

Charter Township of Filer

Zoning Ordinance

(Including all amendments adopted as of November 1, 2016)

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**ARTICLE 1
PURPOSE**

31.1.101 Purposes.

The fundamental purpose of this chapter is:

- A. To promote and protect the public health, safety and general welfare.
- B. To protect the character and stability of the agricultural, recreational, residential, commercial and industrial areas within the unincorporated portions of Filer Township and promote the orderly and beneficial development of the Township.
- C. To regulate the intensity of use of land and lot areas and to determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health.
- D. To lessen and avoid congestion on the public highways and streets.
- E. To provide for the needs of agriculture, recreation, residence, commerce and industry in future growth.
- F. To promote healthful surroundings for family life in residential and rural areas.
- G. To set reasonable standards to which buildings and structures shall conform.
- H. To prohibit uses, buildings or structures which are incompatible with the character of development or the uses, buildings or structures permitted within specified zoning districts.
- I. To prevent such additions to or alteration or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder.
- J. To protect against fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, to protect the public health, safety and general welfare, to prevent or minimize pollution or impairment of air, ground water, surface water, natural resources or public trust, and to protect against other nuisances and hazards from the risks associated with hydrogen sulfide related to the use of land for oil and gas pipelines, structures, facilities, and equipment.
- K. To prevent the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each zoning district.
- L. To conserve the value of land, buildings and structures throughout the Township.
- M. To provide for the completion, restoration, reconstruction and extension of nonconforming uses.

- N. To create a Board of Appeals and to define the powers and duties thereof.
- O. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this chapter.
- P. To provide for the payment of fees for zoning permits.
- Q. And to provide penalties for the violation of the chapter.

**ARTICLE 5
DEFINITIONS**

31.5.501 Purpose.

For the purpose of this chapter certain terms are herewith defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number. The word “shall” is always mandatory and not merely permissive. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The words “used” or “occupied” include the words “intended”, “designed” or “arranged” to be used or occupied. Any word not defined herein shall be interpreted within its common and approved usage.

31.5.502 Definitions.

ACCESSORY BUILDINGS OR STRUCTURES.

- A. A supplementary building or structure on the same lot or parcel of land as the main building or buildings, or part of the main building occupied by or devoted exclusively to an accessory use, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings.
- B. **High Risk Erosion Areas.** A structure which is clearly subordinate or incidental to a principal structure or principal land use. Accessory structures include, but are not limited to sheds and storage structures which are clearly not permanent and are easily removed. Under no circumstances shall a septic system and tile field be considered an accessory structure. Private garages, boathouses with permanent foundations and any other similar permanent or substantial structures shall be located landward of the minimum setback from the bluff line.

ACCESSORY USE. A use naturally and normally incidental to, subordinate to, and devoted exclusively to the main use of the land or building(s).

ADULT BOOK STORE AND/OR VIDEO STORE means an establishment having, as a substantial or significant portion of its stock in trade or business, books, videotapes, CDs, computer software, computer services, magazines and other periodicals or other writings as defined in MCL 15.232(e), MSA 4.1801 (2)(e) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or specified anatomical areas,” hereinafter defined.

ADULT LIVE ENTERTAINMENT ESTABLISHMENTS REGARDLESS OF WHETHER ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SERVED means establishments which include a nightclub, bar, restaurant, or similar commercial establishment features (a) persons who appear nude or in a “state of nudity” or “semi-nude”; and/or (b) live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities;”

ADULT MOTION PICTURE THEATER means an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined for observation by patrons therein.

ADULT MINI MOTION PICTURE THEATER means an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as hereinafter defined for observation by patrons therein.

ADULT PANORAMAS means an establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of a building such as bearing walls, columns, beams, posts, girders and similar components, or any substantial change in the roof or exterior walls.

ADULT PARAPHERNALIA/NOVELTY STORE means an establishment having, as a substantial or significant portion of its in trade, paraphernalia designed or usable for sexual stimulation or arousal.

ALLEY. A public thoroughfare or way which affords only a secondary means of access to abutting property.

ALTERED. Any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders and similar components, or any substantial change in the roof or exterior walls.

ATTACHED. Two or more buildings are considered attached if they both share a common wall that has a door or other opening for humans to pass through the wall between the two buildings. Or the two buildings are connected by a breezeway enclosed by side walls or windows, floor and roof, which provides a means for humans to pass between the two buildings.

ATTACHED WIRELESS COMMUNICATION FACILITY shall mean wireless communication facilities that are affixed to existing structure, such as existing buildings, towers, water tanks, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

AUTOMOBILE DEALERSHIP means the use of any building, land area or other premises for the permanent display and sale of new or used motor vehicles, including light trucks, vans and sport utility vehicles, belonging to the owner of the dealership. Vehicle preparation, servicing and repair and maintenance work, including auto refinishing, body work and painting, may be an accessory use. Sale of fuels, dismantling of vehicles for the purpose of reuse or resale of automotive parts, or storage of vehicles other than those held for sale or for immediate repair, shall not be accessory uses to an automobile dealership.

BASEMENT AND CELLAR. A basement is that portion of a building partly or wholly below the average grade, but so located that the vertical distance from grade to floor is not greater than the vertical distance from the grade to ceiling. A cellar is the portion of a building partly or wholly

below grade, but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

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

BRINE INJECTION WELL means a well used to dispose of brine waste through a converted oil and gas well or a well used to dispose of brine waste generated as the result of oil and gas well operations.

BUFFER ZONE. An area separating two or more zoning districts from one another.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. Buildings shall include tents, awnings, vehicles, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDING AREA. The total area taken on a horizontal plane at the largest floor level of a building and of all accessory buildings on the same lot exclusive of unroofed porches, terraces, patios and steps, and of awnings and non-permanent canopies.

BUILDING ENVELOPE. That portion of a parcel excluding the area between the property line and the setback line applied to that parcel by this chapter.

BUILDING HEIGHT. The vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the height between eaves for gable, hip and gambrel roofs.

BULK. “Bulk” is the term used to indicate the size and setback of a building or structure and the location of same with respect to another building or structure or to a lot line and includes the following:

- A. The size and height of a building or structure.
- B. The location of the exterior wall of a building in relation to a lot line, street or other building.
- C. The floor area of a building in relation to the area of the lot on which it is located.
- D. The open spaces allocated to and surrounding a building.
- E. The amount of lot area per dwelling unit.

BUSINESS ESTABLISHMENT. Any agricultural service [07]; construction [C: 15-19]; manufacturing [D: 20-39]; transportation, communications, electric, gas and sanitary services

[E: 40-49]; wholesale trade [F: 50-51]; retail trade [G: 52-59]; finance, insurance, and real estate [H: 60-69]; services [I: 70-89] except dwellings [88]; public administration [J: 91-99] as defined in the Standard Industrial Classification Manual of 1987 published by the Executive Office of the President, Office of Management and Budget.

CABIN. Any building, tent or similar structure which is maintained, offered, or used for dwelling or sleeping quarters for transients, or for temporary residence, but shall not include what are commonly designated as hotels, lodging houses or tourist homes.

CAMPGROUND means a use on a parcel or tract of land licensed by the state under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for two or more recreational units which includes trailers as defined in this chapter.

COLLOCATION shall mean the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

COMMERCIAL MARINA means a facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers services for profit such as docking, loading, or other maintenance or servicing of watercraft.

DISTRICT - LAND USE DISTRICT OR ZONE. A part or parts of the unincorporated area of Filer Township for which zoning regulations are prescribed. [Annotation: Filer Township, in January 1996, became a Charter Township.]

DOG KENNEL. Any establishment wherein or whereupon dogs are kept for the purpose of breeding, sale, sporting purposes or boarding, subject to Act 339 of the Public Acts of 1919, as amended, and Act 287 of the Public Acts of 1969, as amended, or as said Act may be amended from time to time, State of Michigan.

DWELLING UNIT. One or more rooms with principal kitchen and bathroom facilities designed as a unit for residence by only one family for living and sleeping purposes.

DWELLING, SINGLE-FAMILY. A detached building or structure designed for or occupied by one family only.

DWELLING, TWO-FAMILY. A detached building or structure designed for or occupied by two families only, with separate housekeeping, cooking and bathroom facilities for each.

DWELLING, MULTIPLE-FAMILY. A building or structure designed for or occupied by three or more families, with separate housekeeping, cooking and bathroom facilities for each.

EASEMENT. Any private or public way providing access.

ENVIRONMENTAL ASSESSMENT. A summary review of environmental impacts of a project.

ENVIRONMENTAL IMPACT STATEMENT. A document which is a detailed review of the impacts on the environment by a proposed project, and written according to guidelines adopted from time to time by the Filer Township Planning Commission.

ERECTED. Signifies built, constructed, reconstructed, moved upon, including any physical operations on land required for a building. Excavation, fill, drainage and the like shall be considered part of erection.

EXISTING BUILDING. An existing building is a building existing in whole or whose foundations are complete, and whose construction is being diligently prosecuted on the effective date of this chapter.

FAMILY.

- A. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or
- B. A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

FARM. Platted or unplatted, contiguous, neighboring or associated land operated as a single unit on which bona fide farming is carried on, including the production and keeping of all common types of farm animals, and provided that greenhouses, nurseries, orchards, apiaries, poultry farms, truck farms, and similarly specialized or intensive agricultural enterprises, shall be considered farms; but establishments keeping or operating furbearing animals (except rabbits), game, dog kennels, stockyards, livestock auctions, slaughterhouses, stone quarries, or gravel pits or sand pits, fertilizer works, bone yards, or for the reduction of animal matter, or for the disposal of public garbage, sewage, rubbish, or offal, shall not constitute a farm hereunder.

FARM BUILDINGS. Any building, other than a dwelling, erected, moved upon, or maintained on a farm, which is essential and customarily used on farms in the pursuit of agricultural activities.

FLOOR AREA. The sum of the gross horizontal areas of the several stories of a building excluding cellar and basement floor area not devoted to residential living but including the area of walled and roofed porches and terraces. Dimensions for computing floor area shall be measured between exterior faces of walls.

FLOW LINE OR FLOWLINE means a structure comprising pipes, fittings, valves for the purpose of transmitting gas and/or oil from a wellhead to the first processing equipment; it also falls within the definition of a pipeline as defined in this Article 5.

GARAGE, PRIVATE. An accessory building or structure used principally for storage of automobiles and for other incidental storage purposes only.

GATHERING LINE means a structure comprising pipes, fittings and valves for the purpose of transporting gas from the first processing equipment of one or more wells to, or in the event of no first processing equipment then directly to, a sweetening or other oil and gas processing facility or related equipment; it falls within the definition of a pipeline as defined in this Article 5.

HAZARDOUS SUBSTANCES means one or more of the following:

- A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. “Hazardous substance” as defined in the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510, 94 Stat. 2767.
- C. “Hazardous waste” as defined in P.A. 64 of 1979 (being MCL 299.501 to 299.551, the Hazardous Waste Management Act).
- D. “Petroleum” as defined in P.A. 478 of 1988 (being MCL 299.831 to 299.850, the Leaking Underground Storage Tank Act).
- E. Hydrogen sulfide gas means a substance, gas, fog, mist or other mixture or form, or any combination thereof, present at various concentrations, including components of natural gas mixtures and dissolved in hydrocarbons oils or in aqueous solutions which may emerge from oil and gas wells or related facilities, pipelines or processing or production facilities.

HOME OCCUPATION. An occupation that is traditionally and customarily carried on in the home being primarily incidental to the principal residential use, but not a hobby.

HOST OR HOSTESS ESTABLISHMENTS means establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee;

HOTEL. A building, structure or part thereof occupied as the temporary abiding place of individuals, in which the rooms are usually occupied singly for hire, and in which building there may be a general kitchen and/or public dining room(s) for the accommodation of the occupants. The word “hotel” shall not include a “motel” or “motor court.”

INTERCONNECTED WECS. A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

L_{eq}. The equivalent level, which is the level of a hypothetical steady sound that would have the same energy (i.e., the same time-averaged mean square sound pressure) as the actual fluctuating sound observed. To be measured using A-weighting for frequency, unless otherwise noted.

L₁₀ and L₉₀. The sound level in decibels exceeded 10 percent and 90 percent of the time, respectively, during the measurement period. The L₉₀ is close to the lowest sound level observed. It is essentially the same as the residual sound level, which is the sound level observed when there are no obvious nearby intermittent noise sources. To be measured using A-weighting for frequency, unless otherwise noted.

LIVESTOCK. The word livestock shall mean horses, cattle, sheep and swine.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

LODGING HOUSE. Primarily a family dwelling where lodging with or without meals is furnished on a weekly or monthly basis to three or more persons, who are not members of the family occupying and operating the premises.

LOT/PARCEL - Any portion, piece, tract, plot or division of land which can be described.

LOT/PARCEL AREA - The area within the lot or parcel lines, but excluding that portion in a road or street right-of-way.

LOT/PARCEL MEASUREMENTS.

- A. Depth of a lot or parcel shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot or parcel lines in front and rearmost points of the side lot or parcel lines in the rear.
- B. Width is the distance between straight lines connecting front and rear lot or parcel lines at each side of the lot or parcel. In determining lot or parcel frontage on odd shaped lots or parcels, if the lot or parcel abuts on the outside curve boundary of a curving street and as a result the side lot or parcel lines diverge toward the rear, the measurement of the width may be taken incidental to the width and parallel to the front building lines of the principal building. If the lot or parcel abuts on an inside curve boundary of a curved street wherein the lot or parcel lines converge toward the rear, the measure shall be taken at a point 70 feet from the street boundary line of said lot or parcel. The average width shall be measured at right angles to its depth.

LOT OF RECORD - A lot which is part of a subdivision and is shown on a map thereof which has been recorded in the Office of the Register of Deeds of Manistee County; or a lot described by metes and bounds, the deed to which has been recorded in said office.

MANUFACTURING - means the process of making products by hand, machinery, or other agency, often with the provision of labor and use of machinery, but does not include oil and gas production as defined in this Article 5, such as but not limited to transmitting, processing, or

treatment or raw oil and natural gas, or handling, storage or other process related to the production of oil, gas or other petroleum products.

MASSAGE PARLOR - means any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition shall not be construed to include the practices of massage therapists who meet one or more of the following criteria:

1. Proof of graduation from a school of massage licensed by the State of Michigan.
2. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
3. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
4. A current occupational license from another state;

MOBILE HOME - Mobile home means a dwelling, transportable in one or more sections which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein and is installed by a Michigan licensed mobile home dealer or Michigan licensed mobile home installer as required by Michigan Public Act 491 of 1976 and Administrative rules promulgated there under, as amended, or as same may be amended from time to time.

MOBILE HOME PARK. A use of a parcel of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary mobile home or trailer.

MOBILE HOME SITE. A plot of ground within a mobile home park designed for accommodation of a mobile home.

MOTEL. Any establishment in which individual cabins, courts or similar structures or rooms are let or rented to transients. The term "motel" shall include tourist cabins and homes and motor

courts. A motor court or motel shall not be considered or construed to be either a multiple dwelling, a hotel or a campground.

NONCONFORMING BUILDING, STRUCTURE. A structure or building lawfully constructed and existing at effective date of this chapter or amendments thereto, by a use that does not conform to the regulations of the district in which it is situated.

NONCONFORMING USE. A structure, building, plot, premise or land lawfully occupied and existing at the effective date of this chapter or amendments thereto, by a use that does not conform to the regulations of the district in which it is situated.

OFF-STREET PARKING AREA. A land surface or facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two automobiles.

OIL AND GAS PRODUCTION means the use, operation, or construction of any oil and gas structure, including but not limited to pipelines, sweetening plants, central processing facilities, compression facilities, CO₂ and H₂S removal facilities, and bulk storage plants, but not including oil and gas wells and brine injection wells, used for or in conjunction with the production, processing, handling, or transmitting (but not off-premise vehicle transportation) of natural gas, oil, related petroleum products, or other allied substances. However, while oil and gas wells may fall within the definition of “oil and gas production,” it is not the intent of this chapter to regulate exploration, drilling, completion operation, or abandonment of oil and gas wells that are exempted by Section 1 of the Township Zoning Act, MCL 125.271.

OIL AND GAS STRUCTURE means any process facility or equipment, any building, machinery, equipment and/or other structure used for or in connection with the production, processing, or transmitting (but not off-premise vehicle transport) of natural gas, oil or allied products or substances, with includes, but is not limited to any pipeline, flowline, sweetening plants, separators, central processing facilities, compression facilities, CO₂ removal facilities, bulk storage plants, H₂S removal facilities, dehydration facilities, compressor stations, pigging stations, metering facilities or any other facility, mud pits or brine disposal pits related to exploring, drilling, production or operating an oil and gas well. Processing or related oil and gas facility may also be referred to as any type of on-site or off-site “separating facilities” or “sweetening facilities.” However, “oil and gas structure, process facility, or process facility, or process equipment” does not include the exploration, drilling, completion, operation, or abandonment of any oil and gas well exempted by Section 1 of the Township Zoning Act, MCL 125.271.

1. Process means an action, operation, or series of actions or operations that emits or has the potential to emit or cause a release of hazardous substances, gases, or particulate.
2. Process equipment or process facility means all equipment, devices, and auxiliary components, including pollution control equipment, flares, stacks, and other potential emission or release points, used or part of a process.

ON-SITE USE WECS. A WECS, which is intended primarily to serve the buildings, structures, and uses located on the same lot or parcel as the WECS. Connection of a WECS to the power grid does not change the classification as an on-site use WECS, provided that power is delivered into the grid only at such times when it is not needed for use on the lot or parcel.

OWNERSHIP. Any person, firm or corporation or combination thereof authorized to hold title to land under the laws of the State of Michigan.

OPEN DANCE HALL means an establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.

PARCEL/LOT. See Lot/Parcel definition.

PARKING SPACE. One unit of a parking area provided for the parking of one automobile. This space shall have an area of not less than 200 square feet, and shall be exclusive of drives, driveways, aisles or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

PARKS. A park is a non-commercial recreational area.

PIPELINE means flow line, gathering or other lines, excluding lines used to transmit natural gas ready for market to the general public, together with ancillary equipment such as pigging stations which serve to transport any oil and/or gas product from an oil and gas well to any oil and gas structure.

PLANNED UNIT DEVELOPMENT. Terms such as cluster zoning, planned development, community unit plan, planned residential development and other terminology denoting zoning requirements designed to accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

“POOLED PARCELS” OR “POOLING OF PARCELS.” The combining of two or more lots or parcels, that may have one or more parcel owners into a larger “pool of parcels” for the purpose of making a single special use application for a Utility Grid WECS.

PROPERTY LINE. The outside perimeter of a legally described lot or parcel of land.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board fully authorized to furnish under federal, state or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public.

RESTAURANT. A business located in a building wherein food, beverages or meals are prepared, served and sold for consumption on or off the premises, and deriving the major portion of its receipts from the sale of such products.

RIDING ACADEMY. Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

ROADSIDE STAND. A temporary building or structure operated by the proprietor or his family for the purpose of selling produce raised or produced on the premises where situated, and its use shall not make a commercial district nor shall its use be deemed a commercial activity.

SIGN. See sign regulation chart, Section 1060.

SETBACK. Distance established for the purpose of defining the limits within which building(s) or structure(s) or any part thereof shall be erected or permanently maintained from the property line or high water line.

SPECIAL LAND USE. A use which is subject to special approval by the Township Planning Commission. A special land use may be granted only when there is a specific provision in this chapter. A special use is not considered to be a nonconforming use. Land use permitted in a zoning district only after approval of Planning Commission.

SPECIFIED ANATOMICAL AREAS means human genitals less than completely or opaquely covered including the pubic region, buttocks, or anus; or female breasts below a point immediately above the top of the areolae; or human male genitals in a discernible state of tumescence, even in opaquely covered;

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

1. The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts.
2. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy.
3. Masturbation, actual or simulated.
4. The display of human genitals in a state of sexual stimulation arousal or tumescence.
5. Excretory functions as part or in connection with any of the activities set forth in subdivisions 1 through 4 of this subsection.

STREET. A public or private thoroughfare which affords the principal means of access to abutting property.

STRUCTURE. Anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the surface of the ground.

STRUCTURE, MOVABLE. A structure which is determined to be movable based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses, and a site review to determine whether the structure is accessible to moving equipment.

SUBSTANDARD LOT. A lot of record or a lot which is described in a land contract or deed executed and delivered before the designation of a high risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluff line for a permanent structure. The term also means those lots which are legally created after the designation of a high risk erosion area, which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes.

SUBSTANTIAL OR SIGNIFICANT PORTION means a business or establishment which has:

1. Twenty percent or more of its stock, materials, or services provided relating to or describing “specified sexual activities” and/or “specified anatomical areas;” and/or
2. Twenty percent or more of the usable floor area of the building is used for the sale, display, or provision of services describing or relating to “specified sexual activities” or “specified anatomical areas;” and/or
3. The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business or establishment, describes or relates to “specified sexual activities” or “specified anatomical areas.”

SURVIVAL WIND SPEED. The maximum wind speed as designated by the WECS manufacturer, at which a WECS in unattended operation but not necessarily producing power, is designed to survive without damage to any structural equipment or loss of the ability to function normally.

TAVERN. Any place where malt, vinous or spirituous liquors are sold for consumption on the premises.

TOWER HEIGHT.

1. **Horizontal Axis Wind Turbine Rotors.** The distance between the ground and the highest point of the WECS as measured from the ground, plus the length by which the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and the blades.
2. **Vertical Axis Wind Turbine.** The distance between the ground and the highest point of the WECS.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS means and includes any of the following:

1. The sale, lease or sublease of the business or establishment.
2. The transfer of securities which constitute a controlling interest in the business or establishment, whether by sale, exchange or similar means.
3. The establishment of a trust, management arrangement, gift or other similar legal device which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

TOURIST CABIN-COURT. Any building in a cabin-court which is maintained, offered or used for overnight human occupancy, or any parcel of land on which two or more cabins are located.

TRAILER (TRAVEL TRAILER). A vehicle designed or used for dwelling or camping purposes, or exclusively for camp living, including any dwelling unit equipped for sleeping, eating or living quarters, or is intended to be used, and designed to be transported on its own wheels, or on a flatbed, or on another trailer either self-propelled or non-self-propelled.

USE. The purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

UTILITY GRID WECS. One or more WECS which provide electricity to the electric utility grid. A Utility Grid WECS is not an essential service for purposes of this ordinance.

VACANT UNDEVELOPED PROPERTY. Any unused portion or parcel of property.

VARIANCE. A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

WECS. Shall be the approved form of abbreviation of “wind energy conversion system.” WECS shall consist of a combination of:

1. A surface area, either variable or fixed, for utilizing the wind for electrical power.
2. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electrical-producing device.
3. A generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy.
4. The lower pylon or other structure upon which any, all, or some combination of the above are mounted.

WETLAND. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life, and is commonly known as the delta area of the Big Manistee River or Little Manistee River and is classified as forested or non-forested emergent or flats in the Manistee County Land Use/Cover Classification system prepared under the Michigan Resource Inventory Act and characterized by a soil type which is alluvial land, undifferentiated, variably textured flood plain sediments.

WIRELESS COMMUNICATION FACILITIES shall mean and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting and receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment, building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, short-wave facilities; ham, amateur radio facilities; satellite dishes and television antennas.

WIRELESS COMMUNICATION SUPPORT STRUCTURES shall mean structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

WOODY PLANT MATERIAL. Vegetation characterized as having a wooden stem or trunk as opposed to a fibrous or grass stem.

YARD, FRONT. An open, unoccupied space extending the full width of the lot and situated between the front lot line and the front building line.

YARD, REAR. An open, unoccupied space extending the full width of the lot and situated between the rear line of the lot and the rear building line.

YARD, SIDE. An open, unoccupied space on the same lot with the main building, situated between the side building line and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard; and, if no front yard is required, the front boundary of the side yard shall be the front line of the lot; and, if no rear yard is required, the rear boundary of the side yard shall be the rear line of the lot.

**ARTICLE 10
GENERAL PROVISIONS**

31.10.1001 Scope Of Provisions.

Except as may otherwise be provided in Section 8001 *et. seq.* of this chapter every building and structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement or addition to an existing use, building and structure occurring after the effective date of this chapter shall be subject to all regulations of this chapter which are applicable in the zoning district in which such use, building or structure shall be located. Any parcel which, in whole or part, falls within the area affected by this chapter which is used for the erection, relocation or reconstruction of a structure, shall do so only upon receipt of a zoning permit from the enforcement officer as required in Section 8201 *et. seq.*, or Section 8601 *et. seq.*

However, where a zoning permit for a building or structure, use of building or structure, or use of lot or parcel, has been issued in accordance with the law prior to the effective date of this chapter and provided that construction is begun within 90 days of such effective date and diligently prosecuted to completion, said building or structure, use of building or structure, or use of lot or parcel, may be completed in accordance with the approved plans on the basis of which the zoning permit has been issued, and further, may upon completion be occupied for the use for which originally designated, subject thereafter to the provisions of Section 8001 *et. seq.* of this chapter.

31.10.1002 Bulk Regulations.

- A. **Continued Conformity with Bulk Regulations.** The maintenance of setback, height, floor area ratio, coverage, open space, mobile home site, transition strip, lot area and lot area per dwelling unit required for one use, lot, building or structure shall be a continuing obligation of the owner of such building or structure or of the lot on which such use, building or structure shall be located is in existence. Furthermore, no setback, height, floor area ratio, coverage, open space, mobile home site, transition strip, lot area per dwelling unit allocated to or required about or in connection with one lot, use, building or structure may be allocated to any other lot, use, building or structure.
- B. **Division of a Lot.** No one lot, once designated and improved with a building or structure, shall be reduced in area or divided into two or more lots, and no portion of one lot, once designated and improved with a building or structure, shall be sold unless each lot resulting from each such reduction, division or sale and designated and improved with a building or structure, shall conform with all of the bulk and yard regulations of the zoning district in which it is located.
- C. **Setbacks and Yard Requirements.** The setback and yard requirements established by this chapter shall apply uniformly in each zoning district to every lot, building or structure except, notwithstanding any other provision of this chapter, that any of the following structures may be located anywhere on any lot:

Open and unroofed terraces, patios, flag poles, hydrants, laundry-drying equipment, sidewalks, private driveways, trees, plants, shrubs and hedges.

- D. **Height.** The height requirements established by this chapter shall apply uniformly in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this chapter: Spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio and television broadcasting and receiving antennae, silos, parapets and other necessary mechanical appurtenances, provided their location shall conform where applicable to the requirements of the Federal Communications Commission, the Civil Aeronautics Administration and other public authorities having jurisdiction.

31.10.1003 General Provisions.

No parcel, lot, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises, nor so as to cause likely pollution, impairment or destruction of air, water, natural resources or public trust, nor so as to endanger or threaten the health, safety and general welfare, provided that any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are implemented or employed to limit dangerous and objectionable elements to acceptable limits as established by the standards contained in this chapter and those of any applicable state or federal statutes and regulations, including the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, or local codes, or ordinances.

- A. **Fire Hazard.** Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire suppression equipment and by such safety devices and other regulations as are required and established by the Michigan State Construction Code Act of 1972, as amended, and as same may be amended from time to time and of the Michigan Fire Prevention Code and rules and regulations thereunder.
- B. **Radio-Activity or Electrical Disturbance.** Radio-activity or electrical disturbance shall be subject to such requirements and regulations as are established by the Michigan Department of Environmental Quality, Nuclear Regulatory Commission, Michigan Department of Public Health.
- C. **Vibration.** Vibration shall be subject to such requirements and regulations as are established by the Michigan State Health Commission, the Manistee County Health Department and the Michigan Department of Environmental Quality.
- D. **Air Pollution.** Any activity or use of land in violation of the requirements and regulations of or hereafter established by the Michigan Department of Environmental Quality under the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, and any other applicable County of Filer Township

codes or ordinances that regulates or establishes standards for the emission of gages, including hydrogen sulfide, and particulate into the atmosphere are prohibits and constitutes a violation of this chapter.

1. Any use of a parcel, lot, building or structure, any district, including but not limited to the installation, use and/or maintenance of any oil and gas sweetening facility or similar process facility structure or equipment, pipelines, gathering or flow lines, that contain or are proposed to contain concentration of hydrogen sulfide gas is prohibited, except upon issuance of a special use permit in accordance with Article 86 of this chapter.
- E. **Glare.** No source of any light, which constitutes glare, shall be permitted which is directly visible from any property or from any public street, road or highway.
- F. **Water Pollution.** Any activity or use of land in violation of the water pollution requirements and regulations of the Michigan Department of Environmental Quality and the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, or the Federal Clean Water Act, 33 USC 1251, *et. seq.*, as amended, and their respective regulations are prohibited and constitute a violation of this chapter.
1. Any use of a parcel, lot building or structure for oil and gas production or oil and gas structure in any district, including installation, use and/or maintenance of any production facilities, mud and/or brine pits that result in actual or likely pollution, impairment or destruction of any lake, stream, or other surface waters or groundwater, or wetlands as defined by the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, is prohibited.
- G. **Noise.** Audible noise shall at a minimum meet the requirements and regulations set forth in the Township Nuisance Ordinance adopted July 1, 1986.

Notwithstanding that the matters falling within this section and Sections 1011 and 1010 may be regulated or enforced by the respective state, county or federal agency (by evidence of permit or enforcement action), the Township may in its discretion take whatever enforcement or other civil action necessary to enforce the provisions of this chapter or seek such other relief as authorized by law.

31.10.1010 Compliance with Country Sanitary and State Construction Codes.

- A. Every structure or device hereinafter erected or moved upon any premises and designed, used or intended for human habitation shall conform to the rules and recommendations of the Department of Public Health of the State of Michigan and the Manistee County sanitary code. The zoning administrator shall issue a land use permit to an applicant providing the intended use is in accordance with the provisions of this chapter, so that a septic/well permit may be issued by the Manistee-Mason District Health Department. Applicant shall notify the Filer

Township Zoning Administrator when septic/well system has been approved. If the land use permit is issued for commercial/industrial purposes, a plumbing inspection by a state plumbing inspector is also required.

- B. All construction in Filer Township shall be in compliance with Michigan Act 230 of 1972, being the Michigan State Construction Code Act of 1972, as amended, and as same may be amended from time to time and, in the case of mobile homes, shall carry a seal from the United States Department of Housing and Urban Development (HUD), or equivalent, signifying compliance with Mobile Home Construction and Safety Standards Act of 1974 (Title VI of Pub. L.93-383,88 Stat. 700, 42 U.S.C. 5401, *et. seq.*). Further, a copy of the land use permit, issued under this chapter, shall be attached to the construction permit application.

31.10.1011 Water Supply and Sewage Facilities.

In the interest of protecting the public health and welfare, every building or structure hereafter erected, altered or moved upon any premise and used in whole or in part for dwelling, recreational, business, commercial or industrial purposes shall be provided with (a) safe and sanitary water supply; (b) collection and disposal of human excreta and domestic, commercial and industrial waste, by means of public sewage disposal system or approved septic tank.

31.10.1012 Hazardous Substance and Groundwater and Surface Water Protection.

- A. All businesses and facilities which use or generate hazardous substances, including but not limited to hydrogen sulfide gas and brine not used in connection with oil and gas operations, but not including brine waste generated as the result of oil and gas well production (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) and is for purpose of resale and located inside a retail establishment):
 - 1. In quantities greater than 100 kilograms (approximately 220 pounds) per month or 95 liters (approximately 25 gallons) per month, whichever is less, or
 - 2. Stores greater than 100 kilograms (approximately 220 pounds) or 95 liters (approximately 25 gallons), whichever is less, shall comply with the following groundwater, and surface water protection requirements.
- B. Groundwater and surface water protection requirements (in addition to any other requirements of this chapter):
 - 1. **Groundwater Protection, Generally.**
 - a. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, street slopes, and natural and man-made drainage systems.

- b. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
- c. General purpose floor drains and storm drains shall be:
 - (1) Connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements, or
 - (2) Authorized through a state groundwater discharge permit, or
 - (3) Connected to a public sewer system.
- d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met, which shall include but not be limited to the standards and regulations established by the Michigan Department of Environmental Protection Act, MCL 324. 1701, *et. seq.* Not discharge, emission or release of any gas, liquid, substance, or any combination thereof, that may adversely impact groundwater or surface water, including direct or indirect discharges, shall be allowed except in full compliance with applicable federal, state, or local codes or ordinances.
- e. In determining conformance with the standards in this chapter, the administrator or commission, whichever one is applicable, shall take into consideration the publication titled “Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials” published by the Clinton River Watershed Council, May 1990, and other references.
- f. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the Manistee-Mason District Health Department.
- g. If the site plan includes territory within a Wellhead Protection Overlay Zone submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the administrator, county and state officials.

2. **Above-Ground Storage.**

- a. Primary containment of hazardous substances, including any brine, shall be product-tight containers which are protected from weather, leakage, accidental damage, and vandalism.
- b. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall not include or allow the retention of mud/brine in an on-site disposal pit. Secondary containment shall be one of the following, whichever is greatest:
 - (1) Sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, or
 - (2) Shall be at least as great as volumes required by state or county regulations, or
 - (3) Shall, if not protected from rainfall, contain a minimum of:
 - (a) 110 percent of the volume of the largest storage container within the dike of the secondary containment area, plus
 - (b) The volume that is occupied by all other objects within and below the height of the dike of the secondary containment area, plus
 - (c) The volume of a six-inch rainfall.
- c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
- d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.
- e. At a minimum, State of Michigan and federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
- f. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.

