

Article V

Zoning Districts and Maps

5.01 Purpose

TBD

5.02 Zoning Map

TBD

Commented [C1]: RG: IF NEW DEFINITIONS ARE ADOPTED THAN NEW MAPS ARE REQUIRED. THIS MAY BE A DUPLICATE OF 5.06B.

5.03 Interpretation of Zoning District Boundaries

TBD

Commented [C2]: RG: DUPLICATE OF 5.06C

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

Commented [C3]: MC: WHAT WILL THIS LOOK LIKE.

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.

Commented [C4]: MM: I think the zoning districts in the current ordinance better reflect the needs of the township. This especially becomes clear with the description of the different residential districts.

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.

Commented [C5]: DB: Does this contradict shoreline alteration from the previous chapter?

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.

Commented [C6]: RG: BY WHOM? AND WHAT PROCESS?

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

Commented [C7]: MC: HOW DO YOU CONTROL THIS?

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 TBD *Uses Subject to Special Use Permit* and the applicable portions of ARTICLE TBD *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 TBD *Supplemental Site Development Standards*.
4. Accessory buildings and uses customarily incidental to the above special uses.

Commented [C8]: RG: DOCKS AND LAUNCH RAMPS

D. Dimensional Regulations

Structures and uses in the Conservation Reserve District are subject to the area, height, bulk and placement requirements in Section TBD *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

Commented [C9]: RG: AGRICULTURAL/ RR DISTRICT

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.

Commented [C10]: RG: NOTED

2. Permitted Uses

Commented [C11]: RV: SEPARATE PERMITTED SUP BY USED SIZE OF PARCEL.

- 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 TBD *Antenna Co-location on an Existing Tower or Structure*.
- E. Home occupations conducted completely inside the residence, subject to the provisions of Section TBD *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 TBD *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.

Commented [C12]: RG: SHOULD THIS BE A PUD PROCESS

- 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 TBD *Supplemental Site Development Standards*.
- O. Forest product processing and sales.
- P. Sand and gravel excavation, subject to the provisions of Section TBD *Supplemental Site Development Standards*.
- Q. Commercial Wind Turbine Generator and Anemometer Towers, subject to the provisions of Section TBD *Supplemental Site Development Standards*.
- R. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of Section TBD *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 TBD *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.

Commented [C13]: DB: I feel like the elimination of r-1 thru r-4 districts take away too much clarity offered in the old zoning districts, perhaps more discussion? I think Rex feels similarly

- C. Home occupations conducted completely inside the residence, subject to the provisions of Section **TBD** *Home Businesses*.
- D. Accessory buildings and uses customarily incidental to the above permitted uses.
- E. Accessory Dwelling Units.

Commented [C14]: RV: ZONING PERMIT REQUIRED?

Commented [C15]: RV: SUBJECT TO HEALTH DEPARTMENT APPROVAL FOR WELL AND SEPTIC AND ZONING REQUIREMENTS

3. Uses Subject to Special Use Permit

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

Commented [C16]: RV: AS APPROVED WITH SUP

Commented [C17]: RG: DOES THIS MEAN ALL ACCESSORY BUILDINGS REQUIRE A SUP? CONFLICTS WITH 5.09.2.D

Commented [C18]: MC: SHEDS OR FLATS?

4. Dimensional Regulations

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

Section 5.10 Multiple Family District (MFR)

Commented [C19]: RX: What happened to Mixed Residential? Or Mixed Use Residential? Not having some zoning that includes mixed uses is a missed opportunity for the Township, particularly as we look for more housing opportunities and what to do with the 31 corridor and gravel pit etc.

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 **TBD** *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 **TBD** *Schedule of Regulations*.

Commented [C20]: RV: DENSITY INCREASES WITH MUNICIPAL OR ENGINEERED SYSTEM FOR WATER AND SEWER

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 **TBD** *Antenna Co-location on an Existing Tower or Structure*.
- D. Home occupations conducted completely inside the residence, subject to the provisions of Section **TBD** *Home Businesses*.
- E. Accessory buildings and uses customarily incidental to the above permitted uses.

