

ARTICLE 23
STANDARDS FOR SPECIFIC USES

Updated 1-1-18

Sec. 23.01 DESCRIPTION PURPOSE.

The purpose of this Article is to establish supplementary standards to guide the review of certain kinds of uses which, because of their characteristics may have a detrimental effect upon adjacent properties, the neighborhood, or the community even if all other standards within this Ordinance are met. It is the intent of these standards to provide for proper design control to assure that these uses will not cause any unanticipated problems or hazards and will be consistent with the Development Plan. It is further intended through these standards to recognize the importance of such uses by anticipating their locational and site design needs and by establishing appropriate standards for their development in advance of actual proposals.

Sec. 23.02 STANDARDS RELATING TO ANIMALS.

A. Residential and Rural Estate Districts.

Domesticated Animals – The keeping of pet animals is permitted in any residential and rural estate district, subject to the following conditions:

1. Multiple family dwellings, townhouse dwellings, attached condominium dwellings, and mobile homes in mobile home parks are permitted any combination of dogs and cats up to a maximum of two animals per dwelling unit.

2. All other dwellings are permitted any and all of the following domesticated animals on each lot, with no minimum lot area up to two (2) acres in area are permitted up to four (4) of any combination of the following animals:

- a.) Dogs
- b.) Cats
- c.) Cooped chickens,
- d.) Penned ducks, geese, turkey or similar fowl,
- e.) Penned rabbits or other small domestic animals of similar size at maturity,
- f.) Caged domestic birds provided they are penned at least fifteen (15) feet away from adjacent property.

3. In addition to the above, for each additional acre or fraction thereof over (2) two acres the following animals are permitted:

- a.) Large hoofed animal: (cow, horse, mule or donkey), limit one such animal,
- b.) small hoofed animals (sheep, goat, pony or swine), limit two such animals,
- c.) poultry, fowl, rabbits or other small domestic animals of similar size at maturity, limit 10.

4. Animal raising- Animal husbandry and the keeping of farm animals accessory to farms or dwellings shall be permitted in accordance with usual and customary farming practices.

The minimum lot size for the keeping or raising of any farm animals in excess of the limits of paragraph A above shall be five (5) acres in accordance with usual, customary and best management farming practices.

B. Agricultural District

The keeping of pet animals is permitted in any agricultural district subject to the following conditions.

1. Any lot one (1) acre or less in area located in the Agricultural district is permitted the following farm animals:
 - a.) Large hoofed animal: (cow, horse, mule or donkey), limit one such animal;
 - b.) small hoofed animals: (sheep, goat, pony or swine), limit two such animals;
 - c.) poultry, fowl, rabbits or other small domestic animals, limit 10.
2. For each additional acre of lot area or fraction thereof,
 - a.) one additional large hoofed animal,

- b.) two additional small hoofed animals,
- c.) 10 additional poultry, fowl, rabbits or other small domestic animals are permitted.

3. Animal raising- Animal husbandry and the keeping of farm animals accessory to farms or dwellings shall be permitted in accordance with usual and customary farming practices. The minimum lot size for the keeping or raising of any farm animals in excess of the limits of paragraph A or B above shall be five (5) acres in accordance with usual, customary and best management farming practices.

- C. Property rented to a farm owner and available for the keeping of animals may be counted in the lot area requirements of paragraphs A or B, above.
- D. Except for movement on and off the property, animals shall not be kept inside or outside of any structure within 50 feet of the those portions of any structure used for human occupancy, assembly, or habitation in any zone, other than the owner or keeper of such animals. These separation requirements do not apply to pet animals.
- E. Offspring of animals are allowed and shall not be counted until they are of weanable and self-sufficient age. Dogs and cats shall be counted at six months of age or more.

F. The keeping or raising of exotic or wild animals, whether as pets or otherwise, shall be permitted by special use permit only. The procedures and standards of Article 20 shall be followed.

Sec. 23.03 AUTOMOTIVE USES.

Gasoline service stations, auto repair and services, vehicle and freight terminals, and auto and vehicle dealerships are subject to the following standards:

A. Gas Stations. Any use involving the retail sale of gasoline must comply with the following standards:

1. A gas station shall be located on a parcel which abuts a collector or arterial street. The parcel shall have at least 200 feet of frontage for each abutting street as measured along the front lot line of the abutting street.
2. No more than two gas stations shall be located at any street intersection in order to reduce the number of driveways and turning movements and to minimize the potential for vehicle accidents. The minimum distance between gas stations not located at the same intersection shall be a minimum of 500 feet.
3. A gas station shall be located at least 400 feet from an existing school, park, playground, museum, or place of public assembly.
4. Gasoline pumps and pump islands shall not be located within the required building setbacks.

5. Canopies shall comply with the following requirements:
 - a. The canopy shall be constructed of noncombustible materials, open on not less than two sides and the outside edge of the canopy located not closer than 10 feet to any side or rear property line nor closer than 25 feet from the front property line.
 - b. The canopy shall have a minimum clearance height of 14 feet and a maximum overall height of 18 feet.
 - c. The support posts for the canopy shall be placed so as not to be a traffic hazard for vehicles using the premises and not in any regularly used portion of the property used by vehicles.
 - d. Canopy lighting shall be completely recessed within the canopy so that the light source is not visible from off the site.
6. Vehicle parking spaces at the pump island may be counted as part of the required parking spaces.
7. All on-site activities except those to be performed at the fuel pumps must be performed within a completely enclosed building.
8. If the gas station provides vehicle towing services the tow truck, if kept on site, shall be located indoors or if parked outside it shall be screened by a fence, wall or landscaping at least six feet in height or located so it is screened from public view. Vehicles

for service may be stored on a temporary basis only, not to exceed five days.

9. Merchandise offered for sale may be displayed adjacent to the gasoline pump islands and canopy supports but shall otherwise comply with Section 14.06.A herein.

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Ord. No. 2016-2*

B. Vehicle Repair Garages or Collision Shops. Any use intended for major automobile repair, or the alteration and painting of automobiles are subject to the following standards:

1. The minimum distance from the building to an existing school, park, playground, or place of public assembly shall not be less than 200 feet as measured from the service building to the property line of the parcel containing the existing school, park, playground, or place of public assembly.
2. Outdoor storage of rental trucks or trailers, trash or refuse, stacks of tires or other merchandise must be screened by a wall or fence at least six feet in height.
3. If the use provides vehicle towing services the tow truck, if kept on site, shall be located indoors or if parked outside it shall be screened by a fence, wall or landscaping at least six feet in height or located so it is screened from public view. Wrecked or abandoned vehicles may be stored

on a temporary basis only in the same type of screened area.

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C. Vehicle or Freight Terminals.

Facilities for the storage, dispatching, and repair of three (3) or more trucks or buses must conform with the following standards:

1. Access must be from a paved publicly-maintained arterial road which does not transverse any residential area in connecting to an arterial.
2. Parking areas must be surfaced with bituminous asphalt or concrete unless waived by the Planning Commission.
3. Drainage plan is required.
4. Repair and servicing of vehicles must be conducted within a completely enclosed building.
5. Perimeter screening is required on all property lines.

D. Farm Equipment, Construction Equipment and Vehicles Sales Lots.

Any establishment for farm equipment sales allowed as a special use in the AG Agricultural Rural District under Section 5.03.K, or as a permitted use in the C-3 Commercial District under Section 15.02.K, or any establishment for a vehicle sales lot allowed as a permitted use in the C-3 Commercial District under Section 15.02.Y. or as a special

use in the C-2 Commercial District under Section 14.03, or any establishment for construction equipment sales allowed as a permitted use in the C-3 Commercial District under Section 15.02.2., shall, in addition to other applicable standards and conditions of this Ordinance, meet the following requirements:

1. All side and rear setback areas must be screened by a ten (10) feet wide greenbelt. See definition of greenbelt - Section 32.
2. No vehicles shall be parked or displayed within twenty-five (25) feet of any street right-of-way.
3. Flags, pennants, banners, posters, string lights, or other promotional devices are prohibited.
4. Any and all fencing is considered an accessory use and all fences must be constructed with materials to match the principal structure. If there is no principal structure, all fencing materials shall be consistent with the general building material standards of the neighborhood.

E. Automobile wash establishments.

1. Vehicle wash establishments that offer the retail sale of fuel, shall also comply with the provisions of Section 23.03A Automobile Service Stations.
2. All washing activities must be within a building.

3. Vacuuming activities, if outdoors, shall be at least one hundred (100) feet from any lot line adjoining a residential zoning district.
4. The vehicular exit from the building shall be at least seventy-five (75) feet from the driveway egress.
5. Sufficient space shall be provided on site so queuing vehicles do not extend into the public street.

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Sec. 23.04 DRIVE-UP, DRIVE-IN AND DRIVE THROUGH FACILITIES.

Any use intended to serve customers while they remain in their vehicles (e.g. drive-in theaters, drive-in and drive through restaurants, drive-in churches) shall conform to the following standards.

A. Drive-In Theaters. For drive-in theaters, the following standards apply:

1. Minimum area of a drive-in theater site is to be ten (10) acres, with direct access from an arterial road.
2. Projection screens and parking areas shall be at least one hundred (100) feet from any street and three hundred (300) feet from any residential property. The face of any projection screen may not be visible from any street within a distance of one thousand (1,000) feet.
3. All areas used by vehicles must be provided with a paved bituminous

surface. Drives and aisles are to be adequately lighted whenever used and shall not produce glare onto adjoining properties and streets.

4. Individual loudspeakers for each car must be provided. There may be no central loudspeaker.
5. Entrances, exits, and access points are to be visible for five hundred (500) feet on the street where they are located and separated by at least one hundred fifty (150) feet. At least two (2) access drives must be provided; where two (2) or more such drives open on the same street, acceleration and deceleration lanes ten (10) feet wide and five hundred (500) feet long are to be provided adjacent to such streets. Access drives shall be laid out so as to avoid left turns across on-coming lanes as much as possible.
6. Ticket gates or booths must be set back sufficiently from the street to allow reserve space off the street for waiting cars equal to fifteen percent (15%) of the theater's capacity. One ticket gate or booth must be provided for each three hundred (300) car capacity.
7. Screening is required within one hundred (100) feet of any residentially zoned property, particularly at points along access roads or at the end of such roads where screening of automobile headlight glare is necessary to protect adjacent residents or uses.
8. Food concessions are to be at least five

hundred (500) feet from any residentially zoned property.

B. DRIVE-UP, DRIVE-IN AND DRIVE THROUGH RESTAURANTS SHALL COMPLY WITH THE FOLLOWING.

1. The minimum lot size is one acre with a minimum of 200 feet of lot width.
2. Waiting areas for any terminal or intercom system shall be sufficient to assure that roads, sidewalks, or other public access routes will not be obstructed by waiting automobiles at any time.
3. Drive-up windows and waiting areas for any terminal or intercom must be screened from adjoining properties and road rights-of-way by internal landscaping such as landscaped islands or other appropriate year around screening.

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C. OTHER DRIVE-UP, DRIVE-IN AND DRIVE THROUGH FACILITIES.

All other facilities for drive-up, drive-in or drive through customer service are subject to Site Plan Review to assure the following:

1. Access must be such that vehicles patronizing the use will not interfere with normal traffic on a street, parking lot driveway, or loading access drive.

2. Waiting areas for any terminal or intercom system must be sufficient to assure that roads, sidewalks, or other public access routes will not be obstructed by waiting automobiles at any time.
3. Year around screening of the drive-up window and waiting areas for any terminal or intercom must be provided.

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Sec. 23.05 CEMETERIES, CHURCHES, AND RELATED USES.

A. Cemeteries and Related Uses. A cemetery, columbarium, crematory, or mausoleum is subject to Site Plan review, and to the following site design and development standards:

1. Access must be from a street with ingress and egress so designed as to minimize traffic congestion.
2. All sides of the site must be adequately screened with a masonry wall or evergreen trimmed hedge at least three (3) feet in height. A permanently maintained planting strip at least twenty (20) feet in width must be provided along all property lines abutting any residentially zoned land.