- g. Mud/brine disposal pits are prohibited within the Wellhead Protection Overlay District, Section 7601, unless the owner or operator can establish, by application for a special use permit under Article 86 of this chapter that there is no feasible and prudent alternative for transportation and disposal off site, and that the pit is permitted under and in accordance with the Safe Drinking Water Act, 42 USC 300f, or its rules, and the State Mineral Well Act, or other applicable federal and state laws, rules, and local ordinances. The owner or operator of such use or facility must file copies of the permits required by this subparagraph with the Township Zoning Administrator.

3. Underground Storage.

- a. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Environmental Quality.
- b. Bulk storage facilities for pesticides fungicides, herbicides, and fertilizers shall be in compliance with requirements of federal and state law and regulation, the label restrictions or directions contained on any such pesticide, fungicide, herbicide, and fertilizer, and any requirement of the Michigan Department of Agriculture or the Michigan Department of Environmental Quality.

31.10.1030 Green Belt Buffer.

Prior to the commencement of construction of any structure or building in a commercial district or limited industrial district where such property abuts, adjoins or is adjacent to a residential zone, or establishment of a commercial or light industrial operation within a residential district, a green belt shall be established. A green belt, minimum width of 35 feet shall be completed within six months from the date of issuance of a certificate of occupancy and shall thereafter be maintained with permanent plant materials. Specifications for spacing and plant materials are shown below. Materials to be used are merely suggestions and shall not be limiting provided their equal in characteristics is used.

A. Spacing.

- 1. Plant materials shall not be placed closer than three feet from the fence line or property line.
- 2. Where plant materials are planted in two or more rows, planting shall be staggered in rows.
- 3. Evergreen trees shall be planted not more than 20 feet on centers.

- 4. Narrow evergreens shall be planted not more than three feet on centers.
- 5. Deciduous trees shall be planted not more than 30 feet on centers.
- 6. Tree-like shrubs shall be planted not more than ten feet on centers.
- 7. Large deciduous shrubs shall be planted not more than four feet on centers.

		Minimum Size	
B.	Plant Materials		In Height (Feet)
1.	Evergreen Trees		Five
	a. Juniper		
	b. Red Cedar		
	c. White Cedar		
	d. Pines		
2.	Narrow Evergreens		Three
	a. Pyramidal Arbor Vitae		
	b. Columnar Juniper		
	c. Irish Juniper		
3.	Tree-like Shrubs		Four
	a. Flowering Crabapple		
	b. Russian Olive		
	c. Mountain Ash		
	d. Dogwood		
	e. Redbud		
	f. Rose of Sharon		
4.	Large Deciduous Shrubs		Six
	a. Honeysuckle		
	b. Viburnum		

- c. Mock Orange
- d. Forsythia
- e. Lilac
- f. Ninebark

5. **Large Deciduous Trees** Eight

- a. Oak
- b. Hard Maple
- c. Ash
- d. Hackberry
- e. Sycamore

C. A bond or cash of an equal amount equal to five dollars per lineal foot of required green belt shall be deposited with the Township clerk until such time as the green belt is planted. In the event that weather or seasonal conditions prevent transplanting, the petitioner shall be granted six months from the date of issuance of certificate of occupancy to install said green belt or the Township shall be authorized to use said funds to install said green belt. In all cases, however, the Township shall be authorized to withhold 10 percent of bond or cash for a period of two years from date of issuance to insure that dead or dying nursery stock shall be replaced. Excess funds, if any, shall be returned to the depositor upon completion of the two year period. It shall be the responsibility of the property owner to maintain the green belt for its original intent and purpose.

31.10.1031 High Risk Erosion Area.

To prevent property damage due to active erosion along the Lake Michigan shoreline by providing for the placement of structures in areas of high risk erosion consistent with the Shorelands Protection and Management Act 245 of 1970, as amended, and to preserve bluff vegetation, greenbelt vegetation and water and beach quality.

A. The high risk erosion setback and greenbelt setback line shall be 100 feet landward of and parallel to the Lake Michigan bluff line throughout the entire length of the Lake Michigan shoreline in Filer Township. For the purpose of the high risk erosion overlay area, the minimum setback requirement shall be measured landward from the bluff line and shall be construed as running parallel to the bluff line. In the event the bluff line recedes (moves landward), the setback line of the high risk erosion area shall also be construed as to have moved landward a distance

equal to the bluff line recession. No principal or accessory structure shall be located between the ordinary high water mark and the high risk erosion setback line.

- B. In addition to the requirements for granting a variance presented in Section 9603 *et. seq.* of this chapter, a variance from high risk erosion setback requirement shall be granted by the Board of Appeals only if the exceptional circumstances described in subparagraph 1 exist and only if conditions described in subparagraph 2 are complied with.
1. A variance for substandard parcels of record or lots described in a deed or land contract may be allowed where the lots were:
 - a. Established prior to the effective date of this high risk erosion zone.
 - b. Created in full compliance with this chapter, but which at the time of application to establish a structure lack sufficient depth because of natural erosion processes.
 2. Substandard parcels as described in this section may be granted a variance for establishing a structure only if there is compliance with the following conditions:
 - a. Septic tanks, tile fields or any other on-site waste handling facility shall be placed landward of the principal structure.
 - b. The proposed structure shall be located as far landward of the bluff line as is possible while still complying with all other setback and yard requirements in this or other chapters; or the proposed structure shall be located landward of a high risk erosion minimum setback as established by the Michigan Department of Environmental Quality under authority of Public Act 245 of 1970, as amended.
 - c. The proposed structure shall be designed and constructed to be movable in accordance with accepted architectural or engineering standards, the Michigan Construction Code and any applicable building moving restrictions. To the fullest extent practical, a structure shall be moved landward to a safe location prior to erosion damage.
 - d. The proposed structure shall be located landward of a high risk erosion minimum setback as established by the Michigan Department of Environmental Quality under authority of Public Act 245 of 1970, as amended, or a setback line 50 feet landward of and parallel to the Lake Michigan bluff line, whichever creates a greater setback.

- C. In addition to the requirements for granting a variance presented in this section and Section 9603 *et. seq.*, of this chapter, a variance request which may result in a setback which is less than the Michigan Department of Environmental Quality high risk erosion minimum setback established under authority of Public Act 245 of 1970, as amended, shall not be granted unless the following conditions are met:
1. An erosion control device shall be designed to meet or exceed proper engineering standards for the Great Lakes, and a professional engineer shall certify that the device has been designed and will be constructed in accordance with these standards, and installed with sufficient width and acceptable grade in front of the proposed structure.
 2. The proposed structure is movable and its design shall be approved by the Department of Environmental Quality.

31.10.1040 Yard and Lot Area Requirements.

Where a lot abuts upon an alley, one-half of the width of said alley may be considered a part of such lot for the purpose of computing the depth of any rear yard required under the chapter. In determining lot and yard requirements, no area shall be counted as accessory to more than one principal building or use, and no area necessary for compliance with the open space requirements for one main building shall be included or counted in the calculation of the open space necessary to any other main building or use.

31.10.1050 Access to Public Roads.

No use, structure or plant material, such as parking spaces, fences, signs, berms, hedges, or planting of shrubs, which obstructs safe vision at a road corner, shall be located, erected or maintained within a triangular area formed by a line connecting two points;

- A. Forty feet from the point of intersection of the two front property lines adjacent to a road, or
- B. The two road right-of-way lines, or
- C. A line parallel to and 33 feet to the side of the center lines of the used lanes of travel of the two roads, whichever creates the larger triangular area.

31.10.1051 Roads.

Every private road which provides or may provide access to and from a public road for two or more dwelling units or principal buildings on separately owned parcels (except access drives, drive and driveway as required in Section 1050) shall meet the following conditions:

- A. Be constructed in a good and workmanlike manner within the right-of-way which is established by duly recorded conveyance dedicating it to the public and which is not less than 66 feet in width.

- B. Be constructed so as to sufficiently control storm water runoff and permit effective storm water drainage by such means as two-foot deep ditches constructed parallel to and on either side of the street, or by use of curb and gutter with a storm sewer system; and by sloping the sides of the street from the center thereof, or by other effective methods.
- C. Be constructed by standards as may be adopted by the Manistee County Road Commission.
- D. Is designed and intended to be a public road.

31.10.1052 Off-Street Parking And Loading Requirements.

- A. **Off-Street Parking.** Off-street parking spaces for automobiles with the requirements herein specified shall be provided in all districts, in connection with industrial, business, institutional, agricultural, recreational, residential or other use at the time any building or structure is erected, or uses established, enlarged or increased in capacity.
 - 1. Plans and specifications showing required off-street parking spaces, including the means of access and interior circulation, for the above uses, shall be submitted to the zoning administrator for review at the time of application for a zoning permit for the erection or enlargement of a building. Required off-street parking facilities shall be located on the same lot as the principal building or on a lot within 300 feet thereof, except that this distance shall not exceed 150 feet for single family and two family dwellings. This distance specified shall be measured from the nearest point of the parking facility to the nearest point of the lot occupied by the building or use that such facility is required to serve.
 - 2. No parking area or parking space which exists at the time this chapter becomes effective or which subsequent thereto is provided for the purpose of complying with the provisions of this chapter shall thereafter be relinquished or reduced in any manner below the requirements established by this chapter within 300 feet of the proposed or existing uses for which such parking will be available.
 - 3. For each dwelling, business, commercial, industrial or other similar building hereafter erected or altered, and located on a public street or highway in the Township, and including buildings or structures used principally as a place of public assembly, there shall be provided and maintained suitable space off the right-of-way that is in general adequate for the parking or loading of vehicles in proportions shown on the following table, and such space shall be provided with safe exit to and entrance from the public thoroughfare, but not to exceed one such exit and one such entrance. Such exit and entrance may be combined or provided separately.

Approval for the location of such exit and entrance shall be obtained from the Manistee County Road Commission, which shall also approve the design and construction thereof in the interests of safety, adequate drainage and other public requirements.

4. Each off-street parking space for an automobile shall be not less than 200 square feet in area, exclusive of access drives or aisles, and shall be of usable shape and condition. There shall be provided a minimum access drive of ten feet in width and, where a turning radius is necessary, it will be of such an arc as to reasonably allow an unobstructed flow of vehicles. Parking aisles for automobiles shall be of sufficient width to allow a minimum turning movement in and out of a parking space. The minimum width of such aisle shall be:
 - a. For 90 degree or perpendicular parking the aisle shall not be less than 22 feet in width.
 - b. For 60 degree parking the aisle shall not be less than 18 feet in width.
 - c. For 45 degree parking the aisle shall not be less than ten feet in width.
 - d. For parallel parking the aisle shall not be less than ten feet in width.
5. Off-street parking facilities required for churches may be reduced by 50 percent where churches are located in non-residential districts and within 300 feet of usable public or private off-street parking areas. Off-street parking facilities for trucks at restaurants, service stations and other similar and related uses shall be of sufficient size to adequately serve trucks and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten feet in width and 55 feet in length.
6. **Commercial Parking Area.** Every parcel of land hereafter used as a public or commercial parking area shall be developed and maintained in accordance with the following requirements:
 - a. All off-street parking spaces shall not be closer than five feet to any property line, except where a wall, screen or compact planting strip exists as a parking barrier along the property line.
 - b. All off-street parking areas shall be drained so as to prevent drainage to abutting properties and shall be constructed of materials which will have a dust-free surface resistant to erosion.
 - c. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged as to reflect the light away from any adjoining residential lot or institutional premises.

- d. Any off-street parking area providing space for five or more vehicles shall be effectively screened on any side which adjoins or faces property adjoining a residential lot or institution by a wall, screen or compact planting not less than four feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property.
 - e. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas on one or two family dwellings.
 - f. Requirements for the provisions of parking facilities with respect to two or more property uses of the same or different types may be satisfied if the permanent allocation of the requisite number of spaces designated is not less than the sum of individual requirement.
 - g. The number of parking spaces required for land or buildings used for two or more purposes shall be the sum of the requirements for the various uses, computed in accordance with this chapter. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use.
7. For the purposes of determining off-street parking requirements, the following units of measurement shall apply:
- a. **Floor Area.** In the case of uses where floor area is the unit for determining the required number of off-street parking spaces, said unit shall mean the gross floor area, except that such floor area need not include any area used for parking within the principal building and need not include any area used for incidental service storage installations of mechanical equipment, penthouses housing ventilators and heating systems and similar uses.
 - b. **Place of Assembly.** In stadiums, sport arenas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each 18 inches of such seating facilities shall be counted as one seat. In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.
 - c. **Fraction.** When units or measurement determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

- d. The minimum required off-street parking spaces shall be set forth as follows:

USE	PARKING SPACE REQUIREMENT
Automobile, gasoline service stations	One space for each 400 square feet of floor area plus one space for each two employees.
Automobile or machinery sales and service garages	One space for each 200 sales and service garages square feet of showroom floor area plus two spaces for each service bay plus one space for each two employees.
Banks, business and professional offices	One space for each 200 square feet of gross floor area, plus one parking space for each employee.
Barber shops and beauty parlors	One space for each chair plus one for parlors each employee.
Bowling alley	Five spaces for each alley.
Churches, auditoriums, stadiums, sports arenas, theaters, dance halls, assembly halls other than schools	One space for each four seats.
Dwellings (single family)	One space for each family.
Dwellings (two family and multiple family)	One and one-half spaces for each family or dwelling unit
Funeral homes and mortuaries	Ten spaces for each parlor or one space for each 25 square feet of floor area plus one space for each fleet vehicle, whichever is greater.
Furniture, appliance stores, household equipment and furniture repair shops	One space for each 400 square feet of floor area.
Hospitals, hotels, motels	One space for each bed excluding bassinets plus one space for each two employees.
Lodging houses, tourist and boarding homes	One space for each living unit plus one space for each two employees.

USE	PARKING SPACE REQUIREMENT
Manufacturing, fabricating, processing and bottling plants, research and testing laboratories	One space for each two employees on maximum shift.
Medical and dental clinics	One space for each 100 square feet of floor area plus one space for each employee.
Restaurant, beer parlors, taverns and night clubs	One space for each two patrons of maximum seating capacity plus one space for each two employees.
Roadside stands	Five spaces for each attendant.
Self-service laundry or dry cleaning stores	One space for each two washing and/or dry cleaning machines.
Schools, private or public elementary and junior high schools	One space for each employee normally engaged in or about the building or grounds plus one space for each 30 students.
Senior high school and institutions of higher private or public	One space for each employee in or about the building or grounds plus one space for each 30 students.
Supermarket, self-service food and discount stores	One space for each 200 square feet of floor area plus one space for each two employees.
Wholesale establishments and warehouses	One space for each 400 square feet of floor area plus one space for each two employees.

e. Where a use is not specifically mentioned the parking requirements of a similar or related use shall apply.

B. Loading-Unloading Requirements. Off-street loading or unloading spaces for uses which customarily receive or distribute material or merchandise by vehicle shall be provided in connection with every building or part thereof hereafter erected, except single and two-family dwelling unit structures, on the same lot with such buildings.

1. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted to the zoning administrator for review at the time of application for a zoning permit for the erection or enlargement of a use or a building or structure.

2. Each off-street loading-unloading space shall not be less than the following:
 - a. In a residential district a loading-unloading space shall not be less than ten feet in width and 25 feet in length and, if a roofed space, not less than 14 feet in height.
 - b. In any commercial or industrial district a loading-unloading space shall not be less than ten feet in width and 55 feet in length, and if a roofed space, not less than 15 feet in height.
3. Subject to the limitations of the next paragraph, a loading-unloading space may occupy all or any part of any required side or rear yard, except the side yard along a side street in the case of a corner lot. In no event shall any part of a required front yard be occupied by such loading space.
4. Any loading-unloading space shall not be closer than 35 feet to any other lot located in any residential district.
5. In the case of mixed uses on one lot or parcel, the total requirements for off-street loading-unloading facilities shall be the sum of the various uses computed separately.
6. All off-street loading-unloading facilities that make it necessary to back out directly into a public road shall be prohibited.
7. Off-street loading-unloading requirements for residential (excluding single family dwellings), hotels, hospitals, mortuaries, public assembly, offices, retail, wholesale, industrial or other uses similarly involving the receipt or distribution by vehicles, the uses having over 5,000 square feet of gross floor area shall be provided with at least one off-street loading-unloading space, and for every additional 20,000 square feet of gross floor space, or fraction thereof, and one additional loading-unloading space the size of such loading-unloading space subject to the provisions of this chapter.
8. Where a use is not specifically mentioned, the requirements of a similar or related use shall apply.

31.10.1060 Sign Regulations.

A. Intent of Sign Regulations.

These sign regulations are intended to protect the health, safety and welfare of the general public, while promoting and balancing public and private interests. Signs inform, direct, advertise and communicate information, but must do so in a manner that does not unduly detract from the community or the safety of the traveling public. These sign regulations are intended, specifically, to further the following objectives:

- (a) Protect and further the public health, safety and welfare; maintain and approve the Township's appearance and preserve community character.
- (b) Minimize traffic hazards and distractions; provide safer conditions, including information and direction for the traveling public and for pedestrians.
- (c) Promote economic development and commercial activity.
- (d) Allow for adequate and effective signage for business identification and other commercial speech, non-commercial speech and distribution of public information.

B. Definitions.

- 1. Commercial or professional center sign is any sign which pertains to a group of three or more contiguous stores whether or not under single management.
- 2. Display surface area means the entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which said sign is placed. Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign; except that where two such faces are placed back to back and are to no point more than three feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of unequal area.
- 3. Encroaching sign is a sign which projects beyond the private property line into and over public or other private property.
- 4. Frontage shall be the side of the property facing the thoroughfare that carries the greatest amount of traffic.
- 5. Marquee sign is a sign which is attached to the fascia or underside of a marquee, or other covered structure projecting from and supported by a building.
- 6. Monument sign is a freestanding sign placed in or upon the ground, fastened to a secure and permanent foundation, and not attached to any buildings, supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. The base on the sign structure shall be on the ground or a maximum of 12 inches above the adjacent grade. The width of the top of the sign shall not be greater than the width of the bottom of the sign.

7. Nonconforming sign is any sign which does not conform to the requirements of this chapter.
8. Off-premise sign is any structure, including the wall of any building, on which lettered, figured or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land. This definition includes billboards but does not include “trailer signs,” as defined in this section.
9. Pole sign is a sign which is supported by one or more uprights with all parts of the display surface of the sign six feet or more above the grade at the base of the sign.
10. Projecting sign is a sign projecting more than 18 inches from, and supported by, the wall of a building.
11. Required setback is the minimum setback as measured from the highway right of way line to the support portion of the structure closest to the right of way for any sign, subject to the limitations imposed by subsection B.3 above.
12. Roof sign is a sign which is erected, constructed and maintained upon or above the roof of a building, marquee or parapet wall and which is wholly or partially supported by the building.
13. Sign(s) shall mean and include every individual announcement, banner, declaration, demonstration, display, flag, illustration, insignia, surface or space when erected or maintained out-of-doors in view of the general public for identification, direction, safety, entry, advertisement or promotion of the interests of any person or business.
14. Temporary sign is a sign intended to be displayed for a limited period of time, as outlined in Section 1060.C.6. Examples of temporary signs include but are not limited to the following: real estate sales signs, building construction signs, campaign signs, trailer signs in commercial districts, yard sale/auction/open house signs, and directional signs for events. Also, see definition for “trailer sign.”
15. Trailer sign is a sign supported on a mobile chassis other than a motor vehicle and is to be considered a temporary sign if installed for a 30-day or less period. If installed on a premise for over 30 days in any one period, or for over 90 days in any 12-month period, trailer signs shall be considered to be pole signs. Trailer signs shall have the owner’s name and address clearly imprinted for identification purposes and lighting must conform to Section 1060.C.2, Schedule B.

16. Wall sign is a sign which is attached directly to, or painted lettering on, a wall or mansard roof of a building with the exposed face of the sign in a plane parallel to the building wall, and which projects not more than 28 inches from the building or structure wall and which does not extend above the parapet or building façade of the building on which it is located.

C. General Provisions.

1. Prohibited Signs.

- a. Encroaching signs, roof signs extending above the roof line, and projecting signs as defined herein, are specifically prohibited.
- b. Any sign, which by reason of its size, location, content, coloring or manner of illumination, constitutes a traffic hazard or detriment to traffic safety by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any traffic control device on public streets and roads.
- c. Signs which make use of words such as STOP, LOOK, DANGER, or any other words, phrases, symbols or characters, in such a manner as to interfere with, mislead or confuse traffic.
- d. Signs and sign structures that are no longer in use as originally intended or have been abandoned, or are structurally unsafe, constitute a hazard to safety and health, or those not kept in good repair.
- e. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.
- f. Any sign or other advertising structure containing any obscene, matter, or depicting any matter not protected by the United States Constitution.
- g. Any sign from the effective date of this chapter unlawfully installed, erected or maintained.
- h. Signs having flashing, blinking or running type lights are prohibited unless such flashing, blinking or running type lighting is used solely for the purpose of electrically changing the copy of said sign; for example, time and temperature signs.
- i. Any sign installed prior to this chapter without a sign permit, when in fact the prior chapter did require a sign permit.
- j. Off-premise signs.

2. **Signs Exempt From the Provisions.**

- a. Public traffic control signs owned and maintained by a governmental agency.
- b. No hunting, no trespassing signs and private directional signs not exceeding four square feet in area.
- c. Signs located in the interior of buildings.

D. **Permitted Signs by Zoning Districts.**

- 1. **Agricultural, Forest Recreational and Residential Districts.** In all Agricultural, Forest Recreational and Residential Districts, the requirements of Schedule A shall govern sign use, area, type, height and numbers, in addition to requirements elsewhere in this chapter.

Schedule A				
A	B	C	D	E
Parcel Description	Maximum Display Area	Maximum Height & Minimum Setback	Maximum Number of Signs	Sign Type
Subdivided Residential	4 square feet per sign	<u>Maximum height:</u> 4' <u>Minimum setback:</u> Road right of way	Two per road frontage	Pole
Residential not subdivided	Land less than 2 acres: 4 square feet	<u>Maximum height:</u> 4' <u>Minimum setback:</u> Road right of way	Two per road frontage	Pole or Wall
	Land greater than 2 acres & less than or equal to 10 acres: 8 square feet	<u>Maximum height:</u> 4' <u>Minimum setback from right of way:</u> (a.) 0 feet for a 4 sq. ft. sign (b.) 20 feet for a sign with display area of greater than 4 sq. ft. to maximum 8 sq. ft.	One per 150' road frontage or two 4 sq. ft. signs per frontage	

	Land greater than 10 acres & less than or equal to 40 acres: 16 square feet	<u>Maximum height:</u> 6' <u>Minimum setback from right of way:</u> (a.) 0 feet for a 4 sq. ft. sign (b.) 20 feet for a sign up to maximum 16 sq. ft.		
	Land greater than 40 acres: 32 square feet	<u>Maximum height:</u> 6' <u>Minimum setback from right of way:</u> (a.) 0 feet for a 4 sq. ft. sign (b.) 20 feet for a sign with display area of greater than 4 sq. ft. to maximum 32 sq. ft.		
Agricultural & Forest Recreational	Land greater than or equal to 5 acres & less than or equal to 10 acres: 8 square feet	<u>Maximum height:</u> 6' <u>Minimum setback from right of way:</u> (a.) 0 feet for a 4 sq. ft. sign (b.) 20 feet for a sign up to maximum 8 sq. ft. sign	One per 150' road frontage or two 4 sq. ft. signs per frontage	Pole or Wall
	Land greater than 10 acres & less than or equal to 40 acres: 16 square feet	<u>Maximum height:</u> 6' <u>Minimum setback from right of way:</u> (a.) 0 feet for 4 sq. ft. sign (b.) 20 feet for 16 sq. ft. sign		
	Land greater than 40 acres: 32 square feet total	<u>Maximum height:</u> 6' <u>Minimum setback from right of way:</u> (a.) 0 feet for 4 sq. ft. sign (b.) 20 feet for 32 sq. ft. sign		

2. **Commercial Districts.** In all commercial districts, the requirements of Schedule B shall govern sign use, area, type, height and numbers in addition to requirements elsewhere in this chapter. A commercial business may have one monument sign and one wall sign, and in addition, one marquee sign. All setbacks are the highway right of way.

SCHEDULE B				
A	B	C	D	E
Type of Business	Maximum Display Area	Sign Type	Maximum Height	Maximum Number of Signs
Individual commercial establishment (not located within a multi-establishment center)	1. 15% area of wall on which sign is placed	Wall, Roof	No higher than wall line or roof line on which sign is placed	One per wall facing public road
	2. 6 square feet	Marquee	Affixed to underside of eave	One per establishment
	3. 42 square feet surface area	Monument	6 feet	One per establishment
Multi-establishment commercial and/or professional center	1. 15% area of wall of that is to receive sign	Wall	No higher than the front of the establishment	One per wall facing a public road
	2. 6 square feet	Marquee	Affixed to underside of eave	One per establishment
	3. 168 square feet surface area	Monument	12 feet	One per commercial or professional center

3. **Industrial Districts.** In all industrial zoning districts, the requirements of Schedule C shall govern sign use, area, type, height and numbers, in addition to requirements elsewhere in this chapter. Off premises signs are prohibited.

A	B	C	D	E
Use	Maximum Display Area	Sign Type	Maximum Height	Maximum number of Signs
Individual industrial establishments	1. 32 sq. ft.	Pole or Monument	Not higher than building	One per establishment
	2. 15% area of wall	Wall	Not above front wall	One per each side of building
Industrial Parks	32 sq. ft.	Pole or Monument	Not higher than building	One sign per access
Commercial establishments located in industrial zoning districts	1. 15% area of wall	Wall	Not above front wall	One on each side of building
	2. 32 sq. ft.	Pole or Monument	Not higher than building	

4. **Required Sign Setback.** Setback in all zoning districts shall be as required in Schedule D.

SCHEDULE D	
Wall Sign	May extend 18 inches from wall of building
Marquee Sign	Not closer to the property right of way line than front eave overhang
Temporary Sign	Same restrictions as pole sign
Pole Sign	Must not overhang right of way line
Monument Sign	Right of way

	SCHEDULE E					
	Res.	Comm.	Ind.	Agri.	Recreational	Forest
Marquee			X	X		
Pole	X	X	X	X	X	X
Roof			X	X		
Temporary	X	X	X	X	X	X
Wall	X	X	X	X	X	X
Monument		X	X	X	X	X
Residential – either pole <u>or</u> wall sign.						
Commercial – either wall or roof, monument <u>and</u> marquee sign.						

5. **Temporary Use Signs.** Signs intended for use over a limited period of time may be permitted. Sign setback shall be as required in Section 1060.C.4, Schedule D. Temporary signs shall comply with all the requirements of this chapter and the following requirements:
- a. **Maximum size:** 32 square feet surface area.
 - b. **Maximum duration:** Temporary Signs are permitted to be placed up to 30 days prior to an event or process which the sign is to describe or inform and must be removed not later than seven days following the event or completion of the related process.

- E. **Sign Permits.** Application for a permit to erect or replace a sign shall be made to the zoning administrator, by submission of the required forms, fees, exhibits and information by the owners of the property on which the sign is to be located, or by his agent, or lessee. The applications shall contain the following information:
- 1. Name and address of applicant.
 - 2. Name and address of property owner in full.
 - 3. Address of property on which sign is to be situated.
 - 4. Business to which sign belongs or related.
 - 5. Sign height.

6. Size.
7. Proposed setback from property line.
8. Sign type.
9. Sign purpose.
10. Total display area in square feet.
11. Height and width of building to be served.
12. Drawing of proposed sign indicating proposed copy.

Sign permits issued on the basis of plans and application approved by the zoning administrator authorize only the design and construction set forth in such approved plans and applications, and no other design.

F. Nonconforming Uses – Signs.

1. It is the intent of this chapter to permit the continuance of a lawful use of a sign existing at the effective date of this chapter.
2. Signs installed without a sign permit shall be considered illegal, nonconforming and shall be either removed or made to conform to the chapter and a legal permit be obtained.
3. **Structural Changes or Enlargement.** Change in copy or sign facing shall not be considered a structural change and shall not require a permit, provided that no enlargement is made.
4. **Repair of Nonconforming Sign.** Nothing in this chapter shall prohibit the repair, improvement or change of the business or product copy or message thereon.
5. **Reconstruction or Restoration.** Any lawful nonconforming use damaged by any cause may be rebuilt or restored, provided that cost of rebuilding or restoration does not exceed 50 percent of its assessed value.

G. Construction. In all districts, sign construction shall be in accordance with the following requirements:

1. **Electrical.** All permanent or temporary electrical installation shall comply with the code of the State of Michigan.
2. Construction shall be approved by the appropriate construction code office.

31.10.1061 Sewage Treatment and Disposal.

In addition to the requirements established by the State of Michigan, the following site development and use requirements shall apply:

- A. All operations shall be completely enclosed by a fence not less than six feet high.
- B. All operations and structures shall be surrounded on all sides by a buffer strip of at least 200 feet in width within which grass, vegetation and structural screens shall be placed to minimize the appearance of the installation and to help confine odors therein. The Township Board shall approve the treatment of all buffer strips.

31.10.1070 Location of Accessory Buildings.

- A. All accessory buildings shall be built after construction of, the main building on the same parcel.
- B. All accessory buildings shall be in the side yard or rear yard, except when built as part of the main building, or built in a district where land abuts a body of water, the front yard is the waterfront yard. An accessory building attached to the principal building of a lot shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building. The accessory building unless attached and made part of the principal building as provided, shall not be closer than ten feet to the principal building or any other building, and shall meet all setback requirements of the district in which it is to be erected, moved, altered or used.

31.10.1071 Temporary Dwellings.

A cabin, trailer, tent, or other temporary structure, whether of a fixed or movable nature, may be erected, moved or used for a dwelling purpose if it is for use:

- A. In a campground licensed by the state and subject to Section 1091.

31.10.1072 Temporary Occupancy During Construction.

During the period of construction of a new dwelling the owner, and during the period of construction of a commercial or industrial structure the necessary number of general contractor's employees, may reside at the construction site subject to the following conditions:

- A. The zoning permit for temporary occupancy is issued only in conjunction with, or after, permits necessary for the construction of the dwelling, commercial or industrial structure have been issued.
- B. Prior to temporary occupancy the water well or connection to a public water supply, and sanitary sewer connection or septic tank sewage disposal system have been completed and are in operating condition.

- C. The temporary occupancy is in:
 - 1. The dwelling basement,
 - 2. A mobile home which carries a seal from the United States Department of Housing and Urban Development (HUD) pursuant to Section 1010.B, or
 - 3. A trailer.
- D. The mobile home or trailer is not located between the established setback line and the public roadway or curb line of such premises.
- E. The temporary accommodation shall contain sleeping accommodations, a flush toilet and a tub or shower bath adequate to serve the occupants thereof.
- F. The sanitary facilities of the temporary accommodation for the disposal of sewage and waste shall be properly connected to the existing septic tank sewage disposal system which is approved by the Manistee County Health Department for the dwelling, commercial or industrial structure which is being constructed.
- G. No occupant shall cause or permit waste to be discharged upon the ground surface of the premises nor cause or permit refuse to accumulate or remain thereat.
- H. The water facilities shall be properly connected to the public water system available at such premises, and in case such system is not there available, then properly connected to the existing well system which is approved by the Manistee County Health Department for the dwelling, commercial or industrial structure which is being constructed.
- I. The temporary occupancy does not exceed a period of one year.

31.10.1073 Use of Trailers and Similar Moving Objects.

Except as provided in Sections 1071 and 1072, every automobile trailer, trailer, tent and similar portable or temporary dwelling, shall not be permitted to be used or occupied as dwellings.

31.10.1074 Incomplete Structure.

No basement, cellar, garage or any incompletely constructed structure in use as a dwelling at the effective date of this chapter shall be used as a dwelling unless such structure has been brought to state of completion WITHIN TWO YEARS after the date of a notice to complete said incomplete structure from the zoning administrator.

31.10.1080 Home Occupations.

A gainful occupation or service conducted by members of a family within their residential unit, attached or detached auto garage; provided that there be no sale or storage of products or

services rendered, except such as are provided in the residential unit, attached or detached auto garage, and the space used is incidental or secondary to residential use; that there be no external evidence of such occupation or service except a name plate not more than four (4) square feet in area, without illumination, and in character with the neighborhood; and providing further, that said occupation or service does not require or effect any change in the external dimensions of the building. No articles shall be displayed and no services shall be rendered outside the residential unit, attached or detached garage.

31.10.1090 Disposition of Private and Industrial Above Ground Pipe Lines.

The above ground construction or erection, or location of any new private or industrial pipelines containing hazardous or harmful substances for any use in Filer Township is prohibited, except in an industrial area on the plant site. Except as provided in subsection A, the below ground construction, erection or location of any new private, industrial, or certified public pipeline containing a hazardous substance is allowed in any zoning district within the Charter Township of Filer pursuant to a special use permit obtained in accordance with the applicable provisions of Article 86.

- A. In the commercial and industrial zoning districts, below ground pipelines are permitted uses as specified herein:
 - 1. Below ground private, industrial, or certified public pipelines that do not contain or transmit any hydrogen sulfide are permitted right, provided that both of the following are met.
 - a. The pipelines are permitted in accordance with any applicable federal or state law or regulation, or local code or ordinance.
 - b. Copies of such permits are filed with the Township Zoning Administrator.
 - 2. Below ground private, industrial, or certified public pipelines that do contain or transmit hydrogen sulfide are allowed, but only after obtaining a special use permit in accordance with the applicable provisions of Article 86 of this Ordinance.

