

ZONING ORDINANCE

HELENA TOWNSHIP

ANTRIM COUNTY, MI

ADOPTED NOVEMBER 7, 1978

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ZONING ORDINANCE  
HELENA TOWNSHIP  
ANTRIM COUNTY, MICHIGAN

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF ZONING DISTRICTS IN HELENA TOWNSHIP, ANTRIM COUNTY, MICHIGAN, IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF 2006 AS AMENDED, AND TO PROVIDE FOR ADMINISTRATION OF REGULATIONS REGARDING THOSE DISTRICTS AND PENALTIES FOR THE VIOLATION THEREOF.

THE PEOPLE OF THE TOWNSHIP OF HELENA DO ORDAIN:

**Chapter 1: TITLE, PURPOSE, AND DEFINITION**

**Section 1.01 - TITLE**

This Ordinance shall be known as the Helena Township Zoning Ordinance.

**Section 1.02 - PURPOSE**

The fundamental purpose of this Ordinance is to promote the health, safety, and welfare of the inhabitants of the Township by:

- A. Promoting the orderly development of the Township:
- B. Encouraging the use of land and resources in the Township in accordance with their suitability;
- C. Promoting the economic progress of the Township and protecting and enhancing property values thereof,
- D. Reducing the hazards to life and property, promoting safety in traffic, and providing protection from the spread of fire and other hazards;
- E. Conserving the use of public funds for public improvement and services to conform with the most advantageous use of lands, properties, and resources of the Township.

### Section 1.03 - DEFINITIONS

Unless otherwise specified herein, the terms used in this Ordinance shall be defined as follows:

Accessory Building:

A subordinate building on the same premises with a principal building or portion of a principal building and occupied or devoted to an accessory use.

Accessory Structure:

A subordinate structure on the same premises with a principal building or portion of a principal building and devoted to an accessory use.

Accessory Use:

A use on the same lot with and of a nature customarily incidental and subordinate to the principal use.

Alternative Tower Structure:

Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Ambient:

Ambient is defined as the sound pressure level exceeded ninety percent of the time.

Anemometer:

A device used to measure wind speed.

Antenna:

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

Basement:

The floor of a building next below the principal or first floor. A basement shall not be counted as a story for the purpose of height regulations.

Bed and Breakfast Operation:

A dwelling where for compensation, lodging and breakfast are provided by owner or resident manager.

Board:

A Board of Zoning Appeals for the Township of Helena, Michigan.

Boarding or Lodging House:

A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging, meals, or both are provided for three or more, but not exceeding 20 persons.

Building:

Any enclosed structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals or property of any kind.

Cabin:

A small one-story building of simple construction.

Condominium:

A building with three or more dwelling units.

dB(A):

The sound pressure levels in decibels. Refers to the "a" weighted scale defined by the American National Standards Institute. A method for weighting the frequency spectrum to mimic the human ear.

Decibel:

The unit of measure used to express the magnitude of sound pressure and sound intensity.

Duplex:

A building with two dwellings.

Dwelling:

A building or portion thereof designed or used as a residence or sleeping place for one or more persons, including one and two family and multiple family dwellings, but not including house trailers, mobile homes, hotels, boarding and lodging houses, tourist courts, tourist homes, hunting or fishing cabins; provided, however, if a mobile home or house trailer meets the definition of a 'Dwelling, Single Family", then it shall be deemed a dwelling.

Dwelling, Single Family:

A building containing not more than one dwelling unit designed for residential use.

Dwelling Unit:

A room or suite of rooms designed for occupancy by one family for living, eating, and sleeping.

Essential Services:

Essential services shall mean the erection, construction, alteration, or maintenance by public utilities, municipal departments or commissions, or any governmental agencies of underground or overhead gas, electrical, steam or water transmission for distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of public service by such public utilities, municipal departments, commissions or any governmental agencies, or for the public health, safety, and welfare; provided, however, that telecommunication towers and antennas shall not be considered essential services.

Family:

An individual or two or more persons related by blood, marriage, or a functional family relationship, or a group of not more than five persons who need not be related by blood, marriage, or a functional family relationship, living together as a single housekeeping unit in a dwelling. A functional family relationship is one where the relationship is regular and permanent, domestic, or has a demonstrable and recognizable bond where each party is responsible for the other, and all are living as a single housekeeping unit.

Family Child Care Home:

This is intended to refer to the definition provided in Section 1 of 1973, MCL 722.111, as amended, and only applies to the bona fide private residence of the operator of the family or group child care home. According to that statute, a family child care home is a private home in which 1 but fewer than 7 minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would, according to the internal revenue code of 1986, as amended, obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

Farm:

The use of contiguous, neighboring, or associated land operated as a single unit by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees for the purpose of raising and harvesting trees, fruit or field crops, or animal husbandry for economic gain.

Floor Area:

The total area of floor space within the outside walls of a building, excluding porches, breezeways, garages, attic, basement, utility areas, cellar, or crawl space.

Garage - Private:

A detached accessory building or portion or a main building used only for the parking or storage of not more than three passenger automobiles, of which one may be a light delivery or pickup motor vehicle used by the occupants of the premises of rated capacity not to exceed one and one-half (1 1/2) tons.

Garage - Public:

A building other than a private garage primarily used for the purpose of parking, storing, repairing, or equipping motor vehicles therein as a commercial use.

Greenbelts:

Shoreline erosion protection as described in this Ordinance.

Group Child Care Home:

This is intended to refer to the definition provided in Section 1 of 1973, MCL 722.111, as amended, and only applies to the bona fide private residence of the operator of the family or group child care home. According to that statute, it is a group child care home is a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

Home Occupation:

Use of a residential dwelling to offer or produce goods and/or services with the intent of receiving compensation.

Hotel:

A dwelling that provides lodging and usually includes meals, entertainment, and various personal services for the public.

Housekeeping Cabin Park:

A parcel of land on which two or more buildings, tents, or similar structures are maintained, offered, or used for dwelling or sleeping quarters for transients and operated as a commercial use, but excluding boarding or lodging houses, motels, and tourist homes.

Hub Height:

The distance measured from the ground level to the center of the turbine hub.

Lot:

A parcel of land or site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

Lot, Corner:

A lot located at the intersection of two public or private roads, or a lot bounded on two sides by a curving public or private road, any two sides of which form an angle of 135 degrees or less.

Lot, Interior:

A lot other than a corner lot with only one lot line fronting on a public or private road.

Lot, Through:

Any interior lot having frontage on two more or less parallel public or private roads.

Lot, Waterfront:

A lot having a lot line abutting the shore of a lake or river.

Lot Lines:

The property lines bounding a lot.

Lot Line, Front:

In the case of a corner lot or through lot, it is the line separating the lot from the abutting public or private road right-of-way that is designated as the front by the property owner in the first zoning permit issued for that lot. In the case of an interior lot, it is the line separating the lot from the abutting public or private road right-of-way. In the case of a water front lot, it is the ordinary high water mark.

Lot Line, Rear:

The lot line opposite and most distant from the front lot line. In the case of a lot irregularly shaped at the rear, it is an imaginary line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.

Lot Line, Side:

A lot line other than a front lot line or a rear lot line. A side lot line separating a lot from an abutting public or private road right-of-way is a street side lot line. A side lot line separating a lot from another lot is an interior side lot line.

Manufactured Housing:

An engineered structure, transportable in one or more Sections, and designed to be used as a dwelling with a permanent foundation, connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein, provided the structure meets minimum square footage for District where it is placed.

Motel:

A building or group of buildings used as a hotel in which rooms are directly accessible from outdoor parking areas.

Motor Home:

Any vehicle, whether self-propelled or non-self-propelled, used, or adapted to be used, or so constructed as to permit its being used, as a conveyance upon the public streets or highways, and for occupancy as a dwelling or sleeping place for one or more persons, office, or other business use, and whether or not the same has a foundation there under, if said foundation is designed to permit the removal of such house trailer and its re-adaptation to use upon the public streets or highways.

Movable Signs or Portable:

Any free standing sign not permanently anchored or secured to either a building or the ground, including but not limited to "A" frame, "T" frame, or inverted "T" shaped structures, including those signs mounted on wheeled trailers.

Nonconforming Structures:

A structure lawfully existing at the time of the adoption of the Zoning Ordinance or any amendments thereto that does not conform to the requirements of the zone district within which it is located.

Nonconforming Use:

A use which does not conform to a provision or requirement of this ordinance but was lawfully established prior to the time of its applicability.

Oil and Gas Processing Facility:

Any building, facility, or structure used for or in connection with the production processing, ground injection, or transmission of oil, natural gas, or allies, combinations or derivatives thereof not under the exclusive jurisdiction of the Supervisor of Wells. This definition includes but is not limited to, pipelines, storage and disposal wells,

sweetening plants, compression facilities, carbon dioxide removal facilities, and hulk storage plants. This definition does not include buildings, facilities or structures primarily related to the retail sale of oil, natural gas, or their derivatives.

Ordinary High Water Mark:

The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high-established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

Platted Subdivision:

A parcel of land divided into lots for sale or use as separate entities as provided for by the applicable plat laws of the State of Michigan. For purposes of this ordinance the Planning Commission may consider the term "Platted Subdivision" to include any other lawful arrangement of co-operative ownership, management, rental, and use of a parcel of land containing four or more buildings lots or dwelling units, including "condominiums" as defined and regulated by Public Act 229 of the Public Acts of 1963 as amended: providing, such use is consistent with the purpose of this Ordinance, any parcel of land under this definition shall have its egress and ingress roads approved by the Antrim County Road Commission. Any disturbance of the natural land contours shall be seeded, sodded, or otherwise protected so as to prevent any washing or erosion into any nearby lake, river, or stream, providing such protective measures have been approved in advance by the Planning Commission. Whenever density restrictions apply to these arrangements, the number of lots or dwelling units permitted shall be related to the "net usable area after deduction of all roads, streets, and other right-of-ways".

Principal Use:

The primary and predominant use or intended use of the premises according to the zone district requirements, including permitted accessory uses.

Seasonal:

Any use of such a nature that the activity cannot or should not be performed during each calendar month.

Setback:

The minimum horizontal distance from an applicable lot line within which no building or structure can be placed, except as otherwise provided in this Ordinance.

Setback, Front:

The required setback measured from the front lot line.

Setback, Rear:

The required setback measured from the rear lot line.

Setback, Side:

The required setback measured from a side lot line.

Short Term Vacation Rental

The rental of a dwelling for a period of at least 7 days.

Sign:

Any device designed to inform or attract the attention of persons on to a premises.

Single Ownership:

A lot of record, on or before the effective date of the Zoning Ordinance, in separate and distinct ownership from adjacent lot or lots where such adjacent lot or lots were not at that date owned by the same owner, or the same owner is in joint tenancy in common or entireties with any other person or persons; or where such adjacent lot or lots were not owned by the same owner of any person or persons with whom he may be engaged in a partnership or joint venture; or where such adjacent lots were not owned by any corporation in which the owner owned 51 percent or more of the stock issued and outstanding.

Sound Pressure:

Average rate at which sound energy is transmitted through a unit area in specified direction. The pressure of the sound measured at a receiver.

Sound Pressure Level:

The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

Special Use Permit:

A Permit for a Special Use provided for in this Ordinance under specified conditions, as prescribed in Chapter 6 of this Ordinance.

State Licensed Residential Facility

A structure constructed for residential purposes that is licensed by the state under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 722.111 to 722.128, and that provides residential services for 6 or fewer individuals under 24-hour supervision or care. For purposes of this Ordinance,

however, this definition does not include adult foster care facilities licensed by a state agency for care and treatment of persons released from or assigned to adult correctional institutions.

Structure:

Anything constructed or erected, the use of which requires location on or beneath the ground or attachment to something on or beneath the ground. Among other things, structures shall include buildings, driveways, walls, fences, roads, and towers. Structures shall not include roads or driveways that are constructed for agricultural or logging purposes.

Structure Change or Alteration:

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders or any substantial change in the roof.

Surface Display Area:

The entire area within a single continuous perimeter enclosing the extreme limits of lettering, representations, emblems, or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.

Telecommunication Towers and Facilities or Tower:

All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Tent:

Any temporary arrangement of flexible materials and a supporting frame for recreational dwelling purposes and designed for quick erection and removal.

Uniform Setback:

Where 50 percent of the frontage of existing structures between two intersecting streets maintain the same minimum setback.

Variance:

A deviation from the terms of this Ordinance, as authorized by the enabling statute, upon findings of practical difficulties and unnecessary hardship, as prescribed in this Ordinance.

Wind Energy Facility:

A power generating facility consisting: of one or more wind turbines under common ownership or operation control, and included substations, tower cables and wires, and other buildings accessory to such facility.

Wind Energy System:

A land use for generating power by use of wind. Includes a tower, pylon, or other structure and any accessory facilities, upon which any, all, or some combination of the following are mounted:

- A. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
- B. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy-producing device.
- C. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

A wind energy system does not include wiring to connect the wind energy system to the grid.

Wind Energy System (Accessory):

A wind energy system placed on an existing structure, of which the turbine is a secondary use of the structure.

Wind Energy System (On-site):

A wind energy system that is intended to primarily serve the needs of the consumer at that site.

Wind Energy System (Utility Scale):

A wind energy system that is intended to provide electricity to the electric utility grid.

Wind Turbine Generator Total Height:

- A. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the wind turbine generator, plus the length by which the

rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

- B. Vertical Axis Wind Turbines: The distance between the ground and the highest point of the wind turbine generator including the top of the blade in its vertical position.

Yard:

The space between a principal building, excluding steps and unenclosed porches, and a lot line.

Yard, Front:

The yard between the principal building and the front lot line extending across the entire width of the lot.

Yard, Rear:

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

Yard, Side:

The yard between the principal building and a side lot line extending between the front yard and the rear yard.

## **Chapter 2: ADMINISTRATION AND ENFORCEMENT**

### **Section 2.01 – ZONING PERMIT AND FEE REQUIREMENTS**

#### **2.01.01 – Zoning Permits Required**

The proper zoning permits shall be secured from the Zoning Administrator prior to the commencement of, excavation for, or construction of; any building, structure, or parking area, or prior to making a structural change, alteration, or addition in any existing building or structure, or to relocate any building or structure. Every application for a zoning permit shall be made as required by the Zoning Ordinance. No zoning permit shall be issued until an application has been submitted that shows that the proposed change is in compliance with the provisions of this Ordinance and any required zoning permit fees have been paid. No plumbing, building, health, electrical, or drainage permit shall be issued until the Zoning Administrator has determined that the plans and designed use indicate that the structure and premises, if constructed as planned and proposed, will conform with the provisions of this Ordinance.

#### **2.01.02 - Fees**

- A. To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the Township, the Township Board may from time to time adopt by resolution a fee schedule establishing basic zoning fees related to the following:
1. Zoning permits.
  2. Special Use Permit requests.
  3. Appeals to or requests for interpretations by the Zoning Board of Appeals. Appeals and requests for interpretations initiated by the Township Board, the Planning Commission, or the Zoning Administrator shall not be subject to a zoning fee.
  4. Classification of unlisted property uses.
  5. Requests for variances from the Zoning Board of Appeals.

6. Requests for rezoning of property by individual property owners. Rezoning of property initiated by the Township Board, or the Planning Commission shall not be subject to a zoning fee.
7. Site Plan reviews.
8. Requests for approval of an Open Space Development.
9. Requests for approval of a private road.
10. Any other discretionary decisions by the Township Board, Planning Commission, or Zoning Board of Appeals.

The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Township Board, Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

- B. If the Township Board, Planning Commission, or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Township Board, Planning Commission, or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Township Board, Planning Commission, or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent of the initial escrow deposit or less than ten percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Township Board, Planning Commission, or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Township Board, Planning Commission, or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual

costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

## Section 2.02 – ADMINISTRATION OFFICIALS

Except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance including the receiving of applications, the inspection of premises, the issuing of zoning permits, and the institution of proceedings for enforcement of the provisions of this Zoning Ordinance. Relative to the issuance of a permit, any decision rendered by the Board, Planning Commission, or Township Board on a matter required to be reviewed by that body shall be binding on the Zoning Administrator.

## Section 2.03– PERMITTING PROCESS AND REQUIREMENTS

### 2.03.01 – Land Use Permits

- A. A Land Use Permit shall be secured prior to the commencement of excavation for, or construction of; any building, structure, or parking area, or to make a structural change, alteration, or addition in any existing building or structure, or to relocate any building or structure. The application for a Land Use Permit shall be made and approved prior to the date when construction is intended to begin.
- B. The Land Use Permit signifies that, in the opinion of the Zoning Administrator or Planning Commission, the intended use, building, or structure, if implemented as planned and proposed, will conform with the provisions of this Ordinance.
- C. If the proposed land use is a use permitted by right in the applicable Zoning District under Chapter 4 of this Ordinance, and otherwise meets all of the applicable requirements of this Ordinance, the Land Use Permit shall be issued upon approval of the application by the Zoning Administrator.
- D. If a proposed land use is permitted in a Zoning District only upon approval of a Special Use Permit, pursuant to Chapter 6 of this Ordinance, the Zoning Administrator may issue a Land Use Permit only after the applicant has secured the Special Use Permit.
- E. If county permits are also required, application for and approval of a Land Use Permit shall precede the application for these permits

- F. In addition to any other application procedures requires by this Ordinance, the minimum application procedures required for a Land Use Permit are as follows:
1. Every application for a Land Use Permit shall be made as required by the Zoning Ordinance and shall designate the existing or intended use of the structure or premises, or part thereof; which is proposed to alter or extend and the number of dwelling units, if any, to occupy it.
  2. The application shall be accompanied by two prints or photo-stat copies of the drawing, drawn to scale, showing the actual lines, angles, and dimensions of the lot to be built upon or used, and the exact size and location on the lot of all existing and proposed structures and uses, together with specifications.
  3. The application shall contain other information with respect to the lot of all existing and proposed structures and uses, together with specifications.
  4. The application shall contain other information with respect to the lot and adjoining property as may be required by the Zoning Administrator or this Ordinance.
  5. One copy of both plans and specifications shall be filed in and retained by the Office of the Zoning Administrator, and the other shall be delivered to the applicant when the Zoning Administrator has approved the application and issued the permit.
  6. In case of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance.

#### 2.03.02 – Special Use Permits

A separate Special Use Permit is required for certain uses, as described in Chapter 6. Every application for a Land Use Permit shall be made as required by Chapter 6 of this Zoning Ordinance. Where a Special Use Permit is required, the Land Use Permit will not be issued until the Special Use Permit is approved.

#### 2.03.03 – County Permits

No application shall be made to the Antrim County Building Department or Department of Health for appropriate permits until the Land Use Permit has been secured.

#### 2.03.04 – Certificate of Occupancy

A Certificate of Occupancy shall be required before (1) any vacant or occupied land may be used or occupied by a new or different use or (2) any building or structure or use for which a Land Use Permit has been issued is used or occupied. A Certificate of Occupancy shall in no case be construed as waiving any requirements of this Ordinance.