B. Churches and Related Uses. Churches, synagogues, temples, and other places of religious worship are permitted subject to the following standards:

1. Access must be from a collector or

arterial street, except that the Planning Commission may approve a secondary access point which is not from such a street.

2. The minimum site area is two (2) acres with a minimum lot width of two hundred (200) feet.
3. The following uses are permitted as accessory uses of any church facility provided they are located on the same parcel as the church facility: parsonage, convent or rectory, playgrounds, non-lighted athletic fields, providing meals for homeless or needy persons and services or programs designed to assist homeless or needy persons such as counseling, job skill training, life management, self-help, religious, or other programs and other uses which the Zoning Administrator deems to be similar. *Amended 8-3-14 – Ord# 2014-10*
4. The following uses may be conducted in conjunction with a church facility when located on the same parcel as the church facility and when specifically authorized as Special Land Use by the Planning Commission in accordance with the requirements of Article 20 of this Ordinance.
 - a. Senior citizen community center;
 - b. Child and adult day care center;
 - c. School;
 - d. Food pantry and household goods bank;
 - e. Lighted athletic fields;
 - f. Coffee and beverage bar offering such items for free or for sale which is

open to the public at times other than when the church is conducting services.

- g. The sale of new and used household goods such as clothing, furniture, kitchenware and utensils, tools, toys, electronics, and similar household items provided such use is clearly accessory and incidental to the principal church use of the property, is operated by the church within or attached to the building containing the principal church use and is authorized as a non-profit operation by the U.S. Internal Revenue Service Code.

Amended 8-3-14 – Ord# 2014-10

Sec. 23.06. DESIGN STANDARDS FOR MAJOR RESIDENTIAL DEVELOPMENTS.

The following design standards shall apply to all townhouse developments, all multiple family developments, and/or mobile home development sites designed for 25 or more dwelling units.

- A. Open Space and recreation Facilities. Not less than thirty-five percent (35%) of the net site area of the development site shall be devoted to open space. The required open space area shall exclude all required setback areas, all public street or private road easements, all unbuildable natural areas and all wet storm water storage areas. An area equal to a minimum of eight percent (8%) of the required thirty-five percent (35%) open space area shall be devoted to recreation facilities, in accordance

with the following standards:

1. In a development that is less than fifty (50) acres in size; recreational facilities should generally be centrally located within the development. In a development that is fifty (50) acres or more in size, there should be more than one recreational facility area, and such facilities should be decentralized with at least one recreational facility area being at least two-thirds (2/3) of the total required area.
2. For a development designed to accommodate more than two hundred (200) people, the recreational facilities shall include indoor facilities to accommodate uses such as tennis, basketball, swimming, jogging, or similar uses.
3. As an alternative to the individual recreational facilities required in A.1 or A.2 above, a development may participate with one or more other developments to construct, expand or enhance recreational facilities that will be shared by the participating developments. The size of the joint recreational facilities must equal a minimum of eight percent (8%) of the required thirty-five percent (35%) of the total required open space for all of the participating developments combined. [For example, if two developments create a joint recreational facility and if one

development is 25 acres in net lot area and the other is 75 acres in net lot area, the joint facility must be a minimum of 2.8 acres in size (Total net lot area of the two development combined is 100 acres. Thirty-five percent (35%) of 100 acres is 35 acres. Eight percent (8%) of 35 acres is 2.8 acres.)] The participating developments shall transfer ownership of the joint recreational facilities to a property owners association.

4. Significant natural features including but not limited to mature trees, natural slopes, wetlands or other bodies of water, shall be preserved.
5. The development (or all of the developments creating a joint facility) must enter into a recreational facility maintenance agreement that includes the means of financing the maintenance of the facilities, which agreement shall be subject to the review and approval of the Township Planning Commission. The agreement shall provide the Township with the authority, but not the obligation, to undertake the necessary maintenance of the recreational facilities and assess the cost of such maintenance against the property owners in the event the joint recreational facilities are determined by the Township to be inadequately maintained or a public nuisance.

6. The recreational facilities must be accessible by pedestrian traffic, by way of non-motorized walkways, and by vehicles with adequate parking in compliance with the parking regulations set forth in Article 21 of the Township Zoning Ordinance.

- B. Access Walks.** Non-motorized pedestrian access walks shall be constructed within all properties and along all public and/or private roadways. Interconnected internal walks shall be constructed to interconnect parking lots, buildings and property frontage walks.
- C. Exposed Ground Surfaces.** Exposed ground surfaces must be seeded or sodded in all parts of the development site. All seeded or sodded ground surfaces must include an automatic underground irrigation system.
- D. Water Supply.** The water supply serving the development shall be obtained from a municipal source.
- E. Sewage System.** An adequate and safe sewage collection system shall be provided and connected to the municipal sewage system.
- F. Utilities; Underground Installation.** All public and private utilities shall be installed underground.
- G. Drainage.** All property in any development site shall be graded so as

to be well drained, and a means of conveying storm water away from structures, streets and parking areas shall be provided. An adequate storm drainage system, including necessary storm sewers, drain inlets, manholes, culverts, bridges, retention or detention areas, and other appurtenances, shall be provided. The requirements for each particular proposed development site shall be established by the Township Engineer.

H. Garbage and Rubbish. Garbage and rubbish disposal facilities and the enclosures shall comply with Section 24.07.I.

I. Landscape Setback. All development sites must maintain a minimum fifty (50) foot wide front yard landscaped setback from all existing or proposed public streets or private roads, and a minimum twenty-five (25) foot wide landscaped setback from all adjoining properties. All landscaped setback areas shall include a twenty (20) foot wide planting strip containing, at a minimum, all of the following:

1. All multi-family dwelling development sites shall provide a landscaped area as noted below. All such landscaped areas shall comply with the requirements of section 23.06.I.2 and 3. herein.

a. Front yard.

1. A minimum one hundred (100) feet wide landscaped front

yard if the multi-family dwelling development is across the street from an R-1 zoned parcel or parcels or land which is recommended for Low Density Residential use in the Allendale Charter Township Master Plan.

b. Side and rear yards.

(1.) A minimum one hundred (100) feet wide landscaped area shall be provided along those side and rear lot lines which abut R-1 zoned parcels or land which is recommended for Low Density Residential use in the Allendale Charter Township Master Plan.

(2.) A minimum fifty (50) feet wide landscaped area shall be provided along those side and rear lot lines which abut parcels which are not zoned R-1 and which contain existing single or two family dwellings.

(3.) A minimum twenty five (25) feet wide landscaped area shall be provided along for all other side and rear lot line.

2. The required yard areas above shall be landscaped according to the following requirements:

- a. At least one straight or staggered row of trees with a minimum caliper of two (2) inches and a minimum height of six (6) feet at the time of planting and spaced not more than twenty (20) feet apart. Not more than one third (2/3) of the trees shall be of the same species and type. At least one half (1/2) of the trees shall create an evenly spaced visual buffer year round.
 - b. The number of shrubs required shall be a minimum of one half (1/2) of the number of trees required. At least two thirds (2/3) of the shrubs shall be at least three (3) feet high at the time of planting, spaced not more than eight (8) feet apart and which are expected to ultimately grow to be at least eight (8) feet in height.
3. All landscaped setbacks shall be free from encroachment from buildings, structures, decks, accessory structures, trash enclosures, water ponds, detention or retention areas, recreational facilities and fields, pedestrian or bicycle trails, parking and/or loading areas.
 4. Orientation of buildings. Multi-family buildings shall be oriented or constructed so that open balconies do not face abutting R-1 zoning districts even if the R-1 zone is across a public or private street or areas recommended for Low Density Residential use in the Allendale Charter Township Master Plan in order to limit the noise impact on nearby single family residents.
 5. The applicable requirements of Article 21-A herein shall apply to the above landscaping including Section 21A.02.C which allows modification of these landscaping requirements.
- J. Paved Streets and Parking Areas.** All streets and parking areas within a development site shall be paved in accordance with Section 21 and internally landscaped in accordance with Article 21A herein. All parking lot perimeters and landscaped islands shall be protected by concrete curbing, parking blocks or similar methods. If carports or other covered or enclosed parking spaces are provided the exteriors materials of such structures including the roof shall be the same or similar to the exterior materials of the principal buildings.
- K. Vehicular Access.** Each development shall be provided with safe and convenient vehicular access from abutting public streets or roads to each lot or parking area. Such access shall be provided by hard surfaced paved streets. Each development shall provide direct access to a public street and shall provide a continuous route of travel throughout the development without driving parking areas. The Planning Commission may require two (2) separated access points to public streets

where such is determined necessary for public safety.

- L. Street Width.** Private two-way streets shall be paved to a width of twenty-four (24) feet.
- M. Lighting.** Each development shall be provided with lighting to illuminate all parking bays, streets, sidewalks and non-motorized pedestrian access walks. Lighting fixtures shall reflect the character of the development with post lighting along all pedestrian walkways and “box type” lighting for parking areas. All lighting shall be designed to illuminate the ground without shining in windows or onto adjacent streets.
- N. Landscape Maintenance.** All grass within a development shall be kept mowed, shrubbery trimmed and the site landscaped in a neat and attractive manner.
- O. Building Separation.** Any two (2) multiple family structures on the same lot shall be separated from each other by a distance equal to the height of the taller building, but not less than twenty (20) feet.
- P. Design Expectations.** All development designs must create a community feel with uniqueness and creativity specific to each development. Special attention must be given to building architecture that creates a sense of place and individual identity and reflects the intended neighborhood character. The proposal shall include a narrative that

describes how the proposed development interconnects with the townships commercial service areas. Parking must be buffered and screened from all existing or proposed transportation corridors. Entrances to the developments must create distinctive gateways using landscape accents and/or signage walls that create a sense of arrival and ownership. Emphasis on safe and convenient pedestrian corridors is a priority.

Section 23.07 HOME OCCUPATIONS

Home Occupations as defined in Section 32.05 are permitted in any residential zone or in the agricultural zone provided that the following conditions are met:

- A.** The home occupation shall only be incidental to the primary residential use.
- B.** No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- C.** The home occupation shall not employ persons other than those members of the family residing on the premises.
- D.** The majority of activities shall be carried on indoors. No visible outdoor storage is permitted.

- E.** There shall be no change in the exterior appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one identification sign, not exceeding two (2) square feet in area, non-illuminated and mounted flat against the wall of the principal building.
- F.** No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front yard.
- G.** The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this ordinance; but such permission is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities.
- H.** Limited retail sales may be permitted on the premises, as a part of or in conjunction with a home occupation.
- I.** Medical Marihuana. A registered primary caregiver, in compliance with the General Rules, the MMMA and the requirements of this Section, shall be allowed as a Home Occupation. Nothing in this Section or in this Ordinance is intended to grant, nor shall this Section or this Ordinance be construed as granting, immunity from criminal prosecution for growing, selling, consuming, using, distributing, or possessing Marihuana not in strict compliance with MMMA and the General Rules. Also, since Federal law is not affected by the MMMA or the General Rules, nothing in this Section or in this Ordinance is intended to grant, nor shall this Section or this Ordinance be construed as granting, immunity from criminal prosecution under Federal law. The MMMA does not protect uses, caregivers or the owners of properties on which the Medical Use of Marihuana is occurring from Federal prosecution, or from having their property seized by Federal authorities under the Federal Controlled Substances Act or any other applicable Federal legislation. The following requirements for a register primary caregiver shall apply.
1. The Medical Use of Marihuana shall comply at all times and in all circumstances with the MMMA and General Rules, as they may be amended from time to time.
 2. A registered primary caregiver must be located outside of a one thousand (1,000) foot radius from any school, including any Day Car Home, to insure community compliance with Federal "Drug Free School Zone" requirements.
 3. Not more than one (1) registered primary caregiver shall be permitted to service qualifying patients from a Dwelling Unit.

4. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of Dwelling Unit in which electrical wiring, lighting or watering that support the cultivation, growing or harvesting of Marihuana are located.
 5. If a room with windows is utilized as a growing location for Marihuana, any lighting between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the Dwelling Unit, to prevent ambient light spillage that may create a distraction for adjacent properties.
 6. That portion of the Dwelling Unit where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemical such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Fire Department to insure compliance with applicable standards.
 7. The Lot shall be open for inspection upon request by the Zoning Administrator, the Fire Department and law enforcement officials for compliance with all applicable laws and rules during the stated hours of operation/use and at such other times as anyone is present on the Lot.
 8. The permitted Sign for the Medical Use of Marihuana shall not include a pictorial representation, of the product provided at that Dwelling Unit, nor any references to Marihuana, alternate spellings of Marijuana or slang terms of Marihuana, nor any references to or pictorial representations of drug paraphernalia (as defined in Township Ordinance No. 434, as amended or restated from time to time).
- J.** Any person who wishes to operate a home occupation as defined herein, which can and will consistently meet the standards for operation contained in this article shall be issued a home occupation permit by the zoning administrator. There shall be no fee for this permit, but all necessary licenses and clearances required by state and local agencies must be obtained prior to initiating the proposed home occupation. Each applicant for a home occupation permit shall sign a statement in the application agreeing to the above conditions.
- K.** Any person who wishes to operate a home occupation which meets the intent of this section, but would not comply strictly with the above standards, may apply for approval as a special use. Permission to operate such a home occupation may be authorized by the Planning Commission upon finding that the intent of this section is upheld and that the proposed use complies with the standards for approval of special use permits (Section 20.06)

Sec. 23.08 REMOVAL OF TOPSOIL, SAND, GRAVEL, OR OTHER MINERALS.

Ord. No. 2015-1

Updated 9-14-15

A. Special Land Use Required. Mineral mining as defined in this Section 23.08 may be authorized by the Allendale Township Planning Commission upon the granting of a special land use by for such purpose, in accordance with the provisions of this section and the requirements of Article 20 of this Ordinance. Such Special Land Use may be permitted in all zoning districts.

B. Purpose. The purpose of the mineral mining special land use is to regulate the appropriate excavation and removal of mineral resources, but, to authorize such activity only if it can be accomplished without very serious consequences to other land uses in the vicinity and elsewhere in the Township. While the excavation and removal of mineral resources is a legitimate land use, it may involve activities which are incompatible with residential uses or other uses permitted by this Ordinance.

The objective of these special land use provisions is to enable the Township to permit such mineral extraction and removal, where such activity can reasonable be permitted, but only upon such terms and conditions as will adequately protect residential and other land uses from very serious consequences and also assure that, once mineral material has been removed, the land shall be reclaimed and restored so as to be available for residential uses or other uses permitted by this Ordinance.

C. Definitions. For the purposes of this Section, the following words, terms and phrases shall have the following meanings:

1. **Mineral Mining or Mining** – The excavation, removal and/or processing of mineral material including peat, earth, gravel, sand, clay, top soil, stone or other soils or materials, including overburden, or storage or transporting of such items on or from a mining site, or the reclamation of the site after removal or excavation of such items.
2. **Mining Site** – A site or property where mining or mineral mining occurs (whether dormant or active).

D. Exempt activities. For the purposes of this Ordinance, the following excavation activities are not included within the above definition of mineral mining or mining and are exempt from requirements of this Ordinance:

1. Excavation approved and conducted or administered by a governmental body in conjunction with the installation or maintenance of publicly owned or publicly operated utilities, drainage facilities, roads, or other publicly owned or operated improvements, where the excavation is limited solely to the public utility or improvement.
2. Excavation and removal of minerals which are necessary to prepare a site for the use authorized by a building permit or other permit issued by Allendale Township. In order for such mineral mining activity to be

exempt it shall be completed within one year of the date of commencing the mining activity for each phase of the proposed development, and shall not result in the excavated minerals being stored on site beyond the project completion date.

3. Excavation and removal of minerals in conjunction with bonafide farming operations conducted in accordance with generally accepted agricultural management practices, including agricultural drainage work incidental to farming operations and irrigation or stock watering ponds. If 5,000 or more cubic yards of minerals are proposed to be removed from the building site then the operation shall be considered to be a mineral mining activity and a special use permit shall be required to be obtained in accordance with the provisions of this Section 23.08.

In order for an extraction and removal from the site of mineral material of less than 5,000 cubic yards to be exempt from the provisions of this section, such excavation and removal must be complete in and of itself; it shall not, constitute only a part, portion or phase of some other larger, different, or recurring mineral removal operation, plan or activity. An applicant shall not repeat or combine successive removal operations of less than 5,000 cubic yards or less from the same parcel for the purpose of removing a larger total quantity of mineral material.

E. Requirements for Mining Permits by Zoning Administrator. In all zoning districts the Zoning Administrator may approve a permit for a mining activity subject to the following conditions and procedures.

1. The mining activity is proposed to remove less than 5,000 cubic yards of minerals and the mining activity is proposed to last no more than one year from the issuance date of the mining permit.
2. If a dwelling unit is located within 300 feet of the limits of the excavation (not property lines) the proposed mining operation shall be required to obtain a special use permit in accordance with the provisions of Section 23.08.

However, if all owners of property and residents within 300 feet of the limits of the excavation do not object to the mining operation by submitting this statement in writing to the Zoning Administrator then the Zoning Administrator may review the mining request in accordance with the provisions of this Section 23.08.E.

3. For mining activities which are to be reviewed by the Zoning Administrator the applicant for the mining permit shall submit an application per the requirements of Section 23.08.F along with a fee and escrow amount as may be required by the Township Board.
4. An accurate to scale drawing of the property to be mined illustrating the

following information shall be submitted with the application:

- a. Property lines and dimensions of the parcel proposed for mineral removal including any buildings on the site and noting the area on which mineral removal operations and activities will take place;
 - b. Natural features of the site including wooded areas, wetlands, bodies of water and the location and direction of all water courses which may be affected by the mineral removal operations;
 - c. Houses within 500 feet of the limits of the mining operation.
 - d. Existing elevations of the land at intervals of not more than 5 feet for the site and to a distance 50 feet beyond the boundaries of the site. Such elevations shall be based on USGS datum;
 - e. The entire mining operation showing the limits of the mining operation and the setbacks from all property lines;
 - f. Proposed fencing, gates, drives, signs, soil erosion measures and other features of the proposed use.
 - g. Roads for ingress to and egress from the lands, including on-site roads other areas to be used for movement of vehicles;
 - h. The condition of the site after completion of all mining activities demonstrating that it can be used for its intended purpose as recommended in the Township Master Plan.
 - i. The final contours at five feet elevations minimum.
5. The drawing shall be reviewed by the Zoning Administrator who may consult with the Township Engineer. The Zoning Administrator and Engineer if requested by the Administrator shall also conduct an inspection of the property to determine the accuracy of the drawing and to assess the impact of the proposed mining operation on nearby properties and residents. Based on the inspection the Zoning Administrator may require changes to the drawing and impose conditions in order to insure that the impact of the mining operation is minimized.
 6. The mining operating shall comply with the requirements of Section 23.08.F.4 except that the Zoning Administrator may waive certain requirements if the requirement would not serve the intended purpose or if a modification of the requirement would still meet the intended purpose. In considering such modification or waiver the Zoning Administrator shall meet the intended purpose. In considering such modification or waiver the Zoning Administrator shall consider the standards of Section 23.08.G2.

7. In order to approve an application the Zoning Administrator must determine that the mining operation will not have a detrimental effect on neighboring residents and properties based on the duration of the operation and the expected noise, dust, truck movements and other aspects of the mining operation and that the land will be restored following the mining activity so it is suitable for uses allowed in that zoning district or as recommended in the Township Master Plan.
8. The Zoning Administrator may refer such application to the Planning Commission for a decision in which case the application shall be processed as a Special Use Permit in accordance with all of the requirements of Section 23.08.F below.

F. Requirements for Mining Permitted by the Planning Commission. All mining activities not subject to the approval of the Zoning Administrator or otherwise exempted by this Ordinance in all zoning districts except the R2, R3 and all PUD districts shall be reviewed by the Planning Commission as a Special Land Use in accordance with the following procedures and conditions:

1. Application Requirements. An application for a special land use for mineral removal shall include the following:
 - a. Name of all of the owner(s) of the land from which removal is to be made or upon which

- mining operations will take place.
- b. Name and address of the applicant(s).
- c. Name and address of the person, firm or corporation who will be conducting the actual removal and/or processing operation.
- d. Location, size, and legal description of the area from which the removal is to be made.
- e. A description of the type of mineral to be removed and an estimate of the total quantity and an annual quantity to be removed. This estimate shall be verified by a registered civil engineer or land surveyor.
- f. If over 100,000 cubic yards of material is to be removed provide evidence to reasonable demonstrate that the amount of material proposed to be removed actually exists on the site.
- g. A description of the trucks to be used to transport the minerals described in cubic yard capacity and single or double bottom.
- h. Estimated number of truck trips per day. (A truck going in and coming out is two truck trips.)
- i. The roads which will primarily be used to transport the minerals. (Haul route)

- j. The proposed hours and days of operation.
 - k. A description of the types of equipment to be used in the mining operation.
 - l. A description of the methods to be used for dust control.
 - m. State if materials such as asphalt and concrete will be brought into the site for crushing and mixing with on-site mining minerals. If so, describe the extent of this activity, the equipment to be used, and if additional permits are required from state or federal agencies.
 - n. The estimated number of years to complete operations and number of phases.
 - o. A description of the proposed use of the land following completion of mining activities.
 - p. Proof of liability insurance with at least one million dollars of coverage.
2. Site Plan Requirements. Eight copies of the following site plans shall be submitted to the Township Clerk drawn at a scale not exceeding 1"=100' if the site is less than 50 acres and 1"=200' if the site is 50 acres or more. The plans shall be sealed by a registered civil engineer, landscape architect or registered land surveyor.
- a. ***Provide a separate site plan showing the existing conditions of the property including:***
 - i. A north arrow, scale and date;
 - ii. Property lines and dimensions of the parcel proposed for mineral removal including any buildings on the site and noting the area on which mineral removal operations and activities will take place;
 - iii. The location and width of all easements or rights-of-way on or abutting the property;
 - iv. Natural features of the site including wooded areas, wetlands, bodies of water and the location and direction of all water courses which may be affected by the mineral removal operations;
 - v. Existing elevations of the land at intervals of not more than 5 feet for the site and to a distance 50 feet beyond the boundaries of the site. Such elevations shall be based on USGS datum;
 - vi. A current aerial photograph, or other accurate drawing or plan, showing the lands included in the application, and all other parcels with addresses within 1000 feet thereof, and also showing the location of and distance to dwellings and other existing land uses.
 - vii. Estimated depth of the water table.
 - viii. Zoning and property lines on adjacent parcels.

- b. *Provide a separate site plan which complies with the requirements Section 23.08.F.4 showing how the site is to be mined including:*
- i. The entire mining operation showing the limits of the mining operation and the setbacks from all property lines.
 - ii. Phasing of the mining operation including place of beginning and direction of mining. Phasing shall comply with the requirements of Section 23.08.F.4.m herein.
 - iii. Proposed final elevations at two foot contour elevations.
 - iv. Mineral processing, storage areas and stockpiling areas including the height of the stockpiles.
 - v. Proposed fencing, gates, parking areas, temporary or permanent structures, drives, signs, truck washing facilities, soil erosion measures and other features of the proposed use; an illustration of the type of fencing and gate proposed shall also be provided;
 - vi. Roads for ingress to and egress from the lands, including on-site roads, acceleration and deceleration lanes, other areas to be used for movement of vehicles;
 - vii. If a lake or pond is to be created, details of the same, including planned depth contours and the

proposed slope into the lake for the first 30 feet from the shore.

- viii. Proposed or required landscaping and berms.

c. *Provide a separate site reclamation plan which illustrates:*

- i. The condition of the site after completion of all mining activities demonstrating that it can be used for its intended purpose as recommended in the Township Master Plan or as currently zoned.
- ii. The final contour elevations at two feet contours, and also
- iii. Any water courses and any ponds or lakes including the final depth of the pond or lake and slopes into the lake for a distance of 30 feet.
- iv. Landscaping and plantings.

