

ARTICLE XVIII SPECIAL USE PERMITS

Sec. 20-1800 Special Land Use Permit Review - Intent

These special use permit review procedures are instituted to provide an opportunity to use a lot for an activity which, under usual circumstances, would be detrimental to other permitted land uses and cannot be permitted within the same district, which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. In order to provide maximum flexibility, special land uses have been classified as discretionary and non-discretionary. It is the intent of these provisions to permit the review and approval of non-discretionary land uses by administrative personnel, while providing for more extensive standards and review procedures by the Planning Commission to review discretionary special land uses. These procedures are adopted to provide guidelines for the Planning Commission to follow in arriving at any decision over which such commission has jurisdiction, and to provide for the public health, safety, morals, and general welfare, as well as to provide for the interest of the property owner.

Sec. 20-1801 Review Procedures

(a) An application for the approval of a special land use shall be made by an owner of an interest in the land on which the special land use is to be located, to the township clerk accompanied by the necessary fees as provided by ordinance or resolution and documents as provided for herein. In the case of a discretionary special land use the application shall be accompanied by copies of a site plan drawn to a scale of one (1) inch equals twenty (20) feet and meeting the requirements of Section 20-1903. In the case of a non-discretionary land use the application shall be accompanied by a plot as required for issuance of a zoning permit along with any additional information required by the Zoning Administrator that is necessary for him/her to determine if the application meets the ordinance requirements

(b) The special land use permit application may be accompanied by an application for a zone change, where such a zoning change is necessary to the consideration of the application, provided all applicable provisions for a zoning change application have been complied with. Where an application for a non-discretionary special land use permit and zone change are considered together, the notice requirements for zoning amendments shall be followed. Where the application is for a non-discretionary special land use permit, the application shall be submitted to the Zoning Administrator who will have 14 days in which to determine if the application meets the specific non-discretionary standards established for that particular special land use. Where the discretionary special use permit application is not accompanied by an application for a zoning change, the following procedure shall apply:

(Amended by Adoption December 14, 2006, Sec.20-1801 (b))

- (1) Upon receipt of an application for a special land use which requires a decision on discretionary ground, one (1) notice that a public hearing for a special land use appeal will be held shall be published in a newspaper which circulates in the township and sent by mail, or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet including those outside the jurisdiction of Flushing Township. The notice shall be given not less than fifteen (15) days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:
(Amended by Adoption December 14, 2006, Sec. 20-1801 (1))

- a. Describe the nature of the special land use request.
 - b. Indicate the property which is the subject of the special land use request.
 - c. State when and where the public hearing will be held
 - d. Indicate when and where written comments will be received concerning the request.
- (2). The commission shall hear any person wishing to express an opinion on the request for the special land use permit and review the special land use permit application at the time the request is being considered.
 - (3). The Planning Commission may deny, approve, or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration, which specifies the basis for the decision and any conditions imposed.

(c) The zoning change application, if any, shall be referred within ten (10) days after receipt by the township clerk to the Planning Commission for its review.

- (1) Upon consideration of the request for zoning change, the commission shall review and communicate its recommendations on the zoning change application to the Township Board within ten (10) days after application was considered, in accordance with the procedure prescribed by applicable statute and this chapter.

(d) The commission shall, within fourteen (14) days after the meeting or public hearing, at which the application of special land use was considered, advise the applicant, the building inspector, and the township clerk of its findings and of its approval with any conditions the commission may find necessary or appropriate, or its disapproval with its reasons in writing.

(1) The conditions imposed by the commission may include those conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads used by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The conditions imposed shall meet all of the following requirements:

- a. Be designed to protect the 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 landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use of activity.
- c. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

(2) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the landowner. The Planning Commission shall maintain a record of conditions which are changed.

(e) The building inspector shall, upon receipt of notice of approval and upon application by the applicant, accompanied by a receipt attesting to the payment of all required fees, issue a building permit or other permit for the approved special use, provided he has found satisfactory compliance with all condition precedents imposed by such approval.

(f) An aggrieved person entitled to notice under this section or a property owner aggrieved by the decision of the Planning Commission which decision has been made pursuant to this section, may appeal this finding of the Planning Commission to the Zoning Board of Appeals using the procedure outlined in section 20-2209.

Sec. 20-1802 Standards for Decisions Involving Special Land Use Requests

At the meeting where an application for special land use is considered, the commission shall consider the requests in accordance with the following standards:

- (a) That the special land use shall be consistent with and promote the intent and purpose of this chapter.
- (b) That the proposed use will ensure that the land use or activity authorized shall be compatible with adjacent land uses, the natural environment and the capacities of public services and facilities affected by the proposed land use.
- (c) The special land use sought is consistent with the public health, safety, and welfare of the township.
- (d) A request for approval of the land use or activity, which is in compliance with the standards stated in this chapter, the conditions imposed pursuant to this chapter, and other applicable ordinances and state and federal statutes shall be approved by the commission.

Sec. 20.1803 Standards for Non-Discretionary Special Land Use Permits

(A) Home Occupation.

A home occupation may be permitted within a single-family residential dwelling subject to the following conditions.

- (1) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation, and shall be carried out completely within such dwelling.
- (2) There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding two

- (2) square feet in area, non illuminated, and mounted flat against the wall of the dwelling.
- (3) No home occupation shall be conducted in any accessory structure.
- (4) There shall be no sale of any goods manufactured elsewhere in connection with such home occupation except for sales incidental to the home occupation.
- (5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking, generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
- (6) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premise, or causes fluctuations in line voltage off the premises.
- (7) Home occupations shall be carried on by a member or members of the family residing on the premises, and not over one (1) employee not residing on the premises.

(B) Temporary Dwellings.

A mobile home or travel trailer may be permitted upon a lot for use as a temporary residence while construction is diligently pursued upon a permanent residence meeting all requirements of this chapter; provided, however;

- (1) all health requirements affecting the provisions of water and sanitary sewer services are complied with and approved by the building inspector
- (2) all such construction shall have been completed within one (1) year from the issuance of the building permit
- (3) nothing in this section or this chapter shall permit the occupancy of a cellar without a complete residential structure thereon sufficient to permit the issuance of an occupancy permit.

(C) Temporary Travel Trailer

The Zoning Administrator may issue a discretionary special use permit for a travel trailer or recreational vehicle without charge, to a bona fide visitor and family desiring to occupy a travel trailer or other recreational vehicle while visiting a resident of this township, which permit shall expire thirty (30) days after issuance. No such permit shall be issued unless application is made by the visitor in control of such trailer or vehicle and the consent in writing of the owner or the occupant in control of the premises to such parking, use and occupancy and to the use of the sanitary facilities as provided in subsection (l) of Section 20-319 above is attached thereto. The travel trailer or recreational vehicle shall conform to the standards outlined in Section 20-319. No such permit shall be renewed by the building inspector, but this shall not prevent the Zoning Board of Appeals from authorizing such permit upon proper application as elsewhere provided, and not more than two (2) such permits shall be issued to any person in any one (1) twelve-month period.

(D) Circuses,

carnivals or other transient amusement enterprises. Circuses, carnivals or other transient amusement enterprises may be permitted as a special use in any the RSA district, upon approval by the Zoning Administrator, pursuant to the following conditions

- (1) Posting of a bond running to the township in an amount sufficient to hold the township free of all liabilities incident to the operation of such activity and to indemnify any adjoining landowner for any damages resulting from the operation of such activity, and which damages shall be provable before the court having jurisdiction over the premises on which the damages occurred and payable through such court.
- (2) The site shall consist of at least 10 acres of land
- (3) The operation shall be located at least 500' from the nearest residence
- (4) Lighting shall be designed so as not to shine onto adjacent land or road right-of-way
- (5) The operation will last for no more then 7 days

Sec 20-1804 Requirements for Permitted Special Uses.

(A) Accessory Structures

(1) Accessory Structures in Front Yards. Accessory structures may be permitted in the front yard of a lot located in RSA and RU-1, subject to the following conditions:

- (i) The lot the accessory structure is to be located on is at least 400 feet deep or contiguous to a river or lake.
- (ii) The accessory structure shall conform to all minimum front and side yard set backs required for principal structures in the district where the lot is located.
- (iii) The accessory structure shall be screened from view of the roadway and adjacent lots, or be designed to be compatible with surrounding residential structures in size, height, style of exterior finish, and landscaping.

(2) Accessory Structure on a Lot without a Principal Structure. A structure which would otherwise be an accessory structure may be located on a lot without a principal structure, subject to the following conditions:

- (i) The accessory structure is located on the lot such that its placement will not interfere with the future placement of a principal structure in accordance with the requirements of this Ordinance, and further, that placement of the accessory structure meets all location and set back requirements of this Ordinance for accessory structures.
- (ii) The proposed location, size and type of the accessory structure and its intended use are reasonably related to the use and enjoyment of the property.
- (iii) The placement of the accessory structure and its intended use will not adversely affect the value, use and enjoyment of other property.
- (iv) The accessory structure shall not be used for human habitation.

