

# Lincoln Charter Township

## ZONING ORDINANCE



2055 WEST JOHN BEERS ROAD

STEVENVILLE, MI 49127

Effective June 21, 2008

Amended through October 2019



## LINCOLN CHARTER TOWNSHIP ZONING ORDINANCE

### TABLE OF CONTENTS

	<u>Page</u>
<b><u>ARTICLE ONE – ADMINISTRATION</u></b>	
230.100 Short Title	1-1
230.101 Purpose and Intent	1-1
230.102 Code of Ordinances	1-2
230.103 Amendments	1-2
230.104 Amendment of Ordinance or Map	1-3
230.105 Conditional Rezoning	1-3
230.106 Public Notice	1-7
230.107 Zoning Board of Appeals	1-8
230.108 Planning Commission	1-12
230.109 Zoning Administrator	1-12
230.110 Zoning Compliance Permit	1-12
230.111 Stop Work or Stop Use Order	1-13
230.112 Violations Nuisance Per Se	1-15
230.113 Municipal Civil Infractions	1-15
<b><u>ARTICLE TWO – DEFINITIONS</u></b>	
230.200 Rules of Construction	2-1
230.201 Defined Terms	2-1
230.201.01 “A”	2-1
230.201.02 “B”	2-4
230.201.03 “C”	2-5
230.201.04 “D”	2-6
230.201.05 “E”	2-7
230.201.06 “F”	2-8
230.201.07 “G”	2-9
230.201.08 “H”	2-10
230.201.09 “I”	2-11
230.201.10 “J”	2-11

230.201.11 "K"	2-11
230.201.12 "L"	2-11
230.201.13 "M"	2-13
230.201.14 "N"	2-14
230.201.15 "O"	2-15
230.201.16 "P"	2-15
230.201.17 "Q"	2-17
230.201.18 "R"	2-17
230.201.19 "S"	2-18
230.201.20 "T"	2-24
230.201.21 "U"	2-25
230.201.22 "V"	2-25
230.201.23 "W"	2-25
230.201.24 "X"	2-26
230.201.25 "Y"	2-26
230.201.26 "Z"	2-27

### ARTICLE THREE – GENERAL PROVISIONS

230.300 Purpose	3-1
230.301 Scope	3-1
230.302 Uses, Spatial and Physical Requirements	3-1
230.303 Access to Public Streets	3-3
230.304 Accessory Buildings and Structures	3-3
230.305 Accessory Dwellings	3-7
230.306 Accessory Uses	3-7
230.307 Attached Garages	3-8
230.308 Clear Visibility at Corners	3-9
230.309 Reserved	
230.310 Drainage and Stormwater	3-9
230.311 Driveways and Curb Cuts	3-9
230.312 Dwellings Standards	3-12
230.313 Essential Services and Township Facilities	3-13

230.314 Fences	3-13
230.315 Floor Area	3-14
230.316 General Review Standards	3-15
230.317 Height Requirements and Measurements	3-16
230.318 Reserved	
230.319 Lot Use and Division	3-17
230.320 Reserved	
230.321 Nonconformities	3-17
230.322 Open Space Preservation	3-20
230.323 Outdoor Storage	3-22
230.324 Performance Guarantee for Compliance	3-23
230.325 Performance Standards	3-24
230.326 Permit Required/Certificate of Occupancy	3-24
230.327 Principal Building on a Lot	3-25
230.328 Refuse and Dumpsters	3-25
230.329 Reserved	
230.330 Setbacks on Major Streets	3-25
230.331 Structures Projecting Into Setbacks	3-25
230.332 Reserved	
230.333 Reserved	
230.334 Temporary Dwellings	3-26
230.335 Reserved	
230.336 Reserved	
230.337 Unclassified Uses	3-26
230.338 Voting Place	3-26
230.339 Water and Sewer Availability	3-27
230.340 Waterfront Access	3-27

#### ARTICLE FOUR - DISTRICT STANDARDS

230.400 Zoning Districts and Map	4-1
230.401 Official Zoning Map	4-1
230.402 Summary Tables	4-2

230.402 (A) Schedule of Uses	4-4
230.402 (B) Table of Dimensions	4-7
230.402 (C) Zoning Map	4-9
230.403 AG-Agricultural District	
230.403.01 Intent	4-11
230.403.02 District Standards	4-11
230.404 LD-Low Density District	
230.404.01 Intent	4-13
230.404.02 District Standards	4-13
230.405 CR-Community Residential District	
230.405.01 Intent	4-15
230.405.02 District Standards	4-15
230.406 HD-High Density District	
230.406.01 Intent	4-18
230.406.02 District Standards	4-18
230.407 MH-Manufactured Housing Community District	
230.407.01 Intent	4-20
230.407.02 District Standards	4-20
230.408 NRD-Neighborhood Residential District	
230.408.01 Intent	4-22
230.408.02 District Standards	4-22
230.409 CMU-Commercial Mixed Use District	
230.409.01 Intent	4-25
230.409.02 District Standards	4-25
230.410 HC-Highway Commercial District	
230.410.01 Intent	4-27
230.410.02 District Standards	4-27
230.411 LI-Light Industrial District	
230.411.01 Intent	4-29
230.411.02 District Standards	4-29
230.412 HI Heavy Industrial District	
230.412.01 Intent	4-31

230.412.02 District Standards	4-31
230.413 Planned Unit Development	4-33
230.413.01 Intent	4-33
230.413.02 Qualifying Conditions	4-33
230.413.03 Development Requirements	4-33
230.413.04 Application and Processing Procedures	4-36
230.413.05 Standards for Rezoning Approval	4-38
230.413.06 Township Board Rezoning Approval and PUD Basic Site Plan Approval	4-39
230.413.07 Planning Commission Review of Detailed Site Plan	4-39
230.413.08 Approval Process for PUD Detailed Site Plan	4-41
230.413.09 Performance Guarantee	4-41
230.413.10 Amendments	4-41
230.413.11 Scheduling Construction	4-41
230.413.12 Fees	4-42

## ARTICLE FIVE – PRIVATE ROADS

230.500 Purpose	5-1
230.501 Scope	5-1
230.502 General Provisions for Private Roads	5-1
230.500 Private Road Construction Specifications	5-3
230.501 Private Road Maintenance Specifications	5-3
230.502 Driveway Locations	5-3
230.503 Other Requirements	5-3
230.504 Application Required	5-3
230.505 Application Procedure	5-6
230.506 Road Construction	5-7
230.507 Consideration of Request to Deviate	5-8
230.508 Township Engineer Recommendation	5-8
230.509 Final Approval by Township Board	5-8
230.510 Permit Issued	5-9

**ARTICLE SIX – LANDSCAPING**

230.600 Minimum Landscape Requirements	6-1
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**ARTICLE SEVEN – PARKING, LIGHTING AND SCREENING**

230.700 Parking	7-1
230.701 Outdoor Lighting Requirements	7-5
230.702 Mechanical Screening Requirements	7-6
230.703 Modification of Requirements	7-6

**ARTICLE EIGHT – STANDARDS AND REQUIREMENTS FOR SIGNS**

230.800 Purpose and Intent	8-1
230.801 Signs – General Provisions	8-1
230.802 Exempt Signs	8-3
280.803 Prohibited Signs	8-4
280.804 Permitted Signs	8-5
280.805 Permit Process	8-9
280.803 Standards for Certain Signs	8-10
280.804 Non-Conforming Signs	8-11

**ARTICLE NINE – SPECIAL LAND USES**

230.900 Special Uses	9-1
230.901 Special Use Procedures	9-1
230.902 Special Use Review Standards	9-4
230.900 Reserved	
230.901 Accessory Uses, Related to Permitted Special Uses	9-6
230.902 Reserved	
230.903 Reserved	
230.907 Reserved	
230.908 Automobile Repair Facility	9-7
230.909 Automobile Sales Facility	9-7
230.910 Bed and Breakfast	9-8
230.908 Reserved	

230.909 Car Wash	9-9
230.910 Cemetery	9-10
230.911 Reserved	
230.912 Contractor's Facility	9-11
230.913 Reserved	
230.914 Convenience Store with Fuel Pumps	9-11
230.915 Convenience Store without Fuel Pumps	9-12
230.916 Reserved	
230.917 Day Care, Commercial	9-12
230.918 Day Care, Group	9-13
230.919 Reserved	
230.920 Reserved	
230.921 Reserved	
230.922 Eating and Drinking Establishment	9-14
230.923 Reserved	
230.924 Educational Facility	9-14
230.925 Reserved	
230.926 Reserved	
230.927 Gasoline Station	9-15
230.928 Reserved	
230.929 Greenhouse or Nursery	9-16
230.930 Hospital	9-16
230.931 Hotel	9-17
230.932 Reserved	
230.933 Junkyard	9-17
230.934 Laundry and Dry Cleaning Plant	9-18
230.935 Reserved	
230.936 Mini/Self-storage Facility	9-18
230.937 Mine, Sand and Gravel	9-19
230.942 Reserved	
230.943 Mixed Use Development	9-21
230.944 Mortuary/Funeral Home	9-23

230.942 Reserved	
230.943 Reserved	
230.944 Nursing Home/Convalescent Home/Assisted Living	9-24
230.945 Outdoor Sales Facility	9-24
230.946 Reserved	
230.947 Power Generating Facility	9-25
230.948 Reserved	
230.949 Recreation Area, Private	9-27
230.950 Residential Above Retail or Office	9-28
230.951 Sexually Oriented Business	9-28
230.952 Sports and Recreation Club	9-30
230.953 Stable, Riding	9-30
230.954 Tattoo or Piercing Parlor	9-31
230.955 Reserved	
230.956 Uses Similar to uses Permitted and Special Land Uses	9-31
230.957 Reserved	
230.958 Veterinary Clinic/Kennel	9-32
230.959 Warehouse, Public	9-32
230.960 Wells, Extraction	9-33
230.961 Wind Energy Conversion System	9-34

#### ARTICLE TEN – SITE PLAN REVIEW

230.1000 Site Plan Process	10-1
230.1001 Optional Sketch Plan Review	10-1
230.1002 Application Procedure	10-2
230.1003 Action on Application and Site Plans	10-11
230.1004 Review Criteria	10-12
230.1005 Conformity to Approved Site Plans	10-14
230.1006 Term of Approval of the Site Plan	10-14
230.1007 Amendment to the Site Plan	10-14
230.1008 Appeals	10-15

**ARTICLE ELEVEN – HOME OCCUPATIONS AND HOME BASED BUSINESSES**

230.1100 Purpose	11-1
230.1101 Registration Required	11-1
230.1102 Performance Standards	11-1
230.1103 Revocation of Permit	11-2

**ARTICLE TWELVE – ENVIRONMENTALLY SENSITIVE OVERLAY**

230.1200 Purpose	12-1
230.1201 Permitted Uses	12-1
230.1202 Tree Removal and/or Removal of Vegetative Cover	12-1
230.1203 Removal of Soil	12-2
230.1204 Storm Water Run-off and Drainage	12-2
230.1205 Review Procedures	12-2



## **LINCOLN CHARTER TOWNSHIP ZONING ORDINANCE**

The Charter Township of Lincoln Ordains:

An ordinance to establish zoning districts and regulations governing Lincoln Charter Township, Berrien County, State of Michigan in accordance with the provisions of the Zoning Enabling Act, being Act 110 of the Public Acts of Michigan of 2006 (hereinafter referred to as the "Zoning Enabling Act"); to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

### **ARTICLE I**

#### **TITLE, PURPOSE AND INTENT**

##### **230.100**

##### **SHORT TITLE**

This Ordinance shall be known and may be cited as the "Lincoln Charter Township Zoning Ordinance" and will be referred to hereinafter as this "Ordinance."

##### **230.101**

##### **PURPOSE AND INTENT**

The fundamental purposes of this Ordinance are:

- A. To promote and protect the public health, safety, and general welfare;
- B. To encourage the use of lands and natural resources in accordance with their character and adaptability;
- C. To implement the goals, objectives, and future land use recommendations of the Township's 2007 Development Plan (Master Plan) and to regulate the intensity of land use and parcel areas in a manner compatible with said Plan;
- D. To determine the area of open spaces surrounding buildings and structures necessary to provide adequate light, scenic views and air and to protect the public health;
- E. To protect the character and stability of the recreational, agricultural, residential, commercial and industrial areas within Lincoln Charter Township and promote the orderly and beneficial development of the Township;
- F. To lessen and avoid congestion on the public highways and streets;
- G. To provide for the needs of recreation, housing, commerce, and industry in future growth;

- H. To promote healthful surroundings for family life in residential areas;
- I. To set reasonable standards to which buildings and structures shall conform;
- J. To provide for reasonable uses, buildings, and structures which are compatible with the character of development or the uses, buildings, or structures permitted within specified Districts and to provide for sanitary, safe and protective measures that shall be required for such structures;
- K. To prevent such additions, alterations or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
- L. To reduce the risk of fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards to life and property;
- M. To prevent improper uses of land and the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each District;
- N. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
- O. To create an Appeals Board and to define the powers and duties thereof;
- P. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
- Q. To provide for the payment of fees for zoning permits and escrow accounts to support the expense of administration and proper review of applications for zoning permits;
- R. To provide penalties for the violation of this Ordinance;
- S. To provide safety in traffic and vehicular parking;
- T. To accomplish any other purposes contained in the Zoning Enabling Act.

**230.102**

**CODE OF ORDINANCES**

This Ordinance shall be codified in the Lincoln Charter Township Compilation of Ordinances as Part Two Hundred Thirty.

**230.103**

**AMENDMENTS**

Any person affected by this Ordinance may submit a petition in writing to the Zoning Administrator requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition.

**230.104**

**AMENDMENT OF ORDINANCE OR MAP**

- A. Any interested person may request, and the Township may approve or disapprove, an amendment to this Ordinance and/or zoning map.
- B. Application Procedure.
  - 1. An amendment to the text of the Ordinance shall be submitted in writing for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act. A description of the request, reference to the text proposed for amendment, proposed new text, as well as justification for the request shall be included in the petition.
  - 2. An amendment to the zoning map shall be submitted in writing for consideration by the Planning Commission and Township Board in accordance with the Zoning Enabling Act. A description of the request, map of the location of the subject property or properties, description of existing and proposed zoning, as well as justification for the request shall be included in the petition.
- C. Standards for Approval.

When reviewing an amendment request, the Township may consider, but shall not be limited to; future land use recommendations in the 2007 Development Plan, as amended; goals and objectives in the 2007 Development Plan, as amended; the availability and capacity of utilities; changed community conditions; ability of property to be used as zoned; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents,
- D. Notice. Public notice of an amendment to the zoning ordinance shall follow the process set forth in Section 230.106.

**230.105**

**CONDITIONAL REZONING**

It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with PA 110 of 2006, as amended by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

- A. Any interested property owner may voluntarily offer in writing, and the Township may approve, certain uses and/or development of the land or other activities as a condition to a rezoning of the land, as set forth herein.

**B. Application Procedure.**

1. If the applicant wishes to submit an offer of conditions or restrictions along with a petition to rezone land, the applicant shall do so in writing. The offer of conditions or restrictions shall be received with the application to rezone the land.
2. The applicant may request a pre-application meeting, in which the Zoning Administrator and other Township officials may identify concerns reasonably related to the rezoning request. The Township shall not require the applicant to offer conditions or restrictions as a prerequisite for rezoning nor shall the presentation of an offer of conditions or restrictions create any obligation on the part of the Township to rezone any land.
3. The Township shall not add to, alter, or augment the offer of conditions or restrictions.
4. If an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Township time to consider the offer; and if an offer of conditions is proposed at a Township Board meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
5. The Planning Commission or Township Board may table a request to give residents of the Lincoln Charter Township more time to fully understand the offer of conditions.
6. The offer of conditions may not purport to authorize uses or developments not permitted in the requested zoning district.
7. The applicant's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
8. Any use or development proposed as part of an offer of conditions that requires a special use permit, variance, and/or site plan approval under the terms of this Ordinance shall also comply with such other applicable provisions or regulations.

**C. Standards of Approval for Conditional Rezoning.**

1. When reviewing a rezoning request and an offer of conditions, the Township may consider, but shall not be limited to; future land use recommendations in the 2007 Development Plan, as amended; goals and objectives in the 2007 Development Plan, as amended; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents,
2. Offers of conditions shall not be approved if such conditions violate or cause a violation of this Ordinance or other regulations or ordinances promulgated by, or applicable in, Lincoln Charter Township.

3. When considering an offer of conditions, the Township Board may determine whether the conditions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

**D. Expiration of Agreement, Reversion and Extensions.**

1. In approving the conditions, the Township Board may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, as set forth in subparagraph 4 hereof.
2. Neither the applicant nor the Township Board shall add to or alter the approved conditions during the time period specified in subparagraph 1.
3. The time period specified in subparagraph 1 may be extended upon the request of the applicant and with the approval of the Township Board.
  - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being sought.
  - b. Upon recommendation of the Planning Commission, the Township Board may extend the time period specified under subparagraph 1. In the event such request is approved, if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, as set forth in subparagraph 4.
4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall determine whether the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and shall recommend to the Township Board whether to rezone the land back to its former zoning classification. The Township Board shall make a decision as to the rezoning of the property.

**E. Coordination and Performance Bonds.**

1. Where proposed conditions involve public improvements, the applicant shall submit the following to the Township Board prior to final approval of the rezoning and offer of conditions:
  - a. A construction schedule.
  - b. Costs and obligations.

- c. Responsible parties for obtaining permits.
- d. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
- e. The Township Board may require a performance bond or similar financial guarantee in a form approved by the Township Attorney, as part of the agreement or approval.

**F. Recording.**

- 1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- 2. The Statement of Conditions shall:
  - a. Be in a form acceptable to the Township Attorney and recordable with the Register of Deeds of Berrien County in which the subject land is located.
  - b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successive owners of the land.
  - d. Incorporate, by attachment, any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions.
  - e. Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- 3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

**G. Amendment of Conditions.**

The Statement of Conditions may be amended thereafter in the same manner as was prescribed for in the original rezoning and statement of conditions.

**H. Failure to Offer Conditions.** The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**230.106**

**PUBLIC NOTICE**

All applications for development approval, amendments, variances or other deliberations requiring a public hearing under the terms of this Ordinance shall comply with the Zoning Enabling Act, and the other provisions of this Section with regard to public notification.

- A.** When the provisions of this Ordinance or the Zoning Enabling Act require notice to be published, the Zoning Administrator shall cause such notice to be prepared and published in accordance therewith.
- B.** All such notices for public hearings shall include:
  - 1. A description of the nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  - 2. An identification of the property that is the subject of the hearing.
  - 3. An indication of when and where the request will be considered.
  - 4. An indication of when and where written comments will be received concerning the request.
- C.** Unless otherwise provided in the Zoning Enabling Act, or this Ordinance, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned development, variance, appeal, or ordinance interpretation, shall be provided as follow:
  - 1. Publication shall occur not less than fifteen (15), nor more than forty-five (45) days before the date the application or other matter will be considered.
  - 2. Personal Notice by mail or delivery to the persons identified in subparagraph D, 1, 2 and 3, hereof shall occur not less than fifteen (15), nor more than forty-five (45) days before the date the application or other matter will be considered.
- D.** If the hearing involves a request for an interpretation of the Zoning Ordinance by the Zoning Board of Appeals, an appeal of an administrative decision by the Zoning Board of Appeals, or consideration of a zoning map change involving ten or fewer adjacent properties, in addition to publication of the notice as required, notice shall be provided by mail or personal delivery to:
  - 1. The owner(s) of record of the property for which approval is being considered and/or to the person(s) requesting the interpretation or appealing the decision, as applicable; and
  - 2. The owners of record of real property located within three hundred (300) feet of the property, regardless of whether the property is located within the Lincoln Charter Township; and
  - 3. The occupant(s) of all structures within three hundred (300) feet of the property, regardless of whether the occupant(s) are located within the Township. If the name of said occupant(s) is not known, the notice may be addressed to "occupant." If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

E. Once the application has been set for public hearing, the applicant shall request from the Township a notification sign announcing the date, time, place, and manner of a public hearing. A sign shall be provided by the Township and posted by the Applicant along all street frontages of the subject site. The applicant shall install the notification sign(s) in a location not more than twenty (20) feet from any property line no fewer than seven (7) days prior to the public hearing.

**230.107 ZONING BOARD OF APPEALS**

A. Creation and Membership. The Lincoln Charter Township Zoning Board of Appeals previously established is hereby continued as the Zoning Board of Appeals (hereinafter called the "ZBA"), which shall perform its duties and exercise its powers as provided in the Zoning Enabling Act, and in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. The ZBA shall be composed of the seven following members:

1. The first member of the ZBA shall be a member of the Township Planning Commission appointed by the Township Board of Trustees.
2. The remaining six members of the ZBA appointed by the Township Board of Trustees. Such members shall be electors of the Township residing in the unincorporated area of the Township, representative of the population distribution and of the various interests present in the Township.
3. No more than one member of the ZBA may be a member of the Township Board of Trustees.
4. An elected officer of the Township shall not serve as chairman of the ZBA. An employee or contractor of the Township board of trustees may not serve as a member or an employee of the Township ZBA, with the exception that the recorder, a non-voting clerical position of the ZBA may be an employee of the Township.
5. The term of office for each member shall be three years. Terms shall be staggered so that three members are appointed to three-year terms commencing on April 1, 1999, two members appointed to two-year terms commencing on April 1, 1999, and two members appointed to a one-year term commencing on April 1, 1999. Subsequent appointments and reappointments are for three-year terms. Provided, however, that the members of the Zoning Board of Appeals duly holding office at the time of the adoption of this Ordinance shall remain in office through the completion of their terms of office.
6. The officers of the ZBA shall consist of a chairman, vice-chairman and secretary to serve for a period of one year, or until successors are elected. Such officers shall be elected by a majority of the ZBA at its April meeting. Such meeting shall be conducted for the purposes of organization whether or not there are other items of business to be brought before the ZBA.

7. The Township Board may appoint up to two alternate members for the same terms as the regular members. An alternate may be called to serve as a regular member in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member.
8. A member of the ZBA who is also a member of the Planning Commission or Township Board of Trustees shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board of Trustees. However, the member of the ZBA may consider and vote on other unrelated matters involving the same property.

**B. Removal.** Members of ZBA shall be removable by the Township Board of Trustees for nonperformance of duty or misconduct in office upon written charges and after public hearing.

**C. Meetings and Records.** Meetings of the ZBA shall be held at the call of the chairman and at such other times as the board in rules of procedure may specify. All hearings conducted by such board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The record of the proceedings of the board shall be filed in the office of the Township clerk and shall be a public record. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

1. **Fees.** The Township Board of Trustees may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the board. Each appeal or application shall be accompanied by the fees and shall be deposited by the zoning administrator with the Township treasurer.
2. **Jurisdiction.** The ZBA shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this Ordinance but does have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this section and laws of the State of Michigan. Such powers include:
  - a. **Administrative review.** To hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
  - b. **Variance, Basic Conditions.** To authorize, upon application, a variance from the strict application of the provisions of this Ordinance where the ZBA finds all of the following criteria are met:

- 1) Basic Conditions: The ZBA shall find that a variance request meets all of the following conditions.
  - (a) The requested variance shall not be contrary to the public interest or to the intent and purpose of this Ordinance.
  - (b) The requested variance shall not permit the establishment within a district of any use which is not permitted by right within that zone district, or any use or dimensional variance for which a special land use permit is required.
  - (c) The requested variance shall not cause a substantial adverse effect upon properties in the immediate vicinity or in the district in which the property is located.
  - (d) The conditions or situations which necessitate the requested variance are not so general or of such recurrent nature as to make the formulation of a general regulation for such conditions reasonably practical.
  - (e) The requested variance shall not be necessitated by any self-created condition or action taken by the applicant or property owner.
  - (f) There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
- 2) Special Conditions: When all of the foregoing basic conditions can be satisfied, a variance may be granted when any one of the following special conditions can be clearly demonstrated:
  - (a) Where there are practical difficulties which prevent full compliance with the requirements of this Ordinance. Such practical difficulties shall be evaluated in terms of the use of a particular parcel of land. Neither the fact that the appellant could: (i) incur additional costs to achieve full compliance, or (ii) receive additional income with less than full compliance shall be determined a practical difficulty for the purposes of this paragraph.
  - (b) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district.
  - (c) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- 3) In granting a variance, the ZBA shall state the grounds upon which it justifies the granting of a variance.

c. Consideration of Variance. In consideration of all requests and all proposed variations from the terms and requirements of this Ordinance, the ZBA shall, before making any variation from the ordinance in a specific case, first determine that the proposed

variation, or a lesser variance from the terms of this Ordinance, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or welfare of the inhabitants of the Township. The concurring vote of the majority of the members of the ZBA shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this Ordinance to render a decision.

- d. Notice. Upon receipt of a complete application the Zoning Administrator shall cause notices to be published and delivered in accordance with Section 230.106 of this Ordinance. The ZBA may recess a hearing from time to time, and, if the time and place of the continued hearing is publicly announced at the time of adjournment, no further notice shall be required. Applicants shall be represented during the hearing either in person or by agent.
3. Appeal. An appeal may be taken to the ZBA by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Zoning Administrator. Such appeal shall be taken by the Zoning Administrator as notice of appeal, specifying the grounds thereof.

The Zoning Administrator shall transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the board after notice of appeal has been filed with him that by reason of fact stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

The ZBA shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

- D. Time Limit on Variances. Any variance or exception granted by the ZBA shall automatically become null and void after a period of 12 months from the date granted unless the applicant shall have taken substantial steps towards effecting the variance within said period; provided, however, that the ZBA may extend such period for a further period of time up to one year upon application without further notice.
- E. Appeals. The decision of the ZBA shall be final; however, a party aggrieved by the decision of the Zoning Board of Appeals may appeal to a court of competent jurisdiction, to the extent and in the manner permitted by law. An appeal from a decision of the ZBA shall be filed within thirty (30) days after the ZBA issues its decision in writing signed by the chairperson, or within twenty-one (21) days after the ZBA approves the minutes of its decision.

**230.108        PLANNING COMMISSION**

- A. The Lincoln Charter Township Planning Commission previously established is hereby continued as the Planning Commission and shall be composed of not less than five (5) nor more than nine (9) members pursuant to the provisions of the Act 168 of the Public Acts of Michigan of 1959 as amended (hereinafter referred to as the "Township Planning Act"). The members of the Planning Commission duly holding office at the time of the adoption of this Ordinance shall remain in office through the completion of their terms of office.
- B. The Township Board, by ordinance number 651 adopted on March 9, 1965, has transferred all powers and duties of a Zoning Board to the Planning Commission, as outlined in the Zoning Enabling Act, and as permitted in Section 11 of the Township Planning Act.
- C. The Township Planning Commission may adopt rules, bylaws and regulations to govern its activities under the terms of this Ordinance. Such rules, bylaws and regulations may be in the Township Code or as policy statements or resolutions on file with the Township Clerk.

**230.109        ZONING ADMINISTRATOR**

It shall be the duty of the Zoning Administrator, appointed by, and on such terms determined from time-to-time by the Township Board, to administer this Ordinance and to enforce the provisions contained herein.

**230.110        ZONING COMPLIANCE PERMIT**

The Zoning Administrator shall be empowered to issue permits for conforming land uses, act as inspector to determine compliance with this Ordinance, maintain regular office hours, keep a file record of all permits, and prepare summary reports for the Township Board and Planning Commission at reasonable times or when requested. No zoning compliance permit shall be issued until an appropriate site plan is presented, and required conditions are met, and the plan is signed by the Zoning Administrator indicating approval. A zoning compliance permit shall be issued before any construction or authorized use shall commence.

- A. It shall be unlawful to change the type of use of land, or type of occupancy of any building, or to extend any use on any lot on which there is a nonconforming use until the Zoning Administrator has issued a zoning compliance permit.
- B. All zoning compliance permit applications shall be made in writing to the Zoning Administrator on forms provided for that purpose. A record of all such applications shall be kept on file by the Township in compliance with the Township record retention policy. Any zoning compliance permit issued under the provisions of this Ordinance shall be valid only for a period of one (1) year following the date of issuance thereof and shall be posted during said time on any existing building or lot and in such a manner as to be visible from the highway for inspection.

- C. When the Zoning Administrator receives an application for a zoning compliance permit which requires action by the ZBA or the Planning Commission, such application, along with all supporting information, shall be forwarded by the Zoning Administrator to the ZBA or the Planning Commission.
- D. If any application for such permit is not approved, the Zoning Administrator shall state in writing the cause for such disapproval and deliver a copy to the applicant.
- E. The Zoning Administrator may, prior to or after issuance of a zoning compliance permit, require:
  1. The applicant to provide proof of ownership, including an abstract, deed, title insurance commitment, a title history, or such other proof of ownership as reasonably required by the Township Attorney;
  2. A registered survey, if the proposed structure may or does violate the Zoning Ordinance, including staking for side lot, high water mark and of the proposed site for the building or addition.
- F. The development or usage to which a zoning compliance permit pertains shall be subject to inspection by the Zoning Administrator after trenches are dug and prior to footing construction. Where a permit is issued for a use where a structure is not being constructed, an inspection shall be made prior to occupancy. The permit holder shall be responsible to notify the Zoning Administrator with not less than two (2) days notice regarding the time that the development/construction will be ready for inspection. Failure of the permit holder to make proper notification for inspection may result in a stop work order and the zoning compliance permit shall be suspended pending compliance with all provisions of this Ordinance.
- G. The applicant shall bear the entire responsibility to provide the Zoning Administrator with all necessary supporting documentation required pursuant to the Ordinance including the applicants' and owners' address and telephone number, the address of the property proposed for development, a legal description of the property to be developed and the parcel's Township tax number.
- H. Fees for zoning compliance permits and inspections shall be established by the Township Board.
- I. The Zoning Administrator shall not issue a zoning compliance permit for any proposed land use unless and until the road to serve the proposed land use has been constructed and approved either as a public road or as a private road pursuant to the **Article 5, Private Roads**.

### **230.111 STOP WORK OR STOP USE ORDER**

In addition to any other rights or remedies the Township may have pursuant to this article or other applicable law, upon finding the existence of any one of the conditions listed in paragraph 1 of this section, the Zoning Administrator shall be empowered to issue stop work or stop use orders as defined herein and in accord with the terms of this section and may order a stoppage of work or a cessation of a land use.

1. A stop work or stop use order will be issued when:
  - a. An imminent threat to the public health, safety or welfare exists
  - b. Work is being done or has been done without a permit
  - c. Work is being done beyond the scope of the issued permit
  - d. Work being done does not match approved plans
  - e. The Zoning Administrator finds evidence of a violation of any ordinance, code, state or federal law or any other applicable law or legal requirement.
  - f. The Zoning Administrator finds evidence of a Permittee's failure to comply with any of the terms, conditions and/or requirements of its permit.
  - g. The Zoning Administrator finds evidence of a land use, other than a legal nonconforming use, being conducted in violation of this Ordinance.
  - h. A Permittee's fails to pay any fees required by this article and/or any other applicable ordinances, codes, statutes or laws.
  - i. The Zoning Administrator finds evidence a Permittee is causing, allowing and/or maintaining a nuisance as determined by the Township.
2. Procedure.

In the event a stop work or stop use order is issued, the Zoning Administrator shall do the following:

- a. Mail or deliver a written notice of the stop work order to the permittee at the last address furnished to the Township by permittee, as well as the location of the site which is in violation. Notice shall include:
  - 1) Detailed description of the nature of the violation and required actions to remedy the violation.
  - 2) Date and time of recorded violation.
  - 3) A statement informing the permittee that an appeal to the stop work order may be filed and a hearing with the Zoning Board of Appeals on the matter may be requested, at which time the permittee may present witnesses, evidence, information and arguments on its behalf, and that the permittee has the right to be represented by counsel.
- b. A hearing shall be scheduled no sooner than ten (10) days after a request is received by the Township from the permittee.
- c. At the hearing the permittee shall be given an opportunity to be represented by counsel and to present witnesses, evidence, information and arguments. Other interested persons shall also be permitted to attend the hearing and may present evidence, information and comments on the matters addressed at the hearing.
- d. Following the hearing, the Zoning Board of Appeals shall make a decision to continue, modify or dissolve a stop work order and/or revoke a permit, as applicable. In the event the Zoning Board of Appeals decides to revoke a permit or to continue or modify a stop work

use order, the Zoning Board of Appeals Board shall state the reasons for its decision on the record and shall mail or deliver written notice of its decision and reasons to the permittee.

**230.112 VIOLATIONS NUISANCE PER SE**

Uses of land, dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed, or converted in violation of any provision of this Ordinance or regulations adopted under the authority of this Ordinance, are hereby declared to be a nuisance per se.

**230.113 MUNICIPAL CIVIL INFRACTIONS**

- A. Upon a finding by the Zoning Administrator that any of the provisions of this ordinance are being violated, a notice of the violation shall be sent to the person responsible, indicating the nature of the violation and ordering the action necessary for correction. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures or of illegal addition, alterations, or structural changes; discontinuance of any illegal work being done; and shall take any other action authorized by this Ordinance or general law to ensure compliance with or to prevent violation of the provisions of this ordinance.
- B. Unless otherwise specifically provided, the violation of any provision, section, rule or regulation or order adopted or issued in pursuance thereof, of this Zoning Ordinance, shall be a municipal civil infraction.
  1. **Penalty.** A municipal civil infraction shall be punished by a fine of not less than fifty dollars (\$50.00) or more than twenty-five hundred dollars (\$2,500.00) and the costs of prosecution including legal fees.
  2. **Separate Offense.** Each act of violation and every day during which a violation continues shall be deemed a separate offense.
  3. **Additional Penalties.** The penalty provided by this section shall be in addition to the abatement of the violating condition, any injunctive relief or revocation or any permit or license provided pursuant to this, or any other ordinance of the Township.
  4. **Compliance Required.** The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance.
  5. **Relief.** The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.



## **ARTICLE 2**

### **DEFINITIONS**

#### **230.200      RULES OF CONSTRUCTION**

For the purpose of this Ordinance, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section. Unless the context clearly indicates to the contrary:

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural; and words used in the plural number include the singular.
- C. The word "herein" means this Ordinance.
- D. The word "regulation" means the regulations of this Ordinance.
- E. The words "this Ordinance" shall mean "the ordinance illustrations, text, tables, maps and schedules included herein, as enacted and subsequently amended."
- F. The term "shall" is always mandatory.
- G. Lists of examples prefaced by "including the following, "such as," or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar examples which are not expressly mentioned.
- H. The term "building", "structure," "premises" or any similar term, shall be interpreted to include any part of the building, structure, premises or other similar term unless otherwise stated.
- I. The "Township" is Lincoln Charter Township Berrien County, Michigan. "Township Board," "Zoning Board of Appeals," and "Planning Commission" are respectively the Township Board, Zoning Board of Appeals, and Planning Commission of Lincoln Charter Township.

#### **230.201      DEFINED TERMS**

For the purpose of this Ordinance, the following terms shall take the meaning set forth in this Article. Terms not expressly defined shall be given their customary meaning from common parlance.

##### **230. 201.01    "A"**

Abutting: See Contiguous.

Accent Tree: A flowering tree whose primary purpose is to be ornamental.

Access: A way or means of approach to provide vehicular or pedestrian physical entrance to a property or place.

Accessory Building: A separate building devoted to use as accessory to the principal use of the premises.

Accessory Structure: A structure which is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include, but are not limited to, the following: storage structures, parking lots, loading docks, radio and television antennas, or any part thereof; but shall not include fences and hunting blinds which are clearly not permanent and are easily removed. Under no circumstances shall a septic system and tile field be considered an accessory structure.

Accessory Use or Accessory: A use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot as, the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

1. Residential accommodations for servants and/or caretakers and garages for private vehicles;
2. Swimming pools and tennis courts for the use of the occupants of a residence, or their guests;
3. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure;
4. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building and has no exterior signs or displays;
5. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations;
6. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations;
7. Uses clearly incidental to a main use such as but not limited to: offices of an industrial or commercial complex located on the site of the commercial or industrial complex;
8. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located;
9. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

Adjoining: See Contiguous.

Adult Foster Care: A governmental or non-governmental building having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

1. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of Michigan of 1978, as amended;
2. Hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of Michigan of 1974, as amended;
3. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of Michigan of 1939, as amended;

4. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of Michigan of 1973, as amended;
5. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
6. A veteran's facility created by Act 152 of the Public Acts of Michigan of 1885, as amended.

**Agricultural, Farming and Related Activities:** Agricultural and farming related activities may include horticulture, agricultural activities for general commercial purposes, such as field crops, truck farming, orchards, nurseries and greenhouses. The keeping and rising of livestock and poultry is also included as an agricultural activity.

**Agricultural-Related Retail Sales.** A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes the sales of goods produced on site and farm machinery repair services that are accessory to the principal use.

**Alley:** Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

**Alterations:** Any change, addition or modification in construction or type of use, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to therein as "altered" or "reconstructed."

**Apartment:** A suite of rooms in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

**Applicant:** Applicant means the person seeking Township approval.

**Architectural Element:** Eaves, decorative extensions, bay windows having no floor space, or other portions of a building having no living space nor key structural value.

**Attached:** Connected to by common vertical walls.

**Attic:** That part of a building that is immediately below and wholly or partly within the roof framing.

**Automobile Repair Facility:** An establishment engaged in the general mechanical repair, including overhaul and reconditioning of motor vehicles, engines, transmission and other mechanical repairs, including collision repair services, such as body, frame, or fender straightening and repair, overall painting and undercoating.

**Automobile Sales Facility:** The use of any building, land area, or other premise for the display and sale of new or pre-owned automobiles, including any vehicle preparation or repair work conducted as an accessory use.

**Awning or Canopy:** An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached.

**230.201.02 "B"**

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

Bed and Breakfast: Overnight accommodations and a morning meal, which is incidental to the principal use of a dwelling unit as a single-family unit, provided to transients for compensation, for a limited and definite time period.

Berm: A mound of continuous, undulating, serpentine earth covered with low-growing grasses, trees, and other planting materials designed to provide visual interest; to screen undesirable views and light; to separate incompatible uses; and, to decrease noise.

Block: The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the Township.

Bluff Line: The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front declining steeply on the lakeward side. Where there is no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.

Boulevard: A broad thoroughfare which contains a landscaped median comprised of turf, trees, shrubs and other landscape material.

Billboard: A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

Boarding House: A dwelling unit or part thereof in which, for compensation, lodging and more than one meal is provided.

Building: A combination of materials, whether portable or fixed, providing facility for shelter of a use or occupancy by persons, animals, or property.

Building Area: That portion of a parcel contained by the required front, rear and side yards and excluding any wetland, 100-year flood plain, critical dune, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property. Contour changes to create a buildable area are permissible only if not contrary to this Ordinance, or any other state or federal statute.

Building Department: The Building Department of the Lincoln Charter Township, Michigan.

Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations and minimum yard setbacks.

Building Footprint: The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

Building Height: The vertical distance from natural grade to the height of the highest roof surface.

Building Inspector: The individual designated by the Township to enforce the provisions of the building code.

Building Length: The distance along the longest axis of a building, measured from corner to corner.

Building Line: A line parallel to the street line touching that part of a building closest to the street.

### **230.201.03 "C"**

Car Wash: Any building or parcel or portions thereof used for washing automobiles.

Carport: See Temporary Storage Structure.

Canopy (deciduous) Tree: A tree that provides shade during the growing season and sheds leaves seasonally or at certain life cycle stages.

Cemetery: Any one (1) or a combination of more than one (1) of the following: a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.

Clear Sight Area: An unoccupied space extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way.

Club: An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Common Or Shared Drive: A commonly shared driveway way that connects or serves two or more properties.

Condominium: A building or group of buildings in which individual portions thereof are owned by, or offered for sale to separate entities with common elements owned jointly as prescribed in Act 229 of the Public Acts of Michigan of 1963, as amended.

Contiguous: Touching along any common boundary for at least 66 feet, except that common boundaries that lie within a private road, street, freeway, expressway, principal arterial, and minor arterial right-of-way, or lands contained within the legal boundaries of any municipality, shall not be considered contiguous.

Convalescent or Nursing Home: A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing and limited medical care.

Convenience Store: Any retail establishment offering for sale such items as prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

Critical Dune Area. A "geographic area designated in the 'Atlas of Critical Dune Areas' dated February, 1989, that was prepared by the Michigan Department of Natural Resources." Furthermore, the critical dune areas of this state are a unique, irreplaceable, and fragile resource that provides significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state and to its visitors. These critical dune areas are made up of several types of dune formations; some of the more stable dune formations may support some vegetation and animal life.

**230.201.04 "D"**

Day Care, Commercial (13+ clients): A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.

Day Care Facility (6 clients): A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Day Care, Group (7-12 clients): A private home in which more than seven (7) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Deck: A structure or platform supported by pillars or posts, either attached or unattached to a building, that is higher than seven (7) inches above grade at any portion of the structure or platform, and which does not contain walls.

Density: The number of dwellings per unit of land.

Development: The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure or building; any mining, excavation, landfills, or land disturbance; and any use or extension of the use of land.

Development Area: That portion of any lot, parcel, tract, or combination thereof that encompasses all phases of the total development proposal.

Dish Antenna: An earth based station whose purpose is to receive communications or signals from orbiting satellites or other signal energizing sources together with other equipment pertaining directly to the function of a dish antenna.

District: A part, zone, or geographic area within the Township within which certain zoning or development regulations apply.

Drive-Through Establishment or Facility: An establishment that by design, physical facilities, services or by packaging procedures encourages or permits some or all customers to receive services, obtain goods or be entertained while remaining in their vehicles.

Driveway: A private access providing a connection to a street

Driveway Curb-Cut: The opening along a curb line at which point vehicles may enter or leave the street.

Driveway, Shared or Common: A driveway serving two or more structures or off-street parking areas, which are located on individual lots.

Dry Cleaning and Laundry Establishment: A commercial establishment providing dry cleaning and laundry services on-site for businesses and residents, but which does not include a dry cleaning plant.

Duplex: See dwelling, two-unit

Dwelling: A building or portion thereof that is used exclusively for human habitation and which provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation.

Dwelling, Single Family: A building containing one (1) dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Two-Unit Attached: A building designed as a single structure containing two separate dwellings, housekeeping, cooking, and bathroom facilities for each sharing a common wall. For facilities with more than two dwelling units, see dwelling, townhouse.

Dwelling, Multi-Unit: A building which is a dwelling designed for or occupied by five or more families, with separate housekeeping, cooking, and bathroom facilities for each.

Dwelling, Site Built: A dwelling which is substantially or completely built, constructed, assembled or finished on the premises upon which it is intended to be located. For the purpose of this definition, site built shall include dwellings consisting of pre-cut materials or panelized wall, roof and floor sections when such sections require substantial or complete assembly and finishing on the premises, which it is intended to be located.

Dwelling, Townhouse or Townhome: A multiple single-family dwelling unit constructed in a group of three or four attached units in which each unit extends from the foundation to roof, with fire separation, and separate egress.

## **230.201.05 “E”**

Eating and Drinking Establishment: Retail establishments selling food and drink for consumption on the premises, including lunch counters, and refreshment stands selling prepared foods and drinks for immediate on-site consumption.

Easement: A grant of one or more property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Educational Facility: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

Employee: One employed by another for wages or salary.

Environmental Impact Statement: A analysis which evaluates the effects a proposed development or project, and other major actions, and alternatives to those developments, projects or actions, may

have on the environment and that inventories existing environmental conditions at the project site and the surrounding area, including air and water quality, water supply, hydrology, geology, soil type, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archaeology.

Erected: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

Essential Services: The erection, construction, alteration or maintenance by public utilities or Township departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or Township Departments for the general health, safety or welfare.

Excavation: Any breaking of ground, except common household gardening, ground care, and generally accepted agricultural practices.

Exception: Permission to depart from the use or design standards of this Zoning Ordinance provided an Exception is not a Variance.

Extend: Extend and its various forms shall mean to lengthen, expand or broaden the physical size of a building or structure.

Exotic Animal: Any species of animal, reptile, or bird that is not indigenous to the environs of Township and which is not in the judgment of the Zoning Administrator considered a farm animal or a pet and which may potentially be dangerous to humans if not properly managed.

Evergreen Tree: A cone-bearing tree whose foliage remains green and opaque through more than one (1) growing season.

## **230.201.06 “F”**

Family: A single individual or individuals, domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit housekeeping unit, but not including any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students, or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time.

Farm Animals or Livestock: Animals customarily kept by humans for the purpose of providing food, clothing or work, and which are customarily raised for profit, including but not limited to, equine, bovine, ovine, caprine, porcine, fowl, and bees.

Fence: A structure which is constructed vertically to the terrain, and consists of spaced vertical support posts to which have been affixed horizontal stability members and /or vertical fence materials which span the openings between the vertical support members

Fence, Obscuring: A fence that is 80% or more opaque.

Financial Institution: Commercial establishments such as banks, savings and loans, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

Flag Pole: A freestanding structure or a structure attached to a building or to the roof of a building and used for the sole purpose of displaying flags of political entities.