#### 2.03.05 – Property Boundaries

In order for a property to be evaluated for a Zoning Permit, the corners of the property boundaries shall be marked sufficiently for the Zoning Administrator to determine if any applicable standards or limitations are met. If the property boundaries are not clearly indicated by corner markers or other means, the Zoning Administrator may require, at the applicant's expense, the property to be located by a registered surveyor. In cases on properties located along a stream or shoreline, if there is any question of the location of the "high water mark", the Zoning Administrator may also require this level to be set and marked by a registered surveyor.

#### 2.03.06 – Permit Expiration

Every permit granted under this Section shall become null and void unless the excavation, construction, alteration, erection, or extension shall have been commenced within 12 months from the date of issuance of the permit; and every permit so granted shall further become null and void unless the exterior aspects of the construction, alteration, erection, or extension shall have been completed within 18 months from the date of issuance of the permit. However, an extension of time for the commencement of construction or for the completion of construction can be granted by the Zoning Administrator upon proof that an extension of time is justified.

#### 2.03.07 – Display of Permit

Any permit required by this Zoning Ordinance of the Township shall be displayed, face out, within 24 hours of its issuance, by placing the same in a conspicuous place on the premises facing the nearest roadway and shall be continuously so displayed until all work, or the term for which issued, or purpose for which issued is completed. Failure to obtain and display any such permit shall constitute a violation of the Zoning Ordinance and shall subject each person or persons, or corporations for whose benefit the permit is required, and the owner or owners of the premises involved to prosecution for such violations.

## Section 2.04 - CONDITIONS

The Township Board, Planning Commission or Zoning Board of Appeals may attach reasonable conditions with the approval of a Site Plan, Open Space Development, Special Use Permit, planned unit development, or variance. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, to promote the use of land in a socially and economically desirable manner, and to ensure that the proposed land use is consistent with the Township's Master Plan. Any conditions imposed, however, shall meet all of the following requirements:

- A. 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.
- B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

## Section 2.05 - PERFORMANCE GUARANTEE

In connection with the construction of improvements through approval of Site Plans, Open Space Developments, Special Use Permits, and planned unit developments, the Township Board and Planning Commission may require the applicant to furnish the township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Township Board or Planning Commission which are located within the development.

For purposes of this Section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2)

architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the township clerk at or before the time the township issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the township clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Township Board or Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third of the cash deposit after completion of one-third of the public and site improvements;
- B. Two-thirds of the cash deposit after completion of two-thirds of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.
- D. Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Township Board or Planning Commission may require the applicant to furnish a performance guarantee as provided in this Section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then the Township Board or Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this Section.

## Section 2.06 - PUBLIC HEARING NOTICE REQUIREMENTS

Unless expressly provided otherwise, where any public hearing required by this Ordinance, either before the Planning Commission, the Zoning Board of Appeals, or the Township Board, notice of the public hearing will comply with the following procedure:

- A. Following receipt of a complete application, including a Site Plan if required, the Planning Commission shall hold at least one public hearing.
- B. All notice required by this Section shall be provided not less than 15 days before the public hearing. One notice that a hearing is to be held shall be published in a newspaper that circulates in the Township. Notice shall also be given to the owners of property that is the subject of the request and to all persons to whom real property is

assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning jurisdiction. Such notices shall be served personally or by depositing notice in the mail during normal business hours for delivery with the United States postal service or other public or private delivery service, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "Occupant" may be used in making notification. Notification need not be given to more than 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different persons, 1 occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

C. The notice shall do all of the following:

1. Describe the nature of the application;
2. Describe the property which is the subject of the application, including a list of all existing street addresses within the property, or, if street addresses are not available, than other means of identification may be used;
3. State when and where the application will be considered; and
4. Indicate when and where written comments will be received concerning the application.

#### Section 2.07 – REVOCATION OF PERMIT

- A. The Township Board, Planning Commission, or Zoning Board of Appeals may revoke a permit if it is determined, after a rehearing under the procedure provided in Section 2.07(B), that the applicant who brought the matter before the Township Board, Planning Commission, or Zoning Board of Appeals made misrepresentations concerning a material issue which were relied upon by the Township Board, Planning Commission, or Zoning Board of Appeals in reaching its decision.
- B. A rehearing requesting that a permit be revoked on the basis provided in Section 2.07(A) may be requested by the applicant, a person with legal standing, or by the Zoning Administrator, or a rehearing may be granted by the Township Board, Planning Commission, or Zoning Board of Appeals on its own motion, pursuant to the following procedure:

- A. A request for a rehearing which is made by an applicant or person with legal standing must be made within 21 days from the date of approval of the Township Board's, Planning Commission's, or Zoning Board of Appeals' minutes regarding the decision for which the rehearing is being requested.
- B. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Township Board, Planning Commission, or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
- C. Whenever the Township Board, Planning Commission, or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address, or may be served personally on the applicant. The notice must be served at least nine days before the time set for the hearing if served by mail, or at least seven days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Township Board, Planning Commission, or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
- D. If the Township Board, Planning Commission, or Zoning Board of Appeals grants a rehearing, then the rehearing on the merits shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

#### Section 2.08 - ENFORCEMENT

All premises affected by this Ordinance shall be subject to inspection by the Zoning Administrator, and the Administrator may collect such investigative data as he deems necessary for the enforcement of this Ordinance. No person shall refuse to permit the Administrator to inspect any premises at reasonable times, nor shall any person molest or resist the Administrator in the discharge of his duties.

#### Section 2.09 - VIOLATIONS

- A. Any land, dwellings, buildings, or structures; including tents and trailer coaches, used, erected, altered, razed or converted in violation of this Ordinance or in violation of any

regulations, conditions, permits or other rights granted; adopted or issued under this Ordinance are hereby declared to be a nuisance per se.

- B. Any person, partnership, corporation, or association who creates or maintains a nuisance per se as defined in subsection A above or who violates or fails to comply with any provision of this Ordinance or any permit issued pursuant to this Ordinance shall be responsible for a municipal civil infraction. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this Ordinance. Nothing in this Section shall exempt the offender from compliance with the provisions of this Ordinance.
- C. The Township Zoning Administrator is designated as the authorized township official to issue municipal civil infraction citations directing alleged violators of this' Ordinance to appear in court.
- D. In addition to enforcing this Ordinance as a municipal civil infraction, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

### **Chapter 3: BOARD OF APPEALS**

#### **Section 3.01 – BOARD ESTABLISHED, MEMBERS, APPOINTMENT, TENURE, VACANCIES, REMOVAL, AND PER DIEM EXPENSES**

- A. There is hereby created a Township Board of Appeals of five members.
- B. The first member of the Board of Appeals shall be a member of the Township Planning Commission; the second member may be a member of the Township Board appointed by the Township Board; and the remaining members shall be selected by the Township Board from among the electors residing in the unincorporated areas of the Township and shall be representative of the population distribution and of the various interests present in the Township. An employee or contractor of the Township shall not simultaneously serve as a member of the zoning board of appeals.
- C. Members shall serve for a period of three years, except for a member serving because of his or her membership on the Planning Commission, whose term shall be limited to the time he or she is a member of that body.
- D. A successor shall be appointed not more than one month after the term of the preceding member has expired.
- E. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.
- F. A member of the Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.
- G. The total amount allowed such Board of Appeals members in any one year as per diem, or as expenses actually incurred in the discharge of their duties, shall be a reasonable sum, which shall be provided annually by the Township board.

#### **Section 3.02 – CONFLICTS OF INTEREST**

- A. A Board of Appeals member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

- B. A member of the Board of Appeals who is also a member of the Planning Commission or Township Board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. The member may consider and vote on other unrelated matters involving the same property.

### Section 3.03 - OFFICERS

The Board of Appeals shall elect from its membership a Chairperson, Vice-Chairperson, and Secretary. A member of the Board of Appeals that is a Township Board member shall not serve as Chairperson of the Board of Appeals.

### Section 3.04 – GENERAL RULES OF PROCEDURE

The Board of Appeals shall follow such procedures as are established by statute, ordinance and resolution of the Board. These procedures shall include:

- A. The Board of Appeals shall adopt rules of procedure that shall be available for public inspection at the office of the Township Clerk.
- B. The Board of Appeals shall annually establish a regular schedule of Board Meetings and the time and place of each. All such meetings and hearings shall be open to the public.
- C. The Board of Appeals shall not conduct business unless a majority of the members are present. The presence of three members shall constitute a quorum. The Board shall act by resolution. The concurring vote of three members of said Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which the Board of Appeals is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.
- D. The Board shall keep minutes of its proceedings, showing the action of the Board, the reasons on which it bases its action, and the vote of each member upon each question, of if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the Township Clerk and shall be a public record.
- E. A copy of each resolution passed upon by said Board shall be submitted to the Clerk of the Township and to the Secretary of the Planning Commission.

- F. The Chairperson of the Board of Appeals, or in the Chairperson's absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
- G. Each application for variance or appeal should be accompanied by a filing fee of one hundred fifty dollars (\$150.00), provided that if the applicant requests that a special meeting of the Board be called for the purpose of hearing the request, the application shall be accompanied by a fee of three hundred fifty dollars(\$350.00)

### Section 3.05 – JURISDICTION AND POWERS OF THE BOARD OF APPEALS

The Board of Appeals, in conformity with the provisions of the Ordinance, shall hear and decide questions that arise in the administration of the Zoning Ordinance, including the interpretation of zoning maps, and all questions on which the Board of Appeals is required to pass under this Ordinance or by statute. The Board of Appeals shall hear and decide all appeals from and review any administrative order, requirement, decision, or determination, including allegations of error or misinterpretation, that are made by the Zoning Administrator or other administrative official or body charged with the enforcement of the provisions of this Ordinance. The Board of Appeals shall hear and decide variance requests. A decision regarding a special land use permit or open space development may not be appealed to the Board of Appeals.

### Section 3.06 – VARIANCES

#### 3.06.01 – Standards

- A. The Board may issue a dimension variance only if it finds that a practical difficulty exists without a variance. A practical difficulty exists when all of the following are true:
  - 1. The requirement in question either (a) unreasonably prevents the land owner from using the property in a manner allowed in the zoning district, (b) is unnecessarily burdensome to the use of the property, or (c) both.
  - 2. Granting the variance requested, or some other relief, would be just to both the applicant and to other property owners in the zoning district.
  - 3. Granting relief will be consistent with the spirit of the ordinance.
  - 4. Granting relief will not be harmful to public health, safety, or welfare.

- B. The Board may issue a use variance only if it finds that an unnecessary hardship exists without a variance. An unnecessary hardship exists when all of the following are true:
1. The property cannot reasonably be used in a manner consistent with existing zoning.
  2. The hardship is not due to general conditions in the neighborhood,
  3. Granting a variance will not alter the essential character of the locality.
- C. A self-made hardship shall not be the basis for granting a variance. Nonconforming uses or structures on neighboring lands shall not, by themselves, be the basis for granting a variance.

#### 3.06.02 – Conditions of Approval

In authorizing a variance, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding location, character, landscaping, or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest. The conditions must also meet any applicable standards provided in the Michigan Zoning Enabling Act, MCL 125.3101, et seq.

#### 3.06.03 – Time Limit on Variances

Any variance granted by the board shall automatically become null and void after a period of 12 months from the date granted, unless the owner or his agent shall have taken substantial steps toward effecting the variance as granted by the Board.

#### 3.06.04 – Procedure for Variance

When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and cause notices stating the time, place, and object of the hearing to be served. Notice shall be provided pursuant to Section 2.06 of this Ordinance. The required fee shall be paid at the time of application for a variance.

### Section 3.07 – APPEALS

### 3.07.01 – Procedure for Appeals

- A. An appeal to the Board of Appeals may be taken by a person aggrieved or by an officer, board, department, or bureau of this state or the Township. In addition, a variance may be applied for and granted as permitted by law.
- B. An appeal shall be taken within the time prescribed by the Board of Appeals by filing with the body or officer from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds for appeal. The required fee shall be paid at the time of application for appeal. The body or officer from whom the appeal is taken shall immediately transmit to the Board of Appeals all of the papers constituting the record upon which the action appealed from was taken.
- C. When an appeal has been filed in proper form and with the required data, including an appeal regarding the proper interpretation of the Zoning Ordinance, the Board of Appeals shall conduct a public hearing on the request. The Secretary of the Board shall immediately place the said appeal upon the calendar for hearing and cause notices stating the time, place, and object of the hearing to be served. Notice shall be provided pursuant to Section 2.06 of this Ordinance. Any party may appear at such hearings in person or by agent or by attorney.
- D. The Board of Appeals may revise or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit.

### 3.07.02- Stay of Proceedings

An appeal shall stay all proceedings in furtherance of action appealed from, unless the Zoning Administrator or other body or officer from whom the appeal is made certifies to the Board, after notice of appeal shall have been filed, that by reason of fact stated in the certificate, a stay would, in the opinion of the body or officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may, on due cause shown, be granted by the Board or by the Circuit Court on application.

### Section 3.08 – Decisions of the Board of Appeals

The Board of appeals shall decide all applications and appeals within 30 days after the final hearing thereon. A copy of the Board's decisions shall be transmitted to the applicant or appellant and to the Zoning Administrator within 48 hours of such decision. Such decision shall be binding upon the Zoning Administrator and observed by him/her, and he/she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant

whenever a permit is authorized by the Board. A decision of the Board of Appeals shall be final, and a party aggrieved by the decision may appeal to the Circuit Court in the matter provided by law. A decision of the Board shall not become final until the expiration of five days from the date such decision is made, unless the Board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

## **Chapter 4: ZONING DISTRICTS**

### **Section 4.01 - GENERAL PROVISIONS**

#### **4.01.01 - Districts**

To carry out the purpose of this ordinance, Helena Township shall be divided into the following districts:

"A"	-Agricultural
"R-1"	-Residential – One-Family Zone
"R-2"	-Residential – One- and Two-Family Zone
"V"	-Village District
"E"	-Environmental District
"C"	-Commercial
"PUD"	-Planned Development

#### **4.01.02 - Boundaries of Districts Map**

The boundaries of these Zoning Districts are defined as shown on an attached map, designated as the Zoning District Map of the Township of Helena, Antrim County, Michigan, and the map and all the notations, references, and other information on it are incorporated into this ordinance.

#### **4.01.03 - Erection, Alteration, and Use of Buildings, Structures, Premises, or Pieces and Parcels of Land**

Unless otherwise provided in this Ordinance, no building, structure, premise, or piece and parcel of land in and throughout the Township shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with the regulations and provisions provided in this Ordinance.

### **Section 4.02 – SCHEDULE OF REGULATIONS**

All lots, buildings, and structures shall comply with the area, height, and bulk requirements in the Schedule of Regulations and the Notes to the Schedule of Regulations, unless otherwise provided by this Ordinances.

#### 4.02.01 – Schedule of Regulations

Zoning District		Minimum Lot Size or Maximum Density		Maximum Building Height (whichever is lesser)		Principal Structure Minimum Yard Setback				(Per Unit) Floor Area
		Min Lot Area or Max Units per Acre	Width	Stories	Feet	Front	Total 2 sides	Smaller Side	Rear	
A: Agricultural		2 acres	200 ft	2.5	35 (a)	35 ft(b)	40 feet	15 feet	25 ft (b)	800 sq ft
R-1: Residential, One Family	Platted	20,000 sq ft	100 ft (c)	2.5	35	50 ft (b)	20 feet	10 feet	35 ft (b)	960 sq ft
	Unplatted	25,000 sq ft	100 ft (c)	2.5	35	50 ft (b)	20 feet	10 feet	35 ft	960 sq ft
R-2 Residential, Two Family	One-Family, Platted	30,000 sq ft	150 ft (c)	2.5	35	50 ft	20 ft	10 ft	35 ft	800 sq ft
	Two-Family, Platted	15,000 sq ft	150 ft (c)	2.5	35	50 ft	25 ft	10 ft	35 ft	800sq ft (d)
C: Commercial				2.5	35	50 ft(e)	0 ft (f)			
V: Village	See Section 4.07.									
E: Environmental	See Section 4.08.									

#### 4.02.02 - Notes to Schedule of Regulations

- (a) Barns, silos and similar agricultural related accessory buildings shall not exceed 90 feet in height.
- (b) In the Agricultural and R-1 Districts, the front and rear yard setbacks shall be maintained across the entire width of the lot.
- (c) Must be required minimum width at front yard setback line.
- (d) Each unit must have a minimum width of 16 feet across all front, side, and rear of structure at floor level.
- (e) Where existing lesser setback line has been established by existing commercial buildings occupying 40 percent or more of the commercially zoned frontage on the same block, said setbacks shall apply.
- (f) No side yard is required for a commercial building, but where a side yard adjoins a Residential or Agricultural District, the owner will provide sufficient screening to screen the building from adjacent property.

#### Section 4.03 - "A" - AGRICULTURAL DISTRICT

##### 4.03.01 - Purpose

This District is intended to preserve, enhance, and stabilize areas within the Township which are presently used predominantly for farming purposes or areas which, because of their soil, drainage, or natural flora characteristics, should be preserved for low intensity land uses. Active farms contribute to the economy and to the rural character of the township and preserve scenic views. Farmlands also provide wildlife habitat and act as wildlife corridors between other wildlife habitats. Because the long-term economic viability of farmland in Helena Township is being challenged by rising land values, however, this District is intended to preserve the rural character and open space values of these farmlands. It is the further purpose of this District to promote the protection of the existing natural environment, and to preserve the essential characteristics and economical value of these areas as agricultural lands. Agricultural District areas may be subject to noise, chemical spray and other hazards which might normally disrupt a residential environment. It is explicitly the purpose of this zone, therefore, to preserve a suitable working environment for farming operations without conflict with residential and other uses.

#### 4.03.02 - Uses Permitted By Right

No building or part thereof shall be hereafter used, erected, or altered, or land used, in whole or in part, in the "A" - Agricultural District except for:

- A. Uses permitted by right in the R-1 zone under the terms provided for such uses, except as altered in this Section and the Schedule of Regulations.
- B. Farms for both general and specialized farming, together with farm dwelling and buildings, and other installations usual to such farms, including roadside stands, provided that such stands sell products grown on the premises and are situated so as to provide adequate off-highway parking for customers.
- C. Greenhouses, nurseries, orchards, groves and vineyards, apiaries, farms for breeding of domestic animals, and sanctuaries for wild birds and animals, provided the sanctuaries shall be approved by the Michigan Department of Natural Resources.
- D. Agricultural warehouses and storage plants, milk processing plants, primary processing plants for non-animal farm products, and such other enterprises connected with farm production as shall be approved by the Board.
- E. Forest preserves and farm woodlots.
- F. Public and privately-owned parks, playgrounds, and golf courses with customary service buildings and structures incident thereto.
- G. Public-owned buildings excluding sewage treatment plants, solid waste disposal plants, warehouses, garages and shops, or storage yards.
- H. Additional dwellings on any farm for the use of farm or domestic employees of the owner or his lessees, provided there is only one such tenant house in addition to the main dwelling for each ten acres of farm land, and provided that each such tenant house is surrounded by sufficient land to provide a future separate lot of two acres and a minimum width of 200 feet.
- I. Accessory buildings and structures, pursuant to Section 5.01.01, and accessory uses to other uses permitted by right in this District.
- J. Accessory wind energy systems.
- K. On-site wind energy systems.