3. Additional Information Required

The Planning Commission may require the applicant to provide studies or information concerning the need for and consequences of the proposed mineral extraction and removal. Such studies may include but need not be limited to the following: an environmental impact study, hydro-geological study, engineering data, traffic impact study, and economic analysis in particular the impact on the property values of nearby properties.

The environmental impact study may include a site inspection to determine

whether or not the land contains threatened or endangered species or habitat. Such study shall also consult the Michigan Natural Features Inventory.

If a mineral removal operation will result in the creation of a lake or is proposed within 1000 feet of a lake, river, stream or a wetland regulated by the State of Michigan a hydro geological study may be required to determine the impact of the mining operation on nearby wells and nearby water features.

4. Operating and Site Reclamation Conditions

All mineral mining activities which are approved for a special land use shall comply with all of the following conditions:

- a. *Driveways.* Driveway access to a mineral removal site shall be only at the locations approved for such purpose in the special land use.
- b. *Truck Routes.* Routes for truck movements to and from the removal site shall comply with the Allendale Township Truck Route Ordinance.
- c. *Entry Roads.* The entry road or roads to and from a removal area shall be composed of asphalt, concrete, or similar dustless hard surface extending from the public road surface for a distance of at least 30 feet into the site unless a greater distance is required by the Commission. This entry road shall be swept at regular intervals to minimize dust.

d. *Setbacks.* The following setbacks shall apply although the Planning Commission may require a greater setback if deemed necessary to protect adjoining properties or may allow a lesser setback based upon evidence that such lesser distance will not result in adverse effect upon nearby residents or properties

- i. No cut or excavation shall be made closer than 25 feet to any street right-of-way line or property line and closer than 100 feet to a principle building on an adjoining property.
- ii. No machinery for mineral processing shall be located or used within 250 feet of any property or street line and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact.
- iii. Storage or stockpile area, equipment used for mineral mining or processing or interior truck access drive shall not be closer than 250 feet to a principal building or dwelling on adjoining or nearby lands existing at the time of the approval of the special land use.
- iv. No cut or excavation shall be made within 100 feet of the banks of any stream or waterway unless previously approved, in writing, by the

Michigan Department of
Environmental Quality.

e. *Fencing and Signs.* All phases in which mineral excavation or earth moving activities are taking place shall be fenced and gated at all times, so as to avoid hazards to persons who may enter the removal area. Such fencing shall be installed before any activity pertaining to the mining operation begins. Such fencing may be removed upon the completed reclamation of each phase. No trespassing signs shall be placed every 100 feet along all property lines.

Fencing shall be at least four feet high and sturdily installed. Such fencing, shall, at a minimum be plastic or similar visible material as may be approved by the Planning Commission. Gates shall be at least four feet in height and locked when operations are not occurring. The Planning Commission may require fencing along the perimeter of the property to restrict or deter access by motorized vehicles.

f. *Entrance Gate.* The entrance to the site shall have a gate which shall be located so there is room on the site to accommodate mining vehicles waiting outside the gate. The entrance gate shall be posted with the name and phone number of the mine operator and the approved hours of operation.

g. *Hours of Operation.* The hours of operation of any mining operation shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 1:00 p.m. on Saturday. No hours of operation shall be permitted on Sundays and legal holidays. In certain situations, this time period may be modified by the prior written consent of the Township Zoning Administrator, provided that such order shall not be effective for more than 72 hours. No mining uses or mining or processing-related activity of any kind shall occur outside of the permitted hours of operation.

h. *Noise.* Mining sites shall be operated in such a fashion that the noises of operation or equipment vibration cannot reasonably be considered disturbing to neighboring uses or users of land. Objectionable noises due to intermittence, beat, frequency, or shrillness shall be muffled so as not to become a nuisance to the owners or occupants of adjoining properties.

i. *Crushing & Processing of Materials.* Concrete, asphalt or other artificial minerals and natural minerals may be brought to and stored on a mineral removal site for processing into a usable product subject to the specific approval of the Planning Commission which may attach conditions for such processing

- including limiting the amount of material brought into the site, the location and size of stockpiles and when such material may be processed and removal of the processed product from the site. Additional permits may be required for such activities from county, state and federal agencies and copies of such permits shall be provided to the Township.
- j. *Dust Control.* Interior access roads shall be maintained by the operator of the site so as to keep the dust arising from the use of said roads. Such maintenance shall be accomplished through the application of calcium chloride, brine, water, and/or similar dust retardant material. Application of oil is prohibited. Dust control measures used on public roadways are subject to the approval of the Ottawa County Road Commission.
- k. *Drainage.* Drainage on the mineral mining site shall be maintained in a manner which most closely approximates the natural drainage patterns. Measures shall be taken to avoid or mitigate the run off of surface water so that adjacent or nearby lands shall not be adversely affected by excessive surface water drainage, erosion or other effects.
- l. *Topsoil.* Topsoil shall be replaced on the site to a depth of not less than four inches unless it is demonstrated that there was less than four inches of topsoil on the site prior to any excavation in which case topsoil shall be replaced to the extent that it existed on the site prior to an excavation.
- m. *Phasing.* If the mining operation is to occur in phases, topsoil shall be replaced and slopes shall be graded and stabilized in one phase before mineral removal operations or activities are commenced in another phase or area. Within each phase no more than five acres, at any time shall be cleared and actively mined at any time without reclamation occurring consistent with the approved reclamation plan. Provided however, that the Commission may require a lesser acreage if deemed necessary to avoid serious adverse consequences on adjacent properties. The area used for stockpiling excavated material shall not be included in the five acres. It is the intent of this section that site restoration and reclamation occur in unison with the mining process.
- n. *Final Slopes.* Final Slopes shall have a ratio of not greater than one foot of elevation to each four feet of horizontal distance. However, the Planning Commission may approve a ratio of one foot of elevation to each three feet of horizontal distance for portions of the site if it is

demonstrated: that such slopes are necessary to blend with the grades on adjoining parcels; that they can be properly maintained and: that such slopes will still allow the land to be used in accordance with the recommendation of the Township Master Plan.

If the mining operation creates a lake or a pond the slope from the shore into the water shall be one to six (rise to run) or flatter to a depth of five feet.

- o. *Screening.* Earth berms, landscaping or both may be required by the Planning Commission along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Berms shall have slopes that are not in excess of one foot vertical to three feet horizontal and shall at a minimum be planted with grass. Berms which are constructed but which are intended to be removed before the completion of the entire mining activity are considered to be temporary and may have a steeper slope.
- p. *Lake.* The creation or enlargement of a lake, in connection with reclamation of the site, shall be permitted only where the applicant demonstrates from engineering and hydro geological studies that the waters of the lake will not become polluted or stagnant due to depth,

lack of fresh water inflow or other reason and that the creation of the lake will not adversely affect groundwater supplies for nearby uses. Any such lake shall be approved by those state and county agencies having jurisdiction. Construction of the lake shall not begin until written approvals from these agencies have been provided to the Township.

G. Review by Planning Commission; Standards for Approval/Denial

1. Commission Review. Upon submission of a complete application and following the public hearing required by Article 20 the Planning Commission shall review the application and determine whether to approve, deny or approve the application with conditions. In its review of the application, the Planning Commission shall consider, among other matters, the intent and purposes of this section, compliance with the requirements of Section 23.08.F.4 and the Special Land Use approval standards of Section 20.03 herein.

2. Standards. The Township Planning Commission shall not approve any special land use for mineral mining unless the application sufficiently demonstrates that the proposed mineral mining operations and activities will not create very serious consequences or serious environmental impact upon adjacent or nearby lands or other lands in the Township or the area.

Furthermore, before approving a Special Use Permit for mineral mining activities under this Ordinance the Planning Commission shall consider the following factors of the proposed mining operation as applicable:

- a. The relationship of extraction and associated activities with existing land uses.
- b. The impact on existing land uses in the vicinity of the property.
- c. The impact on property values in the vicinity of the property and along the proposed hauling route serving the property, based on credible evidence.
- d. The impact on pedestrian and traffic safety in the vicinity of the property and along the proposed hauling route serving the property.
- e. The impact on other identifiable health, safety, and welfare interests in the local unit of government.
- f. The overall public interest in the extraction of the specific natural resources on the property.

3. Conditions. The Planning Commission may require compliance with such other conditions as may be necessary to insure compliance with the terms of this Ordinance. Such conditions may include, through need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation

and fuel loading and storage requirements.

4. Duration. An approval granted by the Planning Commission shall be valid for a period of up to five years beginning on the date of approval of the Special Land Use by the Planning Commission.

5. Letter Of Credit or Performance Bond. The applicant shall post a surety performance bond, cash deposit or irrevocable letter of credit naming the Township as the beneficiary thereof in a form and in an amount determined by the Township engineer and approved by the Planning Commission to be reasonably necessary to insure compliance with all license and Ordinance requirements (“security”), including reclamation and repair of damage to any public roads. The Township shall also approve the form of the security and the bank or financial institutions supplying the security. Mined material and other items such as property or equipment shall not be used for such security.

Upon completion of the applicant’s activities on the land described in the application and the land has been reclaimed in accordance with the approved reclamation plan to the satisfaction of the Zoning Administrator, the security shall be void in accordance with the procedures of Section 23.08.H herein; otherwise, the Township shall have the right to use the security proceeds to the extent necessary to reclaim the property and to comply with all other Ordinance requirements. This security shall be kept in effect at all times by the applicant until the land has been fully

restored by the applicant as required by this Ordinance or until such time that the Township through its officers, agents, and contractors is able to restore the site in accordance with the security requirements.

No security shall be discharged, returned or voided until the Township deems full compliance to have occurred. In fixing the amount of security, the Planning Commission shall take into account the size and scope of the proposed operation, current prevailing costs of reclaiming the premises upon default of the operator, and such other conditions and factors as might be relevant in determining what sum is reasonable in light of all facts and circumstances surrounding each application.

The applicant shall notify the bank or financial institution providing the security and provide proof thereof that the Township will be notified in the event of any lapse in the effectiveness of the security. The amount of the security shall apply to all lands occupied by mining, areas, roadways, storage areas, equipment, stockpiles, and similar elements.

6. Annual Review. A special land use approved by the Planning Commission shall be subject to a yearly review by the Planning Commission to determine compliance with the approved special use. For purposes of this subsection the date of review shall be each year on or about the anniversary date of approval of the permit.

At each annual review the applicant/operator shall appear before the Commission and provide to the Commission a written description of the progress made over the preceding year including amount and percent of material removed, amount and percent of material remaining, whether the mining will be completed within the time limit of the permit, a list of complaints received and how they were addressed, reclamation progress and other information as requested by the Commission.

7. Inspections. The mineral mining activity shall be subject to periodic inspections by the Township Engineer to determine that the mining activity is proceeding in accordance with the conditions of the approved site plan and special land use.

H. Compliance with reclamation plan. Upon the expiration of the mineral mining special land use permit the applicant shall provide to the Township Zoning Administrator a certification from a registered civil engineer, landscape architect or registered land surveyor that the site has been restored in conformance with the approved reclamation plan and may consult with the Township Engineer. Any costs incurred by the Township for such engineering services shall be paid for by the applicant.

If the reclamation of the site is determined to comply with the approved reclamation plan the Zoning Administrator shall issue a letter of approval to the applicant and void the letter of credit or performance bond as required by Section 23.08.G.5 herein.

If the reclamation of the site is not in accordance with the approved reclamation plan the Zoning Administrator shall require the applicant to take the necessary measures to achieve compliance or the Zoning Administrator shall have the right to use the security proceeds to the extent necessary to reclaim the property and to comply with all other Ordinance requirements. The applicant may request approval from the Planning Commission for a modification of the reclamation plan.

The Commission may approve the modification if it determines that the proposed modification substantially complies with the approved reclamation plan or that circumstances relating to the physical features of the site prevented compliance with the approved reclamation plan but that the modified reclamation plan still allows the site to be used in accordance with the uses recommended by the Township Master Plan.

