	
Section 10.9 – Expiration of ZBA Approvals.....	
Section 10.10 – Reapplication	
Section 10.11 – Stay.....	

Article I
Title and Legal Basis (9/14/2021)

1.1 Title

This ordinance shall be known and may be cited as the "Hayes Township Zoning Ordinance."

1.2 Legal Basis

This ordinance was adopted pursuant to the provisions of the Township Zoning Act (P.A. 184 of 1943, as amended).

1.3 Area of Jurisdiction

The provisions of this Ordinance shall apply to all development, public and private, throughout the incorporated areas of the Hayes Township, Charlevoix County, Michigan, to the extent permitted by law. The area of jurisdiction is referred to herein as the "Township." This shall include all land, buildings, yards, wetlands, woodlands and shoreline within the Township, including riparian lands and bottomlands of Lake Charlevoix, Susan Lake and Lake Michigan, and shall be concurrent with other governmental entities having jurisdiction thereover. The concurrent jurisdiction of other governmental entities shall not limit the jurisdiction of the Township to regulate lands or activities within the Township.

1.4 Severability

The provisions of this Ordinance are severable. If any provision is held unconstitutional by any court, such holding shall not impair or affect the remaining provisions of this ordinance.

1.5 Repeal of Previous Zoning Ordinance

This ordinance repeals and replaces any previous Hayes Township Zoning Ordinance in its entirety.

Article II
Purpose, Interpretation and Effective Date (09/14/2021)

2.1 Purpose

The purpose of this ordinance is to promote and preserve the health, safety, security, and general welfare; to provide for the orderly development of the township; to encourage the use of the lands and resources in accordance with their character and adaptability; to limit and discourage the improper use of lands, buildings and other structures; to create and maintain safe and favorable conditions for living, economic activity, and recreational activities; to reduce hazards to life and property; to provide, in the interests of health and safety, standards under which certain buildings and structures may be erected and used; to stabilize and enhance property values; to provide for safety of vehicular traffic on public roadways and in public and private parking areas; to establish minimum standards and regulations applicable to open spaces, lot and parcel size, the location and use of buildings and structures, and the development of land for residential, commercial, recreational, industrial, institutional, public and other purposes; to facilitate the development of adequate systems of transportation, fire protection, education, recreation, sewage disposal, safe and adequate water supplies, and other public requirements; to conserve life, property and natural resources, and the use of public funds for public services and improvements to conform with the most advantageous use of land, resources and properties; and to provide standards and regulations intended to assist with implementation of the Hayes Township Land Use Plan understanding that development trends are constantly changing.

2.2 Interpretation

This ordinance is not intended to repeal, annul or impair existing provisions of other laws or ordinances, or any private restrictions placed upon property by covenant, deed or other private agreement.

When this ordinance imposes a greater restriction upon the use of buildings or land, or upon the height of buildings and structures, or on lot coverage, or where this ordinance requires greater lot areas or larger yards or other open spaces than required by other laws, ordinances or private restrictions, the provisions of this ordinance shall prevail.

2.3 Effective Date

This Ordinance, in its original form, became effective seven days after the date of its publication in summary form on TBD, a newspaper of general circulation in the Township.

Article III

Definitions (9/14/2021)

3.1 General Interpretation

For the purpose of this Ordinance, words used in the present tense include the future tense, words used in the singular include the plural, and words in the plural include the singular.

The term "shall" is always mandatory and not discretionary.

The term, "the Township" shall mean Hayes Township in Charlevoix County, Michigan.

Any word or term not defined shall be defined by common or standard usage.

The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."

3.2 Definitions

100-year Flood Plain - The plain along waters within Hayes Township having 1-percent chance of being equaled or exceeded in any given year. The MDEQ 100-year flood plain elevation for Lake Charlevoix is 584.2 feet above mean sea level (msl) (NGVD 1929). The MDEQ 100-year flood level for Lake Michigan is xxx feet above msl (NGVD 1929).

Accessory Use - A use of land that is customarily incidental and subordinate to the principal use of a lot and that is located on the same lot on which that principal use is located.

Accessory Building - A freestanding building that is located on a lot on which a principal use and/or principal building is located and that is devoted to and occupied by a use that is customarily incidental and subordinate to the principal use and/or principal building. Examples of accessory buildings include, but are not limited to, detached residential garages, sheds, greenhouses, gate houses, and barns.

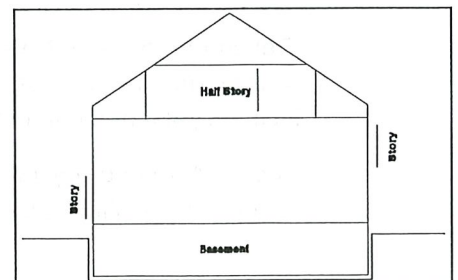
Accessory Dwelling Unit (ADU) - An ADU is an incidental and subordinate dwelling unit which provides living quarters in a permanent structure for one individual or a family that is on the same lot, but is separate from the primary dwelling unit. An ADU may be incorporated in an existing dwelling or a new dwelling unit through a special use permit.

Adjoining Lots and Parcels - Includes lots and parcels separated by highways, roads, streets, rivers, streams, wetlands, public utilities, and easements.

Agriculture - See Farm and Bone Fide Agricultural Operation.

Applicant - A person, firm, association, partnership, corporation, or combination thereof which may hold any divisible interest in land, whether recorded or not, who is seeking approval for development, change and/or use of property pursuant to this Ordinance.

Basement - That portion of a building partly below the 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.



Board of Trustees - The elected, legislative body consisting of the Hayes Township board as established by the Michigan Constitution of 1963.

Bed and Breakfast Facility - Any single-family 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.

Boarding House - A single-family dwelling where lodging and meals are furnished to three or more persons on a weekly or monthly basis who are not members of the family occupying the dwelling.

Bona Fide Agricultural Operation - An agricultural or silvicultural operation that is active and intended for the commercial production of farm products.

Buildable Area - The area upon a lot where a principal building or structure and any attached or detached accessory structures are allowed to be constructed.

Building - A structure, either temporary or permanent, having a roof supported by columns, walls, or other supports, which is used for housing, storing, enclosing or sheltering persons, animals, chattel, or personal property, or for conducting business activities or other similar uses.

Building Demolition - Any act or process, which destroys or obliterates greater than fifty percent (50%) of a structure or feature, including architectural or design details.

Building Footprint - The portion of the lot, parcel, or plot upon which a building is placed, including any eaves and/or extensions.

Building Height - The lineal U.S. feet measured from the average finished grade around the building perimeter to the highest point of a building or structure, excluding chimneys.

Building, Principal - A building in which the principal use of a lot is conducted.

Condominium Project - Land developed and owned under the provisions of the Condominium Act (P.A. 59 of 1978, as amended).

Condominium Unit or Site Condominium Unit - That portion of a condominium project designed and intended for separate ownership interest and used as described in the Master Deed and Condominium Act.

Condominium Subdivision - A division of land, such as planned unit development or site condominium, on the basis of condominium ownership, which is not subject to the provisions of the Land Division Act (P.A. 591 of 1996, as amended).

Corridor View of Waters - The ability to observe a reasonable portion of the water of a lake, river, or stream through a least intrusive consolidated corridor and selective removal or trimming of trees, shrubs, or other vegetation within the natural vegetative strip that does not impair the underlying purposes of the natural vegetative strip.

Development or To Develop - The creation of new building sites, construction of any new building or other structure on a lot, the relocation of any existing buildings, or the use of a lot for any new use including planned unit development or site condominium.

Dock - A temporary or permanent structure, built out into and over the water, floating and/or supported by pillars, pilings, or other supporting devices.

Drive-in Establishment, Drive-Through Establishment - A business which offers goods or services to customers while in motor vehicles.

Drive-in Restaurant - A business establishment which by design of physical facilities permits or encourages the purchase of prepared ready-to-eat foods by customers while remaining in their motor vehicles.

Driveway, Shared - A vehicular way to provide ingress or egress to a maximum of three lots, parcels or site condominium units.

Dwelling - A building, or portion thereof, providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for sleeping, heating, cooking, and sanitation, including apartments, accessory dwelling units. Accessory buildings, tents, temporary structures, automobiles, school buses, and recreational vehicles are not considered to be dwellings under this definition.

Dwelling, Single Family - A building, or portion thereof, containing one (1) dwelling designed for occupancy by one (1) family.

Dwelling, Two Family - A building, or portion thereof, containing two (2) dwellings designed for occupancy by two (2) families living independently of each other.

Dwelling Multiple Family - A building, or portion thereof, containing three (3) or more dwellings designed for occupancy by three (3) or more families living independently of each other.

Earth Change - An artificial change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state. Prior to engaging in any earth change activity within five-hundred (500) feet of a lake, river or stream, a valid soil erosion and sedimentation control permit is necessary from the Charlevoix County Soil Erosion and Sedimentation Control Officer.

Environmental Areas - Areas of sensitive fish and wildlife habitat as defined by Michigan's Part 323: Shorelands Protection Act, Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Essential Services - The erection, construction, alteration, or maintenance by public utilities, as defined herein, or by municipal departments, boards or commission, of underground, surface or overhead natural gas, electrical, communications (other than cell towers), steam or water transmission or distribution systems, collection, supply or disposal systems. These systems include but are not limited to the poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, electric substations, communications buildings and structures, natural gas regulator stations, fire stations, and other similar equipment and accessories in connection therewith, including buildings necessary to house the foregoing that are reasonably necessary for the furnishing of service by such public utilities or municipal departments, boards, or commissions or are reasonably necessary for the protection of the public health, safety, and/or general welfare.