3. Uses Subject to Special Use Permit

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

4. Dimensional Regulations

Structures and uses in the Multiple Family Residential District are subject to the area, height, bulk and placement requirements in Section **TBD** *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 **TBD** *Antenna Co-location on an Existing Tower or Structure*.
- N. Home occupations conducted entirely inside the residence, subject to the provisions of Section **TBD** *Home Businesses*.
- O. Accessory buildings and uses customarily incidental to the above permitted uses.

Commented [C21]: RG: WHY IS THIS A PROBLEM

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 **TBD 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 **TBD Supplemental Site Development Standards**.
- P. Commercial wind turbine generator and anemometer towers, subject to the provisions of Section **TBD Supplemental Site Development Standards**.
- Q. Sand and gravel extraction, subject to the provisions of Section **TBD Supplemental Site Development Standards**.
- R. Cottage industries conducted outside the residence in the yard, garage or accessory structure, subject to the provisions of Section **TBD 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.

Commented [C22]: RV: SITE DEVELOPMENT

Commented [C23]: DB: There was a conversation at an Advisory Group meeting to allow wind/solar as a land use by right in commercial districts, to perhaps incentivize energy companies to make better use of commercial land they own, and to aid in reclamation of lands exhausted by other allowable land uses, ie Reith Reilly and lands they own that have been exhausted of other uses. Perhaps a discussion to bring the Planning Commission before the Advisory Group delivers its findings?

4. Dimensional Regulations

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

Section 5.13 Industrial (I-1)

Commented [C24]: MM: Do we want an industrial district? I raise this because of recent controversies about mining especially.

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 this District shall provide for safe sewage disposal and potable water.

Commented [C25]: RX: This

Commented [C26]: RX: I suggest we include this paragraph on buffering as in 5.12.1

2. Permitted Uses

Commented [C27]: RV: RENEWABLE ENERGY?

Co-location of antenna or similar sending/receiving device on an existing tower or alternative tower structure, subject to the provisions of Section **TBD** *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 **TBD** *Supplemental Site Development Standards*.
- H. Outdoor storage facilities, including self-storage facilities.
- I. Sexually oriented businesses, subject to the provisions of Section **TBD** *Supplemental Site Development Standards*.
- J. Sanitary landfill.
- K. Transmission and communication towers, subject to the provisions of Section **TBD** *Supplemental Site Development Standards*.
- L. Commercial wind turbine generator and anemometer towers, subject to the provisions of Section **TBD** *Supplemental Site Development Standards*.
- M. Accessory buildings and uses customarily incidental to above special approval uses.

Commented [C28]: RG: THIS IS STILL VAG ENOUGH THAT A BATCH PLANT FITS. IT CONFLICTS WITH THE INTENT LANGUAGE. WE SHOULD DECIDE YES/NO ON BATCH PLANTS.

Commented [C29]: RV: SUPPLEMENTAL SITE DEVELOPMENT.

Commented [C30]: RV: AS APPROVED WITH SUP.

4. Dimensional Regulations

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

Article VI
Planned Unit Development (PUD) Zoning District

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.

Commented [C1]: RX: Shouldn't this be Agricultural and Rural Residential (ARR)

Commented [C2]: RX: And this be Residential (R1)?

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.

Commented [C3]: MM: AS NOTED IN COMMENTS ON ARTICLE V, I'M OPPOSED TO COLLAPSING ALL RESIDENTIAL DISTRICTS R-1 AND A. I WOULD PROPOSE ALLOWING SINGLE-USED PUDS IN ANY RESIDENTIAL OR AGRICULTURAL DISTRICT LARGER THAN 1 ACRE. MIX USE PUDS MUST BE IN DISTRICTS MORE THAN OR EQUAL TO 2 ACRES.

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.

Commented [C4]: RX: Agricultural and Rural Residential (ARR)

Commented [C5]: RX: Residential (R1)

Commented [C6]: RX: Ten acres seems too small for a PUD. In the AG district (min 5 acre lots) that means 2 homes...