I. Renewal of Special Land Use. The special land use authorized by this section is granted for a period of up to five years and may be renewed in the discretion of the Planning Commission for an additional period of up to five years. Such renewal shall be subject to the terms of this subsection as follows:

- 1.** The applicant or operator shall file an application for renewal of the special land use, prior to the expiration of any annual or other increment in which excavation and removal operations are permitted under the terms of the special use.

- 2.** Prior to consideration of an application for removal, the Township Engineer or other designated Township official shall inspect the land to determine compliance with the mineral mining activities to date and shall submit a report to the Township Planning Commission.

- 3.** Upon receiving the completed application for renewal, including the report of the Township Engineer, the Township Planning Commission shall approve, disapprove or approve with conditions the requested renewal. All payments to the Township of any required mineral removal surveillance, escrow or administration fee shall be current as a condition of renewal.

- 4.** In determining whether to approve a renewal of the special land use, the Township Planning Commission shall apply the standards and conditions for approval that are then in effect and that are applicable to original special land uses under this section, taking into consideration current land use conditions in the vicinity, the operational history under the special land use and any complaints, comments or other information that have been received concerning the uses and operations there under and the report of the Township Engineer.

- 5.** The consideration of any such renewal shall take place at a public hearing with public notice given in the same manner and to the same extent as that required for an original granting of a special land use.

6. In approving a renewal of the special land use, the Planning Commission may include terms and conditions which are in addition to or different from those specified in the original special land use or in a previous renewal thereof.

J. Transfer of Special Land Use. No special land use authorized by this section shall be transferred to a person or party other than the applicant to whom it was granted unless such transfer is approved by the Planning Commission. In considering a request for transfer of the special land use, the Planning Commission shall consider, among other matters, whether the terms of the required letter of credit or performance bond remain sufficient to assure satisfactory compliance with the terms of the special land use.

K. Re-Application. No application for a special land use for a mineral mining project which has been denied by the Planning Commission shall be resubmitted within one year from the date of the denial except that the applicant may present new evidence or proof of changed conditions relating to the reasons for denial of the original application. If the Planning Commission finds this information to be valid it may allow a re-submittal of a new application before the one year period is over.

L. Existing Mining Operations. Mining operations which existed and were legally authorized by Allendale Charter Township before the effective date of this amendment (September 14, 2015) shall be allowed to continue according to the conditions of approval imposed by the Township at the time of their original approval. If such existing mining operations proposed to be

extended to a parcel or parcels which were not included in the original approval then only the extended mining operation on the new parcel or parcels shall be subject to the regulations and requirements of this amended Section 23.08.

*Ord. No. 2015-1
Amended 9-14-2015*

**Sec. 23.09 SALVAGE YARDS
RECYCLING (INCLUDING TIRES),
AND COMPOSTING FACILITIES.**

Salvage yards, recycling (including tires), and composting facilities are permitted in the I-1 and PID Districts under the following conditions:

- A. Plans and specifications required:
1. Specific location of the facility shown on a vicinity map.
 2. Location of public roadways, habitable structures, and places of public use on the site and other properties influenced by the project.
 3. Legal description and site boundaries.
 4. Means of limiting access including fencing, gates, natural barriers, or other methods.
 5. Details of the method of treating or disposing of liquid waste resulting from operation of the facility.
 6. Location of all structures and equipment.
 7. Detailed description of appurtenances and procedures intended to handle heavy or bulky items, store refuse beyond the end of the working day, and control dust, odors, and fire.

8. Location of existing proposed utilities available to the site.
 9. Method of final reduction such as compacting, grinding, shredding, compression, or tamping equipment.
 10. Daily clean-up procedures.
 11. Other details necessary as required by the Planning Commission.
- B.** A salvage, recycling, or composting facility shall be located at least five hundred (500) feet from the nearest residential use or residential district and shall, for safety reasons, be completely enclosed by a fence of not less than eight (8) feet in height with, at least seventy-five (75%) percent of the length of the fence being screened by landscaping as defined in subsection K.
- C.** The site must be located on a major arterial road and not on residential or collector road. Roadways on the property shall be all-weather roads and maintained to prevent dust nuisance.
- D.** Dust and odor resulting from unloading and operation of the facility shall be reasonably controlled at all times. Operation of the salvage, recycling, or composting facility shall be carried on in a manner to prevent noise and vibration nuisance to an adjoining property.
- E.** Highly flammable or explosive materials shall not be permitted unless approved by the Ottawa County Health Department and the Township Fire Department.
- F.** The site shall not be less than two (2) acres in size.
- G.** Open burning shall be prohibited.
- H.** All yards area shall be maintained in a sanitary manner at all times so as not to create general unsightliness or health and safety hazards.
- I.** The operation of the salvage yard, recycling, or composting facility shall be conducted in a prompt and systematic manner so that conditions favorable for harboring and production of insects and rodents are avoided.
- J.** Adequate provision shall be made for routine operational maintenance of the salvage yard, recycling, or composting facility and all appurtenances.
- K.** All salvage yard, recycling, and composting facilities shall provide a landscaped setback of at least fifty (50) feet from any street on which the facility has frontage and a landscaped setback of at least twenty-five (25) feet from all abutting properties. The fence required by subsection B above shall be located at least fifty (50) feet from any street on which the facility has frontage and at least twenty-five (25) feet from all abutting properties. The landscaped setback required by the first sentence of this subsection shall extend from the street or the property line separating the facility from a abutting property all the way to the fence. In all cases the first twenty-five (25) feet of setback adjacent to and outside the fence shall consist of a bermed greenbelt planting strip. This planting strip shall contain at least one straight or staggered row of evergreen trees at least six (6) feet in height at planting time spaced not more than eight

(8) feet apart and which are capable of growing to an ultimate height of at least twelve (12) feet.

Sec. 23.10 ENTERTAINMENT AND AMUSEMENT FACILITIES.

Facilities for use as an amusement park, marina, or athletic activities must comply with the applicable requirements of this section.

A. Amusement Parks. Amusement parks are subject to the following requirements:

1. Access must be directly from a collector or arterial street.
2. The use must be developed so as to minimize noise, glare, dust, and other emissions and the applicant is to submit a statement on methods of maintenance of the grounds and facility to assure continued conformance with such standards.
3. Where the Planning Commission determines that any proposed facilities are intended to satisfy a recently-generated demand which is not proven to be of a long-term nature, such facilities may be required to be constructed in a manner which facilitates dismantling and removal.
4. Where a vehicular amusement facility is proposed, the applicant is to submit a drainage plan for review and approval by the Township Engineer.

B. Marinas. Any facility proposed for water-oriented activities, including yacht or rowing clubs, boat rental or access areas, sport fishing, or other

marine-related activities is subject to Site Plan review and must comply with the following requirements:

1. Access must be from collector or larger street without creating traffic congestion on streets through residential areas.
2. For any boat facility, sites are to include at least one hundred fifty (150) feet of water frontage and at least three (3) acres in area, but these requirements may be adjusted by the Planning Commission in a particular case as indicated by other standards in this section, or where special conditions of the waterfront area are found to exist.
3. Commercial launching ramps, boat repair facilities, for sale of boating supplies and fuel, and parking areas and areas for boat storage on land are to be located at least 150 feet from any residential or residentially-related use.

C. Athletic and Recreation Facilities, Indoor Theaters and auditoriums.

Any use which proposes a swimming pool (other than accessory to a residence), golf course, tennis, handball, racquetball, basketball, or volleyball courts, baseball diamonds, driving ranges, or similar or related facilities, are subject to the following standards:

1. Any athletic facility is to have a minimum building site of at least one (1) acre.
2. The proposed site is to have access directly from a collector to arterial street.
3. Swimming clubs or swimming pools other than swimming pools accessory to

a residence are to be set back as follows, except where a property line is on a natural waterway:

Maximum pool area (square feet)	Minimum setback from any property line (feet)
over 3,500	200
over 2,500	175
over 1,500	150
1,500 or less	100

4. **Golf Driving Ranges:** Facilities designed for driving of golf balls are subject to the following standards:
 - a. Minimum lot size for any driving range is five (5) acres.
 - b. Minimum length of lot for any driving range is to be one thousand two hundred (1,200) feet.
 - c. Screening is required around the driving range which shall be high enough and strong enough to keep balls from leaving the confines of the range.
 - d. Night lighting shall be directed so that adjacent residential areas are protected from glare.
5. **Golf Courses:** Golf courses, including accessory club house and restaurant uses, are subject to the following (see paragraph 6 below for setbacks):
 - a. A minimum lot area of not less than sixty (60) acres is required.

b. Lighting shall be shielded to reduce glare and shall be directed so that adjacent residential areas are protected from glare.

6. **Other Athletic Facilities:** All athletic facilities are to comply with the following minimum setback requirements, except where a property line is on a natural perennial waterway. The main and accessory building shall be setback at least seventy-five (75) feet from any property line.

Type of Facility	Minimum Setback from any property Line (feet)
Tennis Courts	50
Handball Courts	50
Basketball Courts	50
Baseball Diamonds	50
Volleyball Courts	50
Concession Stands	50
Concentrated Picnic Areas (tables, barbecue pits, etc.)	50
Picnic Grounds (not improved)	25
Games normally involving less than 10 people, i.e., horseshoe pits	25
Golf Course Fairways	25

7. **Lighting and Loudspeakers:** If an athletic or recreational facility is equipped with either outdoor lighting or public speaker system, then the setback from adjoining properties shall be as follows:

Lighting:

All lighting from the facility shall be located and designed in such a manner that at no time shall the foot-candle, at three (3) feet high vertically at the property line, exceed 0.3 foot candles. In addition, at mean grade twenty (20) feet in on the adjoining property, the foot candle shall, at no time, exceed 0.0.

Noise:

At no time shall any person, persons, loudspeaker or other sound generating device create any loud noise in such a manner as to create a nuisance, without reasonable cause and to disturb the quiet, comfort or repose of any persons on properties adjoining the athletic or recreational facility. For purposes of this ordinance nuisance shall be defined as any noise generated within the facility that, at the property line, exceeds 55 dBA between the hours of 9:00 a.m. until 10:00 p.m. and 49 dBA between the hours of 10:00 p.m. and 9:00 a.m.

8. Bowling alley, indoor tennis courts, indoor skating rinks, indoor theaters, and auditoriums.
- a. Public access to the site shall be located at least seventy-five (75) feet from any intersection (as measured from the nearest right-of-way line to the near edge of said access).

- b. The main and accessory buildings shall be located a minimum of one hundred (100) feet from any residential use.
- c. All uses shall be conducted completely within a fully enclosed building.

Sec. 23.11 FOSTER AND CHILD CARE FACILITIES.

A. Adult Foster Care Homes

1. The facility shall be located no closer than 1,500 feet to any other state licensed facility, except that this section shall not apply to any state licensed facility caring for three (3) persons or less.
2. The Planning Commission may approve additional facilities within 1500 feet of another provided that such additional facilities would not contribute to an excessive concentration of such facilities within a particular neighborhood.

B. Child Day Care.

1. In any residential or agricultural district, a resident of any dwelling may operate a family day-care home provided that the facility is licensed or registered by the department of social services as a family day-care home.
2. In any residential or agricultural zone, a resident of any dwelling may provide day care to up to twelve (12) preschool children if the following conditions are met:

- a. The facility is licensed or registered by the department of social services as a group day-care home.
- b. The facility is not closer than 1500 feet to another licensed group day-care home or to an adult foster care small group home or large group home licensed by the department of social services, nor closer than 1500 feet to a substance abuse treatment center or correctional center. The Planning Commission may approve additional facilities within 1500 feet of another licensed facility if the Planning Commission finds that the addition of the proposed facility will not lead to an excessive concentration of licensed facilities in the neighborhood.
- c. The facility shall have appropriate fencing for the safety of the children in the group day-care home.
- d. The facility shall maintain the property consistent with the visible characteristics of the neighborhood.
- e. The facility may provide one identification sign and shall comply with the regulations of section 22.13 regarding signs.
- f. Facility shall provide one off-street parking space for each employee that is not a resident of the dwelling. Such parking space shall be located on the same lot as the day-care facility, and shall not interfere with the use of driveway areas that would otherwise be used for short-term parking by clients.