#### 4.03.03 - Uses Permitted By Special Use Permit

The following uses of land and structures may also be permitted by the application for and the issuance of a Special Use Permit, pursuant to Chapter 6:

- A. Chicken hatcheries, poultry farms, concentrated animal feed lots, processing plants for dressing of poultry and domestic animals, farms for breeding of poultry, and breeding and boarding kennels
- B. Oil and gas processing facilities.
- C. Group child care home meeting the requirements in Section 5.01.08 of this Ordinance.
- D. Home occupations as permitted under this Ordinance.
- E. Commercial boat storage. If the boat storage abuts Residential property the owner shall provide screening between the properties.
- F. Telecommunication towers and antenna.
- G. Utility-scale wind energy systems.
- H. Light manufacturing or processing operations meeting the requirements in Section 5.11 of this Ordinance.
- I. Warehouse use and buildings meeting the requirements in Section 5.11 of this Ordinance.
- J. Research and office buildings meeting the requirements in Section 5.11 of this Ordinance.
- K. Oil and gas processing facilities meeting the requirements in Section 5.11 of this Ordinance.

## Section 4.04 - "R-1" - RESIDENTIAL - ONE-FAMILY DISTRICT

### 4.04.01– Uses Permitted By Right

No building or part thereof in a "R-1" - Residential District shall hereafter be used, erected, altered, or converted, or land used in whole or in part, except for:

- A. Single-family dwellings.
- B. State licensed residential facilities, to the extent required by MCL 125.3206.
- C. Family child care homes, to the extent required by MCL 125.3206.
- D. Accessory buildings and structures, pursuant to Section 5.01.01, and accessory uses to other uses permitted by right in this District.
- E. Short term vacation rentals.
- F. Home occupations as permitted under this Zoning Ordinance.
- G. Manufactured homes meeting the requirements in Section 5.12 of this Ordinance.
- H. Animals such as horses, cattle, pigs, goats, or poultry on any premises, provided that the size of lot upon which the same shall be kept shall be not less than five acres in area with a minimum width of 200 feet, and where a total enclosure of fencing is provided. This restriction shall not prohibit the keeping of ordinary household pets in any zone.
- I. Property owners with a permanent residence may use recreational vehicles or trailers may be used for camping purposes on a temporary basis, provided such trailer or recreational vehicle is maintained in a sanitary, moveable, and legally registered condition. Such vehicles cannot be used as a rental.

### 4.04.02 – Uses Permitted By Special Use Permit

The following uses of land and structures may also be permitted by the application for and the issuance of a Special Use Permit, pursuant to Chapter 6:

- A. Churches and accessory religious facilities where located at least 100 feet from any other lot.

- B. Public, parochial, and private schools, where located at least 300 feet from any other lot.
- C. Public libraries, public museums, and art galleries, where located at least 100 feet from any other lot.
- D. Public parks, playgrounds, and community centers, provided that any building located thereon shall be at least 100 feet from any other lot.
- E. Home occupations as permitted under this Zoning Ordinance.
- F. Group child care home meeting the requirements in Section 5.01.08 of this Ordinance.
- G. Accessory wind energy systems, pursuant to Section 5.08 of this Ordinance.
- H. On-site wind energy systems, pursuant to Section 5.08 of this Ordinance.

#### Section 4.05 - "R-2" - RESIDENTIAL - ONE AND TWO-FAMILY DISTRICT

##### 4.05.01 – Uses Permitted By Right

No building or any part thereof in an "R-2" - Residential District shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except for:

- A. Uses permitted by right in the R-1 zone under the terms provided for such uses, except as altered in this Section and the Schedule of Regulations
- B. Two-Family Dwellings
- C. Accessory buildings and structures, pursuant to Section 5.01.01, and accessory uses to other uses permitted by right in this District.
- D. Short term vacation rentals

##### 4.05.02 – Uses Permitted By Special Use Permit

The following uses of land and structures may also be permitted by the application for and the issuance of a Special Use Permit, pursuant to Chapter 6:

- A. Uses permitted by "Special Use Permit" in an R-1 Zone

- B. Nursing homes, convalescent homes, and nursery schools

## Section 4.06 - "C" - COMMERCIAL DISTRICT

### 4.06.01 - Purpose

This zone district is intended to provide areas dedicated primarily to retail business, professional, and service establishments which supply commodities and perform services to meet the daily needs of the community. The zone district is also intended to provide locations for businesses which depend upon, or in some way are related to, the use of lakes and rivers.

### 4.06.02 – Uses Permitted By Right

The commencement of a new use permitted by right or the change to a different use permitted by right in a Commercial District requires a Land Use Permit and the submission and approval of a Site Plan pursuant to Chapter 7 of this Ordinance.

No building or any part thereof in a "C" - Commercial District shall hereafter be used, erected, altered, or converted, or land used, in whole or in part, except the following:

- A. Accessory wind energy systems
- B. Automotive accessories
- C. Baked goods or pastry store
- D. Bank
- E. Barber or beauty shop
- F. Boat Storage. If the boat storage abuts residential property the owner shall provide screening between the properties.
- G. Book, stationery, or gift store
- H. Candy store, soda fountain, ice cream store
- I. Clothes cleaning and/or laundry pickup station
- J. Clothing and dry goods store

- K. Decorator shop
- L. Delicatessen store
- M. Dress shop
- N. Drugstore
- O. Electrical supply store
- P. Florist
- Q. Fruit stand—enclosed
- R. Furniture store
- S. Grocery store and/or meat market
- T. Hardware store
- U. Home occupations as permitted by right under this Zoning Ordinance.
- V. Household appliance store
- W. Ice vending machine
- X. Jewelry store
- Y. Laundromat
- Z. Marinas
- AA. Nursery school and day nurseries
- BB. Office (business or professional, including medical clinic)
- CC. Paint and wallpaper store
- DD. On-site wind energy systems
- EE. Parking lot
- FF. Photographers

- GG. Radio and television store
- HH. Restaurants and cafes (excluding those permitting dancing, floor shows, and the consumption of intoxicating beverages, unless otherwise approved by the Township Board)
- II. Self-service laundry
- JJ. Shoe repair shop
- KK. Tailor
- LL. Variety store, including notions and "five and ten" stores
- MM. Other similar retail businesses or service establishments which supply convenience commodities or perform services primarily for residents of the surrounding neighborhood, provided, however, such uses shall be found to be similar by the Planning Commission.

#### 4.06.03 – Uses Permitted By Special Use Permit

The following uses of land and structures may also be permitted by the application for and the issuance of a Special Use Permit, pursuant to Chapter 6:

- A. Tele-communication towers and antenna.
- B. Oil and gas processing facilities
- C. Automobile service stations
- D. Home occupations as permitted under this Zoning Ordinance.
- E. Accessory buildings and structures, pursuant to Section 5.01.01, and accessory uses to other uses permitted by right in this District.
- F. Light manufacturing or processing operations meeting the requirements in Section 5.11 of this Ordinance.
- G. Warehouse use and buildings meeting the requirements in Section 5.11 of this Ordinance.
- H. Research and office buildings meeting the requirements in Section 5.11 of this

Ordinance.

- I. Oil and gas processing facilities meeting the requirements in Section 5.11 of this Ordinance.
- J. Outdoor storage, but only if the following requirements are met:
  - 1. It shall be located in an area made inaccessible to the general public by means of a fence, wall, or other permanent, secured enclosure or in areas that are set back a distance of not less than 50 feet from any public building entry, parking lot, pedestrian facility, or similar publicly-used area.
  - 2. It shall not be located within 25 feet of any public right-of-way.
  - 3. It shall be screened from view from any abutting property.

#### 4.06.04 - Required Conditions

All uses of property in this District shall be subject to the following conditions:

- A. All business, service, or processing shall be conducted wholly within a completely enclosed building, except as permitted by Special Use Permit pursuant to this Ordinance.
- B. All products produced on the premises, whether primary or incidental, shall be sold only at retail and on the premises where produced.
- C. Off street parking shall be provided in accordance with Section 5.10 of this Ordinance and as determined by the Planning Commission.
- D. In the case that the Commercial property abuts Residential property the owner shall provide screening between the properties.

#### 4.06.05 – Multiple Uses per Lot

More than one commercial use per lot is permitted, subject to the following requirements:

- A. Each use ordinarily must be permitted in the Commercial District and must satisfy the conditions otherwise required for that use in this District.
- B. The permits ordinarily required for each use must each be obtained.

## Section 4.07 - "V"- VILLAGE DISTRICT

### 4.07.01 - Purpose

Within the Township there are several unincorporated villages, which are designated as Village Districts on the Zone Map. Because of the existing density of residential and other structures within the district, the practical application of regulations set forth for the individual zone districts described in this Ordinance may be impractical. For this reason, it is deemed necessary to establish certain modified regulations to the zone districts otherwise applicable in this Ordinance where the same are applied to land and uses located within the Village District.

### 4.07.02 - Applicable Regulations

Except as described in this Section, any uses permitted in –an R-1 or R-2 District shall be allowed in this zone in accordance with the provisions of said Chapter.

#### A. Residential One and Two-Family Zone

1. For unplatted single-family residential lots, the following shall apply:
  - a. Each dwelling unit shall have a minimum floor area of 800 square feet.
  - b. All lots shall have a minimum width of 100 feet at the front yard setback line and a minimum lot are of 20,000 square feet.
2. For unplatted two-family residential lots, the following shall apply:
  - a. Each dwelling unit shall have a minimum floor area of eight hundred (800) square feet.
  - b. All lots in this district shall have a minimum width of 100 feet at the front yard setback line and shall have a minimum lot of ten thousand (10,000) square feet per unit.
3. For platted single-family residential lots, the following shall apply:
  - a. Each dwelling unit shall have a minimum floor area of 800 square feet.
  - b. All lots shall have a minimum width of 100 feet at the front yard

setback and a minimum lot area of 15,000 square feet.

4. For platted two-family residential lots, the following shall apply:
  - a. Each dwelling unit shall have a minimum floor area of 800 square feet.
  - b. All lots in this district shall have a minimum width of 100 feet at the front yard setback line and shall have a minimum lot of 10,000 square feet per dwelling unit.
  - c. All dwellings must meet definition of Dwelling, Single Family.

B. Commercial Uses:

Only commercial uses permitted by right in the Commercial District are permitted in the Village District. Commercial uses that require a Special Use Permit in the Commercial District shall require a Special Use Permit in the Village District. Commercial uses permitted by right in the Commercial District are permitted as follows:

1. Commercial uses permitted by right in a Commercial District shall be permitted by right if the uninterrupted use of the subject property has historically been used for commercial purposes, and that continuation or expansion of commercial use will not be of substantial detriment to the neighboring properties and will not be contrary to the spirit and purpose of this Ordinance.
2. Commercial uses for vacant property, or for parcels with existing buildings which have not been used commercially, or have ceased to be used commercially for one year or more, will be permitted in this zone only upon approval of a Special Use Permit in accordance with Chapter 6 of this Ordinance.

Section 4.08 - "E" - ENVIRONMENTAL DISTRICT

4.08.01 - Purpose

The Township contains many land areas connected to or adjoining lakes, rivers, and streams and which have a high water table or are wholly or partially submerged, and which are grown over with grass, shrubs, trees, and other vegetation, which provide a natural protection for numerous forms of wildlife. In addition, other areas of the Township contain buildings, structures, or sites which have been designated as historic preservation sites by the State of Michigan and/or the federal government. These areas are not naturally suitable for use or habitation by people, buildings, and structures and cannot be converted

to such use without dredging, filling, clearing, excavation, and drain operations which would disturb the natural character of the area and/or which might contribute to the change in the character and purity of the adjoining waters or require special protection to assure the continued preservation of the building, site, or structure as an historic site. The provisions of this Article are intended to prohibit the alteration of these areas except where such alterations can contribute to the overall use and enjoyment of the areas by the people and/or the preservation of such areas as historic sites, and where such alterations have no substantial deleterious effect upon the natural environment.

#### 4.08.02 – Uses Permitted By Right

No use shall hereafter be permitted within the Environment District except the following:

- A. Public and private access by pedestrians, boat, or non-highway special vehicles to hunt, trap, or fish as provided by law, or to observe and enjoy the water, vegetation, and wildlife in its natural state.
- B. Construction of or provision of footpaths or narrow walkways for access to these areas, provided that the cutting of vegetation shall be a minimum for the purpose intended, and no materials used in such construction shall contribute to the pollution/contamination of the ground water or adjoining lakes and rivers.
- C. General farming purposes and grazing of domestic farm animals.
- D. Harvesting of wild crops such as wild hay, ferns, moss, wild rice, berries, tree fruit, and tree seeds.
- E. Harvesting-of timber in accordance with generally recognized conservation practices that are approved by the Zoning Administrator.

#### 4.08.03 - Uses Permitted by Special Use Permit

Uses of land and structures permitted by right or by Special Use Permit in an “R-1”, “R-2”, or “A” District may also be permitted by the application for and the issuance of a Special Use Permit, pursuant to Chapter 6 and the conditions in this subsection. The following conditions shall apply:

- A. In addition to the other required standards in Chapter 6, the proposed use of land and structures shall be consistent with the purpose and standards established for this zone district as set forth in Section 4.08.01. No use shall be permitted which would disturb the natural character of the area and/or which might contribute to the change in the character and purity of the adjoining waters or require special

protection to assure the continued preservation of the building, site, or structure as an historic site; except where such alterations can contribute to the overall use and enjoyment of the areas by the people and/or the preservation of such areas as historic sites, and where such alterations have no substantial deleterious effect upon the natural environment.

- B. The height, area, setback, and width requirements applicable to the "R-2" Zone, as defined in the Schedule of Regulations, shall be applicable.

## **Chapter 5: SUPPLEMENTAL REGULATIONS**

### **Section 5.01 – SUPPLEMENTAL USE AND AREA REGULATIONS**

#### **5.01.01 – Accessory Buildings and Structures**

- A. Accessory structures and buildings, including pole barns, shall be permitted subordinate to a dwelling or other residential use in the R-1 and R-2 District only if there is an existing dwelling either on the same lot or on a contiguous lot that is under common ownership. Roadways do not negate contiguity.
- B. Authorized accessory buildings and structures may be erected as part of the principal building or may be connected to it by a roofed-over porch, patio, breezeway, or similar structure, or they may be completely detached.
- C. The front, side, and rear yard requirements of each zone shall apply to the location of permanent accessory buildings and structures within each zone.
  - 1. If attached to the principal building, a permanent accessory building or structure shall be made structurally a part of it, and shall comply in all respects with the requirements applicable to the principal building under this Ordinance.
  - 2. A permanent accessory building or structure not attached and not made a part of the principal building shall:
    - a. Not be nearer than ten feet from any other separate structure on the same lot,
    - b. Not be erected in any minimum side yard setback or in any front yard,
    - c. If located in a Residential District, not exceed the ground floor area of the main building, and
    - d. If located in a Residential District, not be closer to the side yard lot line than the side yard setback of the principal building on a corner lot.
  - 3. This provision is not intended to limit the placement of fences in setbacks to the extent otherwise permitted by law.

- D. Temporary accessory structures that are not attached to the land surface may be placed in the rear and side yard setbacks if they otherwise meet the requirements of this Ordinance. Temporary accessory structures permitted in residential districts include play structures, temporary woodsheds, bbq pits, and other similar temporary structures so long as they are not permanently attached to the ground.
- E. Accessory structures shall be permitted on those parcels created by the acquisition of the former railroad right-of-way, where said parcels do not meet the minimum lot size requirements, provided that:
  - 1. The parcel is an extension of a lot where the principal structure is located, separated only by an intervening road or right-of-way.
  - 2. The building shall be set back at least 15 feet from the surveyed road right-of-way and at least ten feet from the side and rear lot lines.
  - 3. Permit applications shall have the lot lines and the foundation corners of the proposed building clearly marked.

#### 5.01.02 – Storage of Vehicles and Equipment

No area within any zone shall be used for the open storage, dismantling, accumulation, or abandonment of dismantled, disabled, wrecked, or discarded motor vehicles or machinery, fixtures, appliances, junk, household waste, or any part thereof.

#### 5.01.03 - Essential Services

Essential services shall be permitted as authorized or regulated by law and the Ordinances of this Township in any zone; it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance to the extent required by law.

#### 5.01.04 - Highway Intersection Setbacks

- A. At the intersection of any State Trunkline Highway and any County Primary Road, and for a distance of 100 feet as measured along each right-of-way line from the point of intersection of the right-of-way lines, then diagonally, no building or structure shall be erected or located within 100 feet of said right-of-way except approved directional or other official sign or open fences allowing totally unobstructed vision.
- B. At the intersection of any County Local Road with any State Trunkline Highway or

County Primary or Local Road, and for a distance of 50 feet as measured along the right-of-way line from the point of intersection of the right-of-way lines, and then diagonally, no building or structure shall be erected within 50 feet of the right-of-way line of the County or Local Road, except approved directional or other official sign or open fences allowing totally unobstructed vision.

#### 5.01.05 – Temporary Dwellings

Except as expressly authorized in this Ordinance, no cabin, garage, basement, tent, motor home, camper-type trailer, or other temporary structure shall be used in whole or in part for dwelling purposes in any zone provided that such structure may be used for a temporary dwelling for a period not to exceed six months upon application to and approval of a permit for occupancy by the Zoning Administrator upon determination that the following conditions exist and are met:

- A. The permanent dwelling of the resident applicant has become uninhabitable due to damage caused by fire, wind, or other natural calamity or emergency.
- B. Due to undue hardship, the applicant is unable to obtain another dwelling unit as a temporary residence.
- C. Adequate provision is made for temporary public or private water supply and sewage disposal to and from said structure.
- D. The structure is constructed so as to meet the minimum requirements for the health, safety, and welfare of those occupants and the surrounding neighborhood.
- E. Where valid conditions exist, the Zoning Administrator may grant an extension of the permit.

#### 5.01.06– Right-of-Way Easement Required

Every newly constructed private road in the Township shall have an easement in favor of the public of a width of at least 22 feet for the purposes of providing emergency services. This provision shall not apply to seasonal access roads or a driveway that does not provide access to more than one lot or home.

#### 5.01.07 – Damaged Buildings

- A. Any building damaged by fire or other casualty shall have 15 days to make the necessary repairs to any and all possible accesses into said building to protect the public safety, health, and welfare. The zoning administrator or qualified assessor

may require the owner of any building damaged by wear and tear or through

deterioration and depreciation to board all the doors and windows within 15 days of official notification to protect the public safety, health, and welfare.