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 relationship is of a permanent or 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 the land operated as a single unit on which bona fide agricultural operations are carried on directly by the owner or by his or her agent or by a tenant farmer. For the purpose of this Ordinance, farms may be considered as including greenhouses, nurseries, orchards, livestock and poultry operations, Christmas tree farms and other silviculture, and apiaries and other similar activities. The words "agriculture" and "farming" are considered synonymous. Farms do not include concentrated animal feeding operations or other industrial agricultural operations; establishments keeping or operating fur-bearing animals; dog kennels; slaughter houses; stone quarries or gravel or sand pits; unless combined with and constituting only a minor part of *bona fide* farm operations on the same contiguous tract of land. Nor shall the premises be operated as fertilizer works, bone

yards, piggeries or for the reduction of animal matter, or for the disposal of garbage, sewage, rubbish, offal or junk constitute a farm hereunder.

Farm Building - Any building or structure other than a dwelling that is located on a farm and used for the storage of farm equipment, supplies, products or animals, or used for the maintenance of farm equipment.

Farm Product - Those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, Cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture.

Floor Area - The area of all floors computed by measuring the dimensions of the outside walls of a building excluding porches, patios, basements, terraces, breezeways, carports, verandas, attached garages, accessory buildings, and attics having headroom of less than seven (7) feet.

Garage - A permanent building designed and used primarily for vehicle parking and storage and is intended for the primary use of the residents of a dwelling. The building may be attached or detached from a dwelling.

Garage, Attached - A garage that physically abuts or is connected to a dwelling by means of a permanent roofed structure.

Garage, Detached - A garage that does not physically abut a dwelling.

Gasoline Service Station - A business enterprise which, in addition to the dispensing of vehicular fuels, may offer to perform automobile maintenance, service or repair by the business owner or owner's representatives and may sell merchandise, such as convenience foods and sundries not related to the maintenance, service or repair of vehicles.

Grade - The average level of the finished surface of the ground measured around the perimeter immediately adjacent to the exterior walls of a building or structure.

Hobby Farm - A lot occupied by a single-family dwelling and used for the production of food, fiber, and/or livestock for the personal enjoyment and consumption by those living on the premises.

Home Occupation - Any profession or other occupation conducted in a dwelling which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes, and which conforms to the provisions of Section 4.29.

Hotel - See Motel.

Impervious Surface - Developed portions of a parcel that preclude or inhibit the infiltration of precipitation or stormwater runoff. Impervious surfaces are typically covered by roofs, asphalt or concrete, compacted gravel, or compacted soil, and include but are not limited to building envelopes/footprints, parking areas, driveways, walkways, pathways, patios, etc. Impervious surfaces do not include such areas covered with pervious surfaces such as pervious pavements, pavers, block, etc.

Inoperable Motor Vehicle - Any vehicle made to be propelled by a motor or engine, which is no longer in operating condition.

Junk - Worn out and/or discarded material whether or not it may be returned to some use.

Junk Yard or Salvage Yard - A lot where junk, waste, discarded, salvaged or salvageable materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to wrecked motor vehicles, used motor vehicles, used building materials and equipment, and other manufactured goods that are

worn, deteriorated, or obsolete.

Kennel - Any place keeping or harboring three (3) or more dogs greater than four (4) months of age on a parcel of land, which is not an animal hospital.

Lake - As used in this ordinance refers to the definition of inland lake found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended, **Lake Michigan is defined by the Army Corp?**

Land Division - The process of dividing a Parent Parcel into lots in accordance with the Hayes Township Land Division Ordinance and the Michigan Land Division Act, Act 288 of 1967 as amended; MCL 560.101 et seq. (the "Land Division Act").

Lot - A measured portion of land that is described and fixed in a platted subdivision, a limited common element within a site condominium project, or a parcel of land described by metes and bounds, and that is not divided by a public highway or alley. The word "lot" has the same meaning as "tract" and "parcel."

Lot, Corner - A lot which has frontage on two intersecting public or private roadways, provided that such roadways have an interior angle of intersection of less than 135 degrees.

Lot, Flag - A lot having minimal frontage on a public or private street right-of-way, and having access to such street along a narrow strip of land owned by the owner of the flag lot.

Lot, Through - A lot other than a corner lot having frontage on two non-intersecting public or private roadways.

Lot Line, Front - That line separating a lot from a public or private road right-of-way. On a corner and through lots, the lot lines separating such lots from road rights-of-way are front lot lines.

Lot Line, Side - That line that is neither a front or rear lot line.

Lot Line, Rear - That property line which is opposite and most distant from the front lot line. On a corner lot, the Zoning Administrator shall determine a property line, other than a front lot line, that will be the rear lot line. In the case of a non-residential corner lot, or permitted non-residential use in a residential zoning district, the Planning Commission shall determine which property line, other than a front property line, will serve as the rear lot line. For waterfront lots the rear lot line is the OHWM or property line on Lake Charlevoix and Lake Michigan, on Susan Lake the rear lot line is.....

Lot Coverage, Percentage of - The percentage of a lot's area covered by impervious surfaces including buildings, driveways, parking areas, porches, breezeways, patios, decks, and other structures.

Lot of Record - A lot which was recorded in the Office of the Register of Deeds before the effective date of this Ordinance or any amendments of this Ordinance.

Lot, Waterfront - A lot having frontage on or physically abutting a lake, stream, river, creek or other water body as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Lot Width - The horizontal straight-line distance between the side lot lines measured at their points of intersection with the front building setback line.

Lot Width, Waterfront - The horizontal straight-line distance between the side lot lines measured as shown in the waterfront illustration in Section 5.5(c).

Master Deed - The legal document prepared and recorded pursuant to the Michigan Condominium Act, Act 59 of 1978, as amended; MCL 559.101 et seq. (the "Condominium Act") within which are, or to which is attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

Mobile Home - A single family dwelling unit of a type and quality conforming with the United States Department of Housing and Urban Development mobile home construction and safety standards, which is transportable in one or more sections and designed to be used as a dwelling with or without a permanent foundation. A mobile home is not a recreational vehicle.

Mobile Home Park - A parcel or tract of land on which three (3) or more mobile homes are located, regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home.

Motel - A business establishment providing lodging for the traveling public with parking facilities contiguous to the motel building. A motel may or may not provide food service or restaurant facilities. For the purpose of this ordinance "motel" and "hotel" are synonymous.

Nonconforming Building or Structure - A building, structure, or portion thereof that lawfully existed before the effective date of this Ordinance, or any amendments of this Ordinance, and 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 Lot of Record - A lot which lawfully existed on the effective date of this Ordinance or lawfully exists on the effective date of any amendment to this Ordinance that is applicable to the lot and which fails to conform to the dimensional regulations of the zoning district in which it is located.

Nonconforming Use - A use which lawfully existed before the effective date of this Ordinance, or any amendments of this Ordinance, that does not conform to the use regulations of the zoning district in which such land is located.

Ordinary High Water Mark (OHWM) - The line between upland and bottomland which 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 vegetation; or the OHWM or property line for a water body as determined by the Charlevoix County Circuit Court as defined by the Inland Lake Level Act, Part 307 of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended. For the purposes of this Article, the OHWM of Lake Charlevoix shall be considered as 581.5 feet above mean sea level (IGLD 1985). Also known as the "shoreline" for the purposes of this Article. The OHWM for Lake Michigan has been established at 580.5 feet above mean sea level and for Susan Lake

Owner - Any person or group of persons who holds an ownership interest in land.

Parcel - A lot.

Parent Parcel - Any legally created parcel of land created before the adoption of this Ordinance, and before the Hayes Township Land Division Ordinance, from which Sublots, Sub-parcels, Remaining Parcels or Site Condominiums are created.

Parking Area - An on-premise parking lot, together with entrance drives, access drives and circulation aisles.

Person - An individual, firm, corporation, association, partnership, limited liability company, trust, estate, or other legal entity.

Planning Commission - The appointed land use planning body consisting of the Hayes Township Planning Commission as enabled by the Michigan Planning Enabling Act, P.A. 33 of 2008 (MCL 125.3301 et seq.).

Principal Use - The use of the property which is the main use to which the building or premises is devoted.

Public Utility - A firm or corporation granted a franchise by the Township to provide service and to use public rights-of-way in the Township, or a municipal department, board or commission, furnishing electricity, natural

gas, steam, telephone, transportation, sewage collection and disposal, or water supply distribution.

Pump House - A structure in which irrigation pumps are installed for irrigation purposes that is not larger than 4-FT high by 4-FT wide and 4-FT deep.

Recreational Vehicle - Any motorized or non-motorized vehicle that is designed and intended for use as a temporary living quarter for recreational, camping, or travel purposes and that is built on a single chassis mounted on wheels, and is certified by the manufacturer as complying with the American National Standards Institute Standard A119.5 as defined by the Michigan's Part 125: Campgrounds Act, Public Health Code, P.A. 368 of 1978 as amended, R333.1250(1)(f). Recreational vehicles as defined in this Ordinance include trucks and truck-mounted campers.

Remodeling - The act or process of renovating, reconstructing, rebuilding a structure, site or feature through repair or alteration. Removal of more than 50% of the structure's perimeter walls or removal of more than 50% of the existing floor area of any building shall constitute demolition.

Resort - A business establishment that provides temporary lodging accommodations, with or without meals and other services, for the traveling public. Resorts may provide lodging accommodations in a single building having several separate lodging accommodations, or in separate buildings, each providing an individual lodging accommodation.

River - As used in this ordinance refers to the definition of rivers, streams, creeks, etc. found within the Michigan Inland Lakes and Streams Act, Part 301 of P.A. 451 of 1994, as amended.

River Bank - The line along rivers, streams, creeks between an upland and river bottomland which 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 vegetation.

Road, Pre-existing Private - A Private Road created prior to the adoption of the former Hayes Township Private Road Ordinance No. 16 of June 2000.

Road, Private - Any road or thoroughfare for vehicular traffic serving more than three lots, parcels or site condominiums that is privately owned and maintained, and that provides the principal means of access to abutting properties.

Road, Public - Any road, street or thoroughfare for vehicular traffic that is publicly owned and maintained, and that provides the principal means of access to abutting properties.