(Amended by adoption April 21, 2011, Section 20-1804(A) Accessory Structures)

(B) Agricultural Labor Camps

- (1) The dwelling units in agricultural labor camps provided for migratory employees engaged in agricultural activities on a farm shall be exempt from the minimum lot size and width requirements contained in this section. All structures in agricultural labor camps shall comply with the setback requirements established in this section and the provisions of Act No. 289 of the Public Acts of Michigan of 1965 (MCL 286.641 et seq., MSA 17.424(51) et seq.), as amended, and the administrative rules promulgated thereunder.

(C) Agricultural Research Facility

- (1) Activities permitted include those normally permitted by right or SUP in the RSA district as well as necessary office and storage buildings.
- (2) Any office or storage buildings should be designed to blend in with the rural residential/agricultural area.

(D) Agricultural Tourism Facilities

Agricultural Tourism Facilities are permitted by Discretionary Special Use Permit (DSUP) in the RSA Zoning District provided:

- (1) Adequate off-street parking is provided for the peak generation times of the proposed use.
- (2) Hours of operation are established that take into account the impact of traffic and noise on the surrounding land uses.

(Amended by adoption September 11, 2003)

(E) Airports

- (1) Lights: All lights, used for landing strips and other lighting facilities, should be so arranged as not to reflect towards adjoining districts.
- (2) Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives at the airport, comply with the State Rules and Regulations as established by Public Act #207 of 1941; the "Fire Prevention Act".
- (3) Off-Street Parking: Off-street parking should be provided in sufficient amounts to provide for the parking of automobiles and

other motor vehicles used by the employees, patrons and visitors to the airport and which should not be less than one (1) parking space for each one (1) employee, and one (1) parking space for each one (1) aircraft harbored at the airport.

- (4) Fencing: A six (6) foot chain link fence shall be provided along hazardous areas as a barrier to prevent hazards of inadvertently entering onto airport properties.
- (5) All applicable State and Federal aviation safety regulations are complied with.
- (6) Lodges, schools, churches, or other assembly buildings shall not be located within one thousand (1,000) feet of any runway.

(F) Amusement Park

- (1) Amusement parks shall be adequately buffered from surrounding areas.
- (2) Amusement parks shall be located on a county primary road.
- (3) Amusement park structures should be located in such a way as to ensure efficient movement of emergency vehicles through the site.

(G) Auto Body Repair, Engine Repair

- (1) All repair work is to be conducted inside an enclosed building.
- (2) All vehicles on site for over 24 hours shall be stored in an area enclosed by a six foot high obscuring fence.

(H) Automobile Gasoline filling, and service station, subject to the following:

- (1) The minimum lot area for gasoline, filling, and service stations shall be fifteen thousand (15,000) square feet, for stations having no more than two (2) service bays and no more than two (2) pump islands. There shall be an added three thousand (3,000) square feet for each additional service bay and one thousand five hundred (1,500) square feet for each additional pump island. At least one (1) street lot line shall be at least one hundred fifty (150) feet in length along one (1) major thoroughfare. The lot shall be so

shaped and the station so arranged as to provide ample space for vehicles which are required to wait.

- (2) The driveway or curb cuts for access to a service station shall not be permitted at such a location that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be located no less than ten (10) feet from an adjoining property line, twenty-five (25) feet from an intersection street right of way line, extended to the curb or pavement.
- (3) A four foot, six inch masonry obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district.
- (4) The entire surface used for parking or driveways area of the service station shall be paved with concrete or asphalt.
- (5) Any vehicles stored at the site over 24 hours shall be in an area enclosed by a six foot high obscuring fence.

(I) Automobile Sales Lot for New or Used Cars

- (1) The lot or area shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
- (2) Access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any (2) streets.
- (3) No major repair or minor refinishing shall be done on the lot.
- (4) All lighting shall be shielded from adjacent residential districts.

(J) Automobile Wrecking and Junkyards if carried on wholly within a building or provide for the following.

- (1) All junkyards shall be planted with evergreens and other suitable plantings and used for no other purpose.
 - a. Such buffer shall be planted with evergreens and other suitable plantings and used for no other purpose.
- (2) All junkyards shall be enclosed on all sides by a tight unpierced fence or wall with a height of not less than the height of the stored objects, but in no case less than eight (8) feet.

(K) Bed and Breakfast

- (1) The sleeping rooms of the tourist home operation shall be confined to the principal dwelling unit.
- (2) Tourist homes are permitted in single-family detached dwellings only.
- (3) Tourist homes shall comply with the home occupation regulations of this ordinance.

(L) Car Wash

Car Washes are permitted by right in the C-2 Zoning District and by Discretionary Special Use Permit in the C-1 Zoning District provided:

- (1) The driveway or curb cut shall be at least 10 feet from an adjoining property line, 25 feet if the adjoining property is zoned RSA, RU-1 or RU-2 or is the site of an existing single family residence.
- (2) A four foot, six inch masonry obscuring wall shall be provided and maintained on those property lines adjacent to property that is zoned RSA, RU-1 or RU-2 or is the site of an existing single family residence.
- (3) The entire surface used for parking, maneuvering or cleaning of vehicles shall be paved with concrete or asphalt.
- (4) All car washes shall have public sanitary sewer service and a public water supply or demonstrate adequate private water supply.
(Amended by adoption September 11, 2003)

(M) Churches

- (1) Minimum of one acre plus 1/2 acre per 100 person seating in principle worship area.
- (2) Full-time schools or cemeteries that are part of the church operation must separately meet the SUP requirements for those uses, although parking requirements may be shared.
- (3) Parking shall not be permitted in the required front yard and must be fenced or bermed as required in Section 20-501.

- (4) No buildings shall be located closer than 75 feet from a side lot line or 25 feet from the rear lot line.

(N) Cluster Subdivisions

- (1) The proposed subdivision shall consist of a tract of land at least twenty (20) acres in area, which shall be serviced by a public sanitary sewer line and public water.
- (2) The application shall be endorsed unequivocally for such development by all the owners of the tract, and procedure and documents shall be provided to assure development under a single administration and as approved by the Planning Commission.
- (3) Residential densities may be at not less than nine thousand nine hundred (9,900) square feet per dwelling unit based upon the total land area.
- (4) The developer shall dedicate not less than twenty (20) percent of the total land area for parks, woodlands, conservation district, playgrounds, golf courses, tennis courts, or other open space areas, such as to encourage the preservation of natural features. Such land may be dedicated to the township, or may be reserved for private use, in which case satisfactory arrangements shall be made, acceptable to the township for the development, operation, and maintenance of all such areas.
 - a. The location, extent, and purpose of areas dedicated for open space or recreational use within any subdivision shall be approved by the Planning Commission and the Township Board.
 - b. The development, operation, and maintenance of dedicated land for private open space or recreational use shall be guaranteed by a trust indenture approved by the township and shall be filed with the register of deeds of the county simultaneously with the recording of the final plat of the subdivision.

(O) Drive-in Business of Retail or Service Nature (including drive-in restaurants), subject to the following:

- (1) A setback of at least sixty (60) feet from the right of way line of any existing or proposed street must be maintained.

- (2) Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets and when two points are located on the same street they shall be at least 60 feet apart.
- (3) All lighting shall be shielded from adjacent residential districts.
- (4) A six foot high completely obscuring wall shall be provided when the site abuts or is adjacent to more restrictive districts.

(P) Duplexes

- (1) Duplex means a single dwelling structure designed and used for two separate households. Each unit of the duplex shall satisfy the requirements of this ordinance for a single family dwelling, except that it shall be permissible for the units of the duplex to share a common driveway and utilities, including a common well or municipal water connection, a common septic system or municipal sanitary sewer connection, gas, and electricity. The two units shall be separated by material having a minimum two hour fire rating;. Each unit of the duplex shall have a separate means of ingress and egress. The duplex and the lot on which the duplex is located shall be considered a single property with a single tax description. The units of a duplex may not be considered separate properties for tax or ownership purposes.
- (2) Lots for duplexes shall be at least 23,000 sq. ft. and at least 120 feet wide if public water or sewer are not available and used. If public water and sewer are used, the lots may be a minimum of 13,200 sq. feet and 105 feet wide.