- B. Any building damaged to the extent that the cost of repair and rehabilitation to place it in a safe, sound, and sanitary condition is less than 100 percent of the assessed valuation for taxes as determined by the Zoning Administrator or qualified assessor has 60 days to apply to the Planning Commission for a Class A non-conforming use as outlined in Chapter 9.
- C. Any building damaged to the extent that the cost or repair and rehabilitation to place it in a safe, sound, and sanitary condition is 100 percent or more of the assessed valuation for taxes as determined by the Zoning Administrator or qualified assessor is designated a Class B non-conforming use as outlined in Chapter 9.

#### 5.01.08 - Group Child Care Homes

Pursuant to state law, in Districts where a group child care home is a use permitted by Special Use Permit, the permit shall be granted if it meets all of the following standards:

- A. The home shall not be located not closer than 1,500 feet to any of the following:
  - 1. Another licensed group child care home.
  - 2. An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
  - 3. A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.
  - 4. A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.
- B. Maintains the property consistent with the visible characteristics of the neighborhood.
- C. Does not exceed 16 hours of operation during a 24-hour period.
- D. Meets the applicable regulations in this Ordinance regarding signs.

- E. Meets the applicable regulations in this Ordinance regarding the provision of off-street parking.

#### 5.01.09 – Right to Farm

As to any specific property on which commercial farm products are produced within the meaning of MCL 286.472(a), if any applicable Generally Accepted Agricultural Management Practice (GAAMP) approved by the Michigan Department of Agriculture conflicts with any provision, the GAAMP shall control.

### Section 5.02– SUPPLEMENTAL WATERFRONT, LAKE, STREAM, FLOOD PLAIN, AND WETLANDS REGULATIONS

#### 5.02.01 – Private Water Front Access

- A. All private accesses will conform to a minimum width of 100 feet at the front yard setback line and a minimum lot area of 20,000 square feet.
- B. No buildings, structures, or dwellings shall occupy a private designated waterfront access.
- C. All private waterfront accesses can support two non-waterfront dwelling units.
- D. Any additional two non-waterfront dwelling units may be added to the above use density provided all of the following are complied with:
  - 1. Application is made to the Planning Commission for Special Use Permit, pursuant to Chapter 6.
  - 2. An environmental impact study accompanies the application with the environmental impact study considering any adverse effect the use would have on: the lake shore; the greenbelt; and water quality.
  - 3. The Planning Commission approves the application and, in addition to finding that the standards in Chapter 6 are met, considers: (a) lot sizes greater than 100 feet but less than two normal 100 foot 'R-1' zone lots; and (b) carefully considers the environmental impact in light of the environmental impact study.

#### 5.02.02 – Restrictions Applicable to Property Abutting Lakes, Rivers, or Streams

Many lands within the Township are connected to, adjoin, or abut lakes, rivers, or streams. In the interest of protecting the water quality and the natural setting of the shoreline; the following provisions shall be applicable:

- A. No permanent groin wall structure, as defined by the Michigan Department of Natural Resources, shall be installed as a shoreline erosion control device on any of the inland lakes, rivers, and streams within the Township.
- B. All man-made extensions from the shoreline into or over said inland lakes, rivers, and streams shall have an open sub-structure construction so as to allow the free and unrestricted movement of the inland waters littoral current.
- C. A strip of natural vegetation shall be maintained to a depth of 25 feet from the high water mark of the inland lakes, rivers, or streams abutting or traversing the property in question. Within such area, no more than 30 percent of all living trees and shrubs shall be removed by cutting them to grade level. The remaining trees and shrubbery may be trimmed and pruned for a view of the water from the property. No land alterations including the removal of tree stumps shall be allowed within the native protection strip, except that a pass or walk may be constructed to the water's edge to a width of eight feet.

### Section 5.03 - HOME OCCUPATIONS

#### 5.03.01 – Permits Required

- A. If the following requirements are met, home occupations are permitted by right in any district with the issuance of Land Use Permit:
  - 1. The building is the primary residence of the operator of the home occupation, and there are no non-resident employees who shall be working in the building.
  - 2. All activities shall be conducted indoors.
  - 3. The home occupation shall not require modification of the lot or building exterior.
  - 4. The home occupation shall not result in an increase in traffic or an increased need for parking.
  - 5. The home occupation shall not affect or alter the essential character of a lot

or building within a Zoning District (in terms of use, noise, odor, vibration, electrical interference or appearance).

- B. Unless otherwise specified in this Ordinance, home occupations that do not meet the requirements of Section 5.03.01(A) are permitted by Special Use Permit as provided in Chapter 6, subject to the following restrictions:
1. Exterior storage of equipment or accessory items used in the conduct of the home occupation is prohibited.
  2. Only one non-resident employee shall be in the operation of the home occupation.
  3. The establishment of a home occupation shall not necessitate substantial exterior modification to any building on the property except as may be required to accommodate the physically handicapped.
  4. The Special Use Permit approval is non-transferable to subsequent owners.
  5. The activities associated with the home occupation and any required exterior modifications to the building or lot shall not be inconsistent with the essential character of a lot or building within a Zoning District (in terms of use, noise, odor, vibration, electrical interference or appearance).

#### 5.03.02 – Types of Occupations

The following is a list of functions which may come under the definition of home occupation and are listed as examples and not limitations.

Architect  
Artist studio or instruction  
Athletic equipment exchange or resale  
Auditing, bookkeeping, and computer services  
Bakery  
Beauty shops and barber shops  
Books, sale, new or used, and trade  
Calligraphy  
Courier service  
Crafts--weaving, spinning, instruction, wool processing and dying, needle crafts,  
and general crafts  
Dance instruction  
Dress designing, dressmaking or alterations

Engineering and design  
 Furniture refinishing  
 Furrier  
 Insurance office  
 Interior decorator  
 Lean-to greenhouse, sale of plants  
 Millinery shop  
 Music (instrument lessons)  
 Optician  
 Photographer and services  
 Physician's office; dentist, dental laboratory  
 Pottery--kiln  
 Professional offices  
 Real estate sales office  
 Sail-making, boat covers, etc.  
 Small appliance or motor repair shop  
 Taxidermy  
 Tutorial services  
 T V / radio shop  
 Upholstering  
 Wood carver  
 Wood working  
 Other similar retail businesses or service establishments which supply convenience commodities or perform services primarily for residents of the surrounding neighborhood, provided, however, such uses shall be found to be similar by the Planning Commission.

#### Section 5.04 - GARAGE, BASEMENT, YARD. VENDOR STAND. OR SIMILAR SALES

- A. No garage, basement, yard, vendor stand, or similar sales shall continue for more than three days, unless otherwise authorized by this Ordinance.
- B. No more than four such sales, not less than 25 days apart, shall be held on the same premises without a Special Use Permit by the Township Planning Commission, unless otherwise authorized by this Ordinance.
- C. All merchandise offered for sale shall not be stored outside, unless covered or otherwise authorized by this Ordinance, except during hours of sale,.
- D. No sale shall constitute a nuisance to the neighborhood due to noise, traffic, or unsightly conditions caused by the nature of items for sale.
- E. All signs referring to such sales shall be removed within 24 hours of the end of the

sale.

### Section 5.05 - BED AND BREAKFAST OPERATIONS

Bed and Breakfast operations will be allowed after application and approval of a Special Use Permit pursuant to Chapter 6 of this Ordinance, provided that:

- A. Enough suitable off-street parking for guests is provided.
- B. Any sign advertising this operation be limited to six square feet.
- C. The Special Use Permit is non-transferable.
- D. All county and state regulations applicable to these operations be adhered to.

### Section 5.06 - OUTDOOR LIGHTING

#### 5.06.01 - Purpose

The naturally lit night sky is an important aspect of our environment and a resource which contributes significantly to our quality of life by contributing to the public peace and to the health, safety, and welfare of the residents and visitors. The intent of this ordinance is to address public purposes including, but not limited to, the safety of individuals using outdoor areas at night; the preservation of the restful quality of nighttime by eliminating intrusive artificial light and lighting that unnecessarily contributes to "sky glow," the reduction of light pollution from lighting luminaries and light trespass into adjacent properties, and to maintain safe nighttime driver performance on public roadways by minimizing both brightly lighted surfaces and lighting glare.

#### 5.06.02 – Applicability

- A. This ordinance does not apply to the following types of outdoor lighting:
  - 1. Residential decorative lighting (i.e. special seasonal lights such as for Christmas decorating), so long as it does not include searchlights, floodlights, stroboscopic lights, or lights which create glare or distractions that pose a potential danger to vehicular or pedestrian traffic or unnecessary and unwanted glare in the night sky.

2. Gas lighting, glass tubes filled with Neon, Argon, or Krypton, or small decorative fixtures such as residential porch lights.
3. Emergency equipment.
4. Sign illumination or lighting authorized elsewhere in this Ordinance.

B. This Section does include, but is not limited to:

1. Residential yard lights whether building mounted or pole mounted
2. Commercial and industrial parking lot lighting and site lighting
3. Privately owned roadway lighting
4. Building facade lighting

#### 5.06.03 – Standards for Residential Zoning Districts

In all Residential Districts, lighting should be confined to the development site unless otherwise authorized in this ordinance. In addition, the following restrictions will apply:

- A. All outdoor light fixtures shall have cut-off shielding such that no light is emitted above an imaginary horizontal plane passing through the fixture below the light source regardless of type or wattage. "Cut-off Shielding" refers to the method of light construction that causes light emitted from an outdoor light fixture to be projected only below an imaginary horizontal plane passing through the fixture below the light source.
- B. Broad-Spectrum lighting, such as quartz and mercury vapor lighting, is prohibited due to the broad spectrum of visible light these light sources emit and because of the diffusive and reflective characteristics of such light.
- C. Residential security lighting shall be energized by motion detectors unless otherwise permitted as a condition of Site Plan or land use permit approval. Security lighting shall be shielded from view by vehicular traffic and adjacent properties.
- D. Residential yard light fixtures shall employ a light source with full cut-off shielding. "Shielding" refers to a permanently-installed, non-translucent shade, cowl, hood, baffle, or other construction which limits, restricts, or directs light or the visibility of a light source to meet these standards.

#### 5.06.04 – Standards for Commercial and Light Industrial Zones

The Zoning Administrator may require that any outdoor light fixtures that are neither integral to the use nor necessary to protect public health, safety and welfare be turned off between 11:00 p.m. and sunrise. In addition, the following restrictions apply:

- A. All outdoor light fixtures will have cut-off shielding, as defined in Section 5.06.03, that:
  - 1. Either prevents light sources from being visible beyond the boundaries of the property on which they are installed or prevents lights rays from being directed above an imaginary horizontal plane passing through the fixture below the light source; and
  - 2. Protects vehicular and pedestrian traffic from unnecessary and/or dangerous glare from the intense light of directly visible light sources.
- B. Outdoor light fixtures shall be selected and installed to conserve electrical energy by:
  - 1. Using fixtures with good optical control to distribute light in the most efficient manner
  - 2. Using the minimum amount of light to meet the lighting criteria set forth by the Illuminating Engineers Society of North America (IESNA) for safety and visibility relevant to the land use where the lighting is installed.
  - 3. Energizing light fixtures only when necessary in relation to the land use where the lighting is installed by means of automatic timing devices and/or through the use of motion detection devices on security lighting.
- C. The following lights are prohibited:
  - 1. Searchlights, lasers, or other high-intensity lights designed or used primarily to light the sky for advertising or entertainment purposes.
  - 2. Broad-spectrum lighting, such as quartz and mercury vapor lighting, due to the broad spectrum of visible light these light sources emit and because of the diffusive and reflective characteristics of such light.

- D. All outdoor recreational facilities (including but not limited to tennis courts; baseball, football, soccer, and softball fields; ski runs and trails; and golf courses and driving ranges) shall be illuminated with fixtures equipped with cut-off shielding as needed to direct and restrict light to the playing surface, playing air space, and immediately surrounding areas, and to eliminate glare in the night sky and unnecessarily reflected light on adjacent or distant properties.
- E. Floodlights shall be directed downward and shielded so that the light source is not visible from roadways or adjacent properties, and shall be located and directed so that light is not unnecessarily reflected onto adjacent properties or into the night sky.
- F. In addition to fixture design and shielding, architectural and landscape design features may be incorporated into an outdoor lighting plan in order to comply with the intent and requirements of this Ordinance.
- G. Illuminated advertising signs must be turned off no more than one hour after the close of business and may be turned on no earlier than one hour before the opening of business except by special permission granted as a condition of Site Plan approval. All fixtures or circuits illuminating advertising signs shall be equipped with automatic timing devices. Any external illumination should be mounted at the top of the sign and use cut-off shielding to direct the light onto the sign and/or construct the sign to shield the light source from vehicular and pedestrian traffic and neighboring properties. Internally illuminated signs shall have a dark background with lighter-colored translucent (NOT transparent) lettering, logos, and/or designs.
- H. Off-street parking areas shall be illuminated only when in use during regular business hours and for relatively brief periods of time before and after hours when employees and members of the public are arriving at or leaving from the premises. If entrance and traffic marker lights along access roads and drives, in parking lots, and/or along pedestrian ways are approved as part of a Site Plan, they shall be of a sodium type and equipped with cut-off shielding that prevents the light source from being visible to vehicular and pedestrian traffic.
- I. Security lighting may be approved as part of a Site Plan, and if approved shall be directed away and/or shielded from view by vehicular and pedestrian traffic and adjacent properties.
- J. If outdoor display areas and architectural lighting are approved as part of a Site Plan, then the following restrictions apply:
  - 1. Building facades may be lit from the top in a downward direction; employing lighting fixtures with cut-off shielding and any additional shielding that may be required to hide the light source from view by vehicular and pedestrian traffic and adjacent properties.

2. If an outdoor display area, including but not limited to automobile or equipment dealer displays or storage lots, is approved as part of a Site Plan, such area may be illuminated until 11:00 p.m.
3. Metal halide lighting may be used as a minor portion of a lighting plan if it will reduce visibility glare. Such fixtures shall be equipped with full cut-off shielding and project the minimum amount of light necessary for good visibility.

#### 5.06.05 – Approved Materials

The provisions of this Ordinance are not intended to prevent the use of any design, material or method of installation that meets the spirit and intent of this Ordinance, even if not specifically prescribed by this Ordinance, provided that such alternative has been approved by the Planning Commission and meets or exceeds Illuminating Engineers Society of North America (IESNA) standards at the time of proposal.

#### 5.06.06 – Site Plan Approval

Where these requirements apply and a Site Plan pursuant to Chapter 7 is otherwise required by this Ordinance, the Site Application shall include the information necessary to demonstrate compliance with this Section, and the Planning Board may recommend and the Township Board may approve the Site Plan only if the applicant has demonstrated that the proposed outdoor lighting will comply with this Section.

### Section 5.07 – TELECOMMUNICATION TOWERS AND FACILITIES AND ANTENNA.

#### 5.07.01 – Purpose

The purpose of this Section is to establish general guidelines for the location of telecommunication towers and antennas to provide reasonable or adequate coverage. The township recognizes that it is in the public interest to permit the location of telecommunication towers and antennas within the township. The township also recognizes the need to protect the scenic beauty of Helena Township, and that telecommunication towers and antennas may have negative aesthetic impacts. As such, this Section seeks to:

- A. Protect residential areas from potential adverse impact of towers and antennas on scenic views, creating safety hazards, or reducing property values on adjacent properties;

- B. Encourage the location of towers in nonresidential areas;
- C. Minimize the total number and height of towers throughout the township;
- D. Encourage the joint use of new and existing tower sites rather than the construction of additional towers;
- E. Encourage developers of towers and antennas to configure them in a way that minimizes their adverse visual impact;
- F. Comply with provisions of state and federal law;
- G. Consider the public health and safety of telecommunication towers;
- H. Avoid potential damage to adjacent property from tower failure;
- I. Protect areas designated as Scenic View Areas and Environmentally Sensitive Areas by the Helena Township Master Plan; and
- J. Preserve the scenic rural character and the appearance of the township while simultaneously allowing adequate personal wireless services to be developed.

#### 5.07.02 – Application Requirements

In addition to the application requirements for a Site Plan, an application for a Special Use Permit for a telecommunication tower and/or antenna shall include all of the following applicable information:

- A. The applicant shall provide the following specific information concerning the proposed telecommunication tower and/or antenna under consideration:
  - 1. Exact location of the proposed site in longitude and latitude to degrees, minutes and seconds
  - 2. The location of existing telecommunication towers within the township and all surrounding townships
  - 3. The location of all single family or multiple family dwelling units, churches, schools, or other structures normally used and actually used for the congregation of persons within a 1,000 feet radius of the proposed site
  - 4. Ground elevation of the proposed site
  - 5. Height of the telecommunication tower and facilities
  - 6. Number and type of antennas capable of being placed on the telecommunication tower

7. Antenna gain
  8. Height of the antennas on telecommunication tower
  9. Output frequency
  10. Number of channels
  11. Power input
  12. Maximum power output per channel
  13. Potential adjustments to the telecommunication tower and facilities and/or antenna, including changes in antenna type, orientation, gain, height or power output
  14. Radial plots from each of these facility sites, as they exist, and with adjustments as noted above.
- B. A certification from a Michigan licensed professional engineer as to the manner in which the proposed telecommunication tower is designed to collapse.
- C. A map depicting the existing and known proposed location of wireless communication facilities, including telecommunication antenna attached to alternative tower structures, within Helena Township as well as within the proposed service area radius. A map depicting the existing and known proposed location of wireless communication facilities, including telecommunication antenna attached to alternative tower structures, within Helena Township as well as within the proposed service area radius.
- D. The name, address, and telephone number of the person to contact regarding site maintenance or other notification purposes. This information shall be periodically updated by the tower owner.
- E. A statement which indicates the applicant's intent to allow the co-location of other antenna on the proposed telecommunication tower under reasonable terms and conditions.
- F. A statement explaining why no existing telecommunication tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna.
- G. Any requirements imposed by the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate telecommunication towers and/or antennas.
- H. Any information necessary to establish compliance with the standards for a Special Use Permit specified in Chapter 6 of this Ordinance.

- I. Upon the request of the Planning Commission, the applicant shall raise a brightly colored, temporary mast three feet in diameter at the maximum height and in the location of the proposed telecommunication tower. The applicant shall inform the Planning Commission in writing of the dates and times when the temporary mast will be erected at least 14 days in advance of the test. The zoning administrator, at the applicant's expense, shall advertise in the local newspaper, the dates (including a second date, in case of poor visibility on the initial date), times and location of this test. The advertisement shall appear seven days and 14 days in advance of the first test date. The temporary mast shall appear for a least four consecutive hours sometime between 9:00 a.m. and 5:00 p.m. on the chosen dates.

#### 5.07.03 – Use of Consultants

Upon submission of a complete application, the Planning Commission may recommend that the Township Board hire independent consultants whose services shall be paid for by the applicant to assist the Planning Commission when processing the Special Use Permit application.