Commented [C7]: MC: HOW LOW WILL WE GO? FHA DOWN 1 ACRE?

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 TBD Planned Unit Development (PUD): Review Process, Article TBD 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 TBD 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 TBD 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 TBD 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 **TBD**.

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 **TBD** below.

Commented [C8]: RG: PRELIMINARY PUD "SITE PLAN"

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 **TBD** and Article **TBD**.

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 TBD and Article TBD. 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.

Commented [C9]: RV: UNLESS COURTS EXTENDED REVIEW PERIOD.

Step 7

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

Commented [C10]: RX: Change to "Step 6b Mixed Use PUDs"

Commented [C11]: RX: Delete

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 TBD and Article TBD.
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.

Commented [C12]: RX: This

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 **TBD**. 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 **TBD** 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.

Commented [C13]: RG: DOES THIS IMPACT A PUD FOR AFFORDABLE HOUSING.

Commented [C14]: RV: MUNICIPAL UTILITIES?

Commented [C15]: RV: 50%

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						

Commented [C16]: RV: ADD MUNICIPAL UTILITIES FACTOR.
RX: I assume an expert of some sort of relevance can attest to the validity, applicability and legality of this table: i.e., what is the source?

*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 soilerosion.

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.

Commented [C17]: RX: Not clear

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 TBD.
- 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 TBD.

Commented [C18]: RV: EXCEPT OVERLAY DISTRICTS. RX: seems too small. Shouldn't setbacks be similar to setbacks in ARR and R-1?

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 TBD.

8. Signs

All signs shall conform to requirements of Article TBD 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 TBD, 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.

Commented [C19]: MC: WHY? SEEMS EXCESSIVE.

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 ensure 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 TBD.

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 TBD. 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 TBD. 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 TBD, gather any additional evidence it considers relevant, and make its own findings of fact in accordance with Section TBD 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.

- 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.

Commented [C20]: MC: AND ALL OTHER PERMITS REQUIRED FOR PROJECT?

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.

Commented [C21]: RG: ? PERHAPS AN APPLICATION ON ONLY THE CHANGES AND NEW SITE PLAN.

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.

Commented [C22]: RG: WE NEED TO DEFINE REASONABLE.

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 ensure 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 ensure 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 ensure 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.

ARTICLE VII
SPECIAL USE PERMIT SUP

7.1 Purpose

In addition to the uses permitted as a matter of right in each zoning district, this Ordinance allows the establishment of special land uses subject to the procedures, standards and regulations described in this Article. Applications for special use permits may be filed by any person owning property subject to an application.

Once approved, a special use becomes a permitted use on the property on which it is located, provided:

- A. It was approved by the Planning Commission in conformance with the provisions of this Chapter;
- B. It shall be deemed to affect only the lot, or portion thereof occupied by such use;
- C. It is built, operated and maintained in compliance with the provisions of this Ordinance, and any conditions imposed at the time of its approval; and
- D. It has not expired or terminated as provided in this Article.
- E. It is filed by the applicant with the Register of Deeds within 45 days of the special use permit being approved and includes a statement of all conditions agreed upon as a condition of approval. The special land use permit will not be issued until it has been recorded with the Register of Deeds. The applicant must provide proof of recording with the Register of Deeds prior to the issuance of any permit.

Approved special uses shall be valid for as long as the use continues in conformance with the terms and conditions of its approval.

7.2 Procedures

A. Application

Applications for special use permits shall be submitted to the Zoning Administrator no less than ~~thirty~~ (30) days before the date of the meeting at which the Planning Commission will consider the application.

Commented [C1]: DB remove space

Applications submitted less than thirty (30) days before such meetings shall not be accepted for consideration at such meeting and will be considered only at the Planning Commission's subsequent monthly meeting or at a scheduled special meeting.

Applications must be accompanied by the materials and information described below:

- 1. A completed application form and application fee,
- 2. Ten copies of a site plan described in Article ~~XII~~, and
- 3. A typewritten statement describing how the proposed special use will comply with the general standards for special use approval listed in this Article.

Commented [C2]: MM: Update to show the correct article for site plan review.