(Q) Earth Removal

- (1) The use of the land for the removal of soil, sand, gravel, or other earthy materials, is not permitted in any district until a earth removal permit from the Planning Commission is issued in accordance with the standards and limitations described hereinafter. Except, however, that no permit from the Planning Commission shall be required if a previously issued building permit has been applied for and obtained and earth removal required for the erection of such building for basements, grading, drains, pipes, or other services to the property has been described in detail in the application for such building permit and shown to be a necessary part of such proposed construction for which the permit is issued. A temporary earth removal permit may be reviewed annually by the Planning

Commission, but may only be revoked if the permit holder fails to meet the requirements of the permit. Such permit shall not be issued in any zoning district except RSA and then only if the owner or operator of land used for earth removal shall demonstrate to the Planning Commission that no dangerous condition, including dangerous conditions to children or trespassers upon the land, will be permitted to develop or remain, and also that no stagnant water shall be permitted to collect upon the land, nor shall the stability of the land or of any adjoining land be caused to become unstable or permitted to be left unstable, nor shall such a permit be granted if such earth removal shall leave the surface of the land in an unstable condition or unfit for the growing of turf or offensive to the future use of the land or the adjacent lands for the uses to which the land is then zoned.

- (2) The Planning Commission may require filing of a suitable indemnity bond or agreement as provided for in this section, the terms of which shall run to the protection of the township or to such party or parties of adjacent or nearby lands who may be adversely affected by failure to comply with the terms of such permit. The permit shall require a date certain for the restoration of the land and shall be conditioned upon the applicant complying with a definite time schedule of earth removal and restoration. The Planning Commission may require the applicant to take such necessary precautions including the fencing and posting of notices to insure the safety of nearby owners, including children or trespassers upon the property, and may require the applicant to secure liability insurance to protect any person who might be injured by the development of an attractive nuisance upon such land and may require that such insurance name as an insured party the township.
- (3) The permit may be suspended at any time by the Zoning Administrator if a serious or dangerous condition shall develop pending a hearing by the Planning Commission to determine if the SUP should be revoked.
- (4) An earth removal special use permit will be considered expired when the area covered by the permit has been excavated and restored as outlined in the permit.

(R) Essential Services (All Districts)

- (1) For public service installations, including public utility transformer stations, gas regulator stations, radio, television and microwave transmitter towers. The lot area and width shall be not less than that specified for the district in which the proposed use is located.

- (2) The yard and setback requirements shall not be less than that specified for the district in which the proposed use is located.
- (3) No building shall be erected to a height greater than that permitted in the district in which the proposed use is located with the exception of commercial freestanding towers.
- (4) In residential areas all buildings shall be harmonious in appearance with the surrounding residences by suitable plant material and shall be fenced as approved by the Planning Commission.
- (5) Where mechanical equipment is located in the open, it shall be screened from the surrounding residential area by suitable plant material and shall be fenced as approved by the Planning Commission.

(S) Greenhouses, Retail

Retail greenhouses are permitted by right in the C-1, C-2 and C-3 zoning districts and by Discretionary Special Use Permit in the RSA zoning district

- (1) In the RSA zoning district, a maximum of fifteen (15) percent of the area used for sales (both indoor and outdoor) shall be used to display products which were not grown or produced on site. This requirement shall not apply in the C-1, C-2 and C-3 Zoning District.
- (2) No outside storage shall be permitted in RSA.
(Amended by adoption September 11, 2003)

(T) Hospitals, Convalescent Homes, Sanitariums and Nursing Homes

- (1) Ambulance and delivery areas shall be obscured from view of the right of way and adjacent property and access to these areas shall be directly from the road.
- (2) Access will be from a county primary road.

(U) Human cemeteries: Public, Private or cemeteries subject to the following conditions:

- (1) The site shall be no less than ten (10) acres and shall be so designated as to provide all ingress and egress directly onto or from a public road.

- (2) The location of proposed service roads, entrances, and driveways shall be so designated in relationship to the public road that pedestrian and vehicular traffic safety is encouraged.
- (3) No principal or accessory building shall be closer than fifty (50) feet from any abutting residentially zoned boundary line.
- (4) The provisions of P.A. 368 of 1978 that require local health department review are to be followed.

(V) Industrial Park, subject to the following conditions:

- (1) Permitted uses shall include all uses permitted by right within this district. Special uses may be permitted, subject to the special use provisions of Article XVIII.
- (2) The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
- (3) The development of an industrial park shall be in accordance with an overall plan for development to the park, which plan shall be approved by the Township Planning Commission.
- (4) The developer shall provide within the industrial park, a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, and that system shall connect with the township system. If sewers are not available, the park's sanitary sewer system shall be designed so as to dispose of all sewage and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state, county health department, the county drain commissioner and the township.
- (5) The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the township's engineer collect, carry off, and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the state, the county drain commissioner and the township.
- (6) If a public water system is not available the developer shall provide within the industrial park a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.

- a. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
 - b. Such water system shall conform to the statutes, ordinances and regulations of the state, the county health department, the county drain commissioner and the township.
- (7) All industrial parks shall have direct access to a paved state or county primary highway.
- (8) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
 - a. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
- (9) No part of any parking access and/or service area may be located closer than one hundred fifty (150) feet from any residential property line.
- (10) Parking, loading or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
- (11) Any industrial park adjoining any residential development shall be provided with a buffer of at least sixty (60) feet along the adjacent property line. Such buffers shall be planted with evergreens and other suitable plantings and used for no other purposes. A landscaped planting area of at least sixty (60) feet shall also be provided along all street frontage.
- (12) Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors.
 - a. These facilities will be arranged in such a manner so as to protect abutting streets, and adjacent properties from unreasonable glare of hazardous interference of any kind.
- (13) Maximum building coverage on any lot within the industrial park shall not exceed thirty (30) percent.
- (14) Minimum lot sizes within an industrial park shall be one (1) acre.

(W) Kennels

- (1) Kennels shall comply with all applicable county and state regulations.
- (2) Minimum lot size shall be at least two acres for the first four dogs and an additional 1/3 acre for each additional dog.
- (3) Building and dog runs shall be at least seventy five (75) feet from the lot line.
- (4) Animals shall be boarded within enclosed buildings.
- (5) Exterior runs may only be used during daylight hours.

(X) Mini-Storage Facilities (Outdoor and/or Indoor Storage)

Mini-Storage Facilities, with either outdoor or indoor storage, are permitted by right in the M-1 and M-2 Zoning Districts and by Discretionary Special Use Permit in the C-2 and C-3 Zoning Districts.

- (1) Minimum parcel area for the entire development is four (4) acres.
- (2) Access to the facility shall be from a county primary road.
- (3) All outdoor storage areas shall be appropriately screened from surrounding property, as determined by the Planning Commission.
- (4) Maximum building height shall be nineteen (19) feet.

(DIAGRAM COMING FROM DOUG PIGGOTT)

- (5) Parking for the storage leasing office and a caretaker's residence shall meet the parking requirements in Article 6 of this Ordinance's parking regulations. A ten (10) foot wide parking strip shall be required in front of each row of storage units and a twelve (12) foot wide travel lane provided between buildings (see Figure 18-1).
(Amended by adoption September 11, 2003)

(Y) Open Space Community

Second Reading on December 10, 1998
Effective on Publication December 17,
1998

Amendment Effective April 26, 2001

- (1) Intent: It is the intent of this section to offer an alternative to traditional suburban residential development for the purpose of:
- Encouraging the use of township land in accordance with its character and adaptability;
 - Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
 - Allowing innovation and greater flexibility in the design of residential developments;
 - Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
 - Ensuring compatibility of design and use between neighboring properties; and,
 - Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the township through the creation of small residential nodes contrasting with open space and less intensive land uses. This section is not intended as a device for ignoring the zoning regulations of the township, the standards set forth therein, nor the planning concepts upon which the zoning ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair and consistent decision making.

- (2) Scope: For the purposes of this section, an “open space community” is defined as a predominantly single family residential development in which dwelling units are placed together into one or more groupings within a defined project

area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.

- (3) Eligibility Criteria: To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:
- a. Recognizable Benefits: An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the township. This benefit should accrue, in spite of any foreseeable detriments of the proposed developments.
 - b. Minimum Project Size: The minimum size of an open space community development shall be five (5) acres of contiguous land. For the inclusion of dwellings other than single family units, an open space community must have a minimum gross site of twenty-five (25) acres.
 - c. Open Space: The proposed development shall contain at least as much open space area as would otherwise be required by the existing zoning.
 - d. Unified Control: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
 - e. Guarantee of Open Space: The applicant shall guarantee to the satisfaction of the township planning commission that all open space portions of the development will be maintained in the manner approved in perpetuity. Documents shall be presented that bind all successors and future owners in fee title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the township and the land uses continue as approved in the open space community plan.