#### 5.07.04 – Applicable Standards

In addition to the standards required for a Special Use Permit in Chapter 6 of this ordinance, a proposed telecommunication tower or antenna shall meet all of the following applicable standards:

- A. The telecommunication tower is not located within an area designated as Scenic View Areas and Environmentally Sensitive Areas by the Helena Township Master Plan. Provided, however, this standard shall not apply to antenna.
- B. No existing telecommunication tower, alternate tower structure or alternative technology can accommodate the applicant's proposed antenna. This standard may be established by evidence of any of the following:
  1. No existing towers or alternate tower structures are located within the geographic area which meet applicant's engineering requirements.
  2. Existing towers or alternate tower structures are not of sufficient height to meet applicant's engineering requirements.
  3. Existing towers or alternate tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  4. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternate tower structures, or the

antenna on the existing towers or alternate tower structures would cause interference with the applicant's proposed antenna.

4. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternate tower structure or to adapt an existing tower or alternate tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  6. The applicant demonstrates that there are other limiting factors that render existing towers and alternate tower structures unsuitable.
  7. The applicant demonstrates that an alternative technology that does not require the use of towers or alternate tower structures, such as a cable microcell network using multiple low-powered transmitters/ receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- C. The applicant shall permit the owners of other antenna to collocate on the telecommunication tower under reasonable terms and conditions. Provided, however, this standard shall not apply to antenna.
- D. The height of the telecommunication tower or antenna located on a telecommunication tower shall not exceed 199 feet, unless located within the VOR, NDB, or GPS instrument approaches to the Antrim County Airport, in which case the height of the telecommunication tower or antenna located on a telecommunication tower shall not exceed 150 feet. The Planning Commission may approve an increased height for a telecommunication tower or antenna located on a telecommunication tower located outside of the VOR, NDB, or GPS instrument approaches to the Antrim County Airport, not to exceed 300 feet, if all of the following conditions are met:
1. The need for the increased height is the result of a stand of trees, existing land forms, or structures that would substantially hinder the reception/transmission of an antenna on a telecommunication tower.
  2. The increased height is the minimum necessary to achieve a reasonable level of antenna reception/transmission on the telecommunication tower. A reasonable level of antenna reception/ transmission is not equivalent to maximizing the antenna reception/ transmission. The Planning Commission shall not grant the increased height if the reasonable level of antenna reception/ transmission is not met due to the use of inefficient equipment that does not utilize current commercial technologies.

3. The increased height will not result in increased intensity on lighting of the tower due to FAA requirements.
- E. The telecommunication tower shall be set back a distance equal to no less than 75 percent of the height of the tower from any adjoining lot line or any public or private road. All guys and accessory buildings shall satisfy the minimum zoning district setback requirements. Provided, however, this standard shall not apply to antenna.
  - F. The telecommunication tower and attendant accessory structures shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device. Provided, however, this standard shall not apply to antenna.
  - G. The telecommunication tower and attendant accessory structures shall meet all of the following landscaping requirements, unless the Planning Commission reduces or waives any such requirements upon a finding that the visual impact of the tower would be minimal:
    1. The telecommunication tower and facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
    2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

Provided, however, this standard shall not apply to antenna.
  - H. The telecommunication tower and/or antenna shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas.
  - I. The telecommunication tower and/or antenna shall meet all of the following applicable aesthetics requirements:
    1. The telecommunication tower shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. The design of all attendant accessory structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  4. Where a feasible alternative exists, telecommunication towers and facilities shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this Section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
- J. The telecommunication tower shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views. Provided, however, this standard shall not apply to antenna.
- K. The antenna and metal telecommunication tower shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
- L. The telecommunication tower and/or antenna shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- M. No signs shall be allowed on the telecommunication tower and/or antenna, except signs required pursuant to federal, state, or local laws.
- N. The telecommunication tower shall meet all of the following spacing requirements:
1. The telecommunication tower shall be located no closer than one mile from an existing telecommunication tower, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.
  2. The telecommunication tower shall not be located within two hundred feet or 300 percent of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit, church, school, or other structure normally

used and actually used for the congregation of persons. Distance for the purpose of this Section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit, church, school, or other structure normally used and actually used for the congregation of persons.

Provided, however, this standard shall not apply to antenna.

- O. A testing and inspection program meeting the requirements of subsection E below of this Ordinance shall be developed prior to Special Use Permit approval.

#### 5.07.05 – Testing and Physical Inspections

The owner of a telecommunication tower and/or antenna shall conduct testing and physical inspections of the telecommunication tower and/or antenna and attendant accessory structures as provided herein to ensure continuing compliance with this Section and any conditions imposed with the approval of the telecommunication tower and/or antenna. Copies of all testing and inspection reports shall be submitted to the zoning administrator within 30 days of the testing or inspection.

- A. Within 30 days after an antenna begins initial transmission of radio frequencies, begins transmitting radio frequencies different than when the Special Use Permit was approved, or upon the written request of the township based on a complaint found to be reasonable by the zoning administrator, the owner of the antenna shall pay for an independent consultant, approved by the Township, to conduct testing and monitoring of EMF radiation emitted from the site to verify that the antenna meets or exceeds the standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate antennas and to verify that the antenna does not interfere with television and radio reception to neighboring residential areas.
- B. Every five years or when major modifications to the tower are made, including changes to the tower height and changes to the number or type of antenna mounted on the tower, the owner of a telecommunication tower shall pay for an independent consultant, approved by the Township, to physically inspect the tower's structural integrity and safety.
- C. If any testing or inspection of the telecommunication tower and/or antenna reveals any noncompliance with the requirements of this Section or reveals structural defect(s), which, in the opinion of the independent consultant render(s) that tower unsafe, then the owner of the telecommunication tower and/or antenna shall within ten business days of notification of the noncompliance or unsafe structure submit a plan to the zoning administrator documenting the planned action to remedy any

noncompliance or structural defect(s). The remedial plan shall then be initiated within ten days of the submission and completed as soon as reasonably possible.

- D. Failure to conduct the testing and inspections or to take any action required in this subsection shall be deemed a violation of the Special Use Permit approval and subject to enforcement action as provided in this Ordinance.

#### 5.07.06 – Abandonment and Removal of Tower or Antenna

Any telecommunication tower or antenna that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such telecommunication tower or antenna shall remove the same within 90 days of receipt of notice from the Township Board notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective as to the tower until all users cease using the tower. The Planning Commission may require the applicant to file and maintain a bond with terms and conditions acceptable to the township attorney equal to the reasonable cost of removing the telecommunication tower, antenna, or other supporting structure(s) as a condition of any Special Use Permit approval given pursuant to this Section.

### Section 5.08 – WIND ENERGY

#### 5.08.01 - Purpose

The purpose of this ordinance is to promote clean and renewable wind energy while providing protecting public health, safety, welfare in the Township.

#### 5.08.02 - Scope

All wind energy systems must meet all applicable requirements of this chapter to be permitted for construction and operation in the Township.

#### 5.08.03 – Accessory Wind Energy Systems

Accessory wind energy systems are permitted with a zoning permit, and subject to the standards and requirements in this Section:

- A. Height: An accessory wind energy system may not be higher than the maximum height of the structure it is attached to, plus 10 feet.

- B. Number: There shall be not more than one accessory wind energy system located on a structure.
- C. Noise: An accessory wind energy system shall not cause a sound pressure level in excess of 55 dB(A) or in excess of five dBA above the background noise, as measured by the ambient dB(A), whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- D. Application: In addition to documentation normally required to apply for a zoning permit, an applicant for an accessory wind energy system shall submit any additional documentation that the zoning administrator determines is necessary to determine that the requirements of this Section are met.

#### 5.08.04 – On-Site Energy Systems

On-site wind energy systems are permitted subject to approval of a Site Plan under Chapter 7, and subject to the standards and requirements in this Section:

- A. Height: An on-site accessory wind energy system may not be higher than 100 feet
- B. Number: In all zoning districts except agricultural, there shall be not more than one on-site wind energy system located on a parcel.
- C. Noise: An on-site wind energy system shall not cause a sound pressure level in excess of 55 dB(A) or in excess of five dBA above the background noise, as measured by the ambient dB(A), whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- D. Set-back: On-site wind energy systems shall be set back from property lines a distance equal to the wind turbine generator total height. The Planning Commission may reduce this setback if adjacent property is owned or leased by the applicant, or permission is obtained from the adjacent property owner.
- E. Guy Wires: Any guy wires shall be made with or covered with material that is visible to a height of at least six feet above the ground.
- F. Ice Throw: Ice throw or shedding for an on-site wind energy system shall not have the potential to cross any property line nor impinge on any right-of-way or overhead utility line.

- G. Application: In addition to documentation normally required to apply for a Special Use Permit, an applicant for an on-site wind energy system shall submit any additional documentation that the zoning administrator determines is necessary to determine that the requirements of this Section are met.

#### 5.08.05 – Anemometers

An anemometer shall be a permitted use in any zoning district where an on-site wind energy system is permitted. An anemometer shall be subject to the same approval standards, process, and requirements as an on-site wind energy system.

#### 5.08.06 – Utility-Scale Wind Energy Systems – Approval Standards

- A. Utility-scale wind energy systems are permitted only with a Special Use Permit, granted pursuant to Chapter 6, including approval of a Site Plan pursuant to Chapter 7, and subject to the standards and requirements in this Section.
- B. Height: There is no maximum height limit for utility-scale wind energy systems. However, all systems must demonstrate compliance with the Michigan Tall Structures Act (PA 259 of 1959, as amended), Federal Aviation Administration (FAA) guidelines, and Michigan Aeronautics Commission guidelines as part of the approval process.
- C. Blade Clearance: There shall be a minimum vertical blade tip clearance from the ground of 20 feet.
- D. Noise: A utility-scale wind energy system shall not cause a sound pressure level in excess of 55 dB(A) or in excess of five dBA above the background noise, as measured by the ambient dB(A), whichever is greater, as measured at the nearest property line. This level may be exceeded during short-term events such as utility outages and severe wind storms.
- F. Set-back:
1. A utility-scale wind energy system shall be set back from property lines and public roads a distance equal to the wind turbine generator total height.
  2. The Planning Commission may reduce this setback from property lines that do not border public roads if adjacent property is owned or leased by the applicant, or if permission is obtained from the adjacent property owner.

3. If multiple properties are part of a single wind energy lease unit, the setbacks shall be measured from the lease unit boundary rather than the property line between adjacent properties within the lease unit.
  4. Setbacks for buildings accessory to a wind turbine generator shall conform to the general setbacks of the zoning district.
- G. Guy Wires: Any guy wires shall be made with or covered with material that is visible to a height of at least six feet above the ground.
- H. Ice Throw: Ice throw or shedding for an on-site wind energy system shall not have the potential to cross any property line nor impinge on any right-of-way or overhead utility line.
- I. Safety:
1. All wiring shall comply with all applicable safety and stray voltage standards.
  2. Wind turbine towers shall not be climbable on the exterior.
  3. All access doors to wind turbine towers and electrical equipment shall be locked.
  4. Appropriate warning signs shall be placed on wind turbine towers, electrical equipment, and facility entrances.
  5. All generators shall be equipped with controls to control the rotational speed of the blades within design limits for the specific wind turbine generator.
  6. All utility-scale wind energy systems shall comply with all applicable State construction and electrical codes, FAA requirements, Michigan Aeronautics commission requirements, Michigan Public Service Commission requirements, and Federal Energy Regulatory Commission standards.
- J. Lighting: The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility Grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.
- K. Signal Interference: No utility-scale wind energy system shall be installed in any location where its proximity with existing fixed broadcast retransmission, or reception antennas for radio, television, navigation, wireless phone or other

personal communication systems would produce electro-magnetic interference with signal transmission or reception. No wind turbine generator shall be installed in any location along the major axis of an existing microwave communications link where its operation likely to produce electromagnetic interference with the link's operation unless the interference is insignificant.

- L. Vibrations: No utility-scale wind energy system may produce humanly-perceptible ground vibrations beyond the property on which it is located.
- M. Visual Impact:
  - 1. Utility-scale wind energy systems shall be mounted on single vertical towers of tubular pole or monopole design. Towers shall have a galvanized steel finish, or be painted a neutral white, gray, or pale blue color, unless otherwise required by the FAA. The appearance of turbines, towers, and buildings shall be maintained throughout the life of the wind energy system consistent with industry standards.
  - 2. Utility-scale wind energy systems shall not be used to display any advertising except the reasonable identification of the manufacturer or operator of the wind energy facility.
- N. Separation: Utility-scale wind energy system separation distances shall be based on industry standards, manufacturer recommendations, and the characteristics of the particular site location, but at a minimum, there shall be a separation between the towers of not less than three times the turbine rotor diameter. Documents shall be submitted by the developer/manufacturer confirming specifications of tower separation.

#### 5.08.07 – Utility-Scale Wind Energy Systems - Application

Application: In addition to the general requirements for an application for Site Plan review and a Special Use Permit, an application for utility-scale wind energy system shall include the following:

- A. Documentation that the site has annual wind resources sufficient for the viable long term operation of the wind energy system.
- B. All required approvals from other agencies. If approvals have not been obtained but are in process or applications are anticipated, the Township may condition its approval and the issuing of any zoning permit on subsequent receipt of documentation that all other required approvals were received.

- C. A hazard prevention plan. The hazard prevention plan shall contain:
1. Certification that the electrical wiring between turbines and between turbines and the utility right-of-way does not pose a fire hazard.
  2. Location of landscaping designed to avoid the spread of fire from any source on the turbine.
  3. A listing of any hazardous fluids that may be used on site, including Material Safety Data Sheets.
  4. Certification that the turbine has been designed to contain any hazardous fluids.
  5. A statement certifying that the turbine shall be routinely inspected to ensure that no fluids are released from the turbine.
- D. A decommissioning plan. The decommissioning plan shall include:
1. Anticipated life of the project.
  2. Estimated decommissioning costs in current dollars, not including salvage value.
  3. Method of ensuring funds will be available for decommissioning and restoration.
  4. The anticipated manner in which the project will be decommissioned and the site restored.
- E. An environmental impact statement assessing and providing for mitigation measures to minimize any potential impacts on the natural environment, including wetlands, fragile ecosystems, historical and cultural sites, and avian impacts.
- F. A noise modeling and analysis report. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the wind energy system, sound pressure level measurements shall be done by a third party, qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the local government within 60 days of the commercial operation of the project.

- G. A visual impact simulation showing the completed site as proposed on the submitted Site Plan. The visual impact simulation shall be from four viewable angles.
- H. Proof of the applicant's public liability insurance for the project.

#### 5.08.08 – Utility-Scale Wind Energy Systems - Removal

- A. Any utility-scale wind energy system that is not operational for a continuous period of 24 months shall be considered abandoned, and the owner shall remove the system within 180 days of abandonment. Failure to remove the system within 180 days shall be grounds for the Township to remove it at the owner's expense.
- B. In addition to removing the wind energy system, the owner shall restore the site to its original condition, subject to reasonable wear and tear. Any foundations associated with the wind generator or anemometer tower shall be removed to a minimum depth of five feet below the final grade and site vegetation shall be restored.
- C. The Township may require the owner of utility-scale wind energy system to deposit a performance guarantee in an amount equal to the estimated costs associated with the removal of the system and restoration of the site. The amount of the performance guarantee may include an escalation clause equal to the Consumer Price Index. The performance guarantee shall be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township.

#### 5.08.09 – Repair or Replacement

Major components of a wind energy system may be replaced without a modification of existing zoning approvals all regulations contained in this ordinance and all conditions attached to the approval are adhered to.

#### 5.08.10 – Conflicts

In any case of conflict between the requirements of this Chapter and other Chapters of the Helena Township Zoning Ordinance with respect to a wind energy system, this Chapter will control.

### Section 5.09 - SIGNS

#### 5.09.01 - Purpose

The purpose of this Chapter is to allow those signs that will not, by their purpose, size, placement, construction, or manner of display, endanger the public health, safety, and

general welfare of the citizens of Helena Township. This Chapter shall regulate signs in such a manner as to support and compliment the land use objectives set forth in this Zoning Ordinance.

#### 5.09.02 – Prohibited Signs

The following signs are prohibited in any District:

- A. Signs that are illegal under State laws or regulations and applicable local ordinance or regulations.
- B. Signs that are not in good repair and adequately secured.
- C. Signs that attempt or appear to attempt to regulate, warn, or direct the movement of traffic or which interfere with or resemble any official traffic sign, signal or device.
- D. Signs, except those belonging to a unit of government, that are located in, projecting into, or overhead within a public right-of-way or dedicated public easement, unless such sign has been issued a permit by the unit of government having jurisdiction over that right of way.
- E. Signs that project above the maximum height limitations of the Zoning District in which the sign is located.

#### 5.09.03 – Required Permits

- A. The following signs are permitted by right without a permit:
  - 1. Temporary sale signs such as garage and similar sale signs, provided that they are located on private property, are limited to three in number, and are removed promptly after the sale is concluded. In no event shall such signs be posted on public utility poles, street signs, highway signs, or be in place for a period exceeding 3 days.
  - 2. Signs advertising a temporary “open house” for the sale or lease of a house or building, provided that they are no larger than two square feet in size, are located on private property, and are removed promptly after the open house is concluded or after two days, whichever is the lesser time. In no event shall such signs be posted on public utility poles, street signs or highway signs.
  - 3. Other temporary signs that will be in place for no more than 30 days that otherwise meet the size and placement requirements for signs in the applicable District.
  - 4. Signs containing only the words "NO HUNTING" or "NO TRESPASSING".
  - 5. Traffic control signs placed pursuant to law by any governmental agency or as may be required for traffic or parking control in planned developments.

6. Name plates and numbers identifying the occupant and locations of dwelling units.
  7. Historical markers and public notice signs placed by public agencies.
- B. All other signs meeting the requirements of Section 5.09.04 and Section 5.09.05 are permitted by right with the issuance of a Land Use Permit.
- C. The following signs are permitted only with the issuance of a Special Use Permit pursuant to Chapter 6:
1. Advertisements for off-site businesses, products, and activities are permitted in any District. In addition to the standards in Chapter 6, the size and placement restrictions otherwise applicable shall apply.
  2. Digital Electronic Signs
  3. Any other sign not meeting the requirements of this Section.

#### 5.09.04 – Signs Permitted

The following signs will be permitted in all zone districts except for the environmental district subject to the requirements stated in this Section. All signs must comply with one of the sign formats described in Section 5.09.05. Any sign erected in an Environmental District must follow procedures established in this Ordinance for that District.

#### A. Home Residences.

1. Residences: Signs not exceeding two square feet in the total surface area and bearing only property numbers, post box numbers, and names of occupants on the premises.
2. Home Occupation: one non-illuminated sign announcing a home occupation or professional service, not to exceed six square feet in surface area. Such a sign may be attached flat against a building or may be a freestanding sign.
3. Subdivision: one non-illuminated temporary sign advertising recorded subdivision or development, not to exceed 200 square feet in surface area. The sign shall be removed after two years.
4. Development Entry: A permanent structure which may be illuminated. The structure shall be a minimum of ten feet from the road right-of-way. Said sign on the structure may include only the name of the development and the developer. The structure and sign shall be harmonious and appropriate in appearance with the existing and intended character of the general vicinity.