31.10.1091 Campgrounds and Mobile Home Parks.

Campgrounds and mobile home parks shall be subject to the following requirements of this chapter:

- A. Shall not be erected less than 200 feet from any dwelling existing or any dwelling permitted under this chapter at the time application is made for a permit, or from any boundary line of a residential or commercial district.

- B. Shall not be erected on less than 20 acres with less than 300 feet of frontage on an abutting public street and provided not less than 300 feet of width at the setback line.
- C. No building, trailer or mobile home on the premises shall be located less than 50 feet from the front property line, nor less than 25 feet from any side or rear property line. All side and rear yards shall be provided with screening from adjacent premises, which screening shall consist of either a neat wooden or metal fence, or masonry wall. Or evergreen planting, which screening shall be not less than six feet in height and maintained in good condition at all times.
- D. Lot size for each campground site or mobile home shall be in compliance with regulations set down by the State of Michigan and/or the Michigan Department of Health.

31.10.1092 Oil and Gas Structures, Including Processing Or Sweetening Facilities.

It shall not be permitted to locate, site, construct, operate, or maintain an oil and gas structure, including any processing or sweetening facility, except in those land use districts in which such use is expressly allowed by a special use permit issued in accordance with Article 86 of this chapter.

31.10.1093 Hazardous and Toxic Substances.

The disposal of brine by means other than the use of a converted oil and gas well and the disposal of brine waste not generated as the result of oil and gas well operations and the disposal, processing, transmitting or transporting through any structure, facility, equipment or pipeline of any hazardous substance, including but not limited to hydrogen sulfide and mud related to oil and gas production and related process facilities, wholly or in part through the Township, is prohibited unless the same is permitted, constructed, operated and maintained pursuant to the terms of this chapter.

No person or entity shall engage in or carry on any business or activity upon land within the Township that involves any release, disposal, processing, handling, treatment or transportation of any hazardous substance, except in full compliance with all applicable provisions of this chapter.

31.10.1095 Sexually Orientated Businesses.

- A. **Purpose.** It is recognized that sexually oriented businesses have a deleterious effect upon adjacent area, causing blight, an increase in crime, a decrease in property values, a chilling effect upon other businesses and residents, and a downgrading of the quality of life in adjacent areas, especially when such uses are concentrated in the same general area it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require their dispersal throughout the

commercial zone of the Township to thereby minimize their adverse impact to the best extent possible on any other permitted use.

B. **Conditions.** In order to obtain and retain a special use permit for operation of a sexually orientated business regulated use as defined by this chapter, the following conditions must be met, in addition to all other standards set forth herein for special use permits:

1. A special use permit must be acquired through the special use procedures as described in Article 86.
2. In order to prevent the undesirable concentration of sexually oriented businesses, the regulated uses as specified by Section 5503.J shall not be located within 1,000 feet of any other such regulated uses as defined by this section, nor within 500 feet of any residentially zones district or pre-existing residential use prior to enactment of the zoning districts, school, day care center, church or other religious institution, or public park or other public facility, as measured along a line forming the shortest distance between any portion of the respective properties.
3. The regulated uses, as specified by Section 5503.J, shall only operate between the hours of 8 a.m. and 10 p.m.
4. There shall be a manager on the premises at all times.
5. No one under the age of 18 shall be allowed onto the premises by the on-site manager of the regulated use.
6. If a transfer of ownership or control occurs the existing special use permit shall be considered void. A new permit shall be applied for in advance of the proposed transfer.
7. No product or service for sale or gift, or any picture or other representation thereof, which relates in any way to “specified activities” or “specified anatomical areas” shall be displayed so as to be visible from the street or exterior of the building of the regulated use.

C. **Exceptions to Conditions.** The Planning Commission may waive the foregoing spacing requirements if it finds all of the following condition exist:

1. The proposed use will not be contrary to the public interest or injurious to nearby properties in the proposed location and the spirit and intent of the purpose of the spacing regulations will still be observed.
2. The proposed use will not enhance or promote a deleterious effect upon adjacent areas through causing or encouraging blight, a chilling effect upon other business and residents or a disruption in neighborhood development.

3. The establishment of the proposed regulated use in the area will not be contrary to any program of neighborhood conservation nor interfere with any program of urban renewal.
4. Where all other applicable regulations within the Township Zoning Ordinance or other pertinent Township ordinances will be observed.

31.10.1096 Planned Elderly Community for Persons 55 Years of Age or Older.

- A. **In General.** A Planned Elderly Community for Persons 55 Years of Age of Older (also referred to as a “Planned Elderly Community”) is intended to both promote housing choice and to encourage the development of housing alternatives and opportunities for the elderly residents of the Charter Township of Filer. It is further intended to provide flexible and workable concept of the community living, including the provision within a single development of a range of optional nutritional, recreational, housekeeping and health related services, as well as assistance with daily living. Finally, it is intended to assist in the fulfillment of the purposes of the State Housing Development Authority Act of 1966, being Act 346 of the Public Acts of 1966, as amended.

A Planned Elderly Community shall be designed for and shall be occupied exclusively by persons 50 years of age or older provided that the head of the household is at least 55 years of age. In addition to housing, a Planned Elderly Community may offer the following services to its residents who may choose to use any or all of these services:

1. Meal service for up to three meals per day.
2. Laundry service for personal laundry and linens.
3. Transportation service for personal shopping, social and recreational events, health care appointments and similar needs and services.
4. Housekeeping services.
5. Maintenance service for residents’ living units, including chore services for routine domestic tasks.
6. Community areas suitably equipped and laid out to address the social and recreational needs of the residents.
7. Assisted living services.
8. Additional accessory structures and uses to provide other service for the safety, health and general welfare and convenience of the residents.

- B. **Standards.** No parcel of land shall be considered for a Planned Elderly Community unless it meets all of the following minimum standards:
1. The parcel shall consist of a single lot or a number of contiguous lots or parcels under common ownership or control, having a total area of not less than three acres.
 2. The parcel shall be located in the General Commercial District
 3. The parcel shall have a minimum frontage on a paved road of not less than 100 feet, which condition will be satisfied if the road is to be paved as part of the project.
- C. **Classification.** A Planned Elderly Community shall require a special use permit and site plan approval in accordance with Articles 86 and 94 of this chapter. A detailed site plan shall be required. In the event a conflict arises between the requirements and procedures of this section and any other section of the chapter, then the provisions of this section shall take precedence.
- D. **Design Standards.** The following standards shall apply to the design and development of a Planned Elderly Community:
1. The maximum number of all units in a Planned Elderly Community shall not exceed 14 units per acre.
 2. The minimum size of the living area of each type of unit shall be determined in accordance with the following schedule:
 - a. Two bedroom units, 800 square foot minimum.
 - b. One bedroom units, 600 square foot minimum.
 - c. Efficiency units, 450 square foot minimum.
 3. The following setbacks shall be observed:
 - a. Front yard setback – 35 ft.
 - b. Side yard setbacks – 35 ft.
 - c. Rear yard setbacks – 20 ft.
 4. There shall be one parking space provided for each living unit.
 5. All utilities shall be underground.
 6. Public sanitary sewers and public water shall be required.

7. A Planned Elderly Community shall include one or more community areas or areas suitable designed and equipped to meet the social interactional and leisure time needs of the residents of the Planned Elderly Community.
8. The Planned Elderly Community shall provide safe and adequate walkways for residents within the development. The applicant shall provide for adequate transportation services for the residents to provide access to necessary community services; this requirement may be satisfied by on-call public transportation facilities.

ARTICLE 16
SPECIAL USE STANDARDS AND SPECIAL REGULATIONS

31.16.1601 Wireless Communication Facilities.

- A. **Purpose and Intent.** It is the general purpose and intent of the Charter Township of Filer to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the Township of Filer to provide for such authorization in a manner which will retain the integrity of the neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

1. Facilitate adequate and efficient provision of sites for wireless communication facilities.
2. Establish predetermined districts or zones of the number, shape, and in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
3. Recognize that operation of wireless communication systems may require the establishment of facilities in locations not within the predetermined districts or zones. In such cases, it has been determined that it is likely that there will be greater adverse impact upon certain areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
4. Ensure that wireless communication facilities are situated in the appropriate locations and relationships to other land uses, structures and buildings.
5. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
6. Promote the public health, safety and welfare.
7. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.

8. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
9. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, and the use of structures which are designed for compatibility, including the use of existing structures and the avoidance of lattice and guyed structures that are unnecessary, taking into consideration the purposes and intent of this section.
10. The Planning Commission finds that the presence of numerous tower structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This, in turn, would have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of numerous relatively tall tower structures having low architectural and other aesthetic appeal to most persons, recognizing that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further recognizing that this economic component is an important part of the public health, safety and welfare.

B. Authorization.

1. Subject to the standards and conditions set forth in subparagraph D.1, below, wireless communication facilities shall be permitted uses in the following circumstances in the following districts:
 - a. Circumstances creating permitted use treatment.

In the following circumstances in the Agricultural/Residential and the Limited Industrial Districts, a proposal to establish a new wireless communication facility shall be deemed a permitted use:

- (1) An existing structure which will serve as an attached wireless communication facility within a non-residential district, where the existing structure is not, in the discretion of the zoning administrator, proposed to either materially altered or materially changed in appearance.
- (2) A proposed collocation upon an attached wireless communication facility which had been pre-approved for such collocation as part of an earlier approval by the Township.

2. Subject to the standards and conditions set forth below, wireless communication facilities shall be authorized as special land uses in the Agricultural/Residential District and the Limited Industrial District.
3. If it is demonstrated by an applicant that a wireless communications facility may not reasonably be established as a permitted use under paragraph 1, above, and, is required to be established outside of a district identified in paragraph 1 and 2, above, in order to operate a wireless communication service, then wireless communication facilities may be permitted elsewhere in the Township as a special land use, subject to the criteria and standards of paragraphs D and F, below.

C. General Regulations.

1. **Standards and Conditions Applicable to all Facilities.** All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions. In addition, if the facility is approved, it shall be constructed and maintained with any additional conditions imposed by the Planning Commission in its discretion:
 - a. Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
 - b. Facilities shall be located and designed to be harmonious with the surrounding areas.
 - c. Wireless communication facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
 - d. Applicants shall demonstrate a justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
 - e. The following additional standards shall be met:
 - (1) The maximum height for the new or modified wireless communication support structure and antenna shall be 350 feet in the Agricultural District and 499 feet in the Limited Industrial District.
 - (2) The setback of the wireless communication support structure, including guyed wires, shall meet the setbacks of the district in which it is located.

- (3) There shall be unobstructed access to the support structure, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. This access shall have a width and location determined by such factors as: the location of adjacent thoroughfares and traffic and circulation within the site; utilities needed to service the tower and any attendant facilities; the location of buildings and parking facilities; proximity to residential districts and minimizing disturbance to the natural landscape; and, the type of equipment which will need to access the site.
- (4) Accessory structures are limited to uses associated with the operation of the tower and must meet all setback requirements for the district in which site is located. Accessory buildings shall not exceed 600 square feet of gross building area. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- (5) The division of property for the purpose of locating a wireless communications facility is prohibited unless all zoning requirements and conditions are met.
- (6) Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appliance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building.
- (7) The Planning Commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
- (8) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. The soils report shall include soil borings and statements confirming the suitability of soil conditions for the purposed use. Tower

construction plans shall be certified by a registered structural engineer. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.

- (9) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure, long term, continuous maintenance to a reasonably prudent standard.
- (10) The use of guyed wire towers is strictly prohibited in a residential district.
- (11) The use of a trellis tower is strictly prohibited.
- (12) The base of the tower shall be fenced with a minimum six-foot high fence designed to prevent access to all parts of the wireless communication support structure. All towers shall be equipped with an anti-climbing device to prevent unauthorized access.
- (13) The tower owner shall agree to design and build the tower to provide for a minimum of four additional antennas. Subleases for this space shall be made available at a rate reflecting current local industry standards.
- (14) Structures shall be subject to any state and federal regulations concerning electromagnetic radiation. If more restrictive state or federal regulations are adopted in the future, the antenna shall be made to conform to the extent required by such standards or the special use approval will be subject to revocation by the Planning Commission. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- (15) Towers shall not be artificially lighted unless required by the Federal Aviation Administration. There shall be no displayed advertising or identification of any kind intended to be visible from the ground or other structure, except as required for emergency purposes.

- (16) In all districts other than the Limited Industrial District, minimum spacing between tower locations shall be one mile in order to prevent a concentration of towers in one area.
- (17) The applicant shall incur all costs associated with Township engineering review.
- (18) All tower locations shall be a minimum of 1,500 feet from the Lake Michigan shoreline, the Manistee Lake shoreline, the Magoon Creek natural area, and Sundling Park.

2. **Standards and Conditions Applicable to Special Land Use Facilities.** Applications for wireless communication facilities which may be approved as special land uses under subparagraph 2 or 3 of paragraph C, above, shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in subparagraph D.1, and in accordance with the following standards (also see paragraph F for special land uses under subparagraph 3 of paragraph C):

- a. The applicant shall demonstrate the need for the proposed facility to be located as proposed based upon the presence of one or more of the following factors:
 - (1) Proximity to an interstate or major thoroughfare.
 - (2) Areas of population concentration.
 - (3) Concentration of commercial, industrial, and/or other business centers.
 - (4) Areas where signal interference has occurred due to tall buildings, masses of trees or other obstructions.
 - (5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - (6) Other specifically identified reason(s) creating facility need.
- b. The proposal shall be reviewed in conformity with the collocation requirements of this section.

D. Application Requirements.

1. A site plan prepared in accordance with Article 94 shall be submitted, showing the location, size, screening and design of all buildings and structures, including fences, and the location and size of outdoor equipment, and the location, number, and species of proposed landscaping.

2. The site plan shall also include a detailed landscaping plan where the support structure is being placed at a location which is not otherwise developed, or where a developed area will not be disturbed. The purpose of the landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, there shall be shown on the plan fencing which is required for protection of the support structure and security from children and other persons who may otherwise access facilities.
3. The application shall include a signed certification by a State of Michigan licensed professional engineer with regard to the manner in which the proposed structure will fall, which certification will be utilized, along with other criteria such as applicable regulation for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
4. The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in paragraph H below. In this regard, the security shall, at the election of the applicant, be in the form of: (1) cash; or (2) surety bond; establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section of the chapter, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the community in securing removal.
5. The applicant shall include a map showing existing and known proposed wireless communication facilities within the Township, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released would result in commercial disadvantage to the applicant, may be submitted with a request of confidentiality in connection with the development of governmental policy. MCL 15.243(1)(g). This chapter shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
6. The name, address, and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously update during all times the facility is on the premises.

E. **Special Requirements for Facilities Proposed to be Situated Outside the Designated Districts.** For facilities which are not permitted uses under paragraph C.1, above, and proposed to be located outside of the designated districts identified in C.2, above, an application shall be reviewed and, if approved, facilities shall be constructed and maintained in accordance with the following additional standards and requirements, along with those in paragraph D:

1. At the time of the submittal, the applicant shall demonstrate that a location within the designated districts cannot reasonably meet the coverage and/or capacity needs of the applicant.
2. Wireless communication facilities shall be a design such as (without limitation) a steeple, bell tower, or other form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Township.
3. In single-family residential neighborhoods, site locations outside of a district identified in paragraphs C.1 and C.2, above, shall be permitted on the following sites (not stated in any order of priority), subject to application of all other standards contained in this section:
 - a. Municipally owned site.
 - b. Other governmentally owned site.
 - c. Religious or other institutional site.

F. **Collocation.**

1. **Statement of Policy.** It is the policy of the Charter Township of Filer to minimize overall number of newly established locations for wireless communication facilities and wireless communication support structures within the community, and encourage the use of existing structures for attached wireless communication facility purpose, consistent with the state of purpose and intent, set forth in paragraph A of this section above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to Federal Telecommunications Act of 1996, it is the policy of the Township that all users shall collocate on attached wireless communication facilities and wireless communication support structures in the interest of achieving the purposes and intent of this section; as stated above, and as stated in paragraph A of this section. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and

unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

2. **Feasibility of Collocation.** Collocation shall be deemed to be “feasible” for purposes of this section where all of the following are met:

- a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township.

3. **Requirements for Collocation.**

- a. A special land use permit for the construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- b. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- c. The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure so as to accommodate a proposed or otherwise feasible collocation, such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
- d. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new wireless communication support structure, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation

and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support within the Township for a period of five years from the date of the failure or refusal to permit the collocation. And also be subject to all enforcement provisions of the Zoning Ordinance.

4. **Incentive for Collocation.** Review of an application for collocation, and review of an application for a permit for use of a facility permitted under paragraph C.1.a, above shall be expedited by the Township.

G. Removal.

1. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - a. When the facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operation (transmission and/or reception of radio signals) shall be considered as the beginning of a period of non-use.
 - b. Six months after new technology is available at reasonable cost as determined by the Planning Commission, which permits the operation of the communication system without the requirement of the support structure.
2. The situations in which removal of a facility is required, as set forth in paragraph 1 above, may be applied and limited to portions of a facility.
3. Upon the occurrence of one or more of the events requiring removal, specified in paragraph 1 above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Planning Commission.
4. If the required removal of a facility or a portion thereof has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days written notice, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.

31.16.1602 Utility Grid WECS.

- A. **Utility Grid WECS.** Utility Grid WECS shall be allowed in the Agricultural Residential District as a special use by permit authorized under Article 86 of this chapter, Section 31.86.8601, *et seq.*, and the specific requirements, specifications and conditions of this section. A Utility Grid WECS project shall require detailed site plan approval under Section 31.94.9406.

For the sake of brevity, as used in this section, the term “WECS” shall mean a Utility Grid WECS, unless the context clearly requires a different interpretation.

- B. **Additional Application Requirements.** In addition to the requirements for submission of a special land use permit application and site plan, the applicant shall submit the following additional information with its application:

1. **Avian Study.** At the time of application, the applicant shall submit a wildlife study, completed by a qualified professional, to assess the potential impacts of the proposed WECS upon bird and bat species. The wildlife study shall include the results of an environmental review request from the Michigan Department of Natural Resources, a literature review for threatened and endangered species and for birds and bats, the results of supplemental environmental surveys conducted by the applicant to provide information related to critical flyways, migratory routes, feeding areas, and/or nesting sites for protected species. It is the intent of this section to reasonably consider and protect avian and bat species, not just those that are endangered or threatened. The applicant must identify any plans for post-construction monitoring and studies. The analysis shall also include an explanation of potential impacts and proposed mitigation plans, if necessary. A qualified, third party review of the applicant’s wildlife studies and/or environmental surveys may be required by the Planning Commission.

2. **Preconstruction Noise Background Survey.** The applicant shall provide a noise background study at the time of application which indicates Leq, L₁₀, and L₉₀ ten-minute sound levels using A-weighting for frequency. For applications submitted after the effective date of this section, the applicant shall submit proposed measurement locations to the Planning Commission in advance of the survey for review and approval. Measurement procedures should generally follow the most recent versions of ANSI S12.18, and ANSI S12.9, Part 3 (with or without an observer present) guidelines. The selected test locations shall be described with GPS coordinates or some other level of detail such that the location can be used by others to repeat or verify sound measurements. Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The noise

background study shall report for the period of monitoring topography, temperature, weather patterns, sources of ambient sound, and prevailing wind direction. The study shall include a map showing proposed wind turbine locations, pooled and unpooled parcels, and all occupied buildings.

3. **Sound Modeling Study.** A predictive sound study of turbine noise shall accompany an application for a WECS to verify that ordinance requirements can be met for dBA sound levels. The applicant shall present the maximum Sound Power Level of the proposed turbine on both the dBA and dBC scales, and will calculate the difference [dBC-dBA] in decibels and compare it to the 20 decibel threshold in IEC 61400-11, Annex A, as an indicator of whether the turbine is likely to produce low-frequency noise that could create annoyance. For assessing potential low frequency or vibration problems, refer to Section 31.16.1602.B.5. The sound modeling must follow the most recent version of International Standard, ISO 9613-2 “Acoustics - Attenuation of sound during propagation outdoors – Part 157 June 2, 2011 2: General method of calculation.” The sound modeling study shall use wind turbine sound power levels determined according to the most recent version of IEG 61400 - Part 11. The sound study shall include a map with sound contour lines for both dBA and dBC sound emitted from the proposed WECS. The study shall include a map showing sound contours at 6 dBA intervals, proposed wind turbine locations, pooled and unpooled parcels, and all occupied buildings. The predicted values must include sound levels created by all proposed turbines from the applicant’s project. The sound study shall extend out to the 30 dBA sound contour line or 1 mile from a WECS, whichever is closer to the nearest WECS.
4. **Wind Rose Chart.** The applicant shall submit a Wind Rose Chart at the time of the application. This is a chart or graph that describes 12 months (or more) of wind data collected from the proposed project area. This graph or chart will demonstrate direction, duration, and intensity of the wind. These data will be for each height of wind sensor mounted on the meteorological tower.
5. **Low Frequency Sound and/or Vibration.** The applicant shall provide acoustic modeling at the time of application to assess potential low frequency or vibration problems. The modeling study of low frequency sound and vibration shall demonstrate meeting: (1) ANSI S12.9/Part 4 Annex D threshold for minimal annoyance and beginning of rattles from outdoor low frequency noise as summarized in Section 2.2 2 of the March-April, 2011 Noise Control Eng. article by O’Neal, et al. and (2) the ANSI S12.2 sound level limits for moderately perceptible vibration and rattles within homes as modified to equivalent outdoor sound limits in Table 2 of the March-April, 2011 Noise Control Eng. Journal article by O’Neal, et al. The ANSI S12.2 interior sound level limits for low frequency sound and perceptible vibration within homes, as modified to equivalent outdoor

sound limits in Table 2 of the March-April, 2011 Noise Control Eng. Journal article by O’Neal, et al. shall be utilized to determine if outdoor sound levels will create perceptible vibration or low frequency problems indoors. If the post-construction sound survey outdoor octave band sound level measurements reveal that low frequency sound from wind turbines at the exterior of an unpooled, occupied or non-occupied building may create a vibration or low frequency noise problem, then further studies should be conducted to assess the problem. The further studies shall use the above referenced standards (ANSI S12.2 and ANSI S12.9/Part 4 Annex D).

6. **Visual Impact Study.** The applicant shall provide elevation or drawings, detailed computer and/or photographic simulations, photo montage and other models and visual aids showing the WECS with all related facilities as they will appear on the proposed site from vantage points north, south, east and west of the project. The applicant shall also provide a viewshed analysis plan of the project, showing the entire area and all locations from which the WECS will be visible.
7. **Adjacent Pipelines.** The site plan shall, in addition to all other requirements, depict the location of any above or below ground transmission pipelines located within one-half mile of the boundary of the pooled or single site.
8. **Engineering Data.** Engineering data concerning construction of the tower base must be submitted.
9. **Coating Gloss Specifications.** The applicant shall include the gloss factor of the coatings to be used on each major component of the turbines, including the nacelle, tower, hub and blades.
10. **Electromagnetic Interference.** The applicant shall include a Licensed Microwave Search and Worst Case Fresnel Zone (WCFZ) analysis. The application shall include an electromagnetic interference mitigation plan.
11. **Operational Failures.** The applicant shall provide the Township with a proposed written operational procedure in the event of mechanical failure resulting in abnormal sound emission, release of a pollutant, or public safety hazard, a mitigation strategy, and appropriate emergency contact information.
12. **Pooling.** If two or more parcels are included in the special land use application, the applicant shall provide the information necessary to comply with the requirements of this section for pooling of parcels.
13. **Complaint Resolution.** The applicant shall submit written procedures which it intends to implement for receiving, acting upon, and resolving

complaints or allegations that the WECS is not in compliance with this ordinance.

14. **Variation of Requirements.** The Planning Commission may waive certain application requirements if deemed not necessary to full and complete review of the application, and may permit submission of information or data using current or updated standards equivalent to those specified in this section.

C. **Performance and Design Specifications - General.** All Utility Grid WECS shall comply with the following specifications, and the applicant shall demonstrate that the Utility Grid WECS will comply with these specifications as a condition of approval:

1. All WECS shall be equipped with manual and automatic overspeed controls to limit rotation of blades to speed below the designed limits of the WECS. A certified registered engineer and authorized factory representative shall certify that the rotor and overspeed control design and fabrication conform to good engineering practices. No changes or alterations from certified design shall be permitted unless accompanied by a certified registered engineer's and the authorized factory representative's statement of certification.
2. All electrical compartments, storage facilities, wire conduit and interconnections with utility companies will conform to national and local electrical codes.
3. A visible warning sign of "High Voltage" will be placed at the base of all conversion systems. The sign shall have at a minimum six inch letters with 3/4-inch stroke. This sign shall include a 24-hour emergency phone number.
4. All towers or poles must be unclimbable by design or protected by anti-climbing devices such as:
 - a. Fences with locking portals at least six feet high;
 - b. Anti-climbing devices 12 feet from base of pole.
5. Tubular towers are required for WECS. Guy wires, cables or anchoring mechanisms, extending beyond the mounting foundation of the WECS, are prohibited.
6. The base of the wind turbine must be constructed in such a manner that upon removal of said tower, the soil will be restored to its original condition to a depth of four feet.

7. “Up wind turbines” are required.
8. Constant velocity turbines are preferred. Variable speed turbines must submit additional data concerning noise when their revolutions per minute exceed 25 rpms.
9. Visual appearance and its impact on nearby dwellings will be limited by using muted colors, industry standard that minimizes visibility, and by using turbines that are consistent in their appearance.
10. No advertising of any kind shall be allowed on the wind turbine.
11. The electrical wires used to connect the turbine tower to its step-up transformer shall be installed at a depth of 48 inches or more below ground.
12. Any lighting on the WECS required by the FAA shall be of the lowest intensity and of the slowest pulse allowed, utilizing best available technology, including transponder-triggered lighting if in compliance with FAA regulations. No other lighting on the WECS shall be permitted.
13. Automatic fire suppression equipment shall be included within each turbine of a WECS.
14. All WECS shall be sited in accordance with the findings of electromagnetic interference mitigation plan and approved by the Planning Commission. The applicant shall eliminate any electromagnetic interference and line of sight interference such as, but not limited to, internet, radio, emergency services/radio, and television.
15. Only those accessory buildings and structures directly associated with the operation of the WECS shall be located on the site. Accessory buildings and structures shall not exceed 2,000 feet of gross building area.
16. Each WECS shall be secured or protected from access by unauthorized persons. The Planning Commission may require installation of one or more security fences.

D. Sound Level Limits.

1. The A-weighted equivalent sound level (LAeq) measured at the property line of an unpooled (single) parcel (as defined in subsection 19 hereof) upon which there is an occupied building or dwelling shall not exceed 40 dBA. If the unpooled parcel does not have an occupied principal building or dwelling on it, then the 40 dBA sound limit may be measured at the property line; provided that when an occupied principal building or dwelling is built on such unpooled parcel after the special land use permit has been issued, the sound level shall not exceed 40 dBA measured at the nearest wall of the

occupied building or dwelling located on the unpooled parcel and in compliance with the minimum required front, side and rear yard setbacks then in effect within the zoning district in which the occupied building or dwelling is located.

2. On a pooled parcel, the ten-minute LAeq sound level measured at the wall of an occupied building nearest to the wind turbine or turbines shall not exceed 55 dBA.
 3. These sound level limits are to be evaluated using the A-weighted equivalent sound level (LAeq) descriptor. The LAeq shall be measured using a ten-minute time interval.
 4. The sound level limits listed above apply to the contribution from the WECS only and do not include contributions from background ambient sounds.
 5. If the acoustic modeling study indicates that the low frequency sound/vibration exceeds acceptable levels, mitigation may be required by the Planning Commission. Mitigation may include operational changes to the turbine, modifications to the subject building or buildings, or other measures as determined by the Planning Commission.
- E. **Signal Interference.** No WECS shall be installed in any location where its proximity with existing fixed broadcast transmission, or reception antennas for AM or FM radio, 911, emergency systems, internet broadband, satellite reception, off-air television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- F. **Shadow Flicker Limits.** No shadow flicker on a building or dwelling used for human occupancy shall be observable on an unpooled parcel. If an occupied building or dwelling is built on an unpooled parcel after the issuance of a special land use permit for a utility grid WECS and the occupied building or dwelling is in compliance with the minimum required front, side and rear yard setbacks then in effect within the zoning district in which the occupied building or dwelling is located, the shadow flicker from the WECS at the nearest external wall or walls of such occupied building or dwelling shall be a maximum of ten hours per year. Mitigation measures for each receptor site shall be provided, including but not limited to, siting changes, operational procedures, grading, modifications to a dwelling, and/or landscaping. If landscaping is used as a mitigation procedure, the planting of mature trees shall be required. The Planning Commission may require a performance guarantee, in the case of landscaping and/or other mitigation measures, to assure the long term viability and effectiveness of the mitigation.

- G. **Roads.** The utilization of roads and the road right-of-way for the construction of a WECS must meet the requirements set forth by the Manistee County Road Commission.
- H. **Certification.** The compatibility of the tower structure with the rotors and other components of the conversion systems shall be certified by a certified, registered engineer and by the authorized factory representative. The certified registered engineer and authorized factory representative shall certify that the construction and installation of the conversion system meets or exceeds the manufacturer's construction and installation standards.
- I. **Height and Setback Requirements.**
1. The maximum Tower Height (as defined in this Ordinance) shall be determined utilizing the standards of this section, the general standards applicable to special uses, and best available technology with respect to necessary Tower Height. A WECS is not subject to the general height limitations imposed on other types of buildings and structures.
 2. The lowest point of the blade shall be a minimum of 30-feet above the ground.
 3. No WECS shall be located such that the distance between the center of the base of the tower and the property line of a single (unpooled) parcel, or any outside boundary line of the area comprising the special land use in which pooled parcels are located, is less than two times the tower height of the WECS.
 4. In the case of pooled parcels, no WECS shall be located such that the distance between the nearest point of the blade (while in rotation) and the nearest boundary line of any individual land parcel comprising the pooled parcel is less than 50 feet. Provided, however, that the Planning Commission may approve a lesser setback distance if written consents for such lesser distance are obtained from the owners of all lands located, in whole or in part, within one rotor-diameter of the WECS measured from the center of the base of the WECS. In determining whether such lesser setback may be approved, the Planning Commission shall consider the technical needs of the applicant, the feasibility of alternate locations, the nature and proximity of nearby buildings and structures, and the potential for adverse impacts that noise, shadow flicker, and other features may have on adjacent land uses.
 5. No WECS shall be located such that the distance between the center of the base of the tower and (1) the nearest point of any existing building designed or used for human occupancy or assembly (including but not limited to a dwelling, school, foster care facility, church and the like) or any public road

right-of-way is less than two times the tower height of the WECS; and (2) the nearest point of any existing building or structure that is not designed or used for human occupancy or assembly (including but not limited to a garage, other accessory building, barn, or storage building and the like) is less than one and one half times the tower height of the WECS.

6. All WECS shall fully comply with any airport zoning or other aviation safety regulations.

J. Maintenance and Operation.

1. Prior to commencement of operation, the operator shall provide to the Township and to the County of Manistee, a digital database in Microsoft excel, ESRI GIS software, or other format as directed by the Township, the following information about the WECS: Its GPS location, structure identification number, date of installation, date of initiation of operation, anticipated life span, maintenance interval, tax parcel identification number upon which it is located, and owner information including name, address, and telephone contact.
2. A WECS must be maintained and kept in good working order. The WECS owner or operator shall provide the Township Zoning Administrator with a copy of a yearly maintenance inspection report.
3. Any WECS that has not produced electrical energy for 12 consecutive months shall be deemed to be abandoned; provided, however, that the owner or operator of the wind turbine may apply to the Planning Commission, not less than three months prior to the expiration of said 12-month period, for one additional extension of up to twelve months upon establishing, to the satisfaction of the Planning Commission, that the lack of production was caused by reasons beyond the control of the owner or operator. In determining whether such abandonment has occurred, the Planning Commission or Township Zoning Administrator may request, and the operator, system owner, or property owner shall provide written documentation by accurately indicating the amount of electrical energy produced by the WECS during said 12-month period. It shall be the obligation of the WECS owner to remove the abandoned WECS.
 - a. To ensure that an abandoned WECS is removed, security in a form provided by Section 31.94.9413 of this Ordinance, in an amount determined by the Planning Commission to be sufficient to cover the entire cost of removal, shall be submitted by the applicant prior to the issuance of the special land use. To assist the Planning Commission in determining the amount of the security required, the applicant may submit information regarding the estimated cost to remove a WECS.

- b. The security shall ensure upon the timely and faithful performance of the requirements of this ordinance and the special land use. The security shall remain in effect for the duration of the special land use. The amount of security shall be adjusted at least every three years to reflect changes in the estimated cost of removal, based on the most recent inflation index for the cost of comparable services, as published by the U.S. Bureau of Labor Statistics, or other applicable federal agency or other commonly accepted index.
 - c. If the WECS owner fails to remove the WECS as required, then the Township is entitled to use the proceeds from the security to have the WECS removed. Such removal by the Township shall not relieve the owner of the WECS from its removal obligation.
4. A condition of the security shall be written notification by the issuing company or institution to the Township Zoning Administrator when the performance bond or letter of credit is about to expire or be terminated.
 5. Failure to keep the security in effect while a WECS or weather testing tower is in place will be a violation of the special land use approval. If a lapse in the performance bond or letter of credit occurs, the Township will use all available remedies including revocation of the special land use approval.
 6. If there is a mechanical failure resulting in an abnormal sound emission, release of a pollutant, or a public safety hazard, the Zoning Administrator shall be notified of the event the next day of business following the event. A written report describing the failure and the owner's response to the failure shall be submitted to the Zoning Administrator within ten business days of the event. Sound emitted from a WECS that is the result of a mechanical failure or lack of maintenance shall not be subject to the complaint resolution procedure outlined in this section.
 7. Emergency contact information and a turbine reference number shall be placed in an appropriate location near the site of the turbine, such as at the gate for the access road, so it can be viewed without trespassing on private property.