Floodplain: That area mapped by the National Flood Insurance Program having a flood elevation that has a one percent (1%) chance of being equaled or exceeded each year, and as determined by the Federal Emergency Management Agency.

Floor Area: The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls, or from the centerline of walls separating two (2) dwellings, and excluding areas of basements, unfinished attics, attached garages or carports, breezeways, and enclosed and unenclosed porches.

Floor Area, Usable: The sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls; including those areas used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers; and not including those areas which are used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities.

Footprint: See Building Footprint.

Forested areas. These are wooded areas, covered by trees of a minimum of 60 years' growth, underbrush, and other vegetation; they also support animal life, native to the particular type of growth found nearby. Forested areas maintain overall environmental health, provide watersheds and soils, improve water and air quality, buffer the noise and sights of civilization, and modify the climate and environment.

Frontage: That side of a lot abutting on a street where the main building entrance is located.

Funeral Home: *see Mortuary*

## **230.201.07 “G”**

Gallery or Museum: Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.

Gasoline Station: Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels, lubricants and similar products for motor vehicles.

Garage, Private: A accessory building or a portion of a main building with four wall sides and operation doors sufficient to completely enclose all openings, for the parking or temporary storage of automobiles, including light delivery or pickup motor vehicles, boats, etc. and general storage.

Golf Course: A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards and that may include a clubhouse, driving range, pro shop, shelter, and related accessory uses.

Governmental Offices: The official offices of any department, commission, independent agency, or officer, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, Township, authority, district, or other governmental unit.

Grade, Average: The finished average ground elevation along the perimeter of the building.

Grade, Finished: The final elevation of the ground level after development.

Grade, Natural: The elevation of the ground level in its natural state, before construction, development, filling, or excavation.

Greenbelt: A landscape area or lawn panel in which live plantings are placed for aesthetic purposes and not for the purpose of screening and which may include an earth berm, as defined in this Zoning Ordinance.

Greenhouse or Nursery: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

## **230.201.08 "H"**

Hazardous Substances: One or more of the following:

1. A chemical, toxic substance or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
2. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.
3. "Hazardous waste" as defined in Article 2, Chapter 3, Part 111 of P.A. 451 of 1994, as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.
4. "Petroleum" as defined in Article 2, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.

Hardy Plants: Plants capable of withstanding wintry and other adverse conditions.

Height: See Building Height.

Hobby: An activity carried out by a person primarily for pleasure and self-entertainment.

Home Occupation: Home occupation shall mean an accessory use of a dwelling unit or accessory building for gainful employment by the resident(s) thereof, involving the provision of hand crafted goods and/or professional services.

Home-based Business: Home-based business shall mean a business that uses the home as the base of operations which will typically involve the storage of some equipment and/or a commercial vehicle(s) where most, if not all, work is completed offsite.

Hospital or Clinic: A facility providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the hospital facility.

Hotel: A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

**230.201.09 “I”**

Impervious Surface: Any material that prevents the absorption of stormwater into the ground, including asphalt and concrete.

Intersection: The location where two or more roadways or a roadway and a driveway cross at grade without a bridge.

**230.201.10 “J”**

Junkyard: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk.

**230.201.11 “K”**

Kennel: Any lot or premise on which six (6) or more domesticated animals or other household pets are either permanently or temporarily boarded or bred for profit.

Keyhole Development: Keyhole development (also known as “funnel” development) is the use of a waterfront lot as common open space for waterfront access for a larger development located away from the waterfront.

**230.201.12 “L”**

Laundry and Dry Cleaning Establishment: A service business which provides washers and dryers and other facilities for rental use to the general public for cleaning garments, bedclothes, and other household and personal materials and a facility which provides cleaning and dry cleaning services to the general public.

Laundry and Dry Cleaning Plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Land Division: A land division as defined in the Land Division Act of the State of Michigan, being Act 288 of the Public Acts of Michigan of 1967, as amended.

Landscape Area: A landscaped open space free of development, structures, and buildings but which may include a screen wall or berms used to physically separate and screen one use or property from another so as to visually shield or block noise, lights, and other nuisances.

Living Area: An area that is habitable for the entire year.

Loading Space: Space logically and conveniently located, and not included in an off-street parking computation, for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled.

Lot: Lot means a parcel of land of at least sufficient size, and containing sufficient buildable area, to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required by the Lincoln Charter Township Zoning Ordinance as amended. The word lot includes the word plot and parcel. In the context of the Condominium Act, being Act 59 of the Public Acts of Michigan of 1978, the word lot shall also mean the same as building site and is that portion of a site condominium subdivision project designed and intended for separate ownership and/or exclusive use, as described in the site condominium subdivision project's Master Deed and which meets minimum zoning requirements for use, coverage and area as required by the Lincoln Charter Township Zoning Ordinance as amended. In the context of the Condominium Act, lot may be further defined as:

1. A condominium unit consisting of the area under a building or building envelope and the contiguous area around the building or building envelope; or
2. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use.

Lot Area: The total horizontal area within the lot lines of a lot.

Lot, Corner: A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot Coverage: That part or percent of the lot occupied by buildings, including accessory buildings.

Lot Depth: The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line.

Lot, Interior: Any lot other than a corner lot.

Lot Lines: The lines bounding a lot as defined herein:

1. Front Lot Line: In the case of an interior lot, is that line separating the lot from the street. In the case of a through lot, is that line separating the lot from either street. In the case of a corner lot, the shorter street line may be considered the front lot line; except in the case of both street lines being equal, the choice may be made at the discretion of the property owner. However, once declared, the designated front lot line shall remain as such.

2. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot, Through:** A lot that fronts upon two more or less parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

**Lot Width:** The horizontal straight-line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

### **230.201.13 "M"**

**Manufactured Home:** A dwelling which is transportable in one or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated thereunder.

**Manufactured Housing Community:** A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose 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 manufactured home and which is not intended for use as a temporary manufactured home or trailer.

**Manufactured Home Sales:** An establishment engaged in the selling of manufactured homes to the general public and which may render services incidental to the sale of such manufactured homes.

**Master Deed:** A legal instrument under which title to real estate is conveyed and by which a condominium is created and established.

**Master Plan:** The comprehensive, long-range master plan intended to guide growth and development in the Lincoln Charter Township which includes recommendations on future land use, economic development, housing, recreation, transportation, open space, and community facilities.

**Medical or Dental Office:** A facility in which medical, health and related providers maintain offices and provide services to patients on an outpatient basis.

**Mezzanine:** An intermediate floor in any story occupying more than one-third (1/3) of the floor area of such story.

**Mine, Sand and Gravel:** A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

Mini/Self Storage Facility: A structure or group of structures divided into storage units, stalls or lockers of no more than five hundred (500) square feet in area each and which are offered to the public for a fee for the storage of goods.

Mixed-Use Development: A development of a tract of land, building, or structure with a variety of complementary and integrated uses permitted in the applicable zoning district, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

Mortuary or Funeral Home: A facility used for the preparation of the deceased for burial and for visitation and for the conduct of memorial and funeral services.

Motel: An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

#### **230.201.14 "N"**

Natural Feature: Any naturally occurring land form, vegetation or geological feature that is not manmade.

Nonconforming Lot: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

Nonconforming Structure or Building: A structure, building or portion thereof lawfully existing on June 21, 2008 or the effective date of amendments hereto, which thereafter does not conform to the provisions in the district in which it is located relative to building height, bulk, area or setbacks.

Nonconforming Use: A use which lawfully occupied a building or land on June 21, 2008 or the effective date of amendments thereafter, which does not contain a use of land permitted in the district in which it is located.

Nuisance: Any violation of this ordinance, or any offensive, annoying, unpleasant or obnoxious activity or practice; a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being. The generation of an excessive or concentrated movement of people or things, such as, but not limited to: noise; dust; smoke; odor; glare; fumes; flashes; vibrations; shock waves; heat; electronic or atomic radiation; objectionable effluent; noise of congregation or people, especially at night; passenger traffic; and invasion of non-abutting street frontage by traffic pursuant to Ordinance 642 of the Lincoln Charter Township Codified Ordinances.

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

**230.201.15 “O”**

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

Off-Street Parking Lot: A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

Open Fence: A fence where the spacing between the vertical support post members have been enclosed to render a structure that is predominantly open and results in limited or no obstruction to vision.

Open Space: Any property or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

Ordinary High Water Mark: The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Outdoor Dining: See Sidewalk Café.

Outdoor Recreation – Park: Public or private playgrounds, pocket parks, natural area, ball fields, open space preserves, arboretums, gardens, beaches, and similar uses, but not facilities designed for overnight or camping use, or as a commercial venue for performances or professional athletics.

Outdoor Sales Facility: The display and sales or rental of products and services primarily outside of a building or structure, of items such as rental vehicles, garden supplies, boats and aircraft, farm equipment, motor homes, burial monuments, manufactured housing, recreational vehicles, building and landscape materials, and lumber yards. For Automobile Sales see definition for Automobile Sales Facility.

Overlay District: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Owner of Record: The owner(s) of land as reflected in the records of the Township Assessor of Lincoln Charter Township.

**230.201.16 “P”**

Parcel: See “Lot”.

Parent Parcel: A parcel of record on the effective date of this Ordinance, or the “parent parcel” or “parent tract” as defined by the Michigan Land Division Act.

Park or Parkland: A tract of land, designated, maintained and used by the public for active and/or passive recreation and which is owned and controlled by a unit of government.

Park, Private: A tract of land owned or controlled and used by private or semi-public entities or groups for active and/or passive recreational purposes.

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

Parkway: A area customarily located between the curb line, or pavement edge of a street or road and the street or road right-of-way line.

Patio: A level, landscaped, and/or surfaced area directly adjacent to a principal building at or within seven (7) inches of the finished grade and not covered by a permanent roof.

Personal Service Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparel.

Pet: Any animal that has been bred or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Place of Public Assembly: Buildings, structures and grounds, including churches and meeting halls for non-commercial instruction, worship or similar activities involving assembled groups of people numbering thirty (30) or more.

Planned Unit Development (PUD): A specific parcel of land or several contiguous parcels of land, under single ownership and control, for which a comprehensive physical development or redevelopment plan has been prepared establishing a functional use area or areas, density patterns where applicable, a fixed system of streets, including limited access service drives where applicable, service drives, provisions for public utilities, drainage and other essential services, all of which shall be subject to review and approval by the Township and which has been, or will be, developed in strict accordance with the approved plan.

Planting Area: Any plot of ground where landscaping materials, including grass, shrubs, trees, plants, flowers, fruits, and vegetables, are cultivated.

Pond, Detention: A pond designed to temporarily detain storm water runoff for a short period of time, gradually releasing it to the natural watercourse immediately after the peak volume of storm water has dissipated.

Pond, Retention: A pond designed and intended to hold water for a considerable length of time for aesthetic or consumptive purposes as well as for the collection and holding of storm water runoff, the volume of which may never be totally discharged to a natural watercourse.

Porch: A patio or deck that is either fully or partially enclosed with screening, glazing or other means of enclosure, whether or not it is heated or cooled by mechanical means.

Power Generating Facility: An electric utility generating station, regardless of the means used for the production of electricity. Does not include temporary, portable generators used only for the specific purpose of providing a short-term, emergency back-up power supply to a specific site, nor to the short-term use during construction when permanent power sources have not been installed, provided, however, that all other terms and conditions of the Ordinance have been met.

Principal Building: A building in which is conducted the principal use of the lot on which it is located.

Principal Use: The main use to which the premises are devoted and the principal purpose for which the premises exist.

Private Driveway: A paved or unpaved access strip of land providing a vehicular connector between the public right-of-way or private road to garage in the case of a residential use or a parking space in the case of a non-residential use.

Private Road: Private road means a privately owned and maintained road which has not been accepted by the public for ownership and maintenance which persons, in addition to the owners of the property underlying said road, have or may have a lawful right to use for ingress and egress, whether as an invitee, by common custom or otherwise. This definition does not include a private driveway which serves only one (1) one-family or one two-unit dwelling.

Private Road, Minor: Minor private road means a private road, which serves residential uses up to twenty-five (25) lots, dwelling units, or condominium units.

Private Road, Major: Major private road means a private road which serves more than twenty-five (25) lots, dwelling units, or condominium units, or a private road serving any commercial or industrial use.

Processing and Manufacturing: Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.

Professional Service Establishment: An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

Property Line: The outside perimeter of a legally described parcel of land.

Public Utilities: Any person, firm, or corporation (including cooperatives), municipal department, board or commission duly authorized to produce and/or furnish under federal, state or municipal regulations, whether to the public, or wholesale market, the sale and/or distribution of gas, steam, electricity, sewage disposal, communication, television, telegraph, transportation, or water within the Township. This includes all appurtenances necessary, or associated with the distribution or servicing of the utility, with the following exceptions: This definition does not include wireless communication facilities.

**230.201.17 “Q”**

**230.201.18 “R”**

Recreation Area, Private: A private parcel of property used as a summer camp for children; travel campgrounds; gun or hunting club; off-road racing, a winter resort used for tobogganing, cross-

country skiing or down-hill skiing; a swimming club; a golf course, including miniature golf course; a golf country club; fields (indoor or outdoor) used for baseball, golf driving ranges, batting ranges, ice hockey rinks, softball, football, soccer, rugby, cricket, field hockey, volleyball, and/or field and track events; courts (indoor and outdoor) used for tennis, badminton, racquetball, squash, and basketball or combination of the uses stated.

Recreational Vehicle (RV): A vehicle designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy thereof as a dwelling or sleeping place, including but not limited to motor homes, campers, camper trailers, off-road vehicles, boats and utility trailers. Recreational vehicles also include items such as jet skis, ski-dos, snow mobiles, and other motorized recreational items.

Required Spatial Relationships: All the requirements of this Ordinance dealing with minimum or maximum size, area or space required for an approved use, structure, building and parcel, including but not limited to, buffer areas, greenbelts, and yards.

Research and Development: An establishment for carrying on investigation in the natural, physical, or social sciences, which may include engineering and product development, but which does not involve the mass manufacture, fabrication, processing, or sale of products or services.

Residential: Regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

Residential Above Retail or Office: A mixture of land uses in which dwelling units are located on floors or stories above retail or office uses.

Retail Business or Retail Sales: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Rezoning: An amendment to this Ordinance involving a change in the zoning map.

Right-of-way: A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, sidewalk, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

Road Maintenance Agreement: Road Maintenance Agreement means a written statement by the Applicant which provides who will be responsible for grading, plowing, repairing and otherwise maintaining the private road in compliance with this Ordinance.

### **230.201.19 “S”**

Satellite Dish: A parabolic dish antenna including its structural supports, used for reception of various television programming signals or used to transmit or receive other radio or electromagnetic waves between terrestrially or orbitally-based uses.

Screen: To conceal from view; or a structure or landscape materials providing enclosure and a visual barrier between the area enclosed and adjacent properties and right-of-ways.

Screen Wall: A constructed barrier erected to shield, buffer, and screen incompatible uses.

**Senior/Assisted Living:** A facility consisting of three or more dwelling units, the occupancy of which is limited to persons 55 years of age or older. The facility may include medical facilities or care. Assisted housing shall typically consist of multiple-household attached dwellings, but may include detached dwelling units as part of a wholly owned and managed senior project controlled by either a public body, institutional body, or nonprofit corporation.

**Service Drive:** A minor public or private street or driveway which may be parallel to and adjacent to a major thoroughfare, and which provides access to abutting properties and restricts access to the major thoroughfare.

**Service Establishment Accessory to a Principal Use:** An establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, and which is located interior to or inside an office building or other principal use.

**Setback:** The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

**Sexually Oriented Business:** Establishments, which include but are not limited to:

- A. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
- B. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration any one or more of the following:
  1. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.
  3. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises more than ten (10) percent of the floor area or visible inventory within the establishment.
- C. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment that regularly features:
  1. Persons who appear in a state of semi-nudity or nudity;
  2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;

3. Films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or

4. Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.

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

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and may have a sign visible from the public road right-of-way that advertises the availability of any of the above.

2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

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

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

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

H. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.

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

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

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Shared Parking: Joint use of a parking area by more than one use or business.

Showroom: An indoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising a business, product or service.

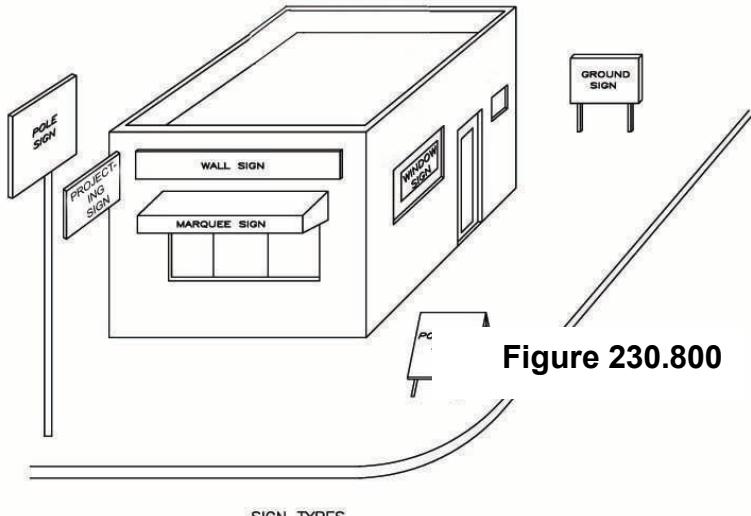
Shopping Center: An area designated for multiple businesses that are located within the same principal building, or on the same lot or parcel, such as a mall or plaza. These areas may utilize one main entrance/exit.

Shrubs: Low-growing, several-stemmed woody plants whose primary purpose is to be ornamental.

Sidewalk Café: An area adjacent to an eating and drinking establishment within a sidewalk area or pedestrian plaza area of the public right-of-way or on private property and used exclusively for dining, drinking, and pedestrian circulation.

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service event, or location by any means,, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The following are definitions of sign types:

1. Awning or Canopy sign: A sign that is either attached to, affixed to, or painted on an awning or canopy.
2. Banner: See “Temporary sign”.
3. Billboard: A sign directing attention to a use, activity or product not located, sold, manufactured or processed on the premises on which the sign is located. Need separate from off-premise.
4. Directional sign: A sign giving directions or instructions for vehicular or pedestrian circulation. A directional sign shall not contain advertising display copy.
5. Electronic message board: A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
6. Ground sign: A sign suspended or supported by one or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.



7. Offpremise directional sign: A directional sign located on property other than the location of the services or business advertised thereon directing passersby to activities, events or items for sale with graphics or a commercial message.
8. Pole sign: A freestanding sign that is affixed, attached, or erected on a pole that is not itself an integral part of or attached to a building or structure.
9. Portable signs: A sign whose principal supporting structure is intended, by design and construction, to be used by resting upon the ground for support and may be easily moved or relocated for reuse. Portable signs shall include but are not limited to signs mounted upon a trailer, bench, wheeled carrier, or other mobile structure with or without wheels.
10. Projecting sign: A sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from such building.
11. Sign owner: The owner of a premises upon which a sign is located is the owner of the sign unless facts are submitted to the Township proving ownership.
12. Temporary sign: A sign designed for use for a limited period of time to announce a special event or sale.
13. Wall sign: A sign attached to a wall and not projecting away from the wall more than 12 inches.
14. Yard sign: A sign of relatively impermanent construction manually placed in a yard and typically intended to announce or advertise an infrequent event such as, but not limited to, a garage sale; or to support a political candidate or political position; or the sale or rental of real property.

Sign Area: The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

Site Condominium: A method of subdivision where the sale and ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978), as amended, as opposed to the Land Division Act. Condominium subdivision shall be equivalent to the term "subdivision" as used in this Zoning Ordinance and the Township's subdivision regulations ordinance.

Site Plan: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot as required by **Article 10** of this Zoning Ordinance.

Specified Anatomical Areas: The male genitals and/or the vulva or more intimate parts of the female genitals.

Specified Sexual Activities: Any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. Masturbation, actual or simulated; or,
4. Excretory functions as part of or in connection with any of the activities set forth in A-C above.

Sports And Recreation Club: A facility designed and equipped for the conduct of sports and leisure-time activities, including aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers, whether operated as a business and open to the public for a fee, or operated by a nonprofit organization and open only to bona fide members and guests of such organization, or operated by a governmental agency.

Solar Heating and Air Conditioning Units: A design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy for the purposes of heating and cooling a building.

State Licensed Residential Facilities: A dwelling located in a structure constructed for residential purposes, licensed by the state, pursuant to Michigan statute for a home for the care of six (6) or fewer senior citizens.

Stop Work or Stop Use Order: An order issued by a Township official empowered to do so, requiring the operator and owner to immediately cease part or all of a land use or clearing, grading, excavation, development and/or construction activities as specified within the Stop Work Order.

Storage, Motor Vehicle: The standing or placement of operable new or used motor vehicles on display for sale, lease, or for private storage.

Storage, Outside: The outdoor standing or placement of usable and/or potentially usable goods or equipment other than for display and not including waste or scrap materials, other than in junk yards.

Story: That part of a building, except a mezzanine or basement as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above then the ceiling next above.

Story, Half: An uppermost story lying under a sloping roof having an area of at least two hundred (200) square feet with a clear height of seven (7) feet six (6) inches. For the purposes of this Ordinance, the usable floor area is only that area having at least five (5) feet clear height between floor and ceiling.

Street: A dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

Street, Local: A street of limited continuity used primarily for access to abutting residential properties.

Street, Major: A street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, roadway, parkway, freeway, expressway or equivalent term in the Township Master Plan.

Street, Private: A street which has not been accepted by the Township or other governmental entity. Also referred to as a Private Road.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground; including, but not limited to, buildings, driveways, fences and walls.

Studio For Performing and Graphic Arts: A facility designed, constructed, or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance and other similar pursuits.

Swimming Pool, Private: Any artificially constructed non-portable structure, erected in connection with or appurtenant to one or more private residences, either above or below or partly above or partly below grade, located either in part or wholly outside of a permanently enclosed and roofed building, which is designed to hold water to a depth any place in said structure greater than twenty-four (24) inches when filled to capacity, and intended to be used for recreational purposes.

**230.201.20 “T”**

Tattoo: Any method of placing permanent designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance, by the aide of needles or any other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring.

Tattoo Parlor: An establishment where persons are tattooed for consideration, other than by a licensed medical practitioner or cosmetologist; or any place where tattooing is regularly conducted whether or not it is in exchange for compensation.

Telecommunication Antenna: A device, the surface of which is used to transmit and/or receive radio-frequency signals, microwave signals, or other signals transmitted to or from other antennas or telecommunication facilities for commercial or municipal purposes.

Telecommunication Tower: Any structure which is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio or other communication purposes. Such structures may be freestanding, such as self-supporting lattice, guyed, or monopole towers, or attached to an existing structure, such as artificial trees, steeples, light poles, poles supporting power lines or similar mounting structures that effectively camouflage or minimize the visual impact of antennas and towers.

Temporary Storage Structure: Any structure that is used for storage and does not have a door or other entranceway into a dwelling unit and that does not have water fixtures within its confines, such as a carport.

Temporary Use or Building: A use or building permitted by the Zoning Administrator, by a temporary use permit, to exist during periods of construction for the main building or use, or for special events or seasonal activities.

Theater: A building or structure, grounds or part thereof devoted to showing motion pictures or for dramatic, dance, musical, or other live performances or lectures.

Townhouse or Townhome: See Dwelling, Townhouse.

Township Facilities: Any building, structure or facility used to provide public services which is owned or controlled by the Township, including but not limited to, police facilities, fire protection facilities, public water and sewer facilities and recreation facilities.

Trade and Industrial School: A secondary or higher education facility primarily teaching usable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

Trails: Ways designed for and used by equestrians, pedestrians, and cyclists using non-motorized bicycles.

Trailer: A structure that can stand on wheels, be towed, and hauled by another vehicle on a roadway, and used for short-term human occupancy, camping and recreational use, carrying of materials, goods, or objects, or as a temporary office.

Transitional Strip: A scenic barrier intended to protect adjacent areas from the noise, glare, and disturbances of a use abutting a residential use.

#### **230.201.21 "U"**

Urgent Care Facility: A medical care facility open to the public in which professional medical care is provided for injuries and illness.

Underground Irrigation System: A mechanism connected by a network of channels located just under the land surface which distributes water evenly and efficiently to landscaping materials in a planting area.

Use: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

Useable Open Space: Any parcel or area of land or water where the actual and intentional use is enjoyment of owners, occupants, and their guests of land adjoining such open space. Useable open space may include active recreational facilities such as swimming pools; play equipment; competitive sports fields and courts; and picnic tables.

#### **230.201.22 "V"**

Variance: Permission to depart from the requirements of this Ordinance.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a manufactured home.

Veterinary Hospital: A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

#### **230.201.23 "W"**

Wall, Obscuring: A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Zoning Ordinance.

Warehouse: A building used primarily for the storage of goods and materials.

Waterfront Access: The right to use property having water frontage on a body of water, including Grand Mere Lakes and Lake Michigan, by the occupants of one or more properties without such water frontage.

Wetlands: Those lands characterized by the presence of water at a frequency and duration sufficient to support, under normal circumstances, wetland vegetation and/or aquatic life. They also filter pollutants and sediments from storm drainage and help maintain the stability of the water table. The four categories of wetlands are: bog, swamps, marshes, and wet meadow.

Wet soils: Moist soils within the environmentally sensitive areas. There are five types of wet soils to be found in the environmentally sensitive area: Houghton muck, Adrian muck, Granby loamy fine sand, Morocco loamy sand with zero through two per cent slopes, and Edwards muck.

Wells, Extraction: Wells installed for the commercial extraction of ground water, crude oil, brine, natural gas, sour gas or similar products. This definition may include any surface or subsurface pumping or processing equipment or facilities.

Windmill (Wind Energy Conversion Systems): A windmill or a wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wind Monitoring Station: A tower-mounted or building-mounted anemometer or other similar device intended to measure and report wind speeds and direction.

Wholesale Facility: An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

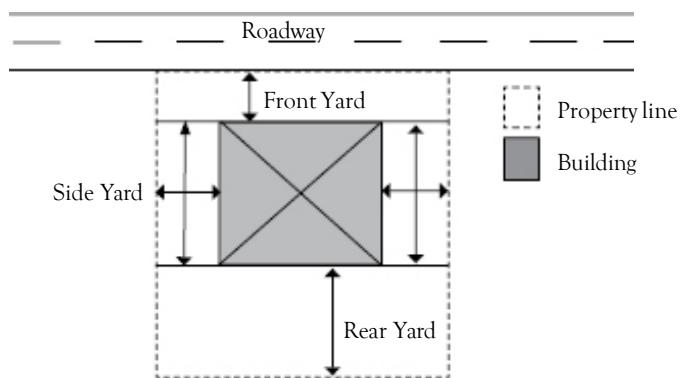
**230.201.24 “X”**

**230.201.25 “Y”**

Yards: The open spaces that lie between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in this Zoning Ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Zoning Ordinance.

**Figure 201.25**

1. Front Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
2. Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.



3. Side Yard: An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.
4. Secondary Front Yard: A secondary front yard is the front yard on a corner lot which is not a primary front yard.
5. Primary Front Yard: A primary front yard is a front yard to which the front door of a proposed or existing residence faces and may also front the street from which the street address was derived.

#### **230.201.26 “Z”**

Zoning Administrator: The Lincoln Charter Township Zoning Administrator as established in Article 1 of this Zoning Ordinance.

Zoning Board of Appeals: A board consisting of seven (7) members with the powers and duties as provided in the Zoning Enabling Act.

Zoning Compliance Permit: A Lincoln Charter Township Zoning Compliance Permit as established in Section 230.110.

Zoning Enabling Act: Act 110 of the Public Acts of Michigan of 2006, as amended.



## **ARTICLE 3**

### **GENERAL PROVISIONS**

#### **230.300 PURPOSE**

It is the purpose of this Article to set forth regulations that may apply generally in all Zoning Districts to all permitted uses and special uses and to provide detail on how the standards of this Ordinance shall be applied.

#### **230.301 SCOPE**

The use of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within Lincoln Charter Township shall conform with all applicable provisions of this Ordinance unless the nonconformance is a matter of record on the effective date of this Ordinance.

#### **230.302 USES, SPATIAL AND PHYSICAL REQUIREMENTS**

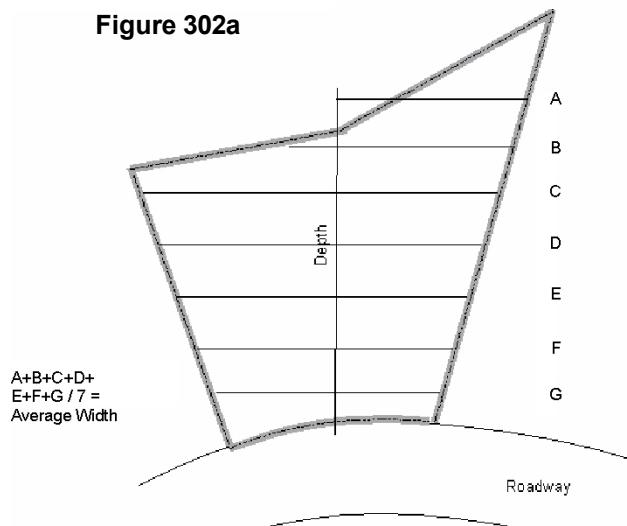
- A. Each parcel in the Township shall be limited to not more than one (1) principal use; provided that multiple-tenant or multiple-occupant commercial, industrial, mixed-use developments or residential above retail or office uses may be regarded as single uses if approved pursuant to the standards of this Ordinance.
- B. The continuing maintenance of required spatial relationships and physical requirements of this Ordinance for a use, structure, building, and/or parcel shall be the obligation of the owner of the use, structure, building and parcel.
- C. No parcel shall be split, divided or created which does not meet the spatial requirements of this Ordinance, except as may be permitted specifically elsewhere in this Ordinance. No building, structure or use shall be constructed, expanded, renovated or established except in conformance with this Ordinance and the Lincoln Charter Township Subdivision Control Ordinance.
- D. Required spatial relationships and physical requirements of this Ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following may be located anywhere on a parcel:
  1. Those parts of a building which are unroofed porches and decks, including steps, which do not exceed seventy (70) square feet in area, handicapped ramps, terraces, patios and awnings and nonpermanent canopies, but located no closer than three (3) feet from the property line. All roofed porches and decks and those unroofed porches and decks, including steps, which are larger than seventy (70) square feet, shall be considered part of the structure and the building area and shall be governed by the yard requirements of the Zoning District in which the parcel is located. Provided, however, that on parcels with steep slopes in excess of 40%

exterior steps may be located within a required yard when the Zoning Administrator finds that such location is necessary for the practical use of the property.

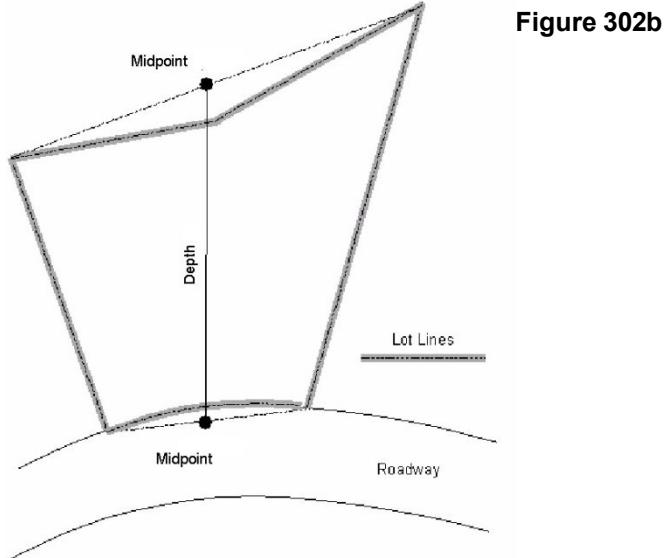
2. Flag poles;
3. Hydrants;
4. Arbors, trellises, trees, plants, shrubs, subject to the provisions of **Section 230.309** pertaining to clear vision areas.
5. Sidewalks, private driveways and walkways.

E. Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or high water mark toward the center of the parcel. For non-platted parcels, where the front lot line is the roadway centerline, setbacks shall be measured from the edge of the right-of-way. Building setback lines shall parallel the parcel line from which they are measured. All measurements of setback distances shall be completed in accordance with **Section 230.331**.

**Figure 302a**



**Figure 302b**



F. Parcel depth measurements shall be taken from the midpoints of straight lines, one connecting the front property corners and the second connecting the rear property corners. For the purposes of this section, property corners shall be determined by the Zoning Administrator as the points at which the side parcel lines intersect the front and rear lines, regardless of the shape of the property. Parcel width shall be measured at the front yard setback line. Provided, however, that for irregularly-shaped parcels, the Zoning Administrator may determine an average parcel width as the average width measured at right angles to its depth, with no fewer than five (5) equally spaced measurements. See Figures 302a and 302b.

G. In the event a site plan is submitted for a proposed building or improvement in an area where forty percent (40%) or more of the existing buildings on the same side of the street and within the same block do not meet the front yard setback requirements of this Ordinance, the Zoning Administrator shall establish the minimum front yard setback for such proposed building or

improvement as the most common setback of all existing buildings on the same side of the street within the same block and within the same zoning district.

H. Land filling and other contour changes to create a buildable area in preparation of a development shall not be undertaken, except in conformance with the requirements of this Ordinance and applicable State and Federal requirements. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires approval of a basic or detailed site plan and approval until the proposed use or structure is authorized by a Zoning Compliance Permit per **Section 230.110**.

### **230.303 ACCESS TO PUBLIC STREETS**

In every Zoning District, every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public road or a private road or private road easement which provides access to a public road as required herein.

### **230.304 ACCESSORY BUILDINGS AND STRUCTURES**

- A. Except in the AG district, all accessory buildings and structures shall be located in the rear yard, except when built attached to the principal building (for example radio, television antennas or satellite dishes).
- B. Accessory buildings and structures shall be located in compliance with the setback requirements of this Ordinance; provided, however, accessory buildings and structures less than two hundred (200) square feet in area may be located not less than three (3) feet from any property line, but not between the front and rear building lines.
- C. Accessory buildings and structures shall only be permitted on a lot which contains a principal use.
- D. Accessory buildings and structures shall not exceed the lesser of one (1) story or the height of the principal building.
- E. Accessory buildings and structures standards by district are as follows:

## 1. AG, Agricultural, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Notes	Height
Greater than 5 acres	Per lot coverage standards	Unlimited			
Greater than 4 acres and less than 5 acres*	3,200 sq. ft.	3			
Greater than 3 acres and less than 4 acres*	2,700 sq. ft.		An accessory building or structure greater than 200 square feet in area shall be setback 10' from any other accessory or principal building and 10' from any property line.	Accessory buildings housing livestock or fowl shall be setback at least 200' abutting any non-agriculturally-zoned property and 75' from any agriculturally-zoned property.	
Greater than 2 acres and less than 3 acres*	1,700 sq. ft.				
Greater than 1 acre and less than 2 acres*	1,200 sq. ft.				
Greater than $\frac{1}{2}$ acre and less than one acre*	896 sq. ft.				
Less than $\frac{1}{2}$ acre*	400 sq. ft.				

\* See Section 280.321 pertaining to development on legal nonconforming parcels.

2. LD and CR, Low Density Residential and Community Residential, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Height
Greater than 5 acres	2,400 sq. ft. (no single structure larger than 1,600 square feet.)	3	<b>An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.</b>	
Greater than 1 acre and less than 5 acres	1,200 sq. ft.	2	<b>An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.</b>	Supporting walls shall not be taller than 12'. Height shall not exceed 24' from the ground to the ridgeline.
Greater than 1/2 acre and less than 1 acre	896 sq.ft.			
Less than 1/2 acre	400 sq.ft.			

3. NRD, Neighborhood Residential District, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Height
Greater than 1 acre	1,200 sq.ft.	2	<b>An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.</b>	Supporting walls shall not be taller than 12'. Height shall not exceed 24' from the ground to the ridgeline.
Greater than 1/2 acre and less than 1 acre	896 sq.ft.			
Less than 1/2 acre	400 sq.ft.			

4. HD and MH, High Density Residential and Manufactured Housing District, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Height
Greater than 5 acres	Per lot coverage, provided no single structure shall be larger than 1,600 square feet.	Unlimited		
Greater than 1 acre and less than 5 acres	1,200 sq. ft.	2	<b>An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.</b>	Supporting walls shall not be taller than 12'. Height shall not exceed 24' from the ground to the ridgeline.
Greater than $\frac{1}{2}$ acre ad less than 1 acre	896 sq.ft.			
Less than 1/2 acre	400 sq.ft.			

5. CMU and HC, Commercial Mixed Use and Highway Commercial Districts, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Height
Any	Per lot coverage, provided no single structure shall be larger than 1,600 square feet.	1 per lot  If acreage is greater than 10 acres, a total of 2 accessory buildings are permitted	<b>An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.</b>	Supporting walls shall not be taller than 12'. Height shall not exceed 24' from the ground to the ridgeline.

6. LI and I, Light Industrial and Industrial Districts, accessory buildings and structures shall comply with the following:

Acreage	Total Area of Accessory Buildings	Number of Accessory Buildings	Setbacks	Height
Any	Per lot coverage	2 per lot  If acreage is greater than 5 acres, a total of 4 accessory buildings are permitted	An accessory building or structure greater than 200 square feet in area setbacks shall be 10 feet from any other accessory or principal building and 10 feet from any property line.	Supporting walls shall not be taller than 18'. Height shall not exceed 24' from the ground to the ridgeline.

F. No accessory building or structure shall be used as a dwelling or for temporary or permanent residential or lodging purposes or as sleeping quarters for human beings, except as permitted pursuant to **Section 230.305**, pertaining to Accessory Dwellings.

### **230.305 ACCESSORY DWELLINGS**

A. Accessory dwellings are an accessory use permitted in the AG, Agricultural District to provide temporary housing for workers engaged in agricultural employment in Lincoln Charter Township provided however, the following shall be met:

1. Accessory dwellings shall be permitted in the AG, Agricultural District only.
2. Accessory dwellings shall meet all lot area, setbacks, and dimensional standards.
3. Accessory dwellings shall conform to the standards of the Michigan Right to Farm Act, being Act 93 of the Public Acts of Michigan of 1981, as amended.
4. Accessory dwellings shall be incidental to the permitted principal use on the property.

### **230.306 ACCESSORY USES**

A. When an activity or use is conducted in conjunction with a principal use and the former use; (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then such use may be regarded as accessory to the principal use and shall be permitted. Uses may be considered accessory to the principal use regardless of whether the accessory use is separately identified in this Ordinance as a permitted or special use. Accessory uses not meeting the standards of this section shall be prohibited.

B. Interpretation of Accessory Uses: For purposes of interpreting accessory uses:

1. A use may be regarded as incidental or insubstantial if the viability of the principal use is not dependent in any significant way on the accessory use.
2. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.
4. By way of example, and not to limit the application of this section, common accessory uses may include swimming pools or tennis courts associated with and integrally related to a residential subdivision or multi-family development, two or fewer boat slips associated with a residential or commercial development, automated car wash associated with a gasoline station and temporary accessory dwellings permitted in the AG district.

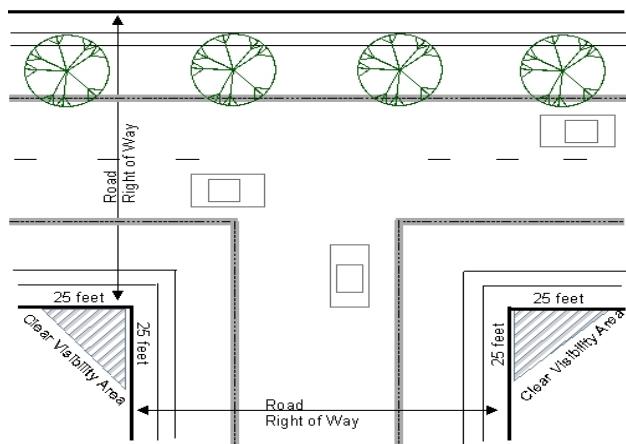
**230.307 ATTACHED GARAGES**

- A. Intent. The intent of this section is to require attached garages in the Low Density District for the purposes of ensuring public health, safety and welfare by requiring that garages are attached to a principal dwelling with driveways connecting from the public right-of-way or private road to such garage providing clear and unobstructed access to public safety vehicles.
- B. Attached garages are required in the LD, CR, HD and NRD districts for all single-unit and two-unit dwellings.
- C. For single-unit dwellings, attached garages shall be not less than four hundred eighty four square feet (484) and shall not exceed the size of the principal structure to which the garage is attached, or twelve hundred seventy five (1,275) square feet, whichever is less.
- D. For each unit in a two unit-dwelling, an attached garage shall be at least two hundred forty (240) square feet for each garage and shall not exceed the size of the principal structure to which the garage is attached. Garages for two-unit dwellings shall meet the design standards of **Section 230.312**.

**230.308      CLEAR VISIBILITY AT CORNERS**

**Figure 230.308**

No parking space, berm, fence, hedge, planting, sign, structure, or any other element of the built environment, shall be located, erected or maintained, within a distance of twenty-five (25) feet from a street right-of-way which obstructs safe vision at a street corner. Provided, however, the Zoning Administrator, upon consultation with the Township Engineer and/or Chief of Police, may require a greater clear vision area where necessary due to traffic speeds, volumes or the topography of the site.



**230.309      RESERVED**

**230.310      DRAINAGE AND STORMWATER MANAGEMENT**

All new development and redevelopment within Lincoln Charter Township shall comply with the *Guidelines for Stormwater Management for Berrien County*, as may be amended from time to time.

**230.311      DRIVEWAYS AND CURB CUTS**

Driveway entrances and exits to a property shall comply with the standards contained herein.

- A. In all instances, the portion of any driveway between the right-of-way and the edge of the roadway surface shall be paved with a hard surface material.
- B. Exit-only or entrance-only driveways and driveways for dwellings and two-unit dwellings, shall be a minimum of ten (10) feet wide, and no more than twenty (20) feet in width. All other driveways shall be a minimum of twenty (20) feet wide but no more than thirty five (35) feet in width.
- C. In those areas without curbs and gutters, the requirements of this section shall apply and be administered as if the curb and gutters were present.
- D. All driveways shall be paved with asphalt, brick or concrete pavers, or concrete and connect to a private road, private road easement, or public right-of-way.
- E. Commercial Driveway Spacing.
  1. Minimum spacing of curb cuts and driveways in the NRD, CMU and HC districts shall be as follows:

- a. New parcels and lots shall have either not less than one hundred fifty (150) feet of frontage on a primary road with not less than one hundred fifty (150) feet between curb cuts on the same side of the street, or not less than one hundred (100) feet on a private road or private drive with not less than fifty (50) feet between curb cuts on the same side of the street.
- b. Existing parcels and lots shall have not more than one (1) driveway curb cut unless the space between each such curb cut is greater than one hundred fifty (150) feet on the same side of the street, measured from centerline to centerline.
- c. The Zoning Administrator may permit two (2) one-way driveways rather than a single dual movement driveway for particular uses where safer, more efficient circulation and function of the drives can be demonstrated.
- d. Shared drives between two (2) or more contiguous parcels shall be encouraged, in which case a shared driveway shall be considered one driveway, and shall meet the spacing requirements in items a and b above.

2. To reduce left-turn conflict new commercial driveways shall be aligned with those across the roadway where possible. If alignment is not possible, driveways shall be offset a minimum of two hundred fifty (250) feet, measured from centerline to centerline on arterial roadways and one hundred fifty (150) feet on all other roadways.
3. For sites with insufficient street frontage to meet the above separation standards, the Zoning Administrator may require a driveway along a side street or a shared driveway.
4. In the case of expansion, alteration or redesign of an existing development where preexisting conditions prohibit strict compliance with driveway spacing requirements, the Zoning Administrator modify the requirements.
5. Shared access easements may be required by the Zoning Administrator to limit the need for future curb cuts.

F. Frontage roads and service drives require approval of the Planning Commission, and a site plan shall be submitted for such service drive or frontage road. A basic site plan shall be provided in accordance with **Article 10, Table 1000**, however the detailed site plan data included in **Article 10, item D of Table 1000, Access and Circulation**, shall also be provided. The site plan shall also indicate the proposed elevation of the service drive at the property line and the Zoning Administrator shall maintain a record of all service drive elevations so their grades can be coordinated.

1. The Planning Commission shall encourage the construction of frontage roads or rear service drives along parcels to connect future or existing development, especially in the following situation:
  - a. Where the driveway spacing standards of the section cannot be met;

- b. When the driveway could potentially interfere with traffic operations at an existing or potential traffic signal location;
- c. The site is located along a major arterial street, such as Red Arrow Highway, John Beers Road, Cleveland Avenue or Maiden Lane, particularly along segments experiencing congestion or a relatively high number of crashes (accidents);
- d. The property frontage has limited sight distance; or
- e. The fire department recommends a second means of emergency access.
- f. A maintenance agreement shall be provided to the Planning Commission which specifies the means to be used for on-going maintenance of the service drive.