#### B. Governmental and Community Group Signs.

1. Flags and insignia of any government, institution, or organization, except when displayed in connection with commercial promotion.
2. Memorial signs or tablets, especially those containing name(s) of buildings and date(s) of construction.
3. Legal notices, identification information or directional signs erected by governmental bodies.
4. Institutional bulletin signs located on the premises to which the sign pertains. The institutional bulletin sign shall not exceed 50 square feet in total surface area.
5. Park and playground signs.
6. Election signs, provided that they shall be a minimum of 100 feet from any polling place entrance.

C. Business and Commercial Signs.

1. Digital Electronic Signs
2. Temporary construction signs subject to the following restrictions:
  - a. The total surface display area shall not exceed 32 square feet.
  - b. The sign shall not exceed eight feet in height.
  - c. The placement of the sign shall be wholly within the boundaries to which the sign pertains.
  - d. The sign shall not be erected prior to the issuance of a building permit from the Antrim County Building Official.
  - e. The sign is to be removed after two years.
3. Trespassing, safety, or caution signs, not exceeding two feet in surface display area.
4. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.
5. For Sale sign attached to vehicles.
6. Two temporary, non-illuminated real estate sign per lot advertising the sale or lease of a property or building not exceeding six square feet in surface display area per side. The sign shall be located on premises.

7. Grand opening, charitable, or philanthropic events, subject to the following restrictions:
  - a. Limited to 30 days duration.
  - b. Must be located on premises.
  - c. Must not exceed 32 square feet in surface display area per side.
8. Service station signs:
  - a. There shall be no signs located on fuel pump islands, except those constituting an integral part of the pump itself or those required by State Law or regulation.
  - b. There shall be no signs attached to a light pole.
  - c. There shall be no signs attached to fuel pump canopies except those identifying "self-service" and "full-service" pumps, in which case, the maximum size shall not exceed six square feet in surface display area per message.

#### 5.09.05 – Formats of Signs Permitted.

Unless otherwise provided in this Ordinance, all signs must comply with one of the following sign formats:

A. Freestanding signs:

1. One on-premises advertising sign per building not exceeding 32 square feet in surface display area per side.
2. The sign shall pertain exclusively to the business carried on within the building.
3. The sign shall not project above the cornice or roof line of the building in which the business is located.

B. Wall signs:

1. One per building, not exceeding ten percent of the building face to which it is attached.
2. Wall signs shall be placed flat against the main building or parallel to the building on a canopy.
3. Wall signs shall not project above the cornice or roof line of the building in which the business is located.

C. Projecting signs:

1. One projecting sign may be permitted in lieu of a freestanding sign if the building to which it is attached is closer than ten feet to the road right-of-way line.
2. The sign shall be no larger than 32 square feet in surface display area per side.
3. Projecting signs must clear the ground by a minimum of nine feet and project no further than four feet from the building.

D. Window signs:

1. Window signs shall not exceed more than 40 percent of the surface area of the window in which they are displayed.
2. Window signs shall not exceed ten percent of the building face of which the window is a part.

E. Digital Electronic Signs  
Conditions:

1. Signs are subject to all size and dimension conditions of the Ordinance.
2. Digital images will alternate no more rapidly than four (4) images per minute.
3. Digital imagery is programmed to stationary display after business operating hours and at minimum illumination with no scrolling text or racing borders.

5.09.06 – All Permitted Signs

Unless otherwise authorized by this Ordinance, all permitted signs:

- A. May be illuminated unless otherwise indicated in this Chapter. They are subject to the limitations listed in C.3 of this Section. In addition, all exterior illuminated signs visible from a roadway must be turned off or darkened at the time of close of business.
- B. Shall be erected in such manner as to allow free and clear vision at all street intersections or at any location where, by reason of the position, shape, or color of said sign, it may interfere with authorized traffic sign.
- C. Digital Electronic Signs require Special Use Permit pursuant to Chapter 6.
- D. May be portable or movable, as defined in Chapter I, provided the following conditions are complied with:
  1. Portable signs shall be permitted for grand openings, charitable events, community related activities, or other similar occasions.

2. No illuminated portable signs shall have moving parts or flashing lights.
3. No source of illumination of portable signs shall be visible beyond the property lines of parcel on which located.
4. Portable signs shall not exceed 50 square feet in surface display area per side.
5. Portable signs shall not be placed in a residential zoned area or the "E" Environmental Zoning District.

#### 5.09.07 – Nonconforming Signs

It is the intent of this Section to permit the continuance of a lawful use of any sign or outdoor advertising structure existing at the effective date of the adoption of this Chapter, although such sign or outdoor advertising structure may not conform with the provisions of this Chapter, but it is further the intent that signs or structures shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The following regulations apply to nonconforming signs:

- A. Nonconforming signs and outdoor advertising structures shall not be enlarged upon, expanded, or extended. The faces, supports, or other parts of any nonconforming sign or outdoor advertising structure shall not be structurally changed, altered, substituted, or enlarged. Nothing in this Chapter shall prohibit the periodic change of message on any outdoor advertising structure.
- B. Whenever the activity, business, or usage of a premises to which a sign is attached or related has been discontinued for a period of one hundred twenty days (120) days or longer, such discontinuance shall be considered conclusive evidence of an intention to abandon legally the nonconforming sign attached or related thereto. At the end of this period of abandonment, the nonconforming sign shall either be removed or altered to conform with the provisions of this Chapter.
- C. The Township Board may acquire any nonconforming sign or outdoor advertising structure, with or without acquiring the property on which such sign or structure is located, by condemnation or other means, and may remove such sign or structure.

#### 5.09.08 – Flags and Ornamentation

No property shall display flags of any description or other similar ornamentation which is meant to call attention to the property, except that official flags, such as State or National flags may be displayed, provided that they are under 32 square feet; also except those flags or ornamentation which may be used for grand openings, charitable events, community related activities, or similar events

#### 5.09.09 – Site Plan Approval

Where these requirements apply and a Site Plan pursuant to Chapter 7 is otherwise required by this Ordinance, the Site Plan Application shall include the information necessary to demonstrate compliance with this Section, and the Planning Board may recommend and the Township Board may approve the Site Plan only if the applicant has demonstrated that the proposed signage will comply with this Section.

#### Section 5.10 – OFF-STREET PARKING

Each off-street parking space per vehicle shall have an area of not less than two hundred (200) square feet, exclusive of access drives or aisles, and shall be a minimum of ten (10) feet in width. Where the Planning Commission has discretion to require the provision of off-street parking under this Ordinance, the Planning Commission shall make the determination based on the following factors:

- A. The number of people and cars likely to be generated by the uses permitted on the property that will be served by the parking. For a residential use, this shall include the number of dwelling units. For light industrial and commercial uses, this shall include the number of employees and the amount of potential customers, based on the square footage of the area.
- B. The intensity of the use at different times, such as if there are operating hours or distinct uses on the property that occur at distinctly different times.
- C. Other factors relevant to the public health, safety, and welfare that are related to the demand for off-street parking that may be generated by the uses proposed to be permitted on the property.

#### Section 5.11 – LIGHT INDUSTRIAL USES

##### 5.11.01 – Conditions on Light Industrial Uses

All uses of property that are permitted only expressly subject to this subsection are considered light industrial uses and shall be subject to the following conditions:

- A. All operations shall be conducted within enclosed structures.
- B. Exterior yard storage shall be screened on sides and rear by a solid, uniformly finished and maintained) wooden or masonry wall or fence of durable material, or a well maintained landscape screening, each of which shall be no less in height than the enclosed storage, loading activities, or accessory structures or trucks, except landscaping.
- C. No unusable or abandoned cars shall be stored in the open.
- D. No parking of vehicles will be allowed in front of the setback.

- E. Off street parking, loading, and unloading space shall be provided as required in Section 5.10.

#### 5.11.02 - Offensive and Hazardous Emissions

No use expressly subject to this Section shall discharge any produced dust, smoke, or odorous matter or toxic fumes, physical vibrations, or heat or glare beyond the boundaries of the premises. No noise created from any use shall be allowed that would cause a nuisance to an adjacent R1 or R2 Zone or other adjacent use.

#### 5.11.03 - Use Regulations

All uses subject to this Section must have a Site Plan approved pursuant to Chapter 7 of this Ordinance. In addition to the standards required in that Chapter, the application will include and Zoning Officials will consider the effects of the operations on traffic, on water and air pollution, on adjacent or nearby uses other than light industrial uses, 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 Ordinance. The plan shall show the plans for disposal of sewage and all industrial wastes and shall specify the fuel to be used, including smoke and pollution control.

### Section 5.12 – MANUFACTURED HOMES

All manufactured homes are subject to the following conditions:

- A. Each home shall comply with all applicable state and federal law, including all pertinent building and fire codes.
- B. Each home shall bear a label required by Section 3282.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulations.
- C. Each home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and Regulations of the Michigan Mobile Home Commission.
- D. Within ten days following installation, all towing mechanisms shall be removed from each home.
- E. No home shall have any exposed undercarriage or chassis.
- F. Each home shall have a permanent perimeter wall of conventional building materials which shall prevent the entrance of rodents, control heat loss, and contribute to aesthetic compatibility with surrounding structures.
- G. All construction and all plumbing, electrical apparatus, and insulation within and

connected to each home shall be of a type and quality and conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR Section 3280, as amended.

- H. Each home shall be aesthetically compatible in design and appearance with other residences in the adjacent area, particularly with regard to foundation treatment, siding and roofing material, and perimeter wall.
- I. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required or permitted by state or federal law or otherwise specified in an applicable Township Ordinance. To the extent that any regulation applicable to manufacture homes conflicts with, or is impermissibly more restrictive than, any provision of the Mobile Home Commission Act or rules promulgated under that Act, as applied to a manufactured home in a residential neighborhood, the Mobile Home Commission Act provision shall control.

## **Chapter 6: SPECIAL USE PERMITS.**

### **Section 6.01 – INTENT AND PURPOSE**

It is the purpose of this Section to specify the procedure and requirements for the review of Special Use Permits, as specified in this Ordinance. Uses requiring Special Use Permits are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the Township.

### **Section 6.02 – PROCEDURE**

#### **6.02.01 – Application Requirements**

- A. A property owner seeking approval of a Special Use Permit shall submit to the Zoning Administrator an application and Site Plan meeting the requirements of Section 7.06 of this Ordinance accompanied by a fee as determined pursuant to Section 2.01.02 of this Ordinance. The Applicant will also include an additional materials required in this Ordinance for specific proposed uses.
- B. If the Applicant fails to provide all the information required by this Ordinance, then the application and Site Plan shall be deemed incomplete, shall not be processed, and may be denied by the Zoning Administrator on that basis.
- C. Once the Zoning Administrator receives a completed application and Site Plan, the

Zoning Administrator shall submit the application and Site Plan to the Planning Commission for its consideration.

#### 6.02.02 – Planning Commission Review and Recommendation

- A. Following receipt of a complete application and Site Plan, the Planning Commission shall consider the application and Site Plan at a public hearing noticed pursuant to the requirement of Section 2.06 of this Ordinance.
- B. The Planning Commission shall review the application and Site Plan and shall recommend to the Township Board approval of the Special Use Permit, approval of the Special Use Permit with conditions imposed pursuant to Section 2.04 of this Ordinance, or denial of the Special Use Permit based on the standards for Special Use Permit contained in Section 6.03 and any other applicable standards in the Ordinance. The Planning Commission will make specific determinations as to whether each of the applicable standards is met and specific findings of fact related to each standard.

#### 6.02.03 – Township Board Approval

- A. After receiving the recommendation from the Planning Commission, the Township Board shall place the request for approval of a Special Use Permit on the agenda for the next scheduled Township Board meeting. The meeting shall be noticed pursuant to the requirement of Section 2.06 of this Ordinance. In addition, the notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction. A public hearing shall be held before a discretionary decision is made on the special land use if by a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, or at the initiative of the Township Board.
- B. The Township Board shall review the record compiled before the Planning Commission, the determinations and findings of fact made by the Planning Commission concerning the Special Use Permit approval standards contained in Section 6.03, any conditions recommended by the Planning Commission pursuant to Section 2.04, and the Planning Commission's recommended action.
- C. The Township Board shall grant the Special Use Permit if all of the applicable standards for granting the Special Use Permit are met. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning

Commission, or may itself gather any additional evidence it considers relevant and make its own findings of fact concerning whether the standards for granting a Special Use Permit have been met.

- D. The Township Board may impose reasonable conditions with the approval of a Special Use Permit, pursuant to Section 2.04.
- E. The Township Board may require an applicant to provide a performance guarantee in connection with the approval of a Special Use Permit, pursuant to Section 2.05 of this Ordinance.
- F. Following approval of a Special Use Permit by the Township Board, the applicant shall develop the property in complete conformity with the approved Special Use Permit. Failure to do so shall be deemed a violation of this Ordinance. If the project requires the purchase of liability insurance, proof of insurance must be provided to the Zoning Administrator.
- G. Amendments to an approved Special Use Permit may be made by the Township Board with Planning Commission recommendations following the same application and review procedures as for the original application, provided that such changes conform to the Zoning Ordinance and the land owner agrees.

#### 6.02.04 – No Appeal to the Zoning Board of Appeals

Decisions made by the Planning Commission concerning its recommendations on Special Use Permits and decisions made by the Township Board concerning Special Use Permits shall not be appealable to the Zoning Board of Appeals.

### Section 6.03 - STANDARDS FOR APPROVAL OF SPECIAL USE PERMIT.

#### 6.03.01 – Standards Applicable to All Special Uses

The Planning Commission shall recommend and the Township Board shall approve, or approve with conditions, an application for a Special Use Permit only upon a finding that the proposed project complies with all of the following standards:

- A. The property subject to the application is located in a zoning district in which the proposed use is allowed.
- B. The proposed use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the township or the natural environment as a whole.
- C. The proposed use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the

accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

- D. The proposed use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.
- E. The proposed use will not place demands on fire, police, or other public resources in excess of current capacity.
- F. The proposed use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.
- G. The proposed Site Plan meets the standards in Chapter 7 of this Ordinance.
- H. The proposed use complies with all specific standards required under this Ordinance applicable to it.
- I. If the proposed use poses a significant risk of environmental contamination, the applicant has agreed to obtain liability insurance covering the cost of clean-up and the damages that the Township and its residents would suffer if the contamination occurred.

#### 6.03.02 – Additional Standards

In addition to the standards above, and in order to find that Section 6.03.01(G) is met, the proposed use must meet any additional applicable standards required by this Ordinance for that specific use.

#### Section 6.04 - COMPLETION REQUIRED

- A. The Special Use Permit approval shall expire unless the construction and/or use authorized by the Special Use Permit has begun within 365 days of approval. Thirty days prior to expiration of a Special Use Permit approval, an applicant may make application to the Township Board for a one year extension of the Special Use Permit at no fee. The Township Board shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the Special Use Permit approval have not changed since the approval.
- B. Any subsequent re-submittal shall be processed as a new request with new fees.

## **Chapter 7: SITE PLAN REVIEW REGULATIONS**

### **Section 7.01 – INTENT AND PURPOSE**

The intent of this Section is to provide for consultation and cooperation between the developer and the Township so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive (Master) Plan of Helena Township will be assured and the Township will develop in an orderly fashion.

### **Section 7.02 - SITE PLAN REVIEW REQUIRED**

Site Plan review shall be required in the following situations.

- A. Any use or development for which the submission of a Site Plan is required by any provision of this Ordinance. These include but are not limited to the following:
  - 1. Commercial uses permitted by right and by Special Use Permit.
  - 2. Light Industrial uses permitted by Special Use Permit.
  - 3. Open Space Developments.
- B. Any development, except single-family residential, for which off-street parking areas are provided as required in this Ordinance.
- C. Any use, except single-family residential, which lies contiguous to a major thoroughfare or collector street.
- D. All uses requiring a Special Use Permit. Uses which require a Special Use Permit will be processed according to this Chapter and any applicable procedures for Special Use Permits in Chapter 6.
- E. All platted subdivisions and all site condo and condominium subdivisions developed pursuant to the Condominium Act (MCLA 559.101 *et seq*).
- F. All other developments in which ownership interest in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Land Division Act, as amended (MCL 560.101 *et seq*)
- G. All developments in wetlands or 100 year flood plains, including individual single family homes for which a permit is required by the Michigan Department of Natural Resources.

### **Section 7.03 - LAND CLEARING**

No person shall undertake or carry out any such activity or use, including and grading, clearing, cutting and filling, excavating, or tree removal associated therewith for which Site Plan approval is first required by this Ordinance. Nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or flood plains permits.

#### Section 7.04 - GENERAL APPLICATION OVERVIEW AND TIMELINE

The procedure for processing Site Plans includes two phases: preliminary Site Plan review and final Site Plan approval. A pre-application conference may be requested by the applicant prior to the submission of a complete application and Site Plan. Each of the steps are described below. An overview of the process is as follows:

- A. Pre-application conference with submission of a generalized Site Plan (Section 7.05)
- B. Full application submitted to the Zoning Administrator with copies to the County Road Commission, Fire Department, County Health Department, and Michigan Department of Natural Resources, where applicable.
- C. Preliminary Site Plan review by the Planning Commission and recommendation of final Site Plan to the Township Board.
- D. Final Site Plan review and approval by the township board.

#### Section 7.05 – PRELIMINARY SITE PLAN AND APPLICATION APPROVAL

##### 7.05.01 – Submission Requirements for Application and Site Plan

- A. The applicant shall complete and submit an original and 9 copies of the application and preliminary Site Plan to the Zoning Administrator at least 30 days prior to the next regularly scheduled meeting of the Planning Commission. If the applicant fails to provide all the information required by this Ordinance, including the information in Sections 7.06.01 and 7.06.02, then the application and preliminary Site Plan shall be deemed incomplete, shall not be processed, and may be denied by the Zoning Administrator on that basis.
- B. The applicant shall send additional copies to the County Road Commission, Fire Department, County Health Department, and Michigan Department of Natural Resources, where applicable. These agencies will keep the application and one copy of the Site Plan. Upon delivery of the application and Site Plan, the applicant shall obtain a receipt for the agencies as proof of delivery or a stamped, signed Site Plan indicating no comment. One copy of the Site Plan should be returned with comments from each agency, if any, to the Planning Commission. An application will be placed on the agenda of a meeting of the Planning Commission for

discussion and recommendations to the Township Board only after receipt of comments from the above agencies, unless the Site Plan has been in possession of the reviewing agencies for 30 days without review and/or comment. When a Site Plan is submitted in conjunction with a Special Use Permit or open space application, the Planning Commission shall consider the Site Plan in a public hearing noticed pursuant to the requirements of Section 2.06 of this Ordinance.

- C. Application fees as determined pursuant to Section 2.01.02 of this Ordinance shall be paid when the application and Site Plan are submitted to cover the estimated review cost.
- D. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals shall be necessary before final Site Plan approval can be granted.
- E. The applicant or his/her representative shall be present at each scheduled review or the matter shall be tabled for a maximum of two consecutive meetings due to lack of representation.