Roadside Stand - A farm building or structure used for the display or sale of agricultural products grown or produced on the farm on which the stand is located.

Setback - The minimum straight-line horizontal distance from an applicable lot line or right-of-way within which no building or structure can be placed, except as otherwise provided for in this Ordinance.

Setback, Front - The required setback measured from the front lot line or OHWM or property line.

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

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

Shoreland Protection Strip - An area of protective ground cover extending from the OHWM OR PROPERTY LINE inland twenty-five (25) to thirty (30) feet to limit erosion and provide filtration of runoff into the water.

Sign - A structure, device, letter, word, model, figure, symbol, product, banner, balloon, flag, pennant, streamer, insignia, emblem, logo, painting, poster, or some quantity or combination of the above which is visible from a public place and is intended to direct public attention to a product, service, place, activity, person, institution, business, solicitation, or otherwise convey a message to the public.

Soil Erosion and Sedimentation Control Act Agency - The Soil Erosion and Sedimentation Control Officer, Charlevoix County enforcing the provisions of Part 91: Soil Erosion and Sedimentation Control Act; Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Spatial Building Envelope - The three-dimensional configuration of the building's volume and mass. The volume of space ("envelope") within which a building may be placed on a site. It is the space inside which a proposed structure can be located or oriented, so long as no part of the structure penetrates any imaginary planes of the envelope.

Steep Slopes - An area of land with an elevation that deviates from the horizontal plan by eighteen (18) percent or more and that is calculated as the ratio of vertical rise divided by horizontal run.

Story - That portion of a building between the surface of any floor and the ceiling next above it.

Stream - A waterway as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Structure - Anything constructed or erected, the use or placement of which requires a more or less permanent location on the ground or attachment to something having a permanent location on the ground. Examples of structures include but are not limited to buildings, outdoor boilers, billboards, communications apparatus, permanent outdoor displays, swimming pools, gazebos, sheds, storage bins, children's play

houses, sports courts, pet accommodations, and wind energy conversion systems (WECS). Fences, signs, sidewalks, driveways, pump houses, water supply well heads, septic systems, light posts, utility poles and roads and retaining walls when necessary to prevent erosion and water runoff onto adjacent properties are excluded from the definition of structure.

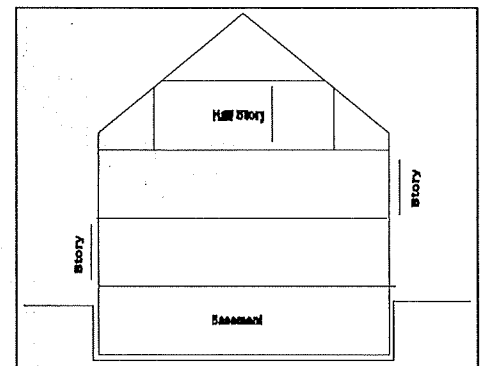
Swimming Pool - An accessory use that is located out-of-doors that contains water over 24 inches deep, and that is used, or is intended to be used, for swimming or recreational bathing. This definition includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas.

Tract - A lot.

Township - The term "Township" shall be interpreted to mean Hayes Township in Charlevoix County, Michigan.

Use - Any purpose for which a building or structure or lot may be designed, arranged, intended, maintained or occupied, or any activity, occupation, or business enterprise carried on, or intended to be carried on in a building, structure, or upon a lot.

Vegetated Buffer - A natural or landscaped area located within a waterfront setback, along the perimeter of a building, parking area, storage area or other improvement that is preserved or created to eliminate or mitigate land use conflicts between adjoining properties and/or incompatible land uses, and improve or maintain water quality.



Watercourse - A watercourse or waterway or water body as defined by Part 301: Inland Lakes and Streams Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Wetland - A wetland as defined by Part 303: Wetland Protection Act of Michigan's Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.

Yard - The space between a principal building footprint and a lot line.

Yard, Front - The yard between the principal building and the front lot line extending across the entire width of the lot. In the case of waterfront lots, the front yard shall be located between the OHWM or property line or waterfront property line and the nearest portion of the principal building.

Yard, Rear - The yard between the principal building and the rear lot line extending across the entire width of the lot.

Yard, Side - A yard between the principal building and a side lot line extending between the front yard and the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest portion of a principal building.

Zoning Administrator - The Hayes Township Zoning Administrator.

Zoning Board of Appeals - The appointed interpretive body consisting of the Hayes Township Zoning Board

Appeals (also referred to as the "ZBA") as enabled by the Michigan Zoning Enabling Act, P.A. 110 of 2006 (MCL 125.3101 et seq.).

Article IV

Waterfront Regulations (11/2021)

Preliminary Draft

4.1 Intent

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 fashion to maintain health of these waterways. Thus, owners of waterfront lots and the township have an added responsibility regarding the preservation and protection of these natural resources and water quality.

4.2 Setback Area Regulations

Except as provided herein, no structures (with the exception of a patio/deck, walkway, retaining wall, launching ramps and/or docking facilities including steps) shall be allowed within eighty (80) feet of the Ordinary High Water Mark (OHWM) on Lake Michigan, Lake Charlevoix, and on Susan Lake, and such excepted facilities shall meet the side yard setbacks for the district in which they are located.

- A. One at-grade patio/deck, not to exceed two hundred (200) square feet may be located within the 80-ft. setback following review and approval by the Zoning Administrator to ensure the structure will be installed in a manner which will cause the least negative environmental impact.
 - I. No portion of the patio/deck shall be located more than two feet above the natural grade.

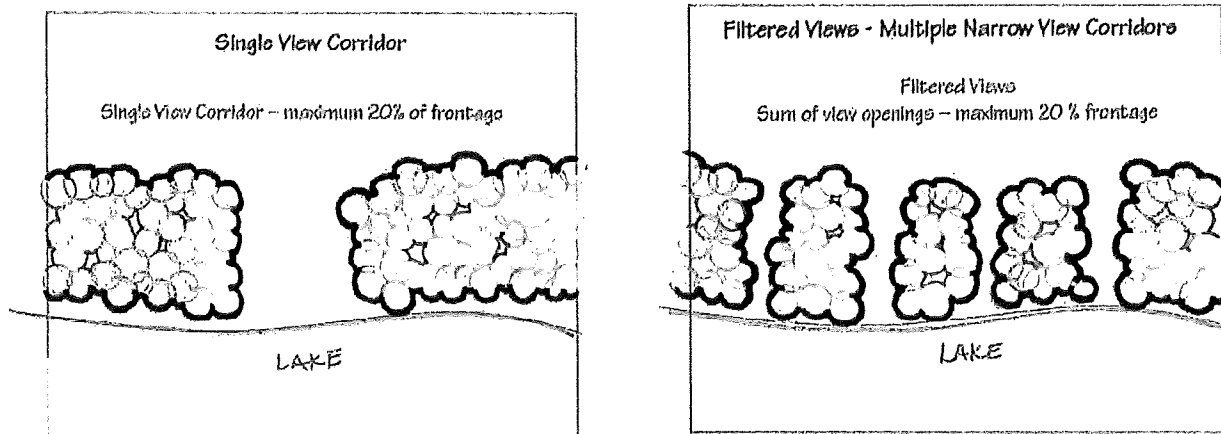
4.3 Shore land Protection Strip (SPS)

A Shoreland Protection Strip shall be required on all waterfront lots. The shoreland protection strip shall include all of the land area located within twenty-five (25) to fifty (50) feet of the Ordinary High Water Mark (OHWM), depending on the unique characteristics of the property, of a lake or a stream abutting or traversing the property in question. The purpose of the strip is to protect the lake by inhibiting soil erosion, and by providing a filter for the removal of pesticides, fertilizers and other potential water pollutants. Within the shoreland protection strip, the following developments or use restrictions (A-L below) shall apply:

- A. SPS width defined: Extends twenty-five (25) to fifty (50) feet landward of the Ordinary High Water Mark (OHWM) (581.2 ft.). Extent landward depends upon grade to the waterfront: <10%, SPS=25 ft., 10-25%, SPS=30 ft., 25-35%, SPS=35 ft. and >35% SPS=50 ft.
- B. The Shoreland Protection Strip (SPS) **should/shall** not be altered more than 20% except to remove dead trees or shrubs, remove invasive species, or for selective

trimming of trees as permitted in 5.3, unless permitted as part of an approved shoreline landscaping plan or a permit from the Army Corps of Engineers and the State Department of Energy, Great lakes and the Environment.

- C. For any new construction or renovation of a structure located on a waterfront lot, the establishment, restoration and/or maintenance of a Shoreland Protection Strip (SPS) shall be required. Refer to Section 5.4, for details on the waterfront development approval process.
- D. Shoreline retaining structures shall be permitted with appropriate agency approvals. Any alterations of, or damage to, the SPS requires restoration as described in this ordinance.
- E. Walkways or stairs for water access shall be allowed, provided they:
 - I. Do not exceed six (6) feet in width;
 - II. Are constructed in such a way that stormwater is slowed;
 - III. Permeable material required;
 - IV. Are not constructed in such a way that they expand the deck beyond the two hundred (200) square foot maximum.
- F. The use of pesticides, herbicides and fertilizers is prohibited.
- G. Leaves, grass clippings and similar yard/garden waste may not be burned or stored.
- H. No septic tanks or septic field filtration fields shall be located within the Shoreland Protection Strip.
- I. 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. Please refer to the list of recommended native species by the Northwest Michigan Invasive Species Network. The list of recommended native species is available at the Township Hall and an electronic link is posted on the Township website. If trees are removed, root systems should be left in place for shoreline stabilization whenever possible.
- J. When trees are trimmed for vistas of the water, the tree must remain viable. Some examples of tree trimming or removal to provide vistas follow.