G. Design standards for service drives or frontage roads:

- 1. Service drives or frontage roads shall be designed according to the following additional standards:
  - a. Where service drives and frontage roads are constructed they shall be set back as far as reasonably possible from the intersection of the access driveway with the street.
  - b. A minimum of twenty-five feet shall be maintained between the public street right-of-way and the pavement of the service drive. This twenty-five foot setback area shall be landscaped with turf and street trees in accordance with **Section 230.1600, g.**
  - c. Service drives and frontage roads shall be generally parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service drive, the Planning Commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.
  - d. The service drive or frontage road shall be located within an easement permitting traffic circulation between properties. The easement shall be at least forty (40) feet in width.
  - e. Service drives and frontage roads shall have a base, pavement, and curb and gutter or rolled curb, in accordance with Berrien County standards for public roads, except the width of pavement shall be twenty-six (26) feet.
  - f. Parking shall not be provided along service drives or frontage roads.
  - g. The Planning Commission shall approve the location of the service drive or frontage road, which shall comply with the driveway spacing requirements of this section.
  - h. The Planning Commission may approve temporary access points where a continuous service drive is not yet available and a performance guarantee is provided to assure elimination of such temporary access when the service drive is continued.

H. The Zoning Administrator (or Planning Commission for service drives or frontage roads) may approve a site plan that does not comply the requirements of this section where local conditions make full compliance impossible, providing the distances between the new driveway from street intersections and other driveways is the greatest possible.

**230.312 DWELLINGS STANDARDS**

- A. All structures used or proposed to be used as a dwelling as defined herein, shall comply with dwelling standards of this Ordinance and the standards of the State of Michigan and United States Department of Housing and Urban Development, as applicable. All dwellings constructed shall have a minimum square footage required in each respective Zoning District.
- B. Manufactured Housing. Dwellings located in a Manufactured Housing Community regulated pursuant to Act 96 of the Public Acts of 1997, as amended shall comply with the terms of this Ordinance as applicable and the terms of said Act and the rules promulgated thereunder.
- C. A dwelling unit shall be firmly attached to a permanent continuous foundation which complies with applicable provisions of the building code enforced by the Township.
- D. A dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either roof overhang of not less than six (6) inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door area where a difference in elevation requires the same.
- E. If the dwelling unit is a manufactured home, it shall be installed with the wheels, axles and towing mechanism removed.
- F. The dwelling unit shall have a minimum horizontal dimension across any front, side or rear elevation of twenty-four (24) feet at time of manufacture, placement, or construction. Floor to ceiling height shall be a minimum of seven and one-half (7 1/2) feet.
- G. Single-family dwelling units and two-unit dwelling units shall be connected to public water and sewer, or to private facilities for potable water and disposal of sewer approved by the Berrien County Health Department. Townhomes and multi-unit dwellings shall be connected to public water and public sewer facilities.
- H. The aforementioned standards shall not apply to a manufactured homes located in a manufactured home park licensed by the Michigan Manufactured Home Commission.
- I. Two-unit and townhome dwellings constructed after the adoption date of this Ordinance shall be designed to resemble a large single-unit home by either:
  - 1. Limiting each building elevation to not more than one garage and one ground-level entry, or,
  - 2. Locating multiple garage doors to an interior portion of the site screened from view from the adjacent properties or the public right-of-way by residential structures and landscaping.

### **230.313 ESSENTIAL SERVICES AND TOWNSHIP FACILITIES**

- A. The Planning Commission shall have the power to permit the use of lands and the erection and use of buildings and facilities for an essential service in any district.
- B. Township Facilities may be located in any district.

### **230.314 FENCES**

- A. Permit Required. The erection of any fence, wall, hedge or other type of barrier shall be approved first by the zoning administrator and shall require a fence permit, unless such fence, hedge or wall is part of a site plan requiring review and approval of the Planning Commission. The issuance of a fence permit under this section shall not be considered as evidence of title or ownership of land by the application.
- B. Height Standards.
  - 1. Residential Side or Rear Yard. Fences, walls and hedges on all lots of record in the LD, CR, HD, NRD and MH districts, which are within a side or rear yard shall not exceed six (6) feet in height, measured from natural grade to the highest point of the fence. A six (6) foot fence may extend from a side yard into the front yard to the applicable front yard setback line.
  - 2. Residential Front Yard. Front yard fences, walls and hedges in the LD, CR, HD, NRD and MH districts, shall be not more than 75% opaque and shall not exceed four (4) feet in height. The requirements of this section shall apply to both front yards on through lots.
  - 3. Residential Secondary Front Yard. Fences, walls and hedges located within a secondary front yard shall not exceed six (6) feet in height and shall be located at least ten (10) feet from the secondary front yard right-of-way/property line.
  - 4. Commercial. Fences, walls and hedges in commercial districts shall be subject to the same restrictions as fences located in residential districts.
  - 5. Industrial. All fences, walls and hedges erected in industrial districts shall not be less than six feet in height. The maximum height of opaque fences in the industrial districts shall be twelve (12) feet. Residential uses in an industrial district must comply with residential fence requirements provided herein.
  - 6. Agricultural. Parcels in the AG, Agricultural District less than 5 acres in area, shall comply with the residential standards in **Section 230.314**.
- C. Fences, Wall and Hedge Standards.
  - 1. Fences, walls and hedges may be located adjacent to a lot line, but shall be constructed and located entirely on the owner's property.

2. The portion of such fences, walls and hedges located in the primary front yard shall not be nearer to the street than the applicable front yard setback line.
3. The distance a fence, wall or hedge is raised in height by a berm, structure, or other object, shall be included in the measurement so that no fence exceeds the height limitations set forth herein as determined from natural grade.
4. Fences or walls located on sites with commercial or industrial uses that are adjacent to the LD, CR, HD, NRD and MH district, or a residential use shall not exceed six feet in height and shall be screened with plantings pursuant to Article 6.
5. Fences shall not contain barbed wire, or sharp pointed cresting, or other things dangerous and likely to snag, tear, cut or otherwise injure any person. No person shall erect an above ground electrified fence. Agricultural district parcels of five acres and over are exempt from these requirements.
6. A fence and walls shall be stable, safe and properly supported.
7. Fences and walls shall be constructed with all supporting structures or devices on the inside of the fence or wall, with the finished side out.
8. Vertical supports may exceed the fence or wall height by not more than four inches.
9. Fences shall be constructed of the following approved fence materials: treated wood, vinyl, chain link, or other material approved by the Zoning Administrator at the time the fence permit is issued. However, chain link fences shall not be permitted in the front or secondary front yard for any use in the LD, CR, HD, NRD and MH districts.

D. Maintenance.

Any fence or wall constructed or erected, or hedge planted or allowed to grow in the Township, shall be maintained in a safe and acceptable manner, conforming to the height requirements of the district in which it is located.

**230.315 FLOOR AREA**

- A. One-Story Single Unit Dwellings: There shall be a minimum ground floor area of one thousand (1,000) square feet for each new one-story single unit dwelling erected.
  1. Any two levels of bi-level, tri-level, or split-level type single family dwelling shall be considered the same as a one story dwelling requiring the same floor area as a one story dwelling.
- B. Multi-Story Single Unit Dwellings: There shall be a minimum ground floor area of eight hundred (800) square feet and a total floor area of one thousand four hundred (1,400) square feet for each new two- or three-story single unit dwelling erected.

C. Two-unit and multi-unit structures shall have a minimum floor area of six hundred fifty (650) square feet per dwelling unit.

### **230.316 GENERAL REVIEW CRITERIA**

In any review and in taking any action or making any decision required or permitted under this Ordinance, the Zoning Administrator, building official, Planning Commission, Zoning Board of Appeals, Township Board and any other Township official, representative or consultant may and should consider the following criteria:

- A. Whether the streets and highways, water distribution lines and facilities, sanitary sewer collection lines and facilities, storm water facilities, electrical utility lines, communications lines and equipment, sidewalks and other pedestrian access, and other infrastructure as they now exist and may be modified as part of or in conjunction with proposed project or action are reasonably sufficient for the needs existing and planned uses in the Township as a whole, the existing and planned uses in the vicinity of the site, and the existing and planned uses on the site, including during times of reasonably foreseeable strains on such infrastructure due to reasonably frequent weather events, special community-wide events, anticipated construction activity, or similar causes.
- B. Whether the buildings, structures, and entrances thereto proposed to be located upon the site are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- C. Whether natural features of the landscape are retained, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- D. Whether there are any adverse effects of the proposed development, its uses and any activities emanating therefrom upon owners, occupants, residents, and uses of nearby property.
- E. Whether the proposed development and uses comply with all Township ordinances.
- F. Whether the proposed buildings and other structures on and uses of the site will be compatible with those on nearby property.
- G. Whether the proposed buildings and other structures on and uses of the site will generally support and advance the policies and objectives of the Township's Development Plan.
- H. Whether the proposed buildings and other structures on and uses of the site will comply with applicable laws, rules, regulations, permit and license requirements, orders and directives of other governmental agencies or officials of competent jurisdiction. There is no affirmative duty to make this determination. However, if it seems that violations are likely to result or exist, such likely violations can and should be considered.
- I. Whether all buildings and structures are reasonably accessible to emergency vehicles.
- J. Whether the buildings and structures on the site are accessible for regular maintenance, repair and improvement.

- K. Whether the layout and location of any publicly owned utilities, roads, sidewalks or other infrastructure on the site allow for reasonably normal operation, use, maintenance, repair, replacement and improvement including snow removal and storage.
- L. Whether the proposed development is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.
- M. Whether the development provides open areas, green space and other areas.
- N. Whether the development accommodates sight lines and preserves views that are key assets of the community and its character.
- O. Whether the development will be a significant asset to the community's economic development.
- P. Whether the development includes "best management practices" and "Green" designs and construction materials and methodologies.

### **230.317 HEIGHT REQUIREMENTS AND MEASUREMENTS**

- A. Measurement. Height shall be measured from natural grade to the peak of the highest roof surface. Provided, however, that changes to the natural grade approved by the Township pursuant to this Ordinance, height shall be measured from the approved finished grade.
- B. For the purposes of this section, natural grade shall be determined to be the elevation of the crown of the road at the center point of the parcel for all sites where there is less than ten (10) feet variation in elevation across the building envelope of the site. For parcels with more than ten (10) feet variation across the building envelope, the natural grade shall be determined by subtracting the lowest elevation point in elevation within the building envelope from the highest, multiplying the result by 0.667 and adding the product to the elevation of the lowest point.
- C. The height requirements of all zones may be exceeded by appurtenances not over five (5) feet in height including parapets, chimneys, silos and farm barns, roof mounted television and radio antennas, cupolas, spires or other ornamental projections, however the total cumulative area of such appurtenances shall not exceed one hundred (100) square feet.
- D. Utilities serving essential public services shall not be subject to height requirements, unless elsewhere provided in this Ordinance.

E. In the LI and HI districts, chimneys, cooling and fire towers, elevator buildings, parapets, roof storage tanks, communication towers and other necessary appurtenances are permitted above the height limitations provided they are located the same distance as their height from any adjoining property line, comply with all applicable Township Ordinances, and receive approval by the Township Fire Chief.

**230.318      RESERVED**

**230.319      LOT USE AND DIVISION**

A. No lot or part of a recorded plat or parcel of unplattd land may be devoted to more than one principal use unless otherwise specifically permitted in Section 230.302, A.

B. No lot which is part of a recorded plat may be divided except in compliance with the requirements of this Zoning Ordinance and through an amendment of the plat pursuant to the requirements of the Land Division Act (being Act 288 of the Public Acts of Michigan of 1967, as amended).

**230.320      RESERVED**

**230.321      NONCONFORMITIES**

A. Purpose and Intent. Nonconforming lots, structures and uses as defined herein which were lawful before this Ordinance was adopted may continue until they are discontinued, damaged or removed but shall not be encouraged to continue or be duplicated after a period of non-use. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this Ordinance. It is further the intent of this Ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein nor shall such nonconformities be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same Zoning District.

B. Regulations. No nonconforming use of land shall be moved in whole or in part to any other portion of such land, or to a different parcel, not occupied on the effective date or adoption or amendment of this Ordinance.

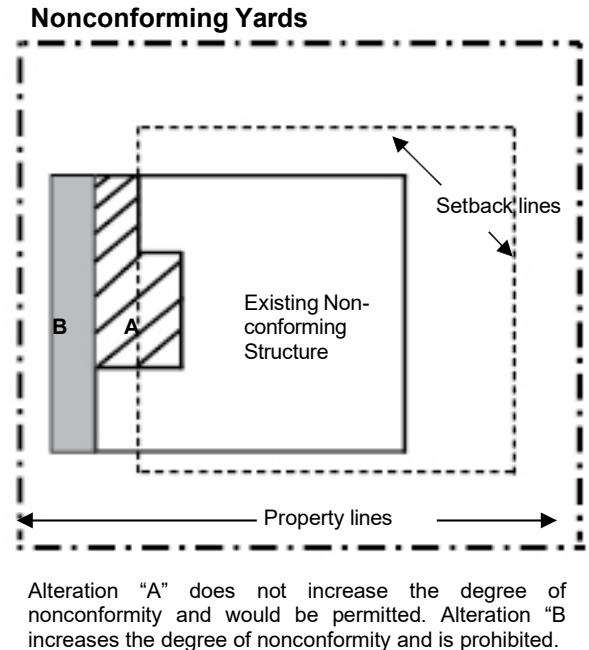
1. A nonconforming structure and use may not be added to, extended, reconstructed, structurally altered, or expanded during its life except for any one or combination of the following and subject to the following restrictions:
  - a. Nonconforming Use. If the nature of the nonconformity is a use which is not otherwise allowed in the zoning district, then the use and structures upon which the use is associated shall not be expanded or enlarged in terms of the area devoted to the use, hours of operation or level of service, or any other extension than what exists at the time of adoption of this Ordinance. Under no condition shall the parcel be expanded and the use be expanded to a contiguous parcel.

- b. Nonconforming Dwelling, Retail Use or Eating and Drinking Establishment. If the nature of the nonconformity is a use which is a dwelling in the HC, LI or HI districts, a retail business located in the LI or HI districts, or an eating and drinking establishment in the LD district and such use is not otherwise permitted; then the use and structures associated with it may expand within the standards and regulations applicable to that zoning district as if it were a permitted use.
- c. Nonconforming Developed Parcel. If the nature of the nonconformity is the parcel is too small and already has existing uses and structures; then such structures shall not be expanded more than the lesser of:
  - 1) Fifty (50) percent of the building area occupied by the structure at the time of adoption of this Ordinance, or
  - 2) The Maximum Lot Coverage for the zoning district; and any such expansion shall comply with all other provisions of this Ordinance. Nothing here is intended to prevent the acquisition of adjacent land to bring the parcel into compliance, or to lessen the nonconformity if the use is permitted in the respective zoning district.
- d. Nonconforming Undeveloped Lot or Parcel. If the nature of the nonconformity is the lot or parcel is too small, and the parcel is vacant; then a use or structure shall not be permitted unless contiguous land is added to the lot or parcel, to make the parcel large enough, unless all of the following apply:
  - 1) It is documented by the applicant that sufficient contiguous land cannot be purchased; and
  - 2) The nonconforming parcel was created by lawful division in full compliance with the zoning ordinance in effect at the time of the division; and
  - 3) The parcel is zoned AG, HC or CMU or any lot or parcel of land previously zoned R-2 prior to the adoption of this ordinance.A non-conforming undeveloped lot or parcel shall meet the dimensional standards of the underlying zoning district, unless a variance is granted.
- e. Nonconforming Structure. If the nature of the nonconformity is the structure is too small; then the use shall not be expanded by more than fifty (50) percent in hours of operation or level of service, or other similar extension than what exists at the time of adoption of this Ordinance. Nothing here is intended to prevent any amount of addition to the size of the structure, if:
  - 1) The size of the structure is the only nonconformity, and

- 2) The addition results in the structure being in full compliance, or as a second choice, closer to compliance.
- f. Nonconforming Yards. If the nature of the nonconformity is any portion of the existing structure is located within a portion of the required front, side or rear yard, the structure may be expanded provided the expansion does not increase the degree of the nonconformity by enlarging any portion of the structure in the required yard in the direction of the adjoining property line.
- C. Repairs and Maintenance. Nothing in this Ordinance shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this Ordinance, rendered necessary by wear and tear, deterioration or depreciation; nor

prevent compliance with the provisions of the Michigan Construction Code, relative to the maintenance of buildings or structures; provided, however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed sixty (60) percent of the reproduction value of such building at the time such work is done; and provided, further, there shall be no change of use which would expand the nonconformity of such building at the time such work is done; and provided, further, there shall be no change of use of said building or part thereof.

- D. Reconstruction and Replacement. No nonconforming building or structure damaged by fire, Act of God or other causes to the extent that the damage is total (i.e. the insurance coverage, if it existed, would pay the full replacement cost of the structure) shall be repaired or rebuilt, except in conformity with the provisions of this Ordinance.
  - 1. Reconstruction, repair or restoration of the structure shall be completed within one (1) year following the damage and resumption of use shall take place within ninety (90) days of completion. The one (1) year timeframe may be extended by the Zoning Board of Appeals if it finds one of the following conditions to exist:
    - a. The delay was not avoidable due to weather;
    - b. The delay was a result of an on-going criminal investigation;
    - c. The delay was not self-created;
    - d. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance; and



**Figure 321**

Alteration "A" does not increase the degree of nonconformity and would be permitted. Alteration "B" increases the degree of nonconformity and is prohibited.

- e. The delay was a result of property being held in probate.
- 2. When repairing or rebuilding any building which is located in a high risk erosion area, affirmative steps to minimize future erosion damage may be required.
- E. Completion. Nothing in this Ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently pursued prior to the passage of this Ordinance or any amendment thereto, and the construction of which shall have been completed within twelve (12) months after said date of adoption or amendment.
- F. Abandonment. Any building, structure or land that has been used for nonconforming purposes but which has not been occupied by such nonconforming use for one (1) year or more shall not thereafter be used unless it conforms to the provisions of this Ordinance. An extension may be granted by the Zoning Board of Appeals for the following reasons:
  - 1. Property held in Probate;
  - 2. Insurance settlement in dispute; or
  - 3. Criminal investigation.
- G. Change of Ownership or Tenancy. There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.
- H. Nonconforming Special Uses. Uses that previously existed as permitted uses but which under this Ordinance are treated as special uses in the district in which they are located, shall not be considered to be nonconforming. Provided, however, that any subsequent change, expansion or adjustment to such use or its associated site shall be undertaken in compliance with this Ordinance.

### **230.322 OPEN SPACE PRESERVATION**

- A. Open Space Preservation Development: Within the AG district and those portions of the LD, CR and NRD districts that are not served with public sewer service, the owner of property may elect to develop an Open Space Preservation Development in accord with the terms of this subparagraph. A maximum of fifty percent (50%) of the parcel's buildable area may be divided into new parcels not less than one acre in area within the AG district, and not less than the minimum area allowed under the provisions of the underlying LD, CR and NRD districts. The remaining fifty percent (50%) of the parcel shall be kept as useable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to the Planning Commission.
  - 1. Minimum Open Space Requirement: The development density which would normally be realized on the entire parcel shall be transferred to the area of the parcel which is not the fifty percent (50%) area of the parcel which shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means.

2. Determining Maximum Allowable Parcel Divisions: The maximum number of new parcels which may be created within the parcel shall be the same number that would be permitted on the site under the provisions of the underlying district. To determine this density, the applicant shall either:
  - a. Submit a conceptual plan of division of the parcel. This conceptual plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area, and other pertinent features, in compliance with Township ordinances and stipulations. This plan must be drawn to scale; or
  - b. Multiply the buildable area of the lot as defined herein, by eighty five percent (85%) to account for rights-of-way and divide the result by the minimum parcel area permitted under the provisions of the underlying district.
3. Siting Criteria for New Parcels: Creativity and originality in parcel layout shall be encouraged to achieve the best possible relationship between buildable land and open space.
  - a. The parcels within the AG district shall be a minimum of one (1) acre in gross area. Parcels in other districts shall satisfy the minimum area requirement of the district in which the parcel is located.
  - b. Each parcel shall have frontage on a public or private road. Each parcel in the AG district shall have not less than one hundred feet (100') of frontage. Parcels in other districts shall satisfy the minimum frontage requirement of the district in which the parcel is located.
  - c. If more than one parcel is divided, the resulting parcels shall be contiguous to one another.
  - d. Each parcel shall satisfy Berrien County Health Department requirements for well and septic systems unless the parcel is served by public water and sanitary sewer.
4. Density Bonus. A twenty-five percent (25%) density bonus may be considered by the Planning Commission in approving the Open Space Preservation Development when one or more of the following standards are met:
  - a. Protection and preservation of floodplain areas or slopes over twenty-five (25%) percent.
  - b. Maintenance of a significant upland buffer of natural native species vegetation adjacent to wetlands and surface waters.
  - c. Protection of farmland areas where soils are suitable for agricultural.
  - d. Preservation of scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads.

- e. Protection of wildlife habitat areas of species listed as endangered, threatened or of special local concern.
- f. Protection and preservation of sites of historic, archaeological, or cultural value.
- g. Provision of reasonable and contiguous open space areas that are attractive and useful for future residents and the larger community.

5. Application and Site Plan Review Process. A pre-application conference shall be held involving the applicant and the Zoning Administrator to discuss the applicant's objectives and how these may be achieved under this provision. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference. All Open Space Preservation Developments shall be processed in accordance with **Article 10** pertaining to Site Plan Review, and a Detailed Site Plan shall be required.

### **230.323 OUTDOOR STORAGE**

The outdoor storage of goods and materials, including vehicles, trucks, component trucks, recreational vehicles and other items shall be regulated as follows:

A. All Districts:

1. The open storage of disassembled or component parts for any vehicle of any type shall be deemed a nuisance in accord with the Lincoln Charter Township Nuisance Ordinance (Ordinance 642 of the Lincoln Charter Township Codified Ordinances) and shall be prohibited at all times.
2. Recreational vehicles shall not be used for lodging or housekeeping purposes, except as otherwise authorized by permit.
3. Any storage of any goods or materials out of doors shall be the property of the resident, except that one (1) such authorized unit may be the property of a non-resident.
4. No recreational vehicle shall be parked or stored on any roadway or road right-of-way, except in accord the Lincoln Charter Township Parking Ordinances.
5. Outdoor storage items shall be placed no closer than three (3) feet from a side lot line or five (5) feet from a front or rear lot line and provided that such storage does not prevent clear access between the front and rear yards of the parcel for a person on foot.
6. All outdoor storage associated with all uses except agriculture shall occur on a paved surface, and any paved surface shall comply with the lot coverage and setback standards of the applicable zoning district.
7. When required, fencing, walls or hedges shall conform to **Section 230.314** herein.

B. Residential Districts.

1. The outdoor storage of recreational vehicles and boats shall be regarded as a permitted accessory use in the LD, CR, NRD, HD, and MH Districts, if such storage conforms to the provisions of this section.
2. Within the LD, CR, NRD, HD, and MH Districts, the outdoor storage or parking of trucks of more than one and one-half (1½) tons or truck trailers, recreational vehicles and boats of any kind shall be prohibited in any front yard.
3. Outdoor storage may be permitted within the rear yard or in one (1) side yard, provided all stored material is placed no closer than three (3) feet from a side lot line or five (5) feet from a rear lot line.

C. Commercial Districts.

1. The outdoor storage of material or parking of trucks of more than one and one-half (1½) tons or truck trailers, recreational vehicles and boats of any kind shall be prohibited in any front yard. All outdoor storage shall occur in the side or rear yard and shall be entirely enclosed with a solid fence or evergreen plantings or other year-round screening not less than six (6) feet high. Storage shall not occur in any required parking lot as per **Section 230.700, H.**

D. Industrial Districts.

1. Yards for storage of heavy machinery, supplies and materials generally used by road builders, earth movers, and construction contractors, or unused motor vehicles, trailers or boats, or parts thereof, which may or may not be wholly owned by the property owner, shall be entirely enclosed with a solid, opaque fence or evergreen plantings or other year-round opaque screening not less than six (6) feet high. Fencing or walls shall not be more than eight (8) feet high and shall be constructed and maintained in such suitable manner in accordance with this Zoning Ordinance.

**230.324      PERFORMANCE GUARANTEE FOR COMPLIANCE**

In authorizing any variance, or in granting any conditional, temporary or special land use approval permits, the Planning Commission and the Zoning Board of Appeals may require that a performance guarantee be furnished to insure compliance with the requirements, specifications and conditions imposed with any such approval to insure continued compliance with any conditions of approval and/or the proper discontinuance of a temporary use by a stipulated time. Such performance guarantee may be in the form of a cash deposit, certified check, or irrevocable bank letter of credit, at the discretion of the Planning Commission or Zoning Board of Appeals.

**230.325 PERFORMANCE STANDARDS**

No parcel, building or structure in any zoning district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided any use permitted, as defined herein, by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:

- A. No vibration shall be permitted in excess of the applicable Township noise regulations (Township Code Part Eighty-Two, Ordinance Number 974: Disturbing the Peace) or regulations promulgated by rule thereunder.
- B. No audible noise shall be permitted in excess of Township noise regulations (Township Code Part Eighty-Two, Ordinance Number 974: Disturbing the Peace) or regulations promulgated by rule thereunder.
- C. No storm water runoff, which is a result of development site design, or other manmade features, shall be allowed to collect which results in water standing on the surface, unless the standing water is a part of a properly managed and maintained storm water retention system, sediment pond; or the standing water is in a naturally occurring wetland or water body.

**230.326 PERMIT REQUIRED/CERTIFICATE OF OCCUPANCY**

- A. No building shall be erected or altered without first obtaining a building permit or zoning compliance permit. All applications for building permits shall be accompanied by a basic site plan in accordance with **Article 10**, unless a detailed site plan is required elsewhere in this Ordinance.
- B. Decks which are attached to a dwelling require basic site plan review and building permit. Decks which are detached, but in excess of two hundred (200) square feet require basic site plan review and building permit.
- C. For each building permit issued by the Building Inspector, a fee shall be collected in an amount established from time-to-time by resolution of the Township Board.
- D. A building permit shall be required for the moving of any building in excess of two hundred (200) square feet in area from its present location to any other lot or location, except a building used for agricultural purposes.
- E. No land shall be occupied or used and no building hereafter erected, reconstructed or structurally altered, in whole or in part, for any purpose whatsoever, until a certificate of occupancy is issued stating that the building and the use comply with all of the provisions of this Ordinance applicable to the building or premises or the use in the district which it is located.

F. Upon completion of the improvement covered by the building permit, the premises shall be inspected and if said inspection reveals that the improvement has been completed in conformance with the site plan, the building inspector shall issue a certificate of occupancy.

G. Any building erected, razed or converted, or land or premises used in violation of any provision of this Ordinance or the requirements thereof, is hereby declared to be a nuisance per se.

**230.327 PRINCIPAL BUILDING ON A LOT**

More than one principal building may be permitted on a lot provided said buildings are part of an approved site plan or Planned Unit Development, or located in the AG, Agricultural District associated with agricultural farming and related activities. No accessory building or use shall be permitted without a principal building or use.

**230.328 REFUSE AND DUMPSTERS**

All dumpsters and refuse containers shall comply with Lincoln Charter Township Dumpster Ordinance.

**230.339 RESERVED**

**230.330 SETBACKS ON MAJOR STREETS**

A. The mandatory front yard setback shall be fifty feet (50') for properties located on the following roads, except in areas where the right-of-way width adjacent to the parcel is at least fifty (50) feet:

1. John Beers Road, from De Morrow Road to the east jurisdictional boundary,
2. Glenlord Road, from Red Arrow Highway to the east jurisdictional boundary,
3. Red Arrow Highway, from Maiden Lane south to the north Stevensville Village limits and from the south Stevensville Village limits to the south jurisdictional boundary,
4. Cleveland Avenue from Maiden Lane south to the south jurisdictional boundary,
5. Lincoln Avenue, from Maiden Lane south to John Beers Road

**230.331 STRUCTURES PROJECTING INTO SETBACKS**

A. No structure shall be placed within the required setback area (required yard). Setbacks shall be measured from the property line, or the ordinary high water mark, to the foundation of the structure (including porches and steps), unless an upper portion of the structure projects beyond the foundation, then the setback shall be measured from the property line to a point which is perpendicular to the furthest most point of the projections, exclusive of any eaves. Except as provided in Section 230.304, B pertaining to accessory buildings, eaves may project into the setback by no more than eighteen (18) inches and architectural elements such as bay windows

and chimneys, may project into the setback by no more than three (3) feet. No such projection shall be closer than three (3) feet from any property line.

**230.332      RESERVED**

**230.333      RESERVED**

**230.334      TEMPORARY DWELLINGS**

Unoccupied parking or storage of temporary dwellings, recreational vehicles, trailers, etc. on a street or front yard is prohibited for more than forty eight (48) hours at a time. No person shall use or permit the use of any temporary dwelling or trailer as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except:

A. As part of a campground licensed by the Michigan Department of Public Health.

B. As an accessory dwelling in the AG district per **Section 230.305** herein.

**230.335      RESERVED**

**230.336      RESERVED**

**230.337      UNCLASSIFIED USES**

The Planning Commission may find that a land use, while not specifically classified in this Ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district. In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by special use permit, a report outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which, although permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features which were not contemplated or specified herein, such use shall be prohibited.

**230.338      VOTING PLACE**

The provisions of this Ordinance shall not be so construed as to interfere with temporary use of any public property as a voting place in connection with a public election.

**230.339 WATER AND SEWER AVAILABILITY**

- A. All townhomes and multi-unit dwellings shall be connected to public water and public sewer facilities.
- B. Where a building is to be occupied by human beings on property which is not provided with public water or public sanitary sewer facilities, no building permit shall be issued until the Building Inspector has been presented with a sewer permit and a certificate from the Berrien County Health Department showing that the well has been approved.
- C. The Building Inspector may order all work stopped and to notify the Berrien County Health Officer, in any instance where a private sewage disposal system is being constructed, altered or extended without a Permit issued by the Berrien County Health Department.

**230.340 WATERFRONT ACCESS**

- A. **Intent.** It is the intent of this Section to provide a mechanism for protecting the dunes and erosion-prone lands abutting the lakeshore from physical and visual degradation from overuse and over development. It is also the intent of the following provisions to develop in accordance with the limited carrying capacity of inland lakes, to protect the rights of riparian owners, the Township and non-riparians as a whole, and to prevent the development of conditions which threaten land and water resources and threaten public health, safety, and welfare.
- B. The following provisions shall apply to properties having littoral rights on Lake Michigan that are within the Environmentally Sensitive Overlay Area as shown on the Township Zoning Map, or the High Risk Erosion Area as defined in Part 323 of the Shorelands Protection and Management of High Risk Erosion Areas Act (being Act 451 of the Public Acts of Michigan of 1994, as amended), or the Critical Dune Area as defined in Part 353 of the Sand Dune Protection and Management Act (being Act 451 of the Public Acts of Michigan of 1994, and amended), as well as property on Grand Mere Lakes or other inland bodies of water with riparian rights.
  - 1. No private park, easement, common area, lot or access property, abutting or adjoining a lake or creek shall be used to permit access to the lake or creek for more than one (1) single family home, dwelling unit, condominium unit, site condominium unit, apartment unit, or any other use, unless the following standards are met:
    - a. The property used for waterfront access is approved as part of a Planned Unit Development pursuant to Section 230.413 hereof and all units utilizing such access:
      - 1) Are contiguous to one another, and
      - 2) Directly adjoin any private park, easement, common area, lot or property used for waterfront access. For the purposes of this provision, any lot, dwelling unit, condominium unit, site condominium unit or apartment which is separated from a waterfront access by a public road right-of-way shall not be considered to directly adjoin such access.

- b. Any property used for waterfront access which is part of an approved PUD shall have a minimum frontage on the water of not less than eighty (80) feet (measured at the ordinary high water mark) and shall meet the dimensional standards of the underlying zoning district. The minimum frontage on the water required shall be increased an additional eighty (80) feet for each single family home, dwelling unit, condominium unit, site condominium unit, apartment unit, in excess of one (1) which is proposed to be granted use of the waterfront access.
2. Any lot that includes a dwelling, or other principal structure, cannot be used for waterfront access for more than the dwelling or principal structure on that lot.
3. Except as provided herein, any vacant lot or parcel cannot be used for waterfront access for more than one (1) single family home, dwelling unit, condominium unit, site condominium unit, apartment unit, or any other use.
4. The restrictions of this section shall apply to all waterfront property regardless of whether access to the body of water is by easement, private park, common fee ownership, single fee ownership, condominium agreement, license or lease, or any other form of ownership or interest.
5. The use of any lot or parcel for waterfront access to any lake or creek which is within the High Risk Erosion Area or Critical Dune Area shall comply with any requirements of Part 353 of the Sand Dune Protection and Management Act (being Act 451 of the Public Acts of Michigan of 1994, and amended) and/or Part 323 of the Shorelands Protection and Management of High Risk Erosion Areas Act (being Act 451 of the Public Acts of Michigan of 1994, as amended).

## **ARTICLE 4**

### **DISTRICT STANDARDS**

#### **230.400 ZONING DISTRICTS AND MAP**

The Township is hereby divided into the following Zoning Districts as shown on the Zoning Map:

**A. Residential districts:**

1. AG Agricultural
2. LD Low Density Residential
3. CR Community Residential
4. NRD Neighborhood Residential District
5. MH Manufactured Housing Community
6. HD High Density Residential

**B. Commercial districts:**

1. CMU Commercial Mixed Use
2. HC Highway Commercial

**C. Industrial districts:**

1. LI Light Industrial
2. HI Heavy Industrial

**D. Planned Unit Development district:**

1. PUD Planned Unit Development

**E. Environmentally Sensitive Overlay (Article 12)**

#### **230.401 OFFICIAL ZONING MAP**

- A. For the purposes of this Ordinance, the Zoning Districts as provided in this Ordinance are bounded and defined as shown on a map entitled "Zoning Map of Lincoln Charter Township", a copy of which accompanies this Ordinance and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this Ordinance by reference.
- B. The Zoning Map shall be identified by the signature of the Township Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words: "This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Lincoln Charter Township", together with the effective date of this Ordinance, or any amendments thereto.
- C. If, in accordance with the procedures of this Ordinance and Michigan law a change is made in a Land Use District boundary, such change shall be made by or under the direction of the Supervisor promptly after the amendment authorizing such change shall have been adopted and published.
- D. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Lincoln Charter Township Hall shall be the final authority as to the current zoning status of any land, parcel, lot, Zoning District, use, building or structure in the Township.

- E. In the event the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Board may by resolution authorize the transcribing and drawing of a duplicate Zoning Map which shall supersede the prior Zoning Map. The duplicate Zoning Map may correct drafting or other errors or omissions on the prior Zoning Map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior Zoning Map. The duplicate Zoning Map shall be identified by the signature of the Supervisor, attested by the Township Clerk, and bear the seal of the Township under the following words: "This is to certify that this is the Zoning Map referred to in the Zoning Ordinance of Lincoln Charter Township duplicated on June 21, 2008 which replaces and supersedes the Zoning Map which was adopted on December 9, 1975.
- F. Where uncertainty exists as to the boundaries of Land Use Districts as shown on the Zoning Map, the following rules of interpretation shall apply:
  1. A boundary indicated as approximately following the centerline of a highway, street, alley or easement shall be construed as following such line.
  2. A boundary indicated as approximately following a recorded parcel line or a property line shall be construed as following such line.
  3. A boundary indicated as approximately following the corporate boundary line of the Township shall be construed as following such line.
  4. A boundary indicated as following a railroad line shall be construed as being the centerline of the railroad right of way.
  5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
  6. A boundary indicated as following the centerline of a water body shall be construed as following such centerline at the time of interpretation.
  7. A boundary indicated as parallel to, or an extension of, a feature indicated in subsections 1 through 6 above shall be so construed.
  8. A distance not specifically indicated on the Zoning Map shall be determined by the scale of the map.
  9. Where a physical or cultural feature existing on the ground is inconsistent with that shown on the Zoning Map, or in any other circumstance not covered by subsections 1 through 8 above, or question in interpreting subsections 1 through 8 above, the Zoning Board of Appeals shall interpret the Zoning District boundary.

**230.402**

**SUMMARY TABLES**

- A. **Table 230.402, A**, Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance.

- B. The Schedule of District Regulations set forth as **Table 230.402, B** provides an overview of the dimensional requirements of this Zoning Ordinance. It is provided for expeditious reference. However, it should not be substituted for a precise reference to the specific language of this Ordinance.
- C. Additional Standards. All uses shall conform to all applicable General Provisions, as well as **Article 10, Site Plan Requirements; Article 6, Landscaping; Article 7, Parking, Lighting and Mechanical Screening, Article 8, Signage, Article 9, Special Land Uses, Article 11, Home Occupations and Home-based Businesses, and Article 12, Environmentally Sensitive Overlay (when applicable).**

**TABLE 230.402 (A) SCHEDULE OF USES**  
**LINCOLN CHARTER TOWNSHIP**  
**P=Permitted Uses S= Special Land Uses**

Use	Agricultural (AG)	Low Density (LD)	Community Residential (CR)	High Density (HD)	Manufactured Housing (MH)	Neighborhood Residential District (NRD)	Commercial Mixed Use (CMU)	Highway Commercial (HC)	Light Industrial (LI)	Heavy Industrial (HI)
Accessory Building	P	P	P	P	P	P	P	P	P	P
Accessory Use, when accessory to a permitted use	P	P	P	P	P	P	P	P	P	P
Accessory Use, when accessory to a special land use	S	S	S	S	S	S	S	S	S	S
Adult Foster Care	P	P	P			P				
Agricultural Farming and Related Activities	P									
Agricultural-related Retail Sales	P									
Animal Grooming						P	P		P	
Assembly Operation										P
Automobile Repair Facility							S		P	P
Automobile Sales Facility							S	S		
Bed and Breakfast	S	S				S				
Car Wash							S	S		
Cemetery	S	S								
Contractor's Facility									P	P
Convenience Store w/o fuel pumps						S	P	P	S	S
Convenience Store w/ fuel pumps							S	S		
Day Care, Facility	P	P	P			P				
Day Care, Commercial						S	S	S		
Day Care, Group	S	S	S			S	S	S		
Drive-through Establishment						P	P	P		
Dwelling, Single-Family	P	P	P	P		P				
Dwelling, Two-Unit				P	P		P			
Dwelling, Multi-unit					P		P			
Eating and Drinking Establishment						S	P	P	P	P
Educational Facility		P	P			P			P	
Financial Institution						P	P	P		
Gallery or Museum							P	P		
Gasoline Station							S	S		
Governmental Offices		P	P			P	P			
Greenhouse or Nursery	P						S	S	P	

Use	Agricultural (AG)	Low Density (LD)	Community Residential (CR)	High Density (HD)	Manufactured Housing (MH)	Neighborhood Residential District (NRD)	Commercial Mixed Use (CMU)	Highway Commercial (HC)	Light Industrial (LI)	Heavy Industrial (HI)
Home Based Business	P	P	P			P				
Home Occupation	P	P	P			P				
Hotel							S	P		
Hospital						S				
Junkyard										S
Laundry and Dry Cleaning Establishment							P	P	P	
Laundry and Dry Cleaning Plant									S	S
Machine Shop									P	P
Manufactured Housing Community					P					
Medical or Dental Office						P	P	P		
Mine, Sand and Gravel										S
Mini/Self-service Storage Facility							S		P	P
Mixed-Use Development						S	S	S	S	
Mortuary/Funeral Home							S	S	S	
Multi-tenant Commercial Establishment						P	P	P		
Multi-tenant Industrial Establishment									P	P
Nursing Home and/or Convalescent Homes w/ Assisted Living		S				S	S	S		
Outdoor Sales Facility							S		S	S
Park or Parkland	P	P	P	P		P	P	P	P	P
Personal Service Establishment						P	P	P		
Place of Public Assembly	P	P	P	P		P	P	P		
Power Generating Facility										S
Processing and Manufacturing									P	P
Professional Office						P	P	P	P	P
Recreation Area, Private	S	S	S	S			S		S	S
Research, Testing and Laboratory									P	P
Residential Above Retail or Office						S	S	S		
Resort							P	P		
Retail Business						P	P	P		
Service Establishment Accessory to Principal Use							P	P	P	P
Sexually Oriented Business										S
Shipping Facility										P

Use	Agricultural (AG)	Low Density (LD)	Community Residential (CR)	High Density (HD)	Manufactured Housing (MH)	Neighborhood Residential District (NRD)	Commercial Mixed Use (CMU)	Highway Commercial (HC)	Light Industrial (LI)	Heavy Industrial (HI)
Showroom							P		P	P
Sports and Recreation Club	S					P	P	P		
Stable, Riding	S									
Studio for Performing and Graphic Arts						P	P	P		
Tattoo or Piercing Parlor										S
Townhome			P	P		P	P	P		
Urgent Care Facility							P	P		
Uses Similar to Permitted Uses	P	P	P	P		P	P	P	P	P
Uses Similar to Special Uses	S	S	S	S		S	S	S	S	S
Veterinary Clinic/Kennel	S						S		P	
Warehouse									P	P
Wells, Extraction									S	S
Wholesale Facility									P	P
Wind Energy Conversion System										S

[Amended July 10, 2018]

Table 230.402, B – Lincoln Charter Township Schedule of District Regulations

District	Min. Lot Dimensions <sup>(a)</sup>		Max. Lot Coverage	Min. Yard Requirements (feet)				Max. Bld. Height	Min. Living Area per Dwelling	Max. Bld. Footprint	Max. Density
	Area (sq. ft.)	Width (feet)		Front <sup>(b)</sup>	Side (each side)	Rear	Frontage				
AG	217,800	150	35	35	10	50		35 ft.	1,000		
LD	12,000 23,000, NS	80 90, NS	35	35	10	25	70	40/2½	1,000		
CR Use Other than Townhome Townhome/Two-Unit Dwelling	8,720 23,000, NS 6 per acre <sup>(c)</sup>	50 90, NS n/a	40	25	7½	25	50	35/2½	1,000		
HD	87,120	150		25	10	25	150		650	15,000	10
MH <sup>(e)</sup>											
NRD Single-Family Dwelling Townhome/Two-Unit Dwelling/Multi-Unit Non-Residential Use	8,710 23,000, NS 8 per acre <sup>(d)</sup> 23,000, NS 8,710	90, NS n/a	40	20	7.5	25	50 150	35/2½	1,000 650	12,000	8

Table 230.402, B (CONTINUED) – Lincoln Charter Township Schedule of District Regulations

District	Min. Lot Dimensions <sup>(a)</sup>		Max. Lot Coverage	Min. Yard Requirements (feet)				Max. Bld. Height	Min. Living Area per Dwelling	Max. Bld. Footprint	Max. Density
	Area (sq. ft.)	Width (feet)		Front <sup>(b)</sup>	Side (each side)	Rear	Frontage				
CMU <sup>(b)</sup>	20,000	150	60	35	10	25	150	35 <sup>(e)</sup> /2½ <sup>(h)</sup>	650		8
HC	20,000	150	50	50	10	25	150	50/3 <sup>(h)</sup>	650		8
LI <sup>(f)</sup>	20,000	120	70	35	10	25	120	40 ft.			
HI <sup>(f)</sup>	20,000	120	70	35	10	25	120	40 ft.			

<sup>(a)</sup> “NS” means not served with public water and/or sewer.

<sup>(b)</sup> Subject to Section 230.330, Setbacks on Major Roads.

<sup>(c)</sup> Minimum development area is 2 acres in area. Maximum building length shall be 125 feet. Minimum building separation shall be 20 feet.

<sup>(d)</sup> Minimum development area is 2 acres in area. Minimum common open space shall be 150 square feet per unit. Maximum building length shall be 125 feet.

<sup>(e)</sup> Per the Manufactured Housing Division and in compliance with Act 96 of the Public Acts of 1987, as amended.

<sup>(f)</sup> No building, sign, storage, or industrial activity shall be located within 50 feet from a lot line of an abutting residential district.