- (4) Project Design Standards: A proposed open space community shall comply with the following project design standards:
- a. Location: An open space community may be approved in the RSA zoning district.
 - b. Permitted Uses: An open space community is generally restricted to single family residential dwelling units. In projects of (25) acres or more, the Planning Commission may permit up to fifty percent (50%) of the dwelling units to be other than single family dwelling units, provided that the total number of dwelling units does not exceed the density for the site as computed in Subsection (5)h and the number and arrangement of the multi-family dwellings does not negatively impact the rural character of the area.
 - c. Base Zoning Regulations: Unless specifically waived or modified by the planning commission, all zoning ordinance requirements for the underlying zoning district, except, for minimum lot area and other township regulations shall remain in full force. In no event shall the minimum lot area required for computation purposes of Subsection (5)h. be greater than the minimum square footage required for a lot in the RSA zoning district.
- (5) Open Space Requirements
- a. An open space community shall maintain a minimum of forty percent (40%) of the gross area of the site as dedicated open space held in common ownership. Except as noted in Subsection (5)e. any undeveloped land area within the boundaries of the site may be included as required open space.
 - b. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state.
 - c. The total area of dedicated open space shall equal or exceed the total area by which all dwelling unit lots are reduced below the minimum square footage required for a lot in the RSA zoning district.

- d. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the planning commission, such as:

Recorded deed restrictions.

Covenants that run perpetually with the land, or

A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L.399.251).

Such conveyance 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. Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.
 2. Require that dedicated open space be maintained by parties who have an ownership interest in the open space.
 3. Provide standards for scheduled maintenance of the open space.
 4. Provide for maintenance to be undertaken by the Township of Flushing in the event that the dedicated open space is inadequately maintained, or is determined by the township to be a public nuisance, with the assessment of costs upon the property owners.
- e. Area Not Considered Open Space: The following land areas are not included as dedicated open space for the purposes of this article:
 1. The area of any street right-of-way proposed to be dedicated to the public.
 2. Any submerged land area.
 - f. Continuing Obligation: 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 strictly prohibited.

- g. Allowable Structures: Any structures(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.
- h. Dwelling Density: The permitted density of residential uses within an open space community shall be based upon a minimum lot area of 20,000 square feet. All computations shall be stated to the nearest square foot.

The number of dwelling units allowable within an open space community project shall be determined in the following manner:

The applicant shall prepare, and present to the planning commission for review, a parallel design for the project that is consistent with state and township requirements and design criteria for a tentative preliminary plat. This design shall include all information as required by the guidelines adopted by the planning commission pursuant to Subsection (7)a. The planning commission shall review the design and determine the number of lots that could be feasibly constructed following the parallel design. This number, as determined by the planning commission, shall be the maximum number of dwelling units allowable for the open space community project.

- i. Regulatory Flexibility: To encourage flexibility and creativity consistent with the open space community concept, the planning commission may grant specific departures from the requirements the zoning ordinance for yard, lot, and bulk standards as a part of the approval process. Any regulatory modification shall be approved through a finding by the planning commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals.
- j. Access: Direct access onto a county road shall be required to an open space community. The nearest edge

of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).

- k. Internal Roads: Construction of private roads or private access drives as a means of providing access and circulation is encouraged. Private roadways within an open space community are exempted from the design requirements of the township private road ordinance, if the planning commission makes the following findings:
 - 1. A deed restriction is placed on the project site that perpetually vests fee simple of the land area in the parties adjoining the road and prohibits future transfer to the public, and,
 - 2. A maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, is reviewed and approved by the township planning commission.
 - l. Natural and Cultural Features: The development shall be designed to promote the preservation of natural and cultural features. These features are mapped in a general manner in the Township Master Plan and cover floodplain, wetlands, steep slopes, prime farmland soils, potential railway areas and historical sites. The open space community plan should incorporate land containing these features into the open space element of the plan to the extent possible. In addition, if animal or plant habitats of significant value exist on the site, the planning commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
- (6) Project Standards: In considering any application for approval of an open space community site plan, the planning commission shall make their determination on the basis of the standards for site plan approval set forth in Section 20-1900, as well as the following standards and requirements:
- a. Compliance with the Open Space Community Concept: The overall design and land uses proposed in connection with an open space community shall be consistent the intent of the open space community concept, as well as with specific design standards set forth herein.

- b. **Compatibility with Adjacent Uses:** The proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
 - 1. The bulk, placement, and materials of construction of proposed structures.
 - 2. Pedestrian and vehicular circulation.
 - 3. The location and screening of vehicular use or parking areas.
 - 4. The provision of landscaping and other site amenities.
- c. **Impact of Traffic:** The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- d. **Protection of Natural Environment:** The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- e. **Compliance with Applicable Regulations:** The proposed open space community shall comply with all applicable federal, state and local regulations.

(7) **General Requirements**

- a. **Review Procedures:** The application for approval of an open space community shall be made according to the procedures and guidelines required for approval of a Special Use Permit, with the following exceptions: Following the initial submission of an application for an open space community, but prior to completion of the proposed site plan the applicant shall meet with a subcommittee of the Planning Commission composed of not more than 3 members on the site of the proposed project to discuss the design of the project in compliance with Subsection (5).

- b. Recording of Action: The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the county and copies of recorded documents presented to the township.
- c. Initiation of Construction: If construction has not commenced within twenty-four (24) months of final approval, all township approvals become null and void. The applicant may apply in writing to the planning commission for an extension, not to exceed twelve (12) months. A maximum to two (2) extensions may be allowed.
- d. Continuing Adherence to Plan: Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the zoning ordinance and shall be subject to the penalties for same.

(8) Scheduled Phasing

- a. Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the open space community and the residents of the surrounding area.
- b. Timing of Phases: Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void.

(9) Revision of Approved Plans

- a. General Revisions: Approved plans for an open space community may be revised in accordance with the procedures set forth in Section 20-18.01.

- b. Minor Changes: Minor changes to an approved open space community plan may be permitted by the planning commission following normal site plan review procedures outlined in Section 20-1900, subject to the finding of all of the following:
 - 1. Such changes will not adversely affect the initial base for granting approval.
 - 2. Such minor changes will not adversely affect the overall open space community in light of the intent and purpose of such development as set forth in this article; and
 - 3. Such changes shall not result in the reduction of open space area as required herein.

(Z) Pet Cemetery

- 1) Pet Cemetery means 1 (one) or any combination of the following:
 - a. A burial ground for earth internments of animal remains.
 - b. A mausoleum for crypt entombments of animal remains.
 - c. A crematory for the cremation of animal remains.
 - d. A columbarium for the deposit of cremated animal remains.
- (2) A pet cemetery may be used for disposition of dead dogs, cats, rabbits and other pets, but shall not include horses, cattle, swine or other farm or non-domesticated animals.
- (3) Special use permits to operate a pet cemetery shall be limited to operation of a burial ground, unless otherwise stated in the special use permit. The special use permit shall designate the specific areas which may be used as a burial ground and only the area so designated shall be used as a burial ground.
- (4) A crematory shall follow all requirements mandated by Federal and State law and regulations and shall be housed in a separate structure used exclusively for the crematory. The size, nature and location of the structure housing the crematory shall be set forth in the special use permit.

- (5) A special use permit shall not be issued for operation of a mausoleum and/or columbarium except upon review and approval of the plans and the specifications for the structure to house the mausoleum and/or columbarium
- (6) Grave markers installed in a burial ground shall be installed flush with the ground.
- (7) There shall be no decorations placed on animal grave sites except natural flowers or decorations, such as wreaths constructed from evergreens or other living materials. Under no circumstances shall there be decorations of paper or plastic.
- (8) All burial operations, mowing of burial grounds, maintenance work shall be undertaken during the hours of 9 a.m. until dusk
- (9) The site shall be no less than ten (10) acres and shall be so designated as to provide all ingress and egress directly onto or from a public road.
- (10) The location of proposed service roads, entrances, and driveways shall be so designated in relationship to the public road that pedestrian and vehicular traffic safety is encouraged.
- (11) No principal or accessory building shall be closer than fifty (50) feet from any abutting residentially zoned boundary line.
- (12) The provisions of P.A. 368 of 1978 that require local health department review are to be followed.
- (13) Construction of a fence or buffer strip along the property line of the site may be required as determined necessary by the Planning Commission.

(AA) Planned Unit Development Provisions

(Amended by Adoption July 25, 2002)

A planned unit development may be permitted as a special use provided such development is found not detrimental to the public health, safety, and the general welfare of the occupants and the community and complies with the following minimum requirements.

(1) General Requirements

- a. The minimum required land area for a planned unit development shall be sixty (60) contiguous acres.

- b. The developer shall provide within the planned unit development a sanitary sewage system which shall be of sufficient size and design to collect all sewage from all present and proposed structures in the planned unit, shall connect with the township system, and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.
- c. The developer shall provide within the planned unit development a storm drainage system which shall be of sufficient size and design as will in the opinion of the township's engineer and/or Planning Commission collect, carry off and dispose of all predictable surface water runoff within the development and any adjoining contributory areas, and shall be so constructed as to conform with the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.
- d. No planned unit development shall be approved unless it shall have a central water supply system connected to a public water supply system.
 - 1. The developer shall provide a fire hydrant within four hundred (400) feet of each structure.
 - 2. Water systems shall conform to the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.