#### 7.05.02 – Application Requirements

The application for preliminary Site Plan approval shall, at a minimum, include the following information on the application, Site Plan, or attached as exhibits:

- A. The applicant's name, address, and phone number in full.
- B. Proof of property ownership and whether there are any options on the property.
- C. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s).
- D. The address and/or parcel number of the property.
- E. Name and address of the developer (if different from the applicant).
- F. Name and address of the engineer, architect and/or land surveyor.
- G. Project title.
- H. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the ordinance.
- I. A vicinity map drawn at a scale of 1" = 2000' with north point indicated.

- J. The total and net acreage of all parcels in the project.
- K. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
- L. Project completion schedule/development phases.
- M. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools, and existing utilities) and on the natural environment of the site and adjoining lands.
- N. Any other information required by this Ordinance for the proposed project.

#### 7.05.03 – Site Plan Requirements

The preliminary Site Plan shall consist of an accurate, reproducible drawing at a scale of 1" = 100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled and numbered and the preparer identified. Each preliminary Site Plan shall depict the following, except for those items determined during the pre-application conference to be not applicable:

- A. North arrow, scale and date of original submittal and last revision.
- B. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
- C. Location of existing and proposed public roads, right-of-way and private easements of record and abutting streets.
- D. Existing topographic elevations at five foot intervals, proposed grades and direction of drainage flows.
- E. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands.
- F. Identification of any significant site amenities or unique natural features.
- G. Identification of any significant views onto or from the site to or from adjoining areas.
- H. Location and type of significant existing vegetation.
- I. The location and type of existing soils on the site and any certifications of borings.
- J. Location of existing and proposed buildings and intended uses thereof.
- K. Details of entryway and sign locations should be separately depicted with and elevation view.

- L. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
- M. Location, size, and characteristics of all loading and unloading areas.
- N. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
- O. Location of water supply lines and/or wells, including fire hydrants and shut off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean out locations, connection points and treatment systems, including septic systems if applicable.
- P. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam and location of proposed utility easements.
- Q. Proposed location, dimensions and details of common open space and common facilities such as community buildings or swimming pools if applicable.
- R. Location and specifications for all fences, walls, and other screening features with cross Sections.
- S. Locations and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planning must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
- T. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- U. Location, size and specifications for screening all trash receptacles and other solid waste disposal facilities.
- V. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
- W. Any other information related to requirements provided by other Sections of this Ordinance.

#### 7.05.04 - Preliminary Site Plan Review by Planning Commission.

Following receipt of a complete application and preliminary Site Plan and after either receiving comments from the County Road Commission, Fire Department, County Health

Department, and Michigan Department of Natural Resources, where applicable, or the expiration of the 30 day comment period, the Planning Commission shall review the preliminary Site Plan and shall recommend to or granted with The Planning Commission will make specific determinations as to whether each of the applicable standards provided in this Ordinance is met and specific findings of fact related to each standard. The Planning Commission shall recommend to the Township Board approval, approval with conditions imposed pursuant to Section 2.04 of this Ordinance, or denial. The Planning Commission shall recommend approval, or approval with conditions imposed pursuant to Section 2.04 of this Ordinance, if all of the standards for granting Site Plan approval are met.

If the Planning Commission finds that changes to the preliminary Site Plan are necessary to comply with the approval standards, then those changes shall be provided to the applicant in writing.

#### Section 7.06- FINAL SITE PLAN APPROVAL BY TOWNSHIP BOARD.

##### 7.06.01 – Submittal Application Requirements

All final Site Plans shall have the same submittal requirements and action alternatives as for preliminary Site Plans described in the above requirements with the following exceptions:

- A. Nine copies of the final Site Plan and any required changes in related information shall be submitted.
- B. One copy each of the final Site Plan and any required changes in related information will be distributed to other reviewing agencies as determined necessary by the Township Board.

##### 7.06.02 - Final Site Plan Review.

- A. After receiving the recommendation from the Planning Commission, the Township Board shall place the request for final Site Plan approval on the agenda for the next scheduled Township Board meeting.
- B. The Township Board shall review the record compiled before the Planning commission, the findings of fact made by the Planning Commission concerning the Site Plan approval standards contained in this Ordinance, any conditions recommended by the Planning Commission, and the Planning Commission's recommended action.
- C. The Township Board shall grant final Site Plan approval if all applicable standards for granting Site Plan approval are met. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the

Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself gather any additional evidence it considers relevant and make its own findings of fact concerning whether the standards for granting Site Plan approval have been met.

- D. The Township Board may impose reasonable conditions with the approval of a Special Use Permit, pursuant to Section 2.04.
- E. The Township Board may require an applicant to provide a performance guarantee in connection with the approval of a Special Use Permit, pursuant to Section 2.05 of this Ordinance.
- F. If the Township Board finds that the standards for granting Site Plan approval can be met with minor revisions to the Site Plan, the Township Board may grant final Site Plan approval expressly conditioned on the applicant making the minor revisions to the Site Plan prior to obtaining any zoning permits from the Zoning Administrator.
- G. If the Township Board finds that the standards for granting Site Plan approval have not been met and that extensive revisions are necessary to comply with the approval standards, then the Township Board shall deny final Site Plan approval, and the applicant shall be requested to prepare an alternate Site Plan. In this case, the word "DENIED" and the date of the denial shall be written on the final Site Plan, and the reasons for the denial shall be included in or attached to the Township Board minutes.
- H. When a final Site Plan is reviewed and approved or denied by the Township Board, and all steps completed, three copies of the final Site Plan shall be marked by the Township Supervisor for the following distribution:
  - 1. One copy returned to the Applicant signed by the Township Supervisor including any conditions of approval.
  - 2. One copy forwarded to the Zoning Administrator for filing.
  - 3. One copy forwarded to the Township Clerk for filing.
- I. An approved final Site Plan shall include a note referencing the case number and the date of approval.

#### Section 7.07 - STANDARDS FOR GRANTING SITE PLAN APPROVAL

Each Site Plan shall conform to all applicable provisions of the Ordinance and the standards listed below, unless the Township Board or Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed

development under considerations and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance.

- A. All elements of the Site Plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.
- C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- D. The Site Plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, wall, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- G. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height.
- I. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Comprehensive (Master) Plan.
- J. Site Plans shall conform to all other standards in this ordinance where applicable.

- K. Site Plans shall conform to all applicable requirements of state and federal statutes and the Helena Township Comprehensive (Master) Plan, and approval may be conditioned on the applicant receiving necessary state and federal permits before final Site Plan approval or an occupancy permit is granted.
- L. The Planning Commission shall seek the recommendations of the Fire Chief, the Antrim County Road Commission, the County Health Department, and the Michigan Department of Natural Resources, where applicable.

## Section 7.08 - POST-APPROVAL REQUIREMENTS AND PROCEDURE

### 7.08.01 – Additional Permits

Following approval of a final Site Plan, the petitioner shall apply for appropriate Helena Township, County and/or State permits as may be required by said agencies.

### 7.08.02 - Conformity to Approved Final Site Plan Required

Following approval of a final Site Plan by the Township Board, the applicant shall construct the Site Plan improvements in complete conformity with the approved Site Plan and Application. Failure to do so shall be deemed a violation of this Ordinance.

### 7.08.03 - Expiration of Site Plan

- A. The final Site Plan shall expire unless construction of an approved Site Plan improvement has begun within 365 days of approval. Thirty days prior to expiration of an approved final Site Plan an applicant may make application to the Township Board for a one year extension of the final Site Plan at no fee. The Township Board shall grant the requested extension for an additional one year, if it finds good cause for the extension and that the zoning regulations governing the final Site Plan approval have not changed since the approval.
- B. Any subsequent re-submittal shall be processed as a new request with new fee.

### 7.08.04 - Amendments to Approved Final Site Plans

Amendments to an approved final Site Plan may be made by the Township Board with Planning Commission recommendations following the same application and review procedures as for the original application, provided that such changes conform to the Zoning Ordinance and the land owner agrees. Minor changes to an approved final Site Plan may be approved by the Township Board after construction has begun without the requirement for an amendment to the final Site Plan, provided no such change results in any of the following:

- A. A significant change in the use or character of the development.
- B. An increase in overall coverage of structures.

- C. A significant increase in the intensity of use.
- D. A reduction in required open space.
- E. A reduction in required off-street parking and loading.
- F. A reduction in required pavement widths or utility pipe sizes.
- G. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

#### 7.08.05 – Approval of As-Built Site Plan

Upon completion of the installation of required improvements as shown on the approved final Site Plan, the property owner shall submit to the Zoning Administrator two copies of an “as built” Site Plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate persons for review to insure conformity with the approved final Site Plan and other Helena Township requirements. Once those persons have approved the as built plans the Zoning Administrator may make the final inspection and issue the occupancy permit.

## **Chapter 8: OPEN SPACE DEVELOPMENT**

### **Section 8.01- DESCRIPTION AND PURPOSE:**

It is the intent of this Chapter to provide for an alternative to traditional subdivisions through the creation of small residential nodes contrasting with open space and less intensive land uses. These regulations are intended to result in a specific development substantially consistent with Zoning Ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair, and consistent decision making. This Chapter is not intended as a device for ignoring the Zoning Regulations of the Township, the standards set forth therein, nor the planning concepts upon which the Zoning Ordinance has been based. Rather, the intent of this Chapter is to provide for an alternative to traditional subdivisions through the use of planned unit development legislation as authorized by Michigan Zoning Enabling Act for the purpose of:

- A. Encouraging the use of Township land in accordance with its character and adaptability;
- B. Assuring the permanent preservation of open space, agricultural lands, and other natural resources such as steep slopes, wetlands, scenic views and wildlife habitats;
- C. Allowing innovation and greater flexibility in the design of residential developments;
- D. Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
- E. Ensuring compatibility of design and use between neighboring properties; and,
- F. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

### **Section 8.02 - OPEN SPACE DEVELOPMENT REVIEW REQUIRED:**

- A. The owners of all property ten acres or more in area shall meet with the Zoning Administrator and other township officials requested to attend by the Zoning Administrator prior to seeking any zoning permit for the development of the property. The purpose of the meeting shall be to discuss the development of the property under the Open Space Development regulations of this Ordinance verses developing the property under the traditional zoning regulations applicable to the property in the district in which the property is located. When considering development under the Open Space Development regulations, the property owner shall prepare a reasonably accurate scaled drawing of the property developed under the Open Space Development regulations. If the property owner elects to develop the property under the traditional zoning regulations applicable to the property, then the owner shall obtain approval for the development of the property

pursuant to the requirements of this Ordinance other than Open Space Development Review. If the property owner elects to develop the property under the Open Space Development regulations, then the owner shall obtain approval for the Open Space Development pursuant to the requirements of this Chapter. Open Space Development may be developed as metes and bounds parcels, condominium subdivisions or subdivisions in compliance with the Land Division Act.

B. Definitions. As used in this Chapter,

1. "Development" means dividing a parcel into two or more parcels for purposes of (a) sale or (b) building a structure. Development shall include condominium or site-condominium projects.
2. " Open Space Development " means a predominantly single family residential development in which dwelling units are placed together into one or more groupings within a defined development area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development. Commercial uses for the benefit of the residents of the development, may be allowed within open space communities of 50 acres or more.
3. Eligibility Requirements. To be eligible for development as an Open Space Development, the proposed development must meet all of the following requirements.
  - a. The property on which the development will be located shall be zoned Agriculture, Rural Residential R-R; Residential R-1; Residential R-2; E-Environmental
  - b. The property on which the development will be located shall be ten acres or larger in area.
  - c. The Open Space Development shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. This benefit should accrue, in spite of any foreseeable detriments of the proposed development. These benefits may include but are not limited to protection of wetlands, steep slopes, agricultural lands and/or wildlife corridors as shown on the Township Comprehensive (Master) Plan.
  - d. The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the development. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.

- e. The proposed development shall contain dedicated open space meeting the requirements of this Section.

### Section 8.03 - APPLICATION REQUIREMENTS: PUBLIC HEARINGS

A property owner seeking approval of an Open Space Development shall submit to the Zoning Administrator an application and Site Plan meeting the requirements of this Chapter and Chapter 7 of this Ordinance. If the Applicant fails to provide all the information required by this Ordinance, then the application and Site Plan shall be deemed incomplete, shall not be processed, and may be denied by the Zoning Administrator on this basis. Once the Zoning Administrator receives a completed application and Site Plan, the Zoning Administrator shall submit the application and Site Plan to the Planning Commission for its consideration. The Planning Commission shall consider the application and Site Plan at a public hearing noticed pursuant to the requirements of Section 2.06 of this Ordinance.

### Section 8.04 - PLANNING COMMISSION REVIEW:

Following receipt of a complete Open Space Development application and Site Plan the Planning Commission shall review the application and Site Plan and shall recommend to the Township Board approval of the Open Space Development, approval of the Open Space Development with conditions imposed pursuant to Section 2.04 of this Ordinance, or denial of the Open Space Development based on the standards for Open Space Development approval contained in Section 8.05 of this Ordinance.

### Section 8.05 - DEVELOPMENT STANDARDS

The Planning Commission shall recommend and the Township Board shall approve or approve with conditions, an application for an Open Space Development only upon a finding that the proposed Open Space Development complies with all the following standards:

- A. Compliance with the Open Space Development Concept: The overall design and land uses proposed in connection with an Open Space Development shall be consistent with the intent of the Open Space Development Concept, shall comply with the development design standards set forth in Section 8.06, and shall comply with the scheduled phasing requirements, if applicable, in Section 8.06.
- B. Compatibility with Adjacent Uses: The proposed Open Space Development plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:

1. The bulk, placement, and materials of construction of proposed structures.
  2. Pedestrian and vehicular circulation.
  3. The location and screening of vehicular use or parking areas.
  4. The provision of landscaping and other site amenities.
- C. Impact of Traffic: The proposed Open Space Development shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- D. Protection of Natural Environment: The proposed Open Space Development shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- E. Compliance with Applicable Regulations: The proposed Open Space Development shall comply with all applicable federal, state, and local regulations.

#### Section 8.06 - DEVELOPMENT DESIGN STANDARDS:

A proposed Open Space Development shall comply with the following development design standards:

- A. Permitted Uses: An Open Space Development is restricted to single family residential dwelling units, provided:
1. In developments of 50 acres or more, a commercial component may be approved;
  - 2.
  3. Also, in developments of 25 acres or more, up to 50 percent of the dwelling units may be other than single family dwelling units, provided that the total number of dwelling units does not exceed the density for the site as computed in Section 8.06 (F).
- B. Base Zoning Regulations: Unless specifically waived or modified by the Township Board, following a recommendation by the Planning Commission, all Zoning Ordinance requirements, (except for yard, lot, and bulk standards), for the underlying zoning district, and all other Township regulations shall remain in full force.
- C. Dedicated Open Space Requirements:
1. An Open Space Development shall maintain a minimum of 50 percent of the net area of the site as dedicated open space. Such open space shall be of sufficient size and location as determined by the Township Board so that it can reasonably function for the use stated on the Site Plan.

2. Net Area of the property shall be determined by excluding the following from the total parcel area:
  - a. Wetlands as determined by a Soil Scientist qualified to make wetlands determinations. The basis for determining wetlands shall be the standards used by the Michigan Department of Environmental Quality.
  - b. Mucky soils, hydric soils and soils with ground water periodically within three feet of the surface based on soil profiles.
  - c. Slopes of 100 feet or more of slant distance and 18 percent (18 feet vertical for each 100 feet horizontal) grade or more.
  - d. Public road rights-of-way.
  - e. Road easements or private rights-of-way contained within the parcel but serving parcels adjacent to the development parcel.
  - f. Power line or pipeline property owned by persons other than the owner of the development property.
  - g. Any portion of the property used for commercial purposes.
3. To insure that all development potential on the parcel is accounted for on the Site Plan, all land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement, or, if applicable, a commercial use, shall be set aside as open space for recreation, conservation, agricultural uses, or preserved in an undeveloped state. The above open space shall be under one of the following types of ownership.
  - a. Common ownership by the residents of the development;
  - b. Dedicated to Helena Township for public use;
  - c. Private ownership if the land is dedicated for agricultural or conservation uses; or
  - d. A combination of a, b or c above.
4. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:
  - a. Recorded deed restrictions,
  - b. Covenants that run perpetually with the land, or

- c. A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
- 5. Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved Site Plan, and shall never be changed to another use. Such conveyance shall:
  - a. Indicate the proposed allowable use(s) of the dedicated open space.
  - b. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
  - c. Provide standards for scheduled maintenance of the open space.
  - d. Provide that the Township has a legal right, but not a legal obligation, to enforce the open space regulations.
- D. Continuing Obligation: The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved Site Plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited.
- E. Allowable Structures: Any structure(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent of the required open space area.
- F. Dwelling Density: The permitted number of dwelling units within an Open Space Development shall not exceed the density allowed by the underlying zoning district plus any approved "Incentive Dwelling Units". All computations shall be stated to the nearest square foot.
  - 1. The applicant shall select either the "Traditional Design Option" or the "Formula Option" to determine the number of (Basic) dwelling units allowable within an Open Space Development:
    - a. Traditional Design Option.
      - i. The applicant shall prepare, and present for review, a traditional design for the development that is consistent with State and Township requirements and design criteria for a preliminary plat; provided, however, that the design need not include a topographic map and need not be prepared by a registered surveyor.

- ii. This design shall include all information and be subject to all the standards for platted lots as required by the zoning district in which the development is located.
  - iii. The Planning Commission/Township Board shall review the design and determine the number of lots that could be feasibly constructed following the parallel design.
  - iv. This number shall be the maximum number of dwelling units allowable for the Open Space Development.
- a. Formula Option:
- i. The net area of the parcel is divided by the minimum parcel size for the underlying zoning district.
  - ii. This number shall be the maximum number of (Basic) dwelling units allowable for the Open Space Development.

## 2. Incentive Dwelling Units.

In order to encourage property owners to use the open space conservation design, the following number of Incentive Dwelling Units shall be allowed as follows:

Incentive Description	Incentive Dwelling Units
Reducing the number of driveways onto public roads below that otherwise allowed in the underlying zoning district.	1 Dwelling Unit for each driveway eliminated.
Dedication of wildlife corridor land shown on the Site Plan.	1 Dwelling Unit for each five acres so dedicated.
Dedication of land or easement for public trail system shown on the Township Master Plan and shown on the Site Plan.	1 Dwelling Unit for each 500 feet of trail.
Dedication of a permanent easement on farmable blocks of good farmland as determined by the Township Board.	1 Dwelling Unit for each five acres over a minimum 20 acre block.
Dedication of a permanent easement on ridgelines that would otherwise be developable as determined by the Township Board.	1 Dwelling Unit for each five acres of such land.

- a. The applicant shall identify the basis for each requested Incentive on the Site Plan. The Planning Commission shall review the application and recommend that the Township Board grant such incentives provided the requested Incentive Dwelling Units further the intent of the Township Comprehensive (Master) Plan.