<sup>(g)</sup> Maximum Building Height for Hotels shall be 41 feet. [Amended July 10, 2018]

<sup>(h)</sup> No maximum number of stories shall be required for Hotels. [Amended July 10, 2018]

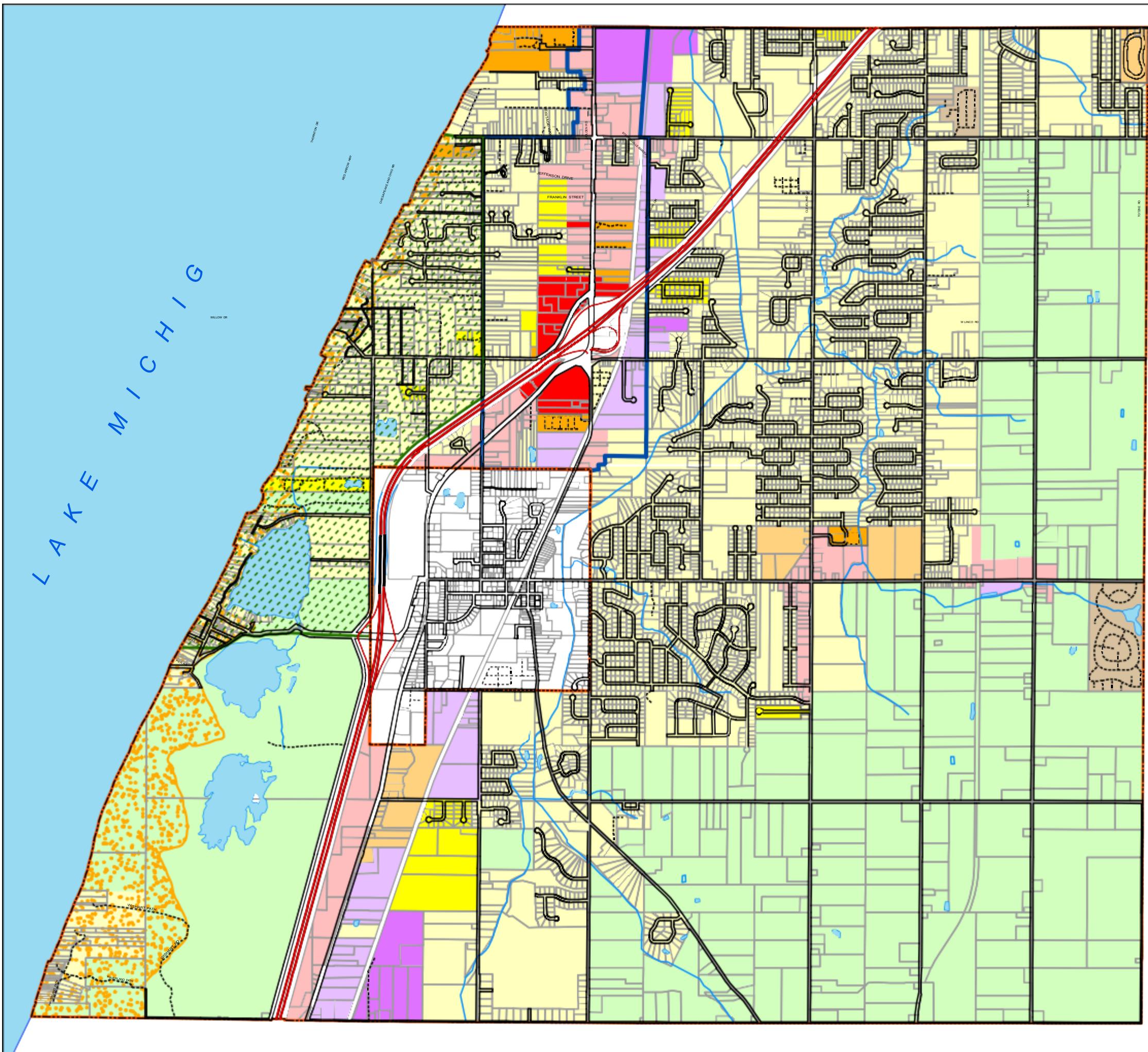
# Lincoln Charter Township

Berrien County, Michigan

## Zoning Map



Adopted: June 10, 2008  
 Effective: June 21, 2008  
 Amended: May 28, 2016



The undersigned hereby certify this map as the official adopted zoning map of Lincoln Charter Township

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Stacy Loar-Porter  
Clerk

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Dick Stauffer  
Township Supervisor



williams&works  
engineers | surveyors | planners



## **230.403 AG – AGRICULTURAL DISTRICT**

### **230-403.01 INTENT**

It is the intent of the Agricultural District to preserve suitable portions of the Township for open space and agricultural activities. This district is intended to preserve agricultural practices while allowing for limited residential development on smaller tracts. Although it is recognized that not all land within this classification is prime farmland, the integrity of the area will be maintained to ensure that larger parcels of land are available for farming. Necessary and customary ancillary uses such as related dwelling units, barns and similar buildings, u-pick operations, sales of produce grown on the farm, packaging of fresh produce, parking areas, and petroleum storage are permitted. Additionally, activities such as farm stands, farm tours, corn mazes, and other farm-related entertainment activities are encouraged in this district as a means to preserve the rural heritage of the Township.

### **230-403.02 DISTRICT STANDARDS**

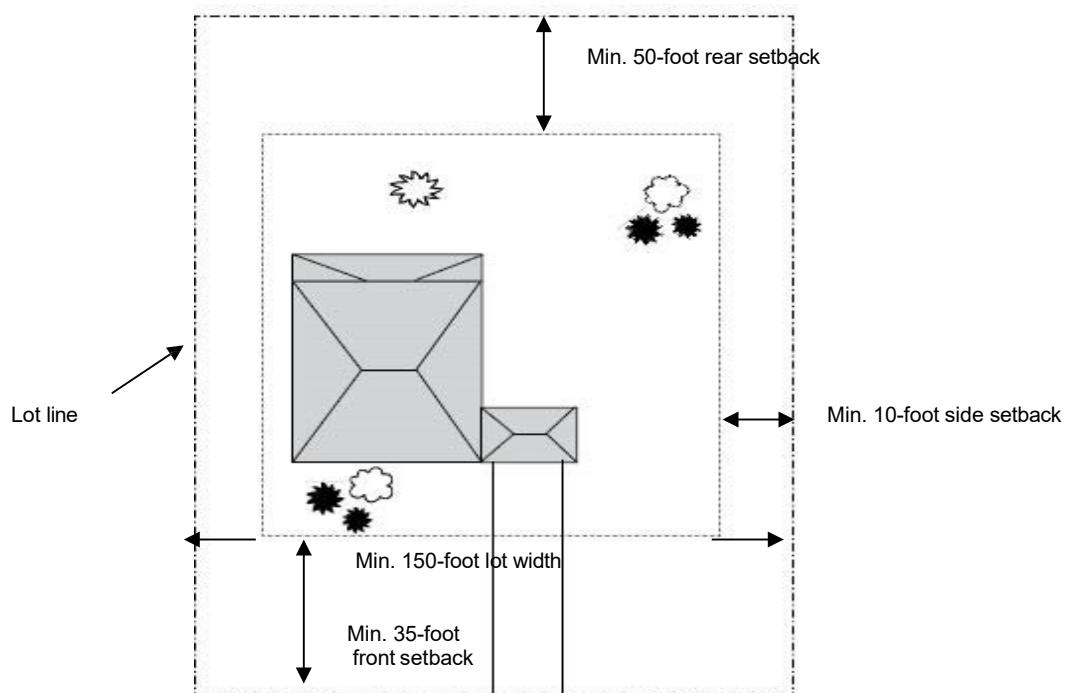
USES PERMITTED BY RIGHT	SPECIAL USES
<ul style="list-style-type: none"><li>◆ Accessory building(s) related to uses permitted by right</li><li>◆ Accessory uses related to uses permitted by right</li><li>◆ Adult Foster Care</li><li>◆ Agricultural Farming And Related Activities</li><li>◆ Agricultural-Related Retail Sales</li><li>◆ Day Care Facility</li><li>◆ Dwelling, Single Family</li><li>◆ Greenhouse or Nursery</li><li>◆ Home Based Business (per Article 11)</li><li>◆ Home Occupation (per Article 11)</li><li>◆ Park or Parkland</li><li>◆ Place of Public Assembly</li><li>◆ Use similar to uses permitted by right, subject to <b>section 230.337</b></li></ul>	<ul style="list-style-type: none"><li>◆ Accessory uses related to permitted special use, subject to 230.904</li><li>◆ Bed &amp; Breakfast, subject to 230.910</li><li>◆ Cemetery, subject to 230.913</li><li>◆ Day Care, Group, subject to 230.921</li><li>◆ Recreation Area, Private, subject to 230.952</li><li>◆ Sports and Recreation Club, subject to 230.955</li><li>◆ Stable, Riding, subject to 230.956</li><li>◆ Use similar to permitted special use, subject to 230.959</li><li>◆ Veterinary Clinic/Kennel, subject to 230.961</li></ul>

**DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	5 acres	<b>Minimum Lot Width:</b>	150 ft.
<b>Maximum Building Height:</b>	35'	<b>Maximum Lot Coverage:</b>	35%
<b>Minimum Building Setbacks <sup>(a)</sup>:</b>		<b>Minimum Living Area:</b>	1,000 sq. ft.
Front	35 ft.		
Side	10 ft.		
Rear	50 ft.		

<sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets.

<sup>(b)</sup> For accessory buildings designed for housing livestock or fowl, setbacks shall be 200 feet abutting any non-agricultural zoned property and 75 feet abutting any agriculturally zoned property.



## **230.404 LD – LOW DENSITY RESIDENTIAL DISTRICT**

### **230-404.01 INTENT**

It is the intent of this District to establish and protect residential areas consisting primarily of low density, single-family neighborhoods designed and maintained to promote an attractive, healthy and stable living environment for families, singles and the elderly. The Low Density Residential district corresponds with the Low Density Residential land use designation of the Township's Development Plan. All uses within this district are required to connect to public water and sanitary sewer, if available.

### **230-404.02 DISTRICT STANDARDS**

#### **USES PERMITTED BY RIGHT**

- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right.
- ◆ Adult Foster Care
- ◆ Day Care Facility
- ◆ Dwelling, Single Family
- ◆ Education Facility
- ◆ Governmental Offices
- ◆ Home Based Business (per Article 11)
- ◆ Home Occupation (per Article 11)
- ◆ Park or Parkland
- ◆ Places of Public Assembly
- ◆ Use similar to uses permitted by right, subject to **section 230.337**

#### **SPECIAL USES**

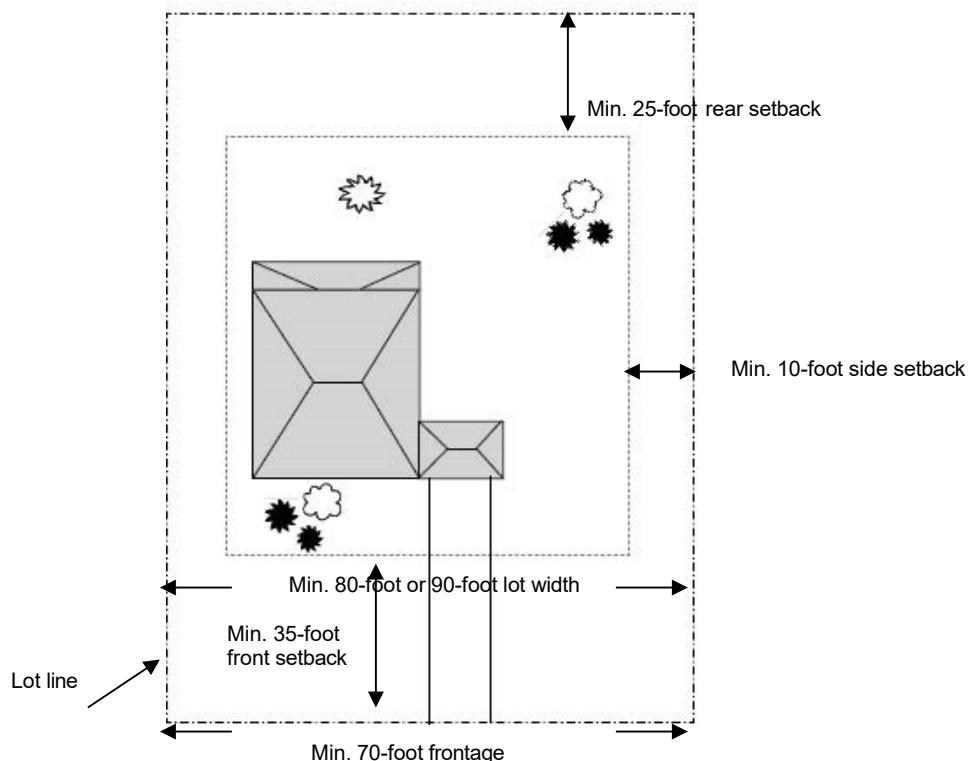
- ◆ Accessory uses related to permitted special use, subject to 230.904
- ◆ Bed and Breakfast, subject to 230.910
- ◆ Cemetery, subject to 230.913
- ◆ Day Care, Group, subject to 230.921
- ◆ Nursing Home and/or Convalescent Home w/ Assisted Living, subject to 230.947
- ◆ Recreation Area, Private, subject to 230.952
- ◆ Use similar to permitted special use, subject to 230.959

**DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	12,000 sq. ft <sup>(b)</sup>	<b>Minimum Lot Width:</b>	80 ft. <sup>(b)</sup>
<b>Maximum Building Height:</b>	40' ft.	<b>Maximum Lot Coverage:</b>	35%
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Minimum Living Area:</b>	1,000 sq. ft.
Front	35 ft.	<b>Minimum Frontage:</b>	70 ft.
Side	10 ft.	<b>Maximum Number of Stories:</b>	2 ½
Rear	25 ft.		

<sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets.

<sup>(b)</sup> For structures not connected to public water and/or sewer minimum lot width shall be 90 feet and the minimum lot area shall be 23,000 square feet.



## **230.405 CR-COMMUNITY RESIDENTIAL DISTRICT**

### **230-405.01 INTENT**

The intent of the Community Residential district is to provide a mix of single-family residential housing types in areas of the Township served by retail, office, and community facilities. Single-family dwellings and two-unit attached dwellings shall be permitted in this district; however multi-unit dwellings shall not be permitted. New residential development shall reflect the architectural styles of dwellings along Ridge Road and shall be arranged to minimize the impact on development through appropriate setbacks, building orientation, and façade appearance.

### **230-405.02 DISTRICT STANDARDS**

#### **USES PERMITTED BY RIGHT**

- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right.
- ◆ Adult Foster Care
- ◆ Day Care Facility
- ◆ Dwelling, Single Family
- ◆ Dwelling, Two-unit
- ◆ Education Facility
- ◆ Governmental Offices
- ◆ Home Based Business (per Article 11)
- ◆ Home Occupation (per Article 11)
- ◆ Park or Parkland
- ◆ Place of Public Assembly
- ◆ Townhome, subject to 203.405.03
- ◆ Use similar to uses permitted by right, subject to **section 230.337**

#### **SPECIAL LAND USES**

- ◆ Accessory uses related to permitted special use, subject to 230.904
- ◆ Day Care, Group, subject to 230.921
- ◆ Recreation Area, Private, subject to 230.952
- ◆ Use similar to permitted special use, subject to 230.959

**DISTRICT REGULATIONS USES OTHER THAN TOWNHOMES AND TWO-UNIT DWELLINGS**

<b>Minimum Lot Area:</b>	8,720 sq. ft <sup>(b)</sup>	<b>Minimum Lot Width/Frontage:</b>	50 ft. <sup>(b)</sup>
<b>Maximum Building Height:</b>	35 ft.	<b>Maximum Lot Coverage:</b>	40%
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Minimum Living Area:</b>	1,000 sq. ft.
Front	25 ft.	<b>Maximum Number of Stories:</b>	2 ½
Side	7.5 ft.		
Rear	25 ft.		

<sup>(a)</sup> Subject to **Section 230.330, Setbacks on Major Streets** and **Section 230.600 E., Required Transition Strip.** (eff. 5/5/09)

<sup>(b)</sup> For structures not connected to public water and/or sewer minimum lot width shall be 90 feet and the minimum lot area shall be 23,000 square feet.

**DISTRICT REGULATIONS FOR TOWNHOMES AND TWO-UNIT DWELLINGS<sup>(b)</sup>**

<b>Minimum Development Area:</b>	2 acres <sup>(b)</sup>	<b>Maximum Density: Two-Unit or Townhome Dwelling:</b>	6 units per acre
<b>Maximum Building Height:</b>	35 ft.	<b>Maximum Lot Coverage:</b>	40%
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Minimum Living Area:</b>	650 sq. ft.
Front	25 ft.	<b>Maximum Number of Stories:</b>	2 ½
Side	10 ft.	<b>Minimum Building Separation:</b>	20 ft.
Rear	25 ft.	<b>Maximum Building Length:</b>	125 ft.

<sup>(a)</sup> Subject to **Section 230.330, Setbacks on Major Streets.**

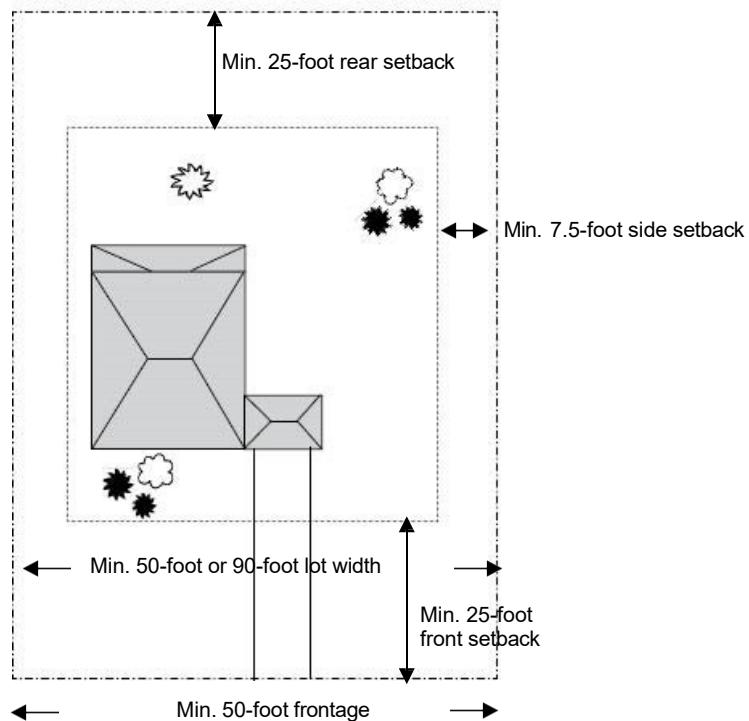
<sup>(b)</sup> Any development of Townhomes or Two-unit dwellings in the CR district shall be a minimum of two (2) acres in area, and shall not exceed a density of six (6) units per acre, except as may be permitted pursuant to **Section 230.413, Planned Unit Development.**

**230-405.03 TOWNHOME STANDARDS**

Townhomes, as defined herein, shall be permitted in the CR district, subject to the following standards.

- A. Each building shall be connected to public water and sewer services.
- B. The exterior elevations shall be designed to resemble larger single-unit buildings by either
  1. Limiting each building elevation to not more than one garage and one ground-level entry, or
  2. Locating multiple garage doors to an interior portion of the site screened with residential structures and landscaping from view from the adjacent properties or the public right-of-way.

**Single-Family Dwelling  
District Regulations**



## **230.406 HD – HIGH DENSITY DISTRICT**

### **230.406.01 INTENT**

It is the intent of this District to accommodate high-density residential and apartment-style residential development. The regulations contained herein are intended to contribute to the diversification and variety of the community's housing in certain locations. The high-density residential district includes multi-unit attached development in areas of the community where this housing type has been developed. All uses in the HD district shall connect to public water and sanitary sewer.

### **230.406.02 DISTRICT STANDARDS**

#### **USES PERMITTED BY RIGHT**

- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right.
- ◆ Dwelling, Multi-Unit
- ◆ Dwelling, Single-family
- ◆ Dwelling, Two Unit
- ◆ Park or Parkland
- ◆ Places of Public Assembly
- ◆ Townhome
- ◆ Use similar to uses permitted by right, subject to section 230.337

#### **SPECIAL USES**

- ◆ Accessory uses related to permitted special use, subject to 230.904
- ◆ Recreation Area, Private, subject to 230.952
- ◆ Uses similar to Special Land Uses, subject to 230.959

DISTRICT REGULATIONS			
<b>Minimum Development Area:</b>	2 acres	<b>Minimum Lot Width/Frontage:</b>	150 ft.
<b>Maximum Building Height:</b>	35 ft	<b>Maximum Lot Coverage:</b>	60%
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Maximum Building Footprint:</b>	15,000 sq. ft.
Front	25 ft.	<b>Maximum Building Length:</b>	125 ft.
Side	10 ft.	<b>Minimum Living Area</b>	650 sq. ft.
Rear	25 ft.	<b>Maximum Number of Stories:</b>	3
<b>Maximum Density:</b>	10 units per acre	<b>Minimum Building Separation</b>	20 ft.
<b>Common Open Space: Two-Unit, Townhome or Multi-unit Dwelling</b>	150 sq. ft. per unit		
<p><sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets.</p>			

**230.407 MH- MANUFACTURED HOUSING COMMUNITY DISTRICT**

**230.407.01 INTENT**

It is the intent of this District to establish a locale to accommodate manufactured housing communities as regulated by the Michigan Mobile Home Commission Act, being Act 96 of the Public Acts of Michigan of 1987, as amended, and the rules and regulations of the Manufactured Housing Commission. All uses in this district shall receive approval by the Manufactured Housing Division and comply with said Act 96.

**230.407.02 DISTRICT STANDARDS**

USES PERMITTED BY RIGHT	SPECIAL USES
<ul style="list-style-type: none"><li>◆ Accessory building related to uses permitted by right</li><li>◆ Accessory uses related to uses permitted by right.</li><li>◆ Manufactured Housing Community, Subject to section 230.407.03</li></ul>	<ul style="list-style-type: none"><li>◆ None</li></ul>

**230.407.03 DISTRICT REGULATIONS**

- A. All uses other than manufactured housing communities shall meet the standards and provisions of this Ordinance
- B. Design and development standards for Manufactured Housing Communities shall be as established by the Manufactured Housing Division and in compliance with Act 96 of the Public Acts of Michigan of 1987, as amended.

## **230.408 NRD – NEIGHBORHOOD RESIDENTIAL DISTRICT**

### **230-408.01 INTENT**

It is the intent of this District to establish and protect residential areas consisting primarily of medium-high density corresponding with the Neighborhood Residential designation in the Township Development Plan. Uses and locations for this district shall promote an attractive, walkable, healthy and stable living environment for families, singles and the elderly. The NRD District, while primarily residential in character, will incorporate some retail and personal service land uses to enhance and strengthen the neighborhood and promote a cohesive community. Residential design standards will ensure compatibility of architectural style between residential uses including single-unit detached units, two-unit attached, and townhouse development as well as small-scale commercial uses. All portions of the NRD District shall be served with public water and sanitary sewer services.

### **230-408.02 DISTRICT STANDARDS**

#### **USES PERMITTED BY RIGHT**

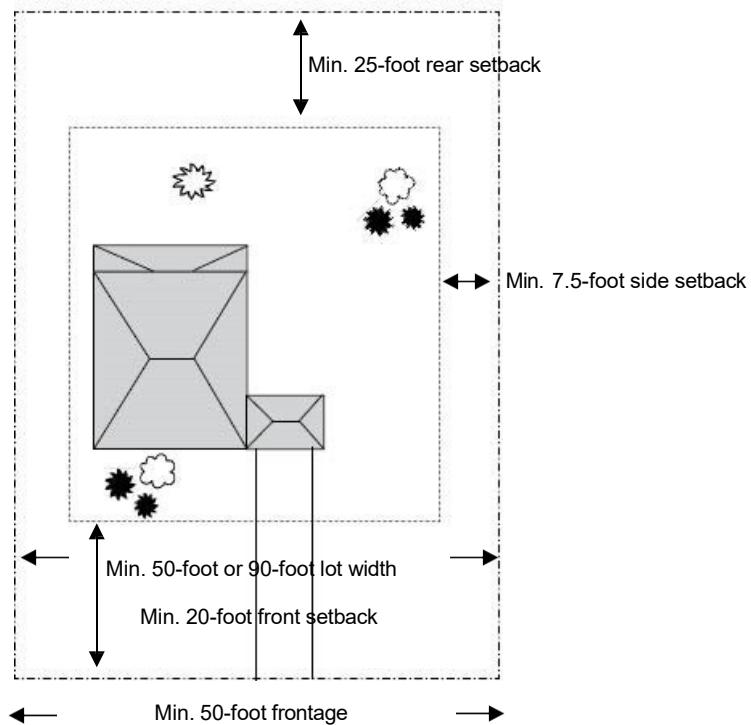
- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right.
- ◆ Adult Foster Care
- ◆ Animal Grooming
- ◆ Day Care Facility
- ◆ Drive-through Establishment
- ◆ Dwelling, Single Family
- ◆ Dwelling, Multi-unit
- ◆ Dwelling, Two-Unit
- ◆ Education Facility
- ◆ Financial Institution
- ◆ Governmental Offices
- ◆ Home-based Business (per Article 11)
- ◆ Home Occupation (per Article 11)
- ◆ Medical or Dental Office
- ◆ Multi-tenant Commercial Establishment
- ◆ Park or Parkland
- ◆ Personal Service Establishment
- ◆ Places of Public Assembly
- ◆ Professional Office
- ◆ Retail Business
- ◆ Sports and Recreation Club
- ◆ Studio for Performing and Graphic Arts
- ◆ Townhome
- ◆ Use similar to uses permitted by right, subject to section 230.337

#### **SPECIAL USES**

- ◆ Accessory uses related to permitted special use, subject to 230.904
- ◆ Bed & Breakfast, subject to 230.910
- ◆ Convenience Store, w/o fuel pumps, subject to 230.918
- ◆ Day Care, Commercial, subject to 230.920
- ◆ Day Care, Group, subject to 230.921
- ◆ Eating and Drinking Establishment, subject to 230.925
- ◆ Hospital, subject to 230.933
- ◆ Mixed Use Development, subject to 230.943
- ◆ Nursing Home and/or Convalescent Home w/ Assisted Living, subject to 230.947
- ◆ Recreation Area, Private, subject to 230.952
- ◆ Residential Above Retail or Office, subject to 230.953
- ◆ Uses similar to permitted special uses, subject to 230.959

DISTRICT REGULATIONS			
<b>Minimum Lot Area Single Family Dwelling:</b>	8,710 sq. ft	<b>Maximum Density: Two-Unit ,Townhome Dwelling, Multi-Unit</b>	8 units per acre
<b>Minimum Lot Area Other Uses:</b>	8,710 sq. ft.	<b>Maximum Building Footprint:</b>	12,000 sq. ft.
<b>Maximum Building Height:</b>	35'	<b>Residential Uses Min. Lot Width/Frontage:</b>	50' <sup>(b)</sup>
<b>Maximum Number of Stories:</b>	2 ½	<b>Non-Residential Uses Min. Lot Width/Frontage:</b>	150'
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Maximum Lot Coverage Residential Uses:</b>	40%
Front	20 ft.	<b>Maximum Lot Coverage Non-Residential Uses:</b>	60%
Side	7.5 ft.	<b>Minimum Living Area Single-Family Dwelling:</b>	1,000 sq. ft.
Rear	25 ft.	<b>Minimum Building Separation for Multi-Unit:</b>	20 ft.
<b>Minimum Living Area Two Unit , Townhome or Multi—Unit:</b>	650 sq.ft.	<b>Maximum Building Length:</b>	125 ft.
<b>Common Open Space: Two-unit, Townhome Dwelling, or Multi-Unit:</b> 150 sq. ft. per unit			
<b>Minimum Development Area for Two-unit, Townhome Dwelling, or Multi-Unit:</b> 2 acres			
<p><sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets</p> <p><sup>(b)</sup> For structures not connected to public water and/or sewer minimum lot width is 90 feet and the minimum lot area shall be 23,000 square feet.</p>			

**Single-Family Dwelling  
District Regulations**



**230.409 CMU-COMMERICAL MIXED USE DISTRICT****230.409.01 INTENT**

It is the intent of this District to encourage and facilitate the development of efficient, small-scale shopping and convenience commercial opportunities to serve Township residents. Uses and locations considered to be appropriate for the Commercial Mixed Use District shall be those that serve the Township residents, are small scale in terms of building footprint and impact to the roadway system. The neighborhood commercial district shall provide attractive design components by incorporating architectural features compatible with the residential character of the area.

**230.409.02 DISTRICT STANDARDS****USES PERMITTED BY RIGHT**

- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right
- ◆ Animal Grooming
- ◆ Convenience Store w/o fuel pumps
- ◆ Drive Through Establishment
- ◆ Eating and Drinking Establishment
- ◆ Financial Institution
- ◆ Gallery or Museum
- ◆ Governmental Offices
- ◆ Laundry and Dry-cleaning Establishment
- ◆ Medical or Dental Office
- ◆ Multi-tenant Commercial Establishment
- ◆ Park or Parkland
- ◆ Personal Service Establishment
- ◆ Places of Public Assembly
- ◆ Professional Office
- ◆ Resort
- ◆ Retail Business
- ◆ Service Establishment Accessory to Principal Use
- ◆ Showroom
- ◆ Sports and Recreation Club
- ◆ Studio for Performing and Graphic Arts
- ◆ Townhome
- ◆ Urgent Care Facility
- ◆ Uses similar to uses permitted by right, subject to section 230.337.

**SPECIAL USES**

- ◆ Accessory uses related to special uses, subject to 230.904
- ◆ Automobile Repair Facility, subject to 230.908
- ◆ Automobile Sales Facility, subject to 230.909
- ◆ Car Wash, subject to 230.912
- ◆ Convenience Store w/ fuel pumps, subject to 230.917
- ◆ Day Care, Commercial, subject to 230.920
- ◆ Day Care, Group, subject to 230.921
- ◆ Gasoline Station, subject to 230.930
- ◆ Greenhouse or Nursery, subject to 230.932
- ◆ Hotel, subject to 230.934 [Amended July 10, 2018]
- ◆ Mortuary/Funeral Home, subject to 230.944
- ◆ Mini/Self-storage Facility, subject to 230.939
- ◆ Mixed Use Development, subject to 230.943
- ◆ Nursing or Convalescent Home/Assisted Living, subject to 230.947
- ◆ Outdoor Sales Facility, subject to 230.948
- ◆ Recreation Area, Private, subject to 230.952
- ◆ Residential Above Retail or Office, subject to 230.953
- ◆ Uses similar to permitted special uses, subject to 230.959
- ◆ Veterinary Clinic/Kennel, subject to 230.961

**DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	20,000 sq. ft.	<b>Minimum Lot Width/Frontage:</b>	150 ft.
<b>Minimum Living Area:</b>	650 sq. ft.	<b>Maximum Number of Stories:</b>	2 1/2 <sup>(c)</sup>
<b>Maximum Dwelling Units/Acre:</b>	8	<b>Maximum Lot Coverage:</b>	60%
<b>Maximum Building Height:</b>	35 ft. <sup>(b)</sup>		

**Minimum Building Setbacks<sup>(a)</sup>:**

Front	35 ft.
Side	10 ft.
Rear	25 ft.

<sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets

<sup>(b)</sup> Maximum Building Height for Hotels shall be 41 feet. [Amended July 10, 2018]

<sup>(c)</sup> No maximum number of stories shall be required for Hotels. [Amended July 10, 2018]

## **230.410 HC – HIGHWAY COMMERCIAL DISTRICT**

### **230.410.01 INTENT**

It is the intent of this District to provide areas for commercial uses to serve the larger community and the traveling public in the vicinity of Interstate 94 and to promote the economic development of the Township, while establishing standards for curb cut locations, pedestrian facilities, parking and shared parking, loading/unloading areas, landscaping, and building form, intended to mitigate the negative impacts of lineal development along at the highway interchange and along Red Arrow Highway; and potential conflicts with nearby residential districts.

### **230.410.02 DISTRICT STANDARDS**

#### **USES PERMITTED BY RIGHT**

- ◆ Accessory building related to uses permitted by right
- ◆ Accessory uses related to uses permitted by right
- ◆ Convenience Store w/o fuel pumps
- ◆ Drive-through Establishment
- ◆ Eating and Drinking Establishment
- ◆ Financial Institution
- ◆ Gallery or Museum
- ◆ Hotel
- ◆ Laundry and Dry Cleaning Establishment
- ◆ Medical or Dental Office
- ◆ Multi-tenant Commercial Establishment
- ◆ Park or Parkland
- ◆ Personal Service Establishment
- ◆ Places of Public Assembly
- ◆ Professional Office
- ◆ Resort
- ◆ Retail Business
- ◆ Service Establishment Accessory to Principal Use
- ◆ Sports and Recreation Club
- ◆ Studio for Performing and Graphic Arts
- ◆ Townhome
- ◆ Urgent Care Facility
- ◆ Uses similar to uses permitted by right, subject to section 230.337.

#### **SPECIAL USES**

- ◆ Accessory uses related to special uses, subject to 230.904
- ◆ Automobile Sales Facility, subject to 230.909
- ◆ Car Wash, subject to 230.912
- ◆ Convenience Store w/ fuel pumps, subject to 230.917
- ◆ Day Care, Commercial or Group, subject to 230.920/921
- ◆ Gasoline Station, subject to 230.930
- ◆ Greenhouse or Nursery, subject to 230.932
- ◆ Mixed Use Development, subject to 230.943
- ◆ Mortuary/Funeral Home, subject to 230.944
- ◆ Nursing or Convalescent Home/Assisted Living, subject to 230.947
- ◆ Residential Above Retail or Office, subject to 230.953
- ◆ Uses similar to permitted special uses, subject to 230.959

**DISTRICT REGULATIONS**

<b>Minimum Lot Area:</b>	20,000 sq. ft.	<b>Minimum Lot Width/Frontage:</b>	150 ft.
<b>Maximum Dwelling Units/Acre:</b>	8	<b>Maximum Building Height:</b>	50 ft.
<b>Minimum Building Setbacks<sup>(a)</sup>:</b>		<b>Maximum Number of Stories:</b>	3 <sup>(b)</sup>
Front	50 ft.	<b>Maximum Lot Coverage:</b>	50%
Side	10 ft.	<b>Minimum Living Area:</b>	650 sq. ft.
Rear	25 ft.		

<sup>(a)</sup> Subject to Section 230.330, Setbacks on Major Streets.

<sup>(b)</sup> No maximum number of stories shall be required for Hotels. [Amended July 10, 2018]

## **230.411.LI – LIGHT INDUSTRIAL DISTRICT**

### **230.411.01 INTENT**

It is the intent of this District to provide locations within the Township for light industrial uses to accommodate industries that provide employment opportunities and tax base, while protecting residential areas from potentially noxious uses. Locations for light industrial uses shall be in proximity to major public roads and/or rail systems, and shall be connected to public water and sewer. Where water and sewer are not available, light industrial uses are not encouraged. Uses permitted in this district shall not cause excessive noise, fumes, smoke or vibration.

### **230.411.02 DISTRICT STANDARDS**

<b>USES PERMITTED BY RIGHT</b>	<b>SPECIAL USES</b>
<ul style="list-style-type: none"> <li>◆ Accessory building related to uses permitted by right</li> <li>◆ Accessory uses related to uses permitted by right</li> <li>◆ Animal Grooming</li> <li>◆ Automobile Repair Facility</li> <li>◆ Contractor's Facility (eff. 5/5/09)</li> <li>◆ Eating and Drinking Establishment</li> <li>◆ Education Facility</li> <li>◆ Greenhouse or Nursery</li> <li>◆ Laundry and Dry Cleaning Establishment</li> <li>◆ Machine Shop</li> <li>◆ Mini/Self-Storage Facility</li> <li>◆ Multi-tenant Industrial Establishment</li> <li>◆ Park or Parkland</li> <li>◆ Processing and Manufacturing</li> <li>◆ Professional Office</li> <li>◆ Research, Testing and Laboratory</li> <li>◆ Service Establishment Accessory to Principal Use</li> <li>◆ Showroom</li> <li>◆ Uses similar to uses permitted by right, subject to section 230.337.</li> <li>◆ Veterinary Clinic/Kennel</li> <li>◆ Warehouse</li> <li>◆ Wholesale Facility</li> </ul>	<ul style="list-style-type: none"> <li>◆ Accessory uses related to special uses, subject to 230.904</li> <li>◆ Convenience Store, w/ fuel pumps, subject to 230.917</li> <li>◆ Laundry and Dry Cleaning Plant, subject to 230.937</li> <li>◆ Mine, Sand and Gravel, subject to 230.940</li> <li>◆ Mixed Use Development, subject to 230.943</li> <li>◆ Mortuary/Funeral Home, subject to 230.944</li> <li>◆ Outdoor Sales Facility, subject to 230.948</li> <li>◆ Recreation Area, Private, subject to section 230.952</li> <li>◆ Uses similar to permitted special uses, subject to 230.959</li> <li>◆ Wells, Extraction, subject to 230.963</li> </ul>

<b>DISTRICT REGULATIONS</b>			
<b>Minimum Lot Area:</b>	20,000 sq. ft.	<b>Minimum Lot Width/Frontage</b>	120 ft.
<b>Max. Building Height:</b>	40'	<b>Maximum Lot Coverage</b>	70%
<b>Minimum Building Setbacks<sup>(a)</sup></b>			
Front	35 ft.		
Side	10 ft.		
Rear	25 ft.		
 <sup>(a)</sup> No building, sign, storage, or industrial activity shall be located within fifty (50) feet from a lot line of an abutting residential district. Subject to <b>Section 230.330, Setbacks on Major Streets.</b>			

#### **230.411.03                    OUTDOOR ACTIVITY AND STORAGE**

The uses permitted in the LI district shall be conducted within a completely enclosed building and/or within an area enclosed on all sides by a fence or wall at least six (6) feet in height; provided, further, that no goods, materials or objects shall be stacked higher than the fence or wall and provided further that all business shall be conducted in such a manner that no noise, smoke, dust, vibration or any other like nuisance shall not adversely affect any adjoining properties.

## **230.412 HI – HEAVY INDUSTRIAL DISTRICT**

### **230.412.01 INTENT**

It is the intent of this District to provide locations within the Township for heavy industrial uses to accommodate industries, which provide employment opportunities and tax base, while protecting residential areas from noxious uses. Locations for heavy industrial uses shall be in proximity to major public roads and/or rail systems, and shall be connected to public water and sewer. Where water and sewer are not available, heavy industrial uses are not encouraged. Uses permitted in this district shall not cause excessive noise, fumes, smoke or vibration.

### **230.412.02 DISTRICT STANDARDS**

USES PERMITTED BY RIGHT	SPECIAL USES
<ul style="list-style-type: none"><li>◆ Accessory building related to uses permitted by right</li><li>◆ Accessory uses related to uses permitted by right</li><li>◆ Assembly Operation</li><li>◆ Automobile Repair Facility</li><li>◆ Contractor's Facility</li><li>◆ Eating and Drinking Establishment</li><li>◆ Machine Shop</li><li>◆ Mini/Self Storage Facility</li><li>◆ Multi-tenant Industrial Establishment</li><li>◆ Processing and Manufacturing</li><li>◆ Professional Office</li><li>◆ Research, Testing and Laboratory</li><li>◆ Service Establishment Accessory to Principal Use</li><li>◆ Shipping Facility</li><li>◆ Showroom</li><li>◆ Uses similar to uses permitted by right, subject to <b>section 230.337</b>.</li><li>◆ Warehouse</li><li>◆ Wholesale Facility</li></ul>	<ul style="list-style-type: none"><li>◆ Accessory uses related to special uses, subject to 230.904</li><li>◆ Convenience Store w/o Fuel Pumps, subject to 230.918</li><li>◆ Junkyard, subject to 230.936</li><li>◆ Laundry and Dry Cleaning Plant, subject to 230.937</li><li>◆ Mine, Sand and Gravel, subject to 230.940</li><li>◆ Outdoor Sales Facility, subject to 230.948</li><li>◆ Power Generating Facility, subject to 230.950</li><li>◆ Production, Refining or Storage of Petroleum Products, subject to 230.951</li><li>◆ Recreation Area, Private, subject to Section 230.952</li><li>◆ Sexually Oriented Business, subject to 230.954</li><li>◆ Tattoo, Piercing Parlor, subject to 230.957</li><li>◆ Uses similar to Used Permitted by Special Land Use, subject to 230.959</li><li>◆ Wells, Extraction, subject to 230.963</li><li>◆ Wind Energy Conversion System, subject to 230.964</li></ul>

## DISTRICT REGULATIONS

**Minimum Lot Area:** 20,000 sq. ft. **Minimum Lot Width/Frontage:** 120 ft.

**Max. Building Height:** 40' **Maximum Lot Coverage:** 70%

### Minimum Building Setbacks<sup>(a)</sup>:

Front	35 ft.
Side	10 ft.
Rear	25 ft.

(a) No building, sign, storage, or industrial activity shall be located within fifty (50) feet from a lot line of an abutting residential district. Subject to **Section 230.330, Setbacks on Major Roads**.

230.412.03 OUTDOOR ACTIVITY AND STORAGE

The uses permitted in the HI district shall be conducted within a completely enclosed building and/or within an area enclosed on all sides by a fence or wall at least six (6) feet in height; provided, further, that no goods, materials or objects shall be stacked higher than the fence or wall and provided further that all business shall be conducted in such a manner that no noise, smoke, dust, vibration or any other like nuisance shall not adversely affect any adjoining properties.

## **230.413 PUD – PLANNED UNIT DEVELOPMENT DISTRICT**

### **230.413.01 INTENT.**

A. **Intent.** This chapter provides enabling authority and standards for the submission, review, and approval of applications for a Planned Unit Development. It is the intent of this chapter to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

1. To promote the conservation of natural features and resources.
2. To promote and ensure greater compatibility of design and use between neighboring properties.
3. To allow for the flexibility in the regulation of land development.
4. To encourage innovation in land use and variety in design, layout, and type of structures constructed.
5. To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
6. To encourage useful open space.
7. To provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township.

B. **Modification of Standards.** The provisions of this chapter are not intended as a device to circumvent the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this chapter are intended to result in land use development substantially consistent with the zoning in place application and the Master Plan, with modifications and departures from district regulations such as density, lot area, height, lot coverage, lot width, and setbacks, in accordance with standards provided in this chapter to ensure appropriate, fair, and consistent decision-making.

### **230.413.02 QUALIFYING CONDITIONS.**

A. In order to be eligible for PUD rezoning, the proposed area shall consist of a minimum of three (3) acres of contiguous land.

B. Except as permitted by Section 230.322, both public water and sanitary sewer shall serve the PUD. [Amended <insert date>]

### **230.413.03 DEVELOPMENT REQUIREMENTS.**

A. **Density.** Additional residential density in excess of that permitted in the zoning upon application may be permitted for developments that provide minimum open space areas as set forth in the following table:

Table 230.413	
Minimum Percent of Site Preserved as Common Open Space	Maximum Density Bonus
25% minimum open space	5% density bonus
35% minimum open space	10% density bonus
45% minimum open space	15% density bonus

In each case, the maximum density for residential uses shall be determined by the Township Board up to the maximum indicated in **Table 230.413**, after review by the Planning Commission based on the following standards. The residential uses shall:

1. Be designed, constructed, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
2. Be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer.
3. Not create excessive additional requirements at public cost for public facilities and services.
4. Be developed in accordance with the intent for a Planned Unit Development as contained herein.

B. **Dwelling Unit Computation.** The density permitted by the Township Board shall be applied to the net development area of the site in order to determine the maximum number of dwelling units permitted for the site. The net development area is determined by subtracting the following from the gross or total site area:

1. Area within existing or proposed road rights-of-way and/or private road easement
2. Area within a regulated wetland, 100-year Floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality.

C. **Amount of Open Space.** A planned unit development shall maintain a minimum of twenty (20) percent of the gross area of the site as dedicated open space held in common ownership, and additional open space shall be required if density bonuses are requested pursuant to this section and **Table 230.413**.

D. **Areas not Considered Open Space.** The following land areas are not included as dedicated open space for the purposes of meeting the requirements of **Table 230.413**:

1. Lot areas proposed as single family residential or site condominiums, or commercial, industrial structures, provided however, that any required transition strip may be counted towards open space so long as it meets the requirements of **Section 230.413.03, E.**

2. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
3. The area of any road right-of-way or private road easement.
4. Any submerged land area of a pond, lake or stream. Except, constructed wetlands and stormwater detention/retention ponds designed to appear and function similar to natural wetlands and ponds, may be counted as open space, provided at least fifty percent (50%) of the minimum required open space area (i.e. 10% of the total site) shall be in the form of usable park area or upland nature preserves.
5. Golf courses

E. **Open Space Location.** Open space shall be planned in locations accessible to all residents in the planned unit development. The open space may either be centrally located, along the road frontage of the development, located to preserve natural features, located to buffer adjacent farmland or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area considered for density bonus calculation:

1. The open space along the exterior public roads shall have a depth of at least fifty (50) feet, either landscaped or preserved in a natural wooded condition.
2. Open space shall be situated to maximize the preservation of existing site woodlands.
3. A minimum one-hundred (100) foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the Township may permit or require trails, boardwalks, observation platforms or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
4. A minimum one-hundred (100) foot wide open space buffer shall be maintained between residential lots and any adjacent parcel zoned AG and actively farmed.
5. Where adjacent land includes open space, public land, or existing or planned PUD or open space cluster developments, open space connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.
6. Any open space area shall be a minimum of at least fifty (50) feet in all dimensions.

F. **Open Space Protection.** The dedicated open space shall be set-aside in perpetuity by the developer through a conservation easement or other deed restriction that is found acceptable to the Township. The conservation easement or deed restriction shall assure 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. The conservation easement or deed restriction shall provide the following:

1. Allowable use(s) of the dedicated open space shall be indicated. The Township may require the inclusion of open space restrictions that prohibit the following:
  - a. Dumping or storing of any material or refuse;

- b. Activity that may cause risks of soil erosion or threaten any living plant material;
- c. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
- d. Use of motorized off-road vehicles;
- e. Cutting, filling or removal of vegetation from wetland areas;
- f. Use of restricted pesticides, herbicides or fertilizers within or adjacent to wetlands.