(2) Permitted uses

- a. Single-family attached or detached dwelling.
- b. Apartment building or townhouse.
- c. Accessory private garage.
- d. Public or private park or recreation areas which may include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink and other similar recreational uses, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire or other safety hazards, smoke, fumes or other pollutants detrimental to existing or prospective occupants or the general public.
- e. Municipal building.
- f. School.

- g. Church, temple, synagogue, parsonage or parish house, convent.
- h. Theater for stage productions or films, but not a drive-in theater.
- i. Studio of artist, sculptor, musician or photographer, but no goods or objects shall be sold or publicly displayed on the premises.
- j. Restaurant.
- k. Business activities of a local or neighborhood character, conducted within an enclosed building only, providing necessary services for the day to day operation of a household, and which can be supported economically by a small neighborhood area, including business of the type included in, although not limited to, the following:
 - 1. Bakery shops where no baking is done on the premises.
 - 2. Barber and beauty shop.
 - 3. Cigar store.
 - 4. Cleaning and dyeing distribution shop (no processing.)
 - 5. Dairy products, retail sales.
 - 6. Delicatessen.
 - 7. Dressmaker, custom.
 - 8. Drugstore.
 - 9. Florist, retail sales.
 - 10. Laundry collecting shop, self-service laundry, hand laundry.
 - 11. Local store selling, at retail, fish, fruit, food, hardware, meats (no slaughtering), and vegetables, and beer and wine under SDM license and gasoline from not more than one (1) pump island.
- l. Adult Foster Care Family Home
- m. Adult Foster Care Small Group Home
- n. Adult Foster Care Large Group Home
- o. Nursing Home
- p. Subacute Care Facility
- q. Home for the Aged
- r. Hospice Facility
- s. Adult Foster Care Congregate Care Facility
- t. Assisted Living Facility
- u. Senior Housing
- v.. Signs
 - 1. All signs under the residential sections of a Planned Unit Development shall meet the requirements of the sign ordinance Chapter 13.5 Signs, Section 13.5-58 Residential R-U2 (MD) and , R-U4 (MHP)

Amendment approved 5/11/00.

2. All signs under the commercial and recreational sections of a Planned Unit Development shall meet the requirements of Sec. 13.5-63 Commercial-General Provisions, and Sec. 13.5-64 Commercial C-1, M-1, M-2 Permanent Signs.
3. All signs in a Planned Unit Development shall need the approval of the Planning Commission.

(3) Parking as provided according to Section 20-501 shall be required.

(4) Density and Design Standards

- a. Area limitations for various uses. Within a planned unit development the following percentages of the total land area shall be devoted to the specified uses:
 1. A maximum of eighty (80) percent for residential use; land devoted to residential use shall be deemed to include those streets, alleys, parking areas, private open spaces and courts which abut and service primarily residences or groups of residences, but it shall not include usable open space which is available for use by the general public or by persons who do not live in the residences or groups of residences immediately adjacent to it, unless otherwise provided herein.
 2. A maximum of twenty (20) percent for non-residential uses and required parking; provided, however, that open air recreational uses, other open spaces uses and land devoted to streets shall not be included in determining non-residential use.
 3. A minimum of twenty (20) percent for open air recreational uses and other reusable open space. Usable open space shall be defined as an open area designed and developed for common use by the occupants of the development or by others for recreation (whether commercial, private or public), courts, gardens or household service activities such as clothes drying, which space is effectively separated from automobile traffic and parking and is readily accessible; the term shall not include space devoted to streets and parking.
- b. Residential density. The density of residences shall not exceed six (6) units per acre of the land within the development which is devoted to residential use and usable open space.

- c. Lot size. There shall be no minimum lot size, no minimum setbacks, no minimum percentage of lot coverage and no minimum lot width for any unit. Provided, however, that in areas of single-family and/or townhouse structures which are to be sold and for which the care and maintenance of the grounds and exteriors associated with such structures will be the responsibility of the purchaser of such structures or such structures or parts of such provisions of the subdivision regulations. For purposes of determining overall densities within the planned unit development, the number of units located in such platted areas shall be included.
- d. Height. The height of any structures within a planned unit development shall be related to the location of the structures such as to equal the distance to the adjacent property line; provided, however, the height limitation shall be related to the fire fighting capability of the township and provided further that this provision shall not affect any structure of less than twenty-five (25) feet.
- e. Location of structures. The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- f. Protection of open spaces. Open spaces between structures, including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the Planning Commission shall specify.
- g. Roads and parking areas. The dimensions and construction of roads, alleys and parking areas within the development, whether or not dedication of them to the township is contemplated, shall conform with all applicable state, county and township ordinances.

(5) Procedure

- a. Before any special use permit or building permit is issued for land or a building in a planned unit development, the developer shall obtain approval of an overall plan for development of the land. For this purpose, he shall submit to the Planning Commission a plan prepared by a registered community planner, or a registered architect which:

1. Shall state the acreage's to be devoted to the specific uses;
 2. Shall set forth the proposed density of dwelling units;
 3. Shall include a major thoroughfare plan and public utility plan;
 4. And shall include a separate plan showing the location of parks, open recreation areas, and other open spaces, schools, and other public or community uses.
- b. The criteria for approval of any planned unit development shall be those which are included within the Special Use Permit review procedures section of this chapter (Article XVIII). Criteria shall include the desirability of the planned unit development's design in terms of traffic safety, health, drainage, densities, land use relationships of proposed uses to each other and uses adjacent to the site and its overall relation to the community development plan
- c. If the plan is approved by the Planning Commission the developer shall thereafter submit a detailed plan, containing all the information required of this chapter.
1. The Planning Commission shall review the detailed plan to determine that it complies with this chapter and with the overall plan originally submitted by the applicant for the section in which the proposed structure is located.
 2. Approval of any detailed plan shall lapse unless construction is started in that section within one (1) year.
 - a. No conveyance of land within the development may be made until the developer has complied with all township, county and state regulations.

(BB) Ponds

Second Reading approved on April 8, 1999

Effective upon publication on April 15, 1999

Amendment effective on publication on December 30, 2001

Definitions:

POND - A natural or manmade body of water used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation and other related uses for the personal use of the property owner and/or tenants.

For purposes of this section, pond shall not include a landscape, garden or ornamental pond with less than 100 square feet of surface area and a depth of 3 feet or less.

a. Intent:

The regulations set forth in this section are designed to provide for the regulation of a pond and to specify the conditions and circumstances under which such ponds may be developed to protect the health, safety and general welfare of the residents of the community, preserve ecologically important features, and to prohibit development which, unregulated, may have an adverse effect upon the existing general and aesthetic character of the township.

b. General Provisions and Conditions

1. It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to construct a pond within the Township without first securing a construction permit from the building official. A site plan has to be approved by the Planning Commission for conditions and site approval. A pond shall be a special use permitted on property zoned RSA.
2. A pond shall not be constructed on a lot or parcel of land that is less than 2 acres in size.
3. Water shall be maintained in all pond excavations, and built in a spring or natural water drainage area according to current County topography maps and drain districts, showing existing property grades and also future pond grades.
4. Ponds shall be engineered and designed according to all provisions and conditions of this Ordinance, including engineered drawings, drawn to scale by a qualified designer showing all site buildings, easements, size, setbacks, etc. Such plot plan shall be approved by the Building Inspector before a hearing shall be scheduled.
5. All soil and similar materials excavated during the construction of the pond shall remain on the property, unless an Earth Removal Permit has been obtained.
6. If a pond exceeds 4.9 acres it would be classified as a lake, and could be cause for other permit requirements.

7. The parcel should contain natural land forms which are so arranged that the change of elevation within the site includes slopes of ten (10) percent or less; and water drainage could provide water to fill pond.
8. The subject site and/or adjoining properties do not contain natural assets including trees, wood-lots, endangered species habitats, wetlands, 100 year floodplains, natural watersheds, or similar features that would be altered by the establishment of the pond.
9. The outside edge of the pond is not within fifty (50) feet of an existing County Drain.
10. The proposed pond is not located within one hundred (100) feet of a public road right-of-way, private easement, or school site.
11. The proposed pond is not within fifty (50) feet of an existing wetland.

c. Application and Review Procedures

1. Application shall be made to the Township Building Official. Applications shall contain the name and address of the applicant, a legal description of the property upon which the pond will be established, a site plan submitted site plan check list in accordance with Site Plan Review procedures and/or Section 20-1800 under P-1 - Earth Removal.
2. If and when it ever becomes necessary to obtain a permit from the Department of Natural Resources or the Genesee County Drain Commission, it shall be the responsibility of the landowner to obtain the permits prior to meeting with the Planning Commission.
3. The applicant shall also provide evidence from a civil engineer, or similar allied professional that water can be continuously maintained in the pond once it is constructed. A pond should be built in a spring area or a water drain off area to provide fresh water. (A well is not a qualified source of water).

d. Design Requirements

Private ponds shall be permitted as an accessory use provided they meet the following requirements.