- C. Review of Additional Facilities.
In approving additional facilities as provided above, the Planning Commission shall use the special use procedures and standards established in Article 20.

Sec. 23.12 PRIVATE ROADS AND STREETS.

A. General Provisions:

1. All lots shall have frontage on a public street right-of-way or private road easement.
2. A private road shall be located within a private road easement. This easement shall be at least sixty-six (66) feet in width.
3. A private road shall be connected to and extend from a public street right-of-way either directly or via other private roads.
4. A private road shall be given a name which is different from any other private road or public street within Ottawa County. Written approval for the name shall be obtained from the Allendale Charter Township Fire Chief.
5. A street sign bearing the approved name shall be erected and maintained by the owner of the proposed private road at each location where a private road connects to and extends from the public street or another private road. Street signs and traffic control signs where the private road meets a public street shall comply with and be installed in

- accordance with Ottawa County Road Commission standards and specifications. This provision shall also apply to existing private roads where such a street sign shall be erected by the current owner of the private road on or before February 13, 1995.
6. An existing private road constructed prior to February 13, 1995 and any private road constructed after that date may be reconstructed, extended, maintained, improved or relocated only in accordance with the standards and requirements of this Ordinance.
 7. Private roads are permitted only in the AG Agricultural and Rural Districts, Rural Estate Districts, R-1 through R-4 Residential Districts, and as approved in PUD Planned Unit Development Districts.
 8. The owner of a proposed private road shall provide to the Zoning Administrator a maintenance and access agreement in recordable form which provides for the necessary maintenance, repair, improvement and reconstruction of the private road. At a minimum, this agreement shall contain the following provisions:
 - a. A method of initiating and financing (i) such maintenance, repair, improvement and reconstruction of the private road as is necessary to maintain the private road in a reasonably good and usable condition and (ii) necessary snowplowing of the private road.
 - b. A method of apportioning the cost of maintenance, repair, improvement, reconstruction and snowplowing among the private property owners who benefit from and have access to the private road.
 - c. A notice that no public funding is available or will be used to construct, reconstruct, maintain, repair, improve or snowplow the private road.
 - d. A notice that if repairs and maintenance of the private road are not made so as to maintain the road in reasonably good and usable condition, the Township Board may repair and maintain the road and assess owners of the parcels having frontage on the private road for the total cost, plus an administrative fee in the amount of ten (10) percent of the total cost of the repairs and maintenance. The agreement shall also state that any person purchasing a parcel having frontage on the private road shall be deemed to have petitioned for the repair and maintenance of the private road specified in this subsection d. as is provided by Michigan Act 188 of 1954, as amended, or any similar successor state statute authorizing the special assessment by townships of the cost of the maintenance and repair of a private road, and to have consented in all respects to the imposition of a special assessment pursuant to Michigan Act 188 or such successor statute for the cost for the Township to repair and maintain the private road.
 - e. Easements to the Township for water and sewer utilities and easements to public utilities and communication companies for electric, gas, cable TV and telephone.
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f. A provision that the owners of any and all of the property with rights to use the private road shall refrain from prohibiting, restricting, limiting or in any manner interfering with the normal ingress and egress and use by other private owners who use the private road. This provision shall also apply to other family members, guests, invitees, trades persons, emergency vehicles and others bound to or returning from any of the properties having a right to use the private road.

B. Construction Specifications.

*Updated 1-1-18
Ord. No. 2017-13*

Except as permitted in subsection BB below, the following construction specifications apply to all private roads and streets.

1. Where a private road terminates in a dead end, a paved cul-de-sac may be required by the Planning Commission. The road easement shall widen to accommodate the cul-de-sac with a minimum diameter paved surface in accordance with the current Ottawa County Road Commission Standards and Specifications for Plat, Condominium and Public Road Development.
2. A private road is required to be paved and shall be constructed in accordance with the current Ottawa County Road Commission Standards and Specifications for Plat, Condominium and Public Road Development. The Planning Commission may require additional thickness, stronger materials or other necessary road improvements to adequately accommodate local surface and subsurface conditions.
3. The minimum width of the paved surface shall be as follows:
 - a. For private roads servicing five (5) or less dwellings the paved surface shall be at least twenty-two (22) feet in width and shall contain gravel shoulders of at least two (2) feet. In width.
 - b. For private roads servicing at least six (6) dwellings but not more than nineteen (19) dwellings, the paved surface shall be at least twenty-four (24) feet in width and shall contain valley gutter shoulders.
 - c. For private roads servicing twenty (20) or more dwellings the paved surface shall be at least twenty-four (24) feet in width and shall contain concrete curb and gutter shoulders. The private road shall include street trees and street lighting pursuant to the requirements of the Allendale Charter Township Subdivision Ordinance.
4. After a review by and written approval obtained from the Ottawa County Drain Commission, a private road shall be constructed in a manner to provide effective storm water drainage and to prevent run-off onto adjacent property. If a private road crosses a natural drainage course or easement, stream or other natural body of water, a bridge, culvert or other structure permitting the flow of water under the private road shall be constructed in accordance with applicable Ottawa County Road

Commission and Michigan Department of Transportation requirements.

5. A private road shall not exceed a grade of seven (7) percent, provided that within fifty (50) feet of any private road or public street intersection, the grade shall not exceed four (4) percent.
6. A driveway permit shall be obtained from the Ottawa County Road Commission for the private road.

BB. AG Agricultural and Rural Zoning District

*Updated 1-1-18
Ord. No. 2017-13*

In order to maintain the rural atmosphere established within Section 5.01 of this Ordinance, private roads in the AG Agricultural and Rural Zoning District shall be constructed in accordance with Section 23.12B or as provided herein.

1. A private road shall be located within a private road easement of not less than thirty (30) feet in width. The private road shall be constructed with a sand and gravel base of not less than eighteen (18) inches in depth of which not less than six (6) inches in depth shall be only gravel. The private road may be paved in accordance to Section 23.12B of this Ordinance. The Planning Commission may require additional thickness, stronger materials or other necessary road improvements to adequately accommodate local surface and subsurface conditions.
2. Where a private road terminates in a dead end, a cul-de-sac shall be required by the Planning Commission. The road easement shall widen to a minimum

diameter of at least one-hundred (100) feet to accommodate the cul-de-sac with a minimum diameter road bed surface of at least eighty (80) feet.

3. The private road shall have a road bed of not less than twenty (20) feet in width for its entire length, except for that area where a cul-de-sac is required pursuant to subsection BB2 above.
4. A private road shall serve no more than five (5) lots and each lot shall be no less than ten (10) acres in area.
5. The private road shall comply with the provisions of Section 23.12B4, 23.12B6, and 23.12B7 above but shall be exempt from the provisions of Section 23.12B1, 23.12B2, 23.12B3 and 23.12B5.

C. Review and Approval Provisions.

1. Permit Application and Fee.

Private roads shall only be permitted as a special use. The application for approval of a private road as a special use shall be filed as is required by Section 20.03.A and shall be accompanied by a fee as is required by Section 20.03 D.

The application for approval of the private road as a special use shall contain or be accompanied by the following information:

- a. The name of the owner and any other parties having any legal interest in the private road and the property across which it is to be constructed.
- b. The legal description of the property over which the private road is to be constructed.

- c. A site location map, not to scale, which shows the location of the parcel containing the road to surrounding properties and roadways within one-half (1/2) mile of the site.
- d. A scaled drawing prepared by a licensed engineer showing the precise location, route, elevations, dimensions, specifications and design of the private road and any proposed extensions of the road, existing or proposed curb cuts and the location and distance to any public street which the private road is to intersect.
- e. A scaled drawing prepared by a licensed engineer, surveyor or architect, or registered planner, illustrating the proposed lot divisions.
- f. A copy of the proposed maintenance and operation agreement required by Section 23.12.A.8.

2. **Review of Application.** The application for a special use permit for a private road shall be reviewed and acted upon in accordance with the procedures specified in Article 20 for special use permits.

D. Final Compliance Requirements.

Upon completion of construction of the private road, the applicant shall provide to the Zoning Administrator a letter from a licensed professional engineer that the road has been constructed in compliance with the approved private road plans and the requirements of this Ordinance, documentation that the maintenance and access agreement referred to in Section 23.12 A.8 and all easements have been recorded in the office of the Ottawa County Register of Deeds and a

driveway permit for the private road from the Ottawa County Road Commission.

E. Permits for Buildings on Private

Roads. A building permit shall not be issued for any principal building, dwelling or structure which derives its primary access from a private road unless the private road has been approved as a special use and the road has either been completed in accordance with all requirements of this Section 23.12 or the applicant for the building permit or the owner of the private road right-of-way have provided the Township with financial security for completion of the private road as is provided in Section 24.12.

F. Township Liability. The owner of the private road agrees as a condition of applying for and receiving a special use permit for a private road to indemnify and save and hold the Township, and its Township Board, officers and employees, harmless from all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair and replace the private road and all expenses incurred in defending such claims. The substance of this subsection shall appear on the application for the special use permit and be signed by the applicant property owner.

Sec. 23.13 RECREATIONAL VEHICLE STORAGE YARD.

Recreational Vehicle Storage Yard. Any lot or parcel which is proposed for use as a

storage yard for recreational vehicles meet the following requirements:

- A. The lot must be at a minimum 10 acres in size.
- B. The soils of the lot must be generally unsuitable for on-site septic systems, i.e. not capable of naturally supporting the maximum density residential development allowed within the district; and not suitable for agricultural use, or cultivation has not occurred within the last three calendar years prior to the special use request. As such, the general requirement that a special use must be in conjunction with farming operations in this district is hereby expressly waived. No lot shall be found to be unsuitable for farming purposes if the property has been or currently is subject to a development rights agreement with the State of Michigan pursuant to P.A. 116 of 1974, as amended.
- C. The lot must not be currently included in a plan adopted by the Township to provide water and sewer service to the lot.
- D. The lot must have direct access to a public street.

The Planning Commission shall review an application for a special use permit for a Recreational Vehicle Storage Yard to determine if it meets the above requirements and the requirements of Article 20. Further, the purpose of this use is to permit a transitional and temporary use of property which because of the above-mentioned circumstances has limited current uses until water and sewer become available to the

site. Therefore, a special use permit for this use shall not be issued for a period of more than five (5) years, and shall not be renewed unless the site then meets the requirements set forth above and unless all of the conditions imposed by the current permit have been satisfactorily met. As a transitional and temporary use generally incompatible with residential uses, any recreational vehicle storage yard shall comply with the following conditions in addition to any imposed pursuant to Article 20.

1. Parking of recreational vehicles shall not be less than four hundred (400) feet from any residential district.
2. There shall be no sales, rentals, repairs, or habitation of any recreation vehicle or any other use of the recreation vehicle storage yard except as a temporary storage yard for recreational vehicles when they are not in use.
3. No temporary or permanent building or structure shall be erected or permitted on the lot while it continues to be used as a recreational vehicle storage yard including, but not limited to the installation of concrete slabs, bituminous pavement or lighting.
4. Driveways internal to the recreation vehicle storage yard shall be graded and the surface improved by a permeable gravel layer to ensure appropriate drainage and dust free conditions at the site.

Sec. 23.14. STANDARDS FOR SINGLE-FAMILY AND TWO-FAMILY STRUCTURES

All single family and two-family dwelling units (except mobile homes within licensed mobile home parks) shall comply with the following minimum requirements.

A. Area and Width.

The dwelling unit shall meet or exceed the minimum floor area and minimum exterior width for dwellings, as specified in the applicable zone district regulations.

B. Foundations.

All dwellings and any additions thereto shall be constructed upon and attached to a solid, permanent foundation located under the entire perimeter of the ground floor of the dwelling unit, with a depth of at least forty-two (42) inches below grade. The foundation shall comply with the provisions of the BOCA code and all applicable state regulations.

C. Storage Areas Required.

All dwelling units shall provide enclosed storage space (either within a basement or in an attic or in a separate, fully enclosed accessory structure) of not than fifteen percent (15%) of the living area of the dwelling unit. The storage areas shall be provided in addition to the area devoted to the storage of automobiles. Storage areas in the basement, attic or separate accessory building shall not be counted in determining whether the dwelling unit complies with the minimum floor area requirements of this ordinance.