K. Pooling of Parcels.

1. If two or more parcels of land are included in the special land use, they shall be pooled into a single unit (the "pooled unit") for purposes of the special land use, in accordance with this subsection.
2. The applicant shall attach to its application the pooling instrument and copies of all leases, easements or other instruments which constitute the applicant's land use rights for all parcels comprising the pooled unit, and which together with the pertinent facts in the application and site plan

establish that the applicant will not be required to release or terminate its lease, easement, or other land use rights with respect to any parcel being pooled for the purpose of obtaining a single special use permit for the duration of the special land use if and to the extent that such a release or termination would result in a conflict with or a violation of the special land use permit or any other provisions of this zoning ordinance. The pooling instrument shall be executed and recorded by the applicant with the County Register of Deeds prior to the issuance of the special land use.

3. The pooling instrument shall be the form of a declaration of pooling, and shall contain the content thereof, as prepared and furnished by the Township for use by all applicants requesting a special land use, with the appropriate land descriptions provided by the applicant and other specific references applicable to the lands involved. The form of declaration of pooling furnished by the Township shall include a statement that the lands are being pooled for the purpose of operations under the approved special land use and shall have the legal effect of imposing the terms of the special land use upon each parcel of land comprising the pooled unit.
4. The form of declaration of pooling furnished by the Township, as completed by the applicant with the relevant legal descriptions and other matters specific to the lands involved, shall be subject to final approval by the Planning Commission prior to the instrument being recorded with the Register of Deeds.
5. The form of declaration of pooling furnished by the Township shall by its terms run with the land so as to be binding upon and inure to the benefit of all successors and assigns of the applicant and the owners of the parcels comprising the pooled unit. It shall be enforceable by the Township, the applicant, and the owners of the parcels comprising the pooled unit.
6. As a condition of the special land use, the Planning Commission may require the applicant to submit a title search, at the applicant's expense, certified to the date of the special land use application or, as determined by the Planning Commission, to the date of recording of the applicable pooling instrument, lease, easement or other recorded instrument, by an approved title examiner or title insurance company, covering the proposed pooled unit, and disclosing the then owners of the lands comprising the pooled unit.
7. Neither the applicant nor the property owner, may release or terminate the declaration of pooling, or other pooling instrument, or any lease, easement or other instrument executed in compliance with the special land use, as to the entire pooled unit or any part thereof, for the duration of the special land use, in whole or in part, if and to the extent that such a release or termination would result in a conflict with or a violation of the special land use or other applicable provision of this Zoning Ordinance.

8. The applicant shall record with the Register of Deeds a memorandum of the special land use permit issued with respect to all parcels pooled as part of the special land use obtained hereunder. The memorandum shall consist of the form of memorandum approved by the Township for use by applicants for the special land use, and shall contain the content thereof as prepared by the Township, except for legal descriptions and other references specific to the lands involved, which shall be included by the applicant. Prior to the memorandum being recorded with the Register of Deeds, the applicant may be required to submit to the Township Attorney for approval, consistent with the provisions of this section, the proposed memorandum as completed by the applicant with the land descriptions and other references specific to the land involved.

L. **Performance Review.** The Planning Commission shall require a performance review of the special land use on not less often than a three-year basis or as it may be deemed necessary by the Township. The three-year time period commences after the first turbine of the WECS becomes operational. The Planning Commission shall provide the performance review and the Township shall perform, where reasonably practicable, investigation regarding a complaint or other matter requiring a performance review. In its sole discretion, the Township may require the assistance of an independent third party due to the specialized nature of the complaint, conflicting evidence, or other condition. The reasonable cost of an independent third-party consultant shall be at the expense of the WECS owner. Failure to maintain compliance with this section or any conditions of the approving ordinance shall result in enforcement action which may include the termination of the special land use, or portions of the special land use. In regards to a complaint that prompts a performance review, the burden of proof shall be on the complainant to establish the violation or other condition requiring a performance review prior to instituting such a review. The purpose of the performance review is to evaluate the status of:

1. **Compliance with Special Land Use.** Compliance with the conditions set forth by the special land use, such as specific mitigation measures or operational procedures.
2. **Ownership Change.** Changes in ownership or operation of the WECS.
3. **Avian or Bat Mortality.** A significant avian or bat mortality event that exceeds projected impacts described in the Wildlife Study as required by this section.
4. **Post-Construction Sound Survey.** Documentation of sound pressure level measurements shall be provided to the Zoning Administrator by a third-party qualified professional selected by the Planning Commission and at the expense of the WECS owner within 12 months of the commencement of the operation of the project. The post construction study shall be performed at the same locations as the pre-construction study unless additional locations

are required by the Planning Commission. The study should generally follow the procedures in the most recent versions of ANSI S12.9 Part 3 (with or without and observer present) and ANSI S12.18. All sound pressure levels shall be measured with instruments that meet ANSI or IEC Type 1 Precision integrating sound level meter performance specifications. In addition to measuring A-weighted sound levels, at least one monitoring location shall collect one-third octave band data down to 6.3 Hertz. As part of the study, octave band data must be measured as addressed in Section 31.16.1602.B.5. The post construction test shall verify that equivalent sound level limits in dBA are in compliance with the standards of this ordinance. The compliance test procedure will use an alternating series of turbine-on and turbine-off ten-minute Leq measurements when wind speeds are fairly constant. Measured levels (turbine-on and turbine-off) for similar hub height wind speeds will be compared to determine the sound level from only the wind turbines. The firm conducting the study shall collect LA₉₀ and LA₉₀ data. The study shall address noise complaints on file with the Township and may require additional study locations as deemed necessary by the Planning Commission. The firm conducting the post-construction sound survey shall consult with the Planning Commission, or their representative, prior to conducting the study to agree on the compliance testing locations. The study shall delineate pooled and unpooled parcels as well as occupied buildings. Should the sound study indicate a non-compliant measurement, the owner of the WECS will be required to obtain compliance through mitigation or other measures.

5. **Other.** Other matters as determined by the Planning Commission.
6. **Unresolved and/or Repeated Complaints.** A complaint taking longer than 60 days to resolve may require a performance review unless otherwise specified in the ordinance. If after the performance review and further investigation, the Planning Commission verifies that alleged ordinance violations are the result of the operation or condition of the WECS, the owner/operator shall eliminate the non-compliance by mitigation or other measures which may include temporary operational changes. The Planning Commission shall establish the effective date of the mitigation measure based on the nature of the mitigation.
7. Actions taken by the Planning Commission to terminate or modify the Special Land Use, portions of the Special Land Use, or the conditions of the Special Land Use as a result of complaints or a performance evaluation, shall require a public hearing before the Planning Commission with notification to the WECS owner in accordance with the special use application by this ordinance, and the Zoning Enabling Act. Following public hearing, the Planning Commission shall make a recommendation to the Township Board, which shall make the final decision as to such termination or modification.

- M. **Complaint Resolution.** The purpose of this section is to provide the public with a mechanism to file a complaint with the WECS owner and the Zoning Administrator and receive a timely response from the WECS owner regarding alleged WECS ordinance violations.
1. Complaint resolution procedures, approved by the Planning Commission prior to approval of a special land use, shall at a minimum:
 - a. Require the system owner to accept complaints regarding non-compliance with the ordinance from all property owners within the project boundary and up to one mile radius of a WECS.
 - b. Provide a telephone number and mailing address at which the operator can be contacted for purposes of submitting complaints or allegations of non-compliance.
 - c. Require that all such complaints or allegations be submitted in writing.
 - d. As a condition of the system owner acting on the complaint, require that a complainant allow the WECS owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
 - e. Set forth information that must be included in the complaint or allegation.
 - f. Require that a complaint is acknowledged in writing by the wind turbine owner to both the complainant and the Zoning Administrator within five business days of receipt of said complaint.
 - g. Set forth the number of days, not to exceed 30, in which the operator shall investigate and resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.
 - h. Require the operator to advise the Zoning Administrator in writing of the resolution of any complaint or allegation of non-compliance within 30 days of its receipt of the same.
 2. Any complaint not resolved within 30 days may result in a performance review by the Planning Commission as described in this section. Resolution or mitigation of a complaint that involves construction, landscaping, testing or other significant alteration/operational condition that is dependent on seasonal or other conditions may exceed 30 days if approved by the Planning Commission.

3. As a condition of the Planning Commission conducting a performance review, the complainant shall be required to allow Township staff, the WECS owner or designated staff, or other authorized personnel such as an engineer or acoustic professional, on the property of the complainant for further investigation and testing.
4. The approved complaint resolution procedures may not be changed without the prior approval of the Planning Commission.

[Section 31.16.1602 amended in its entirety October 7, 2014]

[Title Three, Chapter 31 (Zoning), Article 16 of the Code is hereby amended to add new Section 1603, On-Site Use WECS, to read, in its entirety, as follows:]

31.16.1603 On-Site Use WECS.

- A. On-site use WECS shall be allowed in all land use districts as an authorized use by land use permit authorized under Section 31.84.8401 *et seq.* and subject to satisfying all of the conditions of this section if:
 1. The WECS generates ten kilowatts or less of electricity per hour.
 2. The WECS is 20 meters high or less.
 3. The WECS is not supported by guywires.
- B. On-site use WECS shall be allowed in all land use districts as a special use by permit under Section 31.86.8601 *et seq.* and subject to satisfying all of the conditions of this section if:
 1. The WECS generates more than ten kilowatts of electricity per hour;
 2. The WECS is more than 20 meters high; or
 3. The WECS is supported by guywires.
- C. On-site use WECS shall require basic site plan approval under Section 31.94.9404. In addition, the following requirements shall be satisfied, and the site plan shall include:
 1. A complete project description showing the locations of all existing overhead electrical transmission wires or distribution lines whether utilized or not and the location of each WECS with specific dimensions.
 2. A project description showing for each WECS its height above grade, diameter of the rotor and tower type.

3. Construction plans and specifications for each proposed WECS and its anchoring system certified as structurally safe by a registered professional engineer licensed and insured in the State of Michigan.
4. A statement of the survival wind speed for each WECS.
5. A project description showing that the WECS will comply with the setback requirements of this section.

D. Size and Setback.

1. In addition to any required setback area for the land use district in which the WECS is located, there shall be an additional setback not less than the height of the on-site use WECS plus ten feet from lot lines and overhead power lines.
2. The minimum height of all moving parts and climbing devices on an on-site use WECS shall be three meters above the ground.

E. Construction Standards.

1. On-site use WECS must comply with all state construction and electrical codes.
2. No on-site use WECS shall be installed in a location where its proximity with existing fixed broadcast, retransmission or reception antenna for radio, television or wireless phone or other personal communication systems would produce interference to electromagnetic transmission or reception. No on-site use WECS shall be installed along the major axis of an existing microwave, UHF or VHF communications link where its operation is likely to produce interference with the electromagnetic transmission or reception of signals.
3. On-site use WECS shall be painted with non-reflective paint of an unobtrusive color designed to minimize off-site visibility.
4. No displays, advertising signs or other identification of any kind intended to be visible from the ground or other structures shall be permitted except as required for emergency purposes.
5. The maximum level of noise generated by any on-site use WECS shall not exceed 55 dBA measured at the lot line from the nearest WECS, including consideration of downwind aspects of sound travel. dBA shall be measured in compliance with Article 16, Section 1602(E)(2) of this Ordinance.
6. On-site use WECS must provide manufacturing certification of compliance with 47 CFR 15, 18 as part of the site plan.

- F. No accessory structures shall be permitted in connection with on-site use WECS.
- G. As used in this Section 31.16.1603, the term “WECS” shall mean an on-site use WECS unless the context clearly requires a different interpretation.

**ARTICLE 18
ZONING DISTRICTS**

31.18.1801 Establishment of Districts.

The Township is hereby divided into the following zoning districts as shown on the official zoning map which, together with all explanatory matter shown thereon, is hereby adopted and incorporated by reference and declared to be a part of this chapter.

A. Environmental Districts.

1. WC – Wetland Conservation District

B. Residential Districts.

1. R1 – High Density Residential District
2. R2 – Medium Density Residential District
3. AR – Agricultural-Residential District
4. FR – Forest Recreational Residential District

C. Commercial Districts.

1. C – Commercial District

D. Industrial Districts.

1. LI – Limited Industrial District
2. LKI – Lakefront Industrial District

E. Overlay Districts.

1. WPOD – Wellhead Protection Overlay District

31.18.1802 Provision for Official Zoning Map.

For the purpose of this chapter the zoning districts as provided in Section 1801 of this chapter are bounded and defined as shown on a map entitled “Official Zoning Map of Filer Township,” a copy of which accompanies this chapter and which, with all explanatory matter thereon, is hereby incorporated into and made a part of this chapter by reference.

31.18.1803 Identification Of Official Zoning Map.

The official zoning map shall be identified by the signature of the Township supervisor, attested by the Township clerk, and bear the seal of the Township under the following words:

“This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Filer Township,” together with the effective date of this chapter.

31.18.1804 Changes To Official Zoning Map.

If, in accordance with the procedures of this chapter and of Act 184 of the Public Acts of 1943, as amended, a change is made in a zoning district boundary, such change shall be made by the Township supervisor promptly after the amendment authorizing such change shall have been adopted and published.

31.18.1805 Authority Of Official Zoning Map.

Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map which shall be located in the Filer Township Hall shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building or structure in the Township.

31.18.1806 Replacement Of Official Zoning Map.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes made thereto, the Township Board may by ordinance adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions on the prior official zoning map, but no such correction shall have the effect of amending the Zoning Ordinance or the prior official zoning map. The new official zoning map shall be identified by the signature of the Township supervisor, attested by the Township clerk, and bear the seal of the Township under the following words: “This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Filer Township adopted on _____, 1995 which replaces and supersedes the Official Zoning Map which was adopted on July 5, 1988.”

[Annotation: Filer Township, in January 1996, became a Charter Township.]

31.18.1807 Rules Of Interpretation.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules for interpretation shall apply:

- A. A boundary indicated as approximately following the center line of a highway, street, alley or easement shall be construed as following such center line.
- B. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
- C. A boundary indicated as approximately following the corporate boundary line of a city, or Township, shall be construed as following such line.

- D. A boundary indicated as following a railroad line shall be construed as being midway between the main tracks.
- E. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
- F. A boundary indicated as following the center line of a stream, river, canal, lake or other body of water shall be construed as following such center line.
- G. A boundary indicated as parallel to, or an extension of, a feature indicated in paragraphs A through F above shall be so construed.
- H. A distance not specifically indicated on the official zoning map shall be determined by the scale of the map.
- I. Where a physical or cultural feature existing on the ground is at variance with that shown on the official zoning map, or in any other circumstance not covered by paragraphs A through H above, the Board of Appeals shall interpret the zoning district boundary.

31.18.1808 District Boundaries.

Unless otherwise shown on an approved zoning map showing the use districts in unincorporated portions of Filer Township, Manistee County, Michigan, boundary lines of use districts shall follow along the lines indicated on the United States land office survey maps, or the lines of legal subdivisions of land indicated on such maps, or the center line of highways, streets, alleys or waterways, or the shorelines of water bodies, or the boundaries of unincorporated areas, or the boundary lines of recorded plats, or property lines of legal record on the date of enactment of this chapter, or the extension of any such lines.

[Annotation: Filer Township, in January 1996, became a Charter Township.]

31.18.1809 Application Of Regulations.

The regulations established by this chapter within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety and general welfare and shall be uniform for each class of land or building, dwellings and structures throughout each district. Where there are practical difficulties or unnecessary hardship in the way of this chapter, the Board of Appeals shall have power in passing upon appeals to vary or modify any rules, regulations or provisions of this chapter so that the intent and purposes of this chapter shall be observed, public safety secured and substantial justice done.

**ARTICLE 25
WETLAND CONSERVATION DISTRICT**

31.25.2501 Purpose.

It is the intent of this district to protect wetlands adjacent and contiguous to Manistee Lake, to recognize those wetlands are ecologically sensitive environments, to retain the wetland's ability to serve as a sediment filter at the mouth of the Big Manistee River and the Little Manistee River, to retain the wetland's ability to produce plant material and oxygen necessary to meet Manistee Lake's demand for oxygen to support aquatic life, to support the process of decay of natural and man-made materials on the lake bottom, to minimize disturbance of heavy metals which may be on the lake bottom near the wetland, to retain the wetland's ability to act as a natural pollution filter for water entering Manistee Lake and lake water, to protect fish and wildlife habitat, to provide compatible uses for recreation and game management, to provide for standardized zoning provisions for all the municipalities around Manistee Lake in compliance with the Manistee Lake Management Plan of 1982, adopted as part of Manistee County's comprehensive planning.

31.25.2502 Permitted Uses.

The following uses are permitted by permit in this district:

- A. Water and wetland habitat-dependent game rearing operations.
- B. Federal, state and municipal game areas.
- C. Open space.
- D. Individual recreation activities (such as an individual hunting, fishing, trapping) normally done without construction of permanent structures and normally allowed by state statute.

31.25.2503 Special Uses.

The following special uses are permitted by a special use permit, as specified in Section 8601 *et. seq.* of this chapter:

- A. Outdoor recreation parks.
- B. Boat launching ramps.
- C. Parking.

31.25.2504 Regulations and Standards.

The following standards and regulations shall apply in addition to the general standards listed in Section 8606 *et. seq.* of this chapter. For consistent and uniform administration of this chapter between all municipalities around Manistee Lake, the determination of compliance with

the standards listed below shall be done with the advice and counsel of the Manistee County Planning Commission, except that such advice and counsel shall only be advisory and final determination shall be made by the Filer Township Planning Commission.

- A. Any parking, campground, playground or other structures shall be located on existing dry land within portions of the district.
- B. The proposed use shall not require fill in wetland portions of the district, but may include fill on dry land portions of the district.
- C. Prior to application for a special use permit under this chapter, the proposed use shall be approved by the United States Corps of Engineers, if applicable; the Michigan Department of Environmental Quality, if applicable; the Soil and Sedimentation Control Agency, if applicable; and the Manistee-Mason District Health Department, if applicable.
- D. Requirements and changes by the agencies listed in Section 2504.C above, are included in the material submitted in the site plan and are clearly shown on the site plan submitted with application for the special use permit under this chapter.
- E. Minimum land area for the use is large enough, and under one ownership, to accommodate the proposed uses and structures without endangering or compromising the intent and purpose of this district.
- F. Adequate measures have been taken in design and site plan to insure protection of the wetland area for the purposes and intent of this district.

ARTICLE 35
FOREST RECREATIONAL DISTRICT

31.35.3501 Purpose.

The value to the public of certain open areas of the Township is represented in their natural, undeveloped or unbuilt condition. It is recognized by this chapter that the principal use of certain open areas is and ought to be the development, management and utilization of the natural resource base possessed by these areas. In order that this value may be maintained and this use encouraged, this chapter has established, based upon a well-considered plan, a zoning district designed to regulate the location of buildings and structures and the use of parcels and lots in order to protect and enhance the natural resources, natural amenities, natural habitats of wildlife, watershed and reservoir areas, agricultural capabilities, public recreation areas, and the public health, safety and welfare by reducing the hardships and financial burdens imposed upon the Township by the wanton destruction of resources, the improper and wasteful use of open land, wooded areas and the periodic flooding and overflow of creeks and streams.

31.35.3502 Permitted Uses.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- A. Public or private forest preserve, game refuge, golf course.
- B. Public and private conservation area and structure for the development, protection and conservation of open space, watersheds, water, soil, forest and wildlife resources.
- C. A lot may be used for the raising or growing of plants, trees, shrubs and nursery stock.
- D. A sign, only in accordance with the regulations specified in Section 1060.
- E. A single-family dwelling and any use, building or structure accessory thereto.
- F. No livestock other than common household pets and horses shall be housed or maintained on any premises in this district, provided however;
 - 1. It shall be permissible for residents in this district to keep for home consumption not more than 25 fowl, but not to exceed 12 ducks, geese, turkeys or rabbits, upon the condition that the yards and pens are maintained at all times in a clean and orderly condition.
 - 2. Residents of this district may maintain horses on a lot of not less than five acres, number of horses not to exceed two per five acres, upon the condition that the pasture and premises are maintained at all times in a clean and

orderly condition. Public or private riding stables are not permitted under this section;

3. Provided further that any building or similar structure movable or permanent being used as housing for livestock be situated not less than 50 feet from any lot line and that the fences for pens, corrals or similar enclosures must be sufficient height and strength to retain animals and not be situated any closer than ten feet to the adjacent property line.

31.35.3503 Special Uses.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district subject to Section 1031, High Risk Erosion Area; Section 9401 *et. seq.*, Site Plan Review; and to obtaining a special use permit as provided in Section 8601 *et. seq.*

- A. Country clubhouse, campgrounds, and the sale of food, beverages and recreation equipment which is incidental and accessory to a recreation use.
- B. All buildings and structures accessory and incidental to permitted uses in this district.
- C. Temporary dwelling - See Section 1071.
- D. Home occupations.
- E. Planned unit developments.
- F. The non-commercial keeping, breeding and maintaining of wildlife indigenous to the State of Michigan, provided, such keeping, breeding and maintaining of wildlife is permitted by the Michigan Department of Natural Resources and the applicant has complied with all rules and regulations of the Department of Natural Resources. All buildings, structures, fences, pens, corrals, or similar enclosures shall meet as a minimum the requirements of Section 3507.F.3.

31.35.3504 Regulations and Standards.

The following regulations shall apply in all Forest-Recreational Districts:

- A. **Lot Area.** No building or structure shall be established on any lot less than ten acres in area.
- B. **Lot Width.** The minimum lot width shall be 297 feet in width.
- C. **Building Area Ratio.** A minimum of 720 square feet of living space in the first floor level, with a minimum exterior width of 20 feet.
- D. **Yard and Setback Requirements.**

1. **Front Yard.** The minimum setback shall not be less than 50 feet from the front property line.
 2. **Side Yards.** The minimum width of either yard shall not be less than 30 feet, except in the case of a corner lot where the side yard on the road or street side shall not be less than 50 feet.
 3. **Rear Yard.** The minimum setback shall not be less than 50 feet.
 4. The above requirements shall apply to every lot, building or structure.
 5. A waterfront yard of not less than 100 feet measured from the normal high water line.
- E. **Height.** The following height requirements shall apply in this district for all buildings and structures: No building or structure shall exceed three stories or 40 feet.
- F. **Required Off-Street Parking.** As required in Section 1052.
- G. **Regulations and Standards.** As required in Section 1003.

ARTICLE 37
AGRICULTURAL RESIDENTIAL DISTRICT

31.37.3701 Purpose.

This district is composed of those areas of the Township which have the characteristics and potential for agricultural use. The regulations of this district are designed to conserve, stabilize, enhance and develop farming and related resource-utilization activities, to minimize conflicting uses of parcels, lots, buildings and structures detrimental to or incompatible with these activities, and to prohibit uses of parcels, lots, buildings and structures which require streets, drainage and other public facilities and services of a different type and quantity than those normally required by these activities.

31.37.3702 Permitted Uses.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district:

- A. A single-family dwelling and any use, building or structure accessory thereto, on a parcel having a lot area of five acres or more.
- B. A parcel having a lot area of five acres or more may be used for general and specialized farming and agricultural activities including the raising or growing of crops, livestock, poultry and other farm animals, products and foodstuffs, and any building or structure may be located thereon and used for the day-to-day operation of such activities for the quartering, storage or preservation of said crops, livestock, poultry, animals, products and foodstuffs until consumed on the premises or until moved to a place of collection, distribution or processing, and for the incidental sale of the crops, products and foodstuffs raised or grown on said lot or in said building or structure, provided that any lot that is kept as idle cropland shall be so treated as to prevent soil erosion by wind or water.
- C. A parcel having a lot area of five acres or more may be used, and a building or structure located thereon for the raising or keeping of furbearing animals, horses, ponies and other animals whether for profit or pleasure.
- D. A parcel having a lot area of five acres or more may be used for the raising or growing of plants, trees, shrubs and nursery stock, and any building or structure may be located thereon and used for such raising or growing and for the storage of equipment and materials necessary for such raising or growing.
- E. Roadside stand on a parcel having a lot area of five acres.
- F. A parcel having a lot area of five acres or more may be used for a public and private conservation area and structure for the development, protection and conservation of open space, watersheds, water, soil, forest and wildlife resources.

- G. A parcel having a lot area of five acres or more may be used for public or private recreation areas such as forest preserve, game refuge, recreation park and reservation, and similar public and private use of low intensity use.
- H. A sign, only in accordance with the regulations specified in Section 1060.
- I. An accessory use, building or structure not used for agricultural purposes which is attached or detached and has a ground floor area of 1,200 square feet or less.
- J. Mobile home parks and campgrounds located in portions of Sections 34, 35 and 36 within this district as set forth in the zoning map, subject to the regulations of the State of Michigan.
- K. Off-street parking - See Section 1052.
- L. State licensed residential facilities providing supervision or care, or both to six or less persons but excluding persons released from or assigned to adult correctional institutions, provided no such facility is located closer than 1,500 feet to another such facility.
- M. Religious institutions, provided all buildings and parking shall be set back a minimum of 50 feet from all lot lines.
- N. Public and private primary and secondary schools, provided all buildings and parking are set back a minimum of 50 feet from all lot lines.
- O. Child day care facilities for six or fewer children licensed by the State of Michigan.
- P. Off- street parking - See Section 1052.
- Q. Essential services but excluding telecommunications towers.

31.37.3703 Special Uses and Site Plan Review.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a special use permit as provided in Section 8601 *et. seq.*, and site plan review, Section 9401 *et. seq.*

- A. Public and private campgrounds, hunting lodges, golf courses and golf driving ranges if used in conjunction with golf course.
- B. A riding academy.
- C. Veterinary hospital, animal clinic and kennel.
- D. Temporary housing of seasonal agricultural workers. Occupants must be employed as agricultural workers.

- E. Home occupations businesses subject to the requirements of Section 1080.
- F. Temporary dwellings - See Section 1071.
- G. An accessory use building or structure not used for agricultural purposes which has a ground floor area larger than 1,200 square feet.
- H. Wireless communications facilities.
- I. Automobile dealerships, provided the same have not less than 300 feet of frontage on US-31.
- J. Utility Grid WECS.

31.37.3704 Regulations and Standards.

The following regulations shall apply in all agricultural residential districts.

- A. **Lot Area.** No building or structure shall be established on any lot less than five acres in area.
- B. **Lot Width.** The minimum lot width shall be 208 feet provided it fronts on a public street or highway.
- C. **Building Area.** No dwelling shall be hereinafter erected, or altered in this district which shall have less than 720 square feet of floor space in the first floor level, with a minimum exterior width of 20 feet.
- D. **Yard and Setback Requirements.**
 - 1. **Front Yard.** The minimum setback shall not be less than 50 feet from front property line.
 - 2. **Side Yards.** The minimum width of either yard shall not be less than 20 feet; except in the case of a corner lot where the side yard on the road or street side shall not be less than 50 feet.
 - 3. **Rear Yard.** The minimum setback shall not be less than 50 feet.
 - 4. The above requirements shall apply to every lot, building or structure.
 - 5. Any structure, use or activity located on a parcel of land which is contiguous to the boundary of the Wetland Conservation District, (Section 2501 *et. seq.* of this chapter) shall have a minimum structure setback of 200 feet, measured as the shortest distance between the Wetland Conservation District boundary and the portion of the structure closest to the Wetland Conservation District boundary. Further, there shall be maintained a 50 foot

buffer of undisturbed, uncut, natural vegetation running parallel to and along the Wetland Conservation District boundary.

- E. **Height.** The following height requirements shall apply in this district:
 - 1. For dwelling and non-farm buildings and structures no dwelling or non-farm building or structure shall exceed a height of three stories or 40 feet.
 - 2. For general and specialized farm buildings and structures - no general and specialized farm buildings and structures shall exceed a height of 75 feet.
- F. **Required Off-Street Parking.** As required in Section 1052.A.
- G. **Regulations and Standards.** As required in Section 1003.

ARTICLE 40
MEDIUM DENSITY RESIDENTIAL

31.40.4001 Purpose.

The purpose of the district is to provide open land areas for future orderly growth of urban development and residential properties of a rural character that are presently without public water and sewage facilities, and likely to remain without such services for an extended period of time. The requirements of this district are designed to restrict residential development to lots of sufficient area to accommodate the safe and healthful use of on-site water supply and waste disposal. It is also the purpose of this district to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low density family life, until such time as it may be in the public interest to promote development of a greater intensity requiring higher levels of public services and utilities.

31.40.4002 Permitted Uses.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district.

- A. A single family dwelling and any use, building or structure accessory thereto.
- B. Accessory uses, buildings and structures customarily incidental to any of the above permitted uses, which have a footprint not greater than the primary structure, whether attached or detached, however not greater than 1,200 square feet.
- C. **Livestock.** No livestock other than common household pets and horses shall be housed or maintained on any premises in this district, provided however:
 - 1. It shall be permissible for residents in this district to keep for home consumption not more than 25 fowl, but not to exceed 12 ducks, geese, turkeys or rabbits, upon the condition that the yards and pens are maintained at all times in a clean and orderly condition.
 - 2. Residents of this district may maintain horses on a lot of not less than five acres, number of horses not to exceed two per five acres, upon the condition that the pasture and premises are maintained at all times in a clean and orderly condition.
 - 3. Provided further that any building or similar structure movable or permanent being used as housing for livestock be situated not less than 50 feet from any lot line and that the fences for pens, corrals or similar enclosures must be sufficient height and strength to retain animals and not be situated any closer than ten feet to the adjacent property line.

31.40.4003 Special Uses and Site Plan Review.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted subject to Section 1031, High Risk Erosion Area; Section 9401 *et. seq.*, Site Plan Review, and obtaining a special use permit as provided in Section 8601 *et. seq.*

- A. Multiple family dwelling.
- B. Planned unit development.
- C. Public swimming pool and recreation club, and public and private park and playground.
- D. Church and public building.
- E. Public and private nursery, primary and secondary school.
- F. Home occupations.
- G. Police, fire and ambulance stations, public office building.
- H. Signs - See Section 1060, Sign Regulations.
- I. Temporary dwellings - See Section 1071.
- J. Accessory uses, buildings and structures not attached to a dwelling, and customarily incidental to residential dwellings which have a ground floor area larger than 960 square feet.

31.40.4004 Regulations and Standards.

- A. **Lot Area.** Each dwelling hereinafter erected or altered shall be located on a lot not less than 20,000 square feet in area, provided however, that if a central or public water supply system is made available before any construction is begun, the lot area may be reduced to a minimum of 15,000 square feet. Provided further that these minimum lot dimensions shall not prevent the use of single lots of a subdivision recorded on or before the effective date of this chapter, which are smaller in size than required above and whose owners possess no contiguous land from which the above requirements could be met on the effective date of this chapter.
- B. **Lot Width.** The minimum lot width shall be 100 feet.
- C. **Building Area.** No dwelling shall be hereinafter erected, or altered in this district which shall have less than 720 square feet of floor space in the first floor level, with a minimum exterior width of 20 feet.

D. **Yard and Setback Requirements.**

1. **Front Yard.** The minimum setback shall not be less than 35 feet.
2. **Side Yards.** The minimum width of either yard shall not be less than ten feet; except in the case of a corner lot where the side yard on the road or street side shall not be less than 35 feet.
3. **Rear Yard.** The minimum setback shall not be less than 35 feet.
4. The minimum setback for accessory buildings shall be ten feet and not less than ten feet between buildings.
5. Any structure, use or activity located on a parcel of land which is contiguous to the boundary of the Wetland Conservation District (Section 2501 *et. seq.* of this chapter) shall have a minimum structure setback of 200 feet, measured as the shortest distance between the Wetland Conservation District boundary and the portion of the structure closest to the Wetland Conservation District boundary. Further, there shall be maintained a 50-foot buffer of undisturbed, uncut, natural vegetation running parallel to and along the Wetland Conservation District boundary.

E. **Height.**

1. **For Buildings and Structures.** No building and no structure shall exceed a height of two stories or 35 feet.
2. **For Detached Accessory Buildings.** No building and no structure shall exceed a height of ten feet at the eave and 16 feet at the ridge board if a permitted use and ten feet at the eave and 35 feet at the ridge board if a special use; the total ground floor area of all buildings on a parcel shall not exceed 25 percent of the total parcel area, or the area of the building envelope, or a 4,000 square foot total, whichever is the smaller.

F. **Required Off-Street Parking.** As required in Section 1052.

G. **Regulations and Standards.** As required in Section 1003.

**ARTICLE 45
HIGH DENSITY RESIDENTIAL**

31.45.4501 Purpose.

The purpose of this district is to provide a stable and sound environment with suitable open space at a high density. The requirements of this district are designed to protect the single-family residential character of development by restricting those uses and activities which are not beneficial or appropriate in such an area, and to facilitate high density development by permitting the construction and occupancy of single family dwellings on relatively small sized lots. These districts will generally be located adjacent to the highest concentrations of urban development, and where possible, will be served by public water and sewage systems and appropriate urban facilities and services. There is no intent to promote by these regulations a district of lower quality and desirability than other residential districts, although a higher density of population is permitted herein.

31.45.4502 Permitted Uses.

No building or part thereof shall be erected, altered or used, or land used in whole or in part for other than one or more of the following uses:

- A. A single family dwelling and any use, building or structure accessory thereto.
- B. Accessory uses, buildings and structures customarily incidental to any of the above permitted uses, which have a footprint not greater than the primary structure, whether attached or detached, however not greater than 1,200 square feet.