2. Dedicated open space shall be maintained by parties who have an ownership interest in the open space. Standards for scheduled maintenance of the open space shall be provided. The conservation easement or deed restriction shall provide for maintenance to be undertaken by the Township in the event that the open space is not adequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the owners of the open space.
3. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be prohibited. Any change in use of the open space from what is shown on the approved site plan shall require Township Board approval, based upon a recommendation by the Planning Commission, and shall not diminish compliance with the requirements of this Chapter.
4. Nothing herein shall prevent the conveyance of open space to a public agency or other non-profit entity for recreational or conservation use.

**G.** Modifications and departures of the Private Road pavement and easement width dimensions may also be requested and considered as a part of a proposed Planned Unit Development, however, modifications to the construction or maintenance specifications shall not be permitted.

**230.413.04 APPLICATION AND PROCESSING PROCEDURES**

- A. **Effects.** The granting of a Planned Unit Development rezoning application shall require an amendment of the Zoning Ordinance and the Zoning Map constituting a part of this Ordinance. An approval granted under this chapter including all aspects of the final site development plan and conditions imposed shall constitute an inseparable part of the zoning ordinance.
- B. **Preapplication Conference.** Prior to the submission of an application for Planned Unit Development, the applicant shall meet with the Zoning Administrator, and such consultants as deemed appropriate. The applicant shall present at such conference, or conferences, a sketch plan of the Planned Unit Development and a parallel plan with the following information:
  1. A legal description of the property in question;

2. The total number of acres to be included in the project;
3. The parallel plan shall include a sketch plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. This number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per **Table 230.413**.
4. A statement of the number of residential units and/or the number, type, and square footage of non-residential uses;
5. The number of acres to be occupied and/or devoted to or by each type of use;
6. A list of all departures from the regulations of the Ordinance which may be requested;
7. Graphic and written description of how public water and sanitary sewer will serve the site;
8. The number and written description of acres to be preserved as open space; and
9. All known natural resources and natural features.

C. **Basic Site Plan.** Following the pre-application conference or conferences, twelve (12) copies of a basic site plan and application for a PUD rezoning request shall be submitted not later than forty-five (45) days prior to the next scheduled meeting of the Planning Commission. The submission shall be made to the Zoning Administrator who shall first determine if the application is complete. Only complete applications shall be scheduled for Planning Commission review. The plan shall be accompanied by an application form and fee as determined by the Township Board. The preliminary site development plan shall contain all of the information required for a basic site plan in **Article 10**, in addition to the following:

1. The boundaries of any Floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality, or other agencies.
2. A narrative describing:
  - a. The nature of the project.
  - b. The proposed density, number, and types of dwelling units if a residential PUD.
  - c. A written statement describing how the proposed project meets the intent of the PUD.
  - d. A statement from a registered professional engineer describing how the proposed project will be served by public water, sanitary sewer, and storm drainage.
  - e. Proof of ownership or legal interest in property.
  - f. The impact of the project on roads, schools and utilities.
- g. Key provisions of the Master Deed that demonstrate how the intent and regulations of this chapter will be satisfied.
- h. Key provisions of any design guidelines, if applicable.

3. A parallel plan depicting what could be feasibly constructed with the underlying zoning and dimensional standards and would constitute a plan that the Township would normally approve absent the planned unit development option. The parallel plan shall include the boundaries of any Floodplain, Critical Dune Area or High Risk Erosion Area as defined by the Department of Environmental Quality or other agencies. The number of units, or base density, shall be the maximum number of dwelling units allowable for the planned unit development, unless a density bonus is requested per **Table 230.413**.
4. If the applicant is proposing a Private Road, an application for Private Road shall also be submitted and reviewed concurrent with the Basic Site Plan.
5. For requests to vary the maximum building height of the underlying zoning district, the applicant shall provide a 3D photo simulation or similar graphic representation in AutoCAD, or similar software, and of accurate scale and dimension, using the most recent topographic survey establishing base elevations, that depicts building height and the relationship of proposed structures to existing or proposed structures on site and those within three hundred (300) feet of the planned unit development. (Added March 26, 2010.)

**D. Planning Commission Review.** The Planning Commission shall review the basic site plan according to the provisions of **Section 230.413, A, Qualifying Conditions** and **Section 230.413.03 A-G, Development Requirements** and if applicable, the Private Road application according to the provisions of **Article 5** herein and transmit any recommendations for changes or modifications of the basic site plan to the applicant. At the discretion of the Planning Commission, the request for rezoning to Planned Unit Development shall be set for a public hearing.

**E.** The public hearing notice shall include the rezoning to Planned Unit Development as well as preliminary approval of the Planned Unit Development basic site plan. Notice of the rezoning shall follow the noticing requirements contained in **Section 230.106**.

**230.413.05**

**STANDARDS FOR REZONING APPROVAL**

Following the public hearing, the Planning Commission shall recommend to the Township Board approval, approval with conditions, or denial of the request for rezoning to Planned Unit Development subject to the basic site plan. The Planning Commission shall also have the discretion to recommend a density bonus up to the amounts set forth in **Table 230.413**. If deemed appropriate by the Applicant, the Applicant may request a tabling of the rezoning request to modify the plan based on public input. In making its recommendation, the Planning Commission shall find that the proposed PUD meets the intent of the PUD district and the following standards:

- A. Granting of the Planned Unit Development rezoning will result in a recognizable and substantial benefit to the ultimate users of the project and to the community where such benefit would otherwise be unfeasible or unlikely to be achieved.
- B. In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a

material burden upon the subject or surrounding land or property owners and occupants or the natural environment.

- C. The proposed development shall be compatible with the Lincoln Charter Township Development Plan and shall be consistent with the intent and purpose of this Chapter.
- D. The Planned Unit Development shall not change the essential character of the surrounding area.
- E. The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Zoning Administrator.

**230.413.06 TOWNSHIP BOARD REZONING APPROVAL AND PUD BASIC SITE PLAN APPROVAL**

After receiving the recommendation of the Planning Commission, the Township Board shall approve or deny the PUD rezoning, and shall approve, deny or approve with conditions the Basic Site Plan for the PUD (and any applicable density bonus) in accordance with the standards for approval and conditions for a PUD as contained herein. This approval is valid for a period of eighteen (18) months.

**230.413.07 PLANNING COMMISSION REVIEW OF DETAILED SITE PLAN**

Following rezoning and basic site plan approval, or approval with conditions, the applicant shall submit a detailed site plan to the Planning Commission within eighteen (18) months from the date the rezoning takes effect. If a complete detailed site plan is not submitted within eighteen (18) months from the date the rezoning takes effect, the Township shall initiate a rezoning and the subject site shall revert back to the original zoning designation prior to the PUD rezoning. The detailed site plan shall include the following:

- A. All required site plan data for a detailed site plan in accordance with Table 230.1000.
- B. Copies of comments from all review agencies, including letters stating whether the project is approved, denied or approved with conditions.
- C. Letter from the Berrien County Road Commission approving the driveway and/or curb cut locations and/or proposed public roads.
- D. A statement listing the conditions of approval and description of how the applicant has complied with each condition. This shall also include any conditions of approval from other reviewing agencies.
- E. Copy of the basic site plan and parallel plan.
- F. Copy of maintenance agreement
- G. Copy of proposed easements

H. Building Elevations: For requests to vary the maximum building height of the underlying district, the applicant shall provide detailed building elevations using the following standards:

1. Scale: the scale shall be 1/16" = 1' or whatever scale approved by the Zoning Amendment which produces a readable illustration. The Elevation Scale shall be consistent with the accompanying Site Plan and Photo Simulations.
2. Location: the site address(s) and legal description(s), including parcel number(s).
3. Labeling: Elevations for all sides of the structures must be provided and all views and major features must be labeled, including which side of the project is being illustrated (north, south, east and west elevations, etc.).
4. Dimensions: Elevations shall be fully dimensioned so that all relevant measurements can be read even if an Elevation is reproduced at a different scale from the original. Accessory structures shall have the same dimension requirements as the main structure. The number of stories and dimensions for all heights must be included. Required dimensions include height and width of the following items:
  - i. The lowest elevation within five (5) feet of the perimeter of the structure;
  - ii. The highest elevation for purposes of determining maximum building height as measured pursuant to the Zoning Ordinance;
  - iii. Height to the highest point of the roof and all roof structures and width of each yard;
  - iv. Wireless facilities at ground and roof levels;
  - v. Additions proposed to be attached to the façade of each structure;
  - vi. Any screening treatment including existing or proposed landscaping that will be used to screen wireless equipment or comply with other code requirements;
  - vii. Each floor or mezzanine;
  - viii. Poles or signs, including those attached to the facade or roof;
  - ix. Windows and doors, to determine the percentage of transparent windows or other design requirements related to fenestration;
  - x. Façade texture, color or material changes to determine compliance with building articulation and design standards;

- xi. Fences, walls, berms, barriers, including lighting fixtures, pillars, and gates. Fences including gates need only show the side viewed from the street or public right of way; and
- xii. Height and width of porches, decks or other additions attached to or projecting from a structure.

5. Building Materials: Elevations shall indicate all building material types and colors including any sustainable features of the project. (Added March 26, 2010)

#### **230.413.08**

#### **APPROVAL PROCESS FOR PUD DETAILED SITE PLAN**

The application procedure for a detailed site plan shall follow **Section 230.1002** through **Section 230.1008**. A completed detail site plan including the information required in **Section 230.413.07** shall be submitted for review and recommendation by the Planning Commission. Following a recommendation by the Planning Commission, the Township Board shall hold a public hearing on the final approval of a detailed site plan for PUD. Notices for the public hearing shall follow the noticing requirements of **Section 230.106**.

#### **230.413.09**

#### **PERFORMANCE GUARANTEE**

The Planning Commission is empowered to require a performance guarantee such as a letter of credit, cash, or certified check in an amount up to the estimated cost of improvements and administrative costs associated with the project or for each phase. Such performance guarantee shall be deposited with the treasurer of the Township at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site development plan. The Township shall rebate a proportional share of the deposit, biannually as requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. The Zoning Administrator may, at his discretion, call upon professional assistance from the Township Engineer or the Township Planner. In cases where the provisions of the final development plan, as approved, have not been met, the amount of the aforementioned performance guarantee shall be used by the Township to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.

#### **230.413.10**

#### **AMENDMENTS**

Amendments to an approved detailed site plan for planned unit development shall follow the amendment process as outlined in **Article 10, Site Plan Review**. Major amendments shall require reconsideration of the PUD rezoning and require the applicant to follow the PUD approval process contained in **Sections 230.413.04 through 230.413.08**, thus starting the process over.

#### **230.413.11**

#### **SCHEDULING OF CONSTRUCTION**

The physical development of the area must start within two (2) years of the date of approval of the detailed site plan for planned unit development. Failure to start development shall invalidate the plan. Provided, however, the Township Board, upon review and recommendation by the Planning

Commission, may extend such period of time up to one (1) year. In the event that physical development does not start within two (2) years or the date of approval of, or by the date authorized by the Planning Commission if an extension is granted, the Board shall invalidate the PUD rezoning and initiate a rezoning of the property back to its original zoning designation.

**230.413.12 FEES**

The applicant shall pay all fees and any escrow as established by the Township Board.

## **ARTICLE 5** **STANDARDS AND REQUIREMENTS FOR PRIVATE ROADS**

### **SECTION 230.500                    PURPOSE**

Standards and specifications for the construction and maintenance of private roads to ensure access to emergency vehicles, and the protection of public health, safety and welfare.

### **SECTION 230.501                    SCOPE**

Any lot or parcel of land which does not abut a public street shall abut a private road meeting the standard of this article. This Article shall not apply to access roads internal to any individual lot or parcel of land, as defined herein, which has direct public street frontage access and is under the control of one person, provided that the access road does not provide access to any abutting lot. Examples of access roads that may be exempted from the provisions of this Article include those serving apartment complexes, mobile home parks (manufactured home communities), nursing homes, hospitals, factories, schools and shopping centers which are otherwise subject to site plan review and approval under the provisions of the Lincoln Charter Township Zoning Ordinance.

### **SECTION 230.502                    GENERAL PROVISIONS FOR PRIVATE ROADS**

- A. **Prohibitions.** No persons shall construct or extend any private road within the Charter Township of Lincoln except by permit in accordance with the standards as herein set forth.
- B. **Notice.** Conveyance of interest in land abutting private road. No person shall sell or convey an interest in any lot, including by purchase agreement in a recorded plat or any parcel of unplatted land in an unincorporated area if it abuts a private road as defined in this Ordinance, unless the seller first informs the purchaser in writing on a separate instrument to be attached to the instrument conveying any interest in such lot or parcel of land a notice substantially as follows: "This property is accessed through a private road which is not required to be maintained by the Government, and is subject to regulation by local ordinance."
- C. **Private Road Easements.** All private roads shall be located within a private road easement. Such easement shall not be less than sixty-six (66) feet in width at any point. At any dead end of such easement that exceeds two hundred (200) feet in length, the easement shall widen such that there is a minimum radius of fifty-seven (57) feet for residential use and sixty-seven (67) feet for non-residential use. The area of the private road or private road easement shall not be used to calculate lot size.
- D. **Grade.** The maximum longitudinal grade for any private road shall not exceed eight (8) percent.
- E. **Maximum Length.**
  1. In no instance shall a private road exceed two thousand (2,000) feet in length without a second access to a public road.
  2. In no instance shall a private road exceed one thousand (1,000) feet in length when terminating in a cul-de-sac.

- F. **Connections to Dead End Public Street.** Private roads shall not connect with dead end public streets when the effect would result in a combined length of public and private road in excess of two thousand (2,000) feet.
- G. **Location of Private Roads.** Private roads shall not interconnect with the public street network in a manner that will preclude the extension of public streets within areas where the future extension of public streets is necessary to further the logical, orderly, and efficient development of the overall public street network. In making such determination, consideration shall be given to the circulation pattern and traffic volumes on nearby public streets, existing and proposed land use in the general area, the recommendations contained within Lincoln Charter Township Master Plan and major street plan, and, if applicable, the street and highway plans of the Berrien County Road Commission and Michigan Department of Transportation.
- H. **Gates.** For regulations regarding structures and gates on private roads, see the Lincoln Charter Township Private Gate Ordinance #9711.
- I. **Names and Signage.**
  - 1. All private roads created hereunder shall be named with the suffix "path" with said name to be approved by the Township Board.
  - 2. Name signs and sign posts shall be erected at the expense of the applicant by either the Berrien County Road Commission or Lincoln Charter Township. Name signs shall be blue in color with white letters.
  - 3. Where a private road meets any public road, a stop sign shall be installed at the intersection.
  - 4. All traffic signs must meet Berrien County Road Commission standards.
- J. **Utility Easements.** The proposed private roadway shall provide easements for the entire width and length of the private road for all utilities and services as may be necessary to provide all public services to the lots which benefit from the private road.
- K. **Improvements.** All improvements installed or constructed as required under the terms of this Ordinance shall be made and maintained at the expense of the property owner(s) or developer.
- L. **Extending existing private roads.** If the applicant seeks to extend an existing private road, such extension shall be permitted only if the existing private road complies with the standards as set forth in this Ordinance. All of such standards shall be deemed to apply to the existing roadway and the proposed extension. Such applicant shall obtain the consent from a majority of all persons who, to the knowledge of the applicant, possess any interest in the existing private road or have a right of access to their property thereby, which consent shall be in writing and shall be filed with the Township contemporaneously with the filing of the application for permit hereunder. Said consent shall state:
  - 1. That the owner consents to the extension of the roadway pursuant to the application, and
  - 2. That the consenting party consents to the upgrading of the existing roadway to the standards as set forth in this Ordinance, and where applicable, will agree to grant such easements or rights-of-way as are necessary to satisfy the requirements of this Ordinance.

## **SECTION 230.503 PRIVATE ROAD CONSTRUCTION SPECIFICATIONS**

- A. **Minor private roads.** Minor private roads may be gravel or paved and shall be built to the specifications shown on the attached applicable cross sections to this Ordinance. The road shall widen at any dead end so there is at least a fifty-seven (57) foot right-of-way radius with a forty (40) foot radius cul-de-sac. Minor private road means a private road, which serves residential uses up to twenty-five (25) lots, dwelling units, or condominium units.
- B. **Major private road.** A major private road shall be paved, and built to meet or exceed the specification illustrated on the attached applicable cross sections. The road shall widen at any dead end so there is at least a sixty-seven (67) foot right-of-way radius with a fifty (50) foot paved radius cul-de-sac. Major private road means a private road which serves more than twenty-five (25) lots, dwelling units, or condominium units, or a private road serving any commercial or industrial use

## **SECTION 230.504 PRIVATE ROAD MAINTENANCE SPECIFICATIONS**

- A. Road surfaces are to be graded and graveled or paved to assure vehicle transit at all times of the year.
- B. Drainage facilities shall be maintained to be open and freely draining.
- C. A clear, unobstructed envelope shall be maintained at a minimum height of at least fifteen (15) feet above the entire minimum required road surface.
- D. Road signs and traffic control signs, etc., shall be maintained and replaced by the owner(s) of the private road.

## **SECTION 230.505 DRIVEWAY LOCATIONS**

Lots that are located at the intersection of public and private roads (corner lots) shall construct their driveways and be addressed on the private road, except in the case of an existing lot or structure or where topography, such as wetlands or steep slopes make such access unfeasible or where prohibited by the Berrien County Road Commission.

## **SECTION 230.506 OTHER REQUIREMENTS**

In addition to the above, the Township Board may impose any reasonable requirements it determines are necessary to fulfill the purpose of this Article.

## **SECTION 230.507 APPLICATION REQUIRED**

- A. **Application Contents.**
  1. A plan prepared by a registered land surveyor, civil engineer, or landscape architect at a scale of at least 1" = 100 feet together with a fee established by the Township Board shall be

submitted to the Township Clerk or designated agent. The plans shall include the following information:

- a. The proposed name of development.
- b. Lot identification number(s) and/or a legal description.
- c. The names and addresses of the proprietor, owner proprietor, and planner, design engineer, landscape architect or surveyor.
- d. The scale of the drawing.
- e. The date of preparation.
- f. A North arrow.
- g. A location map showing the general relationship of the affected property to the surrounding area within a one mile radius, in a scale not less than 1" = 2,000 feet.
- h. The proposed property lines and dimensions of each parcel benefited by the proposed private road.
- i. The zoning classification of subject lot and surrounding parcels.
- j. The location of existing buildings and structures.
- k. The locations, widths, legal descriptions and names of existing or prior easements of record, located on the subject lot.
- l. The location of existing and proposed sanitary sewers, water mains, storm drains, and other utilities.
- m. The existing and proposed topography drawn at contour intervals no greater than four feet (4'). Proposed road grades shall be labeled on the drawing.
- n. The location of significant natural features such as lakes, streams, wetlands, and slopes over twenty percent (20%).
- o. The layout and preliminary design of the proposed private road, indicating the proposed easement width and connections to adjoining rights-of-way.
- p. Locations of proposed building sites including approximate grades and building set backs.
- q. Easements for the benefit of the Charter Township of Lincoln for purposes of public utilities such as water and sewer, or for whatever other public services are deemed necessary by the Township, including but not limited to municipal water and sewer.

These easements are subject to the review and approval of the Township Attorney and the Township Engineer. The developer shall provide drainage way easements as required by the regulations established by the Berrien County Drain Commissioner.

- r. Indication of possible future land divisions. This is for information purposes.
- s. Locations of proposed building sites including approximate grades and building setbacks.
- t. Soil borings upon request.
- u. Drainage plans and calculations to support adequate drainage and retention/detention (if necessary).

2. In addition to the above plans, a maintenance agreement, easement agreement, and deed restrictions which provide for the perpetual private (non-public) maintenance of the private road and easement to a necessary and reasonable standard to serve the several interests involved shall be provided. These documents shall be recorded and shall contain the following provisions:

- a. A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.
- b. A workable method of apportioning the costs of maintenance and improvements.
- c. A notice that no public funds of Lincoln Charter Township are to be used to build, repair, or maintain the private road, including road cuts, curbs and gutters that may be required at the entry of the private road onto a public road.
- d. Easements to the public for purposes of public and private utilities, emergency and other public vehicles for whatever public services are necessary.
- e. A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting, or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, employees, and other bound to or returning from any of the properties having a right to use the road.
- f. A method for apportioning any costs of road improvement required under this Ordinance occasioned by an extension of the private road.
- g. A requirement that all future amendments to the maintenance agreement, easement agreement, master deed and/or deed restrictions shall be provided to the Township and shall be recorded with the Berrien County Register of Deeds.
- h. A provision placing on notice all future purchasers, mortgagees and others with possible interest in the property that development on the property is subject to the terms of the this **Article 5, Private Road Standards** and the issuance of building permits for development on the property may be contingent on full compliance with the terms of

## **Article 5, Private Road Standards.**

- i. Applicant must provide parcel number and legal descriptions of all parcels that have legal access to the private road easement.

### **SECTION 230.508 APPLICATION PROCEDURE**

#### **A. Preliminary Review by the Planning Commission.**

1. Twelve (12) copies of the application for a private road, or extension of an existing private road shall be submitted to the Lincoln Charter Township Zoning Administrator who shall review the application and determine whether the application's content satisfies the requirements listed herein. If the application is deficient, the Zoning Administrator shall immediately notify the applicant and provide written notice of the deficiency.
2. Once the Zoning Administrator determines that the application satisfies the requirements listed herein, the Zoning Administrator shall forward it to the Planning Commission, Township Engineer, Fire Chief, and Township Planner for consideration.
3. The Planning Commission shall consider the application, and any recommendations from the Township Engineer, Fire Chief and/or Township Planner, and may recommend either preliminary approval or denial of the application to the Township Board based upon the following standards:
  - a. Be compatible with the adjacent uses of land.
  - b. Be consistent with, and promote the intent and purpose of the zoning ordinance.
  - c. Be consistent with the capacities of public services and facilities affected by the proposed private road.
  - d. Not harm the public health, safety or welfare.
  - e. Not create unreasonable or dangerous noise, dust, pollution or traffic conditions.
  - f. Be consistent with the public street network.

#### **B. Preliminary Approval by the Township Board.**

1. After having received the Planning Commission's recommendation, the applicant may contact the Zoning Administrator to request Township Board review.
2. The applicant shall submit twelve (12) sets of the site plan including construction plans and other documents to the Zoning Administrator at least twenty-one (21) days prior to the meeting. These plans shall include all recommendations of the Planning Commission.
3. The Township Board shall grant preliminary approval only if the proposed private road satisfies the standards set forth in **Section 203.507, A.3.** Preliminary approval by the Township Board authorizes the applicant to commence road construction.
4. Upon preliminary approval of the site plan, construction plans and other documents by the

Township Board, the Zoning Administrator may issue a private road construction permit. No work on a private road shall commence until and unless there has been both preliminary approval by the Township Board and a private road construction permit has been issued by the Zoning Administrator. Preliminary approval expires one year after the Board grants preliminary approval if the applicant fails to obtain final approval. The one year may be extended if applied for by the applicant and granted by the Township Board in writing for good cause shown.

5. The Township Board shall have the final decision regarding application for private road and shared driveway construction. The Board may waive or revise any requirement of this Ordinance where unusual or extraordinary circumstances make compliance with the terms of the Ordinance impossible and where alternative approaches are proposed to accomplish the primary objectives of the Ordinance.

## **SECTION 230.509** **ROAD CONSTRUCTION**

- A. All necessary approvals and permits of the Berrien County Road Commission shall be obtained by the applicant prior to the commencement of road construction.
  1. Prior to the commencement of any clearing or grading, the work area shall be staked by the developer's engineer or surveyor and may be inspected by Township officials.
  2. The Township Board or Planning Commission may require the developer to deposit a cash bond or other bond assurance of performance, in the amount to be determined by the Township, to guarantee that the clearing and grading will conform with the approved plans. In addition, copies of the proof of adequate liability insurance coverage for the developer's engineer and contractor shall be provided to the Township prior to commencement of construction.
  3. All private roads shall be inspected by the Township Engineer during the construction of the road. Two (2) working days' notification shall be given to the Township Engineer's office before commencing construction of the road. The owner and/or contractor shall provide proof of and maintain financial responsibility by a bond or insurance in an amount deemed necessary by the Township Board to satisfy claims for damages to property or personal injuries arising out of an act or omission on the part of the applicant, or an agent or employee thereof in the character and form the Township Board determines is necessary to protect the public. Prior to final approval, the developer's engineer shall certify that the road has been constructed in accordance with as-built plans (which shall be submitted at the completion of the job). This certification shall be signed and sealed by the Developer's Engineer.
  4. If, at any time during road construction, a deviation from the information provided in the plan which has received preliminary approval by the Township Board occurs or is anticipated to occur, the applicant shall stop construction and submit on that portion of the private road which deviates from the plan and consult with the Zoning Administrator to determine whether the deviation is requires approval by the Planning Commission. If, in the opinion

of the Zoning Administrator, the deviation is not significant, construction may continue. If the deviation in the opinion of the Zoning Administrator and/or Township Engineer is significant, the Applicant shall submit a request to deviate from the plan to the Planning Commission including:

- a. A revised site plan which conspicuously identifies location and nature of the deviation.
- b. A written explanation of the cause of and reason justifying the deviation.

**SECTION 230.510** **CONSIDERATION OF REQUEST TO DEVIATE**

The Planning Commission shall hear and decide whether to permit the continued road construction with the deviation within 45 days of receipt of a request to deviate from the plan as described herein. If the Planning Commission denies the request to deviate from the plan, it shall record its reason for the denial in the Minutes of the meeting.

## **SECTION 230.511 TOWNSHIP ENGINEER RECOMMENDATION**

Upon receipt of acceptable as-built plans and verification of proper certification of construction, the Township Engineer may submit his or her recommendation to the Township to accept the road as completed. If there is any deviation from the plans, the Township Engineer shall report the deviation and reason for same to the Zoning Administrator.

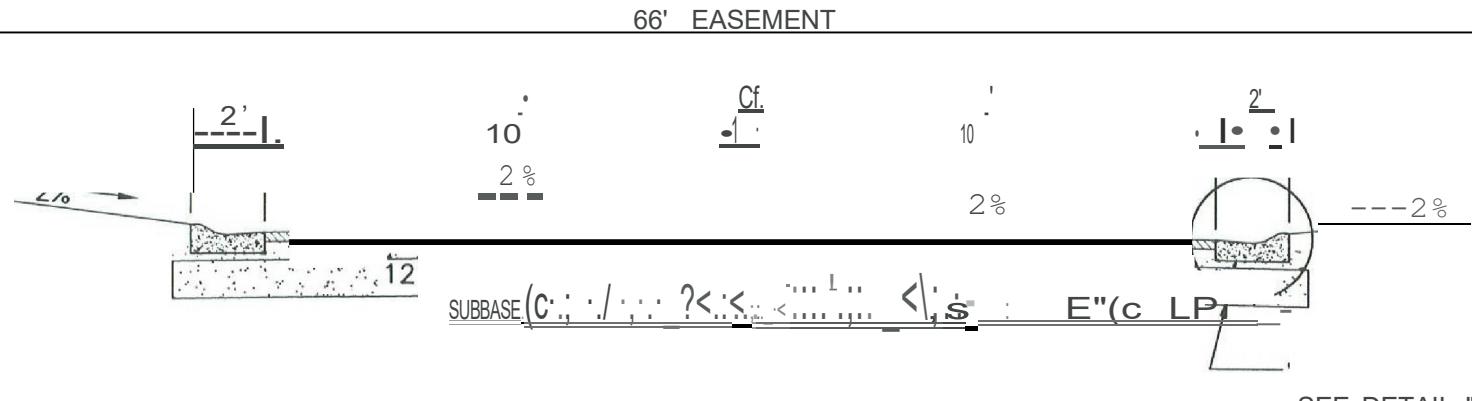
- A. The Township Board shall consider for final approval, only applications which contain all of the following:
  - 1. Final inspection and approval of private road by the Township's Engineer.
  - 2. Proof of installation of street name sign and traffic control devices.
  - 3. Proof of installation of underground utilities required to adequately serve the parcels on the private road.
- B. **Information Required.** The following information shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the Board meeting at which final approval of the proposed private road will be considered:
  - 1. Twelve (12) copies of recorded land survey and legal descriptions showing easements for underground electrical and communication service lines, drainage, sanitary sewer, water, and private road and dedication of any public road rights-of-way.
  - 2. Two (2) copies of the recorded road maintenance agreement.
  - 3. Two (2) copies of the recorded deed restrictions, if any, and easements.
  - 4. Verification of approval of a significant deviation by the Planning Commission (if applicable)

B. If there is compliance with this and all other applicable Township ordinances, and the Township Board finds that the conditions in **Section 203.507, A, 3 a-f and Section 203.512, A 1-3** have been met, the Township Board shall give final approval to the private road. If final approval is denied, the Township Board shall record the reasons for the denial in its minutes. The developer shall submit copies of the plan to the Berrien County Road Commission, appropriate fire department(s), police department(s), ambulance department(s) 9-1-1 and all utilities which serve lots benefited by the private road.

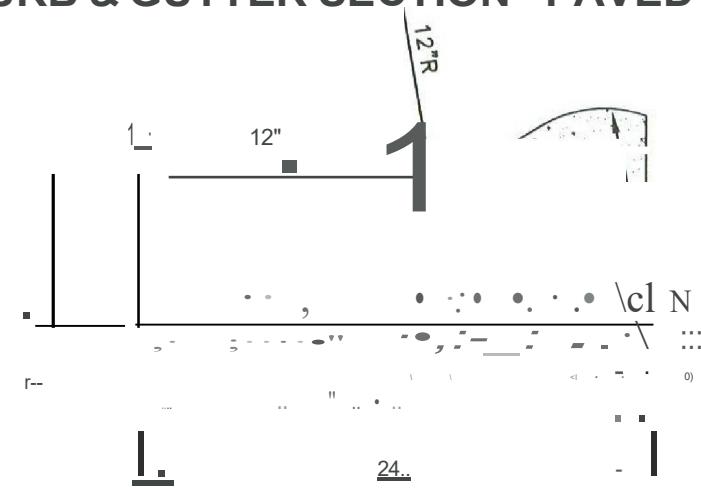
**SECTION 230.513 PERMIT ISSUED**

No building permits shall be issued by the Building Inspector and/or Zoning Administrator for the use of any lot served by a private road, unless such road has received final approval by the Township Board as provided herein, unless said lot is accessible by an existing road.

# LINCOLN CHARTER TOWNSHIP MINOR PRIVATE ROAD TYPICAL SECTIONS FOR PAVED ROADS



## CONCRETE CURB & GUTTER SECTION - PAVED ROAD



## LEGEND

1 HMA SURFACE 2.5"  
- GRAVEL 8" MOOT 22A  
SISSB-(IF NECESSARY)

$$\underline{f > -1}$$

**DETAIL "A"**

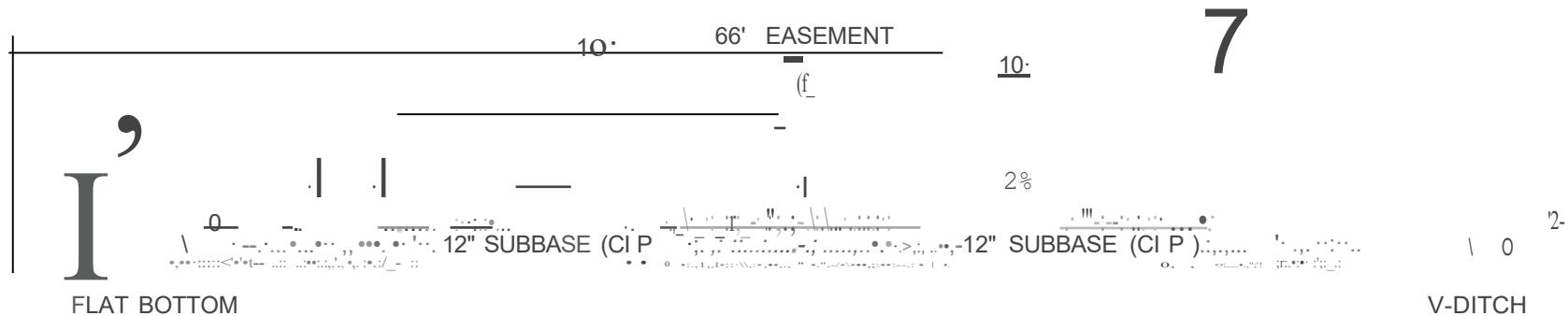
#### MINOR PRIVATE ROAD- PAVED

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MOOT GRANULAR MATERIAL CLASS II L100-100-100

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LINCOLN CHARTER TOWNSHIP  
MINOR PRIVATE ROAD  
TYPICAL SECTION FOR GRAVEL ROADS



**DITCH SECTION - GRAVEL ROAD**

(TYPICAL SECTION FOR PAVED ROADS ON SEPERATE SHEET)

2/07

LEGEND

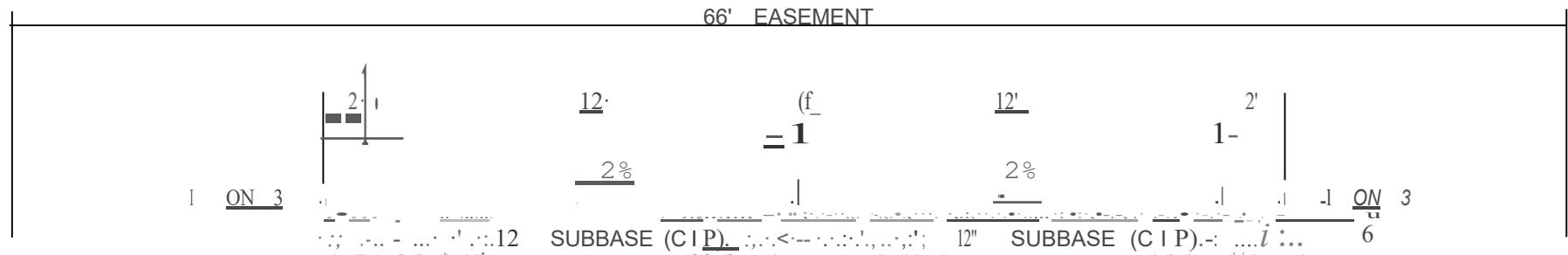
- GRAVEL 8" MOOT 22A
- SSB-(IF NECESSARY)
- MDOT GRANULAR MATERIAL CLASS II

MINOR PRIVATE ROAD - GRAVEL

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# LINCOLN CHARTER TOWNSHIP MAJOR PRIVATE ROAD TYPICAL SECTIONS



## VALLEY GUTTER SECTION

2/07

### LEGEND

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1GRAYEL 8" MOOT 22A  
SSB-(IF NECESSARY)  
MOOT GRANULAR MATERIAL CLASS II

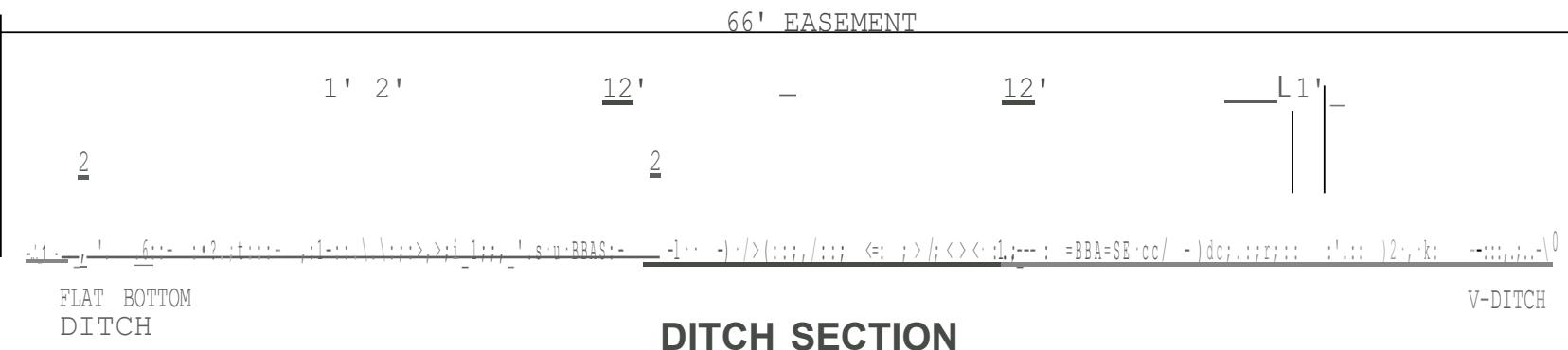


MAJOR PRIVATE ROAD-PAVED



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# LINCOLN CHARTER TOWNSHIP MAJOR PRIVATE ROAD TYPICAL SECTIONS



2/07

## LEGEND

HMA SURFACE 3"



GRAVEL 8" MDOT 22A

SSB- (IF NECESSARY)

MOOT GRANULAR MATERIAL CLASS II

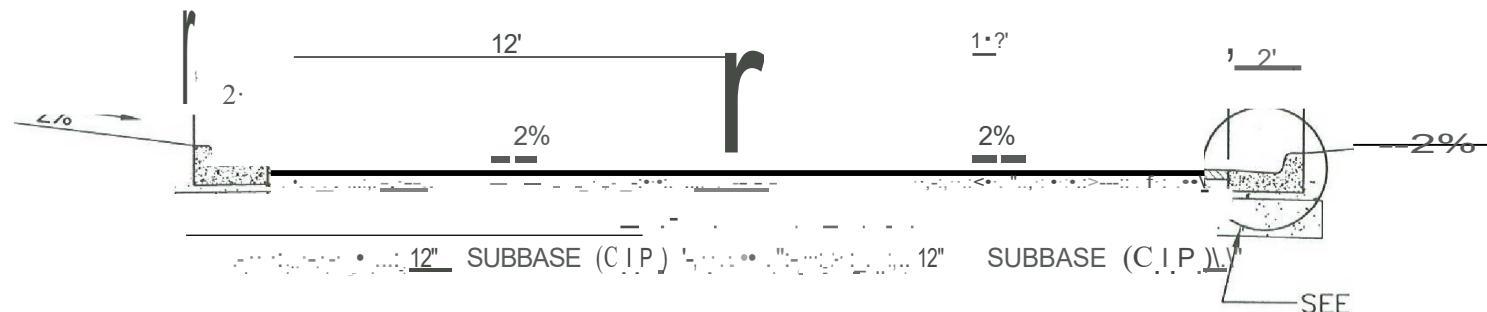
MAJOR PRIVATE ROAD- PAVED

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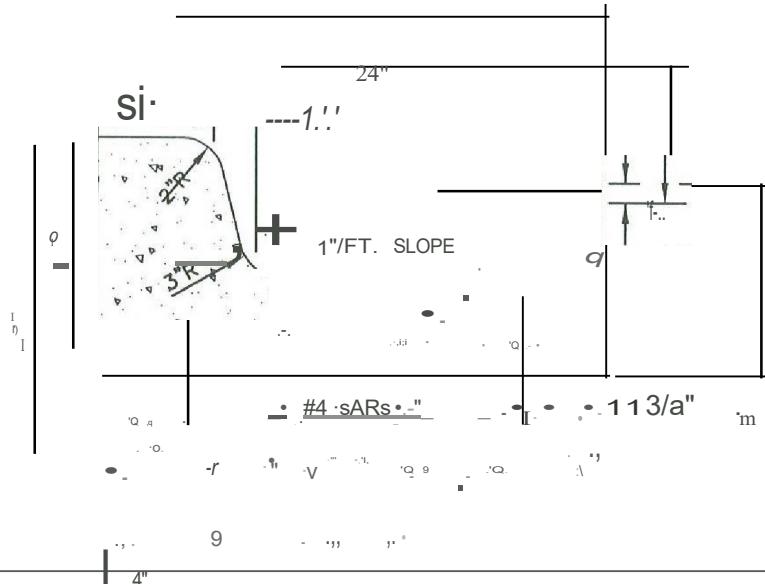
# LINCOLN CHARTER TOWNSHIP MAJOR PRIVATE ROAD TYPICAL SECTIONS

66' EASEMENT



# CONCRETE CURB & GUTTER SECTION

## DETAIL "B"



2/07

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## LEGEND

- "HMA SURFACE .3"  
GRAVEL 8" MOOT 22A

3/4\.\. \>J

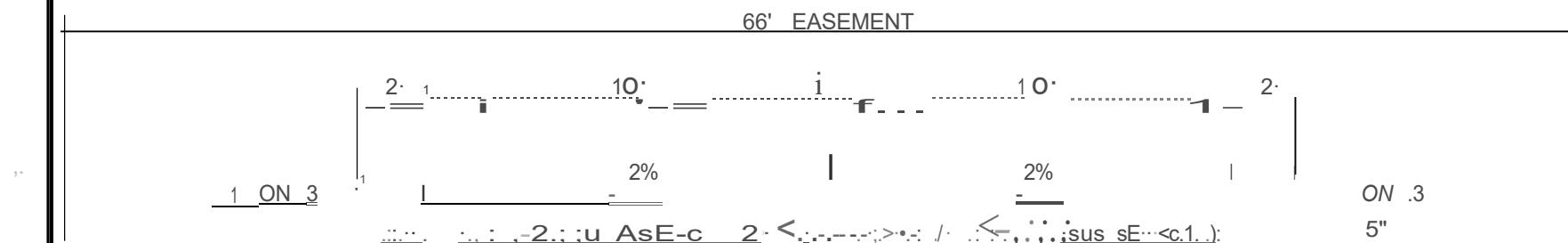
**DETAIL "B"**

**MAJOR PRIVATE ROAD -PAVED**

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LINCOLN CHARTER TOWNSHIP  
MINOR PRIVATE ROAD  
TYPICAL SECTIONS FOR PAVED ROADS



VALLEY GUTTER SECTION - PAVED ROAD

2/07

LEGEND

HMA SURFACE 2.5"  
GRAVEL 8" MOOT 22A  
SSB-(IF NECESSARY)  
MOOT GRANULAR MATERIAL CLASS I



MINOR PRIVATE ROAD - PAVED



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Zoning Ordin



## **ARTICLE 6**

### **STANDARDS AND REQUIREMENTS FOR LANDSCAPING**

#### **SECTION 230.600 MINIMUM LANDSCAPE REQUIREMENTS**

**A. Intent.** The intent of this section is to promote the public health, safety and welfare by establishing minimum requirements for the design, installation and maintenance of landscaping within the Township. Landscaping enhances the visual image of the Township, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction. These regulations are further intended to maintain and enhance the character of Lincoln Charter Township.

**B. Scope.**

1. The requirements set forth herein shall apply to all lots, sites, parcels and uses in the Township which are developed, expanded, or changed following the effective date of this Ordinance, except for single-family residential dwellings. No site plan, subdivision plat or site condominium shall be approved unless it is consistent with the requirements of this Section.
2. The requirements set forth herein are minimum requirements, and nothing herein shall preclude the applicant and the Township from agreeing to more extensive landscaping.

**C. General Requirements.**

1. Coverage. Unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material.
2. Compliance. The landscaping requirements shall be met prior to the issuance of a certificate of occupancy and shall be continuously maintained in a healthy, and vigorous growing condition.
3. Existing and proposed landscaping shall be illustrated on site plans, pursuant to **Article 10**. Plans shall label landscaping materials by common or scientific name, show the distance between plants, indicate the height at the time of planting and anticipated mature height and width. Anticipated mature height and width shall be shown with circles of mature crowns.
4. Landscaping in parking and loading areas is regulated in **Article 7**.
5. For the purposes of this Section, a corner lot is considered to have two (2) front yards – one along each street – and landscaping is required for both.
6. Landscaping shall not be planted to interfere with maintaining a clear sight area.
7. On site stormwater detention areas shall be planted with appropriate vegetation to blend effectively with the site design and, if fenced, shall be fully screened with a planned vegetative

buffer from view from off-site vantage points. On site stormwater retention ponds intended to hold standing water for a majority of the time shall be integrated into site design as an attractive water feature or, if fenced, shall be fully screened with a planned vegetative buffer from view from off-site vantage points.

8. The Planning Commission may lessen the landscaping requirements herein if site conditions are unreasonable to the regulations provided in this Article, or may impose conditions on landscaping to the approval of a site plan. Site conditions unreasonable to the regulations include sufficient existing site vegetation, topographic constraints, irregular lot or parcel configuration, or an intruding natural feature, which physically prevents the planting of required landscaping.
9. Where a development is proposed in phases, time schedules shall be provided to the Township. Applicable landscaping requirements shall be adhered to with the completion of each phase.
10. Where this Section requires landscaping for any given amount of feet along a property boundary, and an applicant's property is a fraction of the given measurement, then the property's measurement shall be rounded up to comply with the minimum standards herein, unless site conditions make this unreasonable, as determined by the Planning Commission.
11. The Township may require as a condition of approval that the applicant file a letter of credit or cash surety to guarantee that all landscaping be installed.