- K. Selective trimming of trees to allow for filtered views is permitted within the Shoreland Protection Strip as long as the overall health of the tree is not compromised and is not included in the allotted 20% removal.
- L. The removal of invasive species is both allowed and encouraged. Please refer to the list of invasive species by Northwest Michigan Invasive Species Network. The list of recommended invasive species is available at the Township Hall and an electronic link is posted on the Township website.
- M. It is a violation of the zoning ordinance to alter or disturb in excess of 20% of the Shoreland Protection Strip (SPS) except to remove dead trees or shrubs, remove invasive species, or for selective trimming of trees as permitted in 5.3. If altered or disturbed, the following corrective measures including the development of an approved shoreline restoration plan is required, which includes:
 - I. Any and all fill material placed within the Shoreland Protection Strip shall be removed. Only soil and rocks, consistent with the composition of the preexisting on site soil and rocks, shall be allowed when necessary for growth of new vegetation. Placement of beach sand is prohibited.
 - II. 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, whenever practicable.
 - III. All required replanting shall be replanted with native species as recommended by the Northwest Michigan Invasive Species Network.
 - IV. 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.

4.4 Waterfront Development Review

A. Intent

It is the intent of the Waterfront Development Review process described below to promote the gradual, systematic, and long-term restoration of the Shoreland Protection Strip (SPS).

- I. In an attempt to increase compliance with the waterfront regulations described in Art. VI (1-3), an added layer of review is required for all residential waterfront development and any modifications to the Shoreland Protection Strip. This added layer of review requires a Shoreline Landscaping Plan (5.4.B) in most instances for the area within twenty-five (25) to fifty (50) feet of the Ordinary High Water Mark and Shoreline Landscaping Plan Review for all new residential waterfront dwelling units or alterations as described in section 5.4.C.
- II. For the area of land waterward of the Ordinary High Water Mark, EGLE and/or Army Corps of Engineers permits must be obtained for any construction or changes since the alteration of the shoreline will have significant effect on the Shoreland Protection Strip, and thus the health of the water body.
- III. An advisory Subcommittee of the Planning Commission has been created to review waterfront shoreline landscaping plan development and facilitate, as much as possible, compliance with waterfront provisions in this section. The subcommittee is empowered to suggest that compliance with the intent of Article V is met even if it includes modifications of the plantings or dimensional guidelines as presented by the owner or landscaper, when the entirety of the plan and its effect on improving water quality is considered. The requirements placed on property owners will be in proportion to the proposed activity.

B. Shoreland Landscaping Plan

The purpose and intent of the Shoreland Landscaping Plan is to increase water quality protection whenever possible and that waterfront development will not negatively impact water quality.

- I. The Landscaping Plan shall address the conditions set forth in Art. V (1-3).
- II. Prior to receiving a zoning permit to build or increase the footprint of a waterfront structure, an approved Shoreland Landscaping Plan with the following information is required:
 1. A detailed inventory of the existing Shoreland Protection Strip area, including the locations of trees, shrubs, and ground cover, with notes as to the locations of native and non-native species.
 2. A detailed inventory of all structures within eighty (80) feet of the Ordinary High Water Mark.
 3. A detailed inventory of planned changes to the Shoreland Protection Strip area, including tree removals and/or plantings, vegetation removal and/or plantings (if applicable).

C. Shoreland Protection Subcommittee

To ensure the compliance with the intent and purpose of the waterfront provisions in this section, a Subcommittee of the Planning Commission will meet to review waterfront development proposals which require a shoreline landscaping plan, and to provide input and recommendations to the zoning administrator and/or planning commission.

- I. Members of the Subcommittee shall include two (2) members of the Planning Commission and as needed consultation by a representative from an organization with technical expertise on aquatic ecosystem management.
- II. Each member of the Subcommittee shall be appointed by the Planning Commission chairperson to a term that coincides with their regular planning commission term.
- III. The Subcommittee is advisory only, reports directly to the Planning Commission, and does not have the authority to make final decisions. All final decisions are made by the planning commission at a meeting of the Planning Commission as a whole and are based on materials submitted, and the recommendations of the Subcommittee and Zoning Administrator. Upon acceptance and approval of the Shoreline landscaping plan by the Planning Commission the Zoning administrator may issue a zoning permit if his/her decision is that the project otherwise meets the criteria for granting a zoning permit.
- IV. The following table summarizes the information required and the review process for residential development on waterfront properties:

Location	Triggering Actions	Review Process	Data Required
Any Conforming Waterfront Lot	Modification of an existing structure without changing the building footprint.	Administrative Review by the Zoning Administrator	Plot Plan as described in Section XXX.
	Modification of the spatial dimensions of an existing structure (less than 50%) or the addition of an accessory structure.	Administrative Review by the Zoning Administrator with input from the Shoreland Protection Subcommittee	Plot Plan as described in Section XXX, and a Shoreland Landscaping Plan as described in Section XXX.
	A new residential home construction or a major reconstruction (over 50%).	Planning Commission Landscaping Plan Review with input from the Shoreland Protection Subcommittee	Shoreland Landscaping Plan as described in Section 5.4.B, and Landscaping Plan Data required in XXX.

5. Docks and Boat Parking on Lake Charlevoix and Susan Lake

- A. A maximum of one dock (maximum of 8 ft in width) shall be permitted for each waterfront lot, except for properties upon which a marina is permitted by all of the following: the Hayes Township Zoning Ordinance, the Michigan Department of

Environment, Great Lakes and the Energy (EGLE), and the U.S. Army Corps of Engineers (USACE).

- A. One shared dock serving two (2) adjacent waterfront parcels owned by separate individuals, may be placed on the common shared property line upon filing with Hayes Township a letter of agreement signed by both property owners.
- B. A shared dock for a multiple family development, such as Planned Unit Development or Condominium project, may be allowed as part of a site plan approval with Planning Commission approval and subject to the requirements of Section XXX Limitation of Funnel Development.
- C. Any boat moored at or stored on a lot within any residential district shall be owned by and registered to an individual living at said property. Undocked boats may be stored on a residential lot so long as the Shoreland Protection Strip is not disturbed and is in conformance with the requirements of this ordinance.
- D. Each dock, mooring anchor, or other means of non-temporary anchorage shall be located at least fifteen (15) feet from the riparian boundary and moored boats shall not cross the riparian boundary. The one exception to this provision is for shared docks as described in XXX and XXX.
- E. ~~Dock lighting for safety and navigational purposes are allowed. All lighting should be white, blue, or yellow. Red, green or flashing lights are not allowed. The maximum light height does not exceed four (4) feet, above the dock surface.~~ **Coast Guard Regulations/Army Corp; Matt Cunningham and Steve Bulmann will research; 'Dock lighting for safety purposes is under the prevue of.....'**
- F. Any damage caused to the Shoreland Protection Strip during the process of installing, removing or storing seasonal docks, shall be repaired within 30 days from the date that the property owner is notified by first class mail.
- G. All permits required by EGLE USACE, Hayes Township, and other applicable entities must be obtained prior to the construction or modification of docks or marinas.

6. Limitation of Funnel Development

Not more than one (1) single family home or cottage or one (1) condominium unit or one (1) apartment unit, including any dwelling unit located on the waterfront lot, shall use or be permitted to use each one hundred (100) feet of lake or stream frontage as measured along the Ordinary 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.

7. Marine Sewage Pump-out Facility

Any commercial dock facility providing dockage for 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, or have a written service agreement in place by a licensed or permitted pump-out facility.

8. 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 Article V (1-4,) as much as possible shall, not except as to allow for concentration of activities, 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.

Article V

Zoning Districts and Maps (01/2022-2/2022)

Preliminary Draft

5.01 Purpose

TBD

5.02 Zoning Map

TBD

5.03 Interpretation of Zoning District Boundaries

TBD

5.04 Lot Area, Lot Width, and Setback Requirements

TBD

5.05 Lot Area, Lot Width, and Setback Illustrations

TBD

5.06 Classification of Zoning Districts

A. Zoning Districts

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

CR	Conservation Reserve
ARR	Agricultural and Rural Residential
R-1	Residential
MR	Multiple Family Residential
MHP	Mobile Home Park
C1	Commercial
I1	Industrial

B. 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.

C. 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 leaves 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.

D. 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 lands property shall automatically acquire and be subject to the provisions of the Zoning District of 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.

E. 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.

F. Zoning District Changes

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

Section 5.07 Conservation Reserve District (CR)

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

A. 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.

B. Permitted Uses

1. Parks, playgrounds, recreational areas and community centers
2. Conservation areas for fauna and flora
3. Accessory buildings and uses customarily incidental to the above permitted uses

C. 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 XXXXXXXX** *Uses Subject to Special Use Permit* and the applicable portions of **ARTICLE XXXXXXXX** *Supplemental Site Development Standards*.

1. Docks and launched ramps
2. Recreational Camps
3. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of **Section XXXXXX** *Supplemental Site Development Standards*.
4. Accessory buildings and uses customarily incidental to the above special uses.

D. Dimensional Regulations

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

Section 5.08 Agricultural/ Rural Residential (AG/ARR)

The following provisions shall apply to the Agricultural / Rural Residential (AG/ARR).

1. Intent

The Agricultural 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 agricultural and forestry purposes and to allow some multiple uses of marginal farm-forest lands. Residential uses are considered secondary in Agricultural, the minimum lot size for Agricultural Zoning is

5 acres, however given the rural nature of areas of the township, some 2 acre lots are allowed subject to the uses allowed by right in the R-1 Zoning District where the creation of these lots does not fragment the larger AG areas.

It is the intent of the AG district is 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. These smaller parcels for residential purposes require a minimum of 2 acres and are intended to preserve open space for agricultural uses. 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 designation includes limited existing farms and it is not the intent of this designation 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 designation 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 designation 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. Agricultural, 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. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of **Section XXXXX Antenna Co-location on an Existing Tower or Structure**.
- E. Home occupations conducted completely inside the residence, subject to the provisions of **Section XXXXX Home Businesses**.
- F. Accessory buildings and uses customarily incidental to the above permitted uses.
- G. Accessory Dwelling Units.
- H. Agricultural warehouses and non-animal agricultural processing plants.
- I. Plant nurseries and greenhouses.