31.45.4503 Special Uses and Site Plan Review.

The following buildings, structures, and uses are permitted subject to Section 9401 and obtaining a special use permit as provided for in Section 8601 *et. seq.*

- A. Multiple-family dwellings and condominium subdivisions.
- B. Planned unit developments.
- C. Club, public swimming pool and recreation club, public and private parks and playgrounds.
- D. Public buildings.
- E. Home occupations subject to the requirements of Section 1080 of this Ordinance.
- F. Public and private nurseries.
- G. Police, fire and ambulance stations, public office buildings.
- H. Signs - See Section 1060, Sign Regulations.

- I. Temporary Dwellings - See Section 1071.
- J. Accessory uses, buildings and structures, not attached to a dwelling, and customarily incidental to residential dwellings, which have a ground floor area larger than 1,200 square feet.
- K. Commercial uses that sell goods and services directly to neighborhood residents and changes in the use of existing buildings that contain legal nonconforming commercial uses subject to the requirements of Section 1097 of this Ordinance.

31.45.4504 Regulations and Standards.

- A. **Lot Area.** Each dwelling hereinafter erected or altered shall be located on a lot not less than 20,000 square feet in area, provided however, that if a central or public water supply system is made available before any construction is begun, the lot area may be reduced to a minimum of 15,000 square feet. Provided further that these minimum lot dimensions shall not prevent the use of single lots of a subdivision recorded on or before the effective date of this chapter, which are smaller in size than required above and whose owners possess no contiguous land from which the above requirements could be met on the effective date of this chapter.
- B. **Lot Width.** The minimum lot width shall be 100 feet.
- C. **Building Area.** No single family dwelling shall be hereinafter erected or altered in this district which shall have less than 720 square feet of floor space on the first floor level. The minimum dimension of any side of the first floor of the dwelling shall be 24 feet.
- D. **Yard and Setback Requirements.**
 - 1. **Front Yard.** The minimum setback shall not be less than 35 feet.
 - 2. **Side Yard.** The minimum width of either yard shall not be less than ten feet; except in the case of a corner lot where the side yard on the road or street side shall not be less than 35 feet.
 - 3. **Rear Yard.** The minimum setback shall not be less than 35 feet.
- E. **Height.**
 - 1. **For Buildings and Structures.** No building and no structure shall exceed a height of two stories or 35 feet.
 - 2. **For Detached Accessory Buildings.** No building and no structure shall exceed a height of ten feet at the eave and 16 feet at the ridge board if a permitted use and ten feet at the eave and 35 feet at the ridge board if a special use; the total ground floor area of all buildings on a parcel shall not

exceed 25 percent of the total parcel area, or the area of the building envelope, or a 4,000 square foot total, whichever is the smaller.

- F. **Required Off-Street Parking.** As required in Section 1052.
- G. **Regulations and Standards.** As required in Section 1003.

ARTICLE 55
GENERAL COMMERCIAL DISTRICT

31.55.5501 Purpose.

The purpose of this district is to accommodate the wide range of retail, business and personal service establishments which are intended to serve a number of neighborhoods, and entire community, or larger geographical areas of the county. The provisions for this district are designed to encourage commercial development of various related types in centers which can be economically supported by the community and the surrounding areas. This district is to be conveniently located in relation to the highest concentrations of urban development and on or near major thoroughfares to provide easy access to the outlying areas which they will serve. Planned community and regional shopping centers with adequate circulation and off-street parking facilities will be encouraged. At the same time this district's purpose is also to require certain physical, access drive, curb cut, pedestrian, parking, loading/unloading area, landscaping, and sign regulations and standards; to mitigate the negative impacts of lineal development along main roads; avoiding land-locking parcels behind road-front commercial enterprises; lineal commercial development patterns; to encourage clustering of commercial development with one access servicing several businesses (as opposed to many driveways, one or more for each business); because these elements are essential for quality use of land and for economic development efforts, and to be consistent with the provisions of Filer Township Master Plan.

31.55.5502 Permitted Uses.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district subject to site plan review pursuant to Section 9401, *et. seq.* of this chapter:

- A. Accessory uses, buildings or structures to established and existing principal uses.

31.55.5503 Special Uses and Site Plan Review.

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted subject to obtaining a special use permit as provided in Section 8601 *et. seq.* and site plan review - see Section 9401 *et. seq.*

- A. Retail services including department stores, furniture, appliance, supermarkets and similar retail establishments.
- B. Business and professional offices such as legal, engineering, accounting, financial, insurance and medical, and barber and beauty shops.
- C. Agricultural services including machinery sales and repair establishments, and farm supply stores.
- D. Equipment services including repair, radio and television, electrical appliance shop, plumber, electrician and other similar services and trades.

- E. A sign, only in accordance with the regulations specified in Section 1060.
- F. Showroom and sales of new automobiles, mobile homes, travel trailers, camper trailers and similar vehicles and equipment; repair of same when in conjunction with a showroom and sales of new units thereof.
- G. Greenhouses and florists.
- H. Establishments serving food, alcoholic beverages and/or providing entertainment.
- I. Laundry and dry cleaning establishments.
- J. Funeral establishments, mortuary.
- K. Hotel, motel.
- L. Open air display area for the sale of manufactured products such as or similar to garden furniture, earthenware, hardware items and nursery stock, or the rental of manufactured products or equipment, small tools, pneumatic-tired two and four-wheeled utility trailers, pneumatic-tired cement mixers, wheelbarrows, rollers and similar products or equipment.
- M. Gasoline station.
- N. Police, fire and ambulance stations, public office building.
- O. Warehousing and wholesale.
- P. Temporary dwellings - see Section 1071.
- Q. Golf driving range.
- R. Sexually oriented businesses. (As adopted by the Charter Township of Filer Board on September 2, 1997). Sexually orientated businesses shall include any of the following or any combination of the following:
 - 1. Adult book store and/or video store.
 - 2. Adult motion picture theater.
 - 3. Adult mini motion picture theater.
 - 4. Adult paraphernalia/novelty store.
 - 5. Massage parlor.
 - 6. Host or hostess establishments.

- 7. Open dance hall.
- 8. Adult live entertainment establishments regardless of whether alcoholic beverages may or may not be served.
- 9. Adult panoramas.
- S. Open air or enclosed rental storage units.
- T. Planned elderly community for persons 55 years of age or older.

31.55.5504 Regulations and Standards.

The following regulations shall apply in all general commercial districts:

- A. **Lot Width.** The minimum lot width shall be 30 feet.
- B. **Building Area.** No building shall hereafter be erected, altered or used having a first floor area of less than 800 square feet.
- C. **Yard and Setback Requirements.**
 - 1. **Front Yard.** The minimum setback shall not be less than 35 feet.
 - 2. Every lot or premise upon which a commercial building hereafter is erected shall have a side yard on each side thereof not less than five feet in width, provided, however that such buildings may be constructed to the side lines of any lot or parcel of land if all walls facing said lines are of approved fireproof construction and wholly without windows or other openings, and provided, further, that unobstructed access to the rear of such buildings exists and is maintained adequately for the operation of fire-fighting vehicles and equipment. In the event that a side line of a lot or parcel of land upon which a commercial building is to be erected abuts a lot zoned for residential purposes or upon which dwelling exists, a greenbelt buffer of 35 feet shall be required.
 - 3. **Side Yards on Corner Lots.** The width of a side yard on a corner lot abutting on a street or highway shall not be less than the minimum front yard required on an adjoining lot fronting on such side street or highway.
 - 4. **Rear Yards.** The minimum setback shall not be less than 20 feet.
 - 5. The above yard requirements shall apply to every lot, building or structure.
- D. **Height.** No building or structure shall exceed a height of 35 feet.
- E. **Required Off-Street Parking.** As required in Section 1052.A.

- F. **Limitation on Uses.** No building or land shall be used whereon the operation of any machinery or the conduct of any process activity, or the storage or display of merchandise be such as to create a nuisance or be offensive by reason of the emission of smoke, odor, fumes, dust, waste or vibration.
- G. **Greenbelt Buffer.** Prior to the commencement of construction of any structure or building in a general commercial district where such property abuts, adjoins, or is adjacent to the residential zone, a greenbelt shall be established. A greenbelt, minimum width of 35 feet shall be completed within six months from the date of issuance of a certificate of occupancy and shall thereafter be maintained with permanent plant materials. Specifications for spacing and plant materials are shown in Section 1030. Materials to be used are merely suggestions and shall not be limiting, provided their equal in characteristics is used. No structures, storage of equipment, and operations shall be allowed in a greenbelt buffer.

31.55.5505 Highway Access Requirements.

In addition to site plan requirements in Section 9401 *et. seq.* of this chapter, a site plan in this district for a business establishments along U.S. 31 South (U.S.-31, formerly known as Manistee Highway, Grant Highway) shall also show and/or comply with the following:

- A. An access drive running parallel to and along the road on which the business establishment has frontage. The design of the access drive shall meet the following standards:
 - 1. No parking areas shall be located between the road and access drive.
 - 2. The access drive shall be adjacent to the road right-of-way and shall be at least 24 feet wide. The access drive shall be in an easement which will permit the use of the access drive for traffic circulation from one property to another. The easement shall be in recordable form, acceptable to the Township.
 - 3. The access drive shall be equal or greater, in length, as the width of the parcel and built to the side property lines and designed to be attached to an existing or future access drive on adjacent parcels.
 - 4. The access drive shall be paved, 24 feet, or more, wide. Each property owner shall be responsible for the maintenance of the access drive and its easement so it remains usable as a means of getting from one property to another.
 - 5. The pavement of the access drive shall be located at least 30 feet from the right-of-way line of the road.
- B. Drives between the access drive and road shall comply with the following standards unless superseded by state or federal statute or rule:

1. The location of a driveway or any curbcut to the road shall comply with all of the following:
 - a. Seventy feet from an intersection of any two roads.
 - b. Two hundred feet from another driveway on the same side of the road or access drive, as measured along a line drawn parallel to the centerline of the road or access drive.
 - c. Fifty feet from another driveway on the other side of the road, as measured along a line drawn parallel to the centerline of the road, or, directly across the road from another driveway.
 - d. Two driveways on adjacent parcels which are both next to the property line between the adjacent parcels and share the same drive entrance to the road shall be allowed to have zero distance between them, but shall comply with required distances from intersections and other driveways in this section.
 2. The distance from the nearest parking space in the parcel to the road edge shall be 40 feet, or 20 feet from the road right-of-way line, whichever is greater.
 3. The width of the driveway shall be between ten and 20 feet for an exit only or entrance only driveway; and between 20 and 35 feet wide for an exit and entrance driveway.
 4. If there is a choice, the driveway (or an extension of the access drive) shall intersect with a public road which is a local or primary county road, city minor or major street rather than highways -as shown on certification maps filed with the Michigan Department of Transportation pursuant to P.A. 51 of 1951, as amended, being the Highway Act, MCL 247.651 *et. seq.*
- C. Parking shall comply with Section 1052.A of this chapter and, in addition, shall meet the following standards:
1. Parking shall be located between the access drive and business establishment or in the side or rear yard of the business establishment.
 2. Backing from parking spaces onto the access drive shall not be permitted, except on a temporary basis. No permanent structures, including, for example, but not limited to curbs shall be permitted within the access drive area.
 3. The commission may permit parking in the access drive easement area on a temporary basis provided the layout is such the parking can be removed at a later date when the service road is needed for access to adjacent properties.

For temporary basis parking, the commission may allow temporary features such as wheel stops.

- D. Loading and solid waste storage areas shall be located in the side or rear of the business establishment.
 - 1. Solid waste container(s) shall be screened from all four sides with an opaque fence or wall with a gate(s) at least as high as the tallest solid waste container. The fence, wall, and/or gate shall be constructed of material which is compatible with the architectural materials used in the site.
 - 2. The location of the solid waste container(s) shall be adjacent to a building, unless specifically waived by the commission.
 - 3. Loading/unloading docks and areas (including solid waste containers) shall be situated so that trucks loading and unloading do not park in parking lot areas, or on the access drive.

- E. Yard, median, and all grounds areas shall be maintained and shall meet the following standards:
 - 1. The area between the access drive surface and road surface:
 - a. Shall be a landscaped lawn and shrub area. The commission may require manicured lawn covered berm, fences, walls, and other screening and the same shall be provided and maintained as a condition of the establishment and continued maintenance of any use to which they are appurtenant.
 - b. The area between the access drive and business establishment shall provide walkways for pedestrian movement which are separated from roads, access drives, parking areas. The Township may require walkways for pedestrian and non-motorized vehicles between the road and access drive.
 - 2. All utilities (electric, gas, water, sewer, cable television, and other similar services) shall be located underground. This requirement applies to service to individual business establishments and to any utilities necessary to travel between the rear wall of the principle business establishment building and the centerline of the road. All utility pad fixtures, meters, shall be shown on the site plan and integrated with the architectural elements of the site plan.
 - 3. All exterior lights shall be arranged and installed so the direct illumination is shielded from direct view at, or further from, the property line of any adjoining non-business establishment parcel.

4. All access drives, service drives, driveways, parking areas, sidewalks, shall be paved with concrete, bituminous asphalt or other similar material.
 5. Landscaping of the yard and grounds area of the parcel shall meet the following standards:
 - a. All open yard and grounds areas in front and on the sides and the rear 20 feet (closest to the building) of the parcel shall be maintained as:
 - (1) Manicured lawn, or
 - (2) Formal garden.
 - b. The owner shall be responsible for maintenance of all landscaping. Plant materials (including grass) shall be kept in a healthy growing condition and free from refuse and debris, except for continuous watering during periods of water shortage or drought.
 - c. The site plan shall show use of trees, bushes, shrubs, on each side, front and rear yard, either by preserving such plants which exist prior to development or by planting them upon completing construction.
 6. Signs shall comply with Section 1060 of this chapter, in addition to the following standards:
 - a. Signs to identify the business, sales, or special events shall only be located on one front facade of the principal business establishment building.
 - b. At each driveway entrance one group sign may be placed to identify the business establishment(s) located close to that driveway and their respective address number. Any one business establishment shall be limited to being included on not more than two group signs. The order of the placement of business establishments on the group sign, from top to bottom, shall be in the same order as the respective business establishment's address number.
- F. All buildings, fences, walls, gates, shall meet the following architectural standards:
1. No building exterior (whether front, side, or rear) will consist of architectural materials inferior in quality, appearance, or detail to any other exterior of the same building. Nothing in this section shall prevent using different building exteriors which would be acceptable as representative of good architectural design and does not involve use of inferior materials on

sides which face adjoining property and thus might adversely impact existing or future development.

2. Mechanical equipment, whether ground-level or rooftop, shall be shielded and screened from public view and designed to be perceived as an integral part of the building.
3. For all business establishments, servicing or processing shall be conducted within completely enclosed buildings, except for off-road parking, loading, unloading, and open air uses which are specifically approved by the commission.

- G. In addition to any requirements of any Subdivision Ordinance, a division of a parcel, in or outside of an existing subdivision, which results in one or more parcels which do not have public road frontage as required in Section 1050, shall be required to have an approved access to a public road prior to the division of the parcel or issuing a zoning permit.

ARTICLE 60
LIMITED INDUSTRIAL DISTRICT

31.60.6001 Purpose.

This district is composed of those areas of the Township whose principal use will be light manufacturing and other limited industrial uses. These uses generate a minimum of noise, glare, odor, dust, vibration, air and water pollutants, fire, explosive and radio-active hazards, and other harmful or obnoxious matter.

31.60.6002 Permitted Uses.

The following buildings and structures, and use of parcels, lots, buildings and structures are permitted in this district subject to site plan review pursuant to Section 9401 *et. seq.* of this chapter:

- A. Film and photography.
- B. Medical or dental.
- C. Pharmaceutical.
- D. Metallurgy.
- E. Manufacture, research assembly, testing and repair of components, devices, equipment and systems and parts and components, such as, but not limited to, the following examples:
 - 1. Communication navigation control, transmission and reception equipment, control equipment and system guidance equipment and systems.
 - 2. Data processing equipment and systems.
 - 3. Glass edging, beveling and silvering.
 - 4. Graphics, art equipment.
 - 5. Metering instruments.
 - 6. Optical devices, equipment and systems.
 - 7. Phonographs, audio units, radio equipment and television equipment.
 - 8. Photographic equipment.
 - 9. Radar, infra-red and ultra violet equipment and systems.
 - 10. Scientific and mechanical instruments.

- 11. Clocks and watches.
 - 12. Coffins.
 - 13. Leather products and luggage, but not including tanning.
 - 14. Musical instruments.
 - 15. Signs.
 - 16. Blueprinting, photo engraving, printing, photostating, publishing and book binding.
- F. Administrative, professional and business offices associated with and accessory to a permitted use.
 - G. Cafeteria, cafe, restaurant or auditorium accessory with and incidental to any of the foregoing uses.
 - H. General contractor and construction industries relating to the building industry, such as general contractor, electrical contractor, plumbing contractor, etc.
 - I. An accessory use, building or structure.
 - J. A sign, only in accordance with Section 1060.

31.60.6003 Special Uses and Site Plan Review.

The following buildings and structures and uses of parcels, lots, buildings and structures are permitted subject to obtaining a special use permit as provided in Section 9401 *et. seq.* and Section 8601 *et. seq.*

- A. Bus and taxi terminals, warehousing and truck terminals.
- B. Open air display areas for the sale of manufactured products or equipment, such as household equipment, small tools, pneumatic-tired two and four-wheeled utility trailers, pneumatic-tired cement mixers, wheelbarrows, rollers and similar products or equipment.
- C. Public buildings, police, fire and ambulance stations.
- D. Contractors establishment, provided all products and materials are enclosed within a building.
- E. Temporary dwellings - See Section 1071.
- F. Plating shops and heat treating processes.

- G. Pollution treatment facilities.
- H. Wireless communication systems.
- I. Oil and gas processing facilities, including sweetening facilities, structures, equipment, or pipelines and flow lines as defined in this chapter.

31.60.6004 Regulations and Standards.

The following regulations shall apply in all Limited Industrial Districts:

- A. **Lot Area.** No building or structure shall be established on any lot less than two acres in area.
- B. **Lot Width.** The minimum width shall be 200 feet.
- C. **Yard Requirements.**
 - 1. **Front Yard.** The minimum setback shall not be less than 35 feet. No parking permitted in front yard setback.
 - 2. **Side Yards.** The minimum width of either yard shall not be less than 20 feet, except in the case of a corner lot or parcel where the side yard on the road or street side shall not be less than 35 feet.
 - 3. **Rear Yard.** The minimum setback shall not be less than 35 feet.
 - 4. The above requirements shall apply to every lot, building or structure.
- D. **Height.** Except as it otherwise is provided in this chapter, no building or structure should exceed a height of 45 feet.
- E. **Required Off-Street Parking.** As required in Section 1052.
- F. **Planning Commission Site Plan Review.** As required in Section 9401 *et. seq.*
- G. **Regulations and Standards.** As required in Section 1003.
- H. **Operating Conditions.** Application for a zoning permit shall be accompanied by a written statement of the property owner on the effects of operations on traffic, on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions to maintain the same within the limitations of the chapter. It shall show the plans for disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke and pollution controls. Also, that 60 days prior to any expansion activity, written notice of any proposed expansion shall be filed with the Township Planning Commission. Notwithstanding any other provisions of this chapter it shall be unlawful for any expansion of any industrial

use without first obtaining a permit from the Township Zoning Administrator. Sixty days prior to any expansion activity a resume is required stating the nature and scope of planned expansion. The resume is to be sent to the chairman of the Filer Township Planning Commission. Exempted from this provision is the normal replacement of existing equipment, provided such replacement is not of a larger type or nature, or the modification of a building unless such a modification increases the size of said building.

- I. **Buffer Zone.** In any Limited Industrial District site, all buildings, structures or materials used for industrial purposes shall, when abutting a district of any other kind, be separated by a buffer zone.

The buffer zone shall be not less than 35 feet from any Limited Industrial District boundary and any new boundary of the district created by future amendment of this chapter.

A buffer zone shall be measured from the district boundary line. If the district boundary line follows the centerline of a street or right-of-way, the buffer zone shall be measured from the right-of-way line inside the Limited Industrial District.

A buffer zone shall have no structures, storage of equipment, materials, operations, or be similarly occupied. The buffer zone shall be a landscaped area designed to separate and protect non-industrial districts from impacts of industrial uses in the Limited Industrial District.

ARTICLE 67
LAKEFRONT INDUSTRIAL DISTRICT

31.67.6701 Purpose.

This district is to provide protection to Manistee Lake, its water quality, to protect its shoreline from erosion or instability, to minimize the disturbance of heavy metals which are on the lake bottom, while at the same time to recognize, encourage and maintain a higher proportion of industries in the central and southern portion of the lake near railroad and shipping access that does not adversely affect the area; by prioritizing the use of certain lakefront property on Manistee Lake for industrial businesses which require the use of the lake and require being in the proximity of the lake, (conversely, it is the intent of this district to encourage the development of businesses which do not need proximity to Manistee Lake, to be located in those other landward areas); to provide for standardized zoning provisions and administration for all the municipalities around Manistee Lake consistent with the Manistee Lake Management Plan of 1982, adopted as part of Manistee County's and Charter Township of Filer's comprehensive planning.

Also, it is the intent of this district to provide for industrial development in certain parts of the Charter Township of Filer, which have been designated by the Michigan Legislature as Renaissance Zones, pursuant to P.A. 376 of 1996 (being the Michigan Renaissance Zone Act, MCL 125.2681 *et. seq.*); to provide for alternative permit processing through the Manistee County Economic Development Office; to provide for an accelerated schedule for special use permit review and action; to provide for a zoning district which includes all the areas within the boundaries of the designated Renaissance Zones. (As adopted by the Charter Township of Filer Board May 6, 1997.)

31.67.6702 Permitted Uses.

Only the following uses shall be permitted, by permit, as specified in Article 9401 *et. seq.* of this chapter:

- A. Manufacturing uses other than those provided for in Section 31.67.6703.
- B. Transportation enterprises other than those provided for in Section 31.67.6703.
- C. Wholesale trade, including warehousing and storage.
- D. Accessory buildings and uses to the above provided each use meets the following conditions:
 1. The activity is carried on entirely within an enclosed building ("Activity," as used here, and in Section 6703, does not mean parking, signs, arrival and departure of shipping, other incidental activities which are not permanent in nature and not an adverse impact to neighboring uses and Manistee Lake).
 2. If there is an accessory/work area, it is enclosed by a solid wall.

3. If the parcel at question is Manistee Lake frontage, no alteration to the lake shore.
 4. If the parcel at question is Manistee Lake frontage, the land use is of such a nature that access to lake water for economic advantages (for purposes of, but not limited to, large quantities of cooling or process water, shipping-dockage access, marine, naval or coast guard, railroad access) is an integral part of the site selection for the proposed use.
- E. A sign, only in accordance with the regulations specified in Section 1060. Permit applications shall include a site plan that meets the requirements of Article 94 and a letter confirming that all conditions listed above shall be adhered to and are normally practiced by the very nature of the business practices of the proposed use, said letter to specifically address each of the conditions raised in this subsection, to become a part of the application and a part of the conditions of the use permit. Further, if any of the above conditions are not adhered to, the permit shall be null and void.

31.67.6703 Special Use.

The following buildings, structures, process facilities and uses of parcels or lots and structures may be permitted subject to obtaining a special use permit as specified in Section 8601, *et. seq.*, and site plan review per Section 9401, *et. seq.*

- A. Manufacturing uses involving the emission, storage, disposal, discharge, processing, or release of substances in a way that is regulated by state or federal law.
- B. Transportation enterprises involving the emission, storage, disposal, discharge, processing, release, or transport of substances in a way that is regulated by state or federal law.
- C. Wholesale trade, including warehousing and storage provided the above uses involve:
 1. An activity outside an enclosed building.
 2. An activity not in a work area enclosed by a solid wall.
 3. Discharge, treated or untreated, sent to Manistee Lake, if the parcel at question is Manistee Lake Frontage.
 4. Alteration to the Manistee Lake shoreline, if the parcel at question is Manistee Lake frontage.
- D. Planned Unit Development for commercial marina.

- E. Other mixed-use developments that add to the commerce base of the community may represent a change in use of the lakeshore. Compatibility with existing lakeshore industrial development needs to be assured, including developments such as manufacturing, commercial, commercial marinas, office, and institutional.
- F. Accessory buildings and uses to the above.
- G. One sign, only in accordance with the regulations specified in Section 1060.
- H. Oil and gas processing facilities, including sweetening facilities, structures, equipment, or pipelines and flow lines as defined in this chapter.

31.67.6704 Regulations and Standards.

In addition to any specific regulations and standards applicable to a special use allowed by this chapter, the following regulations and standards shall apply in any Lakefront and Industrial District:

- A. **Lot Area.** No building or structure shall be established on any lot less than two and one-half acres in area.
- B. **Lot Width.** The minimum lot width shall be 200 feet.
- C. **Yard Requirements.**
 - 1. **Front Yard.** The minimum setback shall not be less than 45 feet.
 - 2. **Side Yards.** The minimum width of either yard shall not be less than 20 feet, except in the case of a corner lot where the side yard on the road or street side shall not be less than 45 feet.
 - 3. **Rear Yard.** The minimum setback shall not be less than 45 feet.
 - 4. **Manistee Lake Front.** Fifty lineal feet from the water's edge of the Manistee Lake shoreline.
 - 5. Any structure, use or activity located on a parcel of land which is contiguous to the boundary of the Wetland Conservation District (Section 2501 *et. seq.* of this chapter) shall have a minimum structure setback of 200 feet, measured as the shortest distance between the Wetland Conservation District boundary and the portion of the structure closest to the Wetland Conservation District boundary. Further, there shall be maintained a 50 foot buffer of undisturbed, uncut, natural vegetation running parallel to and along the Wetland Conservation District boundary.
- D. **Required Off-Street Parking.** As required in Section 1052.A.

- E. **Planning Commission Review of Site Plan.** As required in Section 9401 *et. seq.*
- F. **General Provisions.** As required in Section 1003.
- G. **Operating Conditions.**
 - 1. **New Facility.** Sixty days, or more, prior to the construction of a new industrial facility, an application for a permit shall be made accompanied by a written statement of the property owner on the effects of operations on traffic; on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter and on the proposed treatment of any such conditions to maintain the same within the limitations of the chapter. It shall show the plans for disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke and pollution controls.
 - 2. **Change and Expansion.** When an existing industry changes its operation activity, or has an expansion that may cause any change in its operating conditions, a 60 day notice, or more, prior to the expansion and/or operation change shall be submitted in writing to the chairman of the Filer Township Planning Commission along with a resume stating the nature and scope of the planned operational change and/or expansion. The resume shall also be accompanied by a written statement of the property owner on the effects of operations on traffic; on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter and on the proposed treatment of any such conditions to maintain the same within the limitations of the chapter. It shall show the plans for disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke and pollution controls. Exempted from this provision is the normal replacement of existing equipment, provided such replacement is not of a larger type or nature. Notwithstanding any other provisions of this chapter it shall be unlawful for any expansion of any industrial use without first obtaining a permit.
- H. **Buffer Zone.** In any lakefront industrial site, all buildings, structures or materials used for industrial purposes shall, when abutting a district of any other kind, be separated by a buffer zone.
 - 1. The buffer zone shall be:
 - a. Not less than 50 feet from any existing lakefront industrial zone boundary.
 - b. Not less than 100 feet from any new lakefront industrial zone boundary created by future amendment of this chapter which has the effect of amending the location of lakefront industrial zone boundaries which border on a Residential District and not less

than 50 feet where lakefront industrial zone boundaries border on a Commercial District, except that the buffer zone where it adjoins the High Density Residential District shall be 50 feet, if the majority of the buffer zone is occupied by sound and visual barriers as specified by the Planning Commission in a special use permit.

2. A buffer zone shall be measured from the district boundary line. If the district boundary line follows the centerline of a street or right-of-way the buffer zone shall be measured from the right-of-way line inside the lakefront district.
 3. A buffer zone shall have no structure, storage of equipment, materials, operations, or be similarly occupied. The buffer zone shall be a landscaped area designed to separate and protect non-industrial districts from impacts of industrial uses in the Lakefront Industrial District.
- I. **Vegetation Belt.** A five-foot wide vegetation belt along the Manistee Lake shoreline shall be maintained with woody plant material for erosion and bank stabilization, as a buffer to users of the lake and to create a margin of open space between the water and land uses wherever shoreline use is not active. As used here, active shoreline use means improved ship dockage, pump house, launching facilities, beach.
- J. **Accessory Buildings.** An accessory building may not be larger than the principal building, provided however, that all accessory buildings shall be subject to and must conform to height, setback, yard, landscaping, general conditions and special use permit conditions applicable to principal buildings.

31.67.6705 [Repealed.]

31.67.6706 Streamlined Permit Review.

Because one of the primary purposes of this district is to accommodate industrial economic development through Michigan's Renaissance Zone program both permitted uses and special use permits in a Renaissance Zone area, pursuant to P.A. 376 of 1996 (being the Michigan Renaissance Zone Act, MCL 125.2681 *et. seq.*) may be applied for on behalf of a client by the Manistee County Economic Development Office as a means to reduce paperwork, streamline the permit process for potential economic development in Manistee County. For this zoning district only, the director of the Manistee County Economic Development Office will perform the preliminary paperwork for a zoning permit, but shall not issue the zoning permit pursuant to Section 8201 *et. seq.* of this chapter. Permits shall be issued by the Township Zoning Administrator, after site plan review and approval of the Planning Commission. [Renaissance Zone amendment adopted by the Charter Township of Filer Board on May 6, 1997.]

ARTICLE 76
WELLHEAD PROTECTION OVERLAY DISTRICT

31.76.7601 Area Affected.

Every parcel of land which lies in whole or in part within Wellhead Protection Overlay Zone as depicted on the official zoning map around public Type I water wells is subject to the regulations of overlay zone to the extent the parcel lies within this overlay zone. The regulations of this overlay zone are in addition to any regulations in the underlying land use districts, however these regulations supersede all conflicting regulations of the underlying land use district to the extent of such conflict but no further.

31.76.7602 Wellhead Protection Zones.

As shown on the official zoning map, there shall be three concentric sectors within this overlay zone:

- A. Sector A shall be an area around the water well intended to be protected by this overlay zone which shall include:
1. The parcel of land owned by the Charter Township of Filer on which the Charter Township of Filer public water system production well number 2 is located as follows: part of government lot 4, commencing at the SW corner, south 88 32'00" east 180.2 feet, north 45 42'00" east 46.2 feet, for a point of beginning; north 45 42'00" east 300 feet, south 44 18'00" east 123.2 feet, south 10 21'00" west 128.6 feet to the north line of twenty eighth street, north 88 32'00" west 297.6 feet to the point of beginning, 1.6 acres more or less, of section 18, T21N, R16W, (also known as 1304 Twenty Eighth Street) and
 2. The parcel of land owned by the Charter Township of Filer on which the Charter Township of Filer public water system production well number three is located as follows: commencing at the SW corner of Section 18 T21N, R16W, north 1,082.66 feet, def. angle to rt. 92 48'00" 840.15 ft to the easterly right-of-way of Filer City Road, south 43 00'00" east 230 feet for a point of beginning; north 47 00'00" east 287.52 feet, south 47 30'00" east 123.93 feet, thence south 16 15'48" west 210.32 feet to the center line of Filer City Road right-of-way, thence north 43 00'00" west 160 feet along said center line, thence north 47 00'00" east 33 feet, thence north 43 00'00" west 150 feet along right-of-way line to the point of beginning; excepting the railroad right-of-way, 2.3 acres more or less of Section 18, T21N, R16W (also known as 2505 Filer City Road), and
 3. The parcel of land owned by the Charter Township of Filer on which the Charter Township of Filer public water system production well number four is located as follows: commencing at the NW corner of Section 19 T21N, R16W, thence south 0 07'00" east 706.72 feet; thence south 58 13'00" east

38.87 feet for a place of beginning, thence south 58 13'00" east 930.33 feet; thence north 0 04'00" west 70.64 feet; thence north 58 13'00" west 930.41 feet; thence south 0 07'00" east 70.62 feet to the place of beginning, 1.282, more or less. And also part of Section 19 T21N, R16W commencing at the NW corner of said Section 19; thence south 0 07'00" east 1,328.60 feet; thence south 89 00'00" east 1,031.58 feet for a place of beginning; thence north 0 04'00" west 371.57 feet; thence north 89 00'00" west 208.71 feet; thence south 0 04'00" east 245.82 feet; thence south 58 13'00" east 245.66 feet to place of beginning 1.42 acres more or less. Both parcels a part of Section 19, T21N R16W, in Section 19 T21N R16W (also known as 2971 Nelson Road), and

4. The parcel of land owned by the City of Manistee on which the City of Manistee public water system well field (production wells 6,7,8,9) are located as follows: commencing 400 feet north of SW corner of the N 1/2 of the NE 1/4 for a point of beginning; east 500 feet, south 400 feet, west 500 feet, south 200 feet, west 400 feet, north 975.5 feet, west 260 feet, north 330 feet, east to the north-south 1/4 line, south to the point of beginning, Section 14 T21N R17W, 18.55 acres more or less (also known as 1075 Tamarack Street).

B. Sector B shall be the next largest area around the water wells, as shown on the official zoning map, intended generally to include, at a minimum, an area necessary for a one year zone of protection for the wells.