**D. Installation and Maintenance.** For uses other than single-family dwellings:

1. Landscaping shall be installed before occupancy of the development. The applicant may file an irrevocable letter of credit to receive an extension, from which landscaping shall be planted within the next growing season.
2. All required landscaping shall be maintained after planting. All planting areas shall be regularly watered, fertilized, cut and pruned, and grass shall be allowed to grow up to five (5) inches. The applicant shall reveal the party responsible for maintaining such landscaping. After development completion, the property owner(s) shall be held responsible for landscaping maintenance. If a common neighborhood association or condominium association or like body owns the planting area, then said body shall be responsible for maintaining such planting area.
3. Unhealthy landscaping material shall be replaced within one (1) growing season, at the property owner's expense.
4. All landscaping shall be hardy plants capable of maturing in Lincoln Charter Township. All landscaping shall be planted and maintained in such a manner that disease and insect pests shall not be capable of prospering under reasonable conditions.

**E. Required Transition Strip.** All two-unit dwellings, townhomes, multi-unit and non-residential land uses shall comply with the requirements of this Section.

1. A transition strip is required for any new development within the HI, Heavy Industrial; LI, Light Industrial; HD, High Density; MH, Manufactured Home; CMU, Commercial Mixed

Use; HC, Highway Commercial district, and non-residential PUD where such use abuts the LD, Low Density; CR, Community Residential; NRD, Neighborhood Residential District; or any residential Planned Unit Development or Open Space Preservation Development. A transition strip is also required where any two-unit or townhome development approved after the adoption of this ordinance in the CR, Community Residential district abuts the LD, Low Density district or existing single-family dwellings. (eff. 5/5/09)

- a. Transition strips are not required for the front yard. Transition strips shall follow the property lines adjacent to the qualifying zoning district.
- b. Transition strips are required even if the adjacent parcel is unimproved, or undeveloped.

2. Required Width. A transition strip shall be not less than twenty (20) feet in width, provided however, if a use is proposed in the LI or HI district and is adjacent to the AG, LD or PUD in the LD district, a forty (40) foot wide transition strip shall be provided on any lot line abutting the residential district.

- a. A transition strip may encroach into a minimum required setback area if the berm required by item 3. below is provided at five (5) feet in height. The berm shall be in addition to required plantings. The berm shall be constructed with slopes no steeper than one (1) foot vertical for each five (5) feet horizontal, with at least a two (2) foot flat area on the top.
- b. No driveway, parking area, structure, building or outdoor storage area shall encroach into the transition strip, except when the Planning Commission finds that a driveway is necessary for safe access.

3. Required Height. Either a four (4) foot fence or three (3) foot berm shall be provided, in addition to the required landscape materials contained herein. The Planning Commission may waive this requirement if existing natural vegetation provides sufficient buffering.

- a. Berms shall be constructed in accordance with **Section H herein**. Fences shall conform with **Article 3, General Provisions, Fences**.

4. Required Materials. A transition strip shall be constructed with either a berm or a fence, and the following required landscaping materials:

- a. Grass, ground cover, or other suitable live plant material shall be planted over the entire transition strip area, except where paved walkways are used.
- b. A minimum of one (1) deciduous canopy tree and one (1) evergreen tree shall be planted for each thirty (30) lineal feet, or portion thereof, of required transition strip. Trees may be planted at uniform intervals, at random, or in groupings, provided that the proposed planting pattern will buffer the subject use or development from adjacent property.
- c. All existing trees eight (8) inches or greater in diameter (dbh) that are in a healthy condition and within the transition strip shall be preserved, except where necessary to install vehicular, pedestrian and utility access points, or except where the Planning Commission deems that a more efficient site layout can be reached with the removal of trees, however the replacement provision in item d. below shall apply.

d. If existing trees eight (8) inches or greater in diameter (dbh) are removed, replacement shall be required. The sum of the diameter of all replacement trees shall equal the total diameter of trees to be removed. Example: If an eight (8) inch tree is removed, two four (4) inch replacement trees shall be planted. If a ten (10) inch tree is removed, two four (4) inch and one two (2) inch replacement trees shall be planted. The minimum diameter of any replacement tree shall be two (2) inches. All replacement requirements shall be rounded up; and replacement requirements are in addition to other planting requirements.

**F. Required Site Landscaping.** All required site landscaping shall be in addition to the landscaping required for any transition strip or parking area.

1. Residential Development. In all two-unit, multi-unit or townhome developments, a minimum of five (5) canopy trees shall be planted per acre of net lot area of the subject parcel. Said trees shall be equitably distributed throughout the development. Net lot area shall mean all area outside of the building footprint.
2. Non-residential or Mixed Use Development.
  - a. For all non-residential or mixed uses in the NRD, CMU, HC, LI and HI districts, a fifteen (15) foot wide front yard (or corner front yard) planting strip is required within the required setback area. This planting strip shall be called a greenbelt. Within this greenbelt, for every one hundred (100) linear feet of frontage, as measured from the outside property line, front yard or (corner front yard) areas shall be landscaped to include the following, at a minimum:
    - i. Two (2) canopy trees, one (1) evergreen trees or one (1) accent trees, five (5) shrubs, and one hundred (100) square feet of garden bed, which shall include any combination of flowering annuals and perennials, ornamental grasses, and green annuals and perennials.
    - b. The minimum front yard landscaping shall be planted between the parking area and the road right of way. If there is no front yard parking, the Planning Commission may allow the minimum landscaping to be planted anywhere within the front yard area.
    - c. Berms are encouraged. Where a berm at least three (3) feet in height is constructed in the front yard area, the minimum planting requirements may be reduced by twenty percent (20%).

**G. Landscaping of Rights-of-Way.**

1. Public rights-of-way shall be planted with grass or other suitable live ground cover, and shall be maintained by the owner or occupant of the adjacent property as if the rights-of-way were part of the required landscaped buffer areas.
2. Within the right-of-way of a private road, a canopy tree shall be planted every thirty (30) linear feet on both sides of the road. Trees shall be planted in a staggered pattern from trees on the opposite side of the road.

**H. Berms.**

1. Where required or provided, berms shall conform to the following standards:
  - a. Berms shall be at least three (3) feet above grade elevation, and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal, with at least a two (2) foot flat area on the top. The Planning Commission may modify the height requirement in cases where sufficient room does not exist to construct a three (3) foot high berm.
  - b. Required berms shall be planted with grass, ground cover, or other suitable live plant material to protect it from erosion so that it retains its height and shape.
  - c. All berms shall be designed to meander to provide visual interest and to allow for adequate drainage.

**I. Modification of Landscape Requirements.** The Planning Commission may reduce or modify the landscape requirements contained in this Article based upon a determination that the landscaping required will not be necessary or effective in meeting the intent of this provision. In making this determination, the following shall be considered:

1. The existence of natural vegetation that will meet the requirements of landscaping provisions and will be preserved as part of the site plan.
2. Parking, vehicular circulation, or existing or planned land uses are such that required landscaping would not enhance the site or result in the desired screening effect.
3. The public benefit intended by the landscape regulations could be better achieved with a plan that varies from the strict requirements of the landscaping provisions.
4. The intent to comply with the standards has been demonstrated by the applicant with alternatives considered by the applicant prior to the Planning Commission consideration of modification to requirements.
5. Greater efficiency of site design could be accomplished with a plan that varies from the strict requirements of the landscaping provisions.

**J. Plant Material Requirements.**

1. The following materials shall not be counted toward the requirements of this article:
  - a. Ailanthus (Tree of Heaven)
  - b. Fraxinus (Ash)
  - c. Populus Deltoids (Eastern Cottonwood)
  - d. Morus Alba (Mulberry)
2. The Zoning Administrator shall approve other species of evergreen and canopy trees, shrubs and perennial plantings if they are demonstrated to be tolerant of the Southwest Michigan climate and disease resistant. The Zoning Administrator may require alternative species in

those locations where leaf or seed litter or fruit/berries may create hazardous or unsightly conditions.

3. Standards for Landscape Materials. Unless otherwise specified, all landscape materials shall comply with the following standards:

- a. Plant Quality. Plant materials used in compliance with the provisions of this Ordinance shall be nursery grown, free of pests and diseases, and hardy in Berrien County.
- b. Plant Material Specifications. The following minimum specifications shall apply to all plant material at the time of planting proposed in accordance with the landscaping requirements of this Ordinance:

Table 230.600. MINIMUM PLANT MATERIAL SIZE

Plant Type	Minimum Caliper	Minimum Height	Minimum Spread
Canopy Trees	3 inches	4 feet first branch	~
Accent trees	2 inches	6 feet	~
Evergreen trees	~	6 feet	2 feet
Shrubs	~	2 feet	15 inches
Hedges	~	4 feet	

## **ARTICLE 7**

### **PARKING, LIGHTING AND MECHANICAL SCREENING**

#### **SECTION 230.700 PARKING**

A. For each principal building or establishment hereafter erected or altered and located in any Zoning District, including buildings and structures used principally as places of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown below.

<u>Use</u>	<u>Number of Parking Spaces Per Unit of Measure</u>
1. Dwellings	Two (2) spaces for each dwelling unit for single family, and two-unit attached.
2. Townhome/Multi-unit Development	Two (2) per dwelling unit.
3. Hotels and Bed and Breakfasts	One (1) space for each room.
4. Hospitals, Nursing and Personal Care Facilities	One (1) space for each four beds, and one (1) space for each employee.
5. Places of public assembly	One (1) space for each four (4) seats of legal capacity.
6. Medical clinics and medical and dental offices	Three and one (1) space for each two hundred eighty five (285) square feet of office space.
7. Offices, other than medical or dental clinics, including financial institutions	One (1) space for each two hundred fifty (250) square feet of office space.
8. Eating and drinking establishments	One (1) space for each three (3) seats of legal seating capacity.
9. Retail establishments	One (1) space for each two hundred fifty (250) square feet of floor area dedicated to retail activity, exclusive of storage areas.
10. Industrial and warehouse uses	The greater of one (1) space for each one thousand (1,000) square feet of floor area, or one space for each employee in the largest shift.
11. Theaters	One (1) space for each four (5) seats.
12. Funeral Home/Mortuary	One (1) space for each one hundred (100)

13. Education Facility

square feet of floor area used for services.

Two (2) spaces for each 3 employees

<u>Use</u>	<u>Number of Parking Spaces Per Unit of Measure</u>					
14. Mixed Uses	In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one use shall not be considered as providing required spaces for any other use except as to Places of Public Assembly.					
B. In the case of uses or businesses not addressed in paragraph A hereof the required parking shall be determined by the Zoning Administrator, subject to Planning Commission concurrence. The latest edition of the Institute of Traffic Engineers' <i>Parking Generation</i> shall be consulted in determining a parking requirement for any such use or business.						
C. The minimum dimensional standards for parking spaces and aisles shall be as follows:						
<b>Minimum Parking Space and Maneuvering Lane Standards</b>						
Parking Pattern	One-way Width (ft)	Two-way Width (ft)	Parking Space Width <sup>(1)</sup> (ft)	Length <sup>(2)</sup> (ft)	Total Width of Two Tiers Plus Lane One-way (ft)	Total Width of Two Tiers Plus Lane Two-way (ft)
Parallel	11	18	9	23	57	64
30°-53°	12	20	9	19	50	58
54°-74°	13	24	9	19	51	62
75°-90°	15	24	9	18	51	60

(1) Measured perpendicular to the space centerline.

(2) Measured along the space centerline.

#### D. Location of Parking.

1. The approval of the Berrien County Road Commission shall be obtained for the location of exits and entrances to parking areas and for the design and construction thereof.
2. The off-street parking facilities required for single-family dwellings, two-unit dwellings, multi-unit dwellings and townhomes shall be located on the same lot or parcel of land as the buildings they are intended to serve.
3. Parking facilities for manufactured housing communities shall be located on each manufactured home site, or in parking lots within three hundred (300) feet from the entrance to manufactured home.
4. Parking facilities for commercial or industrial uses shall be located on the same lot or parcel of land as the buildings they are intended to serve.

- E. Parking areas shall not be provided within any required transition strip or greenbelt area per **Section 230.600, F.**
- F. Off-street parking areas for all uses requiring Township approval shall be paved with concrete or bituminous material with curbing and painted parking space lines, except for all single family dwellings and two-unit dwelling and agricultural related retail sales, stables, greenhouses and nurseries in the AG, Agricultural District.
- G. Parking areas with six (6) or more spaces shall include landscaped planting islands and perimeter buffers in accordance with **Section 230.700, L.**
- H. Except as provided in Section 230.323, parking areas required under this Section, shall not be used for the storage of, camping within, or continuous parking or storage of recreational vehicles, trailers, motor vehicles and junk for more than a twenty-four (24) hour period.
- I. Within the NRD, CMU, HC, LI and HI districts, the Planning Commission may approve shared parking arrangements among various uses when it can be demonstrated that parking in sufficient quantities for all such uses as set forth in this Section shall be available at all times.
- J. In no instance shall the number of spaces provided exceed the number of spaces required per **Section 700, A** above, provided however, snow storage areas may be provided so long as the area designated for snow storage does not exceed twenty (20) percent of the surface area of a parking lot.
- K. All parking areas shall meet the requirements of the Americans with Disabilities Act.
- L. Landscaping Required for Parking Areas: This section shall apply to all off-street parking and loading areas in the NRD, CMU, HC, LI and HI districts containing more than six (6) spaces:
  - 1. When off-street parking and loading areas abut an AG, LD or CR district, or a residential PUD in the LD or CR district, the parking lot and loading area shall be screened from the Residential District by a solid, ornamental masonry wall or fence at least four (4) feet tall meeting the requirements of **Article 3, General Provisions, Fences** for fences, in addition to following requirements for landscape plant materials:
    - a. In lieu of a wall, the Planning Commission may permit or require one (1) evergreen tree at least five (5) feet in height planted every ten (10) feet in staggered rows along the adjacent residential property boundary.
    - b. In lieu of a wall, berming may be installed consistent with **Article 6, Section 230.600, Landscaping**. Berming shall reduce the amount of required landscaping material by twenty (20) percent.
  - 2. In addition to required screening around off-street parking and loading areas, all off-street parking areas containing greater than six (6) spaces shall provide the following landscaping within the parking lot envelope, described as the area including the parking lot surface and extending eighteen (18) feet from the edge of the parking lot.
    - a. One (1) canopy tree or (1) evergreen tree and one (1) ornamental tree shall be required for each eighteen (1800) square feet of the total of the paved driveway and parking lot surface. At least forty (40) percent of the landscape material required shall be installed in landscape islands within the paved parking lot area.

- b. Landscaped areas in and around parking lots shall be no less than ten (10) feet in any dimension and no less than one hundred fifty (150) square feet in area per tree. Landscaped areas shall be protected with curbing or other means to prevent overhang encroachment of vehicles.
- c. Required landscaping elsewhere on the parcel shall not be counted in meeting the parking lot landscaping requirements, unless approved by the Zoning Administrator.
- d. Whenever possible, parking lot landscaping shall be designed to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area. Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sight distance for motorists, nor disrupt drainage patterns on the site or adjacent properties.
- e. Landscaped areas shall be covered by grass or other living ground cover. Wood chips or similar material, a minimum depth of three (3) inches is permitted for planting beds immediately surrounding plant material. Such material should be identified on the landscape plan and/or site plan.

**M. Loading Areas.** In all districts, every building or part thereof, hereafter erected, which is to be occupied for manufacturing, storage, retail sales, warehousing, wholesale sales, or a hotel, hospital, mortuary or laundry, or uses similarly requiring the receipt or distribution in vehicles of materials or merchandise shall provide and maintain, on the same premises paved off-street loading spaces in relation to floor area as follows:

Up to 20,000 square feet - 1 space
20,001 to 50,000 square feet - 2 spaces
50,001 to 100,000 square feet - 3 spaces
1 additional space for each additional 100,000 square feet or part thereof

- 1. The following shall apply with regard to off-street loading and unloading spaces:
  - a. Each loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.
  - b. Such space may occupy all or any part of any required side or rear yard.
  - c. No such space shall be located closer than fifty (50) feet to any AG, LD or CR district, or a PUD in the LD or CR district unless within a completely enclosed building or enclosed on all sides by a wall or fence not less than six (6) feet in height.
- 3. Such loading spaces shall be considered separate and distinct from required off-street parking areas but shall be constructed of a hard surface material.

## **SECTION 230.701**

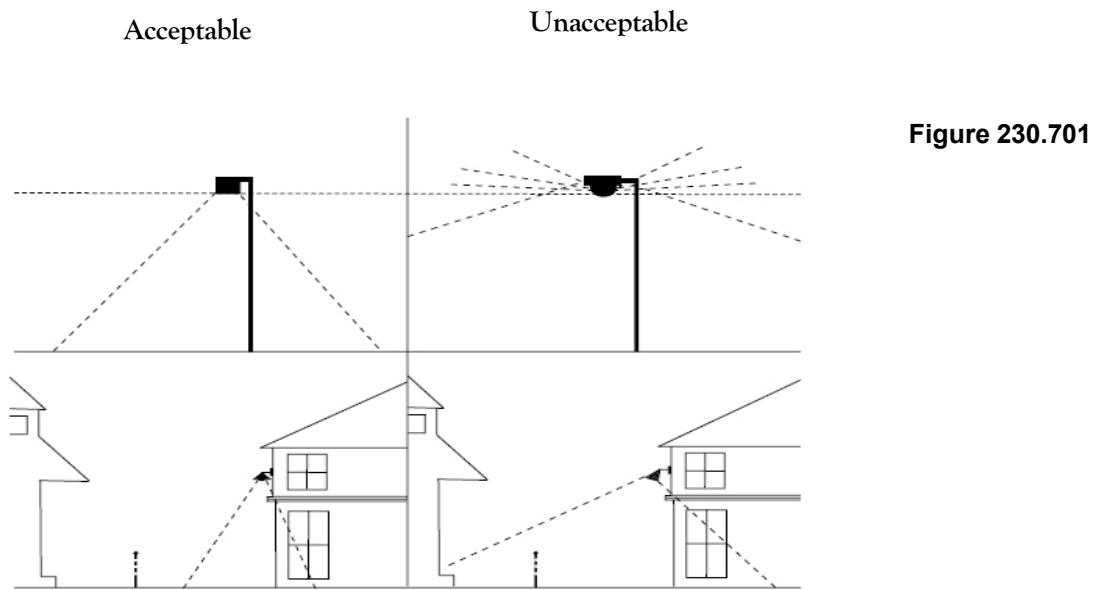
## **OUTDOOR LIGHTING REQUIREMENTS**

A. **Intent and Purpose.** To maintain safe nighttime driver performance by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow," and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans or plot plans submitted for approval under the terms of this Zoning Ordinance.

B. **General Provisions.**

1. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:
  - a. Residential decorative lighting such as porch lights, low level lawn lights, lighting illuminating flags, and special seasonal lights such as for Christmas decorating.
  - b. Sign lighting as regulated by **Article 8**.
  - c. Lighting associated with detached single-family dwellings.
2. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
  - a. Parking lot lighting, building façade, and site lighting for commercial, industrial and institutional developments.
  - b. Parking lot lighting, building façade, and site lighting for multi-unit dwellings.
  - c. Other forms of outdoor lighting that, in the judgment of the Planning Commission, are similar in character, luminosity and/or glare to the foregoing.
3. Standards. Lighting shall be designed and constructed in such a manner to:
  - a. Ensure that direct or directly reflected light is confined to the development site.
  - b. Ensure that lamps and luminaries are shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, and the light source are not directly visible from beyond the boundary of the site.
  - c. The light from any illumination source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.
  - d. Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as illustrated in Figure 230.701. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site, except for approved outdoor recreation area lighting.
  - e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.

- f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.



**Figure 230.701**

## **SECTION 230.702 MECHANICAL SCREENING REQUIREMENTS**

A. **Mechanical Screening.** Any mechanical equipment whether on a roof, the side of structure, or ground, and any loading docks, service yards, trash and storage areas, and utility services, shall be properly screened from a public right-of-way, private road, or parking area.

1. The method of screening shall be architecturally compatible with other on-site development in terms of colors, materials, shape, and size.
2. The screening design and construction shall be subject to the approval of the Zoning Administrator or Planning Commission, when applicable, and shall blend with the design of the structures and include appropriately installed and maintained landscaping when on the ground.

## **SECTION 230.703 MODIFICATION OF REQUIREMENTS**

The body in charge of reviewing the applicable site plan may modify or waive the requirements of this **Article 7** or approve alternatives if it finds the characteristics of the site or vicinity would make the requirements unnecessary or the alternative will achieve the same effect.

## ARTICLE 8

### STANDARDS AND REQUIREMENTS FOR SIGNS

#### **SECTION 230.800 PURPOSE AND INTENT**

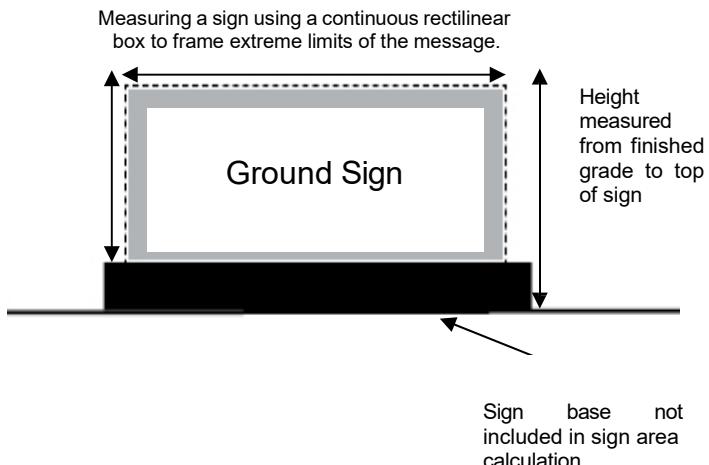
Purpose and Intent. The purpose and intent of this Article 8 is as follows:

- A. Protect the public health, safety and welfare of residents and visitors and to protect the natural beauty and distinctive character of the Township.
- B. Eliminate visual distractions and barriers that can be hazardous to vehicular traffic.
- C. Provide ability for the public to identify premises and establishments through the use of effective signs.
- D. Regulate signs which are potentially dangerous to the public due to structural deficiencies or disrepair.

#### **230.801 SIGNS – GENERAL PROVISIONS**

All signs shall:

- A. Permit Required. All signs shall conform to all applicable codes and ordinances of the Township and shall be subject to the permit requirements of **Section 230.805**.
- B. Sign Area. The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of straight lines which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and/or uprights of the sign. When two (2) sign faces are placed back-to-back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart at any point, the sign area shall be computed by the measurements of one (1) of the faces.
- C. Height. Sign height shall be measured as the vertical dimension from the finished grade to the highest point of the highest attached component of the sign. A sign shall not extend beyond the



edge of the wall to which it is affixed nor above the roof line of a building to which it is attached.

- D. Sign setbacks. Signs in any residential district shall be setback a minimum of one-half (½) the minimum required front yard setback. All signs in commercial or industrial districts shall be set back a minimum of two feet (2') from the property line, or right-of-way line, whichever is greater, provided however, no sign shall be located where, in the opinion of the Zoning Administrator, it will obstruct clear visibility as provided in **Section 230.308**. Signs may be located in a required greenbelt area as required per **Section 230.600 F**.
- E. Illumination. When illumination of signs is permitted, external or internal illumination shall comply with the following requirements:
  - 1. Illumination shall not be flashing, blinking, intermittent, or an on-and-off type of lighting.
  - 2. Illumination shall be arranged so that light is deflected away from adjacent properties and any public right-of-way, and so that no direct sources of light are visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
  - 3. Any external lighting of signs shall be downward facing or otherwise directed to illuminate only the sign face.
- F. Maintenance. All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Building Inspector or Zoning Administrator or other designated representative. A sign which no longer serves the purpose for which it was intended, or is abandoned, or is not maintained in accordance with applicable regulations of the Township shall be removed by the owner, or by the Township at the expense of such owner, upon written notice by the Township.
- G. Where a proposed sign appears to meet the definition of more than one (1) sign, the most restrictive requirements and limitations of the defined sign types shall apply.
- H. Wall Signs. Wall signs shall not extend further than twelve (12) inches from the face of the wall to which it is attached. The maximum width of a wall sign shall not exceed ninety (90) percent of the width of the wall to which the sign is attached. The wall to which the sign is attached shall be a continuous flat surface the entire width of the sign. A wall sign shall not project above the roof line.
- I. Where a projecting sign, awning or canopy sign or suspended sign protrudes over any public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least nine (9) feet from the sidewalk.
- J. Signage or copy shall not be permitted on pole which supports a sign.
- K. Signs within business, commercial or industrial areas, as defined in the "Highway Advertising Act of 1972" (1972 PA 106) bordering interstate highways, freeways or primary highways as

defined in said Act, shall be regulated and controlled by the provisions of such statute, notwithstanding any contrary provisions of this Ordinance.

## **SECTION 230.802 EXEMPT SIGNS**

The following signs shall be exempt from regulations in this Article:

- A. Any sign required by applicable federal, state, or local law, regulation, or ordinance.
- B. Property address and owner identification up to three (3) square feet in area.
- C. Any sign wholly located within a building and not visible from outside the building.
- D. Holiday lights and decorations with no commercial message.
- E. Directional signs that do not contain a commercial message, including Stop, Yield, One Way, and similar signs, provided the following standards are met:
  - 1. Directional signs shall not exceed three (3) square feet in area or three (3) feet in height.
  - 2. The number of directional signs permitted on a property shall be the minimum necessary to provide adequate orientation, as determined by the applicable Township representative or board or commission.
- F. Historical designation signs.
- G. Flags or insignia of any nation, state, local government, community organization, education institution.
- H. Construction signs identifying a building project including the names of the developer, financier, and the various professionals and contractors involved. Such signage shall be allowed only during the time in which the development is actually under construction and shall not exceed twenty (20) square feet in sign area per frontage. Such signage shall not exceed six (6) feet in height. One construction sign shall be permitted per street frontage.
- I. All yard signs, as defined herein, provided such yard signs shall be limited to one (1) sign per frontage, not greater than twelve (12) square feet in area. If the subject lot or parcel has more than one hundred (100) feet of frontage, one (1) additional sign shall be permitted per frontage. Such signs shall be removed after seven (7) days from which the event occurs.
- J. Farm crop hybrid signs.
- K. Signs at Township Facilities.
- L. One on-premise temporary sign per road frontage is permitted for the promotion of special event activities by places of public assembly, nonprofit or educational institutions, provided, that the sign is displayed no more than two (2) weeks prior to the event or activities and that it must be removed within two (2) days of the conclusion of the event or activity provided that the sign shall not exceed thirty two (32) square feet in sign area per frontage. Such signage shall not exceed eight (8) feet in height. Notwithstanding Section 230.803(F), temporary signage may be in the form of a banner, balloon, sandwich board, flag or pennant.
- M. Notwithstanding Section 230.803(F), on-premise temporary signs are permitted, subject to 230.806(c) for the promotion of special event activities by agricultural farming and related

activities, agricultural-related retail sales, and greenhouses or nurseries in the AG district only. Signs shall be displayed no more than two (2) weeks prior to the event or activities and must be removed within two (2) days of the conclusion of the event or activity.

- N. A subdivision or other form of concentrated residential development may have two (2) ground signs per entrance, not to exceed a sign area of thirty-two (32) square feet per sign and a height of eight (8) feet, subject to review and approval by the Planning Commission.
- O. Public signs identifying a neighborhood, district, community or entity erected by an authorized public agency.

### **SECTION 230.803 PROHIBITED SIGNS**

The following signs are prohibited:

- A. Signs which are obsolete, abandoned, signs that do not relate to the business or land use on the property where the sign is located.
- B. A private use sign located on public land, in a public right-of-way, or in a private road easement, unless it is part of the traffic control information for that road, except that temporary real estate signs displayed in front of the property for sale, and temporary political signs are allowed if not obstructing pedestrian or vehicular traffic, are not less than fifteen (15) feet from the driving surface of the street or road and are at least one hundred fifty (150) feet from the intersection of another street or road.
- C. Signs which do not comply with Federal or State laws or regulations, applicable local ordinances or regulations, and signs which do not comply with this Ordinance.
- D. Signs affixed to utility poles or directional signs or any lawful sign within the right-of-way.
- E. Animated or moving signs, as defined herein; provided, however, clocks and thermometers are permitted.
- F. Pennants, searchlights, banners or bunting, lighter than air balloons and signs, air-filled balloons, signs animated by forced air, streamers, and temporary signage.
- G. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.
- H. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic, which interfere with or resemble any official traffic sign, signal, or device, and which may obstruct a motorist's vision.
- I. Pole signs.
- J. Portable signs.
- K. No sign painted on or attached to a motor vehicle used primarily for the display of such sign, including, but not limited to a vehicle wrap or skin, car top sign, or billboard truck shall be visible from outside a building or from a road. This section shall not prohibit the identification of a business or its products or services on its vehicle(s) operated and parked, or stored in a manner appropriate to the normal course of business.

- L. Billboard.
- M. No sign shall extend beyond a roofline, wall or opening in a wall.

### **SECTION 230.804 PERMITTED SIGNS**

In addition to the above standards, the following signs are permitted in the applicable Zoning Districts.

- A. In any district where education facilities, government offices, township facilities, or places of public assembly are permitted as principal uses, electronic message boards for such uses are permitted as follows, subject to Section 230.806D:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground sign with an integrated Electronic Message Board (EMB)	1 per parcel	48 square feet, total area with EMB not greater than 50% of total sign area	6 feet	Internal

- B. Signs for the following uses:

#### AG District:

Agricultural farming and related activities, agricultural related retail sales, bed and breakfast, cemetery, greenhouse or nursery, riding stable, sports and recreation club, veterinary clinic/kennel:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground Sign	1 per parcel*	48 square feet total, no single sign can be more than 32 square feet	8 feet	Yes, per 230.801
Wall Sign	1 per parcel		n/a	

\* If the subject lot or parcel has more than one hundred (100) feet per frontage, one (1) additional ground sign may be permitted.

#### AG District:

Agricultural farming and related activities, agricultural related retail sales, and greenhouse or nursery:

Type	Maximum Number	Maximum Sign Area	Max. Sign Height	Illumination Permitted
Temporary Off-premise directional sign*	2 per use	20 square feet	6 feet	No

\* Shall not be located within the public right-of-way. Approval from the property owner is required. Shall not require approval by the Township; however, shall conform to the standards of this Chapter. Shall not be displayed more than two (2) weeks prior to the event or activities and must be removed within two (2) days of the conclusion of the event or activity.

LD District:

Educational facility, government offices, places of public assembly, bed and breakfast, cemetery, nursing home, convalescent home, assisted living:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground Sign	1 per parcel	12 square feet	6 feet	External only per 230.801

CR District:

Educational facility, government offices, places of public assembly:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground Sign	1 per parcel	12 square feet	6 feet	External only per 230.801

HD District:

Multiple family dwellings and public, social, religious and educational facilities:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground Sign	1 per parcel	12 square feet	6 feet	External only per 230.801

MH District:

Manufactured home park:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Ground Sign	1 per parcel	12 square feet	6 feet	External only per 230.801

NRD District:

All uses except accessory buildings, accessory uses, single-family and two-unit dwellings, and residential above retail or office:

Type	Max. Number*	Max. Sign Area	Max. Sign Height	Illumination Permitted
Wall Sign	1 per frontage facing a public right-of-way or private road	12% of building wall area where sign is proposed, not to exceed 100 square feet	n/a	Yes, per 230.801
Ground Sign	1 per parcel*	48 square feet	8 feet	Yes, per 230.801

\* If the subject lot or parcel has more than one hundred (100) feet per frontage, one (1) additional ground sign may be permitted.

CMU and HC districts:

All uses except accessory buildings, accessory uses, single-family and two-unit dwellings, and residential above retail or office:

Type	Max. Number	Max. Sign Area	Max. Sign Height	Illumination Permitted
Wall Sign or Awning Sign or Canopy Sign	1 per frontage facing a public right-of-way or private road	12% of building wall area where sign is proposed, not to exceed 100 square feet	n/a	Yes, per 230.801
Ground Sign or Projecting Sign	1 per parcel*	48 square feet	8 feet	Yes, per 230.801
		12 square feet; the sign shall not project more than 4 feet from the building wall	n/a	Yes, per 230.801
EMB	1 per parcel when part of a ground sign only. The area of the electronic message board shall be included in the area calculations of the permitted sign area; however, the permitted sign area for such sign shall not exceed 30 square feet.			

\* If the subject lot or parcel has more than one hundred (100) feet per frontage, one (1) additional ground sign may be permitted.

LI and HI districts:

All permitted and special land uses except accessory structures and accessory uses:

Type	Max. Number*	Max. Sign Area	Max. Sign Height	Illumination Permitted
Wall or Awning or Canopy	1 per frontage facing a public right-of-way or private road	12% of building wall area where sign is proposed, not to exceed 100 square feet	n/a	Yes, per 230.801
Ground Sign or Projecting Sign	1 per parcel*	48 square feet	8 feet	Yes, per 230.801
		12 square feet; the sign shall not project more than 4 feet from the building wall	n/a	Yes, per 230.801

- \* If the subject lot or parcel has more than one hundred (100) feet per frontage, one (1) additional ground sign may be permitted.

## **SECTION 230.805 PERMIT PROCESS**

- A. Each person or entity desiring to erect or maintain a sign, other than temporary signage for places of public assembly, nonprofit or educational institutions, agricultural farming and related activities, agricultural-related retail sales, greenhouses or nurseries in the AG district, shall make written application to the Zoning Administrator accompanied by the applicable fees, as adopted by the Township Board, which shall include the following:
  1. A sketch plan with sign plans drawn to scale, showing proposed location and type of the sign.
  2. Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, shall comply with the provisions of this Ordinance.
  3. All applications shall be accompanied by the written consent of the owner of record of the property on which the signs are proposed to be erected.
  4. No sign requiring a sign permit shall be erected or installed until an application is approved.
  5. The permit review may be eliminated if the required information is provided to the Planning Commission as part of a site plan review in which case the Planning Commission shall recommend approval, approval with conditions or denial of the request.
- B. Expiration. A sign permit shall expire one (1) year from its effective date if the sign is not constructed, unless an extension not to exceed one year has been granted by the Zoning Administrator. The Zoning Administrator may deny a request for extension of time if substantial changes in circumstances have occurred.
- C. Removal of Signs. A sign shall be removed by the owner upon receipt of notice from the Township stating that the sign is unsafe or not properly maintained or otherwise does not comply with the requirements of this Chapter by reason of its size, height, design, condition or location. The notice shall state that if the owner does not remove the sign, or correct the unsafe or improper condition, within a specified time period, the sign may be removed by the Township. Upon failure to remove or correct the unsafe or improper condition, the Township may take whatever action is necessary to have the sign removed or to otherwise abate the unsafe or improper condition, and in addition to other available remedies, the Township shall have the right to recover from the owner of the sign the full costs of removing and disposing of the sign or abating the unsafe or improper condition.

D. Review criteria. The Zoning Administrator or the Planning Commission shall consider the following criteria in addition to any other criteria elsewhere specified in consideration of any request made pursuant to this Article.

1. The purpose of this Article and the zoning ordinance in general.
2. The standards and criteria as set forth in this Article, including design standards.
3. The sign shall be of a shape, material, style, letter types and color appropriate for the use, enhancing to the premises and harmonious with the neighborhood.

E. The Zoning Administrator shall either approve or deny an application for a sign permit within sixty (60) days from receipt of a complete application. The basis for the decision shall be included in a written notification to the applicant.

## **SECTION 230.806 STANDARDS FOR CERTAIN SIGNS**

A. Ground Signs.

1. Materials. Ground signs shall be constructed of wood, brick, concrete, stone (or equivalent imitation stone), corrosion- and rust-resistant metal or other similar material as approved by the Zoning Administrator or Planning Commission.
2. Landscaping. A landscape area around the base of a ground sign shall be provided and shall not obscure visibility of the sign itself, nor encroach into the clear sight area.

B. Temporary Signs for places of public assembly, nonprofit or educational institutions:

1. Temporary signage does not require a permit issued by the Zoning Administrator.
2. Display of a temporary sign shall occur no more than two (2) weeks prior to the event or activities and shall be removed within two (2) days of the conclusion of the event or activity provided that the sign shall not exceed thirty two (32) square feet in sign area per frontage. Such signage shall not exceed eight (8) feet in height.
3. A temporary sign which is a banner shall be secured at every corner.
4. There shall be not more than one (1) temporary sign per road frontage displayed at any time upon any parcel of property in the Township.
5. Temporary signs shall be displayed in a manner so as to not cover nor obscure address markers or other signage upon the building.
6. Temporary signs shall not obscure the clear sight area.
7. Every temporary sign which is a banner shall be dated with an indelible marker indicating the first day of display in the current usage period.
8. No temporary sign shall be displayed longer than thirty (30) days in a usage period.
9. Temporary signs that are torn or otherwise in disrepair shall be prohibited.

C. Temporary signs for agricultural farming and related activities, agricultural-related retail sales, greenhouses or nurseries in the ag district:

1. Temporary signs shall be displayed no more than two (2) weeks prior to the event or activities (e.g. growing season) and that it must be removed within seven (7) days of the conclusion of the event or activity (e.g. growing season).
2. Temporary signage does not require a permit issued by the Zoning Administrator.
3. Temporary signage may be in the form of a banner, balloon, sandwich board, flag or pennant.
4. A temporary sign which is a banner shall be secured at every corner.
5. Temporary signs shall be displayed in a manner so as to not cover nor obscure address markers or other signage upon the building.
6. Temporary signs shall not obscure the clear sight area.
7. Temporary signs that are torn or otherwise in disrepair shall be prohibited.

D. Electronic Message Boards (Added August 2010):

1. Requirements. One (1) Ground Sign with an Electronic Message Board sign is permitted when the principal use of the lot or parcel is located on the same lot or parcel where the proposed sign is located.
2. Hours of Operation. The Electronic Message Board portion of the sign shall be illuminated and operational only during the hours of 7:00 a.m. until 9:00 p.m. The electronic message board portion of the sign shall be turned off during all other hours.
3. Duration of Message. All portions of the message must have a minimum duration of six seconds (:06) and must be a static display. There shall be no appearance of flashing or sudden bursts of light, and no appearance of video motion, animation, movement, or flow of the message, image or display.
4. Setback. Electronic Message Boards shall be setback a minimum of 100 feet from the rear and side property lines or rights-of-way, whichever is greater.
5. Intensity and Contrast. The intensity and contrast of light levels shall remain constant throughout the sign face. Each electronic message board sign shall use automatic day/night dimming software to reduce the illumination intensity of the sign after dusk.
6. Orientation of Signs. Signs shall be orientated so as to be perpendicular to the roadway.

**SECTION 230.807 NON-CONFORMING SIGNS**

- A. Signs that complied with all applicable codes and ordinances prior to adoption of this Ordinance which do not comply with this Ordinance are declared to be non-conforming.
- B. Non-conforming status shall cease, and the sign must be made to comply herewith immediately if:

1. The sign structure, or sign area is changed, altered, expanded, enlarged or otherwise modified except to comply with this Ordinance.
2. More than fifty (50) percent of the sign structure or sign area is damaged.
3. The land use, brand, product, or service conducted on the property on which the sign is located is changed, altered, expanded, enlarged or otherwise modified.
4. Ownership of the land on which the sign is located is transferred, or a building permit for a structure, or land use approval of any kind from the Township is sought or required.
5. The sign is not maintained as required by Section 230.801(F), or any other law, code or ordinance.
6. Any law, code or ordinance violation exists on the land on which the sign is located.

## **ARTICLE 9**

### **STANDARDS AND REQUIREMENTS FOR SPECIAL USES**

#### **SECTION 230.900**

#### **SPECIAL USES**

A Special Use is a use that is permitted within a specified zone district after meeting specific requirements listed in this **Article 9**. Such uses may not be appropriate in all circumstances, but with certain restrictions or conditions can be made compatible in others. It is the purpose of this Article to name, describe, and list any additional requirements for each individual conditional land use. Due to the nature of the use, Special Uses require special consideration in relation to the welfare of adjacent properties and to the community as a whole.

#### **SECTION 230.901**

#### **SPECIAL USE PROCEDURES**

A Special Use application shall be submitted and processed according to the following procedures:

- A. **Submission of Application.** Applications shall be submitted through the Zoning Administrator to the Planning Commission. Each application shall be accompanied by the payment of a fee and any applicant escrow payments as required by the Township and in accordance with the schedule of fees adopted by the Township Board to cover the costs of processing the application. An application shall be submitted to the Zoning Administrator on a Special Use application form. A Special Use application shall be placed on the agenda of the Planning Commission by the Zoning Administrator upon the submission of a complete application prepared in accordance with this Zoning Ordinance. An application, which is incomplete or otherwise not in compliance with this Ordinance, shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees and escrow payments paid in full.
- B. **Data Required.** Twelve (12) copies of an application for a Special Use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information.
  1. A complete Special Use permit application including the following information:
    - a. Name and address of applicant and owner(s).
    - b. Legal description, property parcel number, and street address of the subject parcel of land.
    - c. Area of the subject parcel of land stated in acres, or if less than one (1) acre, in square feet.
    - d. Present zoning classification of the parcel.
    - e. Present and proposed land use.
    - f. A letter or signed narrative describing in detail the proposed special use and detailing why the location selected is appropriate.

- g. Applicant's statement of the expected effect of the special use on emergency service requirements, schools, storm water systems, sanitary sewer facilities, automobile and truck circulation patterns, and local traffic volumes.
- h. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public as may be required by this Ordinance, by the Township Zoning Administrator or the Planning Commission; including, but not limited to, measures which will be undertaken to control soil erosion, shoreline protection, excessive noise, or adverse impacts of the development on the surrounding properties; elevations on all buildings, including accessory buildings; and, an environmental assessment.
- i. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in this Article and other standards imposed by this Ordinance affecting the special use under consideration.

2. A complete Detailed Site Plan containing all the applicable data required by **Article 10, Site Plans**, unless waived by the Zoning Administrator.
3. Supporting statements, evidence, data, information and exhibits that address the standards and requirements for assessing Special Use permit applications as provided in **Section 230.902**.
4. Any additional information deemed necessary for the Planning Commission to determine the impact of the proposed Special Use on the adjacent properties, public infrastructure, and community as a whole. Such information may take the form of, but is not limited to, a traffic impact analysis as required by **Section 230.1002, D**, an environmental assessment as required by **Section 230.1002,D**, a market study as required by **Section 230.1002,D**, or reports and/or testimony by officials representing state, county or local departments of public safety (police and fire), health, highways or roads, and/or environment.
5. The Zoning Administrator may waive the submission of materials outlined in this Section if such materials are determined to be not applicable to the proposed Special Use or relevant to the consideration of the Planning Commission.

C. **Sign Posting.** Once the application has been set for public hearing, the applicant shall request from the Township a notification sign announcing the date, time, place, and manner of a public hearing. A sign shall be provided and posted along all street frontages of the proposed Special Land Use. The notification sign(s) shall be furnished by the Township. The applicant shall install the notification sign(s) in a location no more than twenty (20) feet from any property line at least fifteen (15) days prior to the public hearing.

D. **Special Use Review Procedures.** An application for Special Use Approval shall be processed as follows:

1. Planning Commission Work Session. The Zoning Administrator shall forward a copy of the complete application for the Special Use request to the Planning Commission. At such meeting, the Planning Commission may review the application and question the applicant about the special use. Prior to the public hearing, the Planning Commission shall not render any judgments on the application. If the Planning Commission concurs with the Zoning

Administrator that the application is complete, a public hearing shall be scheduled as set forth in this Section.

2. **Public Hearing Procedures.** Notice of public hearing shall follow the procedures set forth in **Section 230.106**.
3. **Planning Commission Action.** After the Public Hearing and upon review of the merits of the Special Use permit application, the Planning Commission shall review the application and any reports of Township personnel, planning or engineering or other consultants and reach a decision to approve, approve with conditions, or deny the application. Such decision shall be reached within sixty (60) days following the public hearing on the application, unless the applicant and the Planning Commission mutually agree to extend the time allowed for the Planning Commission to reach a decision. The Planning Commission's decision shall be incorporated in a motion containing conclusions and findings reached relative to the proposed Special Use which motion shall provide the basis for the decision and any conditions imposed.
4. **Basis for Action.** In arriving at their decision, the Planning Commission shall refer to and be guided by those standards set forth in this Article. If the facts regarding the Special Use do not establish by a preponderance of the evidence that the standards and requirements set forth in this Article can and will be met, the application shall be denied.
5. **Attachment of Conditions.** Subject to the terms of **Section 230.902, B**, the Planning Commission may prescribe conditions of approval deemed necessary for the protection of the general welfare, individual property rights, and to ensure that the purposes of this Ordinance are met.

**E. Issuance of a Special Use Permit.** Upon approval by the Planning Commission, the Zoning Administrator shall issue the Special Use permit. If conditions are given, the Zoning Administrator may be asked to verify that all conditions are met prior to issuance of a Special Land Use permit. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any Special Use permit and take any enforcement action necessary in the event of a violation of the Special Use permit.

**F. Appeals.** No decision or condition related to a Special Use application shall be appealed to the Zoning Board of Appeals. An appeal of a Special Use decision or condition may be taken to Circuit Court.