Uses Subject to Special Uses Permit

- A. Bed and breakfast facilities.
- B. Clustered residential development (Open Space Preservation Option), subject to the provisions of **Section XXXX 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 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 parcels created.
- N. Migratory labor dwellings, provided the property is at least 20 acres in size and subject to the provisions of **Section XXXXX Supplemental Site Development Standards**.
- O. Forest product processing and sales.
- P. Sand and gravel excavation, subject to the provisions of **Section XXXX Supplemental Site Development Standards**.
- Q. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of **Section XXXX Supplemental Site Development Standards**.
- R. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of **Section XXXX Home Businesses**.
- S. Accessory buildings and uses customarily incidental to the above special approved uses.
- T. Special events.

3. Dimensional Regulations

Structures and uses in the Agricultural and Rural Residential (ARR) District are subject to the area, height, bulk and placement requirements in Article 5 *Schedule of Regulations*.

Section 5.09 Residential District (R-1)

The following provisions shall apply to the minimum ½ acre lot, subject to Health Department and other Ordinance Regulations.

1. Intent

The 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 XXXXXX Home Businesses**.
- D. Accessory buildings and uses customarily incidental to the above permitted uses.
- E. Accessory Dwelling Units.

3. Uses Subject to Special Use Permit

- A. Clustered residential development (Open Space Preservation Option), subject to the provisions of **Section XXXXXX 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 XXXXXX Home Businesses**.
- F. Multiple family dwellings greater in number than an ADU are subject to special conditions in Sec XXX

4. Dimensional Regulations

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

Section 5.10 Multiple Family District (MFR)

The following provisions shall apply to the Multiple Family District (MFR).

1. Intent

The Multiple Family 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. Parks, playgrounds, recreational areas and community centers.
- D. Home occupations conducted completely inside the residence, subject to the provisions of **Section XXXXXX 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. Multiple family dwellings.
- D. Buildings with 3 or more units commercial criteria shall apply
- E. 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 XXXXX Schedule of Regulations**.

Section 5.11 Mobile Home Park District (MHP)

The following provisions shall apply to the Mobile Home Park District (MHP).

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. Manufactured or mobile home developments.
- B. Parks, playgrounds, recreational areas and community centers.
- C. Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of **Section XXXXX Antenna Co-location on an Existing Tower or Structure**.
- D. Home occupations conducted completely inside the residence, subject to the provisions of **Section XXXXX 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 or 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 XXXXX Schedule of Regulations**.

Section 5.12 Commercial District (CD)

The following provisions shall apply to the Commercial District (CD).

1. Intent

The intent of the 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 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 and recreational facilities.
- B. Multiple family dwellings.
- C. Restaurants and bars, except drive-through restaurants.
- D. Retail sales, within an enclosed building.
- E. Banks and financial services.
- F. Business and personal services.
- G. Professional offices.
- H. Funeral homes.
- I. Public utility buildings without storage yards.
- J. Public buildings and facilities.
- K. Civic, social and fraternal organizational 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 XXXXX Antenna Co-location on an Existing Tower or Structure**.
- N. Home occupations conducted entirely inside the residence, subject to the provisions of **Section XXXX Home Businesses**.
- 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 CD 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 material sales.
- H. Public campgrounds.
- I. Carpentry, plumbing and electrical sales, services and contracting offices.
- J. Machine shop.
- K. Car wash facilities, subject to the provisions of **Section XXXX Supplemental Site Development Standards**.
- L. Sale of motor vehicles.
- M. Outdoor sales facilities.
- N. Warehouse and storage buildings, but not including commercial bulk storage of flammable liquid and gases.
- O. Transmission and communication towers, subject to the provisions of **Section XXXXX Supplemental Site Development Standards**.
- P. Commercial wind turbine generator and anemometer towers, subject to the provisions of **Section XXXXX Supplemental Site Development Standards**.
- Q. Sand and gravel extraction, subject to the provisions of **Section XXXXX Supplemental Site Development Standards**.
- R. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of **Section XXXX Home Businesses**.
- S. Production, processing, assembly, manufacturing or packing of goods or materials. Such facilities may include testing, repair, storage, distribution and sale of such products. Facilities must meet regulatory agency guidelines.
- T. 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 XXXXX Schedule of Regulations**.

Section 5.13 Industrial (I-1)

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

1. Intent

It is the intent of the 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 tis District shall provide for safe sewage disposal and potable water.

2. Permitted Uses

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

3. Uses Subject to a Special Use Permit

- A. Building material sales.
- B. Carpentry, plumbing and electrical sales, services and contracting offices.
- C. Machine shop.
- D. Warehouse and storage buildings, but not including commercial bulk storage of flammable liquid and gases.
- E. Production, processing, assembly, manufacturing or packaging of goods or materials. Such facilities may include testing, repair, storage, distribution and sale of such products. Facilities must meet regulatory agency guidelines.
- F. Junkyard and salvage material storage.
- G. Sand and gravel excavation, subject to the provisions of **Section XXXX** *Supplemental Site Development Standards*.
- H. Outdoor storage facilities, including self-storage facilities.
- I. Sexually oriented businesses, subject to the provisions of **Section XXXX** *Supplemental Site Development Standards*.
- J. Sanitary landfill.
- K. Transmission and communication towers, subject to the provisions of **Section XXXX** *Supplemental Site Development Standards*.
- L. Commercial wind turbine generator and anemometer towers, subject to the provisions of **Section XXXX** *Supplemental Site Development Standards*.
- M. Accessory buildings and uses customarily incidental to 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 XXXXX** *Schedule of Regulations*.

Article VI
Planned Unit Development (PUD) Zoning District (4/2022)

6.1 Purpose

The PUD zoning district is an overlay district that encompasses Agricultural and Residential zoning districts, and provides for the review of single and mixed-use land development projects on a case-by-case basis.

The types of land developments eligible for consideration as PUDs include, but are not necessarily limited to, single and two-family residential developments; single and two-family residential uses combined with golf course/country clubs; single use recreational and resort-oriented developments such as campgrounds, resorts, public or quasi-public golf courses; conference and retreat centers providing lodging and dining facilities together with residential facilities for management and staff. All site condominium projects proposed within the Agricultural (A) and Residential (R-1) Districts in Hayes Township shall comply with this Article.

The PUD overlay district is established to accomplish the following objectives:

- a. To encourage the use of land in ways consistent with its character and adaptability;
- b. To encourage and provide incentives for the implementation of conservation design and low impact development principles within Hayes Township;
- c. To enable farmers and other landowners to realize their rightful equity in their land holdings by providing for the division, sale, and development of land;
- d. To provide for the preservation of farmland, orchards, forest land, open space, visual and community character and to protect and preserve natural resources;
- e. To provide for the division of land under the provisions of the Land Division Act (P.A. 591 of 1996, as amended) and the Condominium Act (P.A. 59 of 1978, as amended);
- f. To provide for the orderly development of land and the orderly layout of lots;
- g. To assure that land is suitable for the creation of building sites and to allow innovation and flexibility in the design of residential and mixed-use developments;
- h. To provide for the provision of environmental amenities and recreational opportunities to present and future residents of the community by providing for the development of land in a manner consistent with the Hayes Township Master Plan;
- i. To provide for safe and adequate ingress and egress to lots;
- j. To provide for the construction and maintenance of roads, storm water management systems, and public utilities in an economical and efficient manner;
- k. To provide for the construction and maintenance of public facilities and infrastructure in a manner that does not overburden the Township's financial ability to provide such facilities and infrastructure;
- l. To assure the equitable provision of fire, emergency, medical, and police services to all residents and property owners;
- m. To encourage and accommodate innovation in the design, layout, and construction of land uses and land development projects;
- n. To promote the enhancement of housing **with particular emphasis on affordable housing**, employment, shopping, traffic circulation, and recreational opportunities for the people of the Township;
- o. To promote and ensure greater compatibility of design and use between neighboring properties; and
- p. To provide for other purposes as outlined in Section 503, Michigan Zoning Enabling Act, P.A. 110 of 2006.

6.2 General Requirements

Single and mixed-use PUDs shall be subject to the following general requirements:

- q. Location
PUD may be established in an Agricultural or Residential zoning district.
- r. Minimum Land Area
The minimum lot area eligible for PUD overlay is ten (10) acres **unless an affordable housing development is proposed.**
- s. Residential Component
All proposed PUDs, whether single use or mixed use, shall have a residential component.
- t. Single Ownership and Control Required
The land or proposed PUD must be under single ownership or control. Single ownership and control shall consist of landownership and/or control by an individual or family, or a single legal entity. An owner or entity in control of a PUD under this Article shall assume joint and several liability for completing a PUD subject to the provisions of this Article.
- u. Escrow Funds
Applicants shall be required to deposit escrow funds of a reasonable amount to cover costs associated with the Township's use of engineering, legal and planning consultants during the review of preliminary and final applications for PUD zoning.
- v. Approved PUD Plan Functions as PUD Overlay District Regulations
The final site plan, other plans and statements submitted by applicants and accepted by the Township and conditions imposed by the Township that are associated with an approved PUD shall constitute the zoning regulations governing the alteration of land and natural resources and the layout, construction, use and occupancy of buildings, improvements, and structures within a PUD.

6.3 PUD Overlay Districts are Established on Case-by-Case Basis

- w. Single Use PUDs
Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use approved under Article XI of this Ordinance.
- x. Mixed Use PUDs
Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property. Mixed use PUDs may be established provided underlying zoning district use regulations will not be circumvented by the uses proposed.

The establishment of business or industrial uses in zoning districts in which such uses are not allowed as permitted or special uses are not permitted under any circumstances.