B. Publication and Delivery of Public Notices

Upon receipt of an application for a special use, one notice that the application has been received and a public hearing scheduled shall be published in a newspaper and shall also be sent by mail or personal delivery to the owner(s) of property subject to the application and to the owners and occupants of all property ~~within~~ five hundred (500) ~~feet of the property~~ subject to the application.

The notice must be published and delivered not less than fifteen before the date of the public hearing. The notice shall 1) describe the nature of the special use being requested; 2) indicate the property subject to the request (an address, tax number, or legal description); 3) state the date, time and place

Commented [C3]: RG 300 Feet per attorney
RV Also publish on website
RX Per advice from our attorney we changed back this back to 300 feet
DB I believe we were told to make this 300 ft to stay in compliance with the Michigan Planning and Enabling Act per the township attorney

where the hearing will be held; 4) indicate when and where the application, site plan and other materials may be inspected by the public prior to the public hearing; 5) state when and where written comments will be received.

C. Planning Commission's Initial Review of Application

The Planning Commission shall review the application and site plan on the date described in the notice of receipt of same.

D. Planning Commission Decision on Application

Within a reasonable period of time (30 days) after the public hearing, the Planning Commission shall approve, approve with conditions, or deny the application. The Planning Commission's decision shall be incorporated into a statement containing the conclusions relative to the special use considered and specify the basis for the decision and any conditions imposed.

At any point during its deliberations on an application, the Planning Commission may request that an applicant modify the site plan or present additional information deemed necessary before a decision on a proposed special use is granted. In such cases, the Planning Commission shall table consideration of the application until the amended site plan or additional information is made available by the applicant.

7.3 General Standards for Approval of Special Uses

Before approving, approving with conditions, or denying an application under the provisions of this Article, the Planning Commission must find that a proposed special use complies with the following standards and any other standards for specific special uses provided elsewhere in this Ordinance:

- A. The property subject to the application is in a zoning district in which the special use is allowed by district regulations;
- B. The special use, as proposed, complies with any specific standards applicable to that special use appearing elsewhere in this Ordinance;
- C. The proposed special use will be consistent with the intent and purpose of the Township's Land Use Plan, as well as the intent and purpose of the zoning district in which it will be located;
- D. The proposed special use will not result in the creation of demands on police and fire services or on other public services or facilities, in excess of the Township's financial ability to provide same;
- E. The proposed special use will not diminish the opportunity for surrounding properties to use and develop their property as zoned;
- F. The proposed special use will be designed, constructed, operated and maintained so as not to negatively impact the character of land uses in the surrounding area;
- G. The proposed special use will not involve uses, activities, processes, materials or equipment that will create a nuisance for other properties in the vicinity by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap materials; and as permitted by other regulatory agencies (Rex will word)
- H. The proposed special use will be harmonious with the existing or intended character of the general vicinity and will not be hazardous to existing or future nearby uses.

Commented [C4]: RX odors, the accumulation of scrap materials or not permitted by other relevant regulatory agencies.

7.4 Conditional Approval

Reasonable conditions may be required by the Planning Commission with the approval of a special land use. Such conditions may include conditions necessary to: 1) ~~insure~~ ensure that public services, such as police, fire, ambulance and similar services are capable of accommodating increased service or facility loads caused by the land use or activity; 2) protect the natural environment and conserve natural resources and energy; 3) ~~insure~~

ensure the special use is compatible with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall:

- A. Be designed to protect natural resources; the health, safety, welfare and social and economic well-being of those who will use the land use or activity under consideration as well as those residents and landowners immediately adjacent to the proposed land use; and the community as a whole.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use; and
- C. Be necessary to meet the intent and purpose of the Hayes Township Land Use Plan and Hayes Township Zoning Ordinance, and to ensure compliance with the standards contained in the Zoning Ordinance.

Commented [C5]: MM Promotes the use of land in a socially and economically desirable manner.