**G. Duration of Approval.** The Special Use permit shall become effective upon Planning Commission approval, provided the following are met:

1. The Zoning Administrator or Building Official shall not issue a Building Permit and/or Land Use Permit until approval of such Special Use permit and any conditions pertaining to such approval are met.
2. Until a Building Permit has been granted pursuant to the Special Use permit, there shall be no construction or excavation of said land, nor shall there be any use of the land in anticipation of the Special Use unless such use is incorporated in the conditions of approval adopted by the Planning Commission.

3. Land subject to a Special Use permit may not be used or occupied for such special use until after a certificate of occupancy has been issued pursuant to the provisions of this Ordinance, or the approval of the Zoning Administrator has been granted for uses not subject to the requirements for a certificate of occupancy.

**H. Amendments.** Amendments to all Special Use permits, including those Special Use permits granted prior to the effective date of this Zoning Ordinance (June 21, 2007), shall be handled in the same manner as the initial Special Use permit application. Minor non-substantive changes to a site plan in accordance with **Section 230.1007** may be made to an existing Special Use permit with the approval of the Zoning Administrator. [Amended 5/09]

**I. Transfers.** Prior to completion of construction related to a special use, the Special Use Permit, with any and all associated benefits, conditions and required security may be transferred to a new owner only upon the sale or transfer of the property in question. The original owner, upon transferring the Special Use Permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit, compliance with security, and other conditions. Following completion of construction and commencement of the special use, the special use permit shall run with the land, subject to **Section 230.901, J, 4**, pertaining to abandonment.

**J. Expiration.** A Special Use permit shall be valid for as long as the approved use continues in accordance with the terms and conditions of the approved permit. The Special Use permit will expire on the occurrence of one or more of the following conditions:

1. If replaced or superseded by a subsequent permitted use or Special Use permit.
2. If the applicant requests the rescinding of the Special Use permit.
3. If a condition of approval included stipulation to expire the Special Use permit by a certain date.
4. If the use is abandoned, moved or vacated for a period of one year.

**K. Violations.** Any violation of the terms, conditions or limitations of a Special Use permit shall be cause for revocation or suspension of the permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any Special Use permit. The act to revoke or suspend the permit shall occur after giving notice to the permit holder, specifying the alleged violation(s) and disclosing when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit, the Planning Commission shall make a finding that a material violation of the Special Use permit exists. The permit holder shall be given reasonable opportunity to correct the violation(s).

## **SECTION 230.902 SPECIAL USE REVIEW STANDARDS**

**A. General Review Standards.** The Planning Commission, before acting on a Special Use permit application, shall employ and be guided by standards which shall be consistent with and promote the intent and purpose of this Zoning Ordinance, and ensure that the land use or activity authorized shall be compatible with adjacent uses of land, the natural environment, and the

capacities of public services and facilities affected by the land use. The Planning Commission shall review each application and take action to approve a special use application only if it finds that such Special Use meets each of the following standards, together with any and all Special Use standards reflected for the zoning district, and any and all applicable specific review standards found in this Article. The Planning Commission shall find adequate evidence that each use at its proposed location will be consistent with the public health, safety, and welfare of the Township and shall comply with the following standards:

1. The Special Use shall be consistent with the adopted Lincoln Charter Township Development Plan.
2. The Special Use shall be designed, constructed, operated and maintained to be consistent with the existing or intended character of the general vicinity and such use will not change the essential character of the area in which it is proposed.
3. The Special Use shall not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
4. The Special Use shall be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, storm water drainage, refuse disposal, water and sewage facilities, and schools; or persons or agencies responsible for the establishment of the proposed use shall provide adequately for such services.
5. The Special Use shall not create excessive additional requirements at public cost for facilities and services and will not be detrimental to the economic welfare of the community.
6. The Special Use shall not involve uses, activities, processes, materials and equipment or conditions of operation that will be detrimental to any person, property or general welfare by reason of excessive production of traffic, noise, vibration, smoke, toxic emissions, fumes, glare, or odors.
7. The Special Use shall 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 will be in compliance with these standards.

B. **Conditions and Approval Standards.** The Planning Commission may establish reasonable conditions of approval for a Special Use permit. The conditions may include, but are not limited to, conditions 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. Further, the Planning Commission may adopt specific review standards for any proposed Special Use proposed if this **Article 9** does not provide such specific review standards for such use. Any such conditions imposed or specific review standards employed shall:

1. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well being of those who will use the land use or activity under consideration, residents and land owners in the vicinity of 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.

C. **Specific Review Standards.** In addition to the general review standards set forth in **Section 230.902, A**, of this Zoning Ordinance, the Planning Commission shall apply the specific review standards set forth in this **Article 9** for each named Special Use. In the event this **Article 9** does not set forth specific review standards for the Special Use under consideration, pursuant to **Article 3 (General Provision regarding Unclassified Uses)**, the Zoning Administrator may propose, and the Planning Commission may incorporate specific review standards for such use. Provided, however, that any such standards adopted and any such conditions applied shall conform to the requirements of **Section 230.902, B**, herein.

D. **Compliance with Ordinance Provisions.** In addition to the Special Land Use standards for each named use, all Special Land Uses shall comply with the following:

1. Exterior lighting shall be in accordance with **Article 7, Section 230.701**.
2. Signs shall be in compliance with the provisions of **Article 8** of this Ordinance.
3. Off-street parking shall be in compliance with **Article 7** of this Ordinance.
4. Dumpsters shall be in compliance with **Township Ordinance Number 01-01**.
5. Landscaping shall be in compliance with **Article 6** of this Ordinance.

### **SECTION 230.903 RESERVED**

### **SECTION 230.904 ACCESSORY USES, RELATED TO PERMITTED SPECIAL USES**

A. **Definition.** A use naturally and normally incidental to, and subordinate to, and devoted exclusively to, the special use approved for the land or buildings.

B. **Regulations and Conditions.**

1. For purposes of interpreting Accessory Uses Related to Permitted Special Uses;
  - a. A use may be regarded as incidental or insubstantial if the viability of the special use is not dependent in any significant way on the accessory use.
  - b. To be commonly associated with a special use it is not necessary for an accessory use to be connected with such special use more times than not, but only that the association of such accessory use with such special use takes place with sufficient frequency that there is common acceptance of their relatedness.
2. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.

3. Where an Accessory Use Related to Permitted Special Use is proposed, and regulations are contained in this Ordinance for said use, those regulations shall be met; provided, the Planning Commission may impose additional conditions on approval, to protect the health, well being, safety, and economy of the Township and its residents

## **SECTION 230.905 – 907 RESERVED**

## **SECTION 230.908 AUTOMOBILE REPAIR FACILITY**

**A. Definition.** Any establishment, building, premises, or land where commercial services are furnished involving automobile and truck repair, maintenance, and painting for the general public, and where rental, leasing, storage and salvage operations and parking services are incidental to the principal activities.

**B. Regulations and Conditions.**

1. Dismantled, wrecked or inoperable vehicles or any vehicle parts or scrap of any kind shall not be kept outdoors where they are visible from any adjoining property or right-of-way. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an evergreen landscape buffer not less than eight (8) feet in height at time of planting to buffer any vehicles from neighboring uses or passers-by.
2. Not more than two (2) vehicles shall be parked on site for the purpose of selling or renting such vehicles.
3. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building. No outdoor storage of merchandise or equipment shall be permitted.
4. All repair and maintenance activities shall be performed entirely within an enclosed building.
5. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

## **SECTION 230.909 AUTOMOBILE SALES FACILITY**

**A. Definition.** The use of any building, land area, or other premise for the display and sale of new or pre-owned automobiles, including any vehicle preparation or repair work conducted as an accessory use.

**B. Regulations and Conditions.** The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:

1. Dismantled, wrecked or inoperable vehicles or any vehicle parts or scrap of any kind shall not be kept outdoors where they are visible from any adjoining property or right-of-way. The Planning Commission may require an opaque fence up to eight (8) feet in height and/or an

evergreen landscape buffer not less than eight (8) feet in height at time of planting to buffer any vehicles from neighboring uses or passers-by.

2. Any loading or unloading of vehicles shall be on site. The Planning Commission may establish hours for load or unloading of vehicles.
4. All equipment including hydraulic hoists, pits, lubrication and repair facilities shall be entirely enclosed within a building.
6. All repair and maintenance activities shall be performed entirely within an enclosed building.
7. A permanent 15' greenbelt shall be established in any required yard, and shall be landscaped in accordance with Article 6. The required greenbelt shall be in addition to any required transition strip, unless waived by the Planning Commission due to existing site conditions which may provide buffering to adjacent uses.
8. Adequate internal access routes shall be provided for ease of loading and unloading of vehicles.
9. Automobiles shall not be parked in any required greenbelt or transition strip area.
10. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.
11. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.

## **SECTION 230.910                    BED AND BREAKFAST**

**A. Definition.** An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day for overnight guests only.

**B. Regulations and Conditions.** The applicant shall provide documentation acceptable to the Planning Commission that the proposed use shall meet the following standards:

1. Basic Standards. It is the intent to establish reasonable standards for Bed and Breakfast establishments to assure that:
  - a. The property is suitable for transient lodging facilities. In this connection, a Bed and Breakfast establishment shall meet the requirements of the **Lincoln Charter Township Rental Property Code** and shall be subject to periodic inspections as provided in said code.
  - b. The use is compatible with other allowed uses in the vicinity.
  - c. The impact of the establishment is no greater than that of a private home with houseguests.

- d. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
- 2. Specific Standards. The following requirements together with any other applicable requirements of this Ordinance shall be complied with:
  - a. The minimum lot size shall be consistent with the District minimum for Single Family Dwellings.
  - b. The establishment shall have at least two (2) exits to the outdoors.
  - c. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
  - d. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes. Provided, however, that carriage houses in existence as of the effective date of this section, and located on the same parcel as a Bed & Breakfast may be utilized for sleeping rooms, in accordance with this Section.
  - e. The Bed and Breakfast shall not alter the residential character of the building or structure.
  - f. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
  - g. Special Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
  - h. A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1" = 8' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
  - i. The permit holder shall secure and maintain all required state and local permits.
  - j. No conference/meeting room facilities will be permitted.
  - k. The Bed and Breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.

**SECTION 230.911** **RESERVED**

**SECTION 230.912** **CAR WASH**

- A. Definition.** Any facility or premises or portions thereof used for washing automobiles, including, manual wash facilities, coin washes, and those with automatic and semiautomatic application of cleaner, brushes, rinse water, and forced air and/or heat for drying.
- B. Regulations and Conditions.**
  - 1. All such facilities shall be connected to a public water and sewer system.

2. All washing activities shall be carried out within a building.
3. No vacuum equipment shall be located closer than one hundred (100) feet from any property line which abuts a property zoned or used for residential purposes.
4. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
5. Adequate drainage shall be provided, to prevent flooding, freezing of runoff, and environmental damage.
6. Manual and coin Car Washes shall provide adequate space for drying and waxing vehicles.
7. The applicant shall demonstrate to the satisfaction of the Planning Commission that vehicle stacking areas for the drive-through facility are adequate to handle the highest volume likely at the facility without encroaching on the public right-of-way or the drive aisles, parking or pedestrian areas on site.
8. The applicant shall demonstrate that no litter and debris will travel off-site.

## **SECTION 230.913 CEMETERY**

- A. **Definition.** Any one (1) or a combination of more than one (1) of the following (as per MCL 456.522): a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.
- B. **Regulations and Conditions.**
  1. Cemeteries shall be established in compliance with all applicable federal and state laws.
  2. A proposed cemetery that provides a chapel or other enclosure for graveside, internment and committal services shall be appropriately designed to accommodate occasional gatherings, including necessary restroom facilities and utilities.
  3. A landscape buffer of ten (10) feet shall be provided where a Cemetery abuts a residentially zoned or used parcel.
  4. The use shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.
  5. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
  6. No building shall be located closer than fifty (50) feet from a property line that abuts any residentially used or zoned property.
  7. All required federal, state and local licensing and permits shall be maintained at all times.
  8. A caretaker's residence may be provided within the main building of the mortuary establishment.

9. A cemetery that includes a crematorium shall locate any cremating facilities at least one hundred (100) feet from any residential use.

**SECTION 230.914** **RESERVED**

**SECTION 230.915** **CONTRACTOR'S FACILITY**

**A. Definition.** A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly or staging areas.

**B. Regulations and Conditions.**

1. Any outdoor storage area shall conform to the yard, setback, and height standards of the zoning district in which it is located.
2. Uses shall produce no detectable objectionable dust, fumes, or odors at any property line.
3. All travel surfaces shall be paved, as a condition of approval.
4. Cranes, booms or other extensions on equipment, trucks or other vehicles parked on site shall be stored in the lowest possible configuration.
5. There shall be no off-site discharge of storm water except to an approved drainage system in accord with the Township's engineering requirements.
6. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
7. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

**SECTION 230.916** **RESERVED**

**SECTION 230.917** **CONVENIENCE STORE, WITH FUEL PUMPS**

**A. Definition.** Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads and sandwiches, and beverages for on-site or off-site consumption; which also has fuel pumps, intended and used for the retail sale, supply, and dispensing of fuels for motor vehicles.

**B. Regulations and Conditions.**

1. The Planning Commission may establish hours of operation for Convenience Stores With Fuel Pumps to protect the character of the land uses in the vicinity.
2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.

3. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
4. Dismantled, wrecked, or immobile vehicles shall not be permitted to be stored on site. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
5. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.

## **SECTION 230.918 CONVENIENCE STORE, WITHOUT FUEL PUMPS**

**A. Definition.** Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads and sandwiches and beverages, for on-site or off-site consumption.

**B. Regulations and Conditions.**

1. The Planning Commission may establish hours of operation for Convenience Stores Without Fuel Pumps to protect the character of the land uses in the vicinity.
2. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
3. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.

## **SECTION 230.919 RESERVED**

## **SECTION 230.920 DAY CARE, COMMERCIAL**

**A. Definition.** A commercial facility which is not a private home and in which at least thirteen (13) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian.

**B. Regulations and Conditions.**

1. All required state and local licensing shall be maintained at all times.
2. All outdoor areas used for care and play area shall be located in the rear or side yards only and shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
3. Such facilities shall be located at least 1,500 feet from any one of the following:
  - a. A licensed or pre-existing operating group or commercial day-care home.

- b. An adult foster care facility.
- c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
- d. A community correction center resident home halfway house or similar facility under jurisdiction of the County Sheriff or the Department of Corrections.

4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
5. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.
6. Commercial Day Care facilities shall front on and be accessed from a paved public street.

**SECTION 230.921**      **DAY CARE, GROUP**

**A. Definition.** A private home in which at least seven (7), but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**B. Regulations and Conditions.**

1. All required state and local licensing shall be maintained at all times.
2. All outdoor areas used for care and play area shall be located in the rear or side yard only, and shall have appropriate fencing for the safety of the children. Such fence shall consist of a 6-foot high opaque fence along the area adjoining another residence, and a 4-foot to 6-foot high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
3. Such facilities shall be located at least 1,500 feet from any one of the following:
  - a. A licensed or pre-existing operating group or commercial day-care home.
  - b. An adult foster care facility.
  - c. A facility offering substance abuse treatment and rehabilitation service to 7 or more people.
  - d. A community correction center resident home halfway house or similar facility under jurisdiction of the Department of Corrections.
4. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
5. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10PM and 6AM.

**SECTION 230.922** **RESERVED**

**SECTION 230.923** **RESERVED**

**SECTION 230.924** **RESERVED**

**SECTION 230.925** **EATING AND DRINKING ESTABLISHMENT**

**A. Definition.** A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

**B. Regulations and Conditions.**

1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
2. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels shall be carried onto adjoining property zoned for, or occupied by, residential uses.
3. Such facilities shall be located and designed such that no objectionable odor or fumes shall be carried onto property located in the LD district.
4. The site plan shall include measures satisfactory to the Planning Commission to control blowing trash, dust or debris from the facility.
5. The Planning Commission may establish reasonable hours of operation for eating and drinking establishments.
6. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.
7. Outdoor dining may be permitted on private property and at the discretion of the Planning Commission.

**SECTION 230.926** **RESERVED**

**SECTION 230.927** **EDUCATIONAL FACILITY**

**A. Definition.** Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a pre-school, an elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

**B. Regulations and Conditions.**

1. An education facility shall have its primary access directly from a paved, all-season road.
2. All outdoor play areas shall be located in the rear or side yards only and shall be enclosed with a durable fence six (6) feet in height, or four (4) feet in height if adjoining a right-of-

way. Provided, however, the Planning Commission may permit chain link or wrought iron fences up to six (6) feet in height adjoining a right-of-way upon a finding that such fences are necessary for the safety of pupils of the facility.

3. All required state and local licenses, charters, permits and similar approvals shall be issued prior to occupancy for any educational purposes and shall be maintained in good standing.
4. The Planning Commission may establish standards to limit noise generated by an Educational Facility to no more than 60 decibels at the property line, taking into account the nature of the facility, the surrounding uses and zoning and the probable frequency of objectionable noise levels that may be generated by the use.
5. Off street parking shall be arranged so the area for bus loading and unloading of students will not be in the path of vehicular traffic.
6. Sidewalks shall be required connecting the off-street parking area to the main entrance of the school, and to the required sidewalk along the adjacent road right-of-way line.

**SECTION 230.928** **RESERVED**

**SECTION 230.929** **RESERVED**

**SECTION 230.930** **GASOLINE STATION**

A. **Definition.** Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels, lubricants and similar products for motor vehicles.

B. **Regulations and Conditions.**

1. The Planning Commission may establish hours of operation for Gasoline Stations to protect the character of the land uses in the vicinity.
2. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.
3. All buildings, pump islands and other facilities shall be located in conformance with the yard and setback requirements of the zoning district.
4. Dismantled, wrecked, or immobile vehicles stored shall not be kept outdoors unless completely screened from any adjoining parcel or right-of-way and located in the rear or side yard.
5. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
6. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.

7. All areas of the site accessible to vehicles shall be paved.
8. A raised curb of six (6) inches in height shall be constructed along the perimeter of all paved and landscaped areas.
9. All areas of the site not paved or occupied by buildings or structures shall be landscaped.
10. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.

**SECTION 230.931** **RESERVED**

**SECTION 230.932** **GREENHOUSE OR NURSERY**

**A. Definition.** Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. A Greenhouse or Nursery may be used to raise flowers, shrubs, fruits, vegetables and plants for commercial sale or personal enjoyment.

**B. Regulations and Conditions.**

1. Stored materials, except for living plant materials, shall take place in an enclosed building, bin or other enclosure satisfactory to the Planning Commission to contain blowing dust and debris.
2. Refuse and waste shall be disposed of in a manner which precludes any odors and fumes from being perceptible at any lot line; and any pesticides, fertilizers, or other chemicals shall be handled in a manner which precludes pollution of the environment and the Township's water resources.
3. Stored materials, except for living plant materials, shall not be stacked higher than ten (10) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.

**SECTION 230.933** **HOSPITAL**

**A. Definition.** An institution providing health services, primarily for in-patients and medical or surgical care including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

**B. Regulations and Conditions.**

1. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
2. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant and all such storage, use and handling shall be conducted in accordance with any applicable State or Federal requirements.

## **SECTION 230.934**

## **HOTEL**

**A. Definition.** A facility offering transient lodging accommodations to the general public and may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

**B. Regulations and Conditions.**

1. The property shall be suitable for transient lodging facilities with overnight lodgers staying typically not longer than seven (7) nights.
2. A hotel that includes auditorium or public meeting space shall be provide parking to accommodate all uses on the site.
3. A hotel that includes an eating and drinking establishment shall be further regulated pursuant to **Section 230.925**.
4. The use and the impact of the establishment shall be compatible with other allowed uses in the vicinity in terms of parking, traffic, noise, and odors, and shall not adversely impact the subject neighborhood.
5. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use permit for a hotel.
6. Maximum height shall be 41 feet in the CMU - Commercial Mixed Use District, and 50 feet in the HC - Highway Commercial District. [Amended July 10, 2018]

## **SECTION 230.935**

## **RESERVED**

## **SECTION 230.936**

## **JUNKYARD**

**A. Definition.** The term "junkyard" includes automobile wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed material or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof for profit, but does not include uses established entirely within enclosed buildings.

**B. Regulations and Conditions.**

1. The minimum size for all junkyard facilities shall be six (6) acres, maximum lot size shall be ten (10) acres.
2. The Planning Commission may establish hours of operation for Junkyards to protect the character of the land uses in the vicinity.
3. The applicant shall demonstrate to the Planning Commission proper design and licensing measures as required by State and federal statutory and regulatory authority.

4. Dismantled, wrecked, or immobile vehicles stored shall not be kept outdoors unless completely screened from any adjoining parcel or right-of-way and located in the rear or side yard.
5. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding uses.
6. All materials stored on site shall be located in the side or rear yards.
7. No portion of the storage area shall be located within two hundred (200) feet of any residential district or residential lot line.
8. All materials shall be screened with an eight (8) tall opaque fence.
9. Stored materials shall not be stacked higher than ten (10) feet, and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.
10. A management office shall be provided on site. As residence may be permitted for security personnel or on-site operator.

### **SECTION 230.937                    LAUNDRY AND DRY CLEANING PLANT**

**A. Definition.** A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion and agitation, or by immersions only, in volatile solvents including, but not by way of limitation, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

**B. Regulations and Conditions.**

1. All storage tanks or other facilities used to store hazardous, toxic, odorous, explosive or flammable substances shall be equipped with appropriate containment structures or equipment; to prevent any migration of such substances into the groundwater or surface waters of the Township; and to prevent said substances from being perceptible outside such containment.
2. The Planning Commission may impose hours of operation limitations to protect the character of surrounding uses.
3. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.

### **SECTION 230.938                    RESERVED**

### **SECTION 230.939                    MINI/SELF-STORAGE FACILITY**

**A. Definition.** A structure or group of structures divided into storage units, stalls or lockers of no more than five hundred (500) square feet in area each and which are offered to the public for a fee for the storage of goods.

**B. Regulations and Conditions.**

1. The area of the proposed site shall be at least two (2) acres.
2. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws.
3. All storage shall be inside an enclosed building; no outdoor storage shall be permitted.
4. Each storage unit shall have an individual door to the outdoors and shall be accessible by the owner of the storage items in accordance with hours of operation approved by the Planning Commission. Such hours of operation shall be posted at the entrance to the facility.
5. The storage of perishable, flammable, toxic, or hazardous substances and the use of the facility to store goods or products for commercial or industrial purposes shall be prohibited.
6. No activities except for rental of storage units, and pick-up and deposit of storage shall be permitted.
7. All parking, maneuvering and drive lane areas shall be provided with a paved surface and all drive aisles shall be twenty-five (25) feet in width. The Planning Commission shall approve the circulation pattern within the site, which shall be clearly marked.
8. Outdoor storage of recreational vehicles, boats, or other motorized vehicles shall not be visible from the public-right-of-way.

**SECTION 230.940 MINE, SAND, AND GRAVEL**

**A. Definition.** A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

**B. Regulations and Conditions.**

1. General Site Plan Requirements: In addition to the regular application for a Special Use and payment of fees, the application shall be accompanied by a General Site Plan. The plan shall be drawn to a scale of 1" - 100' and said plan shall include the following information:
  - a. Name and address of owner(s) of land which removal will take place.
  - b. Name, address and telephone number of person, firm, or corporation who will be conducting the actual removal operation.
  - c. Location, size and legal description of the total site area to be mined.
  - d. A plan for extraction and reclamation for the total project which shall include:
    - 1) Surface overburden and topsoil stripping and stockpiling plans.
    - 2) Provisions for grading, re-vegetation, and stabilization that will prevent soil erosion, sedimentation and public safety problems.

- 3) A feasible and detailed plan for the re-use of the reclaimed site, consistent with the intent of the zoning district(s) in which the facility is located.
  - e. Surface water drainage provisions and outlets.
  - f. The location and size of any structures
  - g. Approved soil erosion permits. If such permit has not been issued, a copy of the permit application may be appended to the special use application and any approval shall be conditioned upon issuance of such soil erosion permit.
2. Reclamation: All extraction areas shall be reclaimed progressively as they are worked out. Reclaimed sites shall be reasonably natural and inconspicuous and shall be reasonably lacking in hazard. All slopes and banks remaining above water level and below water level to a depth of six (6) feet shall be graded to angles which do not exceed one (1) foot in elevation for each three (3) feet of horizontal surface and they shall be treated to prevent erosion or any other potential deterioration. No more than five (5) acres of the site shall be open at any time.
3. Site Development Requirements:
  - a. Setbacks in which no part of the mining operation may take place, except for ingress and egress shall be as follows:
    - 1) Excavation below the existing grade of adjacent roads or property lines shall not take place within twenty-five (25) feet from any adjacent property line or road right-of-way.
    - 2) No machinery will be erected or maintained within one hundred (100) feet of any property or road right-of-way line.
  - b. Fencing: If fencing is deemed a necessary requirement, the Planning Commission shall specify the type, characteristics, and location of the required fencing.
  - c. Interior access roads, parking lots, haul road, loading and unloading areas and stockpiled materials shall be maintained so as to limit the nuisance caused by wind blown dust.
  - d. Hours of operation shall be established by the Planning Commission as part of the special use approval.
  - e. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
4. Failure to maintain all required State or Federal licenses and/or to develop and maintain a surface mining operation in accord with the terms of the Special Use permit may result in the immediate revocation of said Special Use permit and any and all other sanctions and/or penalties available to the Township, County, and/or State.
5. Evidence of Continuing Use: When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the

Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, it shall not declare abandonment.

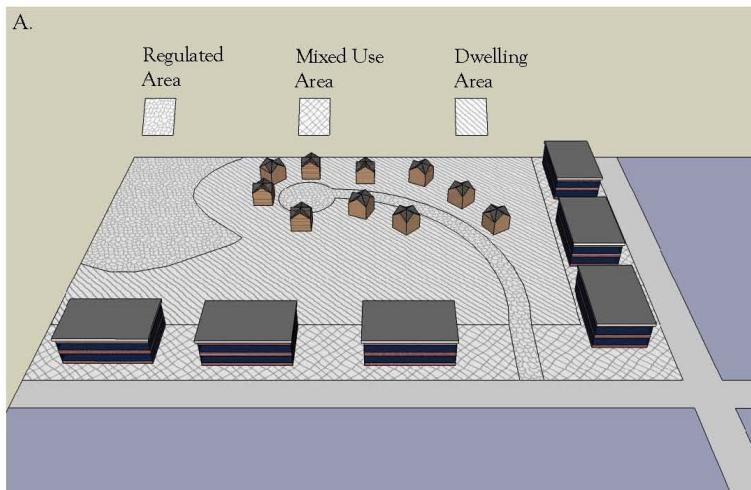
6. **Financial Guarantees:** A minimum performance guarantee of \$3,000.00 plus a minimum \$2,000.00 per excavated acre shall be filed with the Township Treasurer. The performance guarantee shall be in the form of a letter of credit, a certified check, a cash bond or an insurance policy with the Township named as an insured party. The bond shall be returned when all conditions stipulated in the Special Use permit have been met and the Special Use permit revoked prior to its release. There shall be no partial release of the bond.
7. **Issuance of a Special Use Permit:** Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use permit may be transferred.
8. **Permit Expiration:** If approval for a Special Use permit is granted by the Planning Commission it shall extend a specific period of time not to exceed five (5) years. Those permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year by the Zoning Administrator to insure compliance with the permit and Ordinance.
9. **Modification of the General Site Plan:** The General Site Plan may be modified at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology, or to correct an oversight. The Planning Commission may require the modification of the General Site Plan when:
  - a) Modification of the plan is necessary so that it will conform to the existing laws.
  - b) It is found that the previously approved plan is clearly impractical to implement and maintain.
  - c) The approved plan is obviously not accomplishing the intent of the Ordinance.

**SECTION 230.942** **RESERVED**

**SECTION 230.943** **MIXED-USE DEVELOPMENT**

- A. Definition.** A development of a tract of land, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.
- B. Regulations and Conditions.**
  1. The applicant shall demonstrate how the proposed mixing of uses will reduce traffic generation and provide a substantial amenity for the Township.

2. The mixing of uses will be compatible with adjacent land uses, the natural environment, and the capacities of affected public services and facilities, and such use shall be consistent with the public health, safety and welfare of Township residents. The mixing of uses shall be consistent with the policies set forth in the Lincoln Charter Township Development Plan.
3. The development shall consolidate and maximize usable open space, wherever possible.
4. The applicant shall demonstrate that the proposed mixing of uses will not constitute a nuisance to future inhabitants or users of the development, or the Township in general.
5. Off-street parking facilities for such mixed uses may be provided collectively, provided that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use, unless the Planning Commission finds that such requirements are may be modified due to varying hours of operation or other factors.
6. A proposed Mixed-Use Development shall be designed in such a manner that will lead to compatible, efficient, and attractive uses of property in the Township, and shall:
  - a. Encourage unique retail, office and residential use alternatives.
  - b. Establish neighborhood places that will define and strengthen the community character and supplement the identity of the Township.
  - c. Provide for the redevelopment of underutilized sites.
  - d. Facilitate pedestrian oriented development using design options such as sidewalk cafes, rear parking, residential condominiums above small-scale service or retail uses, and enhanced landscape open spaces, squares, and parks.
7. Vehicular and pedestrian circulation within the development and access to the development shall be safe, convenient, non-congested and well defined. Shared access to parking areas will be required, where appropriate.
8. A Mixed-Use Development shall not infringe unreasonably on any neighboring uses.
9. To determine the permitted residential density in a Mixed Use Development, the applicant shall designate the gross acreage of the tract of land, then subtract the acreage of all existing rights-of-way, regulated areas (such as wetlands, critical dunes, slopes, floodplains, etc.), and easements (except recorded public utility easements), to determine the net acreage of the site. The applicant shall designate the portion of the net acreage proposed to be developed with dwellings, which shall be the dwelling area. The permitted residential density is the dwelling area multiplied by the number of permitted units per acre in the applicable zoning district. The dwellings may be dispersed throughout the net acreage, provided however, the dwelling area shall be used only for dwellings and accessory buildings or structures as permitted by the applicable zoning district or as open space, and the residential density on the tract of land shall not exceed the permitted residential density as set forth in this subsection 9.  
[Amended March 26, 2010]



Example A: Tract of land is located in a district that permits two (2) dwellings per acre.

Tract of land: 10 acres  
 Gross acreage: 10 acres  
 Regulated area: 1 acre  
 Net acreage: 9 acres  
 Mixed use area: 4 acres  
 Dwelling area: 5 acres  
 $5 \times 2$ : 10 dwelling units  
 Permitted residential density is 10 units  
 Mixed use area includes only commercial buildings.  
 Residential area includes 10 dwellings.



Example B: Tract of land is located in a district that permits two (2) dwellings per acre.

Tract of land: 10 acres  
 Gross acreage: 10 acres  
 Regulated area: 1 acre  
 Net acreage: 9 acres  
 Mixed use area: 4 acres  
 Dwelling area: 5 acres  
 $5 \times 2$ : 10 dwelling units  
 Permitted residential density is 10 units  
 Mixed use area includes 2 mixed use buildings each with 2 residential units on the 2<sup>nd</sup> floor.  
 Residential area includes 6 dwellings.

## **SECTION 230.944** **MORTUARY/FUNERAL HOME**

**A. Definition.** A facility for the preparation of the deceased for burial or cremation and for visitation and for the conduct of memorial and funeral services.

**B. Regulations and Conditions.**

1. A proposed Mortuary/funeral home shall be located on a parcel of land with a minimum area of one-half (1/2) acre. Provided, however, that such facility shall not exceed the maximum lot coverage requirements of this Ordinance.
2. The use shall be so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.

3. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.
4. No building shall be located closer than fifty (50) feet from a property line that abuts any residentially used or zoned property.
5. Loading and unloading areas used by ambulances, hearses, or other such service vehicles shall be obscured from all residential view with a wall six (6) feet in height. Evergreen landscaping may also be required by the Planning Commission.
6. All required federal, state and local licensing and permits shall be maintained at all times.
7. A caretaker's residence may be provided within the main building of the mortuary establishment.
8. A mortuary/funeral home that includes a crematorium shall locate any cremating facilities at least one hundred (100) feet from any residential use.

**SECTION 230.945** **RESERVED**

**SECTION 230.946** **RESERVED**

**SECTION 230.947** **NURSING HOME/CONVALESCENT HOME/ASSISTED LIVING**

**A. Definition.** A residential care facility providing long-term care for elderly, infirm, terminally-ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978, as amended.

**B. Regulations and Conditions.**

1. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws. As a condition of Special Use approval, at all times the nursing home shall maintain all valid state and local licenses.
2. A nursing home shall not be located within fifteen hundred (1,500) feet of any other nursing home.
3. A nursing home may include continuum of care facilities, including multi-unit residential development and recreational facilities such as a pool, gym, and rehabilitation centre.
4. Parking shall comply with the parking requirement for each specific use on the site, however, parking requirements may be reduced if the Planning Commission finds that such requirements are may be modified due to varying hours of operation or other factors.

**SECTION 230.948** **OUTDOOR SALES FACILITY**

**A. Definition.** The display and sales or rental of products and services primarily outside of a building or structure, of items such as rental vehicles, garden supplies, boats and aircraft, farm

equipment, motor homes, burial monuments, manufactured housing, recreational vehicles, building and landscape materials, and lumber yards. For Automobile Sales see definition for Automobile Sales Facility.

**B. Regulations and Conditions.**

1. Lot area, lot width, and other dimensional requirements of the zoning district shall be complied with; provided, that no item or items displayed outdoors shall be greater than thirty-five (35) feet in height.
2. The Planning Commission may establish, as a condition of approval, hours of operation for the outdoor sales facility.
3. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen or combined landscaping, berms, and fencing; and such conditions may be in addition to the Landscaping standards of **Article 6** of this Zoning Ordinance to mitigate the visual impact of an Open Air Sales.
4. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of items will be for sale. Certain items, as determined by the Planning Commission, may be restricted for display to rear or side yards and with adequate screening or fencing.
5. The application shall provide for measures acceptable to the Planning Commission to prevent any excessive noise at any property line. Unless specifically approved by the Planning Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited.
6. The outdoor sales facilities shall be paved, or mechanisms to prevent the creation of dust shall be implemented. The site plan shall include measure satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.
7. Outdoor sales facilities shall not be located within any required setback areas.
8. Any drive-thru use shall only be permitted if such use is permitted in the underlying zoning district.

**SECTION 230.949** **RESERVED**

**SECTION 230.950** **POWER GENERATING FACILITY**

**A. Definition.** A facility designed and used for the production of electrical energy primarily for the purpose of commercial sale of electrical energy to wholesale and retail customers connected to electrical transmission grid. Such facilities may include coal, diesel, fuel oil, nuclear, natural gas combustion as well as solid waste incinerators.

**B. Regulations and Conditions.**

1. A proposal to establish a Power Generating Facility shall not be approved unless the Planning Commission reaches a finding, based on objectively verified evidence, that all processes to be used in the handling of fuel material, the combustion of fuels, the disposal of any

byproduct, the handling of cooling water, the transmission of electrical energy, the handling of process chemicals and liquids, the maintenance of equipment and all processes and procedures associated with the facility shall be the most advanced such systems in terms of the following criteria:

- a. Potential environmental impacts on air, surface water, ground water, soils, and natural features, shall be minimized or fully mitigated,
- b. Potential community impacts on nearby land uses, public infrastructure and the economic vitality of the community shall be demonstrated to be either neutral or positive,
- c. Potential impacts on the health of residents of the Lincoln Charter Township and surrounding communities and on plant and wildlife communities in the vicinity shall be negligible,
- d. Potential safety impacts on the residents of the Lincoln Charter Township and surrounding communities and employees of the facility shall be fully and adequately addressed.

2. The applicant shall fully disclose
  - a. The nature and quantity of all fuels, chemicals, hazardous materials to be used or stored on site and all uses and activities shall at all times comply with any federal, state or local standards.
  - b. All operating and procedural details of the proposed facility including, but not limited to, equipment specifications, maintenance schedules, capital replacement schedules and plans for eventual decommissioning of the facility.
  - c. The chemical constituents of all emissions to the air, groundwater and surface waters.
  - d. The organizational, capital and operating financial structure for the proposed facility including resumes of officers, all members of the board of directors and key technical staff assisting in the development.
  - e. The proposed phasing of the project including any change in ownership of the facility during development or following start-up.
  - f. All required federal, state and local permits needed for facility operation, the procedures for permit application, the standards for review and approval, the specific agencies responsible for permit review and the status of all such permit applications.
3. An application for a Power Generating Facility shall include an environmental assessment in accord with the requirements of Lincoln Charter Township as established by the Zoning Administrator.
4. All manufacturing and processing activities shall take place inside a fully enclosed building or structure. Outdoor storage shall be permitted but shall be buffered with a wall of evergreens, or 6-foot tall fencing designed to be compatible with the surrounding neighborhood.

5. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.
6. All local, county, state, and federal laws, statutory, and regulatory requirements shall be met at all times. Any failure to comply with any federal or state licensing or permitting requirement shall be grounds for the revocation of any special use permitted issued pursuant to this section.

**SECTION 230.951** **RESERVED**

**SECTION 230.952** **RECREATION AREA, PRIVATE**

- A. **Definition.** A private parcel of property used as a summer camp for children; travel campgrounds; gun or hunting club; off-road racing, a winter resort used for tobogganing, cross-country skiing or down-hill skiing; a swimming club; a golf course, including miniature golf course; a golf country club; fields (indoor or outdoor) used for baseball, golf driving ranges, batting ranges, ice hockey rinks, softball, football, soccer, rugby, cricket, field hockey, volleyball, and/or field and track events; courts (indoor and outdoor) used for tennis, badminton, racquetball, squash, and basketball or combination of the uses stated.
- B. **Regulations and Conditions.** Private recreation areas shall be subject to the following standards:
  1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
  2. Such facilities that include paint-ball, archery, and/or shooting ranges shall employ effective physical barriers and isolation distances to assure that no projectile shall carry, or be perceptible, beyond the property limit.
  3. The application shall provide for measures acceptable to the Planning Commission to prevent any excessive noise at any property line.
  4. The Planning Commission may require that any or all of the property of a club facility be fenced to contain any debris or materials used or discarded on site and/or to prevent unauthorized access to the grounds.
  5. The Planning Commission may establish, as a condition of approval, hours of operation for private recreation areas.
  6. The Planning Commission may establish, as a condition of approval, buffering mechanisms, including, but not limited to, evergreen or combined landscaping, berms, and fencing; and such conditions may be in addition to the Landscaping standards of **Article 6** of this Zoning Ordinance to mitigate the visual impact of a private recreation area.
  7. The Planning Commission may make reasonable inquiries of the applicant, including, but not limited to, what types of activities will occur. Certain activities, as determined by the Planning Commission, may be restricted to rear or side yards and with adequate screening or fencing.
  8. The application shall provide for measures acceptable to the Planning Commission to prevent any excessive noise at any property line. Unless specifically approved by the Planning

Commission, the use of amplifiers, banners, and other attention gathering devices shall be prohibited. All signs shall be in compliance with the provisions of **Article 8** of this Ordinance.

9. Private recreation areas shall prevent the creation of fugitive dust. The site plan shall include measure satisfactory to the Planning Commission to contain blowing dust, trash and debris on the site.
10. Activities occurring in a private recreation area shall not be conducted within any required yard setback areas.
11. Private recreation areas shall conform to the Waterfront Access standards of this Ordinance. Under no circumstances shall a private recreation area be created which results in keyholing.

## **SECTION 230.953** **RESIDENTIAL ABOVE RETAIL OR OFFICE**

**A. Definition.** A mixture of land uses in which dwelling units are located on floors or stories above retail or office uses.

**B. Purpose of Regulation.**

1. Residential above retail or office shall be accessed by a secure entrance dedicated for the exclusive use of building residents and guests.
2. No retail or office use shall be located on the same floor as a residential use.
3. No dwelling unit shall exceed a maximum of two (2) bedrooms.

## **SECTION 230.954** **SEXUALLY ORIENTED BUSINESS**

**A. Purpose of Regulation.** The purpose and intent of the sections of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the Township and to minimize their negative secondary effects. It is recognized that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics, which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of surrounding areas and will not negatively impact the health, safety and general welfare of Township residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimize activities that are prohibited by the Ordinances of the Township, or state or federal law. If any portion of **Section 230.953**, including the definitions appearing in **Article 2** and referenced in **Section 230.953**, is found to be invalid or unconstitutional by a court of competent jurisdiction, the Township intends said portion to be disregarded, reduced and/or revised so as to be recognized to the fullest extent possible by law.

**B. Definitions.** Definitions associated with sexually oriented businesses are found in **Article 2** of this Zoning Ordinance.

**C. Regulations and Conditions.** Sexually Oriented Businesses shall be subject to the following standards:

1. The proposed Sexually Oriented Business shall not be located within five hundred (500) feet of the AG, LD, CR, or MFR districts, or within five hundred (500) feet from a park, educational facility, child care organization, place of worship or other Sexually Oriented Business. The distance between a proposed Sexually Oriented Business and any residence, residentially zoned property, park, school, child care organization, place of worship or other sexually oriented business shall be measured in a straight line from the nearest property line upon which the proposed Sexually Oriented Business is intended to be located to the nearest property line of the residence, residentially zoned property, school, child care organization, place of worship, or other Sexually Oriented Business.
2. Entrances to the proposed Sexually Oriented Business shall be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2) inches in height that:
  - a. "Persons under the age of eighteen (18) are not permitted to enter the premises," and
  - b. "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
3. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift shall be displayed so as to be visible from the nearest adjoining road right-of-way or a neighboring property.
4. Hours of operation shall be limited to 8:00 A.M. to 11:00 P.M., Mondays through Saturdays.
5. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
6. All signs shall be in accordance with **Article 8** of this Ordinance. Provided, however, that no sign visible from the parking area, any adjoining road right-of-way or a neighboring property shall display or depict any Specified Anatomical Areas or Specified Sexual Activities
7. All parking shall be in accordance with **Article 7** of this Ordinance. Provided, however that all off-street parking areas shall be illuminated during all hours of operation of the Sexually Oriented Business, and until one hour after the business closes, such that the off-street parking areas are visible from the nearest adjoining road right-of-way.
8. As a condition of approval and continued operation of a Sexually Oriented Business, such business shall acquire and comply with all pertinent federal, state and local requirements governing its operation and licensing, including licensing pursuant to Section \_\_\_, of the Lincoln Charter Township Code.
9. Any booth, room or cubicle available in any Sexually Oriented Business used by patrons for the viewing of any entertainment characterized as showing Specified Anatomical Areas or Specified Sexual Activities shall:
  - a. Be constructed in accord with the Michigan Building Code, as amended.
  - b. Be unobstructed by any door, lock or other entrance and exit control device.

- c. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant.
- d. Be illuminated by a light bulb of wattage not less than sixty (60) watts, and
- e. Have no holes or openings, other than doorways, in any side or rear walls.

## **SECTION 230.955**

## **SPORTS AND RECREATION CLUB**

**A. Definition.** A facility designed and equipped for the conduct of sports and leisure-time activities, including aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers, whether operated as a business and open to the public for a fee, or operated by a nonprofit organization and open only to bona fide members and guests of such organization, or operated by a governmental agency.

**B. Regulations and Conditions.**

1. Extending water and/or sewer service to the subject site for the purposes of establishing a Recreation and Sports Club shall not be permitted, unless the Planning Commission determines that the extension of utilities provides a significant public benefit.
2. A permanent 15' greenbelt shall be established in any required yard and shall be landscaped in accordance with Article 6.
3. Automobile parking in any greenbelt area shall be prohibited.
4. Points of ingress and egress for the site shall be designed so as to minimize possible conflicts between traffic on adjacent major thoroughfares.
5. No building shall be located closer than fifty (50) feet from a property line that abuts any residentially or agriculturally used or residentially or agriculturally zoned property.
6. The Planning Commission may establish hours of operation for such uses consistent with the character of the land uses in the vicinity.

## **SECTION 230.956**

## **STABLE, RIDING**

**A. Definition.** A building or structure, which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for hire.

**B. Regulations and Conditions.**

1. Any buildings used to breed, house, feed, train, or shelter horses shall be located at least fifty (50) feet from any lot line and paddocks or corals must be at least ten (10) feet from any side or rear lot line.
2. The facilities shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance, disturbance, or hazard to adjacent or nearby property owners.
3. All on-site accumulations of manure or other animal related solid wastes shall be disposed of in accordance with Berrien County Health Department and State health regulations and Generally Accepted Agricultural Management Practices (GAAMPS).

**SECTION 230.957**

**TATTOO OR PIERCING PARLOR**

- A. Definition.** An establishment where permanent tattoos are applied and/or where ornamental skin piercing is performed for consideration, other than by a licensed medical practitioner or cosmetologist; or any place where tattooing or skin piercing is regularly conducted whether or not it is in exchange for compensation.
- B. Regulations and Conditions.**
  - 1. The Planning Commission may establish hours of operation to protect the character of the land uses in the vicinity. Hours of operation shall be consistent with those of adjacent land uses.
  - 2. Food or beverages shall not be served at the establishment.
  - 3. The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.
  - 4. The use shall be compatible with other allowed uses in the vicinity.
  - 5. The principal facade of the use and any signage associated with the use shall not be visible from a Major Street. Tattoo and Piercing Parlors are destination uses rather than impulse uses and the Township desires to maintain the existing character of the HI District.
  - 6. A proposed Tattoo and Piercing Parlor shall be located a minimum of 1,000 feet from an existing Tattoo and Piercing Parlor or Educational Facility. The Planning Commission may waive this requirement if it finds that physical features significantly separate the uses so as to avoid concentration of Tattoo and Piercing Parlors, and to avoid the establishment of a Tattoo and Piercing Parlor in proximity to an Educational Facility.