1. The setback distance for the pond shall be a minimum of seventy-five (75) feet from the waters edge at its highest point from any adjoining property line. There shall be a minimum of 25 feet

between the edge of any berm or other placement of elevated soils removed from the excavated pond and any adjoining property line. The total height, as measured from original grade, of any berm or elevated soils and any fence or other materials built or placed upon the berm, except trees or other vegetation, shall not exceed a total of 6 feet. This provision shall not prohibit the placement of an otherwise appropriate fence across a part of such berm, which may cause the height of the fence to exceed 6 feet at the point of crossing the berm.

2. There shall be a distance of not less than fifty (50) feet between the outside edge of the pond and any building.
3. There shall be a distance of not less than fifty (50) feet from the water's edge to any overhead transmission lines.
4. Slopes of the excavation shall not exceed a ratio of four-(4) feet horizontal to one-(1) foot vertical, to a depth below water of six-(6) feet on shallow walk in side, and no more than six-(6) feet horizontal to six-(6) feet vertical at three sides of pond. Ponds must be a minimum of 15 feet depth to existing grade in deepest spot to keep water from being stagnant, unless topography demands special consideration.
5. All areas disturbed during construction shall be seeded with bluegrass or other high quality grasses and maintained in good condition to prevent erosion.
6. The Township Planning Commission may, at its discretion, require the installation of a fence no less than four (4) feet in height to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.
7. The Township Planning Commission may, at its discretion, require the installation of a berm to be appropriately designed for height and width, whose slope shall be no more than at a 30 degree angle to prevent erosion and to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.

e. Limitations

1. No pond shall be located upon, cross, or extend beyond an existing property line and a permit shall not be issued for construction of a pond on more than one property, unless, in addition to the other requirements of this section:

- (a) The owners of each property on which any part of the pond is to be located, submit a joint application for a special use permit, signed by each property owner.
 - (b) Each property owner executes a reciprocal easement, in recordable form, satisfactory to the planning commission which describes the benefits and burdens to each property, including adequate provisions to assure maintenance of the pond.
 - (c) The easement shall be recorded as a pre-condition to issuance of the permit.
2. Construction of a pond shall be completed within twelve (12) months of the issuance of the construction permit. Extension may be granted by the Planning Commission for a reasonable cause shown.
 3. The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies having jurisdiction.

f. Fees Required

1. Fees for the review of applications for the purpose of obtaining a construction permit for a pond shall be \$50. The fee may be changed at a later date by resolution of the Township Board.
2. There shall be a minimum \$7,500 Performance Bond presented at the time permit is issued. Total amount of bond to be determined by the Planning Commission. The \$7,500 Earth Removal Performance Bond may be combined with the Performance Bond for a pond.
3. Bonding or insurance shall be in accordance with our Earth Removal Permit.

Adopted the 13th day of December, 2001 by unanimous vote of the Charter Township Board of Trustees.

(CC) Private Landing Strip

Private Landing Strips are permitted by Discretionary Special Use Permit in the RSA Zoning District provided:

- (1) Site Requirements – lodges, schools, churches or other public meeting places shall not be within five hundred (500) feet of said strip or hanger. No concentrated animal feeding operation shall be within one thousand (1,000) feet of the landing strip or hanger, or within the flight path of planes landing or taking off.
- (2) Performance Standards – all federal and state aviation safety regulations shall be complied with.
(Amended by adoption September 11, 2003)

(DD) Recreation Vehicle and Campground Parks

- (1) Site conditions. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.
- (2) Soil and ground cover. Adequate provisions shall be provided for the elimination of objectionable dust and for the prevention of soil erosion.
- (3) Minimum park size. Minimum park size for a recreation vehicle park and/or campground park shall be ten (10) acres.
- (4) Campsite size. The minimum campsite size for either a recreational vehicle site or campsite within a park will be five thousand (5,000) square feet unless otherwise specified by the Planning Commission in its site plan review.
- (5) Required separation between trailers and recreational vehicles. Trailers should be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings, carports or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the trailer.
- (6) Design of access to parks. Entrances and exits to the parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into and out of the park shall be through such entrances and exits. No entrance or exist shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at

intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No material impediment to visibility shall be created or maintained which obscures the view of an approaching driver. No entrance or exit from a park shall be permitted through a residential district nor require movement of traffic from the park through a residential district.

- (7) Parking. At least one and one-half (1 1/2) parking spaces shall be provided in the total park per travel trailer and recreation vehicle site. At least one (1) of these parking spaces shall be provided within each such site.
- (8) Accessory uses. Management headquarters, toilets, dumping stations, showers, laundry facilities, and other convenience uses and structures customarily incidental to operation of a park are permitted as accessory uses to the park. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the park. Except in the case of public-owned parks, such establishments shall be restricted in their use to occupants of the park. Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park. The structures housing such facilities shall not be accessible from a public street, but shall be accessible only from a street within the park.
- (9) Recreational facilities. A minimum of eight (8) percent of the gross site area for the park shall be set aside and developed as common use areas for open or enclosed recreation facilities.
- (10) Buffering, setbacks, screening and landscaping. Each park shall set aside along the perimeter of the district the following areas that shall be landscaped and used for no other purposes:
 - a. Minimum front setback. Twenty-five (25) feet except when the park fronts on a state highway; then the minimum shall be fifty (50) feet.
 - b. Minimum side setback. When abutting residential districts, the said setback shall be fifty (50) feet; when abutting a dedicated public right of way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
 - c. Minimum rear setback. Fifteen (15) feet except when the rear yards abuts a dedicated public right of way or a

residential district. If the rear yard abuts a dedicated public right of way, the minimum shall be twenty-five (25) feet. If the rear yard abuts a residential district, the minimum rear setback shall be fifty (50) feet.

- d. Where needed to enhance aesthetics or to insure public safety, the campgrounds shall be enclosed by a fence, wall, landscape screening, earth mounds or by other designs approved by the Planning Commission which will complement the landscape and assure compatibility with the adjacent environment.
- (11) Water supply and sewage disposal. All camping sites for tents, campers and recreational vehicles shall have a public water supply system with water under pressure piped to within three hundred (300) feet of each vehicle, tent or camper site and with fire hydrants available within three hundred (300) feet of each campsite. An enclosed toilet and sewage facility approved by the state and county health departments with hot and cold running water available herein shall be provided in every private park for recreational vehicle, tent or camper. Such facility shall be located not further than five hundred (500) feet from every campsite within the park. If public sewer shall be available within five hundred (500) feet of any such park, the park sewer system shall be connected thereto.
- (12) Length of stay. No park shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Occupancy extending beyond three (3) months in any twelve-month period shall be presumed to be permanent occupancy.

(EE) Restaurants, Open Front

Open Front Restaurants are permitted by Discretionary Special Use Permit in the C-1 Zoning District and by right in the C-2 and C-3 Zoning Districts.

- (1) Waste containers shall be provided.
- (2) Fences or landscaping shall be required to control blowing debris.
- (3) All signs placed on the building shall be flat and interior signs visible to patrons through glass or an opening shall not exceed twenty-five (25) percent of that area.
- (4) Additional parking shall be provided based on the capacity of any outdoor seating or lounge areas.

- (5) Outdoor eating areas shall be illustrated on a site plan and approved by the Planning Commission.
- (6) Where the use abuts a residential district there shall be no outdoor amplification, such as speakers, unless the applicant demonstrates compliance with the Township Noise Abatement Ordinance.
(Amended by adoption September 11, 2003)

(FF) Restaurants, with Live Entertainment and/or Outdoor Seating

Restaurants, with live entertainment and/or outdoor seating are permitted by Discretionary Special Use Permit in the C-2 and C-3 Zoning Districts, provided:

- (1) The principal building shall be setback at least one hundred (100) feet from a residential district.
- (2) A wall at least five (5) feet high shall separate the site from any adjacent residential district.
- (3) The applicant shall acquire any other permits required under township ordinance.
(Amended by adoption September 11, 2003)

(GG) Roadside Stand

- (1) The stand and any off street parking shall be outside the road right of way.
- (2) At least one parking space shall be provided for every 15 square feet of roadside stand.

(HH) Schools

- (1) Fences for recreational facilities may exceed six feet with the approval of the Planning Commission.
- (2) Parking shall not be located within the required front yard setback and must be fenced or bermed as required in Section 20-501.