- G. **Regulatory Flexibility:** To encourage flexibility and creativity consistent with the Open Space Development concept, the Township Board, following a recommendation by the Planning Commission, may grant specific departures from the requirements of the Zoning Ordinance for yard, lot, and bulk standards as a part of the approval process.
1. In projects of 50 acres or more, specific areas may be designated for commercial land uses that serve the Open Space Development.
  2. Any regulatory modification shall be approved through a finding by the Township Board that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards.
  3. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals.
- H. **Adequate Permanent Access:**
1. Direct access to an Open Space Development shall be required from a county public road.
  2. The nearest edge of any entrance or exit drive shall be located no closer than 200 feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).
  3. Access from a public road to a property, including any private roads within an Open Space Development may be provided by a private road that shall have:
    - a. Sufficient width to adequately support a fire truck and shall be so certified by the road builder;
    - b. Adequate drainage to prevent erosion as approved by the Soil Erosion Office.
- I. **Natural Features:**
1. The development shall be designed to promote the preservation of natural features.
  2. If animal or plant habitats of significant value exist on the site, the Planning Commission may recommend and the Township Board may require, as a condition of approval, that the Open Space Development Plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

## Section 8.07 - SCHEDULED PHASINGS

- A. Scheduled Phasing: When proposed construction is to be phased, the development shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the Open Space Development and the residents of the surrounding area.
- B. Timing of Phases: Each phase of the development shall be commenced within 24 months of the schedule set forth on the approved Site Plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void and development shall not take place until a new approval has been granted by the Township Board.

## Section 8.08 - TOWNSHIP BOARD ACTION:

- A. After receiving the recommendation from the Planning Commission, the Township Board shall hold at least one public hearing noticed pursuant to the requirement of Section 2.06 of this Ordinance.
- B. The Township Board shall review the record compiled before the Planning Commission, the findings of fact made by the Planning Commission concerning the Open Space Development approval standards contained in Section 8.05 of this Ordinance, any conditions recommended by the Planning Commission, and the Planning Commission's recommended action.
- C. The Township Board shall grant approval of an Open Space Development if all of the standards for granting approval contained in Section 8.05 of this Ordinance are met. In rendering its decision, the Township Board may adopt as its own the findings of fact made by the Planning Commission, may modify the findings of fact made by the Planning Commission based on the evidence presented to the Planning Commission, may remand the matter to the Planning Commission for consideration of additional evidence the Township Board considers relevant and further recommendations by the Planning Commission, or may itself gather any additional evidence it considers relevant and make its own findings of fact concerning whether the standards for granting approval of the requested Open Space Development contained in Section 8.05 have been met.

## Section 8.09 - CONDITIONAL APPROVALS:

The Township Board may impose reasonable conditions with the approval of an Open Space Development, pursuant to Section 2.04 of this Ordinance.

#### Section 8.10 - PERFORMANCE GUARANTEE:

The Township Board may require an applicant to provide a performance guarantee in connection with the approval of an Open Space Development, pursuant to Section 2.05 of this Ordinance.

#### Section 8.11 - EFFECT OF AN OPEN SPACE DEVELOPMENT APPROVAL:

Approval of an Open Space Development proposal shall not require, nor shall it be construed as an amendment to the Zoning Ordinance. All improvements and uses of the site shall be in conformity with the approved Open Space Development Site Plan and comply fully with any conditions.

#### Section 8.12 - REQUIREMENTS FOLLOWING FINAL APPROVAL:

- A. Recording of Action: The applicant shall record an affidavit with the register of deeds containing the full legal description of the development site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved Open Space Development plan, unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.
- B. Land Use Permit: Following final approval of the Open Space Development and Site Plan and the compliance with any applicable conditions imposed at the time of approval, a land use permit shall be obtained. It shall be the responsibility of the applicant to obtain all other applicable township, county, state and/or federal permits.
- C. Initiation of Construction: If construction has not commenced within 24 months of final approval, all Township approvals become null and void. The applicant may apply in writing to the Township Board for an extension, not to exceed one 12-month period and the Township Board shall approve such extension provided:
  - 1. The application for extension is received by the Township Clerk within 24 months of final approval;
  - 2. The standards for approval in effect at the time of approval of the development have not changed since the development was approved;
  - 3. Required bonds or other performance guarantees are renewed or otherwise extended; and
  - 4. All other agencies who submitted comments or permits to the Township prior to final approval have submitted written approvals of the extension of the development.

- D. Conformity to Approved Final Open Space Development Required. Following approval of an Open Space Development by the Township Board, the applicant shall construct the Open Space Development in complete conformity with the approved plan. Failure to do so shall be deemed a violation of this Ordinance.

Section 8.13 - AMENDMENT OF APPROVED OPEN SPACE DEVELOPMENT:

Amendments to an approved Open Space Development may be made by the Township Board with Planning Commission recommendations following the same application and review procedures as for the original application, provided that such changes conform to the Zoning Ordinance and the land owner agrees.

Section 8.14 - NO APPEALS TO ZONING BOARD OF APPEALS:

Decisions made by the Planning Commission concerning its recommendations on Open Space Developments and decisions made by the Township Board concerning Open Space Developments shall not be appealable to the Zoning Board of Appeals.

## **Chapter 9: NONCONFORMING USES OF LAND, STRUCTURES, AND PREMISES**

### **Section 9.01 – PURPOSE**

The uses of land, buildings, and structures that were lawfully in effect at the original date of adoption of this ordinance may be continued.

### **Section 9.02- SUBSTANDARD LOTS OF RECORD**

Vacant lots in districts where single family dwellings are permitted which are nonconforming at the original date of adoption of this ordinance because of a lack of the required number of acres, minimum number of square feet, lot width, lot depth, or other dimensional criteria, shall be allowed to be used and built upon for any use permitted in that district. All lots with one Single Family Dwelling, which are nonconforming at the effective date of this ordinance, where lot size, building set-backs, or dwelling dimensions do not meet minimum requirements for the zone in which they are located, are allowed, provided that the Zoning Administrator determines that:

- A. The lot was legally established by deed or land contract or other legal document prior to the effective date of the ordinance;
- B. No adjacent vacant lot is owned by the owner of lot in question, unless the lots were platted prior to the adoption of the Zoning Ordinance;
- C. The front yard requirements shall be as specified in the zoning district except where an established setback of buildings has been previously determined. In such case the structure to be located on the proposed building site will be no closer to the roadway than the existing general line of buildings on either side for a distance of 300 feet. The exact setback shall be determined, in such case, by the Zoning Administrator following a site inspection. If there are no buildings on either side within 300 feet, the Zoning Administrator will designate the setback distance, which shall conform as closely as possible to the required setback for the zone district as established by this Ordinance. Setbacks may be reduced by the same percentage that the area of such lot bears to its zone district requirements provided that minimum setbacks will be 15 feet on the rear and ten feet on the sides;
- D. An adequate potable water supply and proper safe sewage disposal facilities are provided in accordance with the requirements of the District Health Department; and
- E. All other requirements of the district are met.

## **Chapter 10: ZONING AMENDMENTS.**

### **Section 10.01 – INTENT AND PURPOSE**

Amendments or supplements to this Zoning Ordinance may be made from time to time in the manner provided by law.

### **Section 10.02 – ZONING AMENDMENT APPLICATION**

#### **10.02.01 – Proposals**

- A. The Planning Commission may propose amendments on its own initiative.
- B. Any resident or land owner of the Township may bring before the Planning Commission a proposed amendment or change by filing a petition signed by all persons having an interest in such premises to be acted upon, requesting the adoption of any specified amendment or change or regulation under the Zoning Ordinance. The Township Clerk shall file the same with the Secretary of the Planning Commission within ten days of the date the petition was filed with the Clerk.

#### **10.02.02 - Contents of Application**

The application requesting a proposed amendment or change shall contain the following:

- A. The legal description of the premises involved.
- B. The zone in which such premises are presently situated.
- C. The zone into which applicant desires to be situated.
- D. The use to be made of such premises if rezoned.
- E. The signatures of all persons having an interest in such premises

#### **10.02.03 - Fees**

The required fees for rezoning premises are a part of the cost of the rezoning action and are in addition to other zoning permit fees. If an application is filed for the purpose of rezoning any property before the Planning Commission at its regular meeting, a fee of \$150 dollars shall accompany said application, or if rezoning is considered by any other method, a like fee shall be paid by the person or persons having an interest in the premises which is the subject of such proposed rezoning. If an application is filed for the

purpose of rezoning any property before the Planning Commission at a special meeting of said Planning Commission, then a fee of \$300 shall accompany said application.

### Section 10.03 - ZONING AMENDMENT PROCEDURE

#### 10.03.01 - Action on Application by Planning Commissions

- A. When an application for rezoning has been filed in proper form and with the required data, the Secretary of the Planning Commission shall immediately place the said application upon the calendar for hearing and cause notices stating the time, place, and object of the hearing to be served. Before submitting its recommendations of a tentative rezoning plan to the Township Board, the Planning Commission shall hold at least one public hearing. Notice of the public hearing shall be given pursuant to Section 2.06 of this Ordinance.
- B. After the hearing, the Planning Commission may recommend to the Township Board modification, rejection, or the adoption of said proposal either in its original or changed form.
- C. After review and recommendation by the Township Planning Commission, the proposed amendment will be sent to the County Planning Commission for its review. The County Planning Commission shall recommend approval or disapproval of the plans as provided by law.

#### 10.03.02 Township Board Approval

- A. After review by the Township and County Planning Commissions, the proposed amendment shall be sent to the Township Board.
- B. Before voting upon the proposed amendment, the Township Board may hold a public hearing if it considers it necessary or if otherwise required. The Township Board shall grant a hearing on a proposed amendment to an interested property owner who requests a hearing by certified mail, addressed to the Township Clerk. If a public hearing is requested, the Township must provide notice of the hearing to the interest property owner at least 15 days before the hearing is held. The notice shall be personally delivered or deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall describe the nature of the request; indicate the property that is the subject of the request, including all existing street address, if any; when and where the request will be considered; and indicate where and when written comments will be received. The requirements of Section 2.06 do not otherwise apply.
- C. The Township Board shall consider and vote upon the adoption of the amendment. The Township Board may adopt the same with or without any amendments or recommendations that have been previously considered by the Township or County Planning Commissions.

#### Section 10.04 – Publication and Effective Date of Amendment

- A. Following adoption of a zoning amendment, the amendment shall be filed with the Township clerk of the legislative body, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption.
- B. The notice required under this section shall include: (i) a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment; (ii) the effective date of the ordinance or amendment; and (iii) the place where and time when a copy of the ordinance or amendment may be purchased or inspected.
- C. A zoning ordinance shall take effect upon the expiration of 7 days after publication as required by this subsection or at such later date after publication as may be specified by the Township Board at time of adoption.

## **Chapter 11: VALIDITY**

Should any Section, subsection, clause, or provision of this Ordinance be declared by the courts to be invalid such decision shall not affect the validity of the Ordinance in its entirety or any part thereof other than the portion declared to be invalid, such decision shall not affect the validity of the Ordinance in its entirety or any part thereof other than the portion declared to be invalid.

## **Chapter 12: ZONING MAP INTERPRETATION**

BY SECTION; T29N, R8W

### SECTION NUMBER

- 3 - R-1; except that part lying South of Crystal Springs Rd.
- R-2- that part lying South of Crystal Springs Rd.
- 4 - R-1 - that area lying between Crystal Springs Rd. and Clam Lake and South of the 1/4 line.
- R-1- also that area lying between East Torch Lake DR. and Torch Lake and South of the 1/4 line.
- R-1- also that area lying between Thayer Lake and East Torch Lake DR., and bounded on the North by the South 1/8 line, and bounded on the East by the North-South 1/4 line.
- V' (Village) - all that area North of East-West 1/4 line.
- R-2 the remainder of the Section.
- 9- R-1 except that area between Chapman Rd. and a line which is 200 feet back from the East shore of Thayer Lake, and North of the North line of the North-East 1/4 of the South-East 1/4;
- R-2 that area between Chapman Rd and a line which is 200 feet back from the East shore of Thayer Lake, and North of the North line of the North-East 1/4 of the South-East 1/4;
- R-2 also that area lying South of Center Line of former RR right-of-way and East of East Torch Lake Drive.
- 10-R-1 that area lying North of Crystal Springs Rd.
- R-2 that area lying between Crystal Springs Rd. and the Center-Line of the former RR right-of-way.
- 'A' (Agriculture) - that area lying between the Center-Line of the former RR right-of-way and Paige Road.
- 11-'E' (Environmental), except for R-1 and 'A'.
- R-1 that area lying North of Green Street and Lone Pine DR. of the plat of Indian Woods Shores and West of the East Line of lot 14 of the plat of

Indian Woods Shores and the easterly 300' off Crystal Springs Road, from Green Street to the RR grade.

'A' that area South of the Center-Line of the former RR right-of-way.

12 –13 - 'E' North of the Center-Line of the former RR right-of-way

'A'- South of the Center/Line of the former RR right-of-way

14 - 'E' North of the Center-Line of the former RR right-of-way

'A'- South of the Center/Line of the former RR right-of-way

15 - 'A'

16 - 'R-I - 300' East of East Torch Lake Drive

'A' – Remainder of section East of East Torch Lake Drive

R-I - West of East Torch Lake Drive.

21 - 'R-I - 300' East of East Torch Lake Drive

'A' – Remainder of section East of East Torch Lake Drive

R-1 West of East Torch Lake except:

'E' that area lying between East Torch Lake Drive and the East Line of the former RR right-of-way and South of the East-West 1/4 line.

22 - 'R-I - 300' East of East Torch Lake Drive

'A' – Remainder of section East of East Torch Lake Drive 23 - 'A'

24 - 'A'

25 - 'A'

26- 'A' except that 'part abutting Spencer Creek. \*

'E' that part abutting Spencer Creek. \*

27 - 'A' East of the West 1/8 line,

'V' West of the West 1/8 line.

28 - 'V'

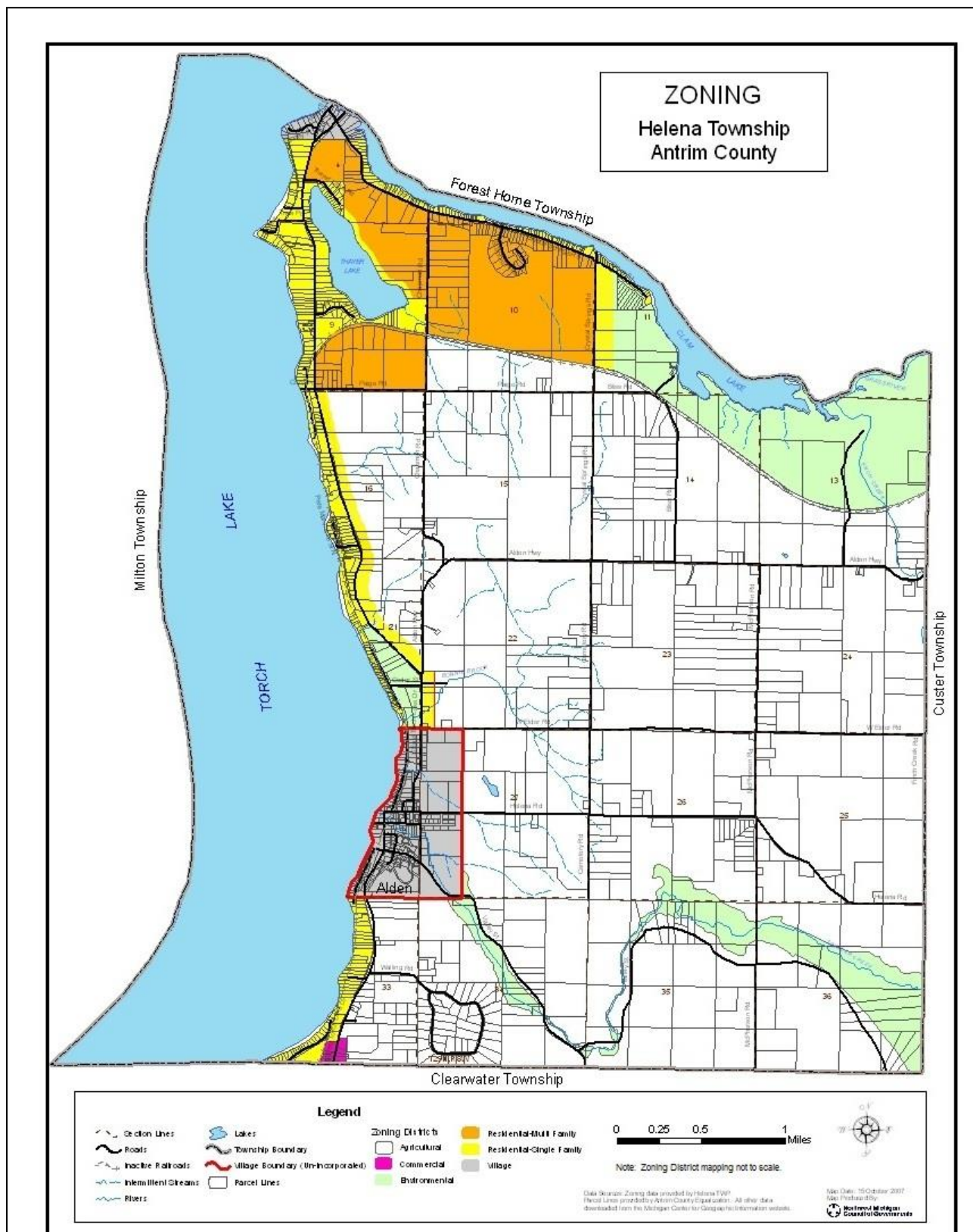
- 33 - 'R-I - 300' East of East Torch Lake Drive  
    'A' – Remainder of section East of East Torch Lake Drive  
          except that part included in the 'C' (Commercial) district -  
R-1   West of East Torch Lake Dr.;  
       except that part included in the 'C' district.

'C'- Commencing at the intersection of the South line of Section 33 and the East line of highway; then East 400 feet, then North 820 feet, then West to the West boundary of the Highway, then South along said West boundary to a point which is 700 feet North of the south 1/4 post of Section 33, then West to the East line of the former Railroad right-of-way, then southerly along said RR right-of-way to South line of Section 33, then East to point of beginning.

- 34 - 'A'   except that part abutting Spencer Creek.\*  
          that part abutting Spencer Creek.\*
- 35 - 'E'   except that part abutting Spencer Creek.\*  
          that part abutting Spencer Creek.
- 36 - 'A'   except that part abutting Spencer Creek.

    'E'   that part abutting Spencer Creek.

\* NOTE: - The 'E' (Environmental) zone along Spencer Creek in Sections 26, 34, 35, and 36 extends a minimum of 75 feet back in each direction from the center thread of the creek and continues to extend back from the 75 foot limit to the first site suitable for on-site sewage disposal as determined by the County Health Department.



**ZONING DISTRICT MAP OF THE TOWNSHIP OF HELENA, ANTRIM COUNTY**  
**NOTE: Zoning Districts not to scale.**