**SECTION 230.958**

**RESERVED**

**SECTION 230.959**

**USES SIMILAR TO USES PERMITTED AS SPECIAL LAND USES**

- A. Definition.** Uses that have characteristics similar to specifically cited Special Uses in terms of trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, clientele and other off-site impacts.
- B. Regulations and Conditions.**
  - 1. The Planning Commission upon the recommendation of the Zoning Administrator shall make a determination of whether a proposed use is similar to one or more uses permitted by Special Use permit. In preparing such a recommendation, the Zoning Administrator shall evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with other uses in the vicinity.

2. The Planning Commission shall determine whether or not a proposed Special Use is similar to other permitted Special Uses, and may require of the applicant further information to demonstrate such similarity.
3. Upon a finding of such similarity, the Planning Commission may establish any regulations and conditions necessary to protect the health, well being, safety, and economy of the Township and its residents.

**SECTION 230.960** **RESERVED**

**SECTION 230.961** **VETERINARY CLINIC/KENNEL**

**A. Definition.** A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use, which may or may not include boarding or kennel facilities. Kennels facilities are those lots or premises on which four (4) or more domestic animals, six (6) months of age or older are kept temporarily or permanently for the purposes of breeding, boarding or sale.

**B. Regulations and Conditions.**

1. Animal wastes, biohazard materials or byproducts shall be disposed of as required by the Berrien County Health Department, the Michigan Department of Public Health, or other duly appointed authority. All other wastes shall be contained in leak-proof and odor proof containers removed not less frequently than once per week. No animal wastes, biohazard materials or byproducts shall be buried or incinerated on site. Any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a special use approval for a Veterinary Clinic.
2. The use shall be established and maintained in accordance with all applicable Local, State and Federal laws. As a condition of Special Use approval, at all times the nursing home shall maintain all valid state and local licenses.
3. Said use shall be located on a parcel not less than one-half (1/2) acre in size, provided all operations and the housing of animals are contained in one or more completely enclosed buildings.
4. The application shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line.

**SECTION 230.962** **WAREHOUSE, PUBLIC**

**A. Definition.** A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by the owner or operator on behalf of the owner(s) of such items.

**B. Regulations and Conditions.**

1. All local, county, state and federal laws, rules and regulations pertaining to the emission of odor, dust, smoke, gas, noise, vibration and the like, shall be met at all times during operation of any Public Warehouse.
2. The applicant shall disclose the nature of any perishable, flammable, toxic, or hazardous substances to be stored on the facility and the nature of all appropriate and proposed protection procedures and devices and all uses and activities on site.
3. No processing or manufacturing shall take place within a public warehouse.
4. All parking areas and truck maneuvering areas shall be paved or treated to minimize dust and the site plan shall demonstrate provisions to contain blowing dust, trash and debris on the site.
5. No material shall be stored outdoors except within the rear yard and screened from view from adjoining properties and rights-of-way with a six (6) tall opaque fence.
6. No trucks, trailers or other equipment shall be stored in the front yard or closer than ten (10) feet to any side or rear lot line.

## **SECTION 230.963                    WELLS, EXTRACTION**

- A. **Definition.** Wells installed for the commercial extraction of ground water, crude oil, brine, natural gas, sour gas or similar products. This definition may include any surface or subsurface pumping or processing equipment or facilities.
- B. **Regulations and Conditions.** The following standards shall apply to all Extraction Wells.
  1. Intent: The activity of drilling and exploring for, producing, processing, transporting and storing oil, gas, brine or other products extracted from subterranean deposits within the Lincoln Charter Township involves, or may involve, hazardous and/or toxic substances and practices and the intent of this section is to provide for the protection of citizens, workers and property from dangerous and nuisance conditions associated with extraction wells.
  2. All Extraction Wells shall be established, operated and maintained in conformity with all state and federal statutes and regulations pertaining thereto.
  3. No Extraction Well shall be located nearer than three hundred (300) feet from an adjoining property line, unless such adjoining property shall contain an existing extraction well.
  4. A Extraction Well for the purpose of exploring for or producing oil, natural gas or hydrocarbons shall be considered a principal use, regardless of other activities carried out on the site.
  5. A new Extraction Well site shall be completely fenced to prohibit unauthorized entry at all times.
  6. A Extraction Well shall include measures or controls satisfactory to the Planning Commission to minimize any objectionable dust, fumes, or odors at any property line.
  7. A Extraction Well shall include measures or controls satisfactory to the Township Engineer to prevent any discharge of any hazardous materials to the local sanitary sewer system,

stormwater system or any natural or man-made stream or lake. There shall be no off-site discharge of storm water except to an approved drainage system in accord with the Township's engineering requirements.

8. Noise generated on site from any source shall not exceed 60 decibels measured at any property line.
9. Any hazardous materials proposed to be stored, used or handled on site shall be disclosed by the applicant.

## **SECTION 230.964                    WIND ENERGY CONVERSION SYSTEM**

**A. Definition.** A Wind Energy Conversion System shall mean all, or any combination of, the following:

1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
2. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
3. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
4. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy;
5. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted, and

**B. Regulations and Conditions.** The following standards shall apply to all Wind Energy Conversion Systems as defined herein.

1. A Wind Energy Conversion System shall be located on a parcel at least two and one-half (2½) acres in size.
2. In addition to the special use application, the applicant shall submit an evaluation of the likely impacts of the proposed facility in the following areas:
  - a. Noise and vibration at any property line,
  - b. Potential impacts on wildlife, including native and migrating birds,
  - c. Shadow and glare impacts on adjacent properties, and
  - d. Aesthetic impacts of the Windmill on adjoining properties.
3. The applicant shall also submit an appropriately scaled site plan, illustrating the following:
  - a. Property lines, dimensions, acreage, and contours with appropriate intervals for site evaluation,
  - b. Location and elevation of the proposed Wind Energy Conversion System,

- c. Location and dimensions of all existing structures and uses on the lot within three hundred (300) feet of the system,
- d. Height of any structures or trees over thirty-five (35) feet within a five hundred (500) foot radius on-site or off-site of the proposed Wind Energy Conversion System,
- e. Surrounding land use and all structures irrespective of height, within five hundred (500) feet of the Wind Energy Conversion System location,
- f. Standard drawings of the structural components of the Wind Energy Conversion System, including structures, tower, base, and footings. A registered engineer shall certify drawings and any necessary calculations that the system complies with all applicable local, state, and federal building, structural and electrical codes,
- g. Evidence from a qualified individual that the site is feasible for a Wind Energy Conversion System,
- h. Certification from a registered engineer or qualified person that the rotor and overspeed control have been designed for the proposed use on the proposed site,
- i. That there is a substantial need for the proposed use,
- j. Registered Engineer's certification of the design and safety of the proposed tower to withstand winds of eighty-five (85) miles per hour, and
- k. Registered Engineer's certification that if the Windmill were to fall, no building or structure - existing or potential - would be damaged.

4. Setbacks.

- a. Wind Energy Conversion Systems shall maintain a minimum setback of two (2) times the total height of the Wind Energy Conversion System from any property line.
- b. Wind Energy Conversion Systems shall maintain a minimum setback of at least five (5) times the Wind Energy Conversion System height from the right-of-way line of any public road or highway.
- c. In all cases the Wind Energy Conversion Systems shall maintain a minimum distance of at least 1.25 times the Wind Energy Conversion Systems height from any habitable structure.

5. Dimensions.

- a. Wind Energy Conversion Systems shall not exceed a total height of one hundred fifty (150) feet unless the parcel on which the Wind Energy Conversion Systems is to be located is ten (10) acres or larger, in which case the maximum total height may be two hundred (200) feet. Such total height shall include both support structure and the highest elevation of the windmill rotor.
- b. In all cases the minimum height of the lowest position of the Wind Energy Conversion System's blade shall be at least thirty (30) feet above the ground.

6. Siting and Design Standards.

- a. Wind Energy Conversion Systems shall not be placed on visually prominent ridgelines.
- b. Wind Energy Conversion Systems shall be designed and placed in such a manner to minimize, to the greatest extent feasible, adverse visual and noise impacts on neighboring areas.
- c. Colors and surface treatment of the Wind Energy Conversion Systems and supporting structures shall, to the greatest extent feasible, minimize disruption of the natural characteristics of the site.
- d. If the Wind Energy Conversion Systems are two hundred feet tall, they shall be equipped with air traffic warning lights, which adequately warn oncoming air traffic without being unreasonably obtrusive to neighboring properties.

7. Safety Measures.

- a. Each Wind Energy Conversion System shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- b. The Planning Commission shall determine the height, color, and type of fencing for Wind Energy Conversion System installation.
- c. Appropriate warning signs shall be posted. The Planning Commission shall determine the type and placement of the signs, pursuant to paragraph 11 below.
- d. Each Windmill shall be properly grounded to safely sustain natural lightning strikes in conformance with the National Electrical Code.

8. An approved Windmill shall be exempted from height restrictions of the zoning district.

9. Any Windmill facility shall be equipped with anti-climbing devices. Tower climbing apparatus shall not be located within twelve (12) feet of the ground. A locked, protective fence at least six (6) feet high shall enclose a tower capable of being climbed.

10. The Wind Energy Conversion System operator shall maintain a current insurance policy which will cover installation and operation of the Wind Energy Conversion System. The amount of said policy shall be established as a condition of approval. The applicant shall provide documentation or other evidence from the dealer or manufacturer that the Windmill can be successfully operated in the climatic conditions found in the Township. The Windmill shall be warranted against any system failures reasonably expected in severe weather operation conditions, as a condition of approval.

11. Wind Energy Conversion Systems shall include no sign or advertising of any kind, except for one sign, not to exceed two (2) square feet posted at the base of the tower, and said sign shall contain the following information:

- a. "Warning: high voltage."
- b. Manufacturer's name.
- c. Operator's name.
- d. Emergency phone number.

- e. Emergency shutdown procedures.
- 12. Wind Energy Conversion Systems shall be designed and constructed so as not to cause radio and television interference.
- 13. If any Wind Energy Conversion System remains non-functional or inoperative for a continuous period of one (1) year, the permittee shall remove said system at their expense. Removal of the system shall mean the entire structure, including foundations, transmission equipment, and fencing, from the property. If removal of towers and appurtenant facilities is required and the permit holder, or successors, fails to remove the towers and appurtenant facilities from the property within 30 days from the date of notification by the Zoning Administrator, the Township may proceed to remove the towers and appurtenant facilities; in which case, the salvage becomes property of the Township; and costs of removing the facilities will remain the burden of the permit holder.

C. A Wind Monitoring Station may be approved by the Planning Commission either as a principal or accessory use in the HI district upon the review and approval of a site plan prepared in accord with **Article 10** and upon a finding that the proposed Wind Monitoring Station shall meet the requirements of **Section 230.902**.



## **ARTICLE 10**

### **SITE PLAN REVIEW**

#### **SECTION 230.1000 SITE PLAN PROCESS**

**A. Purpose.** The intent of this section is to provide for consultation and cooperation between the applicant and the Zoning Administrator in order that the applicant may accomplish his/her objectives in the utilization of land within the regulations of the Ordinance, with minimal adverse effect on the land, shores, roadways, natural features, infrastructure, and on existing and future uses of property in the immediate vicinity, and to insure that a proposed land use or activity is in compliance with this Ordinance. In this connection, a site plan includes the documents and drawings required by the Zoning Ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

**B. Scope.** In accordance with the provisions of this Chapter, the Zoning Administrator shall be furnished a Site Plan of the proposed development prior to the creation of a use or the erection of a building in the Districts and conditions cited below: The extent of site plan review for various types of projects is classified into two types.

1. **Detailed Site Plan:** New developments and major expansions shall require a detailed site plan. Special land uses require a detailed site plan and must also comply with the requirements of **Article 9, Special Land Uses**. The establishment of a condominium project shall require the submission of a detailed site plan and must also comply with the Condominium Act, Act 59 of 1978, as may be amended. Planned Unit Development requires submission of a Detailed Site Plan upon final approval. A detailed site plan shall be subject to review by the Zoning Administrator. The Zoning Administrator may request that the Township Planner, Engineer and/or Township Attorney review any detailed site plan.
2. **Basic Site Plan:** A basic site plan shall be required for applications involving new single family dwellings, additions to existing single- or multiple unit dwellings and for any new accessory building in excess of two-hundred (200) square feet in area for any principal use. A basic site plan shall be subject to review by the Zoning Administrator, except in the case of a Basic Site Plan for an Open Space Preservation Development, which shall be reviewed by the Planning Commission and follow the process outlined in **Section 230.1003**. The Zoning Administrator may request that the Township Planner, Engineer and/or Township Attorney review any basic site plan.

#### **SECTION 230.1001 OPTIONAL SKETCH PLAN REVIEW**

**A. Sketch Plan.** Preliminary sketches of proposed site and development plans may be submitted for review to the Zoning Administrator and/or the Planning Commission or a committee of the Planning Commission, prior to official review and approval. The purpose of such procedure is to allow discussion between an applicant and the Zoning Administrator and/or Planning Commission, to better inform the applicant of the acceptability of the proposed plans prior to

incurring extensive engineering and other costs which might be necessary for final site plan approval. Such sketch plans shall, at a minimum, include the following:

1. The name and address of the applicant or developer, including names and addresses of any officers of a corporation or partners of a partnership, together with telephone numbers.
2. Legal description, property parcel number, and street address of the subject parcel of land.
3. Sketch plans showing tentative site and development plans, produced on a scaled drawing illustrating existing and proposed structures, parcel boundaries, natural features, and all improvements, easements, streets, and sidewalks.
4. The Planning Commission shall not be bound by any comments or observations made pertaining to a sketch plan.

## **SECTION 230.1002 APPLICATION PROCEDURE**

**A. Request for Review.** Request for site plan review shall be made by filing with the Zoning Administrator the required filing fee and escrow, the application form and either a basic or detailed site plan, together with any special studies required. The Zoning Administrator may waive any site plan submittal requirement upon a finding that the required information is not applicable to the site.

**B. Fee.** An application fee and review escrow as determined by resolution of the Township Board.

**C. Application and Site Plan Contents.**

1. Basic Site Plan: If a project qualifies for basic site plan review under **Section 230.1000.B.2**, three copies shall be submitted to the Zoning Administrator. **Table 230.1000** includes the data that shall be included with and as part of the basic site plan submitted for review, unless deemed unnecessary by the Zoning Administrator:
2. Detailed Site Plan. A detailed site plan shall be required for all uses other than those that may submit a basic site plan. Detailed site plans for any project reviewed by the Planning Commission shall include twelve (12) copies of all required information, including application form, as well as one disk with .pdf file of the site plan, and one 11x17 reduced copy of the site plan. It shall be prepared by an Engineer, Architect, Landscape Architect or Planner licensed to work in Michigan and shall include and illustrate at a minimum the requirements found in **Table 230.1000**, unless deemed unnecessary by the Zoning Administrator. Detailed site plans which are reviewed and approved by the Zoning Administrator shall include five (5) copies of all required information including application form, as well as one disk with .pdf file of the site plan, and one 11x17 reduced copy of the site plan.

Table 230.1000 SITE PLAN DATA	Basic Site Plan	Detailed Site Plan
<b>A. Application Form: The application form shall contain the following:</b>		
name and address of the applicant and property owner;	x	x
address and common description of property and complete legal description;	x	x
dimensions of land and total acreage;	x	x
zoning on the site and all adjacent properties;	x	x
description of proposed project or use, type of building or structures, and name of proposed development, if applicable;	x	x
name and address of firm or individual who prepared site plan; and,	x	x
proof of property ownership, or intent to purchase.	x	x
<b>B. Site Plan Description and Identification Data</b>		
Site plans shall consist of an overall plan for the entire development, drawn to an engineer's scale of not less than 1 inch = 50 feet for property less than 3 acres, or 1 inch = 100 feet for property 3 acres or more in size;	x	x
title block with sheet number/title; name, address and telephone number of the applicant and firm or individual who prepared the plans; and date(s) of submission and any revisions;	x	x
scale and north-point;	x	x
location map drawn to a separate scale with north-point, showing surrounding land, water features, zoning and streets within a quarter mile;	x	x
legal and common description of property;	x	x
identification of architect, engineer, or land surveyor who prepared drawings, (identification and seal required for detailed site plans)	x	x
zoning classification of petitioner's parcel and all abutting parcels;	x	x
proximity to section corner and major thoroughfares; and,	x	x
net acreage (minus rights-of-way) and total acreage.	x	x
boundary survey in compliance with PA 132		x
<b>C. Site Data</b>		
existing lot lines, building lines, structures, parking areas and other improvements on the site and within 100 feet of the site;	x	x
topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a U.S.G.S. benchmark;		x
proposed lot lines, lot dimensions, property lines, setback dimensions, structures, and other improvements on the site and within 100 feet of the site;		x
location of existing drainage courses, streams and wetlands; if applicable	x	x
all existing and proposed easements;	x	x
location of exterior lighting (site and building lighting);		x
location of trash receptacle(s), dumpsters and transformer pad(s) and method of screening; and		x
extent of any outdoor sales or display area.		x
<b>D. Access and Circulation</b>		
dimensions, curve radii and centerlines of existing and proposed access points, roads and road rights-of-way or access easements;		x
opposing driveways and intersections within 250 feet of site;		x
cross section details of proposed roads, driveways, parking lots, sidewalks and non-motorized paths illustrating materials and thickness;		x

Table 230.1000 SITE PLAN DATA	Basic Site Plan	Detailed Site Plan
dimensions of acceleration, deceleration, and passing lanes;		x
proposed road locations, widths	x	x
proposed road grades		x
dimensions of parking spaces, islands, circulation aisles and loading zones;		x
calculations for required number of parking and loading spaces;		x
designation of fire lanes;		x
traffic regulatory signs and pavement markings;		x
location of existing and proposed sidewalks/pathways within the site or right-of-way;		x
location, height, and outside dimensions of all storage areas and facilities.	x	x
<b>E. Landscape Plans</b>		
general location of existing trees;	x	x
location, sizes, and types of existing trees six (6) inches or greater in diameter, with an identification of materials to be removed and materials to be preserved;		x
description of methods to preserve existing landscaping;		x
the location of existing and proposed lawns and landscaped areas;	x	x
landscape plan, including location and type of proposed shrubs, trees, and other plant material;		x
landscape irrigation plan;		x
planting list for proposed landscape materials with caliper size or height of material, method of installation, botanical and common names, and quantity.		x
description and methods to buffer two-unit development from existing single-family homes	x	x
<b>F. Building and Structure Details</b>		
location, height, and outside dimensions of all proposed buildings or structures;	x	x
building floor plans and total floor area;		x
details on accessory structures and any screening;	x	x
location, size, height and material of construction for all obscuring wall(s) or berm(s) with cross-sections, where required;		x
building facade elevations for all sides, drawn at an appropriate scale;		x
existing and proposed grades;	x	x
description of exterior building materials and colors, and,		x
digital renderings illustrating the appearance of the site both before and after site development shall be required for any proposal that includes more than fifty dwellings or has more than 50,000 square feet of floor area.		x
<b>G. Information Regarding Utilities, Drainage and Related Issues</b>		
location of sanitary sewers and septic systems, existing and proposed;	x	x
location and size of existing and proposed water mains, well sites, water service, storm sewers loads, and fire hydrants;	x	x
conceptual drainage plan;	x	x
site grading, drainage patterns and other stormwater management measures;		x
stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume and outfalls also list the non-structural design strategies used to reduce runoff from the subject property (such as use of native plants, rain gardens, porous pavement or other infiltration techniques);		x
a drainage plan prepared and sealed by a licensed professional engineer, identifying measures to be used for control and disposal of storm water runoff from the site. The		x

Table 230.1000 SITE PLAN DATA	Basic Site Plan	Detailed Site Plan
drainage plan shall identify sizes and dimensions of all drainage structures, and the method, assumptions, and calculations used in the design of drainage facilities and control of runoff.		
location of above and below ground gas, electric and telephone lines; and,		x
location of transformers and utility boxes.		x
size, height and method of shielding for all site and building lighting;		x
location, size, height, and lighting of all proposed site and wall signs;		x
photometric grid indicating lighting intensities on the site and at all site boundaries		x
for development within the Environmentally Sensitive Overlay, the site plan shall include a depiction showing the location of the septic system, drain field, replacement area, and well (if applicable). A letter from the County Health Department shall also be provided approving the location of the septic and well (if applicable).	x	x
<b>H. Additional information required for Site Condominium projects, Town homes, and/or Multi-Unit Development</b>		
the number and location of each type of residential unit (one bedroom units, two bedroom units;	x	x
density calculations by type of residential unit (dwelling units per acre);	x	x
garage and/or carport locations and details, if proposed;		x
mailbox clusters;		x
location, dimensions, floor plans and elevations of common building(s), if applicable;		x
swimming pool fencing detail, including height and type of fence, if applicable;		x
location and size of recreation and open space areas;		x
indication of type of recreation facilities proposed for recreation area;		x
master deed and bylaws, if applicable, and		x
design standards, if applicable		x
<b>I. Other required information</b>		
Maintenance agreement, when applicable		x
Easements, when applicable		x

**D. Special Studies or Research.** For complex site plans and/or for land uses that may generate significant impacts on surrounding land uses or public facilities, the Zoning Administrator or Planning Commission may require any or all of the following reports or studies as a part of a detailed site plan.

1. Environmental Assessment, shall be a summary review of the environmental impacts of a project in accordance with the following standards:
  - a. The purpose of the Environmental Assessment shall be
    - i. to provide relevant information to the Zoning Administrator or Planning Commission on the potential environmental impact of applications for special land use permits for substantial projects that may have an impact on the natural, social and economic environment of the Township;

- ii. to inject into the developer's planning process consideration of the characteristics of the land and the interests of the community at large, and
  - iii. to facilitate participation of the citizens of the community in the review of substantial developments.
- b. Guidelines. When required by the Planning Commission or the Zoning Administrator pursuant to this Section, an applicant shall prepare an Environmental Assessment in accordance with these guidelines. An Environmental Assessment is not an Environmental Impact Statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the Development Plan. The complexity of the Environmental Assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the Environmental Assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission or Zoning Administrator may request further elaboration. The Planning Commission or Zoning Administrator may waive elements of these guidelines as either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the Environmental Assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the Environmental Assessment.
- c. Content. The following material shall be included and/or addressed in the Environmental Assessment, unless specifically waived by the Zoning Administrator or Planning Commission as not applicable:
  - 1) A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
    - i. Flora and fauna (be sure to list any endangered species on-site)
    - ii. General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features
    - iii. Adjacent waterways
    - iv. Existing wells, approximate depth and use
  - 2) A description of any asbestos abatement proposed for the site. If applicable, this shall include a description of the method to be sure this material does not get into the surrounding area.
  - 3) A description of any existing contamination on-site. This should include a description of the nature of the contamination on-site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state

or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.

- 4) If the proposed project will impact any coastal areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
- 5) A description of the existing soils on-site and as to the suitability of these soils for the proposed use.
- 6) A description of any historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
- 7) A description of any emissions from the proposed development as it relates to air quality. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- 8) A description of any hazardous materials or waste to be stored on-site. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
- 9) A description of any storm water or process water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
- 10) If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
- 11) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
- 12) A description of the anticipated traffic to be generated by the proposed use.
- 13) A description of plans for site restoration after construction.
- 14) A description of methods to handle sanitary waste for the project both during construction and after completion.
- 15) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval.
- 16) A description of any additional items as needed to relay the potential environmental impacts of the proposed project.

- d. The individual preparing the Environmental Assessment must sign and seal (if prepared by a registered engineer, land surveyor, community planner or landscape architect) the submitted document.
- 2. Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study completed by qualified professional be prepared as an attachment to a site plan submitted for any development in the Township meeting the requirements of this section. The purpose of this section is to set forth the standards to be used by the Zoning Administrator or Planning Commission in requiring the submission of such a traffic impact study, the required minimum content of such a study and the standards and procedures for the review of its findings.
  - a. Description. A traffic impact study shall include an analysis of the existing traffic conditions on the roadway network in the vicinity of a proposed project, including any accident history, average speeds, average daily and peak hour traffic volumes and levels of service of all key roadway segments and intersections. The study shall further indicate the effect of a proposed development on adjacent roadways and intersections and indicate the anticipated points of origin, direction and volume of traffic flow to and from the proposed development. The study shall be prepared by either a registered professional engineer (P.E.) or transportation planner with at least five (5) years of experience preparing traffic impact studies in Michigan. The study shall include a summary of the qualifications and documented experience of the author and specifically describing experience in preparing traffic impact studies in Michigan. If the traffic impact study involves geometric design recommendations, the study shall be prepared or supervised by a registered engineer with a strong background in traffic engineering.
  - b. Criteria for Requiring a Traffic Impact Study. The Zoning Administrator or Planning Commission may require that a traffic impact study be prepared as an attachment to a site plan for any proposed commercial, industrial, residential or mixed use development which has the potential to significantly increase traffic volumes on the surrounding roadway network. In determining the level of potential impact, the Zoning Administrator or Planning Commission shall consult appropriate planning and engineering texts including, but not limited to, *Trip Generation*, published by the Institute of Transportation Engineers and may seek the counsel of other professionals with experience with developments similar to that proposed. A traffic impact study may be required under this section when, in the judgment of the Zoning Administrator or Planning Commission, the proposed development will result in an increase of either the average daily traffic or the peak hour traffic equal to or greater than ten percent (10%) of the current traffic volume on the adjoining roadway.
  - c. Required Study Content. In general, a required traffic impact study shall document existing conditions on the existing roadway network including all intersections within one (1) mile of the proposed development including average daily traffic and peak hour volumes in all directions, existing turning movements, levels of service, average traffic speeds and accident history. Existing pedestrian and non-motorized traffic volumes shall also be estimated. The traffic impact study shall project the impact of the proposed development on the roadway network including all intersections within one (1) mile of

the proposed development including projected average daily traffic and peak hour volumes in all directions, anticipated turning movements and anticipated levels of service. Anticipated impacts on pedestrian and non-motorized traffic volumes shall also be projected. The following specific elements shall be addressed in a required traffic impact study, unless specifically waived by the Zoning Administrator or Planning Commission:

- 1) A narrative summary at the beginning of the report, including, but not limited to:
  - i. The applicant and project name.
  - ii. A location map.
  - iii. The size and type of development.
  - iv. Generated traffic volumes based on type and size of land use which are compatible with those listed in the Institute of Transportation Engineers – publication, Trip Generation (current edition).
- 2) Project phasing identifying the year of development activities per phase and proposed access plan for each phase.
- 3) A transportation system inventory, which describes the physical, functional and operational characteristics of the study area highway system and, where appropriate, locate transit services. The description should provide, where pertinent, data on:
  - i. peak-hour volumes (existing and projected)
  - ii. number of lanes
  - iii. cross-section
  - iv. intersection traffic signals and configuration
  - v. traffic signal progression
  - vi. percentage of heavy trucks
  - vii. adjacent access point locations
  - viii. jurisdiction
  - ix. grades
- 4) Plan showing proposed roadway per phase for each access. Driveway design and roadway improvements shall meet Michigan Department of Transportation (MDOT) or Lincoln Charter Township standards and guides.
- 5) Capacity analysis shall be performed at each access point. The Township's preference is the use of Highway Capacity Software, (HCS 2000), or a later version thereof. Default values shall not be used when actual values are reasonably available or obtainable. The interaction of conflicting traffic movements shall be addressed in the traffic impact study. Any proposed signalized access within one (1) mile of an existing signalized intersection shall be analyzed in coordination with the existing signal timing. A time-space diagram should also be included.

- 6) A traffic impact study shall include an analysis of conditions with and without the proposed development on the existing system, and with the proposed development for both existing and projected traffic volumes. The traffic volumes for the development shall assume a total build out. The completed analysis shall be summarized in a table showing all the Measures of Effectiveness (MOE) for all of the above conditions.
- 7) Required operational changes shall be part of the site plan review and any access permit approval process.

d. Evaluation and Criteria. As a general criteria, the existing roadway network and all access points to a proposed development shall be demonstrated to be fully capable of accommodating the increased average and peak hour traffic anticipated. In the event the anticipated level of service on any roadway segment or intersection is shown to decline, the traffic impact study shall present alternative approaches proposed to manage anticipated traffic without such decline.

e. The Zoning Administrator may be provided to the Township Engineer, Planner and/or an independent traffic engineer or transportation planner to review and comment on any traffic impact study prepared pursuant to this Section. The cost of any such review shall be borne by the applicant.

3. Market Study. For unique development proposals, projects that may entail some financial expense or risk on the part of the Township and/or projects that may, in the judgment of the Planning Commission or Zoning Administrator, fundamentally alter the character of the community, the Planning Commission or Zoning Administrator may require a market study to demonstrate a reasonable expectation that a market exists for a proposed development. Such a study shall be prepared in accord with this Section.
  - a. Description. A market study shall be a detailed and documented analysis of the existing and projected economic conditions in the community that may impact both the proposed demand for the products or services to be generated on a site and the impact on other potentially competing businesses and services in the community that may result from the proposed development.
  - b. Content. Unless specifically waived by the Zoning Administrator or Planning Commission, a market study shall include the following elements:
    - 1) An executive summary which outlines the key findings of the study.
    - 2) The background for the study including both project background and the methodology and approach used.
    - 3) An overview of the market area including area demographic information and a description of the transportation and service infrastructure that would serve the proposed development.
    - 4) A trade area delineation describing the likely geographic area that may be influenced by the proposed development along with detail on the methodology used in defining the trade area.

- 5) A market feasibility analysis that defines the supply of competing facilities existing and planned in the marketplace, the inventory of alternative sources of supply or services that may compete with the proposed development and the demand for the products and services to be provided by the proposed development. This shall include a supply/demand gap analysis and a description of the ways in which the proposed development may address the gap defined.
- 6) The credentials of the author(s) of the market study.

c. Evaluation. The Zoning Administrator and/or Planning Commission shall review the market study to be satisfied that there is a reasonable expectation that the proposed development will meet with economic success without creating excessive dislocations within the existing marketplace.

### **SECTION 230.1003 ACTION ON APPLICATION AND SITE PLANS**

- A. Upon receipt of a submitted application and site plan, the Zoning Administrator shall review the plan to determine its completeness. If the submittal is incomplete, the Zoning Administrator shall provide the applicant with a list of items needed to make the submittal complete. If a basic site plan is found to be complete, the Zoning Administrator shall review the site plan in accordance with **Section 230.1004** and approve or deny the application accordingly. The applicant and the Zoning Administrator shall sign an approved basic site plan, and a copy shall be kept on file with Lincoln Charter Township for future review and enforcement.
- B. If a detailed site plan submittal is complete, the Zoning Administrator shall record the date of receipt and transmit copies thereof to the Fire Department when necessary; to other area review agencies, such as the Township Engineer, Township Attorney, Township Planner, County Health Department, Michigan Department of Transportation, retaining at least one (1) copy in the Zoning Administrator's office.
- C. **Outside Agency Approvals.** Prior to approval of a detailed site plan, the applicant shall submit documentation indicating that the detailed site plan has been reviewed and approved by any and all required outside agencies, as applicable, and that the plan has been amended as necessary to satisfy any conditions of said approval. Outside agencies for approval may include but are not limited to the following:
  1. Berrien County Drain Commissioner (BCDC)
  2. Berrien County Road Commission (BCRC)
  3. Berrien County Health Department (BCHD)
  4. Berrien County Planning Commission
  5. Michigan Department of Environmental Quality (MDEQ)
  6. Federal Emergency Management Agency (FEMA)
  7. Michigan Department of Transportation (MDOT)

D. After conducting a review of the site plan, the Zoning Administrator shall approve, approve conditionally or reject the detailed site plan, as it pertains to requirements and standards contained in the Zoning Ordinance including **Section 230.216**. Any conditions required by the Zoning Administrator shall be stated in writing and shown on the site plan, together with the reasons for such conditions, and delivered to the applicant. Decisions by the Zoning Administrator shall be made within one hundred (100) days of the receipt of the completed application. Any conditions imposed on the application and site plan shall:

1. Be designed to protect natural resources; the health, safety, welfare, and social and economic well being of users of the land use 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, and 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.

E. Two copies of the approved site plan meeting any and all conditions of approval shall be maintained as part of the Township records for future review and enforcement. One (1) copy shall be returned to the applicant. Each copy shall be signed by the applicant and the Chair of the Planning Commission and/or the Zoning Administrator and dated with the date of approval for identification of the approved plans. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals, the minutes concerning the variances, duly signed, shall also be filed with the Township records as a part of the site plan and delivered to the applicant for information and direction.

F. To insure compliance with the site plan, Zoning Ordinance, and any conditions, limitations or requirements imposed on the applicant, the Zoning Administrator and/or Planning Commission may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond in an amount and under conditions permitted by law. Such security shall be deposited with the Township Treasurer at the time of permit issuance authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Zoning Administrator may authorize a return of a portion of the deposit in reasonable proportion to the completion of the required improvements. Such security shall not exceed the estimated cost to fulfill the required conditions, limitations established for the site plan.

## **SECTION 230.1004**      **REVIEW CRITERIA**

A. In the process of reviewing a site plan, the Planning Commission and/or Zoning Administrator shall consider:

1. Whether the streets and highways, water distribution lines and facilities, sanitary sewer collection lines and facilities, storm water facilities, electrical utility lines, communications lines and equipment, sidewalks and other pedestrian access, and other infrastructure as they now exist and may be modified as part of or in conjunction with proposed project or action

are reasonably sufficient for the needs existing and planned uses in the Township as a whole, the existing and planned uses in the vicinity of the site, and the existing and planned uses on the site, including during times of reasonably foreseeable strains on such infrastructure due to reasonably frequent weather events, special community-wide events, anticipated construction activity, or similar causes.

2. Whether the buildings, structures, and entrances thereto proposed to be located upon the site are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
3. Whether natural features of the landscape are retained, particularly, where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
4. Whether there are any adverse effects of the proposed development, its uses and any activities emanating therefrom upon owners, occupants, residents, and uses of nearby property.
5. Whether the proposed development and uses comply with other Township ordinances.
6. Whether the proposed buildings and other structures on and uses of the site will be compatible with those on nearby property.
7. Whether the proposed buildings and other structures on and uses of the site will generally support and advance the policies and objectives of the Township's Development Plan.
8. Whether the proposed buildings and other structures on and uses of the site will comply with applicable laws, rules, regulations, permit and license requirements, orders and directives of other governmental agencies or officials of competent jurisdiction. There is no affirmative duty to make this determination. However, if it seems that violations are likely to result or exist, such likely violations can and should be considered.
9. Whether all buildings and structures are reasonably accessible to emergency vehicles.
10. Whether the buildings and structures on the site are accessible for regular maintenance, repair and improvement.
11. Whether the layout and location of any publicly owned utilities, roads, sidewalks or other infrastructure on the site allow for reasonably normal operation, use, maintenance, repair, replacement and improvement including snow removal and storage. Except where mitigating circumstances prevent it, all electrical, telecommunication and similar utility systems shall be placed underground.
12. Whether the proposed development is consistent with the intent and purpose of zoning to promote public health, safety and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to preserve property values and natural

resources; and to give reasonable consideration to character of a particular area, its peculiar suitability for particular uses and the general appropriate trend and character of land, building, and population development.

13. Whether the development provides open areas, green space and other areas.
14. Whether the development accommodates sight lines and preserves views that are key assets of the community and its character.
15. Whether the development will be a significant asset to the community's economic development.
16. Whether the development includes "best management practices" and "Green" designs and construction materials and methodologies.
17. Whether all applicable local, regional, state and federal statutes are complied with.
18. Whether other statutorily authorized and properly adopted Township planning documents are complied with.
19. Whether there is adequate buffering from new two-unit dwellings and existing single-family homes.

### **SECTION 230.1005 CONFORMITY TO APPROVED SITE PLANS**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the Planning Commission and/or the Zoning Administrator. If construction and development does not conform to such approved plans, the approval shall be revoked by the Zoning Administrator by written notice of such revocation posted upon the premises involved and mailed to the applicant at the last known address. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation. However, the Planning Commission and/or the Zoning Administrator may, upon proper application, approve an amendment to the site plan pursuant to **Section 230.1007**.

### **SECTION 230.1006 TERM OF APPROVAL OF THE SITE PLAN**

Approval of the site plan shall be valid for a period of one (1) year after the date of approval. The Planning Commission or Zoning Administrator may grant extensions if applied for and granted in writing. The reasons for extensions may be the inability to complete the requirements, financial constraints, regulatory approvals or other proven hardship. If a zoning permit has not been obtained and the on-site development actually commenced within said one (1) year, the site plan approval shall become null and void and a site plan approval application shall be required and approved before any construction or earth change is commenced upon the site.

### **SECTION 230.1007 AMENDMENT TO THE SITE PLAN**

No changes shall be made to an approved site plan prior to or during construction except upon application to the Zoning Administrator according to the following procedures:

- A. The Zoning Administrator may approve minor amendments to a site plan including:

1. Reduction in the number of parking spaces
2. Changes in the building size, up to five percent (5%) of the gross floor area
3. Movement of buildings or other structures by no more than ten (10) feet
4. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size and/or number
5. Changes to building materials to a comparable or higher quality
6. Changes in floor plans that do not alter the character of the use
7. Changes required or requested by the Township, the Berrien County Road Commission, or other County, State or Federal regulatory agency in order to conform to other laws or regulations.

**B.** Major changes or amendments to an approved site plan involving a change of use, change in the number and location of accesses to public streets and alleys, a major relocation of a building, increase in the gross floor area or heights of buildings, a reduction in open space, and similar major changes as determined by the Zoning Administrator, shall require the approval of the Planning Commission or Zoning Administrator, in the same manner as the original application was submitted, reviewed, and approved.

### **SECTION 230.1008 APPEALS**

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the manner as other administration decisions. The concurring vote of a majority of the members of said Board shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant.

Effective June 21, 2008, Amended through October 2019

## **ARTICLE 11**

### **HOME OCCUPATIONS AND HOME-BASED BUSINESSES**

#### **SECTION 230.1100 PURPOSE**

These standards are intended to insure compatibility with the other permitted uses and the residential character of the neighborhoods in which home occupations and home-based businesses are located. Home occupations and home-based businesses shall be secondary or incidental to the residential use of the parcel and principal structure. Each, when meeting the standards contained herein, shall be so located and constructed that the average neighbor, under normal circumstances, will not be aware of such home occupation or home-based business.

#### **SECTION 230.1101 REGISTRATION REQUIRED**

Home occupations and home based businesses shall be registered with the Township's Zoning Administrator prior to commencement of any activity related to such home occupation or home-based businesses.

#### **SECTION 230.1102 PERFORMANCE STANDARDS**

- A. Home Occupations. All home occupations shall comply with the following standards:
  1. A home occupation shall be conducted only by the resident(s) of the dwelling plus not more than (1) nonresident.
  2. A home occupation shall be conducted entirely within the dwelling unit or not more than one accessory building.
  3. The home occupation shall not alter the external appearance of the dwelling to cause the premises to differ from its residential construction, and shall not utilize lighting, signs, or cause the emission of sounds, noises, fumes, or odors, or electrical interference beyond what normally occurs in a residential zoning district.
  4. There shall be no outdoor storage or display of any kind related to the home occupation.
  5. No traffic shall be generated by such home occupation in greater volumes than what normally occurs within the residential neighborhoods located in this zoning district including, but not limited, to customer traffic and deliveries.
  6. Parking generated by the conduct of the home occupation shall be provided off the street.
- B. Home-Based Businesses. All home-based businesses shall comply with the following standards in addition to the standards for home occupations as set forth in the above **Section 230.1102, A:**
  1. Only one commercial vehicle, limited to a maximum of one (1) ton, shall be parked at the residence at any given time for the purpose of the home-based business.

2. All equipment and/or tools associated with the home-based business shall be stored indoors and shall be limited to one (1) accessory building.

**SECTION 230.1103 REVOCATION OF PERMIT**

All permits issued to home occupations and home-based businesses pursuant to this Ordinance, or which have been granted by the Township previously, shall be revocable by the Township Zoning Administrator if such home occupation or home-based business fails to comply with any of the applicable standards as set forth in this Ordinance, any other applicable ordinance or code.

## **ARTICLE 12**

### **ENVIRONMENTALLY SENSITIVE AREAS OVERLAY DISTRICT**

#### **SECTION 230.1200**

#### **PURPOSE**

The regulations contained herein are intended to effectively manage development in the environmentally sensitive areas within Lincoln Charter Township and to challenge developers to overcome physical constraints and preserve the environment, not only on site, but also on adjoining properties. Many of the environmentally sensitive areas in Lincoln Charter Township are not served by public sewer, thus posing a development challenge to locating septic systems in were soils are suitable. This Article shall guide any activity within the established district which:

1. Requires a building permit and disrupts more than 1,000 square feet of land; or
2. Any other type of activity (i.e. gardening, timber cutting, road construction, etc.) which disrupts one-half acre (21,780 square feet) of land or more.

Timber cutting in accordance with approved forestry practices and with plans prepared by a recognized forestry agency, will be exempt from the requirements of this Ordinance. The overlay district depicted on the Zoning Map identifies the environmentally sensitive areas overlay district and was based on an environmental analysis conducted by Wightman Environmental in 1992.

In addition, the intent of this district is:

1. To preserve native vegetation and mature trees.
2. To assure that drainage systems will not negatively impact adjoining properties and the overall environment.
3. Generally preserve the environmentally sensitive characteristics of the area for the future.

#### **SECTION 230.1201**

#### **PERMITTED USES**

All uses permitted in the environmentally sensitive areas overlay district are subject to the conditions herein imposed for each use and are also subject to site plan review provisions pursuant to Article 10 and the general zoning district in which the area is located.

#### **SECTION 230.1202**

#### **TREE REMOVAL AND/OR REMOVAL OF VEGETATIVE COVER**

A. The removal of trees shall be held to a minimum, and trees of six inches or more in diameter shall be identified, and those to be removed shall be so identified and reviewed by the Zoning Administrator.

1. A drawing is required with the building envelope indicated to consider the recommended or preferred location of the building.
2. The building envelope is required to be staked for review prior to issuance of a building permit.

B. Natural vegetation shall remain undisturbed and preserved as far as possible and where removed or relocated, shall be replaced with other vegetation that is equally effective in retarding run-off, preventing drainage problems, preventing erosion, and preserving the natural beauty and characteristics of the area.

### **SECTION 230.1203** **REMOVAL OF SOIL**

A. The removal and temporary movement of soils which may include top soil, subsoil, and sand, shall be governed by the following, in conjunction with the requirements of the Mineral Removal Ordinance No. 661, as applicable.

B. Only areas deemed absolutely necessary for excavation for building locations shall be disturbed. This shall be determined in consultation with the Zoning Administrator, in accordance with the recommendations and guidelines as set by the U.S. Soil Conservation Agency or Michigan State Extension Service, for the restoration and preservation of the premises.

### **SECTION 230.1204** **STORM WATER RUN-OFF AND DRAINAGE**

The developer/builder shall demonstrate, through generally recognized engineering standards, that the proposed change to the site will not significantly alter the natural characteristics of the site and surrounding areas, and will adequately care for the natural storm water run-off and drainage. Construction techniques must adequately consider the water-related natural characteristics of the site. A minimum increase in the volume of storm water run-off and drainage may be allowed over and above the natural volume of run-off/drainage only when absolutely necessary for development purposes. This shall be in consultation with the Township Engineer, Township Attorney, Township Planner, the County Drain Commissioner and other relevant reviewing bodies. In no case shall the restrictions on run-off/drainage, established by the proposed development, be exceeded in the future.

### **SECTION 230.1205** **REVIEW PROCEDURES**

A. The Zoning Administrator shall review the submitted site plan to determine whether it is in proper form, contains all required information (including a depiction showing the location of the septic system, drain field, drain field replacement area and well (if applicable), and shows compliance with this and all other ordinances of the Township. The applicant shall also provide a letter from the County Health Department acknowledging their review of the septic and well (if applicable). The following set of standards shall serve as the basis for decisions involving development within this district:

1. Be compatible with adjacent uses of land.
2. Be consistent with and promote the intent and purpose of this Ordinance.
3. Be consistent with the capacities of public services and facilities affected by the development.
4. Protect the public health, safety, and welfare.

- B. The Zoning Administrator shall, within forty-five days of receipt of a complete application, notify the applicant in writing of any conditions of approval. Once conditions have been met, the Zoning Administrator may issue a zoning compliance permit.
- C. Additional conditions and restrictions upon the establishment, location, construction, and maintenance of the development, as deemed necessary for the protection of the public interest, may be stipulated by the Zoning Administrator.