6.4 Pre-application Conference (refer to **Figure 11.1 Planned Unit Development (PUD): Review Process, Article 11 for Flow Chart of the PUD Review/Approval Process**)

Applicants shall attend a pre-application conference with the zoning administrator and/or Township planner to present PUD concepts for informal, non-binding informational purposes. Pre-application conferences are intended to allow applicants to address Article 11.8 Design and Approval Standards; develop an administratively complete PUD application prior to consideration by the Planning Commission; and to allow the Township to inform applicants of the Township's PUD and other land use goals, policies and objectives, and to identify and address any potential areas of concern.

Statements made by applicants or the Zoning Administrator at pre-application conferences are intended to be informational and not legally binding.

6.5 Applications

Applications for PUDs shall be submitted and processed as outlined below:

- y. Single Use PUDs
Single use PUDs containing a use allowed in an underlying zoning district shall be established as a special use. Single use PUD applications shall be submitted to the Zoning Administrator not less than thirty (30) days before the date on which the Planning Commission will first consider same.
- z. Mixed Use PUDs
Applications for mixed use PUDs shall be processed in the same manner as any other application for rezoning property. Mixed use PUDs may be established provided underlying zoning district use regulations will not be circumvented by the uses proposed.

Applications shall consist of the following materials and information:

- a. A completed application form;
- b. An application fee;
- c. An escrow fee within twenty (20) days of the zoning administrator and/or Planning Commission's determination of the required reasonable escrow amount;
- d. A preliminary PUD site plan complying with the provisions of Article 12.8 Content of Site Plans. If the PUD is proposed for development in phases, the location and timing of each phase must be indicated on the site plan;
- e. A natural and cultural features inventory identifying primary conservation areas such as wetlands, waterways, floodplains, shorelines, views into and from the site, etc. and secondary conservation areas such as steep slopes, ridgelines, old buildings/structures, historic/archeological features, farmland, groundwater recharge/discharge areas, significant plant/wildlife habitat, etc., and potential development areas.
- f. A site yield plan showing potential lots, roads, maximum lot density, etc. allowed by underlying zoning.
- g. A conservation design plan indicating development areas and proposed lots, common elements such as conservation areas, access roads, utilities, and acreage percent of conservation area set asides.
- h. A typewritten legal description of the property.
- i. A typewritten statement describing:
 - 1. The number of acres of land subject to the application;
 - 2. The use or uses to be established in the proposed PUD, including the number and area of lots or building sites; number, type, and floor area of dwelling units; and the number, type, and floor area of all other buildings; and
 - 3. If a PUD is proposed for phased development, a tentative construction schedule must also be provided.

6.6 Review Process

The steps followed in the single and mixed-use PUD review processes are outlined below. Please refer to *Figure 11.1 Planned Unit Development (PUD): Review Process* for a detailed flow chart. Steps 1 through 5 apply to both types of developments. Step 6 applies only to single-use developments. Steps 6a and 7 apply only to mixed-use developments.

Step 1 The Zoning Administrator notifies the applicant in writing that a PUD application is administratively complete and that escrow funds have been created or reasonable assurances are received in writing from a financial institution or other third party that escrow funds will be created.

Step 2 Applicant files application for preliminary PUD approval at least thirty (30) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

Step 3 Planning Commission reviews the application, preliminary site plan, supporting documentation and if adequate information has been provided by the applicant, then the Planning Commission sets a date for public hearing in accordance with Section 11.7.

The Planning Commission may request modifications to the preliminary site plan or may request that the applicant submit additional information deemed necessary to continue informed deliberations on the application. In such cases, the Planning Commission shall table consideration of the application until the modified site plan and/or additional adequate information is provided by the applicant.

Step 4 Planning Commission conducts public hearing.

1. Applicant presents the proposal;
2. Public makes comments;
3. Close public hearing;
4. Commissioners make comments and ask questions;
5. Planning Commission deliberates;
6. Applicant addresses comments and questions; and
7. Planning Commission preliminarily approves, approves with conditions, or denies application.

Within a reasonable period of time following the public hearing, the Planning Commission shall approve, deny, or approve with conditions the preliminary PUD site plan. The Planning Commission's decision must be consistent with the following standards:

The Planning Commission's decision must be in writing and include findings of fact clearly describing how the preliminary PUD does or does not comply with the provisions of this Article. The finding of fact shall state the bases for the Planning Commission's decision, and make specific reference to each of the design and approval standards outlined under Section 11.8 below.

Approval of a preliminary PUD site plan authorizes the applicant to proceed with the preparation of an application for final PUD approval.

Step 5

Applicant submits written request for review of final PUD plans and supporting documentation not less than twenty (20) days before the date of the regularly scheduled Planning Commission meeting at which the applicant wishes to have the application considered.

This request must be accompanied by the following materials and information:

1. Final site plan;
2. Itemized cost estimate for construction of all improvements;
3. A soils report delineating soil types at the site, septic suitability, construction suitability, etc. as determined by the Charlevoix County Soil Survey and/or soil borings;
4. Approvals by the Health Department of Northwest Michigan; approval from fire and safety officials; approval from the Charlevoix County Road Commission for public road development (if any); and approval from Hayes Township for private road development per Section 4.32 of this Ordinance;
5. At the request of the Planning Commission, a hydrogeological report shall be provided documenting the depth to groundwater, groundwater flow direction, groundwater flow velocity, potential to impact nearby water well supplies and/or natural features, and/or the results of pump test(s), etc.;
6. Documentation of arrangements for construction of improvements; and
7. Proposed covenants, deed restrictions, master deed, condominium or property owners' association by-laws.

Step 6 Single Use PUDs

Final Review by Planning Commission. Planning Commission reviews the final PUD site plan and supporting documentation and approves, approves with conditions, or denies application in accordance with the standards within Section 11.8 and Article XII.

Step 6a Mixed Use PUDs

Final Review by Planning Commission.

Planning Commission reviews final application, final site plan and supporting documentation and recommends that Township Board approve, approve with conditions, or deny the final PUD application in accordance with the standards within Section 11.8 and Article XII. The Planning Commission's recommendation must be transmitted to the Charlevoix County Planning Commission for review, and comment as is required of any Planning Commission recommendation on the rezoning of property.

If the County Planning Commission's response has not been received by the Township within thirty (30) days of receipt of the Township Planning Commission's recommendation, it shall be presumed that the County has waived its right for review. If such recommendation has been received, it shall be considered by the Township Planning Commission and forwarded to the Township Board with the Township Planning Commission's original recommendation.

Step 7

Final Action by Township Board (for mixed-use PUDs only)

The Township Board may take any of the following actions:

1. Conduct additional public hearings. Notification of such hearings shall be published in accordance with state law and this Ordinance.
2. Review evidence compiled by and findings of fact of the Planning Commission, and approve, approve with conditions or reject the mixed use PUD as recommended by the Planning Commission.
3. Remand the mixed use PUD review back to the Planning Commission for further deliberation if the Board determines that additional review is advisable.
4. The Township Board shall produce its own findings of fact in accordance with the standards within Section 11.8 and Article XII.
5. If approved, publish a notice describing the nature and extent of the PUD in a newspaper within fifteen (15) days of the date of its approval by the Township Board.

6.7 Public Hearing Requirements

At least one public hearing shall be conducted on applications for all PUDs. The date and time of the public hearing shall be set by the Planning Commission during Step 3 described above.

The notice shall 1) describe the nature of the proposed PUD and whether or not this is a hearing to rezone the property; 2) indicate the property subject to the application (an address if one exists and either a tax identification number or a legal description); 3) state where and when the application will be considered; 4) indicate when and where the application, preliminary site plan and other materials may be inspected by the public and; 5) state when and where written comments on the application will be received.

1. Publication

Notice including the date, time and place of a public hearing must be posted outside the Township Hall and published once in a newspaper of general circulation in Hayes Township. The publication must occur not less than fifteen (15) before the date of the public hearing.

2. Delivery

Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within three hundred (300) feet of the property and to occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in Hayes Township.

Notice shall be given not less than fifteen (15) days before the date the application will be considered for action by the Planning Commission. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following: a) describe the nature of the request; b) indicate the property that is the subject of the request including a legal description, or property tax identification number and a listing of all existing street addresses within the property, however street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

6.8 Design and Approval Standards

Before taking action upon a preliminary PUD Site Plan and final single or mixed use PUDs, the Planning Commission must insure compliance with the following standards:

a. Design Standards

1. Perimeter Setbacks/Greenbelt Buffer Zone

All PUD projects shall establish and maintain perimeter setbacks of one hundred (100) feet, which may be reduced at the discretion of the Planning Commission in accordance with Sections 11.15 or 11.16. Setback areas shall be maintained as a greenbelt buffer zone. Perimeter greenbelt buffer zones shall be one hundred (100) feet in width, which may also be reduced at the discretion of the Planning Commission. Such greenbelt buffer zones shall be maintained as vegetated open space or be replanted with native vegetation consisting of trees, shrubs and/or groundcovers to create an effective visual buffer between a PUD and adjacent land uses. Refer to Appendix B for a list of allowable native plant species.

Pedestrian and bicycle pathways may occupy setback areas, and such areas may be used for stormwater management and/or snow storage. Pathways, if proposed, shall be six (6) feet or less in width; be designed and built to meet American Association of State Highway Transportation Officials (AASHTO) Standards; exist within a ten (10) foot dedicated easement; utilize mulch, crushed stone, or other natural surfaces; be non-lighted; meander to avoid tree removal, minimize impact on neighboring and on-site land uses; and be intended for non-motorized use only.

2. Density and Open Space Requirements

The maximum number of single and two-family dwelling units permitted in a single or mixed-use PUD shall be based on a density of one (1) lot or condominium unit per three (3) acres of land area, excluding land areas in, dedicated to, improved for, or occupied by any of the following:

- i. Surface waters, wetlands or floodplains;
- ii. Existing or proposed public or private road right-of-ways;
- iii. Existing or proposed constructed utility and stormwater drainage structures and/or easements;
- iv. Existing or proposed parking areas; or
- v. Existing buildings, including historic structures or sites.