(II) Shopping Centers. The general plan for a shopping center shall include specific evidence and facts showing that it has considered and made provision for, and the development shall be executed in accordance with the following essential conditions:

- (1) The proposed development shall be constructed in accordance with an overall plan, shall be designed as a single architectural unit with appropriate landscaping, and shall provide initially for the construction of a minimum of fifteen thousand (15,000) square feet of floor area.
- (2) *All buildings shall be arranged in an integral development.*
- (3) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the center without undue congestion to or interference with normal traffic flow. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
- (4) No part of any parking access and/or service areas may be located closer than forty (40) feet of any property line adjacent to a residential district.
- (5) Parking, loading, or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.
- (6) Any shopping center development adjoining any residential development shall be provided with a buffer of at least forty (40) feet along the adjacent property line.
 - a. Such buffer shall be planted with evergreens and other suitable plantings and used for no other purposes.
 - b. A landscaped planting area of at least twenty (20) feet shall also be provided along all street frontage.
- (7) All shopping center developments shall have access to a paved state or a county primary highway. No regular public access shall be made through a residential public street.
- (8) The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
- (9) Lighting facilities shall be required where deemed necessary for the safety and convenience of shoppers and employees. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare or hazardous interference of any kind.

(JJ) Stables

- (1) At least two acre per horse for the first twenty acres.
- (2) Foals born on parcels where horses are kept presently may be kept for up to two (2) years, but in no case shall there be more than one horse and one foal per two acre.

(KK) Stadiums and Race Tracks

- (1) All ingress and egress shall be from a county primary road or state highway.
- (2) Acceleration and deceleration lanes shall be provided where possible.
- (3) When a side or rear lot line is adjacent to a residential district or a parcel with a residence, that lot line will be buffered by a landscaped area 100 feet wide.

(LL) Townhouses

A townhouse means a dwelling structure designed and used as attached single family dwellings for 2, 3, but no more than four (4) separate households. Except as provided below, each unit of the townhouse shall satisfy the requirements of this ordinance for a single (family) household dwelling. Each unit of the townhouse shall have a ground floor and shall have at least two separate means of ingress and egress. There shall be no community doors or means of access directly from one unit to another. Each unit shall have: 1) its own driveway or access to a public road, 2) its own space for the parking of motor vehicles, 3) separately supplied and metered utilities 4) separate well or municipal water connection, 5) separate septic system or municipal sanitary sewer connection. Each unit of the townhouse shall be separated from the other units by a wall or other construction with a minimum two hour fire rating. The townhouse may be constructed with a 0 side lot, i.e., a common wall. Each unit within a townhouse may be owned separately, designated a separate parcel with a separate tax parcel identification number. Each unit shall include the real property immediately contiguous to the front and back of the unit with the side lot lines being the extension of the center of the common walls of the unit to the back and to the front lot lines. The side lots of the parcel on which the townhouse is located shall be part of the property of the corresponding end units of the townhouse. (Adopted the 10th day of January, 2008, by vote of the Charter Township of Flushing Board of Trustees)

(MM) Veterinarian

- (1) Crematoriums are permitted as an accessory use only
- (2) Veterinarian facilities must be located directly on a county primary road.

- (3) All buildings must be 75 feet from the side lot lines.
- (4) Boarding of animals while being treated is permitted as an accessory use only and all boarding must be within an enclosed building.
- (5) Exterior runs for animals may only be used in the daylight hours.

(NN) Residential Wind Energy Systems

- (1) General – Residential wind energy systems may be permitted in all zoning classifications subject to a Discretionary Special Use Permit and appropriate building permit. An application for a Discretionary Special Use Permit shall include a current site plan drawn to scale showing all property lines, existing structures, the proposed placement of the wind energy system, including footprint, maximum height, all electrical or utility connections and applicant’s preliminary study of sustained winds at the proposed location.

- (2) Purpose – It is the purpose of this ordinance to promote the safe use of small wind energy systems that are designed to reduce the on-site consumption of utility-supplied electricity.

This ordinance applies to all wind energy systems constructed and operated in Flushing Township whether or not the system is capable of feeding produced energy into the local utility grid.

- (3) Definitions

Residential Wind Energy System – A wind energy system consists of a wind turbine(s) tower, and associated conversion electronics which has a rated capacity of not more than ten kilowatts (in total if multiple turbines are placed) and which is intended to reduce on-site consumption of utility power.

Tower – As described in this ordinance, the term “tower” refers to the vertical component of a wind energy system, whether guyed or freestanding for the exclusive purpose of elevating the wind turbine/generator and attached blades or rotors above the ground. The term “tower” may also refer to the structure that elevates a wind anemometer for the purpose of feasibility studies preliminary to placement of a wind energy system.

Shadow Flicker – The phenomenon created by light casting a shadow on moving turbine blades. Where this shadow is cast, creates a potential annoyance to adjoining property owners.

- (4) Regulations –

Maximum height of a freestanding or guyed wind energy installation shall be eighty (80) feet to the top of the blade at the maximum vertical

position. Installations, which are attached to existing structures in excess of fifty (50) feet in height, may exceed the eighty foot limitation.

The minimum height for blade ground clearance shall be twenty feet.

All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

The tower shall be designed and installed so as not to provide a ladder or other publicly accessible means of climbing the tower, for a minimum of height of 12 (twelve) feet above the ground.

Guy wires associated with towers shall be marked and clearly visible to a height of six feet above the ground.

The tower shall not be lighted, used for placement of antennas or other purposes and not related directly to the support of a wind turbine.

Set back to the base of the tower shall be no less than one and a half times the total height of the installation. Any guy wire anchors may be no closer than ten feet from the property boundary. (It is noted that for safety reasons, this setback requirement restricts the placement of wind energy systems to relatively large lot sizes).

Noise level associated with a wind energy installation shall be limited to a maximum of 55 decibels as measured at the property line nearest the tower.

All wind energy installations must be equipped with manual and automatic over speed controls to limit the blade speed to the engineered design limits of the installation.

Tower and turbine placement shall be such that shadow flicker does not interfere with adjoining property owners.

A wind energy installation that is not functional for a period of twelve (12) consecutive months, shall be promptly removed by the owner.

A wind energy installation must comply with all applicable FAA regulations, including any necessary approvals for installations close to airports.

A wind energy installation shall not contain advertising and must be constructed of material rendering the installation visually unobtrusive.

Installations of wind energy systems of more than ten (10) kilowatts will be considered commercial installations and be treated on an individual basis.

All installations of wind energy systems shall be done in accordance with State and Federal construction and electrical codes.

(Amend by Adoption on December 10, 2009 Sections 20-1804 to add subsection NN to provide for the use and regulation of residential wind energy)

SECTION 20-1805

TOWER ORDINANCE

Approved 5/27/99

AN ORDINANCE TO ESTABLISH GENERAL GUIDELINES FOR THE SITING OF WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS; TO PROVIDE DEFINITION PERTINENT THERETO; TO PROVIDE FOR THE ISSUANCE OF PERMITS AND LEASE AGREEMENTS; TO PROVIDE THAT WIRELESS TELECOMMUNICATIONS TOWERS ARE PERMITTED USES IN ALL ZONING DISTRICTS AFTER SPECIAL APPROVAL; TO PROVIDE FOR PERMITTED LOCATIONS; TO PROVIDE CONDITIONS FOR PERMITTED USES, ACCESSORY USES AND USES AFTER SPECIAL APPROVAL; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR AN EFFECTIVE DATE.

SECTION 1 Definitions

a. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

b. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

c. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

d. "FAA" means the Federal Aviation Administration.

e. "FCC" means the Federal Communications Commission.

f. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

g. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit has been issued or a Use After Special Approval has been properly granted prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

h. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

i. "Township" means the Charter Township of Flushing.

SECTION 2 Purpose

The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas.

SECTION 3 Goals

The goals of this section are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
2. Encourage the location of towers in non-residential areas.
3. Minimize the total number of towers throughout the community.
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
8. Consider the public health and safety of communication towers.
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Charter Township of Flushing shall give due consideration to the Township's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

SECTION 4 Applicability.

a. New Towers and Antennas. All new towers or antennas in the Township shall be subject to these regulations, except as provided in Sections 4 (b) through (d), inclusive.

b. Amateur Radio Station Operators Receive Only Antennas This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

c. Preexisting Towers or Antennas Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of Section 5 (f) and (g).

d. AM Array For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

SECTION 5 General Requirements.

a. Principal or Accessory Use Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

b. Lot Size For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

c. Inventory of Existing Sites Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for an administrative approval or Use After Special Approval under this section or other organizations seeking to locate antennas within the jurisdiction of the Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

d. Aesthetics Towers and antennas shall meet the following requirements:

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

e. Lighting Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

f. State or Federal Requirements All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the

controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

g. Building Codes, Safety Standards To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

h. Measurement For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Township irrespective of municipal and county jurisdictional boundaries.

i. Not Essential Service Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.

j. Franchises Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.

k. Public Notice For purposes of this section, any Use After Special Approval request, variance request, or appeal of an administratively approved use or Use After Special Approval shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 8(b)(5)(a)(ii), Table 2, in addition to any notice otherwise required by the Zoning Ordinance.

l. Signs A small sign no larger than 8" x 8" shall be affixed to the base of each tower, or to the gate of any fence surrounding the tower; and shall set forth the name of the owner of the tower, the owner's address and telephone number, and the name or title and telephone number of a person to be contacted in the event of an emergency relating to the tower. No other signs shall be allowed on an antenna or tower.

m. Buildings and Support Equipment Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 9.

n. Multiple Antenna/Tower Plan The Township encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

SECTION 6 Permitted Uses.

a. General The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a Use after Special Approval.

b. Permitted Uses The following uses are specifically permitted:

(1). Antennas or towers located on property owned, leased, or otherwise controlled by the

Township provided a license or lease authorizing such antenna or tower has been approved by the Township.