D. Steps or Porch Required.

All dwelling units shall provide permanent steps or porch areas where there exists an elevation differential of

more than one (1) foot between the threshold of a door and the surrounding grade.

E. Additions. All additions or alterations to a dwelling shall be at least the same quality materials and workmanship as the original structure.

F. Roof Pitch. The roof of any such dwelling shall have a minimum pitch of three (3) inches rise for every one (1) foot of run, unless twenty percent (20%) of the residences located within one-half (1/2) mile have a lesser pitch, then the pitch equal to the average of those twenty percent (20%) may be provided. The roof shall be covered by either asphalt, fiberglass, or shake shingles.

G. Sewer and Water. All dwellings must be connected to the public sewer and water supply, where available. When such facilities are not available, on-site water supply and sewage disposal facilities are required, and must be approved by the Ottawa County Environmental Health Department.

H. Mobile Homes. Mobile homes or manufactured housing that meet the above requirements are permitted wherever such units also comply with the zone district requirements. In addition, mobile homes must comply with the following requirements.

1. A tie-down or anchor system shall be installed in a manner that complies with the manufacturer's specifications.
2. When installed, there shall be no exposed tongue assembly or towing mechanism, no exposed wheels, and no

exposed undercarriage.

3. Mobile homes shall comply with the standards of the United States Department of Housing and Urban Development Mobile Home Construction Safety Standards in effect at the time the mobile home is located on the property.

Sec. 23.15 SEXUALLY ORIENTED BUSINESSES.

A. Purpose.

The purpose and intent of this Section, Section 23.15, is to minimize the negative secondary effects associated with Sexually Oriented Businesses through regulating, but not excluding, the location and operation of Sexually Oriented Businesses within the Township. It is recognized that Sexually Oriented Businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private land uses. The regulation of Sexually Oriented Businesses is necessary to ensure that their negative secondary effects will not adversely impact the health, safety and general welfare of Township residents, nor contribute to the blighting or downgrading of surrounding areas. The provisions of this Section are not intended:

(i) to violate the guarantees of the First Amendment to the United States Constitution or Article I, Section 5 of the Michigan Constitution of 1963;

(ii) to deny adults access to Sexually Oriented Businesses and their products;

(iii) to deny Sexually Oriented Businesses access to their intended market; or

(iv) to legitimize activities which are prohibited by Township ordinance, state or federal law. The Township further states that it would have passed and adopted what might remain of this Section following the removal, reduction or revision of any portion of this Section found to be invalid or unconstitutional.

B. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Section only, unless otherwise specifically stated.

1. **Adult Arcade:** A commercial establishment that offers coin-operated (or for any other form of consideration) electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting of Specified Anatomical Areas or Specified Sexual Activities.
2. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the items set forth in subsections a or b.

- a. Books, magazines, periodicals or other printed matter, photographs, films motion pictures, video cassettes or video reproductions, slides, or any other visual representations or media which depict or describe Specified Anatomical Areas or Specified Sexual Activities; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities. A commercial establishment may have other principal business purposes that do not involve offering for sale or rental the material identified in subsections a and b, above, and still be categorized as an Adult Bookstore or Adult Video Store.
3. **Adult Cabaret:** A nightclub, bar, restaurant, or similar commercial establishment that regularly features:
- a. Persons who appear in a State of Nudity;
 - b. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
 - c. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities; or
 - d. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
4. **Adult Entertainment Booking Agency:** A business engaged in for financial remuneration, either directly or indirectly, wherein the owner, operator or agent books performances for dancers, comedians, musicians, entertainers or burlesque performers, taking a fee, commission or percentage of any money from the patron or performer for services rendered, when the performances are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.
5. **Adult Motel:** A hotel, motel or similar commercial establishment that does any of the following:
- a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities and has a sign visible from the public right of way that advertises the availability of any of the above;
 - b. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
6. **Adult Motion Picture Theater:** A

- commercial establishment that, for any form of consideration, regularly shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media, that are characterized by the depiction or description of Specified Anatomical Areas or Specified Sexual Activities.
7. **Adult Theater:** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a State of Nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.
 8. **Dating Service:** A business engaged in, for either direct or indirect financial remuneration, making arrangements to match a person of the same or opposite sex to a patron or patrons, for social or entertainment purposes, either on or off the premises of the Dating Service.
 9. **Escort:** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 10. **Escort Agency:** A person or business who furnishes, offers to furnish, or advertises the furnishing of escorts for a fee, tip, or other consideration.
 11. **Massage:** The performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking or tapping with the hand or hands, or with any mechanical or bathing device, with or without supplementary aids, for non-therapeutic purposes. The systematic and scientific manipulation of the soft tissues of the human body by a state licensed health care professional for therapeutic and/or rehabilitative purposes shall be considered a therapeutic massage and not restricted by this Section.
 12. **Massage Parlor:** Any commercial massage is made available for any form of consideration.
 13. **Massage School:** Any place, instruction in the theory, method and practice of non-therapeutic massage.
 14. **Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include:
 - a. an educational institution funded, chartered, licensed or recognized by the State of Michigan; or
 - b. a private artist's studio where the private artist employs or contracts with the model to be observed and depicted solely by the private artist.
 15. **Nudity or a State of Nudity:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person
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including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include:

- a. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
 - b. Material as defined in section 2 of Michigan Act 343 of 1984, as amended, or any similar successor statute; or
 - c. Sexually explicit visual material as defined in section 3 of Michigan Act 33 of 1978, as amended, or any similar successor statute.
16. **Public Place:** Any real property or an appurtenance to real property that is owned or leased by the State of Michigan, any local unit of government of the State of Michigan, a public agency, or by a college or university of the State of Michigan and may include a including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed by any agency of government or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise

made available to the public.

17. **Sexual Encounter Center:** A commercial establishment that, as one of its principal business purposes, offers for
- a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female when one or more of the persons is in a State of Nudity.
18. **Sexually Oriented Business:** Any of the following: (1) Adult Arcade; (2) Adult Bookstore or Adult Video Store; (3) Adult Entertainment Booking Agency; (4) Adult Cabaret; (5) Adult Motel; (6) Adult Motion Picture Theater; (7) Adult Theater; (8) Dating Service; (9) Escort Agency; (10) Massage Parlor; (11) Massage School; (12) Nude Model Studio; and (13) Sexual Encounter Center.
19. **Specified Anatomical Areas:** Are defined as:
- a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; or
 - b. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
20. **Specified Sexual Activities:** Are defined to include any of the following:

- a.** The erotic fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- b.** Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy and/or masturbation;
- c.** Sexual arousal or gratification using animals or violence, actual or simulated; or
- d.** Excretory functions as part of or in connection with any of the activities set forth in a through c above.
- C. Zoning Districts.** Notwithstanding any provisions of this Ordinance to the contrary, Sexually Oriented Businesses shall be permitted only as a special land use subject to Planning Commission approval within the C-3, I-1 and PID Zoning Districts.
- D. Special Land Use Approval Requirements.** Special land use approval shall not be granted to any Sexually Oriented Business unless it meets all of the following enumerated requirements. Any Sexually Oriented Business granted special land use approval shall continue to comply with all of the requirements of this Section at all times while the business is operational.
1. No Sexually Oriented Business shall be located on a parcel that is within 1,000 feet of the boundary of any land zoned R-1, R-2, R-3, R-4, and R-5, or approved as a planned unit development for residential purposes. For purposes of this subsection 1 and subsection 2 below, the distance between a proposed Sexually Oriented Business and the boundary of any land zoned R-1, R-2, R-3, R-4 or R-5, or approved as a planned unit development for residential purposes, or land used for any single or multiple family residence, township, county or state park, school, library, licensed childcare facility, playground, church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed Sexually Oriented Business is to be located to the nearest boundary of the land zoned R-1, R-2, R-3, R-4 or R-5, or approved as a planned unit development for residential purposes, or the nearest property line of multiple family residence, township, county or state park, school, library, licensed childcare facility, playground, church or place of worship.
 2. No Sexually Oriented Business shall be located on a parcel within 1,000 feet of any single or multiple family residence, any township, county or state park, any school, library, licensed child care facility, playground, church or place of worship.
 3. No Sexually Oriented Business shall be located within any principal or accessory building or structure already containing another Sexually Oriented Business.
 4. The proposed use shall conform to all

- requirements of the zoning district in which it is located, except that, notwithstanding any provisions of this Ordinance to the contrary, an Industrial Service Center containing a sexually oriented business may be permitted within one-half mile from existing commercial services.
5. The proposed use shall be in compliance with all other ordinances of the Township and with all statutes, laws, rules and regulations of the County, State and Federal government and, to the extent required, all governmental approvals have been obtained.
 6. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private road.
 7. Any sign or signs proposed for the Sexually Oriented Business shall comply with the provisions of Article 22 of this Ordinance, and may not otherwise include photographs, silhouettes, drawings, or pictorial representations of Specified Anatomical Areas, Specified Sexual Activities or obscene representations of the human form, and may not include animated or flashing illumination.
 8. Entrances to the proposed Sexually Oriented Business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
 9. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public or private road or a neighboring property.
 10. Hours of operation shall be limited to 10:00 AM to 10:00 PM, Monday through Saturday. All Sexually Oriented Business shall remain closed on Sundays and legal holidays.
 11. All off-street parking areas shall comply shall be illuminated after sunset during all hours of operation of the Sexually Oriented Business, and until one hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.
 12. Any booth, room or cubicle available in any Sexually Oriented Business, except an Adult Motel, that is used by patrons for the viewing of any entertainment

characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities shall:

- a. Be handicap accessible to the extent required by law;
- b. Be unobstructed by any floor, lock or other entrance and exit control device;
- c. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
- d. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
- e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

E. Application for Special Land Use

Permit. Notwithstanding any provisions of this Ordinance to the contrary, applications for special land use permits and site plan approval submitted by Sexually Oriented Businesses will be governed by this Section.

1. An application for a Special Land Use Permit provided under this Section for a Sexually Oriented Business shall be filed with the Zoning Administrator on the

proper forms supplied by the Township. An application shall not be deemed complete until all required information and necessary documentation has been provided to the Township by the applicant or the applicant's agents and representatives.

2. The application shall be accompanied by a site plan as specified in Article 24, and any other data required by the Zoning Administrator indicating how the proposed Sexually Oriented Business will conform to the requirements set forth in Section 23.15.D.
3. The application shall be accompanied by a legal description of the property, either by metes and bounds or by subdivision lot and block, and a street address.
4. The application shall be accompanied by a fee to be established by resolution of the Township Board to cover the expense of considering and making a decision on the application.

F. Hearing on Application for Special Land Use Permit.

Notwithstanding any provisions of this Ordinance to the contrary, the Planning Commission shall hold a public hearing on the proposed special land use not more than forty-five (45) days following the date the Zoning Administrator receives the completed application. Not less than fifteen (15) days before the public hearing, notice shall be published in a local newspaper of general circulation and shall be sent by mail or personal delivery to the owners of property for which approval is being

considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. The notice of public hearing must contain the following information: a description of the nature of the request, a description of the property in question (using the street address if available), the time and place of the hearing, and when and where written comments will be received concerning the request.

- G. Decision on Application for Special Land Use Permit.** Notwithstanding any provisions of this Ordinance to the contrary, a final decision on the special land use application and site plan approval shall be made by the Planning Commission within seventy-five (75) days of the receipt of the completed application by the Zoning Administrator. The Planning Commission shall base its decision upon the applicant's compliance with the requirements set forth in Section 23.15.D., and the standards set forth in Sections 20.06.D., 20.06.E., and 20.06.F. The decision on the site plan approval shall be made according to the requirements and standards set forth in Article 24 of this Ordinance.

The Planning Commission may impose reasonable conditions in conjunction with the approval of a special land use permit for a Sexually Oriented

Business. The conditions imposed shall be limited to conditions necessary to ensure that the Sexually Oriented Business will not be unreasonably detrimental to the public health, safety, or general welfare of the Township; nor unreasonably injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; nor unreasonably impede the normal and orderly development and improvement of the surrounding property for uses permitted under the Zoning Ordinance. The Planning Commission shall incorporate its decision in a statement of conclusions that specify the basis for the decision and any conditions imposed.