C. Sector C shall be the remainder of this overlay zone outside of Sectors A and B, as shown on the official zoning map, intended generally to include, at a minimum, a ten year zone of protection for the wells.

23.76.7603 Sector A Land Use Prohibitions.

The underlying zoning district notwithstanding, no person shall use land within Sector A for any land use which involves any of the following:

- A. Any use listed in Section 7604 of this chapter.
- B. Any use listed in Section 7605 of this chapter.
- C. Any other land use except:
 - 1. A water well pump station.
 - 2. A water tower.
 - 3. Open space area, planted to grass, garden, or other ground cover.

4. A park which is planted to grass and does not include any motorized rides, entertainment, and so on.

31.76.7604 Sector B Land Use Restrictions.

The underlying zoning district notwithstanding, no person shall use land within Sector A or B for any land use except as provided here. The list of permitted and special uses allowed in the land use district underlying this overlay district shall remain unchanged except as follows. All uses listed in Section 7604.C of this chapter shall be prohibited uses or special uses, notwithstanding the provisions of the underlying zoning district.

- A. The uses listed in Section 7604.C of this chapter shall be prohibited except when one of the following conditions exist:
 1. All businesses and facilities which use or generates hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five-gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):
 - a. In quantities less than 100 kilograms (approximately 220 pounds) per month or 95 liters (approximately 25 gallons) per month, whichever is less, or
 - b. Stores less than 100 kilograms (approximately 22 pounds) or 95 liters (approximately 25 gallons) whichever is less, or
 2. The business and facilities use, store or generate hazardous substances:
 - a. Above the amounts established in section 1012.
 - b. Has an approved permit by a county, state or federal agency with authority to issue such permit for the use of the hazardous substances.
- B. If the proposed uses listed in Section 7604.C of this chapter are not prohibited pursuant to Section 7604.A of this chapter, then it shall be considered a special use pursuant to Section 1012 *et. seq.* of this chapter.
- C. **Affected Land Uses.**
 1. Any use listed in Section 7605 of this chapter.
 2. Dwellings, duplexes, apartment buildings which are connected to on-site sewage disposal and include more than one living unit per 20,000 square feet of land area.

3. Agricultural production-crops, agricultural production-livestock [01-0299] (farm) vehicle maintenance and chemical storage areas; tanks for mixing chemicals; power washing; nitrate contamination due to over fertilizing; pesticide and herbicide infiltration.
4. Lawn care [0782] (threats from pesticides and containers with residues; improper disposal of washout water).
5. Any manufacturing [D:20-3999] that uses: (category includes any business which uses chemical solvents or petroleum-based products).
 - a. Petroleum and coal products (fossil fuel storage; solvent storage and use; blending of materials; outdoor storage piles; large tanks; bulk storage).
 - b. Chemicals and allied products, including paints (chemical storage, use and production; equipment cleaning; industry has made major improvements; management and disposal of hazardous chemicals is the concern).
 - c. Rubber and miscellaneous plastic products (raw materials; hazardous substances; machine shops).
 - d. Furniture manufacturing and refinishing (threats due to chemical solvents, oil-based paints, lacquers, varnishes, etc.).
 - e. Primary metal industry; fabricated metal products (threats due to solvents, strong acid or alkaline solutions, paints, cyanide solutions, and oils; much variation among businesses; floor drains; gondolas with dripping parts; dip tanks; cutting oils; messy products are a concern).
 - f. Electronic and other electronic equipment, including metal plating, and finishing (threats due to plating solutions, plating sludge, solvents and still bottoms; management and disposal of acids and other hazardous wastes; floor drains are a concern).
 - g. Food processing and food products (processing wastes; caustics from in-line cleaning; wastewater disposal; brine storage; outdoor storage of pulp and other organic wastes).
 - h. Lumber and wood production (chemical treatment of wood; chemical storage).
 - i. Apparel and textile products (hazardous substances; equipment cleaning).

- j. Paper and allied products; pulp and paper manufacturing (materials storage; pulp waste).
 - k. Printing and publishing (storage and use of chemicals; equipment cleaning; engraving; silk screen residues).
 - l. Leather and leather products (storage and use of hazardous substances).
 - m. Stone, clay and glass products (storage and use of hazardous substances).
 - n. Electronic and other electric equipment (hazardous substances; equipment cleaning; machine shops(s)).
 - o. Other manufacturing or processing which uses chemical solvents, oils, and/or chemicals.
 - p. Mining, including iron ore and sand and gravel excavation (spoil disposal; equipment maintenance).
 - q. Oil and gas well drilling and production (threats due to drilling mud, oils, and brine solutions; dehydrating gas condensate).
6. Rail transportation [40] (chemical solvents used in vehicle maintenance, paints, thinners, etc.).
 7. Local and interurban passenger transit [41] (chemical solvents used in vehicle maintenance, paints, thinners, etc.).
 8. Trucking and courier services (except air [421]) (chemical solvents used in vehicle maintenance, paints, thinners, etc.).
 9. Trucking terminal facilities [423] (chemical solvents used in vehicle maintenance, paints thinners, etc.).
 10. Transportation by air [45] e.g. airports (threats due to chemical solvents used in vehicle and aircraft maintenance, paints, thinners, etc.).
 11. Electrical services [491] e.g. electric power generation substations; other electric services (threats due to acids, oils, PCBs, etc.) and fossil fuel power plants (solvents and oils; equipment repair).
 12. Combination utility services [493] e.g. electric power generation substations; other electric services (threats due top acids, oils, PCBs, etc.) and fossil fuel power plants (solvents and oils; equipment repair).

13. Sewage systems [4952] (wastewater treatment plants and sludge application sites) (Improper septic waste application).
14. Refuse systems [4953] (hazardous waste treatment of disposal, sanitary landfills, recycling facilities, hazardous materials recycling, used oil collection sites).
15. Chemical and allied products [516]; warehouse operations where paints, solvents, or chemicals are blended or mixed prior to distribution or sale (floor drains; septic systems may connect to ground water).
16. Petroleum and petroleum products [517] (fuel oil tanks; spills and leaks; transfer of product increases potential for spills).
17. Paints, varnishes and supplies [5198]; warehouse operations where paints, solvents, or chemicals are blended or mixed prior to distribution or sale (floor drains; septic systems may connect to groundwater).
18. Gasoline service stations [554] without vehicle maintenance (spills; fuel runs off to nearby ditch; public drips oil and gasoline; leaking underground tanks).
19. Disinfecting and pest control services [7342] (pesticides and containers with residues).
20. Building maintenance services, nes [7349] (small leftover amounts of paints and solvents; improper disposal of hazardous materials; container washout; soaps and rinse water).
21. Photofinishing laboratories [7384] (chemical use and disposal; should be connected to sewer).
22. Miscellaneous repair services [76] (e.g. small engine and electrical equipment repair (solvents; oils; leaks and spills).
23. Reupholstery and furniture repair [764], including antiques (threats due to chemical solvents, ignitable or oil-based paints, varnishes, shellac, washing on bare ground; some very small businesses).
24. Golf courses [7922 and 7997] vehicle maintenance and chemical storage areas; tanks for mixing chemicals; power washing; nitrate contamination due to over fertilizing; pesticide and herbicide infiltration.
25. Medical and dental laboratories [807] (unused chemicals, solvents, reagents, and hazardous wastes; small labs on septic systems are a concern; should not pour chemicals down the drain).

26. Research, development and testing services [873] (unused chemicals, solvents, reagents, and hazardous wastes; small labs on septic systems are a concern; should not pour chemicals down the drain).
27. Home occupations which are auto repair, furniture refinishing, and pesticide applicators.
28. Municipal and state garages for highway and public works departments (vehicle maintenance and chemical storage areas; underground storage tanks; de-icing salts, including storage and application).

31.76.7605 Sector C Land Use Prohibitions.

The underlying zoning district notwithstanding, no person shall use land within Sector A, B, or C for any land use except as provided for here. The list of permitted and special uses allowed in the land use district underlying this overlay district shall remain unchanged in Sector C of this overlay district, except as follows. All uses listed in section 7605.C of this chapter shall be prohibited uses or special uses, notwithstanding the provisions of the underlying zoning district.

- A. The uses listed in Section 7605.C of this chapter shall be prohibited except when one of the two following conditions exist:
 1. All businesses and facilities which use or generates hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five-gallon, or smaller, pre-packaged sealed containers and is for purposes for re-sale and located in a retail establishment):
 - a. In quantities less than 100 kilograms (approximately 220 pounds) per month or 95 liters (approximately 25 gallons) per month, whichever is less, or
 - b. Stores less than 100 kilograms (approximately 220 pounds) or 95 liters (approximately 25 gallons) whichever is less, or
 2. The business and facilities use, store or generate hazardous substances:
 - a. Above the amounts established in Section 1012.
 - b. Has an approved permit by the county, state or federal agency with authority to issue such permit for the use of the hazardous substances.
- B. If the proposed uses listed in Section 7605.C of this chapter are not prohibited pursuant to Section 7605.A of this chapter, then it shall be considered a special use pursuant to Section 86 of this chapter.

C. Affected Land Uses.

1. Oil and gas drilling [13].
2. Chemicals and allied products [28].
3. Petroleum and coal products [29].
4. Metal services, nec [347].
5. Electronic and other equipment [36].
6. Scrap and waste materials [5093].
7. Automotive dealers & service station [55] EXCEPT:
 - a. Gasoline service station [554].
8. Laundry, cleaning & garment services [721].
9. Auto repair, services and parking [75].
10. Other types of facilities that use, store or manufacture hazardous substances.
11. Mud/brine disposal pits are prohibited within the Wellhead Protection Overlay District, Section 7601, unless the owner or operator can establish by application for a special use permit under Article 86 that: (1) it is an eligible use in the land use district in which it is proposed; (2) there is no containment and for transport and disposal off site; and (3) the pit is permitted in accordance with applicable federal or state law and regulation, or local ordinances.

31.76.7606 Conflicting Federal or State Regulations.

The regulations of this overlay zone are not intended to conflict with any law or administrative regulation, on groundwater protection, of the United States, the State of Michigan or any agencies thereof.

31.76.7607 Nonconforming Land Uses in this Overlay Zone.

If a land use exists within this overlay zone on the date this section takes effect which is not permitted within the respective sector of this overlay zone then:

- A. Such nonconforming use of land shall not be moved in whole or in part to any other portion of such land, added to, extended, reconstructed, structurally altered or expanded during its life, Article 80 [article on nonconformity's] notwithstanding.

- B. Nothing herein shall prevent the completion of structures for a land use which shall have been diligently prosecuted prior to the passage of this section.
- C. Nothing herein shall prevent the normal repair, reinforcement, rehabilitation of a structure.

[As adopted by the Charter Township of Filer Board, May 6, 1997.]

**ARTICLE 80
NONCONFORMITIES**

31.80.8001 Purpose.

Within the districts established by this chapter or by amendments thereto, there exist buildings and structures and uses of parcels, lots, buildings and structures which were lawful before this chapter was adopted or amended and which would be prohibited, regulated or restricted to permit these buildings and structures and uses of parcels, lots, buildings and structures, herein referred to as non-conformities, to continue until they are discontinued, damaged or removed, but not to encourage their survival. These non-conformities are declared by this chapter to be incompatible with the buildings and structures and uses of parcels, lots, buildings and structures permitted by this chapter in certain districts. It is further the intent of this chapter that such non-conformities shall not be enlarged, expanded or extended except as provided herein nor to be used as grounds for adding other buildings and structures and uses of parcels, lots, buildings and structures prohibited elsewhere in the same district.

31.80.8002 Nonconforming Uses of Parcels and Lots.

Where, on the date of adoption or amendment of this chapter, a lawful use of a parcel or lot, such use not involving any building or structure or upon which parcel or lot a building or structure is accessory to such principal use, exists that is no longer permissible under the provisions of this chapter, such principal use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. No such nonconforming use of a parcel or lot shall be enlarged, or extended to occupy a greater area of land than was occupied on the date of adoption or amendment of this chapter, and no accessory use, building or structure shall be established therewith.
- B. No such nonconforming use of a parcel or lot shall be moved in whole or in part to any other portion of such parcel or lot not occupied on the date of adoption of this chapter.
- C. If such nonconforming use of a parcel or lot ceases for any reason for a period of more than one year, the subsequent use of such parcel or lot shall conform to the regulations and provisions set by this chapter for the district in which such parcel or lot is located.

31.80.8003 Nonconforming Buildings and Structures.

Where, on the date of adoption or amendment of this chapter, a lawful building or structure exists that could not be built under the regulations of this chapter by reason of restrictions upon lot area, lot width, lot coverage, floor area ratio, height, open spaces or other characteristics of such building or structure of its location upon a lot, such building or structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. No such building or structure shall be enlarged, expanded, extended or altered in a way which increases its non-conformance.
- B. Should any such building or structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
- C. Should any such building or structure be moved for any reason for any distance, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

31.80.8004 Nonconforming and Special Uses.

- A. There are uses which were permitted by right under the Filer Township Zoning Ordinance in effect immediately prior to this chapter which are not permitted uses under this chapter. Of those uses, there are some which are listed as potential special uses in this chapter. Those existing uses which were permitted uses, and are listed as special uses in this chapter, shall not be considered nonconforming uses.
- B. Those uses, or parts of uses, which exist as a permitted use immediately prior to this chapter, and are listed as special uses in this chapter shall be considered to be an approved existing special use with the configuration shown on a site plan drawn to reflect how the use exists at the time of adoption of this chapter. Parts of uses which are nonconforming immediately prior to the adoption of this chapter shall continue to be nonconforming under this chapter. A permit in existence pursuant to this subsection shall be known as an unwritten special use permit.
- C. An owner of an unwritten special use permit may, at no charge to the owner, obtain from the Planning Commission a certification of a site plan reflecting how the use exists at the time of adoption of this chapter with identification of nonconforming parts, if any. In the case of a dispute over facts on what existed at the time of adoption of this chapter, aerial photographs flown in spring 1985 by Manistee County or other aerial photographs, flown to the same or greater standards for mapping as the county's photos, taken after the county photos but before the adoption of this chapter, shall be given the greatest weight as evidence to establish a certified site plan. For purposes of this section, the above mentioned photo(s) may be accepted as the site plan for the unwritten special use permit.
- D. When a special use owner applies to amend the unwritten special use permit for expansion or change, a written special use permit shall be prepared for the entire use and parcel. In review of the special use permit amendment application for expansion or change, the Planning Commission shall only review and act on the expansion or change portion of the special use permit. If the application for amendment of the special use permit is approved, approved with conditions, denied

or denied in part, the action shall not change or alter those parts of the special use that are shown on the unwritten special use permit.

31.80.8005 Repairs and Maintenance.

Nothing in this chapter shall prevent the repair, reinforcement, improvement or rehabilitation of nonconforming buildings, structures, or part thereof existing at the effective date of this chapter, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the provisions of the Building Code or Housing Law of Michigan, relative to the maintenance of buildings or structures; provided however, that the cost of such repair, reinforcement, improvement, rehabilitation or compliance shall not exceed 50 percent of the reproduction value of such building at the time such work is done, except the repair, maintenance, or replacement of oil, gas, or brine wells; connecting pipelines and related valves or other equipment, existing at the effective date of this chapter, in the interest of health, safety and welfare, shall not be subject to the 50 percent reduction in value limitation, provided that the owner or operator files written documentation with the zoning administrator setting forth the reason for such repair, maintenance or replacement and proof that such has been done in accordance with law, regulation, governmental order or demand, or industry standards; and provided, further, there shall be no change of use of such building at the time such work is done. The original dimension of the nonconforming building or structure shall not be increased.

31.80.8006 High Risk Erosion.

The above provisions of this article notwithstanding, an existing structure not in conformity with the Department of Environmental Quality established high risk erosion setback requirements, under Public Act 245 of 1970, shall not be altered, enlarged, or otherwise extended in a manner which increases its nonconformity. If a nonconforming structure deteriorates or becomes damaged, it may be restored to its condition before the deterioration or damage if the repair costs do not exceed 60 percent of the replacement value of the structure in any 12-month period. If, in any 12 month period, the cost of restoring the nonconforming structure is in excess of 60 percent of its replacement value, the requirements for new permanent structures shall apply.

31.80.8007 Change of Tenancy or Ownership.

There may be change of tenancy, ownership or management of an existing nonconforming use, building or structure, provided there is no change in the nature or character of such nonconforming use, building or structure.

31.80.8008 Extension and Substitution.

- A. For purposes of this section, the permitted uses in the zoning districts shall be considered in the ascending order set forth here as higher uses with District R-1 containing the highest (more restricted) uses and District LKI containing the least highest (restrictive) uses.

- 1. R-1; High Density Residential District.

2. R-2; Medium Density Residential District.
3. AR; Agricultural-Residential District.
4. C; Commercial District.
5. Limited Industrial District.
6. LKI; Lakefront Industrial District.

B. With the approval of the Planning Commission, a nonconforming use, building or structure, may be replaced by or substituted with a higher (more restricted) or equal use even though such replacement or substitution does not change the nonconforming status of such use, building or structure in the zoning district in which it is located.

31.80.8009 Completion of Pending Construction.

The adoption of this chapter shall not limit the construction of any building or structure for which a permit had been obtained prior to adoption of the chapter and upon which work had been commenced and carried on within 90 days of obtaining of such permit, even though such building or structure does not conform to the provisions of this chapter.

31.80.8010 Substandard, Nonconforming Lots of Record.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single family dwelling and customary accessory buildings or structures may be erected on any single lot of record at the effective date of adoption or amendment of this chapter. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of said parcel or lot shall be used which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel or lot be made which leaves remaining any parcel or lot with width or area below the requirements stated in this chapter.

31.80.8011 Nonconforming Uses.

Any nonconforming users shall file with the Planning Commission a written statement of the nature and extent of his, her or its nonconforming use within 60 days of the adoption of this chapter, or any amendments thereto.

ARTICLE 82
ADMINISTRATION OF ORDINANCE

31.82.8201 Purpose.

It is the purpose of this article to provide the procedures for the administration of the ordinance, issuance of permits, inspection of properties, collection of fees, handling of violators and enforcement of the provisions of this chapter and amendments thereto.

31.82.8202 Administrator.

The provisions of this chapter shall be administered by the zoning administrator, who shall be appointed by the Township Board of Filer Township for such term and subject to such conditions at such rate of compensation as said Board shall determine, and the duty of the enforcement thereof shall rest with such administrative official or officials as shall be authorized therein by law.

31.82.8203 Duties of the Zoning Administrator.

- A. The zoning administrator shall have the power to grant zoning compliance permits, and to make inspections of building or premises necessary to carry out his/her duties in the enforcement of this chapter. It shall be unlawful for the zoning administrator to approve plans or issue any permits for any excavation or construction until he/she has inspected such plans in detail and found them to conform with this chapter, nor shall the zoning administrator vary or change any terms of this chapter. The zoning administrator shall submit to the Planning Commission periodic reports fully explaining the type and nature of uses permitted by right, the nature and extent of violations of this chapter and the type and nature of nonconforming uses, buildings and structures.

- B. With regard to the Shorelands Protection and Management Act, and the regulation of development within the high risk erosion area zone as prescribed in Section 1031, the duties of the zoning administrator shall also include:
 - 1. Maintaining all records, property descriptions and maps pertaining to designated high risk erosion areas.
 - 2. Determining the location of the bluff line and enforcing the minimum setback requirements for principal structures from the bluff line.
 - 3. In the case of denying a zoning permit for failure to comply with the minimum setback requirement, the zoning administrator shall inform the property owner of the right to appeal, the conditions under which an appeal will be granted, and he shall further inform the zoning Board of Appeals and Department of Environmental Quality at the time an appeals action is initiated. Written notice of the appeal from the minimum setback

requirement shall be given to the Department of Environmental Quality at least 14 days prior to the hearing before the Board of Appeals.

31.82.8204 Issuance of Zoning Compliance Permits.

The zoning administrator shall require that all applications for zoning compliance permits shall be accompanied by plans and specifications including a plot plan in duplicate drawn to scale. The zoning administrator shall retain the original copy for the files.

31.82.8205 Voiding of Zoning Compliance Permits.

- A. **Time Limit.** A zoning permit is void if a state construction code permit is not applied for within six months from date of issuance.
- B. **Violation of Permit.** A violation of any condition or specification in a permit voids the permit.
- C. **Improper Information.** Any improper information voids a permit.
- D. Before a permit shall be issued under this chapter, a fee shall be paid as established by the Filer Township Board.

31.82.8206 Issuance of Certificate of Occupancy.

No building or structure, or part thereof, shall be occupied by or for any use for which a zoning compliance permit is required by this chapter unless and until a certificate of occupancy shall have been issued for such new use.

31.82.8207 Fees, Charges and Expenses.

The Township Board shall establish a schedule of fees, charges and expenses, and a collection procedure, for permits, appeals and other matters pertaining to the chapter. The schedule of fees shall be posted in the office of the zoning administrator, and may be altered or amended only by the Township Board. No permit, certificate, special use on approval, or variance shall be issued unless or until such costs, charges, fees or expenses listed in this chapter have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals, unless or until preliminary charges and fees have been paid in full.

**ARTICLE 84
PERMITS**

31.84.8401 Land Use Permits.

No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this chapter until a permit authorizing the same shall be issued by the administrator.

31.84.8402 Land Use Applications.

- A. If a use is listed in a respective land use district as a permitted use, anyone with an interest in a parcel may apply for a zoning permit under this section. Zoning permit applications are made on a form prepared by the administrator and presented to the administrator.
- B. The administrator shall require that the application include the form, copies of plans, specifications and such other information as he may deem necessary. Such other information shall include, but not be limited to:
 - 1. A site plan, drawn to the specifications of Section 9404 and 9405 of this chapter.
 - 2. The legal seating and/or sleeping capacity of all buildings and structures, if applicable.
 - 3. A concise statement of all operations and uses which will be conducted on the land and buildings.
 - 4. A concise statement of the services, if any, to be offered to the public, if applicable.
 - 5. Any other information required by this chapter.
 - 6. A non-refundable fee. The fee shall be established from time to time by the Township Board.
 - 7. A copy of any other necessary permits required prior to a construction code permit or a copy of a written agreement for, or written intent for concurrent approval for those permits.
- C. The application, and all the supporting documents, shall be kept by Township as part of the administrator's permanent records.
- D. The application and site plan, if applicable, shall show the proposed use and structures which will be developed in compliance with all aspects of this chapter.

- E. Upon receipt of a zoning permit application, the zoning administrator shall review the application to insure it is complete, to coordinate its review with other agencies, if required, and act on the application within ten days:
1. If the application is not complete, the administrator shall return the application with a letter that specifies the additional material required.
 2. If the application is complete, but is found not to conform with this chapter, a permit denial shall be sent to the applicant, in writing, listing the violations of the chapter, and what changes would be necessary to obtain a permit, if any changes made would make it possible for a permit to be issued.
 3. If the application is complete and the proposed land use and structures are found to comply with this chapter, a zoning permit shall be issued.
- F. A zoning permit shall be required prior to the issuance of a Michigan State Construction Code permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 *et. seq.*

31.84.8403 Permit Exemptions.

Section 8402 notwithstanding, a zoning permit or fee is not needed under this section for the following uses. Nothing in this section exempts or requires construction permits, other than required by P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 *et. seq.*

- A. Only exterior or interior repair and improvement which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective land use district.
- B. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this chapter and used for commercial or industrial purposes, nor for any modification to such building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.
- C. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of overhead or underground gas, electrical, steam, or water distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires or cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles and other similar equipment in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other ordinances of the Township of Filer, Manistee County, Michigan, in all use districts, EXCEPT the erection or

construction of electrical or telephone substations or gas regulator or purification stations, separation prior to metering facilities, or other production facilities, or regional, long distance, interstate distribution or collection systems, shall require Special Use Permits which shall be procured pursuant with provisions hereinafter set forth in this chapter. Communication Towers are not essential public services for purposes of this section and shall require a permit pursuant to Article 78 of this Chapter.

[Annotation: Changed by amendment, adopted May 7, 1996, to add the language “separation prior to metering facilities, or other production facilities, or regional, long-distance, interstate distribution or collection systems” to the exceptions to this subsection.]

[Amended to include Communication Towers on October 6, 1998]

- D. Open space.
- E. Individual recreation uses such as boating, hiking, hunting, fishing and trapping.
- F. Plowing and planting cash crops, row crops, orchards, or use of land as pasture or fallow when part of a permitted agricultural operation on one or more parcels of land.
- G. Harvesting of timber as part of a forest management activity when part of a forest management plan.
- H. Hedges, arbors, trees, gardens, plants, shrubs.
- I. Sidewalks, driveways to dwellings, duplexes, apartment buildings.
- J. Domestic animal shelters.
- K. Accessory structures to dwellings and duplexes which are constructed by minors or children for purposes of play by the same minors and children including, but not limited to, playhouses, dollhouses, treehouses, forts, hideouts, and so on, so long as such accessory structures adhere to setback requirements of this chapter.
- L. Personal property sales.
- M. The installation and operation of temporary monitoring or recovery wells required to investigate, remediate, recover or treat groundwater contaminated by hazardous substances as defined in this chapter, or as defined by Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.* (“NREPA”), including those definitions of hazardous substances in NREPA that incorporate definitions under other Michigan or federal statutes or regulations; provided, however, that all of the following information shall be filed with the Township Zoning Administrator immediately as the information becomes available and the following requirements are met:

1. The owner and operator shall file a copy of a written access or other consent agreement between the owner and operator and any owner of land or interest in land that will be used or occupied for the installation and operation of a temporary well.
2. The owner and operator shall file with the Township Zoning Administrator the results of any sampling during the operation of the well and any sampling results showing the status of the clean-up of groundwater after the closure, removal and/or plugging of the well.
3. Applicant shall install, maintain, operate, and remove, close, abandon, and/or plug the temporary well as required by law, and shall file proof of such removal and final closure with the Township Zoning Administrator.
4. As to any action taken pursuant to this exemption, the owner and operator warrant and represents that the owner and operator shall defend, hold harmless and indemnify the Township Zoning Administrator and any other Township officials or employees from any claim by any other person or entity for any costs, damages, expenses, harm, injuries, legal or equitable, or from any order, suit, legal or equitable, of any kind, whatsoever, that arises or may arise out of the applicant's activities, or the activities of its employees, agents, contractors, or sub-contractors, with respect to the recovery well or any related aspect of the recovery or clean up.
5. A written report setting forth a summary of the actions taken and results obtained shall be filed with the zoning administrator within 30 days of the completion or the repair, maintenance, replacement or other action falling within the scope of this subparagraph M.

31.84.8404 Start Work Deadline.

A permit issued under this article is void if the use is not commenced within one year. A renewal may be granted by the administrator after a restudy of the permit at no cost to the applicant, and the applicant continues to meet all requirements for a permit.

31.84.8405 Void Permits.

- A. A violation of any condition or specification in a permit issued under this Article shall void the permit.
- B. Any improper or incorrect information contained in the application for permit issued under this article shall void the permit until properly corrected upon the permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

**ARTICLE 86
SPECIAL USES**

31.86.8601 Purpose.

The information and enactment of this Zoning Ordinance is based upon the division of the unincorporated portions of the Township into districts in each of which are permitted specified uses which are mutually compatible. In addition to such permitted uses, however, it is recognized there are certain other and additional land and/or building uses which it may be necessary or desirable, because of their particular nature and due to certain circumstances, to allow in certain locations in certain districts but which on account of their actual or potential impact on neighboring uses or public facilities need to be carefully regulated with respect to their location for the protection of the Township. Such uses, on account of their peculiar location need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

313.86.8602 Authority to Grant Permits.

The Planning Commission shall have the authority to approve special use permits in accordance with required standards subject to such conditions of design and operation, safeguards and time limitations as it may determine for all special uses specified in the various district provisions of the chapter. The zoning administrator shall issue these permits.

31.86.8603 Application and Fee.

Application for any special use permit permissible under the provisions of this chapter shall be made to the zoning administrator by filling in the official special use permit application form, submitted required data, exhibits and information, and depositing the required fee. Such application shall be accompanied by a fee as established from time to time by the Township Board. Any additional costs incurred in processing such application shall be paid before permit is issued. No part of such fee shall be returnable to the applicant.

31.86.8604 Data, Exhibits, And Information Required In Application.

An application for a special use permit shall contain the following:

- A. The applicant's name and address in full.
- B. A signed affidavit the applicant is the owner involved or is acting on the owner's behalf.
- C. The address and legal description of the property involved.
- D. An accurate drawing of said property showing the existing and proposed location of all buildings and structures thereon, the types thereof, and their uses.

- E. A diagram or map of the premises and surrounding area which shall include the following information; (a) a topographical map of the area; (b) description of natural and improved draining surface and features, including lakes, streams, springs, groundwater tables (both local and regional) and other environmental sensitive areas; (c) location of all monitoring wells that are located within one-half mile of the application site; (d) the location of all occupied dwellings within one mile of the application site; (e) soil characteristics of the application site; (f) the proposed access to the application site; (g) proposed buffers or other measures to control drainage from the area where toxic or hazardous substances, including H₂S are to be disposed of, transmitted through, or located upon, (h) proposed groundwater monitoring wells and locations, (i) proposed delivery, storage, transfer and location of any hazardous substance within the Township.

- F. Copies of permits or letters showing:
 - 1. Approval,
 - 2. Tentative approval, or
 - 3. Certification of approval or letters of understanding for concurrent approval with the Planning Commission by the Michigan Department of Natural Resources, Soil Erosion and Sedimentation Control Agency, the Michigan Department of Environmental Quality, and any other applicable agencies where a permit or approval is required.(Receiving Department of Environmental Quality or other agency approval, does not obligate the Planning Commission to grant approval unless all standards in Section 8608 and elsewhere in this chapter are shown to have been met).

- G. An environmental assessment, using one of the following two formats:
 - 1. A summary review of environmental impacts of the project on a form provided by the zoning administrator, or
 - 2. A summary review of the environmental impacts of the project prepared under the requirements and guidelines of and for another state or federal agency for the project in order to avoid preparation of two environmental assessments. (If the Planning Commission cannot make the necessary findings with the environmental information provided it may require, at the applicant's cost, submittal of additional information or an Environmental Impact Statement.)

- H. A statement and supporting data, exhibits, information and evidence regarding the required findings set forth in this chapter, as stated in Section 8608 of this chapter.

- I. A site plan drawn to the specifications and with the content required in Section 9401 *et. seq.* of this chapter.

- J. A statement or other proof of evidence by applicant of present or future compliance with standards contained elsewhere in this chapter.
- K. The applications concerning hazardous substances, including but not limited to hydrogen sulfide or related oil and gas mud/brine pits, the submission of materials shall be controlled by the provisions of Article 86 and Section 9407 of this chapter, and in addition the following provisions:
 - 1. A description, including, if applicable the chemical analysis of the solid waste or toxic or hazardous substance or material involved in the application whether it is liquefied, solid or mixed, whether it has been treated and, if so, how and where.
 - 2. A description in detail of any treatment or processing of said substance or material to be done on the permit premises;
 - 3. A statement of measures to be taken to control noise, vibration, dust, odors, erosion, leaching or other forms of pollution.
 - 4. A description of any public facilities or services required for the installation and maintenance of a regulated use, such as roads, fire protection, whether such services exist, and if not, how an applicant proposes that these services be financed and provided.
 - 5. The estimated volume of any toxic and/or hazardous substance which shall or may be released, disposed of, processed or transported through a pipeline within the Township by applicant or applicant's employee's, contractors, assignees or agents.
 - 6. The amount and concentration of the toxic or hazardous substance which may be released through a credible accidental release.
 - 7. If there will be any concentrations of hydrogen sulfide gas contained in or flowing through any process facility, structure, pipeline or flowline, the applicant must simultaneously apply for and obtain a permit in accordance with the Filer Township Hydrogen Sulfide Ordinance. In order to facilitate efficient administration, the Planning Commission may in its discretion coordinate its review procedure, hearings and decisions under this Section 8601, *et. seq.*, Section 8604.A, and the Township Oil and Gas Facilities and Pipelines Hydrogen Sulfide Ordinance.
 - 8. A description of the measures which the applicant proposes to assure the public safety and health, protection of surface and ground water, and the lateral support of surrounding lands and structures; including emergency notification, response and safety plans, monitoring plans, reporting of the release of toxic or hazardous substances plans.

9. A safety study certifying that credible accidental releases from the applicant will not result in health hazards in areas accessible to the public.
 10. Documentation that any proposed pipeline or facility serving to transport or process any fluid matter containing toxic and/or hazardous substances, including but not limited to hydrogen sulfide gas, or brine, meets state (MMDEQ or MPSC) law and rule, and county requirements, and shall meet and continue to meet any applicable public health and safety criteria for each type of credible accidental release.
- L. In addition, to the information required by Section 9402, *et. seq.*, and 8601 *et. seq.*, if a special use permit is requested in a Limited Industrial District or Lakefront Industrial District for any oil and gas structure, process facility, sweetening facility, or equipment, or connecting pipelines, gathering lines, or flowlines, the applicant shall submit the following as part of its application for a special use permit. (In order to avoid duplication, if the following items have been submitted under Section 8601, *et. seq.*, or 9402 *et. seq.*, the item may be submitted by reference to what has been filed.)
1. A map or aerial photograph of the proposed project site and surrounding area which dictates:
 - a. Boundaries of the proposed project site.
 - b. Surface drainage of the project.
 - c. Location and names of all streams, roads, railroads utility lines and pipelines on or immediately adjacent to the project site
 - d. Location of all buildings and structures within 1,920 feet of the exterior of the perimeter of the facility proper, and not the boundary of the property line on which the facility is located or to be located.
 - e. Estimated depth to groundwater.
 2. A detailed description of the production, sweetening, processing or other machinery and equipment to be located on the project site.
 3. A description of the measures to be taken to screen the project from view.
 4. Proposed primary travel or transmission routes to be used to transport the raw materials to the project site and the processed materials away from the project site, including the proposed location of all pipelines.
 5. A description of the plans for top soil storage if the project will disturb the top soil.