Lots and condominium units may vary in size. There shall be no minimum parcel size except what is deemed necessary for adequate septic disposal as required by the Northwest Michigan Community Health Agency. There will be no maximum parcel size. Rather, the total land area dedicated to single and two-family residential lots or condominium units and all other improvements shall not exceed forty (40%) percent of the parent parcel(s) preexisting area.

Not less than sixty percent (60%) of the total land area shall be dedicated open space to be held in common association ownership. Open space shall consist of contiguous acreage not split by an existing public road or public highway. Any of the following natural and cultural features existing at a proposed PUD should be located within the sixty percent (60%) open space area to the greatest extent feasible, including but not limited to: scenic vistas; pathways or other recreation areas internal to the development and intended for use by PUD landowners/association members; historic sites and structures; wetlands; and floodplains.

Such open space shall be set aside by the applicant through an irrevocable conveyance acceptable to the Township. The conveyance shall insure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use without approval by the Planning Commission for single use PUDs and by the Township Board for mixed use PUDs. Forms of conveyance may include:

- i. A recorded deed restriction to which Hayes Township is a party and signatory;
- ii. Covenants that run with the land in perpetuity; or
- iii. A conservation easement established in accordance with the provisions of P.A. 197 of 1980, as amended.

3. Gross Site Density Calculation

Additional units may be developed by the applicant through natural and cultural resource conservation in accordance with density-bonus incentives outlined in Table 1.

Table 1: Example Conservation Points/Density Bonus Incentives and Credits

Example Calculation for Hypothetical 200-acre parcel					
CONSERVATION POINT SYSTEM CHART	LAND AREA		CONSERVATION POINTS	(POINTS x AREA)	POINTS PER LAND TYPE
	acres	%			
Conservation Lands/Buildable Lands:					
•Active Farmland	0	0%	0.8	0.8 x 0.0	0
•Inactive Farmland	55	28%	0.7	0.7 x 0.28	0.196
•Woodlands	30	15%	0.5	0.5 x 0.15	0.075
•Scenic Viewsheds	5	3%	1.0	1.0 x 0.03	0.03
Unbuildable Lands:					
•Wetlands	15	8%	0.8	0.8 x 0.08	0.064
•Steep slopes (>18%)	20	10%	0.4	0.4 x 0.1	0.04
Shorelines	0	0%	1.0	1.0 x 0.0	0
Adjoining Conservation Lands			0.4		0.4
TOTAL Open Space	125	62.5%			
TOTAL Development Lands	75	37.5%			
TOTAL Lands	200	100%			
Conservation Bonus	Add 0.5 pt. - If land percentage exceeds 60%		0.805 + 0.5		1.305
CREDITS					
Environmental Contamination Clean-up			0.3		
Innovative Stormwater Treatment			0.5		0.50
Pathways			0.2		
Recreation Areas			0.3		
Water frontage (at least 500.0 lineal ft. or more and vegetated buffer required)			1.0		
Wetland Buffers (25.0 ft. no-grade buffer and 40.0 ft. building setback buffer required)			0.8		
Significant plant/wildlife habitat			0.6		
Historic/Archeological Sites and/or Structures			0.3		
Total Conservation Points:					1.805*
*In this example the applicant/developer is entitled up to 2 additional units beyond the density established in underlying zoning district.					

*To determine additional units earned through conservation, applicants may round up to the nearest whole number when a decimal place is one-half (i.e. 0.5) or greater.

4. Layout of Residential Lots and Non-Residential Uses

Residential lots and non-residential buildings and improvements shall be laid out to the greatest extent feasible, as follows:

- i. On soils most suitable for septic systems. Hydric soils and soils containing a permanent high water table or hydric inclusions are to be avoided.
- ii. Within the outside one-hundred (100) feet of the edge of a woodlot, or along the far edge of open fields adjacent to any woodland.
- iii. Below the crest of ridgelines, and in other locations least likely to block scenic vistas as seen from public roads and surface waters.
- iv. On areas not actively being used for agricultural purposes, or on soils not designated as prime, unique, or important farmland soils, or timberland soils important on a national or regional basis.
- v. Plans for residential lots proposed to be created on pre-development slopes of eighteen percent (18%) or greater must be accompanied by a stamped, detailed plans and a statement from a licensed architect or professional engineer indicating that the steep slope may be safely developed, and explanation of the construction methods to be used in overcoming foundation and other structural problems potentially presented by steep slope conditions, preserving the natural vegetation and drainage, and preventing soil erosion.

Special land use approval must also be obtained for lot creation in pre-development areas of twenty-five percent (25%) slope or greater in accordance with Article XIII.

5. Setbacks

Lot and building setbacks shall be as follows:

- i. Waterfront lots proposed within a PUD shall comply with Article VI: Waterfront Overlay District within this Ordinance.
- ii. Side setbacks shall be fifteen (15) feet, and may be modified or waived by the Planning Commission if in accordance with Sections 11.15 or 11.16.
- iii. Front and rear building setbacks shall be established on the basis of underlying zoning district regulations according to Article V, though front and rear setbacks may be modified or waived by the Planning Commission if in accordance with Sections 11.15 or 11.16.

6. Access

Each building site, lot, dwelling unit or other use shall have access to a public road by way of a public or private road.

7. Roads

PUDs shall provide for vehicular access to all uses and areas. All roads must either be public roads or provide dedicated easements and shall be designed by a Professional Engineer in compliance with the Private Road provisions of this Ordinance, see Section 4.32.

8. Signs

All signs shall conform to requirements of Article XV of the Hayes Township Zoning Ordinance.

9. Lighting

All exterior lighting fixtures, whether attached to a building or freestanding, shall be of unified design and shall be fully shielded, shaded and downward directed. Lighting fixtures shall be located so as not to illuminate the night sky or produce glare outside of the boundaries of the development. Light fixtures/poles shall be fourteen (14) feet or less in height.

10. Parking Areas

Common parking areas, if proposed, shall be designed and constructed to adequately serve the needs of all buildings and uses within the PUD. Such areas are encouraged to utilize permeable surfaces such as permeable pavement, porous pavers, etc.

Common parking areas shall be screened from view from adjoining property as deemed appropriate by the Planning Commission for the setting in accordance with Sections 11.15 or 11.16, or underlying zoning district in which a PUD is located. Screening can be accomplished by existing trees or other vegetation or by landscaped native plant buffers or greenbelts.

Common parking areas shall provide stormwater management systems that infiltrate to groundwater to prevent off-site impacts of any kind. The use of innovative stormwater management, treatment and disposal is strongly encouraged, such as rain gardens, grassed waterways, constructed wetlands, etc. The direct discharge of stormwater from parking areas to natural watercourses, wetlands, or other surface waters is prohibited.

11. Driveways and Access

Access to the PUD from adjoining public roads shall be designed and constructed to insure the safety of vehicles and pedestrians. Clear vision areas shall be maintained at adjoining public roads and at public and private road rights-of-way in accordance with Private Road provisions of this Ordinance, See Section 4.32.

12. Snow Removal

Adequate areas shall be provided for the storage and disposal of snow removed from roadways, walkways, and parking areas during the winter months.

13. Access for Emergency Services

Routes for police, fire, and emergency medical services vehicles shall be provided to all buildings and uses in accordance with fire and safety agency standards and guidelines. Such routes shall be maintained to assure access to all buildings and uses in the PUD year-round under all weather conditions. Review and approval is required from police, fire and emergency services agencies in accordance with Section 11.6. Failure to demonstrate adequate access for police, fire, medical and other medical services may be a basis for PUD denial by the Planning Commission or Township Board.

14. Loading, Service, and Storage Areas

Areas used for the delivery or pickup of goods or materials, or for servicing vehicles or equipment, shall be screened from view from adjoining property as deemed appropriate by the Planning Commission in accordance with Sections 11.15 or 11.16. Areas used for the storage of waste materials shall be screened from view from adjoining properties and public roadways. Screening may be provided by existing trees and other vegetation, or by landscaped native plant buffers or greenbelts.

15. Stormwater drainage

Stormwater runoff from improved areas shall be managed to prevent off-site impacts. Each PUD shall be provided with a storm drainage system that maintains stormwater runoff at a predevelopment rate. Stormwater plan review and approval is required from county and/or state agencies in accordance with Section 11.6. Failure to demonstrate stormwater plan approval from county and/or state agencies may be a basis for PUD denial by the Planning Commission or Township Board.

16. Integration of Natural Features

Lots, buildings, roads, and other improvements shall be situated to minimize alteration of floodplains, stands of mature trees, productive woodlots, and farmland.

17. Utility Service

Utilities services shall be installed underground.

18. Dry hydrants or underground water storage tanks may be required as a condition of approval.

b. Approval Standards

1. The use or uses established in a proposed PUD shall be consistent with the Township's Master Plan and Zoning Ordinance. The type of development authorized by the PUD zoning will be consistent with the intent and purpose of the Master Plan, the Zoning Ordinance, as well as with the intent and purpose of the underlying zoning district in which the PUD is located.
2. The proposed PUD will create recognizable and substantial benefit to the community in addition to the property owner/developer. The granting of PUD approval will result in a recognizable and substantial benefit to the users of the PUD and the Township. Such benefits would not likely be realized if the PUD approval was not granted.
3. The proposed PUD will not unreasonably burden public roads, facilities, utilities and services. The use or uses established in the PUD will not result in a material burden on police and fire services nor on other public services or facilities.
4. The proposed PUD will not unreasonably impact use and development of surrounding properties. The use or uses established within the PUD will not diminish the opportunity for surrounding properties to use and develop their property as zoned. The proposed PUD shall not generate noise that results in an unreasonable interference with the comfortable use and enjoyment of properties within the PUD or at adjacent properties.
5. The proposed PUD must be under single ownership or control. An individual or single legal entity as a landowner or having control has responsibility for completing the project in conformity with the approved final site plan and any conditions of approval.
6. Natural and cultural features and amenities, including waterbodies and waterways, natural and artificial drainage ways, shorelines, wetlands, floodplains, groundwater recharge/discharge areas, historic places and structures, woodlots, etc., shall be meaningfully incorporated into the design and construction of the PUD. The PUD shall be designed so as to result in a minimal disturbance of the natural topography.
7. Buildings and improvements must be completed prior to use and occupancy unless such use or occupancy will not impair the health, safety, and general welfare of the users or occupants of the PUD or of users and occupants of adjoining property. The Planning Commission may establish conditions applicable to completion of buildings and other improvements.
8. As a condition of approval of a PUD site plan, the Planning Commission may require a performance guarantee of a sufficient sum to assure the installation or construction of those features or components of the approved PUD considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed PUD.

Features or components, hereafter referred to as "improvements," may include, but shall not be limited to, survey monuments and irons, streets/roads, curbing, landscaping, fencing, walls/berms, screening, vegetated buffers, snow removal, emergency vehicle access, lighting, drainage facilities, pathways, sidewalks, paving, common driveways, roads, parking, common potable water facilities (if any), common septic and/or sewage treatment and disposal facilities (if any), utilities and similar items. Improvements do not include the entire PUD.

When required, performance guarantees shall be deposited with the Township Clerk before any land clearing, excavation or other construction activities commence at or within a PUD.

Performance guarantees shall be processed in the following manner:

- a) Prior to the issuance of any Township zoning permits for lots within a PUD, the applicant or their agent shall submit an itemized estimate of the cost of the required improvements that are subject to the performance guarantee, which shall then be reviewed by the Planning Commission and Zoning Administrator. The amount of the performance guarantee shall be one-hundred percent (100%) of the cost of purchasing materials, installation and construction of the required improvements, plus the cost of necessary engineering, planning, legal and inspection costs borne by the Township and a reasonable amount for contingencies.
- b) The required performance guarantee shall be payable to the Township and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, surety bond, or other surety instrument acceptable to the Township.
- c) Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a land use permit for the subject PUD, provided in consultation with the Planning Commission it is in compliance with all other applicable provisions of this Zoning Ordinance and other applicable Hayes Township ordinances.
- d) The Zoning Administrator, upon written request of the Applicant, shall rebate portions of the performance guarantee upon the Zoning Administrator's determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- e) When all of the required improvements have been completed, the Applicant shall send written notice to the Zoning Administrator of the completion of all improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of reason(s) for any rejections.
- f) If partial approval is granted, the Applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- g) The Zoning Administrator/Township Clerk shall maintain a record of required performance guarantees.

6.9 Actions Following Final PUD Approval

Three (3) copies of the approved final site plan shall be signed and dated by the Planning Commission Chair and the applicant. A copy of the Planning Commission's approving report or recommendation shall be attached to each signed final site plan. A mixed use PUD application shall require similar action by the Township Board.

One (1) site plan shall be provided to the applicant. One (1) shall be provided to the Township Clerk for inclusion in the Hayes Township Zoning Ordinance. One (1) copy shall be provided to the Zoning Administrator for inclusion in his or her files of Township approval of the PUD.

6.10 PUD Rezoning Considerations

c. Single Use PUDs

The Planning Commission approval or conditional approval of a single use PUD has the effect of rezoning of the subject property.

If a final application for a single use PUD is approved by the Planning Commission, a notice describing the nature and extent of the new PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Planning Commission.

d. Mixed Use PUDs

After receiving the recommendations from the Planning Commission, the Township Board shall place the request for review approval of a mixed use PUD on the agenda for the next available, regularly scheduled Township Board meeting.

- 1) The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the mixed use PUD eligibility criteria; permitted uses within the mixed use PUD; any requested waivers, reductions or modifications of the dimensional regulations applicable to the proposed mixed use PUD; the mixed use PUD approval standards and any recommended waivers of those approval standards; any conditions and performance guarantees recommended by the Planning Commission; and the Planning Commission's ultimate recommendation.
- 2) If the Township Board accepts the Planning Commission's recommendations concerning any waivers, reductions or modifications of the dimensional regulations applicable to the proposed PUD; concerning the waiver(s) of any PUD approval standards; and concerning any conditions and performance guarantees to be imposed with final mixed use PUD approval and if the Township Board finds that the proposed mixed use PUD meets the eligibility criteria and approval standards, then the Township Board shall grant approval for the proposed mixed use PUD by adopting a zoning ordinance amendment rezoning the property on which the mixed use PUD will be located to a PUD zone and authorizing development of the property pursuant to the site plan approved by the Planning Commission. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself hold a public hearing after giving the notice required under Sections 11.6 and 11.7, gather any additional evidence it considers relevant, and make its own findings of fact in accordance with Section 11.8 concerning the factual determinations made by the Planning Commission.

If a final application for a mixed-use PUD is approved by the Township Board, a notice describing the nature and extent of the PUD zone shall be published in a newspaper within fifteen (15) days after approval by the Township Board.

6.11 Statement of Compliance Required

All buildings, structures and improvements within an approved final PUD shall be established in strict compliance with the approved final site plan and any conditions of approval. All buildings and improvements shall be constructed as illustrated on the approved final site plan. No project related construction of any type is allowed until final PUD approval.

Following completion of site plan elements, including but not limited to the construction of buildings, shared facilities, roads, utilities, structures and other improvements, the applicant shall provide a statement, prepared by an independent professional (a licensed surveyor, professional engineer, registered landscape architect) certifying that all common buildings, shared structures, and improvements have been constructed in compliance with approval granted.

6.12 Recorded Affidavit Required

An affidavit in a form acceptable to the Hayes Township Attorney containing the information outlined in this Article shall be recorded with the Charlevoix County Register of Deeds within thirty (30) days following approval:

- a) Date of approval of the PUD by the Planning Commission (in the case of single-use PUDS) or Township Board (in the case of mixed-use PUDS).
 - b) Legal description of the property.
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- c) A statement by the applicant(s) certifying that the property will be developed in accordance with:
 - 1. The site plan and other information approved by the Planning Commission or Township Board, and
 - 2. All conditions associated with approval of the PUD.

This statement shall specifically indicate that no modifications shall be made to the PUD as approved; to the final site plan or other information provided by the applicant; or to any conditions associated with approval of the PUD, unless approved under the modification provisions of this Article.

Three (3) certified copies of the affidavit shall be provided to the Zoning Administrator. One (1) copy shall be attached to his or her copy of the signed site plan. One (1) copy shall be placed in the Planning Commission's record of proceedings on the PUD. One (1) copy shall be provided to the Township Clerk for inclusion in the Township Board's record of proceedings on the PUD.

6.13 Modification of an Approved PUD

- e. Minor modifications to a PUD may be approved by the Planning Commission by mutual agreement between the Township and applicants or successors in interest as follows:
 - 1. Reorientation of buildings provided no such structure is moved more than twenty five (25) feet from the original plan location; the move is determined to be necessary based on site conditions not previously known; the intent, concept, and objectives of the PUD are not circumvented; and no greater impact is exerted on adjacent properties.
 - 2. Redistribution of the dwelling units among the proposed structures, provided building heights are not increased, and the density of dwelling units is not increased.
 - 3. Minor realignment of roads, pedestrian ways, parking areas based on the need to respect site features (topography, soils, bedrock, vegetation) or to accommodate minor reorientation of buildings.
 - 4. Increase in total land area, with the additional undeveloped land to be protected open space or not proposed to be developed at the time of acquisition.
 - 5. Total land area increased by purchase of adjacent previously developed property, but the use of the newly acquired adjacent property is not proposed to change and is consistent with the previously approved uses for the PUD.
- f. Major Modifications

Major modifications to an approved PUD shall be subject to review and approval under a new application for PUD. Major modifications include, but are not limited to, increases in floor area of any building in excess of one-hundred twenty (120) square feet; or increases in the number of building sites, lots, or dwelling units; increases in land area occupied by non-residential uses; decrease in open space set-aside; or the addition of other buildings, structures, uses and improvements not originally included in the final PUD plan as approved.

6.14 PUD Plan Expiration and Renewal

The expiration, repeal and renewal of a PUD site plan, whether preliminary or final, shall be in accordance with the following standards:

- g. Plan Expiration
PUD approval shall automatically expire after twenty-four (24) months, following the effective approval date, if one or more of the following apply:

1. In the case of a final site plan no earthwork or construction activities are in evidence and no valid construction permits are in effect;
 2. The project appears to be abandoned, there is no apparent interest in continuing the PUD as established, and no applications for renewal have been received;
 3. No apparent effort is being made to market the PUD project or operate it as an active development; or
 4. In the case of a preliminary site plan, the use proposals are different from the approved preliminary site plan.
- h. Plan Renewal
- To forestall automatic expiration, the PUD applicant shall request renewal of the PUD prior to the expiration date. Renewal shall be by formal action of the Planning Commission. Renewal requests shall be filed at least seven (7) days prior to the scheduled meeting date of the Planning Commission, but no formal public hearing is required. Renewals shall be for periods not to exceed twelve (12) months and only two (2) such renewals shall be permitted.
- i. Rezoning or PUD Removal upon Plan Expiration
- Upon PUD plan expiration or repeal, the Township within a reasonable period of time shall rezone the PUD parcel or otherwise remove the PUD designation pursuant to the Hayes Township Zoning Ordinance.

6.15 Reasonable Conditions

The Planning Commission and Township Board may attach reasonable conditions with the approval of a site plan, special use or PUD. 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 and welfare and social and economic well being of those who will use the land or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity, 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.

6.16 Waiver of PUD Standards

The Planning Commission may recommend and the Township Board may waive a PUD standard if all of the following findings are documented, along with the rationale for the decision:

- 1) No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
- 2) The spirit and intent of the PUD provisions will still be achieved.
- 3) No nuisance conditions will likely be created by such waiver.