- H. Appeals.** The decision of the Planning Commission shall be final. Notwithstanding any provisions of this Ordinance to the contrary, if the Planning Commission denies an application for special land use permit, or approval of a site plan, or both, for a Sexually Oriented Business, the applicant shall not be allowed to appeal the Planning Commission's decision to the Township Zoning Board of Appeals. The applicant shall be entitled to prompt judicial review of the Planning Commission's decision in any court of competent jurisdiction.

Sec. 23.16 REQUIREMENTS FOR GROUP HOUSING.

All group housing shall comply with the following requirements:

- A. Total ground area occupied by all buildings and structures shall not exceed thirty-five percent of the net lot area. If the development site is designed for more than 25 dwelling units the development must comply with Section 23.06. Any conflict between this Section and Section 23.06, Section 23.06 shall apply.
- B. No new group housing structure or parking area may be erected closer than 50 feet from any R-4 zone district boundary line, provided that a greater setback not to exceed 100 feet may be required by the Planning Commission in its discretion.
- C. Parking shall be provided as required in Article 21 of this zoning ordinance. If it is established that the proposed use will generate an additional need for parking in excess of the minimum parking required by Article 21, the Planning Commission, in its discretion, may require sufficient parking to meet the additional need.
- D. A landscape plan satisfactory to the Planning Commission shall be required.
- E. The entire front yard shall be landscaped with the exception of that area provided for paved vehicular drives or pedestrian access to and from the site.

Sec. 23.17 SUPPORT SERVICES RESIDENCES.

All premises residences shall comply with the following requirements:

- A. An on-site manager shall reside in the support services residence.
- B. There shall be no more than 5 adult persons residing in the support services residence, exclusive of an on-site resident manager, his/her spouse and children.
- C. If the use is to be conducted in an Existing dwelling, there shall be no change in the exterior appearance of the building or premises which would detract from its residential character.
- D. If the use is to be conducted in a newly-constructed dwelling, the exterior appearance and character of the building shall resemble a single-family dwelling. In addition, the floor plan layout shall be such that the building can readily be adapted for use as a single-family dwelling.

Section 23.18 RESIDENTIAL OPEN SPACE DEVELOPMENT.

- A. **Intent of Residential Open Space Development.** These residential open space development provisions are intended to allow variation from normal lot area and width standards for lots in subdivision plats and single-family condominium developments intended for single-family detached dwellings in the Agricultural (AG) and Rural and Rural Estate (RE) zones.

In order for a proposal to be considered eligible for a residential open space development the proposed development must demonstrate that it has natural features or amenities that can be beneficial to those persons who may reside in the development, the Township on behalf of its citizens and residents, and the public at large. If the development lacks these natural features or amenities, an applicant can propose to create such features and/or amenities. These features and amenities can be, but are not limited to, woodlands, steep slopes, ridgelines, wetlands, meadows, farm fields, stream corridors, lakes, structures with historic or aesthetic value, trailways and recreational facilities.

Traditional zoning standards, with their rigid requirements for size and width of lots and placement of dwellings, may be inappropriate for application to many of the rural areas of the Township, and may not best achieve the stated goals of the Township's Master Plan. Goals for the Township which may possibly be better accomplished through the use of the Residential Open Space Development provisions include, but are not limited to, all of the following:

1. Development of open space areas along the Grand River.
2. Create buffers and other types of open space to separate agricultural operations in the Township from encroachment by non-agricultural uses.

3. Provide long-term protection and greater accessibility to natural areas through the placement of areas having sensitive environmental features into interconnected common open space in new developments.
4. Minimize the disturbance of woodlands, steep slopes, ridgelines, wetlands and stream corridors in the design of new development.
5. Protect the Township's rural character by using creative designs, extensive landscaping, and the natural environment, with the least amount of change, as the base for the development plan.

B. Comparison Plan Submittal. An application for approval of a special use permit for a Residential Open Space Development shall include, in addition to all information required by Sec. 20.03, submittal of a "comparison plan," which demonstrates, in a realistic and feasible manner, how the subject property could be developed in conformance with the applicable area regulations for the zoning district in which the subject property is located.

The comparison plan shall identify:

- a. existing or proposed public road right-of-way or private road easements.
- b. land permanently under water, including minor creeks and County drains.

- c. area within a regulatory “floodway,” as designated by the Federal Emergency Management Agency-see Sec.19.02.
- d. any and all areas that are unbuildable because of poor soils, wetlands, steep slopes, etc.
- e. existing topographic elevations.

The comparison plan shall include evidence of written approval by the Ottawa County Environmental Health Department of private wells and/or on-site sewage disposal if public water and/or public sewer are not available to the proposed development.

C. Area Regulations.

1. **Minimum Development Acreage:** The minimum Gross Acreage of any Residential Open Space Development shall be ten (10) acres. The phrase “Gross Acreage” is defined for purposes of this Section 23.18 only as the total area of the development site including public rights-of-way and utility and access easements.
2. **Front Yard:** There shall be a front yard setback of not less than twenty-five (25) feet.
3. **Side Yard:** Minimum side yard setback shall be established by the Planning Commission as a condition of approval of a special use permit for a Residential Open Space Development, but in no event shall the side yard setback for each side yard be less than ten (10) feet.

4. **Rear Yard:** There shall be a rear yard of not less than forty (40) feet.

5. **Lot Area and Width:** The minimum lot width and lot area for dwellings shall either be:

- (i) one hundred fifty (150) feet and fifteen thousand (15,000) square feet or
- (ii) one hundred (100) feet and thirty thousand (30,000) square feet of lot area.

Lots within a single Residential Open Space Development may comply with either requirement, i.e., on a lot by lot basis meet the 150 feet/15,000 square feet requirement or the 100 feet/30,000 square feet requirement.

D. Maximum Density and Density Bonus.

1. **Maximum Density:** In the Agricultural and Rural (AG) District, the maximum dwelling unit density in a Residential Open Space Development shall be one (1) dwelling unit per net acre. In the Rural Estate (RE) District, the maximum dwelling unit density in a Residential Open Space Development shall be equal to the density the Planning Commission determines, as a condition of approval of a special use permit for a Residential Open Space Development, after it has considered the comparison plan, could reasonably be developed in conformance with the applicable area regulation for the zoning district in which the subject property is located, plus a density bonus, if applicable, as specified in paragraph 2, below. The phrase “net acre” is defined

for purposes of this Section 23.18 only as the gross acreage of the development site excluding public rights-of-way and utility and access easements.

2. **Density Bonus:** The maximum dwelling unit density permitted in a Residential Open Space Development in the Rural Estate (RE) District may be increased above that specified or determined as is provided in section D, paragraph 1 above, by a percentage determined by the percentage of the net acreage of the development site which is set aside as permanently protected open space. The permanently protected open space shall include those features and amenities identified in subsection A above or similar features and amenities. If the Planning Commission determines, as part of the special use approval procedure, that the development includes in the permanently protected open space the necessary features and amenities, the maximum permitted density increase shall be as follows:

Percentage of Net Acreage in Protected Open Space.

- less than 10%
- 10% - 19.9%
- 20% - 29.9%
- 30% - 39.9%
- 40% - 49.9%
- 50% - or more

Percentage Increase in Density:

- No increase permitted
- 10%, or 1.1 units per net acre
- 15%, or 1.15 units per net acre
- 20%, or 1.2 units per net acre
- 25%, or 1.25 units per net acre
- 30%, or 1.3 units per net acre

In the event the application of these percentages results in authorization for a fractional unit (0.6 as an example), the number of units shall be rounded up or down, as the case may be (0.6 or above round up; 0.5 or below round down).”

E. Open Space Requirement: All areas proposed as open space in a Residential Open Space Development shall comply with the following requirements:

1. Except as otherwise approved by the Planning Commission, as part of the special use approval no individual area designated as open space shall be less than 1 acre in size.
2. Land devoted to public or private street easements or rights-of-way shall not be included in computing the area of open space.
3. Access to open space areas which are suitable for active or passive use shall be provided from all areas of the development by means of public or private streets or pedestrian access ways. Connections with existing or planned pedestrian/bike paths and adjacent open space, and public land, may be required by the Planning Commission as a condition of approval of the special use permit.
4. Areas included as open space may be all or in part preserved and protected for the sole benefit, use and enjoyment of residents of the development. Where feasible and appropriate, the location

and configuration of open space shall be coordinated with existing and potential open space lands on parcels in the surrounding area, in order to promote and encourage the development of an interconnected system of open space lands in the Township.

5. As a condition of approval of the special use permit, and prior to the construction of any dwelling unit within the development, the applicant shall be required to establish a property owners' association (or other similar organization acceptable to the Township Planning Commission) of which all residents or occupants of the development shall be required to be become members through appropriate plat or condominium restrictions, covenants, and conditions that run perpetually with the land. The property owners' association must be legally capable of assuming, and shall assume, the ownership of the open space and the obligation to maintain the open space as required by this Section. These arrangements and the implementing documentation shall assure that the open space will be protected from all forms of development, except as shown on the approved site plan, and shall never be changed to another use without prior Planning Commission approval. These arrangements and the implementing documentation shall:

- (A.) Indicate the proposed allowable use(s) of the dedicated open space. The Planning Commission may require the

inclusion of open space restrictions that prohibit the following:

- (1.) Dumping or storing of any material or refuse;
- (2.) Activity that may cause risk of soil erosion or threaten living plant material;
- (3.) Cutting or removal of live plant material except for removal of dying or diseased vegetation;
- (4.) Use of motorized off road vehicles;
- (5.) Cutting, filling or removal of vegetation from wetland areas;
- (6.) Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.

(B.) Transfer ownership of the dedicated open space to the property owners association.

(C.) Require that the Dedicated Open Space be maintained by parties who have an ownership interest in the Open Space.

(D.) Provide requirements for scheduled maintenance of the Open Space.

(E.) Provide for maintenance to be undertaken by the Township of Allendale in the event that the Dedicated Open Space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.

F. Additional Development Requirements.

1. All signage, lighting, entryway features, landscaping, building materials for the exterior of all structures, and other features of the development, shall be designed and completed with the objective of achieving an intergrated and cohesive development, consistent with the character of the community, surrounding development, and natural features of the area. The Planning Commission may require street or site lighting where appropriate.
 2. Construction of private roads as a means of providing access and circulation is encouraged. Private roadways within the development must meet all requirements of the Township Private Road Ordinance. Significant natural features such as mature trees, natural slopes, wetlands or other water bodies must be preserved. No lots in the Open Space Development may abut on a primary road or major arterial road.
 3. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Township Planning Commission.
 4. Both sides of all internal roads shall be landscaped with street trees. For road frontage that abuts individual lots or condominium building sites, a minimum of two (2) canopy trees shall be provided per dwelling. For road frontage that does not abut lots or condominium building sites, one canopy tree shall be provided on each side for every fifty (50') feet of road frontage. For any fraction of road frontage over fifty (50') feet an additional tree must be added. All trees are to be a minimum of two (2") caliper at the time of planting. Existing trees to be preserved within five (5') feet of the road right-of-way or easement may be credited towards meeting this requirement.
 5. **Pedestrian Circulation.** Trails within the development may, as a condition of special use approval, be constructed of gravel, woodchip or other similar material, but the Planning Commission may require construction of eight (8') foot wide asphalt bike paths through portions of the development or along any public right-of-way abutting the development. Locations for school bus stops shall be provided on the site plan.
- G. Standards For Approval Of Residential Open Space Development.** In addition to complying with the standards for approval of a special use permit contained in Article 20, a Residential Open Space Development shall not be approved by th Planning Commission unless the Commission finds:
1. The proposed development complies with all requirements contained in this Section 23.18.
 2. The development, in comparison to potential development of the property under the conventional district

regulations, better achieves the stated goals and objectives of the Township Master Plan and the goals set forth in Section 23.18.A.

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Ord. No. 2013-1*

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