Commented [C6]: RX and of

Commented [C7]: RX and of the community

7.5 Reapplication

An application that has been denied by the Planning Commission shall not be resubmitted within one year of the date of denial unless an applicant presents evidence that; 1) the special use proposed in the new application is of a substantially different nature than that originally considered by the Planning Commission or 2) that conditions relating to land use and development in the area of the property subject to the original application have changed to such an extent so as to justify reconsideration by the Planning Commission.

7.6 Jurisdiction of Zoning Board of Appeals

The Zoning Board of Appeals has no jurisdiction over decisions by the Planning Commission on applications for special uses.

7.7 Performance Guarantee

The Planning Commission may require a performance guarantee in the form of cash, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township, covering the estimated cost of improvements associated with the special use to ensure that a special use complies with approval as granted.

If required as a condition of approval, a performance guarantee shall be provided by the applicant at the time approval is granted by the Planning Commission. If the performance guarantee is a cash deposit, it shall be rebated periodically by the Township Board on application by the depositor in reasonable proportion to the ratio of the work completed on the required improvements.

7.8 Compliance With Conditions of Approval Required

An approved special use shall be developed, constructed, maintained and operated in strict compliance with the approved site plan and any conditions of approval. All improvements and other functional elements shall be constructed as proposed by the applicant and as approved by the Planning Commission.

7.9 Inspection and Certification Requirements

In the event improvements associated with the special use were designed by an architect or engineer, the applicant shall, following completion of construction, provide a statement, prepared by his or her architect engineer, certifying that all improvements have been constructed in compliance with approval as granted.

Commented [C8]: RG add or RX architect or engineer

The Planning Commission may, as a condition of approval, assign such inspection duties to the Township's own independent professionals. In such cases, the full cost for such inspections shall be borne by the applicant.

7.10 Termination Provisions

An approved special use shall remain valid for as long as the approved use continues to be maintained and operated in compliance with approval as granted by the Planning Commission. An approved special use shall expire and become null and void under any one or more of the following conditions:

- A. When a new special use is established that replaces or supersedes the previously approved special use,

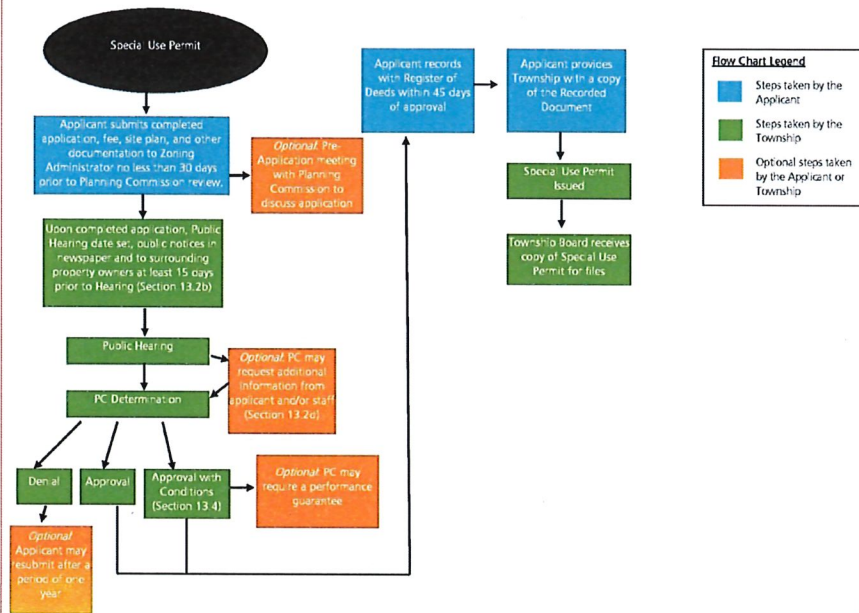
B. When the approved special use is replaced by a matter-of-right permitted use, and such approved

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special use is included on a site plan approved by the Planning Commission or Zoning Administrator,

- C. When an applicant or property owner requests the rescinding or removal of the special use, and such request is documented by the Planning Commission, or
- D. When any conditions of approval are violated.

Figure 13.1 Special Uses: Approval Process, Article 13



Commented [C9]: MC Like Flowchart
RG Enlarge diagram

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