SECTION 7 Administratively Approved Uses.

a. General The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The Zoning Administrator may administratively approve the uses listed in this Section.

(2) Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Section 8(b)(1) and 8(b)(3) of this ordinance and a nonrefundable fee as established by resolution of Flushing Township Board to reimburse the Township for the costs of reviewing the application.

(3) The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Sections 5, 8(b)(4) and 8(b)(5) of this ordinance.

(4) The Zoning Administrator shall respond in writing to each such application within sixty (60) days after receiving it by either approving or denying the application. Reasons for denial shall be set forth in the written notification.

(5) In connection with any such administrative approval, the Zoning Board of Appeals may, in order to encourage shared use, grant a variance to waive any zoning district setback requirements in Section 8(b)(4) or separation distances between towers in Section 8(b)(5) by up to fifty percent (50%).

(6) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopolies, administratively allow the reconstruction of an existing tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a Use After Special Approval pursuant to Section 8 prior to filing any appeal that may be available under the Zoning Ordinance.

b. List of Administratively Approved Uses The following uses may be approved by the Zoning Administrator after conducting an administrative review:

(1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, on any property zoned M-1, M-2 or C-3.

(2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

(a) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:

(i) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

(ii) The antenna complies with all applicable FCC and FAA regulations; and

(iii) The antenna complies with all applicable building codes.

(b) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

(ii) Height

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(b) The height change referred to in subsection (ii)(a) may only occur one time for each communication tower.

(c) The additional height referred to in subsection (ii)(a) shall not require an additional distance separation as set forth in Section 8. The tower's pre-modification height shall be used to calculate such distance separations.

(iii) Onsite location

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 8(b)(5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 8(b)(5).

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 8(b)(5) shall only be permitted when approved by the Zoning Board of Appeals.

(3) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in Section 3 and the requirements of this ordinance; the tower meets the setback requirements in Section 8(b)(4) and separation distances in Section 8(b)(5); and the tower meets the following height and usage criteria:

(a) for a single user, up to ninety (90) feet in height;

(b) for two users, up to one hundred twenty (120) feet in height; and

(c) for three or more users, up to one hundred fifty (150) feet in height.

(4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Administrator is in conformity with the goals set forth in Section 3 of this ordinance.

(5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

SECTION 8 Use After Special Approval.

a. General The following provisions shall govern the granting of a Use after Special Approval for towers or antennas by the Planning Commission:

(1) If the tower or antenna is not a permitted use under Section 6 of this ordinance or permitted to be approved administratively pursuant to Section 7 of

this ordinance, then a Use After Special Approval shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

(2) Applications for Use After Special Approval under this Section shall be subject to the procedures and requirements as determined by the Township Planning Commission, except as modified in this Section.

(3) In granting a Use After Special Approval, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

(5) An applicant for a Use After Special Approval shall submit the information described in this Section and a non-refundable fee as established by resolution of the Township Board to reimburse the Township for the costs of reviewing the application.

b. Towers

(1) Information required. In addition to any information required for applications for Use After Special Approval, (as outlined on the permit document), applicants for a Use After Special Approval for a tower shall submit the following information:

(a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of site and all properties within the applicable separation distances set forth in Section 8(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Commission to be necessary to assess compliance with this section.

(b) Legal description of the parent tract and leased parcel (if applicable).

(c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

(d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 5(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

(e) A landscape plan showing specific landscape materials.

- (f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - (g) A description of compliance with Sections 5(c), (d), (e), (f), (g), (j), (l), and (m), 8(b)(4), 8(b)(5) and all applicable federal, state or local laws.
 - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - (l) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality. The backhaul provider must be the holder of a telephone franchise in Flushing Township.
 - (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - (k) A description of the feasible location(s) of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
 - (l) A statement verifying a "safe fall" zone for the tower, antenna or pole, including any and all attachments, shall be certified and sealed by a licensed engineer or architect and furnished with the application. Manufacturer's specifications of a safe fall zone may be substituted. No building, sidewalk, parking lot or other area in which pedestrian or vehicular traffic is anticipated shall be permitted within the safe fall area.
 - (m) A statement verifying that the tower, antenna or pole, including any and all attachments, will withstand wind speeds of up to 100 m.p.h. with no ice and 74 m.p.h. with up to 1/2 inch radial ice, shall be certified and sealed by a licensed engineer or architect and furnished with the application. Manufacturer's specifications may be substituted.
 - (n) The system shall be certified by a licensed engineer to verify that the signal(s) being transmitted will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment.
- (2) Factors considered in granting a Use After Special Approval for Towers. In addition to any standards for consideration of Use After Special Approval applications, the Planning Commission shall consider the following factors in determining whether to grant a Use After Special Approval, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this section are better served thereby:

- (a) Height of the proposed tower;
- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;
- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 8(b)(3) of this ordinance.

In the event that the application is denied, the reason for denial shall be set forth in writing

(3) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower

or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

(f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

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

(4) Setbacks. The following setback requirements shall apply to all towers for which a Use After Special Approval is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this section would be better served thereby:

(a) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

(b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(5) Separation. The following separation requirements shall apply to all towers and antennas for which a Use after Special Approval is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this section would be better served thereby.

(a) Separation from off-site uses/designated areas.

(i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

however, that the Planning Commission may waive such requirements if the goals of this section would be better served thereby.

(a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

(b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

SECTION 9 Buildings or Other Equipment Storage.

a. Antennas Mounted on Structures or Rooftops The equipment cabinet or structure used in association with antennas shall comply with the following:

(1) The cabinet or structure shall not contain more than 312 square feet of gross floor area or be more than 9 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 200

square feet of gross floor area, shall be located on the ground and shall not be located on the roof of the structure.

(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25 percent of the roof area.

(3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

b. Antennas Mounted on Utility Poles or Light Poles The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(1) In residential districts, the equipment cabinet or structure may be located:

(a) In a front or side yard provided the cabinet or structure is no greater than 9 feet in height or 312 square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.

(b) In a rear yard, provided the cabinet or structure is no greater than 9 feet in height or 312 square feet in gross floor area. The cabinet/structure

shall be screened by an evergreen hedge with an ultimate height of six (6) feet and a planted height of at least 36 inches.

(2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 9 feet in height or 312 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.

c. Antennas Located on Towers The related unmanned equipment structure shall not contain more than 312 square feet of gross floor area or be more than 9 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

d. Modification of Building Size Requirements The requirements of Section 9(a) through (c) may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation.

SECTION 10 Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety-(90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

SECTION 11 Nonconforming Uses

a. Not Expansion of Nonconforming Use Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.

b. Preexisting towers Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.

c. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas Notwithstanding Section 10, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a Use After Special Approval and without having to meet the separation requirements specified in Sections 8(b)(4) and 8(b)(5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building

codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 10.

SECTION 12	Zoning Districts	
Article VII	(Residential Suburban Agricultural)	RSA
Article VIII	(Residential Urban District)	RU-1
Article IX	(Residential Urban Medium Density District)	RU-2
Article X	(Residential Urban High Density)	RU-3
Article XI	(Residential Urban Mobile Home Park)	RU-4
Article XII	(Sports and Recreation District)	SR
Article XIII	(Local Commercial District)	C-1
Article XIV	(General Commercial District)	C-2
Article XV	(Commercial Shopping Center District)	C-3
Article XVI	(Light Manufacturing District)	M-1
Article XVII	(Heavy Manufacturing District)	M-2

Flushing Township Zoning Ordinance as amended, are amended to add the following sections and/or subsections:

- a. Section 20-704. Uses permitted by discretionary special use permit:
(32) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
- b. Section 20-804. Uses permitted by discretionary special use permit.
(30) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
- c. Section 20-904. Uses permitted by discretionary special use permit:
(16) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
- d. Section 20.1004. Uses permitted by discretionary special use permit:
(6) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
- a. Section 20.1103. Uses permitted by discretionary special use permit:
(3) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.

SECTION 13 Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 14 Repealer

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.