6. A Pollution Incident Prevention Plan approved by the Michigan Department of Environmental Quality, the Fire Chief of the Township of Filer Fire Department, the Manistee County Emergency Services Director, which sets forth in reasonable detail the applicant's contingency plans in the event of a fire, plans for the evacuation of surrounding areas and neighborhoods, communication and warnings to be given in the event of a fire or pollution incident or accident, and the procedure to be followed for periodic up-dating of such plan in consultation with the appropriate fire department and county officials. In addition, the plan shall include all other information required by the Department of Environmental Quality or other governmental agencies having jurisdiction over the project.
7. A statement of any changes or modifications to the project required or to be required for approval by any other governmental agency whose approval is required.
8. A reclamation plan which shall include the following:
 - a. A statement of the maximum life expectancy of the project and all plant, machinery and equipment associated with the project.
 - b. Plans for the disassembly, removal, or other disposition of all plant, machinery and equipment, including pipelines at the project site at the expiration of operations.
 - c. Plans for the replacement of top soil and restoration of the property or project site to its original grade and contours.
 - d. Plans for the restoration of all access roads to original condition unless at the time of reclamation an agreement is reached among the Planning Commission, the owner/operator of the project, and the affected landowner(s), for some other disposition.
 - e. Plans for the identification, disposal or treatment of any harmful, hazardous substances or toxic materials found on the property or the project site, including any contaminated top soil.
 - f. The estimated cost of completion of the reclamation plan within one year of cessation of operations based on the anticipated costs for the year in which the reclamation would take place.
 - g. A statement of the proposed form of a performance guaranty equal to two times the estimated cost of the reclamation plan which may be required by the Planning Commission.
9. Copies of all applications for drilling permits, drilling permits, survey records of well location, and plat, as provided to the Supervisor of Wells, or

the Michigan Public Services Commission, in connection with any hydrogen sulfide or sour gas well that is proposed to be connected to the facility, structure, equipment for which the special use permit is sought.

10. Prior to the issuance of a special permit, the applicant or owner (if different from applicant) shall deliver to the zoning administrator:
 - a. Security equal to the estimated costs for required public improvements, if required as a condition under Section 8609.
 - b. Bond or security in an amount equal to twice the estimated cost of completing the reclamation plan.
 - c. The applicant's and owner's (if different than applicant) agreement providing the Township the right to inspect the facility from time to time.
 - d. The applicant's or owner's (if different from applicant) agreement to provide the zoning administrator with all pollution incident reports within ten days of the report being prepared for other agencies.
 - e. A certified check in the amount of the reasonable additional costs incurred by the Township in processing the special use permit application.

11. Oil and gas structures, including processing or sweetening facilities. The following requirements shall be in addition to the Township Oil and Gas Facilities and Pipelines Ordinance.
 - a. No oil and gas production facility or structure, including any processing or sweetening facility, except access roads and pipelines, for the processing, treatment, or transport of any gas or oil containing hydrogen sulfide shall be constructed, located, or used within 1,300 feet of an existing dwelling, commercial or other non-residential building or structure located and occupied on property adjacent to or separate from the property for which the special use permit is sought; access roads and pipelines shall not be located within 600 feet of an existing dwelling, commercial or other non-residential building or structures located and occupied on property adjacent to or separate from the property for which the special use permit is sought. Such distance shall be measured from the exterior of the perimeter of the facility, access road, or pipeline proper, and not the boundary of the property on which it is located or to be located.

- b. No oil and gas production structure, including any processing or sweetening facility, except access roads and pipelines, for the processing, treatment, or transport of hydrogen sulfide shall be constructed, located or used within 1,300 feet of an existing subdivision, apartment buildings, residential developments, mobile home parks, residential uses whose occupants are relatively immobile and which are hard to quickly and efficiently evacuate such as hospitals, nursing homes, residential care centers, or other land uses that involve dense population; access roads, and pipelines shall not be located within 600 feet of such uses and structures. The distance shall be measured from the exterior of the perimeter of the facility, access road, or pipeline proper, and not the boundary of the property on which it is located or to be located.
 - c. In addition to the bulk, area, and minimum lot size requirements of this chapter, the minimum lot size for a hydrogen sulfide sweetening facility or other similar process facility for the removal or treatment of hydrogen sulfide shall be ten acres, with minimum lot width of 400 feet, measured at the narrowest point between lot lines.
 - d. All oil and gas processing or sweetening facilities having buildings, plant, equipment and/or machinery located above ground, will be screened from view from all nearby roads, dwellings and commercial uses by vegetation or berm, or a combination of both, placed near or at the perimeter boundary of the project site.
 - e. Any oil and gas production structure or pipeline including processing or sweetening facilities, that will treat or process natural gas or oil that is permitted under the Filer Charter Township Hydrogen Sulfide Ordinance, does not have to meet the requirements of subparagraphs a and b of this paragraph 11; provided, however, that such facility shall not be closer than the applicable front yard setback under this chapter for the district in which any adjacent dwelling, building, or structure is located, and provided, further, that the oil and gas production use or structure meets all other standards and criteria for a special use permit set forth in Article 86 of this Chapter and the Township Zoning Act.
12. In the case of a bulk storage facility, all tanks and other storage facilities, pumps and other equipment shall be completely enclosed within a berm to minimize the visual impact on adjacent land uses.
 13. All lights or other illumination devices shall be shaded and/or screened by the vegetation, berm and/or by other apparatus such that direct glare is not visible beyond the perimeter boundary of the property.

14. The project site shall be secured to prevent pedestrians and other unauthorized persons from gaining access to the project site.
15. All emissions and/or effluent discharges from the oil and gas processing or sweetening facility shall meet or exceed all applicable state and federal air pollution, surface and ground water quality standards. All hazardous wastes shall be transported off-site by a Michigan licensed industrial waste hauler and disposed of in a properly licensed landfill. Tanks constructed of steel or other material approved in accordance with federal and state law shall be used for storage of all liquid materials, including brine, except that lined mud pits may be allowed for emergency backup purposes, provided that after the emergency has ceased the materials will be hauled off site within 48 hours. Sulfur, once separated from natural gas, shall be incinerated and technology which chemically changes the sulfur to its elemental form, or other form suitable for resale, or more advanced technology recognized by the American Petroleum Institute or American Gas Association and approved by the Planning Commission, shall be used.
16. Sweetening plants shall be fitted with a warning siren audible for one mile in all directions on a calm (no wind) day, which is triggered to sound when air concentrations of hydrogen sulfide exceed 10 ppm within the project site. The siren shall be periodically tested and maintained on a regular basis during the life of the plant.
17. Odors shall not be detectable by normal human senses under normal operating conditions at a distance of 1,300 feet from an oil and gas processing or sweetening facility.
18. The applicant shall submit a site and facility reclamation plan as described in Section 8604.L.8 to restore the property to its original or nearly original condition, and capable of being completed within one year of the cessation of the operations of the project.

31.86.8605 Application Review for Completeness.

Upon receipt of a special use permit application, the zoning administrator shall review the application to insure it is complete, and includes all the elements specified in Section 8603 and 8604 of this chapter.

- A. If the application is not complete, the zoning administrator shall return the application with a letter that specifies the additional material required.
- B. If the application is complete, the zoning administrator shall confer with the chairman of the Planning Commission to establish a date to hold a meeting and/or hearing on the special use permit application.

31.86.8606 Notice of Consideration or Public Hearing.

- A. The zoning administrator shall, upon establishing a date for a meeting and/or hearing, schedule a meeting upon the request, preceded by notification between five and 15 days prior to the date the application will be considered, to:
1. The applicant.
 2. To the owners of the property for which approval is being considered.
 3. The owners of all property within 300 feet of the boundary of the property for which approval is being considered, as shown by the latest assessment roll.
 4. All occupants of structures within 300 feet of the property in question. If the name of an occupant is not known, the term “occupant” may be used in the notice. Notification need not be given to more than one occupant of a structure, except that, if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 5. Published in a newspaper which circulates in the Township.
- B. All notices shall:
1. Describe the nature of the special land use request.
 2. Indicate the property which is the subject of the special land use request.
 3. State when and where the special land use request will be considered.
 4. Indicate when and where written comments will be received concerning the request.
 5. Indicate the person or persons who may request a public hearing on the special land use request. If a public hearing is requested, notification as required for notice of a request for special land use approval shall be given, and said public hearing shall be held before a decision is made on the special land use request which is based on discretionary grounds.

31.86.8607 Meeting or Hearing.

The Planning Commission shall hold a meeting(s) and/or hearing for purposes of detailed review of the special use permit application.

31.86.8608 Special Use Permit Decision and Standards. (amended as follows)

- A. Following the meeting(s), or public hearing, as the case may be, said Planning Commission shall either grant or deny a permit for such special land use and shall state its reasons for its decision in the matter within 75 days from the date the zoning administrator finds the special permit application as submitted is complete as provided in Section 8605 of this chapter unless mutually agreed to be extended by the applicant and Planning Commission. The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing such a use on the proposed site, parcel. If the Planning Commission finds all the standards set out in this chapter are complied with, then the Planning Commission shall grant the special use permit. The burden of proof of facts which might establish a right to a special land use under the standards herein set forth shall be upon the applicant. The general standards for determining if a special land use permit is granted or not are:
1. Will be harmonious with and in accordance with the general objectives, intent and purposes of this chapter, both generally and for the particular district.
 2. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
 3. Will be served adequately by essential public facilities and services such as highways, roads, police and fire protection, drainage structures, refuse disposal, or the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
 4. Will not be hazardous or disturbing to existing or future neighboring uses.
 5. Will not create excessive additional requirements at public cost for facilities and services.
 6. Will be consistent with the general public health, safety and welfare.
 7. Will not affect adversely the land use plan for physical development of the Township as embodied in this chapter and in any master plan or portion thereof adopted by the Planning Commission.

8. Will not affect adversely the purposes of this chapter and the specific purposes of the respective land use district embodied in this chapter.
9. Will be in conformity with any specific standards given with special or temporary uses listed elsewhere in this chapter.
10. The design complies with all applicable general regulations and specific district regulations listed elsewhere in this chapter.
11. Will not impair, pollute, or destroy the air, water or other natural resources, including Township parks and other properties, or the public trust therein.
12. Will not create an immediate endangerment to life or the public health, safety and general welfare, and will not otherwise constitute a nuisance or unreasonable interference with the use and enjoyment of private and public property.

31.86.8609 Special Use Permit Conditions.

- A. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by the Planning Commission in its decision and shall be filed with the zoning administrator. Any conditions, limitations or requirements upon which approval is based shall be:
1. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
 2. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
 3. A valid exercise of the police power;
 4. Related to the purposes which are affected by the proposed use or activity;
 5. Consistent with the intent and purpose of this chapter, generally and specifically, for the respective district;
 6. Designed to insure compatibility with adjacent uses of land and the natural environment, or
 7. Designed to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.

8. Designed to ensure that the quality of the air, ground water, surface water and other natural resources of the Township will not be polluted, impaired nor destroyed.
 9. Designed to ensure that there will not be an endangerment to life or the public health, safety and general welfare, and will not otherwise constitute an unreasonable interference with the use and enjoyment of private and public property.
 10. Designed to require that the site be restored to its original condition so far as practical in accordance with the reclamation plan, which shall be started within 120 days, and completed within one year from the date of termination of operations.
 11. The permittee shall install and maintain proper monitoring devices and warning equipment to provide early discovery and notice of a release of hazardous substances, and shall file on the first day of each month following any term of operation with the Township Zoning Administrator copies of all monitoring results and maintenance logs, reports or records taken from reading or maintaining such devices or equipment.
- B. The Planning Commission shall have the right to limit the duration of a special land use permit in order to minimize the risks or adverse impacts to the public health, safety, and welfare, or private or public property and the air, water, or natural resources of the Township where the same is for mining operations or oil and gas structures, process facilities or equipment and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of the Planning Commission upon application of any aggrieved or other adversely affected party.

31.86.8610 Record of Special Use Permit.

The scaled drawing, site plan and specifications and all conditions, limitations, and requirements imposed by the Township shall be recorded with the Township Zoning Administrator and shall be incorporated as part of the special use permit. A notice of the special use permit in recordable form as provided by law shall be recorded with a property description in the Manistee County Register of Deeds, miscellaneous records.

31.86.8611 Security Requirement.

To insure compliance with the Zoning Ordinance and any conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Planning Commission may require:

- A. A cash deposit,

- B. Certified check,
- C. Irrevocable bank letter of credit, or
- D. Surety bond.

Such security shall be deposited with the Township clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than 90 days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.

31.86.8612 Amendment Of Special Use Permit.

An application may be considered to amend an existing special land use permit, and shall be handled in the same manner for the initial special use permit application prescribed by Section 8601 *et. seq.* of this chapter, except as follows. Changes to a special use permit or unwritten special use permit may be made by mutual agreement between the Township and applicant for:

- A. Any change in plan or design necessitated by problems arising during construction if such change is sought prior to the issuance of an occupancy permit.
- B. Minor additions, renovations, repairs, replacement when such activity does not involve further:
 - 1. Discharge into Manistee Lake.
 - 2. Alteration to the Manistee lake shore.
 - 3. Does not increase structure size, activity or value more than ten percent.
 - 4. Additions are not, in the judgment of the Planning Commission, major or significant enough to warrant a special use permit amendment hearing process.

31.86.8613 Transfer Of Special Use Permit.

In order to insure continued compliance with the terms of this chapter and a special use permit issued under it, in cases where a cash deposit, irrevocable bank letter of credit, certified check, or surety bond is required, a special use permit shall specify reasonable terms for transfer of a valid special use permit security from the present landowner or operator to a subsequent owner or operator. The responsibility for said transfer in accord with the terms of the special use permit shall be that of the permit holder of record recorded with the zoning administrator. Failure of a special use permit holder to properly transfer a special use permit security shall not release the permit holder of record from ordinance penalties for any subsequent action undertaken on the land in violation of the terms of the special use permit. Proper completion of the transfer shall require documentation of assumption by the new owner of an interest in the land/operation in question and

a written agreement that the new owner/operator will assume the obligations for the deposit of a bond or other performance guarantee when so required by the special use permit. When such bond or other performance guarantee is deposited properly with the Township by the new permit holder, any bond or performance guarantee on deposit with the Township by the previous permit holder shall be returned in accord with the terms of this chapter. A transfer of a special use permit security to a new owner shall not be required where there is no bond or other performance guarantee requirement.

31.86.8614 Expiration of Special Use Permit.

- A. A special use permit shall be valid for as long as the permitted use continues in accordance with the terms stated therein, unless otherwise stated in the special use permit.
- B. The special use permit shall expire, and be of no effect, 365 days after the date of issuance thereof, unless within such time work authorized under the said permit has started.
- C. If there is not compliance with the terms of the special use permit within six months from the date of occupancy, then it shall automatically expire and be of no further effect or validity.
- D. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by subsequent owner.
- E. The zoning administrator shall notify the applicant, in writing, mailed to the address listed on the application that such special use permit has expired.

ARTICLE 88
PLANNED UNIT DEVELOPMENT

31.88.8801 Purpose.

This section recognizes that it may be desirable to modify certain restrictions of this chapter in the context of an innovative, efficient, planned unit development. The rationale for this departure from normal policy is virtually the entire chapter is drafted in contemplation of regulating separate, individually proposed uses. Whenever it can be demonstrated the needs of the community will be better served by a private plan which combines multiple structures or uses on a single area, it may be possible to modify some of the regulations which inhibit such a plan without formal amendment of this chapter by issuing a special use permit for a planned unit development.

31.88.8802 Eligibility.

No use shall be eligible for special treatment under this section unless all of the following are determined:

- A. The application proposes a planned unit development as defined by this chapter.
- B. Planned unit development of the type contemplated is authorized by special use permit in the relevant district.
- C. Every use contemplated in the planned unit development in the respective districts are:
 - 1. Listed as permitted uses in that district;
 - 2. Listed as special uses in that district; and
 - 3. Hotels and other lodging places.
- D. If a proposed use in a planned unit development is one or more of the following:
 - a. Retail Trade;
 - b. Finance, insurance and real estate;
 - c. Services establishments (except hotels and other lodging places);

and is not listed as a permitted use or special use in the respective district in which the planned unit development is proposed; the use may still be a part of the planned unit development if the following conditions are met:

- 1. The use is clearly an accessory use to the principle function(s) in the planned unit development;

2. The use is conducted entirely within an enclosed building except for parking, signs, arrival and departure of shipping, other incidental activities which are not permanent in nature;
 3. The use has all outside accessory and work areas enclosed by a solid wall;
 4. The minimum size of the structure is 600 square feet in building area; and
 5. The maximum size all structures (building areas and total interior floor areas, whichever is less) is 3,000 square feet in area;
- E. The proposed planned unit development is on a parcel which is eight times the size of the minimum parcel size required in the respective district, or larger, in size.

Where P is minimum Parcel size in the district

Where G is the minimum Gross parcel size for the planned unit development.

$$P * 8 = G$$

If the planned unit development is in two districts then perform the calculation for that part of the planned unit development in each district and multiply the result by the percent of the planned unit development in each district and then sum the results;

Where P is minimum Parcel size in the district.

Where px is the percent of planned unit development in each respective district.

Where Rx is the Result.

Where M is the Minimum Planned Unit Development parcel size.

$$P * 8 * p1 = R1$$

$$P * 8 * p2 = R2 \rightarrow R1 + R2 = M$$

but in no event shall the proposed planned unit development be on a parcel that is less than ten acres, exclusive of road rights-of-way (existing and planned) and environmentally sensitive areas where no buildings or structures would generally be allowed, including, sand dunes, beaches, water bodies, wetlands, flood plains, high risk erosion area setbacks, and slopes over 25 percent;

and

- F. The application is otherwise consistent with the legislative policy expressed in Section 8801.

31.88.8803 Procedure.

- A. Applications for planned unit development are essentially special use permit applications which request a waiver of basic dimensional restrictions. Accordingly, they shall be processed by the commission under Section 8601 *et. seq.*, except that:
 - 1. The specific procedures of state zoning enabling statute; P.A. 184 of 1943, as amended, (being the Township Rural Zoning Act, MCL 125.271 *et. seq.*) shall be followed whenever they are inconsistent with Section 8601 *et. seq.*'s procedures; and
 - 2. Any basic restriction relating to minimum lot size, minimum usable floor area, maximum height or setbacks may be modified in accordance with Section 8804.

- B. In addition to the procedure for reviewing site plans and special use permits, when the application is for a planned unit development the commission shall also consult with the following agencies prior to issuing a planned unit development special use permit or approving the planned unit development site plan:
 - 1. The Filer Township Water Department, if applicable.
 - 2. The Filer Township Fire Department.
 - 3. The Manistee Mason District Health District sanitation or Michigan Department of Environmental Quality, whichever is applicable, concerning on site water and sewage disposal.

31.88.8804 Basic Restrictions and Modification Procedure.

- A. The commission shall calculate the gross acreage of the site proposed for the planned unit development by dividing the gross acreage of the development by the density of principal structures allowed in the district.
 - 1. When calculating available land area, all the land involved in the proposed planned unit development may be used for gross acreage, regardless if the land is all in one zoning district or not.
 - 2. If the gross acreage is located in more than one district, then the density shall be calculated separately for each area in each respective zoning district. The product shall be added together to represent the density permitted for the total area of the proposed planned unit development.

The product of that calculation shall be the density allowed in the planned unit development.

Where G is Gross acreage (all of the land).

Where D is Density in the district.

Where L is the number of Living Units allowed in the planned unit development.

$$G / D = L$$

- B. The district in which most of the land is located shall be used to determine which district regulations dealing with parking, setbacks, building height, maximum percentage of lot coverage, minimum square feet of building area and signs shall apply.
- C. The density obtained in Section 8804.A.2 represents maximum number of dwellings or principal structures which may be permitted for development unless waived in whole or in part by the commission pursuant to Section 8804.D.2. The density shall be expressed as total number of living units in the planned unit development. The following equivalents shall be used for density:
1. One living unit equals one dwelling unit (single family dwelling).
 2. Two living units equals one, two-family dwelling (duplex).
 3. One living unit equals one dwelling unit in a multiple family dwelling (an apartment).
 4. One living unit equals one for the first 1,000 square feet of retail establishment (except eating and drinking places space). Plus 0.25 living units for each additional 1,000 square feet.
 5. One living unit equals 0.5 for the first 1,000 square feet of eating and drinking places space. Plus one living units for each additional 500 square feet.
 6. One living unit equals one for the first 1,000 square feet of finance, insurance and real estate establishment space. Plus 0.25 living units for each additional 1,000 square feet.
 7. One living unit equals one for the first 1,000 square feet of service establishment. (except hotels and other lodging places space). Plus 0.25 living units for each additional 1,000 square feet.
 8. One living unit equals four rooms in hotels and other lodging places.
 9. One living unit equals two rooms with a kitchenette in hotels and other lodging places.
- D. Following these calculations, the commission then may:

1. Permit clustering of development and/or allow a reduction in the size of individual lots within the planned unit development below the minimum area required so long as the density for the gross acreage is not exceeded; and/or
2. Waive, wholly or in part, the density for the gross acreage, any minimum usable floor area requirement, setback, or maximum height, specified by the restrictions of the respective district if doing so results in:
 - a. Additional public property in the development and/or public easement on property in the development that is acceptable to the Township and/or
 - b. Lower costs for installation and/or maintenance of public utilities to be owned and operated by the Township, and/or
 - c. Public park land developed in or near the development, and/or
 - d. Preservation of open space and environmental (sand dune, beach contiguous to a lake or stream, wetland, high risk erosion area, flood plain, water setback areas, areas not suitable for on-site sewage disposal, slopes over 25 percent) or visual benefits to the Township, and/or
 - e. Enhance recreation opportunities, and/or
 - f. Provide a particular image or appearance at the entrance way, and/or
 - g. Some other public value to the Township.

31.88.8805 Open Space Preservation.

- A. The Charter Township of Filer desires to implement the requirements of 2001 PA 177, to encourage the preservation and conservation of open space, to conserve areas containing unique and aesthetically and environmentally sensitive natural features, and to protect areas of the Township with productive agricultural and forestry soils for continued and/or future agricultural/forestry uses, in the public interest. The following provisions apply to all residential development in the Forest-Recreational-Residential District (Article 35), Agricultural Residential District (Article 37), Medium Density Residential District (Article 40) and High Density Residential District (Article 45). The provisions of this section are optional with a landowner and may be implemented through the issuance of a land use permit by the zoning administrator.
- B. A parcel of land which otherwise meets all of the requirements of Article 35, Article 37, Article 40 or Article 45, of this chapter, as the case may be, may, at the option of the landowner, be developed with the same number of dwelling units

located on not more than 50 percent of the parcel as could otherwise be developed on the entire parcel under the relevant provisions of Article 35, Article 37, Article 40 or Article 45, as the case may be, if all of the following conditions apply.

1. Not less than 50 percent of the parcel will remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant or other legal means, that runs with the land.
 2. The residential development does not depend upon the extension of a public sewer or public water supply system, unless development of the land, without the exercise of the option provided by this section, would also depend upon such an extension.
 3. The option provided by this section has not previously been exercised with respect to the parcel or any portion thereof.
- C. For purposes of calculating the percentage of the parcel that will remain perpetually in an undeveloped state, those portions of the parcel that are occupied by bodies of water, wetlands, high risk erosion areas, slopes over 25 percent, sand dunes and other similar features, and which would otherwise be ineligible for residential development under other provisions of this chapter or other applicable state or federal laws, shall be excluded from the calculation of the amount of land that will remain perpetually in an undeveloped state.
- D. An application for a land use permit which proposes to exercise the option authorized by this section, shall be accompanied by a medium site plan as defined in Sec. 31.94.9405 of this chapter. In addition to the data required for a medium site plan, the land use application shall also be accompanied by a legal description of the land which the landowner proposes to place in a perpetually undeveloped state and such additional data as the zoning administrator may require in order to determine compliance with or to implement this section.
- E. Land which will remain perpetually in an undeveloped state shall be preserved according to one of the following methods:
1. If the landowner proposes a residential development in a subdivision, then by plat dedication.
 2. If the landowner proposes a residential development in a condominium project, including a site condominium, then by appropriate notation in the condominium master deed as approved by the zoning administrator.
 3. If the total area of land to remain perpetually in an undeveloped state is less than five acres, then by restrictive deed covenants that will run with the land, as approved by the zoning administrator.

4. If the land that will remain perpetually in an undeveloped state is larger than five acres, then by a conservation easement approved by the zoning administrator. The conservation easement shall be held by the Township, an agency of the State of Michigan, or an established land conservancy approved by the Township.

For good cause shown on the record and with the advice and consent of the Township Planning Commission, the zoning administrator may vary the means by which lands which will remain perpetually in an undeveloped state shall be preserved.

ARTICLE 94
SITE PLAN REVIEW

31.94.9401 Purpose.

It is recognized by this chapter that there is a value to the public in establishing safe and convenient traffic movement to higher density sites, both within the site and in relation to access streets; that there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this chapter requires site plan review by the commission under the provisions of a special use permit and provides for the option of site plan review by the administrator.

31.94.9402 Site Plan Review.

- A. Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the Appeals Board shall include a site plan drawn according to the specifications of this article.) The administrator shall review the site plan prior to issuing a zoning permit, or the administrator shall transmit the site plan to the commission for their review.
- B. There shall be three levels of site plans, for different complexities of proposed land uses:
 - 1. A basic site plan (Section 9404), for dwellings, additions to dwellings, construction of accessory structures to dwellings. These site plans shall only be subject to review by the administrator.
 - 2. A medium site plan (Section 9405), for any permitted use which is not a dwelling, addition to a dwelling, construction of accessory structures to dwelling and for any matter before the Appeals Board which would not need a detailed site plan. The commission shall publish policy for when a medium site plan not drawn for an Appeal shall be required to be reviewed by the commission and/or a committee of the commission, or the administrator.
 - 3. A detailed site plan (Section 9406), for any special use, planned unit development. These site plans shall only be subject to review by the commission.
- C. Whenever possible site plan review by the administrator and commission shall be coordinated and done simultaneously with other reviews by the administrator and commission on the same application.

31.94.9403 Optional Sketch Plan Review.

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the administrator and/or commission. The sketch plan shall be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements, drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be a scheduled as an item of business on the commission's agenda if the sketch plan is to be reviewed by the commission.

31.94.9404 Required Data For Basic Site Plan Review.

The basic site plan shall be a sketch, drawn to scale, or superimposed on an air photo, or superimposed on a survey, of the parcel. The following shall be shown on the basic site plan:

- A. The property, identified by parcel lines and location and size.
- B. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
- C. The scale, north point
- D. Natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25 percent, beach, sand dunes, drainage and similar features.
- E. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings and square footage of floor space.
- F. The proposed driveway, if any.
- G. Show any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the commission issues a special use permit shall also be changed in accordance with procedures established in this chapter for minor adjustments or amendments to special use permits.)

31.94.9405 Required Date for a Medium Site Plan Review.

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use.

- A. All the data required for a basic site plan, spelled out in Section 9404 of this chapter.
- B. The parcel's legal description.
- C. Boundary dimensions of natural features such as woodlots, water bodies, wetlands, high risk erosion areas, slopes over 25 percent, beach, sand dunes, drainage and similar features.
- D. Location dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines,
- E. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes and service parking, snow storage areas.
- F. Any proposed alterations to the topography and other natural features shall be indicated.
- G. Any proposed location of connections to existing utilities and proposed extensions thereof.
- H. A description of the proposed development.
- I. A vicinity map showing the location of the site in relation to the surrounding street system.

31.94.9406 Required Data for a Detailed Site Plan Review.

A site plan which shall be of a scale not to be greater than one inch equals 20 feet nor less than one inch equals 200 feet, and of such accuracy that the commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The commission, upon initial review of the site plan, may act to require any information specifically waived by the administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor, community planner, owner or other qualified individual. Unless so waived, all site plans shall include the following information:

- A. All the data required for a basic site plan, spelled out in Section 9404 of this chapter and for a medium site plan, spelled out in Section 9405 of this chapter.
- B. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.

- C. The location, proposed finished floor and grade line elevations.
- D. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
- E. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site.
- F. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the commission determines that the site and use warrant a more critical review of topography.
- G. Generalized soil analysis data, which may include data prepared by the Manistee County Soil Conservation District or Manistee County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the commission determines that the site and use warrant a more critical review of soils.
- H. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.
- I. For applications concerning the disposal or handling of toxic or hazardous substances, including but not limited to hydrogen sulfide or mud/brine pits in connection with oil and gas wells, structures, facilities or equipment, the applicant shall submit information as set forth in Section 9407, below.
- J. A design that assures that the quality of the air, ground water, surface water and other natural resources within the Township, or the public trust therein as interpreted by the courts under Part 17, Natural Resources and Environmental Protection Act, MCL 324.1701 *et. seq.*, will not be impaired nor destroyed.
- K. A design that assures that there will be no endangerment of life or the public health, safety, and general welfare, and that there otherwise will be no creation of a public or private nuisance.
- L. A design that complies with the requirements and standards of the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, and other applicable state and federal laws, and their respective regulations.
- M. As to any oil and gas structure, process facility or equipment, or pipeline, gathering line or flow line, a detailed lay out in accordance with this section, showing the radius of exposure and level of exposure to any hazardous substance, including where applicable hydrogen sulfide, as determined by an air dispersion model where required by the terms of this chapter.

31.94.9407 Required Data for a Site Plan Involving Special Groundwater, Surface Water, and Air Quality Protection Provisions.

- A. Applicability of this additional site plan content for groundwater, surface water and air quality protection: All businesses and facilities which use or generate hazardous substances or toxic pollutants, including but not limited to hydrogen sulfide gas and mud/brine (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor; (2) materials in a five gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):
1. In quantities greater than 100 kilograms (approximately 220 pounds) per month or 95 liters (approximately 25 gallons) per month, whichever is less, or
 2. Stores greater than 100 kilograms (approximately 220 pounds) or 95 liters (approximately 25 gallons), whichever is less shall be subject to site plan review requirements.
- B. In addition to all the data required for a basic site plan, set forth in Section 9404, medium site plan set forth in Section 9405, or a detailed site plan set forth in Section 9406, whichever is applicable; the following shall also be shown in the site plan:
1. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 2. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
 3. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 4. Location of all water wells on the site and within 150 feet surrounding the parcel's property boundaries.
 5. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
 6. Submission of the "Hazardous Substances Reporting Form for Site Plan Review."

7. Submission of the “State/County Environmental Permits Checklist.”
8. If the area covered by the site plan includes territory within a Wellhead Protection Overlay Zone submit a site plan review report prepared by a Manistee County Groundwater Staff Review Group (c/o Manistee County Planning Department). The site plan review report shall be a written document reporting on a county review of the same site plan prepared for this section. If the area covered by the site plan does not include territory within a Wellhead Protection Overlay Zone a site plan review report prepared by the Manistee County Groundwater Staff Review Group may be submitted at the option of the applicant or may be required at the option of the commission or administrator, whichever is applicable.

31.94.9408 Submission of a Site Plan.

Three copies of a site plan shall be submitted with a zoning permit application to the administrator. In the case where a committee of the commission or the commission is reviewing the site plan, eight copies of the site plan shall be submitted to the administrator.

31.94.9409 Review for Completeness.

The administrator shall review the site plan received to insure it is complete, and contains all the elements required by this chapter. Such finding shall be done concurrently with similar required findings that a zoning application is complete.

- A. If the site plan is not found to be complete, the administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
- B. If the site plan is found to be complete, the administrator shall:
 1. Only as applicable, forward copies of the site plan to the Township Engineer, County Road Commission, Township Department of Public Works, County Soil Erosion Inspector, County Drain Commissioner, County Health Department, Michigan Department of Highways, for their recommendations to be subsequently forwarded with the site plan, and
 2. Determine if the site plan is to be reviewed and acted upon by him, and then do so, or
 3. Determine if the site plan is to be reviewed and acted upon by the Appeals Board, and then forward the copies of the site plan to each member of the Appeals Board a week prior to their meeting, or
 4. Determine if the site plan is to be reviewed and acted upon by the commission or a committee of the commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of

the commission (or a committee of the commission) a week or more prior to the commission's meeting.

31.94.9410 Standards for Site Plan Review.

The following standards shall be used by the commission and administrator to review site plans:

- A. All applicable regulations of this chapter which apply generally to all districts, and all applicable regulations of this chapter which apply to the specific zoning district, to any conditions imposed with the granting of a special use permit or variance, shall be shown on the site plan as being complied with.
- B. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric, telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the administrator, commission or Appeals Board upon review of the site plan.
- C. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Township and designed in compliance with any applicable federal and state statute, Township and county ordinance.

31.94.9411 Approval and Compliance.

- A. In cases where the administrator reviews the site plan pursuant to Section 9402; within seven days of the site plan being found complete, as specified in Section 9409, the administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- B. In cases where the commission, or a committee of the commission, reviews the site plan; within 60 days of the site plan being found complete, as specified in Section 9409, the commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
- C. The action shall be recorded in a record of the zoning application and shall be filed with the administrator. The administrator or commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or commission mutually agree, the time limit may be extended.

31.94.9412 Conditions of Site Plan Approval.

- A. A site plan can be approved with conditions necessary to comply fully with the intent of this chapter. All conditions shall be shown on the approved site plan and/or shall be in writing.
- B. Reasonable conditions may include conditions necessary to:
 - 1. Insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
 - 2. Protect the natural environment and conserve natural resources and energy.
 - 3. Insure compatibility with adjacent uses of land.
 - 4. Promote the use of land in a socially and economically desirable manner.
- C. Conditions imposed shall meet all of the following requirements:
 - 1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - 2. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - 3. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
 - 4. Be designed to assure that the quality of the air, groundwater, surface water and other natural resources within the Township, or the public trust therein, will not be impaired nor destroyed.
 - 5. Be designed to assure that there will be no endangerment of life or the public health, safety and general welfare, and that there otherwise will be no creation of a public or private nuisance.
 - 6. Be designed to comply with the requirements and standards of the Natural Resources and Environmental Protection Act, MCL 324.101, *et. seq.*, and other applicable state and federal laws, and their respective regulations.

31.94.9413 Security Requirement.

- A. To insure compliance with the site plan and chapter and any conditions, limitations or requirements imposed by the administrator or commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the administrator or the commission may require:
 - 1. A cash deposit,
 - 2. Certified check,
 - 3. Irrevocable bank letter of credit, or
 - 4. Surety bond,in an amount and under the conditions permitted by law.
- B. Such security shall be deposited with the Township clerk at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than 90 days to be completed, the administrator or commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- C. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance with.

31.94.9414 File Copies.

At least two copies of the site plan, all accompanying documents, record of approval, list of conditions, security shall be kept by the Township for its records.

31.94.9415 Zoning Permits.

No zoning permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, being the State Construction Code Act, MCL 125.1501 *et. seq.*, shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

31.94.9416 Amendment Of Site Plan.

An application may be considered to amend an existing site plan, and shall be handled in the same manner for the initial site plan review prescribed by Section 9401 *et. seq.* of this chapter. By mutual agreement between the Township and applicant, minor nonsubstantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the special use permit.

**ARTICLE 96
BOARD OF APPEALS**

31.96.9601 Board of Appeals Established.

There is hereby established a Board of Appeals, which shall perform its duties and exercise its powers as provided in Michigan Public Act 184 of 1943, as amended, being the Michigan Rural Township Zoning Act, in such a way that the objectives of this chapter shall be enforced, the public health and safety secured and substantial justice done.

31.96.9602 Duties of the Board of Appeals.

The Board of Appeals shall hear and decide such matters as the Board of Appeals is specifically authorized to pass on as provided in this chapter and such matters as may be provided by statute.

31.96.9603 Variance.

A variance from the terms of this chapter shall not be granted by the Board of Appeals unless and until:

- A. A written application for a variance is submitted, demonstrating:
 - 1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - 2. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - 3. That the special conditions and circumstances do not result from the actions of the applicant.
 - 4. That granting the variances requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
 - 5. That no nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- B. The Board of Appeals shall make findings that the requirements of this chapter have been met by the applicant for a variance.
- C. The Board of Appeals shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum

variance that will make possible the reasonable use of the land, building or structure.

- D. The Board of Appeals shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- E. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 9801 of this chapter.

31.96.9604 Voiding of Variances.

Each variance granted under the provisions of this chapter shall become null and void unless:

- A. The construction authorized by such variance or permit has begun within 180 days after the granting of such variance and pursued diligently to completion, or
- B. The occupancy of land or buildings authorized by such variance has taken place within 180 days after the granting of such variance.

31.96.9605 Appeals to the Board of Appeals.

The following provisions shall apply:

- A. **Appeals-How Taken.** Appeal from a ruling, decision or determination of the zoning administrator concerning the enforcement, administration and interpretation of this chapter text and zoning map may be made to the Board of Appeals within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the zoning administrator a notice of appeal specifying the grounds therefor. A decision by the Planning Commission to issue or deny issuance of a special use permit is not appealable to the Board of Appeals except and only to the extent that if in connection with a decision on a special use permit application the Planning Commission makes a specific finding involving the interpretation of this chapter text and/or zoning map, such interpretation of the chapter text or zoning map may be appealed to the Board of Appeals by the filing with the zoning administrator and the Board of Appeals of a notice of appeal specifying the grounds therefore prior to final action by the Planning Commission on the special use permit application. The zoning administrator or the secretary of the Planning Commission, as the case may be, shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

- B. **Who May Appeal.** Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, agency or bureau of the Township, county or state.
- C. **Fee for Appeal.** A fee prescribed by the Township Board shall be paid to the zoning administrator at the time of filing the notice of appeal.
- D. **Effect of Appeal-Restraining Order.** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Township Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the circuit court, on application, on notice to the office from whom the appeal is taken and on due cause shown.
- E. **Hearing by the Board of Appeals-Request, Notice, Hearing.** When a request for appeal has been filed in proper form with the Board of Appeals, the zoning administrator shall immediately place the said request for appeal upon the calendar for hearing, and cause notice, stating the time, place and object of the hearing to be served personally or by certified return receipt mail if necessary.
- F. **Representation at Hearing.** Upon the hearing, any party or parties may appear in person or by agent or by attorney.
- G. **Decisions of the Board of Appeals and Appeals to the Circuit Court.** The Board of Appeals shall decide upon all matters appealed from within a reasonable time and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the zoning administrator, Planning Commission or Township Board, from whom the appeal is taken for administration and enforcement of this chapter. The Board of Appeals' decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Board of Appeals in each particular case. Any person having an interest affected by such decision shall have a right to appeal to the circuit court provided by statute.
- H. **Personnel of Board.** The Board of Appeals shall consist of the following three members and an alternate member:
 - 1. First member shall be a member of the Township Planning Commission.

2. Second and third members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the Township.
3. An alternate member may be appointed at the option of the Township Board. The alternate member shall serve upon absence of a regular member.

ARTICLE 98
ENFORCEMENT, AMENDMENT, CONFLICT AND SEVERABILITY

31.98.9801 Violations and Penalties, Nuisance Per Se, Abatement.

Any land, dwellings, buildings or structures, used, erected, altered, razed or converted in violation of any provision of this chapter are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof be subject to a fine of not more than \$500.00 and the cost of prosecution thereof, by imprisonment in the county jail for a period not to exceed 90 days, or both, in the discretion of the court. Each day that a violation is permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this chapter. The Township Board, the Township Planning Commission, the Township Zoning Administrator, the Board of Appeals, the attorney of the Township or any owner or owners of real estate within the district in which such building, structure or land is situated may institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove any said unlawful erection, construction, alteration, reconstruction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

31.98.9802 Initiating Amendments and Fees.

The Township Board may from time to time, on recommendation from the Planning Commission, amend, modify, supplement or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment. Said amendment may be initiated by resolution of the Township Board, the Planning Commission, or by petition of one or more owners of property to be effected by the proposed amendment. Except for the Township Board, or the Planning Commission, the petitioner or petitioners requesting an amendment shall at the time of application pay a filing fee as set by resolution of the Township Board.

31.98.9803 Amendment Procedure.

- A. Except as provided in subsection B, below, the procedure for making amendments to this Chapter 31 shall be in accordance with the manner provided by law.
- B. Conditional zoning proposal:
 - 1. **Intent.** It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of section 16i of P.A. 184 of 1943, as amended, (being the Township Zoning

Act, M.C.L. 125.286i) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

2. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
3. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this subsection. All other provisions of this section shall apply and criteria which includes but is not limited to compliance with the process outlined in this section, notices, hearing, comments at hearing(s), and a finding of compliance with the plan. In addition for a proposed zoning agreement, or conditional zoning amendment proposal:
 - a. Hearing notices shall clearly indicate the proposed zoning amendment is a conditional rezoning amendment which is specific to property which is indicated in the notice. The notice shall also indicate the condition, or zoning amendment request may be rejected, approved, or changed before approved.
 - b. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 - c. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
 - d. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.
 - e. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this chapter may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this chapter.
 - f. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or

development is ultimately granted in accordance with the provisions of this chapter.

- g. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- h. A conditional zoning proposal shall not be accepted for consideration if the proposed statement of conditions contains provisions which are less restrictive, than those found in the proposed zoning district. Such requests shall be pursued as a variance.
- i. **The Statement of Conditions.** The offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning. The statement of conditions shall:
 - i. Be in a form recordable with the Manistee County Register of Deeds or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the Township Board.
 - ii. Contain a statement acknowledging that the statement of conditions or an affidavit or memorandum giving notice thereof may be recorded by the Township with the Manistee County Register of Deeds.
 - iii. Contain a legal description of the land to which it pertains.
 - iv. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successor owners of the land.
 - v. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that

are necessary to illustrate the implementation of the statement of conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

- vi. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions and the agreement is lawful, is enforceable, the applicant shall not take a contrary position, and the parties are entitled to injunctive relief.
- vii. A reciting of the process for approval and adoption of the statement of conditions.
- viii. State the duration of the statement of conditions.
- ix. State the conditions and timing of the development. However such conditions shall:
 - (a) Be tangible offerings along the nature of site design, restriction on type of use (but not intangible items such as hours of operation, and other operation practices).
 - (b) Shall not include provisions which contract away the Township Board's police powers, or otherwise prohibit a future zoning amendment for the property.
 - (c) Shall not include provisions for off-site improvements.
 - (d) Where necessary an agreement on rough proportionality for sharing costs for applicable conditions.
- x. A reversion clause.
- xi. Enforcement provisions.
- j. If the terms of the statement of conditions, in an approved conditional rezoning, are violated and enforcement efforts have not been successful, then the Planning Commission shall initiate, and the Township Board shall adopt a zoning amendment to revert the zoning back to what it was prior to adoption of the conditional

zoning. In doing so, the same process for amending the Zoning Ordinance in this section shall be followed, except for the requirement of a finding of compliance with the plan.

- k. Upon approval of a conditional zoning amendment, the statement of conditions shall be recorded in the Manistee County Register of Deeds office. Upon approval of a conditional zoning amendment the boundary of the parcel(s) subject to the conditional rezoning shall be shown on the zoning map with a symbol (such as but not limited to an asterisk) to indicate a statement of conditions exists for the parcel(s).

4. Review of Conditional Rezoning.

- a. Planning Commission review of conditional zoning amendment. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth elsewhere in this section, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- b. Township Board review of conditional zoning amendment. After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth elsewhere in this section.

5. Compliance with Conditions.

- a. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- b. No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.

6. **Time Period for Establishing Development or Use.** Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

7. **Reversion of Zoning.**

a. If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection 6 above, then the land shall revert to its former zoning classification as set forth of section 16i of P.A. 184 of 1943, as amended, (being the Township Zoning Act, M.C.L. 125.286i). The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification or by the Planning Commission. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

b. Subsequent Rezoning of Land: When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to this subsection 7 or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township clerk shall record with the Manistee County Register of Deeds a notice that the statement of conditions is no longer in effect.

8. **Amendment of Conditions.**

a. During the time period for commencement of an approved development or use specified pursuant to subsection 6 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the statement of conditions.

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

9. **Township Right to Rezone.** Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and P.A. 184 of the Public Acts of 1943, as amended, being the Township Zoning Act, M.C.L. 125.271 *et. seq.*

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

31.98.9804 Conformance To Court Decree.

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for by statute.

31.98.9805 Conflict With Other Laws.

A. Where any condition imposed by any provision of this chapter upon the use of any lot, building or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this chapter, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

B. This chapter is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this chapter shall govern.

History and Editor's Notes

Preamble of this Ordinance reads as follows:

FILER CHARTER TOWNSHIP ZONING ORDINANCE AN ORDINANCE ESTABLISHING ZONING DISTRICTS WITHIN THE UNINCORPORATED PORTIONS OF THE CHARTER TOWNSHIP OF FILER MANISTEE COUNTY, MICHIGAN

An ordinance to amend an ordinance entitled "FILER TOWNSHIP PERMANENT ZONING ORDINANCE" which ordinance is enacted under Public Act 184 of 1943, as amended, to establish and define zoning districts and regulations governing unincorporated portions of Filer Township, Manistee County, Michigan.

Section 101 of this Ordinance contained the following statement: "The "Filer Township Zoning Ordinance of 1995" is hereby retitled the "Charter Township of Filer Zoning Ordinance, as amended in 1999."

[Annotation: Filer Township, in January 1996, became a Charter Township.]

Section 9806 of this Ordinance contained the following statement: "If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this ordinance not specifically included in said ruling."

Section 9807 of this Ordinance contained the following statement: "REPEAL OF ORDINANCE The Filer Township Permanent Zoning Ordinance adopted on July 8, 1988, and all amendments thereto are hereby repealed effective coincident with the effective date of this Ordinance."

Section 9808 of this Ordinance contained the following statement: "EFFECTIVE DATE The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of public peace, health, safety and general welfare, and are hereby ordered to take immediate effect and be in force from and after 12:01 am _____, 1995, in accordance with the statutes in such case made and provided, and this Ordinance is hereby ordered to be published in the manner provided by law."

Amended Ordinance Introduced: Sept. 6, 2000

Amended Ordinance Published: Sept. 9, 2000

Amended Ordinance Adopted: Oct. 3, 2000

Amended Ordinance Published: Oct. 6, 2000

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER ZONING ORDINANCE OF 1995, AS AMENDED, BY ADDING PROVISIONS REGARDING HOUSING FOR ELDERLY PERSONS IN THE GENERAL COMMERCIAL DISTRICT, BY ADDING SPECIAL USES IN THE FOREST RECREATIONAL AND GENERAL COMMERCIAL DISTRICTS, AND BY REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendment #3 (Amends Section 31.10.1060)

Amended Ordinance Introduced: January 2, 2002

Amended Ordinance Published: January 8, 2002

Amended Ordinance Adopted: February 5, 2002

Amended Ordinance Published: February 11, 2002

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY AMENDING PROVISIONS REGARDING POLITICAL SIGNS, BY FURTHER DEFINING THE CATEGORY OF RESIDENTIAL DISTRICTS, BY AMENDING PROVISIONS REGARDING THE ZONING BOARD OF APPEALS, AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendment #6 (Amends Section 31.10.1051, adds Section 31.88.8805)

Amended Ordinance Introduced: December 3, 2002

Amended Ordinance Published: December 21, 2002

Amended Ordinance Adopted: December 18, 2002

Amended Ordinance Published: December 21, 2002

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, BY AMENDING PROVISIONS RELATING TO PRIVATE ROADS, TO PROVIDE FOR OPEN SPACE PRESERVATION IN RESIDENTIAL DISTRICTS AND TO REPEAL ALL OTHER ORDINANCES IN CONFLICT HEREWITH.

Code Amendment #7 (Amends Section 31.67.6704.H.1)

Amended Ordinance Introduced: July 1, 2003

Amended Ordinance Published: July 8, 2003

Amended Ordinance Adopted: August 5, 2003

Amended Ordinance Published: August 8, 2003

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING SECTION 31.67.6704H, REGARDING BUFFER ZONES IN THE LAKE FRONT INDUSTRIAL DISTRICT AND BY REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendment #11 (Amends Sections 31.67.6702, 31.67.6703)

Amended Ordinance Introduced: February 3, 2004

Amended Ordinance Published: February 7, 2004

Amended Ordinance Adopted: March 2, 2004
Amended Ordinance Published: March 12, 2004

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING TITLE 3, CHAPTER 31 (ZONING), TO CLARIFY THE PERMITTED USES AND SPECIAL USES ALLOWED IN THE LAKEFRONT INDUSTRIAL DISTRICT AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendment #13, (Amends Sections 31.55.5502, 31.55.5503)

Amended Ordinance Introduced: April 5, 2005
Amended Ordinance Published: April 7, 2005
Amended Ordinance Adopted: May 4, 2005
Amended Ordinance Published: May 10, 2005

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING, TITLE THREE, CHAPTER 31 (ZONING), TO RECLASSIFY CERTAIN PERMITTED USES AND SPECIAL USES IN THE GENERAL COMMERCIAL DISTRICT AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendment #14 (Amends Sections 31.88.8802, 31.88.8803, 31.88.8804, 31.98.9803)

Amended Ordinance Introduced: October 4, 2005
Amended Ordinance Published: October 10, 2005
Amended Ordinance Adopted: November 1, 2005
Amended Ordinance Published: November 4, 2005

Preamble of this Amended Ordinance reads as follows:

ORDINANCE TO AMEND, IN PART, CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY AMENDING ARTICLE 88 REGARDING PLANNED UNIT DEVELOPMENTS AND BY AMENDING ARTICLE 98 TO PROVIDE FOR CONDITIONAL ZONING AMENDMENT AND TO REPEAL ALL ORDINANCES IN CONFLICT THEREWITH

Code Amendment #16, (Amends Section 31.5.502; adds Section 31.16.1602)

Amended Ordinance Introduced: July 5, 2006
Amended Ordinance Published: July 13, 2006
Amended Ordinance Adopted: August 1, 2006
Amended Ordinance Published: August 5, 2006

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES (ZONING) BY ADDING A DEFINITION

FOR WIND ENERGY CONVERSION. SYSTEM (WECS); BY AUTHORIZING THE ESTABLISHMENT OF A WECS IN ALL DISTRICTS BY SPECIAL USE PERMIT; BY ESTABLISHING STANDARDS FOR THE ISSUANCE OF A SPECIAL USE PERMIT FOR A WECS; AND BY REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

Code Amendments #17 (Amends Sections 31.5.502, 31.10.1095.B, 31.37.3702, 31.37.3703, 31.37.3704, 31.40.4002, 31.45.4502, 31.45.4503, 31.45.4504, 31.67.6701, 31.67.6702, 31.67.6703; deletes Section 31.67.6705)

Amended Ordinance Introduced: July 5, 2006

Amended Ordinance Published: July 13, 2006

Amended Ordinance Adopted: August 1, 2006

Amended Ordinance Published: August 7, 2006

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND THE FILER TOWNSHIP ZONING ORDINANCE BY ADDING THE DEFINITION OF COMMERCIAL MARINA, AMENDING THE PROVISIONS CONCERNING PERMITTED AND SPECIAL USES AND LOT WIDTH REQUIREMENTS IN AN AGRICULTURE RESIDENTIAL DISTRICT, AMENDING PROVISIONS CONCERNING PERMITTED USES IN A MEDIUM DENSITY RESIDENTIAL DISTRICT, AMENDING PROVISIONS CONCERNING PERMITTED AND SPECIAL USES AND REGULATIONS AND STANDARDS IN A HIGH DENSITY RESIDENTIAL DISTRICT, AMEND WORDING AND PERMITTED AND SPECIAL USES OF LAKEFRONT INDUSTRIAL DISTRICT, AMEND WORDING IN SEXUALLY ORIENTED BUSINESSES, REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

Code Amendments #22 (Amends Section 31.67.6704.H.1.b)

Publication of Notice of Public Hearing: August 6, 2007

Public Hearing: August 21, 2007

Notice of Introduction Published: October 4, 2007

Notice of Ordinance Amendment Published: November 10, 2007

Effective Date: November 18, 2007

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND, IN PART, CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY REZONING CERTAIN LANDS FROM THE COMMERCIAL DISTRICT TO THE LAKEFRONT INDUSTRIAL DISTRICT, BY AMENDING CERTAIN REGULATIONS REGARDING BUFFER ZONES AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Sec. 1. Chapter 31 of the Charter Township of Filer Code of Ordinances (“Code”) is amended as follows: All of that portion of original Block VII of the Plat of Filer

City, according to the recorded plat thereof, as recorded in Liber 1 of Plats, Page 2, Manistee County Records, lying East and North of Grant Street, as constructed, and being a part of Parcels 51-06-301-707-01 and 51-06-301-707-03, is hereby rezoned from Commercial (C) to Lakefront Industrial (LK-1).

Sec. 2. The official zoning map of the Charter Township of Filer is hereby amended to rezone all of original Block VII of the Plat of Filer City, lying East and North of Grant Street, as constructed from Commercial(C) to lakefront Industrial (LK-1) and such rezoning shall be noted on the official zoning map in accordance with the provisions of Chapter 31 of the Code.

Sec. 5. This Ordinance shall be effective eight (8) days after its introduction, adoption and publication as required by law.

Code Amendments #23 (Amends Sections 31.67.6704.H.1.b and H.3)

Publication of Notice of Public Hearing: August 6, 2007

Public Hearing: August 21, 2007

Notice of Introduction Published: October 4, 2007

Notice of Ordinance Amendment Published: November 10, 2007

Effective Date: November 18, 2007

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND, IN PART, CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES BY CONDITIONALLY REZONING CERTAIN LANDS FROM THE HIGH DENSITY RESIDENTIAL DISTRICT TO THE LAKEFRONT INDUSTRIAL DISTRICT, BY ESTABLISHING CERTAIN CONDITIONS WITH RESPECT THERETO, INCLUDING REGULATION ESTABLISHING A BUFFER ZONE AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Sec. 1. Chapter 31 of the Charter Township of Filer Code of Ordinances (“Code”) is amended as follows: All of Block II of the Plat of Filer City, according to the recorded plat thereof, as recorded in Liber 1 of Plats, Page 2, Manistee County Records, and consisting of Parcels 51-06-301-702-02, 51-06-301-702-03, 51-06-301-702-01, and 51-06-301-702-07, is rezoned from High Density Residential (R-1) to lakefront Industrial (LK-1) on fulfillment of the conditions stated in Sec. 5 of this Ordinance..

Sec. 2. The official zoning map of the Charter Township of Filer is amended to rezone all of Block II of the Plat of Filer City from High Density Residential(R-1) to Lakefront Industrial (LK-1), upon fulfillment of the conditions stated in Sec. 5 hereof. Upon the fulfillment of the conditions stated in Sec. 5, the rezoning of Block II of the Plat of Filer City shall be noted on the official zoning map in accordance with the provisions of Chapter 31 of the Code.

Sec. 3. new language: except that the buffer zone where it adjoins the High Density Residential District shall be fifty (50) feet ,if the majority of the buffer zone is occupied by sound and visual barriers as specified by the Planning Commission in a special use permit.

Sec. 4. new language: Except as otherwise stated in Sec. 6704 H.1.

Sec. 5. The amendments to Chapter 31 of the Code, as stated in Sec. 1 and Sec. 2 hereof, shall be effective upon fulfillment of each of the following conditions:

Block II of the Plat of Filer City shall be developed with a manufacturing use as authorized under Art. 67, Sec. 6703.A of Chapter 31 of the Code.

The manufacturing use developed on Block II of the Plat of Filer City shall meet all applicable special use permit and site plan requirements of Chapter 31 of the Code.

Sec. 6. On fulfillment of the conditions stated in Sec. 5, all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Sec. 7. This Ordinance shall be effective eight (8) days after its introduction, adoption and publication as required by law.

Code Amendments #26 (Amends 31.60.6004)

Introduction at Regular Meeting: April 2, 2009
Notice of Introduction Published: April 8, 2009
Adopted Regular Meeting: May 7, 2009
Notice of Ordinance Amendment Published: May 13, 2009
Effective Date: May 21, 2009

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND, IN PART, CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, BY AMENDING THE SETBACK REGULATIONS IN ARTICLE 60-LIMITED INDUSTRIAL DISTRICT AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Sec. 1. Chapter 31, Art. 60, Sec. 6004 of the Charter Township of Filer Code of Ordinances (the “Code”) is amended to read, in its entirety, as follows:

31.60.6004 Regulations and Standards

The following regulations shall apply in all Limited Industrial districts:

A. Lot area - no building or structure shall be established on any lot less than two (2) acres in area.

- B. Lot width - the minimum width shall be two hundred (200) feet.
- C. Yard requirements:
 - 1. Front yard - The minimum setback shall not be less than seventy-five (75) feet. No parking permitted in front yard setback.
 - 2. Side yards - The minimum width of either yard shall not be less than twenty (20) feet, except in the case of a corner lot or parcel where the side yard on the road or street side shall not be less than seventy-five (75) feet.
 - 3. Rear yard - The minimum setback shall not be less than seventy-five (75) feet.
 - 4. The above requirements shall apply to every lot, building or structure.
- D. Height - Except as it otherwise is provided in this Chapter, no building or structure should exceed a height of forty-five (45) feet.
- E. Required off-street parking - As required in Section 1052.
- F. Planning Commission site plan review - As required in Section 9401 *et. seq.*
- G. Regulations and standards - As required in Section 1003.
- H. Operating conditions - Application for a zoning permit shall be accompanied by a written statement of the property owner on the effects of operations on traffic, on water and air pollution; on noise and glare conditions; on fire and safety hazards; on emission of dangerous or obnoxious matter; and on the proposed treatment of any such conditions to maintain the same within the limitations of the chapter. It shall show the plans for disposal of sewage and all industrial wastes. It shall specify the fuels to be used, including smoke and pollution controls. Also, that sixty (60) days prior to any expansion activity, written notice of any proposed expansion shall be filed with the Township Planning Commission. Notwithstanding any other provisions of this chapter it shall be unlawful for any expansion of any industrial use without first obtaining a permit from the Township zoning administrator. Sixty days prior to any expansion activity a resume is required stating the nature and scope of planned expansion. The resume is to be sent to the chairman of the Filer Township Planning Commission. Exempted from this provision is the normal replacement of existing equipment, provided such replacement is not of a larger type or nature, or the modification of a building unless such a modification increases the size of said building.
- I. Buffer zone - In any Limited Industrial District site, all buildings, structures or materials used for industrial purposes shall, when abutting a district of any other kind, be separated by a buffer zone.

The buffer zone shall be not less than seventy-five (75) feet from any Limited Industrial District boundary and any new boundary of the district created by future amendment of this chapter.

A buffer zone shall be measured from the district boundary line. If the district boundary line follows the centerline of a street or right-of-way, the buffer zone shall be measured from the right-of-way line inside the Limited Industrial District.

A buffer zone shall have no structures, storage of equipment, materials, operations, or be similarly occupied. The buffer zone shall be a landscaped area designed to separate and protect non-industrial districts from impacts of industrial uses in the Limited Industrial District.

Sec. 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Sec. 3. This Ordinance shall be effective eight (8) days after its introduction, adoption and publication as required by law.

Code Amendments #27 (Amends Section 31.5.502; adds Section 31.37.3703.I)

Introduction at Regular Meeting: April 2, 2009

Notice of Introduction Published: April 8, 2009

Adopted by Planning Commission at Public Hearing: February 17, 2009

Adopted by Board Regular Meeting: May 7, 2009

Notice of Ordinance Amendment Published: May 13, 2009

Effective Date: May 21, 2009

Preamble of this Amended Ordinance reads as follows:

AN ORDINANCE TO AMEND, IN PART, CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, BY ADDING A DEFINITION OF “AUTOMOBILE DEALERSHIP”, BY ADDING AUTOMOBILE DEALERSHIPS AS A SPECIAL USE IN ARTICLE 37— AGRICULTURAL-RESIDENTIAL DISTRICT AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH.

Sec. 1. Chapter 31, Art. 5, Sec. 502 of the Charter Township of Filer Code of Ordinances (the “Code”) is amended by the alphabetical addition of the term “Automobile Dealership” which reads, in its entirety, as follows:

AUTOMOBILE DEALERSHIP – means the use of any building, land area or other premises for the permanent display and sale of new or used motor vehicles, including light trucks, vans and sport utility vehicles, belonging to the owner of the dealership. Vehicle preparation, servicing and repair and maintenance work, including auto refinishing, body work and painting, may be an accessory use. Sale of fuels, dismantling of vehicles for the purpose of reuse or resale of automotive parts, or storage of vehicles other than those

held for sale or for immediate repair, shall not be accessory uses to an automobile dealership.

Sec. 2. Chapter 31, Art. 37, Sec. 3703 of the Code (the “Code”) is amended to read, in its entirety, as follows:

31.37.3703 Special Uses and Site Plan Review

The following buildings and structures, and uses of parcels, lots, buildings and structures are permitted in this district subject to obtaining a special use permit as provided in Section 8601 *et. seq.*, and site plan review, Section 9401 *et. seq.*

- A. Public and private campgrounds, hunting lodges, golf courses and golf driving ranges if used in conjunction with golf course.
- B. A riding academy.
- C. Veterinary hospital, animal clinic and kennel.
- D. Temporary housing of seasonal agricultural workers. Occupants must be employed as agricultural workers.
- E. Home occupations businesses subject to the requirements of Section 1080.
- F. Temporary dwellings- See Section 1071.
- G. An accessory use building or structure not used for agricultural purposes which has a ground floor area larger than twelve hundred (1,200). Square feet.
- H. Wireless Communications Facilities.
- I. Automobile Dealerships, provided the same have not less than 300 feet of frontage on US-31.

Sec. 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Sec. 4. This Ordinance shall be effective eight (8) days after its introduction, adoption and publication as required by law.

Code Amendment #28 (Amends Sections 31.5.502, 31.10.1060.C.6 Schedule F, 31.16.1602, 31.35; 31.80; adds Section 31.16.1603)

Introduction at Regular Meeting: July 6, 2010

Notice of Introduction Published: July 10, 2010

Adopted by Planning Commission at Public Hearing: April 20, 2010

Adopted by Board Regular Meeting: August 5, 2010

Notice of Ordinance Amendment Published: August 16, 2010

Effective Date:

Preamble of these Amended Ordinances read as follows:

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING, TITLE THREE, CHAPTER 31 (ZONING), ARTICLE 10, SECTION 1060.C.6, SCHEDULE F, SIGN-REGULATIONS TO ALLOW TEMPORARY SIGNS IN COMMERCIAL DISTRICTS, TO ALLOW TEMPORARY DIRECTIONAL SIGNS IN ALL DISTRICTS, AND TO REPEAL ALL ORDINANCE IN CONFLICT HEREWITH.

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING, TITLE THREE, CHAPTER 31 (ZONING), ARTICLE 5 SECTION 502 DEFINITIONS TO DEFINE ON SITE USE WECS, AMEND ARTICLE 16 SECTION 1602, ADD ARTICLE 16 SECTION 1603 REGULATION OF ON SITE USE WECS, AND REPEAL ALL ORDINANCE IN CONFLICT HEREWITH.

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING, TITLE THREE, CHAPTER 31 (ZONING), ARTICLE 35, FOREST RECREATIONAL DISTRICT TO ALLOW GOLF COURSES AS A SPECIAL USE, TO CLARIFY REQUIREMENTS AND SETBACKS FOR LIVESTOCK AND EQUINE OWNERSHIP, AND TO REPEAL ALL ORDINANCE IN CONFLICT HEREWITH.

AN ORDINANCE TO AMEND THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES, AS AMENDED, BY AMENDING, TITLE THREE, CHAPTER 31 (ZONING), ARTICLE 80, NON-CONFORMITIES TO MODIFY THE DEFINITION OF NONCONFORMING BUILDING OR STRUCTURE, CLARIFYING NONCONFORMING BUILDING USES, TO DISALLOW ANY CHANGE IN DIMENSIONS IN NONCONFORMING BUILDINGS, AND REPEAL ALL ORDINANCE IN CONFLICT HEREWITH

Section 4. All ordinances and code provisions in conflict herewith are hereby repealed to the extent of the conflict.

Section 5. This ordinance shall be effective at 12:01 a.m. on the 8th day following its adoption and publication as required by law.

Code Amendment #29 (Amends Ch. 31, Zoning Map)

Introduction at Regular Meeting: January 4, 2011
Notice of Introduction Published: January 8, 2011
Adopted by Township Board: February 1, 2011
Notice of Ordinance Amendment Published: February 4, 2011
Effective Date: February 12, 2011

Preamble of these Amended Ordinances read as follows:

SECTION 1. CHAPTER 31 OF THE CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES (“CODE”) IS AMENDED AS FOLLOWS: ALL OF THAT PROPERTY DESCRIBED AS S ½ OF GOVERNMENT LOT 2 19.5 A M/L SEC 23 T21N, R17W BEING PARCEL NUMBER 51-06-123-475-20 IS HEREBY REZONED FROM MEDIUM DENSITY RESIDENTIAL (R-2) TO FOREST RECREATIONAL RESIDENTIAL (FR).

SECTION 2. THE OFFICIAL ZONING MAP OF THE CHARTER TOWNSHIP OF FILER IS HEREBY AMENDED TO REZONE PARCEL NUMBER 51-06-123-475-20 FROM MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2) TO FOREST RECREATIONAL RESIDENTIAL DISTRICT (FR) AND SUCH REZONING SHALL BE NOTED ON THE OFFICIAL ZONING MAP IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 31 OF THE CODE.

SECTION 3. ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ARE HEREBY REPEALED TO THE EXTENT OF THE CONFLICT.

SECTION 4. THIS ORDINANCE SHALL BE EFFECTIVE EIGHT (8) DAYS AFTER ITS INTRODUCTION, ADOPTION AND PUBLICATION AS REQUIRED BY LAW.

Code Amendment #30 (Amends 31.5.502 and 31.16.1602; adds 31.37.3703.J)

Adopted: October 7, 2014
Published: October 22, 2014
Effective: October 23, 2014

Code Amendment #31 (Amends Section 31.10.1060.A, C.1, C.2 and C.6)

Adopted: November 1, 2016
Published: November 5, 2016
Effective: November 5, 2016

AN ORDINANCE TO AMEND CHAPTER 31 OF THE
CHARTER TOWNSHIP OF FILER CODE OF ORDINANCES

BY AMENDING PROVISIONS REGARDING DEFINITIONS, BY ADDING MONUMENT
SIGNS AS AN ALLOWABLE SIGN TYPE IN COMMERCIAL DISTRICTS, BY
ELIMINATING REGULATIONS PERTAINING TO SPECIFIC CATEGORIES OF
BUSINESSES, AND TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH