

**MELROSE TOWNSHIP**  
**ZONING ORDINANCE**

***Ordinance Number III***

*P.O. Box 189*  
*Walloon Lake, MI 49796*

**Effective 3-5-88**

**Amendments through November 14, 2023**

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## Amendments Page

DATE	DESCRIPTION
3/5/1988	Inception of Zoning Ordinance
12/9/1997	Added Telecommunication Towers, Alternative Tower Structures, and Antennas as Ordinance #7 of 1997.
8/13/2002	Revised paragraph 6.9D) "Minimum Lot Area in Forest Conservation District" as Ordinance #10 of 2002.
8/13/2002	Added Article XIV, "Planned Unit Development" as Ordinance #11 of 2002
1/14/2003	Rezoned one lot corner US 131 and State Street from Ag to Highway Commercial C-2; Ordinance # 12
1/14/2003	Revised definition of structure, side yard and rear yard; revise sign regulations in Ag District to allow home occupation and/or Home Based business signs; Ordinance # 13
6/10/2003	Rezone one lot on Lee Street from Ag to R-2; Ordinance #14
7/22/2003	Rezone four lots in Village from half Ag and half C-3 to all C-3; Ordinance # 1 of 2003
7/22/2003	Rezone one lot in Village from R-2 to C-3; Ordinance #3 of 2003
7/22/2003	Rezone one lot in Village from Ag to C-3; Ordinance #3 of 2003
11/9/2004	Rezone four lots adjacent to Springbrook from Ag to R-2; Ordinance #3 of 2004
11/8/2005	Added Rural Residential Conservation Design District as Ordinance # 1 of 2005
7/8/2008	Revised height definition and measurement, accessory building setback, setback relief for small lots, non-conforming structures, and docks. Approved as Ordinance #
5/12/2009	Revised Use-By-Right / Special Uses in Ag district and revised setbacks as Ordinance #1 of 2009
8/11/2009	Incorporated Wind Energy Systems as Ordinance # 2 of 2009
1/12/2010	Combined C-1 "Resort Commercial" and C-2 "Highway Commercial" into B-1 "General Business" as Ordinance #1 of 2010.
9/14/2010	Adopted Walloon Lake Shoreline Protection Overlay District as Ordinance #2 of 2010
1/10/2012	Adopted regulations allowing Accessory Dwelling Units in the R-2 and Ag districts as Ordinance #1 of 2011
1/10/2012	Clarified enforcement procedures for violations of the Zoning Ordinance (Civil Infractions) as Ordinance #2 of 2012. Municipal Civil Infraction Ordinance was passed in 1995, but the Zoning Ordinance was not altered at that time.

## **AMENDMENTS – CONTINUED**

<b>DATE</b>	<b>DESCRIPTION</b>
12/10/2013	Revised Land Division/Parcel Reconfigurations regulations as Ordinance #1 of 2013
12/10/2013	Revised C-3 Village Commercial District as Ordinance #2 of 2013
11/23/2017	Revised Sign Regulation to be content neutral and several minor changes (structures less than 100 square feet, 15 day public notice, Development Plan Review Agencies) as Ordinance #2 of 2017
9/25/2018	Amended Section 6.8, Changed Ag to FF, Farm and Forest District and changed some FF regulations as Ordinance #2 of 2018
05/11/2021	Amended Article VI, Section 6.8 B) 7, Farm & Forest District, Adding Storage Building as a Special Use
11/09/2021	Repealed Section 4.24 Land Divisions & Property Reconfigurations
11/14/2023	Amended Article VI, Section 6.11.C.2, 3., Section 2. 6.11.D.1.2.

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## **Introductory Statement**

An Ordinance to provide for the establishment of zone districts for Melrose Township so that the proper use of land and natural resources shall be encouraged and regulated and within which districts the location, the size of, the uses that might be made of, the minimum open spaces, and the maximum number of families that may be housed in dwellings, building and structures, that may be hereafter be erected, altered or moved, to provide for the administration hereof, to provide for a method of amending, to provide for conflicts with other acts, ordinances and regulations, to provide for the collection of fees for the furtherance of the purpose of this Ordinance, to provide for petition and public hearings, to provide for appeals and for the organization and procedures of the Zoning Board of Appeals.

BE IT ORDAINED by the Board of Trustees of Melrose Township of Charlevoix County, State of Michigan, as follows:

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# **ARTICLE I – PURPOSE AND AUTHORITY**

## **Section 1.0 - Purpose**

It is the purpose of the Zoning Ordinance to promote the public safety, health, convenience and general welfare, to encourage the use of lands and natural resources in the township in accordance with their character, adaptability and suitability for particular purposes, to maintain social and economic stability, property values and general character and trend of Melrose Township development, to limit the improper use of land, to avoid overcrowding of population, to provide for adequate light and air, to lessen congestion of the public streets and highways, to reduce the hazards to life and property, to facilitate adequate provision for a system of transportation, sewerage, drainage, safe and adequate water supply and distribution, education, recreation and other public requirements, and to conserve the expenditure of funds for public improvements and service to conform with the most advantageous uses of land, resources and properties by establishing herein standards for township development in accordance with these objectives and by providing for the enforcement of such standards.

It is the further purpose to adopt provisions for each designated zoning district which, within each location, the size and uses of buildings, land and minimum open spaces, sanitary measures required, and the number of families to be housed in certain areas, in buildings erected or altered in the future, are specified.

## **Section 1.1 - Authority**

This Ordinance is ordained and enacted into law pursuant to the provisions and in accordance with the State of Michigan, Township Rural Zoning Act. Act 184 of the Public Acts of 1943, as amended.

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## **ARTICLE II – SHORT TITLE**

This Ordinance shall be known and may be cited as the “Melrose Township Zoning Ordinance” and will be referred to herein as “This Ordinance”.

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# ARTICLE III – RULES APPLYING TO TEXT AND DEFINITIONS

## **Section 3.0 – Rules Applying to Text**

The following rules of construction apply to the text of this Ordinance:

- A) The particular shall control the general.
- B) In case of any difference of meaning or implication between the text of this Ordinance and any caption, the text shall control.
- C) The word “shall” is always mandatory and not discretionary. The word “may” is permissive
- D) Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E) The word “building” includes the word “structure”.
- F) A “building” or “structure” includes any part thereof.
- G) The word “person” includes a corporation as well as an individual.
- H) The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged”, or “designed to be used”.
- I) Any word or term not defined herein shall be used with a meaning of common or standard utilization.
- J) The term “adjoining lots and parcels” is intended to include lots and parcels separated by highways, roads streets or rivers.

## **Section 3.1 – Definitions**

For the purpose of this Ordinance, the following terms and words are defined:

### **Accessory Building or Structure**

A subordinate structure devoted to an accessory use and located on the same premises with the main structure. This structure is not to be used for dwelling purposes. An accessory structure attached to a main structure shall be considered part of the main structure.

Accessory Dwelling Unit (ADU)

A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, and part of the same structure as the primary dwelling unit.

Accessory Use

A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

Agriculture - See "Farm".

Apartment

A room or suite of rooms, including bath and culinary accommodations, intended or designed for use as a residence for a single family.

Alternative Tower Structure

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

Antenna

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

Appurtenances

Includes, but not limited to, chimneys, flues, belt courses, sills leaders, pilasters, cornices, eaves, gutters and similar features.

Basement

That portion of a building which is partly underground and which has most of its floor to ceiling height below grade. A walkout basement shall be defined as a basement having at least one (1) wall with its floor to ceiling height above grade, and with such a wall having an entrance/exit to outside of the building.

Bed and Breakfast

A bed and breakfast operation which is subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room, with or without board, in return for payment.

Bed And Breakfast Operation

A use which is clearly subordinate to the principal use of a dwelling unit as a single-family dwelling unit and a use in which transient guests are provided a sleeping room, with or without board, in return for payment.

### Billboard

A type of advertising sign which is either erected on the ground or attached to, painted on, or supported by a building which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold or offered at a place other than on the premises on which the sign is located.

### Boarding House – Rooming House – Inn

A building other than a hotel, where, for compensation and by prearrangement for definite periods; meals, or lodging and meals are provided.

### Bordering Lands

All lands adjacent to a parcel of land, including, but not limited to those lands separated from the parcel by a road right-of-way, easements or public utility right-of-ways.

### Building

A structure either temporary or permanent, having a roof supported by columns and/or walls.

### Building, Height of

The elevation measured from the building perimeter's average finished grade to the highest point of the roof.

### Building Coverage

The amount of a lot, stated in terms of percentage, that is covered by all roofed buildings and other structures located thereon. This shall be deemed to include all buildings, porches, arbors, breezeways, patio roofs and the like, whether open box type and/or lath roofs or fully roofed, but shall not include fences, walls or hedges used as a fence, or swimming pools.

### Cabin – Cottage

A detached building which is used for seasonal occupancy, but not including motels or autotels, as a dwelling or sleeping quarters.

### Condominium Act

Michigan Public Act 59 of 1978 as amended.

### Condominium Project

Any land developed under the provisions of the Condominium Act.

### Condominium Unit

That portion of a condominium project designed and intended for separate ownership interest and use, as described in the Master Deed, regardless of type of use.

### Deck

A raised, unroofed, horizontal platform. Usually constructed of wood.

Development Plan

A scale drawing which shows the location and dimensions of improvements upon a parcel of land, including, but not limited to location and size of buildings, driveways, parking areas, landscaping, sidewalks, sign, sewage systems and drainage facilities, environmental features and all additional information necessary for the township to determine that the proposed use will be in compliance with this ordinance and other applicable laws.

Districts

“Districts” as used herein is synonymous with the word “Zones” or “Zoning Districts”.

Dog Kennel

Any place where more than three (3) dogs over six (6) months of age are housed or cared for and which is not an animal hospital.

Drive-in Restaurant

A public eating place where food is prepared, served and/or sold for consumption other than solely within a building on the premises.

Duplex

See Dwelling, Two (2) Family

Dwelling

Any building, or portion thereof, which is designed and used exclusively for residential purposes.

Dwelling, Multiple

A dwelling or group of dwellings on one (1) plot and in one (1) structure, containing separate living units for three (3) or more families, but not including automobile courts, motels or hotels.

Dwelling, Single or One (1) Family

A detached building designed for or occupied exclusively by one (1) family.

Dwelling, Two (2) Family

A detached building designed exclusively for occupancy by two (2) families living independently of each other.

Earth Home

An earth home must have a minimum of seven hundred twenty (720) square feet of floor space, meet all County Health Codes, have fifty (50) percent or more of its exterior wall area earth covered, and meet all setback requirements.

### Essential Services

The erection, construction, alteration, or maintenance by public utilities or municipal departments, commissions, or boards of underground or overhead gas, electrical, steam, water, or sewer transmission, distribution, collection, supply or disposal systems including poles, wires, mains, pipes, conduits, cables, hydrants, and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication Towers or facilities, Alternative Tower Structures, and wireless communication Antenna are not included within this definition.

### Family

A collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit, with a single culinary unit. When the individuals living together are not related by blood, marriage or adoption, the unrelated individuals shall not exceed six (6) persons. This definition shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, nor group of individuals whose association temporary or seasonal in character or nature.

### Farm

All the contiguous neighboring or associated land operated as a single unit on which bonafide farming is carried on directly by the owner or by his agent or by a tenant farmer, provided that the area thereof is sufficient to constitute actual farming, and for the purpose of this Ordinance, farms may be considered as including establishments operating as bonafide greenhouses, orchards, chicken hatcheries, poultry farms, dairy farms, apiaries and nurseries and other similar activities. The words "farming" and "agriculture" shall be synonymous.

### Flashing Sign

Any sign having a conspicuous and intermittent variation in the illumination of the sign.

### Floor Area

The area of all floors computed by measuring the dimensions of the outside walls of a building. Porches, patios, terraces, breezeways, carports, verandas, garages, unfinished attics, all basements, except walkout basements, are excluded. Finished attics, lofts, balconies, half stories, or dormitories having four (4) foot side walls shall be included in the determination of floor area. Floor areas for attics, lofts, balconies, half stories, or dormitories shall be measured from those points where the four (4) foot vertical line can be drawn between the floor and the ceiling.

### Garages – Private

A detached accessory building or portion of the main building for the parking or temporary storage of automobiles, boats, trailers and similar vehicles owned and used by the occupants of the building to which it is an accessory.

Garages – Public

A building other than a private garage, used for the repair, or sales of parts for automobiles, motorcycles, snowmobiles, boats, and other similar vehicles.

Gasoline Service Station

A structure or structures and space combined, used solely for servicing motor vehicles with usual operating commodities such as gasoline, fuel oil, grease, water, batteries, tires and other minor accessories, or services such as washing, waxing and lubricating and in connection with which there is no repair or refinishing of motor vehicles, except the repair of tires, lights, charging of batteries or minor engine repairs (where engine does not require removal) and adjustments when conducted within an enclosed building shall not be excluded.

Grade

The finished surface of the ground adjacent to the exterior wall of the building or structure.

Greenbelt

A planting strip or buffer strip at least ten (10) feet in depth, composed of living deciduous and/or evergreen trees spaced not more than thirty (30) feet apart and not less than one (1) row of dense shrubs, spaced not less than five (5) feet apart and not less than five (5) feet in height. A greenbelt, as described here, is not synonymous with greenbelt zoning.

Hedge

A row of closely planted shrubs, bushes, etc., forming a boundary or fence.

Home Based Business

A business carried on either within a dwelling or an accessory structure.

Home Occupation

An occupation or profession conducted entirely within a dwelling by a member of the family residing on the premises and which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes and will not create any adverse effects.

Hotel

A building in which transient lodging or boarding and lodging are offered to the public for compensation. Boarding houses, motels, motor hotels, and apartments are excluded.

Industrial Park

A tract upon which three (3) or more industrial sites are available.

Industry

Manufacturing, fabricating activities, or other specialized industrial operations.

Inoperable Motor Vehicle

Any vehicle made to be propelled or operated by a motor or engine which is no longer in an operating condition, and which is useful only for parts.

Institutional or Public Uses

Churches, schools teaching academic subjects, hospitals, convalescent and nursing homes, parks, civic centers, libraries and other governmental structures.

Junk

Worn out and discarded material that may be returned to some use. Rubbish of any kind that may be returned to some use.

Junkyard

Any parcel of land maintained or operated for the purchase, sale, storage, dismantling, demolition or use of junk, including scrap metals, motor vehicles, machinery, buildings, structures, construction materials or other salvaged materials. Also, any premises upon which two (2) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored outside a building for a period of fifteen (15) days or more. The purchase or storage of used cars in operable condition, used or salvaged materials, used furniture and household equipment are excluded if carried on in enclosed buildings.

Lot

A parcel of land exclusive of any adjoining street which is or may be occupied by one (1) main building or use and its accessories, including the open spaces required by this Ordinance, but not necessarily conforming to the platted lot lines. The word "lot" shall include plat or parcel. Except as otherwise specified in this ordinance, Site Condominiums shall conform to all applicable regulations of this ordinance for the zone in which they are located.

Lot – Corner

A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than 145 degrees.

Lot Interior

A lot other than a corner lot.

Lot Lines

For the purpose of the Ordinance, a lot line is the boundary line between two (2) lots or the line between the properties of two (2) different owners.

Front: In the case of an interior lot, the boundary line of the lot immediately adjacent to the right-of-way which the lot fronts, and in the case of a corner lot, the front lot line shall be the boundary line of the lot immediately adjacent to the street right-of-way on that side of the lot which has the narrowest street frontage.

Rear: A lot line which is opposite and most distant from the front lot line and, in case of an irregular shaped lot, a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Side: Any boundary line not a front line or rear lot line.

Width: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

Depth: The distance between the front and rear lot lines measured in the mean direction of the side lot lines. (See Section 6.0 (d) for R-1 zoning district)

#### Lot of Record

A lot which is part of a subdivision, the map of which has been recorded in the Office of the Register of Deeds, or a lot described by metes and bounds, the deed to which has been recorded in the Office of the Register of Deeds.

#### Lot – Through

A lot, other than a corner lot, having frontage on more than one (1) street.

#### Marina

A marine facility devoted to the sale of boats and marine supplies, boat and boat slip rentals, and the repair of boats and motors.

#### Master Deed

The condominium document recording the condominium project, to which are attached, as exhibits and incorporated by reference, the bylaws for the project and the condominium subdivision plan for the project.

#### Mobile Home

Any vehicle or structure so designed and constructed that it will permit occupancy thereof as sleeping quarters for one (1) or more persons, or conduct any kind of business or profession, occupation or trade, or storage and which when manufactured has no foundation other than wheels, jacks, skirting and is so designed that it may be mounted on wheels and moved from one place to another on streets, but not including travel trailer or recreational type vehicles used for temporary seasonal travel.

#### Mobile Home Park

Any site, field or tract upon which three (3) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Public Health.

Motel

Groups of furnished rooms or separate structures providing sleeping and parking accommodations for transients. Also, commonly known as motor courts, or cabin courts.

Nonconforming Use

Any use, whether a building or other structure or a tract of land, which does not conform to the applicable use regulations for the district, either at the effective date of the Ordinance or as a result of a subsequent amendment thereto.

Open Spaces

Land not used for any of the following: Parking and/or loading spaces, road rights-of-way, building coverage.

Outlot

When included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

Owner

A person holding any legal, equitable, option or contract interest in land.

Patio

A recreational or leisure area, usually paved and unroofed, at grade level.

Persons

“Persons” includes any individual, political subdivision, estate, trust, or body of persons, whether incorporated or not, acting as a unit.

Planning Commission

The Planning Commission shall be appointed by the Township Supervisor and approved by the Township Board, and who shall make a plan for the development of the township. Such plan shall be made with the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development within the township which will be in accordance with present and future needs. The commission shall also establish zone districts and boundaries, recommend the text of the Zoning Ordinance, serve as an advisory board to the Township Board on matters involving proposed amendments, and recommend the manner of administering this Ordinance. The commission shall have all the powers and duties of the Township Zoning Board, as defined in Sections 125.271 and 125.301 of the Michigan Compiled Laws.

Porch

A roofed platform forming an entrance to a building.

Principal or Main Use

The primary or predominant use of the premises.

Public Utilities

A franchised business providing essential services to the public, including electrical, gas, cable, water, sewage and telephone.

Raft

A portable platform that floats in the water to be used for recreational purposes other than mooring boats.

Restaurant

A public eating place where food is prepared, served, and sold for compensation.

Right-of-Way

A street, alley or other thoroughfare or easement permanently established for the passage of persons, vehicles or utilities.

Sign

Any announcement, written declaration, pictorial representation, emblem, flag, illustration, insignia or any figures of similar character which is a structure or any part thereof or is attached to, painted, or in any other manner represented on a building or structure and is used to announce, direct attention to, or advertise and is visible from outside a building. Signs shall include billboards but shall not include illustrations, pictorial representations or other similar items within buildings.

Site Condominium Unit

That portion of the condominium project designed and intended for separate ownership and use, wherein the buildings and accessory structures are not physically attached to other principal or accessory structures.

Street

A public or private street, road, easement or other means of gaining access to a parcel, lot, or condominium site.

Private: A means of gaining access to two or more lots or parcels of property that will be owned and maintained by an association, individual or group of property owners that is not intended to be open to use by the general public. A private street shall contain a minimum sixty-six (66) foot right-of-way with a grade not to exceed eight (8) percent.

Public: A means of gaining access to one or more parcels of property that will be owned and maintained by the Charlevoix County Road Commission.

### Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling above it, and exclusive of any mezzanine, balcony or basement.

### Story – Half

That portion of a building between the eaves and the ridge lines of a pitched roof which may or may not be used for tenant purposes.

### Structure

Anything constructed, erected or to be moved to or from any premises which is permanently located above the ground, including signs and billboards. Satellite dishes and antenna shall be considered structures.

### Terrace

See patio.

### Telecommunication Towers and Facilities or Tower

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

### Travel Trailer

A travel trailer shall mean a mobile home which is less than ten (10) feet in width and is generally moved from location to location and is primarily used for recreation purposes.

### Travel Trailer Park

Any site, lot, field or tract upon which one (1) or more occupied travel trailers are harbored, either free of charge or for revenue purposes, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such travel trailer park, which site, lot, field or tract shall be licensed and regulated by the Michigan Department of Health.

### Vehicle Sales

An authorized dealership for the sale of vehicles with office and sales facilities on the premises. All activities or repairing, servicing and restoring shall be performed within enclosed facilities.

Yard

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the structure, including porches and decks.

Yard – Front

A yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the structure.

Yard – Rear

A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the nearest point of a structure or any projections. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard – Side

A yard between the side lot line and the nearest line of the structure and extending from the rear line of the structure to the front line of the structure.

Zoning Administrator

The administrator of this Ordinance, appointed by the Melrose Township Board of Trustees.

Zoning Permit

A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and/or land use and building or structures thereon. The granting of this permit indicates that the Zoning Administrator is satisfied that the provisions of this Ordinance have been met. "Zoning Permit" is not synonymous with "Building Permit".

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# ARTICLE IV – GENERAL PROVISIONS

## **Section 4.0 – Purpose**

General regulations apply to all districts except as noted herein. Where requirements of a general regulation and a district regulation differ, the more restrictive requirement shall prevail.

## **Section 4.1 – Application of Regulations**

Zoning affects every structure and use, and also extends vertically. Except as hereinafter provided:

- A) No building or structure shall hereafter be erected, altered or moved, nor shall any building or premises be used for any purpose other than is permitted in the district in which said building or premises are located.
- B) No building shall hereafter be erected or altered to exceed the height limitations, or occupy a greater percentage of a lot area, or intrude upon the required front yard, rear yard, side yards or inner or outer courts, or accommodate or house a greater number of families or provide less space per dwelling than is specified for the district in which such building is located.
- C) No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by expansion or acquisition of public right-of-ways for a street, road, highway or otherwise, unless authorized by other provisions of this Ordinance.

## **Section 4.2 – Lot-Building Relationship**

Hereafter, every building erected, altered or moved shall be located on a lot of record as defined herein, and except in the case of an approved multiple dwelling development, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot in any residential district.

In the Farm and Forest District (FF), two (2) dwellings may be located on a lot of record, provided that there is adequate acreage per dwelling unit to fulfill the requirement of Section 6.8 (d) 4, and further, provided that dwelling units shall be separated by a minimum of fifty (50) feet and be parallel to the front lot line.

### **Section 4.3 – Temporary Buildings**

Temporary buildings for use incidental to construction work, and all debris, shall be moved within thirty (30) days after the completion or abandonment of the work. No garage or other accessory building, trailer coach, basement, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any purpose unless authorized by the issuance of a permit by the Zoning Administrator and satisfying all of the conditions thereof.

### **Section 4.4 – Moving of Buildings**

The moving of a building to a different location shall be considered the same as erection of a new building, and all provisions, regulations or requirements relative to the erection of a new building shall be applicable thereto.

### **Section 4.5 – Razing of Buildings**

No building shall be razed until permission has been obtained from the Building Inspector. Said permission shall be conditioned on the applicant completing the razing within such reasonable time period as shall be prescribed in the permission and complying with such regulations as to health and safety as the Building Inspector may prescribe, including filling of excavations and proper termination of utility connections.

### **Section 4.6 – Yard Encroachments**

The yard requirements of all zones are subject to the following permitted encroachments:

Terraces, patios and similar structures may project into a yard as required herein, provided that such structures be unroofed and without walls or other continuous enclosures, except that porches, decks and other appurtenances shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.

### **Section 4.7 – Fences, Walls and Screens**

No fence, wall, other than a necessary retaining wall or snow fence, in season, or other screening shall be higher than three (3) feet within the required front setback in that residential district. No such fence or wall located within a rear or side yard shall exceed six (6) feet in height.

### **Section 4.8 – Intersection Visibility**

On any corner lot in any district requiring front and side yards, no structure, fence, wall, screen hedge, sign or planting shall obstruct vision between the heights of three (3) and ten (10) feet within the triangular area formed by the intersecting street right-of-way line intersecting them at points which are on said right-of-way lines and intersecting them at points which are on said right-of-way lines and thirty (30) feet distant from their point of

intersection. Such heights of clear vision areas shall be measured from the elevation of the street center lines at the point of intersection. No fence, wall, screen, hedge, sign or other structure of planting shall obstruct vision from a driveway between the heights or three (3) and ten (10) feet, measured above the elevation of the street center line, within ten (10) feet of any front property line.

#### **Section 4.9 – Through Lots**

In any district, a through lot, as herein defined, shall have a front yard, as hereinafter provided for its particular district on all frontages along each street line.

#### **Section 4-10 – Essential Services**

Essential services, as defined herein, shall be permitted as authorized and regulated by law, public policy, and specific zoning regulations in any district, it being the intention otherwise to exempt such erection, construction, alteration and maintenance from the application of this Ordinance when not in conflict with Article I of this Ordinance. When in conflict the Board of Appeals shall have the power to determine reasonable conditions under which such facilities shall be erected. Telecommunication Towers, Alternative Tower Structures and Antennas shall be regulated and permitted pursuant to the Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.

#### **Section 4.11 – Required Water Supply and Sewage Disposal Facilities**

Every building hereafter erected, altered or moved upon any premises and used in whole or in part for dwellings (year-round or seasonal), recreational, business, commercial or industrial purposes, including churches, schools and other buildings in which persons customarily congregate, shall be provided with a safe and sanitary water supply system and with means for collecting and disposing of all human excreta and of all water-carried domestic, commercial, industrial and other wastes that may adversely affect health conditions. The written approval of such facilities by the District Department of Health shall be filed with an application for a zoning permit.

#### **Section 4.12 – Dumping Rubbish and Waste Matter**

It shall be unlawful throughout the township to store, collect or place discarded building materials, refuse, junk or inoperable unlicensed motor vehicles upon land owned or occupied by any individual, or company, or public place unless such land has been designated as a solid waste disposal site by the District Department of Health.

#### **Section 4.13 – Street Closures**

Whenever any street, alley or other public right-of-way, railroad right-of-way, is vacated by official action of the appropriate agency or governmental body, the zoning district

adjoining each side of such right-of-way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.

#### **Section 4.14 – Grades**

No premises shall be filled or graded so as to discharge surface runoff on abutting premises in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

#### **Section 4.15 – Vehicle Storage**

No inoperable motor vehicle shall be stored outside an enclosed building for a period exceeding sixty (60) days except in permitted and licensed junk yards and landfills.

#### **Section 4.16 – Removal of Soil, Sand or Other Material**

The removal of soil, topsoil, or other material from the land for commercial purposes is not permitted in any zone except under a permit from the Soil Erosion Department and approval of the Planning Commission which may be denied or issued in appropriate cases upon the filing of an application accompanied by a suitable agreement or bond that such removal will not cause stagnant water to collect, or that no material shall be taken from any part of a lot within two hundred (200) feet of any road or trail traveled by the general public, or within two hundred (200) feet of an adjacent lot line, or leave the surface of the land, at the expiration of such permit, in an unstable condition or unfit for the growing of turf or for other land uses permitted in the zone in which such removal occurs. The provisions of this section shall not be construed to prohibit normal excavation or grading incidental to the construction or alteration of buildings or to affect normal farm operations.

#### **Section 4.17 – Mobile Homes**

- A. If a mobile home is designed and built for human habitation and it complies with the minimum requirements for a dwelling, it shall be so treated if it is permanently emplaced on an adequate foundation, connected to approved water and sanitary facilities, and has generally approved skirting installed.
- B. It shall be unlawful for any person to park, or cause to be parked, any mobile home or house trailer on any street, alley, highway or other public place in the unincorporated portion of the Township for storage, use as a dwelling or for overnight stops outside of a licensed mobile home park.
- C. All mobile homes or house trailers used for dwelling purposes, twenty (20) feet or more in length, shall be provided with two (2) exits spaced a sufficient distance apart to ensure a means of escape in case of fire.
- D. No mobile home or house trailer shall be parked in the front yard of any lot or parcel with an existing dwelling.

#### **Section 4.18 – Development Plan Review Requirements**

A development plan shall be required to be submitted and approved by the Planning Commission in the following instances:

- A. Any proposed use or development located in the “R-3” (Mobile Home Park District), “R-4” (Multiple Family Residential District), “B-1” (General Business District), “C-3” (Village Commercial District), or the “I” (Industrial District).
- B. All special land uses in all districts.
- C. All property proposed for development that is subject to the requirements of the Subdivision Control Act.
- D. All property proposed for development that is subject to the requirements of the Condominium Act of 1978.

#### **Section 4.19 – Greenbelts**

A greenbelt, as defined herein, shall be required for any commercial or industrial use that abuts a residential use on either the side yard or rear yard. In all instances, this may be provided as part of the side or rear yard requirements. If waived in writing by the adjacent residential property owners, the greenbelt may be omitted or a fence substituted for the greenbelt if, after public hearing and notice, the Planning Commission finds that there would be no adverse effects upon the neighboring property resulting from the waiver or omission.

#### **Section 4.20 – Shoreland Protection Strip**

No building or structure, except docks, launch ramps, pump houses (up to a maximum size of 3' X 3' X 3' tall), storm water and erosion control measures, picnic tables, benches, recreational watercraft, and stairways and walkways up to 4' wide, shall be erected within fifty (50) feet of the shoreline at normal high water level of any river, stream, creek or other body of water that is not in the Walloon Lake Shoreline Protection Overlay District. In addition, a strip of land forty (40) feet deep from the normal high water level bordering the body of water not in the Walloon Lake Shoreline Protection Overlay District shall be maintained in trees and shrubs in their natural state. Up to 20% of the trees and shrubs may be pruned, however, to afford a view of the water.

#### **Section 4.21 – Restoration of Unsafe Buildings**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector. Buildings or structures that are destroyed partially or completely by fire, wind, an act of God, or a criminal act, shall be rebuilt, restored or removed within six (6) months of the occurrence.

## **Section 4.22 – Continued Conformance with Regulations**

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking a loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or use is located.

## **Section 4.23 – Bed and Breakfast Operation**

Bed and Breakfast Operation is a use permitted in all Zoning Districts of Melrose Township as a Special Use, provided the Special Use approval shall have first been granted by the Township Planning Commission, as set forth in Article X of the Zoning Ordinance; provided:

### **A. Standards for Determination and Conditions of Operation**

In addition to the standards of determination set forth in Section 10.2 of the Zoning Ordinance, the Planning Commission shall also review the application and require compliance with the following standards prior to approval of the application:

- 1) Not more than twenty-five (25%) percent of the total floor area of the dwelling unit shall be used for transient guest sleeping rooms.
- 2) No signs shall be permitted except a single, non-illuminated sign which is attached to the residence and is not larger than two (2) square feet.
- 3) All cooking facilities shall be confined to the owner's single kitchen. There shall be no cooking facilities in the guest rooms. No meals shall be provided to any person who is not a guest in one of the sleeping rooms.
- 4) The operation shall be carried on wholly within the principal building.
- 5) The use is clearly incidental and subordinate to the principal use of the premises for residential purposes.
- 6) Does not involve alteration or construction not customarily found in residential dwellings. The structure must maintain the appearance of a single-family residence.
- 7) A single off-street parking area shall be provided for the occupants, with at least one (1) parking space for each sleeping room provided for transient guests, in addition to the two (2) parking spaces for the owners.
- 8) The dwelling unit shall be the principal residence and owned by the manager, and the manager shall live on the premises when the Bed and Breakfast Operation is active.

- 9) No outside employees other than residents of the dwelling unit will be permitted.
- 10) No retail or wholesale sales shall be permitted.
- 11) The number of bedrooms for transient guests shall not be increased without further application and approval of the Planning Commission.
- 12) The Planning Commission shall limit the number of Bed and Breakfast Operations permitted in any neighborhood area so that no such operation shall be located within five hundred (500) feet of the property line of an existing Bed and Breakfast Operation.
- 13) The maximum stay for any guest of the Bed and Breakfast Operation shall be fourteen (14) days.
- 14) The operation shall comply with all requirements of Section 12901 of Act No. 368 of the Public Acts of 1978, as amended by Act No. 111 of the Public Acts of 1987.

B. Approval

- 1) A minimum of one (1) public hearing shall be held by the Planning Commission.
- 2) All of the provisions of Article X of this Ordinance shall apply.
- 3) The Special Use Permit shall be issued, provided that the applicant can meet all requirements of this Ordinance, any applicable local, state or federal regulation, and agrees in writing to operate the property pursuant to the requirements of Section 4.23, subsection (a) (1) through (14) and other conditions imposed by the Planning Commission. All permits shall expire on June 1<sup>st</sup> of each year unless renewed as provided herein.
- 4) The Planning Commission may impose additional conditions pursuant to Section 10.3, including the right to compel installation of such safety measures as it shall deem advisable, however, the Township shall have no obligation or liability in connection therewith.

C. Application and Fees

- 1) The application and annual fees for a Bed and Breakfast Operation shall be established by the Melrose Township Board. Fees shall be payable for the whole or any part of a calendar year and shall be paid at the Township offices. Applicants for a Special Use Permit to operate a Bed and Breakfast shall complete and submit an application to the Zoning Administrator. The applicant shall also submit the following drawings in addition to complying with the applicable requirements of Section 4.18 of the Ordinance.
  - a) A floor plan of the entire structure showing the present and proposed use of each room in the structure, designating the bedrooms for the transient guests.

- b) Lot size, showing other exterior buildings, and parking.
- c) Total occupancy for transient guests requested.

D. Permit Renewal

The Township Zoning Administrator may renew the permit for any Bed and Breakfast Operation after payment of the annual fee, provided that the licensed operation shall meet the following conditions:

- 1) Annual Inspection: The Bed and Breakfast Operation shall meet all conditions of Section 4.23 of this Ordinance as confirmed by an annual inspection of the premises by the Zoning Administrator.
- 2) Lapse of Permit: The permit for the Bed and Breakfast Operation shall not have lapsed for more than thirty (30) days beyond the June 1<sup>st</sup>, annual expiration date.
- 3) Lapse of Operation: The active operation of the Bed and Breakfast shall not have lapsed for more than nine (9) months.

E. License Transfer

A Bed and Breakfast Permit may be renewed only as provided in sub-section (D) of this Ordinance. Such permit shall not be transferable to any property other than the property for which it was approved.

F. Suspension or Revocation

- 1) Any Special Use Permit granted by the Planning Commission for the use of a residence as a Bed and Breakfast Operation shall be subject to future review by the Planning Commission at any time, upon petition for review submitted by the Zoning Administrator and following public hearing thereon by the Planning Commission.
- 2) Any refusal by the Zoning Administrator to renew a Special Use Permit may be appealed to the Planning Commission.
- 3) The Township Planning Commission shall have the authority to refuse to renew a Special Use Permit, or suspend or revoke a permit, for violation of the provisions of this Ordinance or of the permit. Any permit issued under the provisions of this Ordinance may be revoked by the Planning Commission for good cause shown after investigation and opportunity to the holder of such permit to be heard in opposition thereto. In such investigation and review, the Planning Commission shall consider compliance or non-compliance with State Law and Local Ordinances, the conduct of the licensee in regard to the public, if the use offends or interferes with safety or rights of others so as to constitute a public nuisance, and if the operation of the establishment complies with the standards set forth in Section 10.2 and 4.23 of the Zoning Ordinance.

**Section 4.24 – Land Division and Property Reconfigurations**

This section was repealed on 11/09/2021

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**Section 4.25 – Lot Creation**

All lots hereafter created shall be of sufficient size and configuration to meet the requirements of the zone district in which they are located, including but not limited to lot size and road frontage.

**Section 4.26 – Lot and Building Site Creation.**

All lots or condominium building sites proposed to be created which are subject to the provisions of the Subdivision Control Act or the Condominium Act shall require development plan approval pursuant to the requirements of Article XI.

**Section 4.27 – Site Condominium Unit Creation**

All site condominium building sites hereafter created may be smaller in size and other lot configuration requirements, than those normally required within a district provided all the following conditions are met:

- A. The sites created are adequate to meet the local health department requirements for onsite septic and water requirements.
- B. The homes are situated such that they take maximum advantage of the site conditions to ensure privacy (utilizing existing vegetation and topography) when reasonably possible.
- C. The overall density (ratio of homes/acre) of the development is not greater than the zoning district in which it is located permits.
- D. A minimum of 40% of the development must be retained as permanent open space. Open space may not include lands used for parking and loading spaces, public road right of ways, and building coverage.

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## **Section 4.28 – Permitted Uses**

The following uses are specifically permitted in any zone:

- (1) Telecommunication Towers and Alternative Tower Structures located on property owned, leased or otherwise controlled by Melrose Township provided a license or lease authorizing such Telecommunication Tower or Alternative Tower Structure has been approved by Melrose Township.
- (2) Antenna collocated on Telecommunications Towers or Alternative Tower Structures which have received a special use permit which included review of the standards set forth in section 10.7(A)(1) of this Ordinance.

## **Section 4.29 – Home Occupation**

- A. Home Occupation Approval Procedure: Home occupations may be approved in any zoning district where a single-family home is the principle or main use on the property. A zoning permit is required for the approval of home occupations. The Zoning Administrator shall determine the use meets the following requirements before issuing the permit:
1. Any structural additions to the home for purposes of operating said occupation shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the occupation is discontinued.
  2. Only the occupant or family living on the premises shall conduct the home occupation and no off-premises person(s) shall be employed in connection with the home occupation.
  3. The home occupation shall operate only in an occupied residence.
  4. The home occupation shall not conflict with the residential character of the neighborhood and surrounding area, including the type of use proposed, hours of operation, and/or number of vehicles attracted to the site.
  5. The parking, traffic, or loading demands shall be in accordance with the carrying capacity of the property, serving streets, and utilities.
  6. The home occupation shall not create any adverse effects including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards and the like, involved in or resulting from such occupation.
  7. The home occupation shall not openly display goods, materials, or services used

in connection with the home occupation

8. The services and/or products produced will be contained entirely within the dwelling.
  9. There shall be no visible evidence of the conduct of such home occupation other than one non-illuminated sign, not exceeding two square feet in area, and mounted flat against the wall of the building in R-1 and R-2 districts, and not exceeding twelve square feet in area in the Farm and Forest District.
- B. Home occupations shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.
- C. Any approved home occupation shall be subject to inspection by the Melrose Township Zoning Administrator with reasonable notice to the homeowner.

#### **Section 4.30 – Home Based Business**

- A) All zoning applications for special use approval of home based businesses shall include the following information:
- 1) A written description of the nature of the business.
  - 2) Number and type of vehicles involved.
  - 3) Hours of operation.
  - 4) Location of off-street parking for patrons and persons engaged in business.
  - 5) Number of employees and the names of the occupants or family member conducting business at the location.
  - 6) Amount and type of waste products or effluent discharges (if any).
  - 7) Noise level and types involved.
  - 8) Any other potentially identifiable adverse effects, including any conditions resulting from the services and/or products being created which generate noise, noxious odors, unsanitary or unsightly conditions, excessive traffic, fire hazards and the like, involved in or resulting from such occupation.
- B) Once the Zoning Administrator receives a complete application, that official will forward a copy of the complete site plan to the Planning Commission for consideration.
- C) Any approved home occupation shall be subject to an inspection by the Melrose

Township Zoning Administrator with reasonable notice to the proprietor of the business.

- D) Home based businesses shall only be approved on the basis of individual merit and will adhere to the use and any special conditions stated on the permit.
- E) Home based businesses shall be a use allowed by Special Use Permit in FF: Farm and Forest, R-1: Lake & Stream Single-Family Residential, and R-2: Single Family Residential Zoning Districts pursuant to the procedures in Article X of this ordinance. The business shall be in compliance with the general standards of section 10.2 and the following specifications:
  - 1) Any structural additions to the home for purposes of operating said business shall be of an architectural style that is comparable with the architectural style of the existing home, or surrounding homes, and further, is designed so that the addition can readily be used for housing purposes if the business is discontinued.
  - 2) The proprietor of the home based business shall live on the premises and shall remain so during the entire life of the business. In the R-1 district, only occupants or family members living on the premises may work in the business. In the R-2 district, up to two persons not residing on the premises may work in the business. In the Farm and Forest District, up to four persons not residing on the premises may work in the business.
  - 3) All activities shall be conducted within the dwelling or accessory building and the services and/or products produced will be contained entirely within the dwelling or accessory building.
  - 4) If an accessory building is to be used, it must be identified on the special use permit. A site plan layout is required and shall depict the accessory building to be sited, designed, and located on the property in such a manner as to avoid the appearance of a retail store or industrial building.
  - 5) Any accessory building space for home based business shall not exceed a total floor area of 600 square feet in R-1 and R-2 Districts and 1,200 square feet in the Farm and Forest District.
  - 6) The Accessory building shall meet all setback requirements of the district in which the business is located.
  - 7) No more than 25% of the floor area of the dwelling shall be devoted to such home based business.
  - 8) The Planning Commission may set other conditions on the special use permit, including hours of operation, as authorized by Section 10.3.

- 9) There shall be no outdoor storage or display of materials, goods, or services in connection with a home based business.
- 10) Signage indicating the type of home based business or advertising for the home based business will be limited to one, non-illuminated sign not to exceed the square footage requirements outlined in Section VII of this ordinance (pertaining to the sign type) in the R-1 and R-2 Districts, and twelve (12) square feet in the A District. The non-illuminated requirement in this section supersedes the illumination options described in Section VII

#### **Section 4.31 Wind Energy Systems (WES's)**

**A. Definitions** – For purposes of this section, the following definitions shall apply:

ANEMOMETER TOWER or MET means a freestanding meteorological tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a WIND ENERGY SYSTEM.

AMBIENT means the sound pressure level exceeded 90% of the time or L90.

ANSI means the American National Standards Institute.

dB(A) means the sound pressure level in decibels. It refers to the “a” weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear

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

HAWT means a horizontal axis wind turbine tower or building mount; one type of WIND ENERGY SYSTEM. See also VAWT.

IEC means the International Electrotechnical Commission.

ISO means the International Organization for Standardization.

LEASE UNIT BOUNDARY means boundary around property leased for purposes of a Wind Energy System, including adjacent parcels to the parcel on which the Wind Energy System tower or equipment is located. For purposes of setback, the Lease Unit Boundary shall not cross road rights-of-way.

ON-SITE WIND ENERGY SYSTEM means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.

ROTOR means an element of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

SHADOW FLICKER means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as but not limited to a window at a dwelling.

SOUND PRESSURE means an average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

SOUND PRESSURE LEVEL means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).

UTILITY GRID WIND ENERGY SYSTEM means a land use designed and built to provide electricity to the electric utility grid by use of wind and includes accessory uses such as but not limited to an ANEMOMETER TOWER, electric substation, and related appurtenances.

VAWT means a vertical axis wind turbine tower or building mount; one type of WIND ENERGY SYSTEM. See also HAWT.

WIND ENERGY SYSTEM (WES) means a land use for generating power by use of wind; use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also ONSITE WIND ENERGY SYSTEM and UTILITY GRID WIND ENERGY SYSTEM.

WIND SITE ASSESSMENT means a land use using a MET or ANEMOMETER TOWER to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

**B. Wind Energy Systems (WES's or WES singular) and wind site assessment systems may be located and permitted only if all of the following standards are complied with:**

1. **Planning Commission Review.** The Planning Commission shall review all applications for Wind Energy Systems and Wind Assessment Systems. Notification of the review shall be sent to all property owners within 300' of the property boundary where the WES and/or Wind Site Assessment System is proposed.
2. **Minimum Site Area.** The minimum site area for a WES shall be as necessary to meet required setbacks and any other applicable standards of this ordinance.
3. **Setbacks.** All WES's and Wind Site Assessment Systems shall be setback a distance equal to one and one-half times the height of the WES from the owner's property line (for on-site WES's) or from the property lines of adjacent non-leased properties including public rights-of-way (for utility grid WES's).
4. **Maximum Height.** The maximum height for On Site WES's and Wind Site

Assessment Systems shall be sixty (60) feet from the ground to the top of the blade or tower, whichever is greater. The Planning Commission, following a duly noted Public Hearing and notification of every land owner within 300' of the parcel where the WES or Wind Site Assessment system will be located, may approve an increased height for On Site WES's and Wind Site Assessment Systems not to exceed one hundred (100) feet, if all of the following conditions are met:

- a. The increased height will result in the preservation of a substantial stand of trees, existing land forms or structures that would otherwise be removed to increase wind velocity and/or reduce turbulence.
- b. The increased height is the minimum necessary to achieve a reasonable rate of return on the operation of the WES given the documented wind speeds and other site conditions. A reasonable rate of return is not equivalent to maximizing economic return to the operator. The Planning Commission shall not grant the increased height if economic return is not met due to the use of inefficient equipment that does not utilize current commercial technologies.
- c. The increased height will not result in increased intensity of lighting on the tower due to FAA requirements.

On-site WES or Wind Assessment System over one hundred (100) feet in height shall require a Special Use Permit according to Section 10 of this zoning ordinance, the system shall be treated as a Utility Grid System, and shall follow all requirements of Section 10.8.

The maximum height for Utility Grid WES's and Wind Assessment Systems shall be as described in Section 10.8, sub 8, "Height for Utility Grid System(s)"

5. **Minimum Rotor Wind Vane or Blade Clearance**. The lowest point of the arc created by rotating wind vanes or blades on a Wind Energy System shall be no less than sixteen (16) feet. Additional clearance may be required by the Planning Commission if potential safety concerns are identified.
6. **Maximum Noise Levels**. Any proposed Wind Energy System shall produce sound pressure levels that are no more than fifty-five (55) decibels as measured on the dB (A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES.
7. **Maximum Vibrations**. Any proposed Wind Energy System shall not produce vibrations humanly perceptible beyond the property on which it is located.
8. **Transmission Lines**. The on-site electrical transmission lines connecting the Wind Energy System to the public utility electricity distribution system shall be located underground.

9. **Interference with Commercial/Residential Reception.** Any Wind Energy Systems shall be constructed and operated so that they do not interfere with television, microwave, navigational or radio reception to neighboring areas.
10. **Landscaping.** Existing natural land forms on the site which effectively screen the base of the WES from adjacent property used for residential purposes shall be preserved to the maximum extent possible.
11. **State or Federal Requirements.** Any proposed Wind Energy System or anemometer tower shall meet or exceed any standards and regulations of the FAA, the Michigan Public Service Commission, National Electric Safety Code, and any other agency of the state or federal government with the authority to regulate Wind Energy Systems or other tall structures in effect at the time the permit is approved.
12. **Safety.** All WES's shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All WES's shall have lightning protection.
13. **Visual Impact.** All WES's shall meet the following requirements:
  - a. Each WES shall either be white or maintain a galvanized steel finish.
  - b. Each WES shall be sited on the property in a location that reduces to the maximum extent possible any adverse impacts on significant view corridors from adjacent properties, while at the same time maintaining contact with economically viable wind resources.
  - c. Each WES, except for anemometer towers, shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. Anemometer towers may, for up to 3 years, be lattice type towers and may use guy wires.
14. **New Technology.** These regulations pertaining to WES's are intended to respond to equipment available at the time of adoption. Melrose Township recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis Wind Energy Systems, are under development. Melrose Township, therefore, reserves the right to withhold approval on any Wind Energy System or anemometer tower utilizing technology and equipment not widely in use as of August 22, 2009 and not addressed in this ordinance, pending appropriate study and, if necessary, alteration of these regulations.
15. **Shadow Flicker.** The facility shall be designed such that shadow flicker will not fall on, or in, an existing off-site dwelling. Shadow flicker expected to fall on a roadway or a portion of a residential parcel may be acceptable under the following circumstances:
  - a) The flicker will not exceed 30 hours per year; and
  - b) The flicker will fall more than 100 feet from an off-site residence; and

- c) The traffic volumes are less than 500 vehicles per day on the roadway as determined by either the County Road Commission or the Michigan Department of Transportation.
- 16. **On-site use WES's** On site WES's are intended to primarily serve the needs of the consumer on the site of the WES. If the total height exceeds one hundred (100) feet, a Special Use Permit is required following the procedures of Section 10 of this Zoning Ordinance.
- 17. **Utility Grid WES's** Utility Grid WES's are designed and built to provide electricity to the electric utility grid. Utility Grid WES's shall be considered a Special Land Use and require a Special Use Permit according to Section 10 of this zoning ordinance.

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# ARTICLE V – ESTABLISHMENT OF ZONING DISTRICTS

## **Section 5.0 – Zoning Districts**

In order to regulate and restrict the location, erection, alteration or use of buildings, structures or land, and to carry out the purposes of this Ordinance, Melrose Township is hereby divided into the following zoning districts.

R-1 – Single Family Residential District, Lake and Stream

R-2 – Single Family Residential District

R-3 – Mobile Home Park Residential District

R-4 – Multiple Family Residential District

B-1 - General Business District

C-3 – Village Commercial District

I - Industrial District

FF - Farm and Forest District

CR - Forest Reserve District

RR – Rural Residential Conservation Design District

SP – Shoreline Protection Overlay District

## **Section 5.1 – Zoning Districts Map**

The locations and boundaries of these districts, so established, are bounded and defined as shown on the map, entitled “Melrose Township Zoning District Map” which accompanies and is hereby declared to be a part of the ordinance with the same force and effect as if the districts shown thereon were fully set forth by metes and bounds herein. A current and up to date Melrose Township Zoning District Map, with all amendments noted, shall be kept on file in the office of the Melrose Township Board and the Charlevoix County Planner, and these maps shall be the final authority as to the current zoning status of the land, buildings and other structures in Melrose Township.

### **Section 5.2 – Interpretation of Zoning District Boundaries**

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the Zoning District Map, the following rules shall apply:

- A) Where district boundaries are indicated as approximately coterminous with street or highway centerlines or right-of-way lines, such centerlines or right-of-way lines shall be construed to be said boundaries.
- B) Where district boundaries are indicated as approximately coterminous with platted lot lines, section lines, quarter section lines, or other survey lines, such lines shall be construed to be said boundaries.
- C) Where district boundaries are indicated as approximately parallel to street or highway centerlines or right-of-way lines, or to section lines, quarter section lines or other survey lines, such boundaries shall be construed to be parallel thereto and at such distance there from as indicated on the Zoning District map.
- D) Where the boundary of a district follows a railroad line, such boundary shall be coterminous with the centerline of the main track of said railroad line.
- E) Where the boundary of a district follows the shoreline of a stream, lake or other body of water, the boundary line shall be interpreted as following such shoreline and in the event of change in shoreline shall be construed as moving with said shoreline.

### **Section 5.3 – Areas Not Included Within A District**

In every case where property has not been specifically included within a district, such property shall be in the FF – Farm and Forest District.

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# ARTICLE VI – ZONING DISTRICT REGULATIONS

## **Section 6.0 – R-1, Single Family Residential District, Lake & Stream**

- A) **PURPOSE** – The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal systems. This zone district is intended to encourage the proper development of lands along the shores of Walloon Lake and other water-bodies within the township, to avoid pollution of these water-bodies and to preserve the natural resources of the township.
- B) **USE REGULATIONS** – Land and/or Buildings in the R-1 Zoning District may be used for the following purposes only:
- 1) One (1) single family dwelling on each lot.
  - 2) Docks, boat landings and similar structures are permitted as accessory structures subject to the regulations provided in this Ordinance and subject to regulations enforced by the State of Michigan.
  - 3) Boat docks shall not exceed one (1) per one hundred fifty (150) feet of lot width at the shore. The location of any dock must respect adjoining property uses.
  - 4) Not more than three (3) motor powered crafts shall be moored per one hundred fifty (150) feet of lot width.
  - 5) Only one (1) raft will be allowed per one hundred fifty (150) feet of lot width.
  - 6) Other accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off-street parking and loading spaces, as required by Article VIII, and signs, as regulated by Article VII of this Ordinance.
  - 7) If a lakefront park or playground is being developed as part of a subdivision or plat, a minimum of thirty (30) feet of usable shoreline per off-lake lot shall be used as a guideline.
  - 8) Special uses that may be authorized in this district include the following, provided that an application is submitted for a Special Use Permit and is approved in accordance with procedures, provisions and standards of Article X of this Ordinance.
    - a) Parks, playgrounds and recreational facilities owned and operated by a governmental agency or non-profit group.

- (1) Camping is not permitted except as an accessory function of a resort complex.
- (2) Vehicle parking is permitted only as necessary for reasonable access to the location.
- (3) Plans for permanent recreational apparatus must be shown on the site plan.
- (4) All uses will be compatible with the Township Comprehensive Plan and adjacent property uses. Therefore, additional limitations may be imposed.

C) **HEIGHT REGULATIONS** – No building shall exceed thirty-five (35) feet or two and one half (2 ½) stories in height, whichever is less.

D) **AREA REGULATIONS** – No building or structure shall be hereafter erected, altered or enlarged unless the following yards and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

- 1) **Front Yard** – The front lot line shall be the waterfront boundary line, and there shall be a front yard of not less than fifty (50) feet in depth.
- 2) **Side Yard** – There shall be a side yard of not less than fifteen (15) feet excepting the street side of a corner lot on which not less than a thirty-five (35) foot side yard shall be required and maintained. If a lot's width is less than the required minimum, this side yard requirement shall be reduced to the percentage of a lot's actual size to required size, subject to a minimum side yard of ten (10) feet.
- 3) **Rear Yard** – There shall be a rear yard of not less than thirty-five (35) feet. If a lot's depth is less than two hundred (200) feet, this rear yard requirement shall be reduced to the percentage of a lot's actual depth to two hundred (200) feet, subject to a minimum rear yard of twenty (20) feet.
- 4) **Accessory Buildings** – If the accessory building does not exceed eighteen (18) feet in height, there shall be a rear and side yard of not less than ten (10) feet; a front yard of not less than twenty (20) feet if the front is facing a road; and a front yard of not less than fifty (50) feet if the front is facing a body of water. For accessory buildings over eighteen (18) feet in height, setbacks shall be as stipulated in item 1), 2), and 3) above.

5) **Lot Area** – The minimum lot area for use in this zone district shall be twenty thousand (20,000) square feet and a minimum width of one hundred (100) feet at the front lot line (on the water) and a one hundred (100) foot lot width at the building line.

E) **Floor Area Regulations** – Each dwelling unit in this zoning district shall have a minimum of one thousand (1,000) square feet of usable floor area exclusive of porches, garages, basements and utility areas if a one (1) story building; one thousand two hundred (1,200) square feet if a one and one half (1 ½) story building, or one thousand four hundred (1,400) square feet if a building of two or more stories.

F) **Other Development Regulations**

- 1) Docks, boat landings and similar structures shall comply with the side yard requirements of the R-1 Zoning District and shall not be longer than is required to reach a water depth of six (6) feet at normal low water.
- 2) No subsoil footing drain system shall empty directly into any water body.
- 3) Any fill material used shall be of sand or gravel or other pervious material and shall not be allowed to enter the water by erosion or mechanical means.
- 4) The developer or builder shall be required, where possible, to ensure that new or altered structures in the zoning district will not be damaged by flooding or flood hazards and that excessive soil erosion, adverse changes in the natural drainage courses, or unnecessary destruction of natural features will be avoided, or remedies will be provided.

**Section 6.1 – R-2, Single Family Residential District**

A) **PURPOSE** – The purpose of this district and its accompanying regulations is to provide for a stable and sound residential environment on lots of sufficient area to accommodate the safe and healthful use of on-site water and waste disposal systems.

B) **USE REGULATIONS** – Land and/or buildings in the R-2 Zoning District may be used for the following purposes only:

- 1) One (1) single family dwelling on each lot.
- 2) Parks and playgrounds, libraries, fire stations, community centers and other public buildings owned and operated by a governmental agency or a non-profit neighborhood group.

- 3) Golf courses, country clubs, tennis clubs, and other related athletic clubs, when operated as part of a development, fifty (50) foot landscaped side and rear yards are required.
- 4) Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off street parking and loading spaces as required by Article VIII and signs as regulated by Article VII of this Ordinance.
- 5) Special uses that may be authorized in this district include the following, provided that an application is submitted for a special use permit and is approved in accordance with the procedures, provisions and standards of Article X of this Ordinance. Home Occupations, Religious Institutions, Cemeteries, Hospitals and other Institutions for Human Care, and Public Utility Buildings.
- 6) Accessory Dwelling Unit (ADU) that shares a common wall with the primary dwelling on a single zoning lot subject to the following:
  - a) A maximum of one ADU is allowed. Properties with two dwellings or more on the property shall not be permitted an ADU.
  - b) An ADU shall not be used for tourist lodging.
  - c) The floor area of the ADU shall not exceed 780 sq. ft.
  - d) The ADU shall not have more than two (2) bedrooms.
  - e) A minimum of two conforming off-street parking spaces are required on the property.
  - f) The property owner shall occupy either the primary or accessory dwelling.
  - g) All sanitary code permits shall have been obtained for the main use and for the ADU.
  - h) The addition of an ADU to the principal dwelling shall be designed so that the appearance of the building remains that of a single family dwelling.
  - i) The accessory dwelling unit shall not be condominiumized or sold separately from the primary use.
  - j) No more than 40% of the lot shall be covered with impervious surfaces.
  - k) Driveway ingress and egress shall be shared.
  - l) A Declaration of Covenants, Conditions, and Restrictions shall be filed with the Charlevoix County Register of Deeds which includes the restrictions identified in "a" thru "k" above, prior to issuance of a Township Zoning Permit for this use.
  - m) A copy of the recorded document from l. above shall be provided to the Zoning Administrator prior to issuance of a Township Zoning Permit for this use.

- C) **HEIGHT REGULATIONS** – No building shall exceed thirty five (35) feet or two and one half (2 ½) stories in height, whichever is less.
- D) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot area requirements are provided and maintained in connection with such building, erections, alteration or enlargement.
- 1) **Front Yard** – There shall be a front yard of not less than thirty five (35) feet.
  - 2) **Side Yard** – There shall be a side yard of not less than ten (10) feet on each side of any dwelling or accessory structure, except on the side street of a corner lot where a thirty five (35) foot side yard shall be provided and maintained.
  - 3) **Rear Yard** – There shall be a rear yard of not less than thirty five (35) feet.
  - 4) **Accessory Buildings** – If the accessory building does not exceed eighteen (18) feet in height, there shall be a rear and side yard of not less than ten (10) feet; a front yard of not less than twenty (20) feet if the front is facing a road; and a front yard of not less than fifty (50) feet if the front is facing a body of water. For accessory buildings over eighteen (18) feet in height, setbacks shall be as stipulated in item 1), 2), and 3) above
  - 5) **Lot Area** – The minimum lot area for uses in this zoning district shall be fifteen thousand (15,000) square feet with a minimum width of one hundred (100) feet at the front lot line. If lands proposed for subdivision are zoned R-2 and the developer does not propose to provide at least ten (10) percent of the gross acreage for community parks within the subdivision, the minimum lot area for the subdivision shall be twenty thousand (20,000) square feet with a minimum width on one hundred (100) feet at the front lot line.
- E) **FLOOR AREA REGULATIONS** – Each dwelling unit in this zoning district shall have a minimum of seven hundred eighty (780) square feet of usable floor area exclusive of porches, garages, basements and utility areas if a one (1) story building, one thousand (1,000) square feet if a one and one half (1 ½) story building, or one thousand two hundred (1,200) square feet if a building of two or more stories.

### **Section 6.2 – R-3, Mobile Home Park Residential District**

- A) **PURPOSE** – The purpose of this district and its accompanying regulations is to provide for a stable and sound environment for mobile home residential development. This zone district will be established only upon approval of an

application from the owner of the property proposed for a mobile home park. Establishment of this zone district shall follow the provisions of Article IV, Section 4.18 of this Ordinance. There is no intention to promote, by these regulations, a zoning district of lower quality and desirability than in the R-1 Zoning District, although a higher density is permitted.

**B) USE REGULATIONS** – Land and/or buildings in the R-3 Zoning District may be used for the following purposes only:

- 1) Mobile home parks provided that all state regulations governing mobile home parks and the following requirements are met:
  - a) Each park shall be in single ownership and shall contain a minimum land area of ten (10) acres.
  - b) All mobile home parks must maintain a one hundred (100) foot landscape setback from any public street that borders the park boundaries, and fifty (50) foot minimum landscaped rear and side yards shall be provided and maintained adjacent to any adjoining properties.
  - c) All public and private utilities shall be installed underground.
  - d) Each park shall have a minimum of two (2) access streets entering a public roadway with no ingress or egress to or from a local street.
  - e) All streets within a mobile home park shall be blacktopped or paved with the provision of a forty (40) foot right of way for one-way streets and a fifty (50) foot right of way for two way streets. A minimum roadway of twenty (20) feet shall be provided, exclusive of parking.
  - f) All property in any mobile home park shall be graded so as to be well drained, and a means of conveying storm water away from structures and streets shall be provided.
  - g) Off street parking shall be provided.
  - h) At least ten (10) percent of the park area (gross acres) shall be retained for common recreation purposes.
  - i) Health Department and Michigan Mobile Home Commission approval of the proposed park must be obtained, and evidence of such approval must be submitted with the application for a zoning permit.
  - j) Buildings housing laundry facilities, offices, rest room or shower facilities or a pool for the exclusive use of the residents of the park may be permitted as an accessory use.
  - k) A development plan shall be submitted for each mobile park in

accordance with Article IV, Section 4.18 of this Ordinance.

- l) Paving, utility installation, recreation areas, and similar park requirements may be developed in phases or stages. The developer shall inform the Planning Commission of proposed staging of the development.
- C) **HEIGHT REGULATIONS** – No building shall exceed thirty-five (35) feet or two and one half (2 ½) stories in height, whichever is less.
- D) **AREA REGULATIONS** – No building or structure shall be hereafter erected, altered or enlarged or mobile home located in this zoning district unless the following yards and lot area requirements are provided and maintained in connection with such building, structure, or enlargement.
  - 1) **Front Yard** – There shall be a minimum front yard of twenty (20) feet.
  - 2) **Side Yards** – There shall be side yards of not less than ten (10) feet excepting the street side of a corner lot where a twenty (20) foot side yard shall be required and maintained.
  - 3) **Rear yard** – There shall be a minimum rear yard of twenty (20) feet.
  - 4) **Lot Area** – There shall be a minimum lot area of five thousand (5,000) square feet with a minimum width of fifty (50) feet.
- E) **FLOOR AREA REGULATIONS** – Each dwelling unit in this zoning district shall have a minimum of six hundred (600) square feet of usable floor area exclusive of porches, garages, basements and utility areas.

### **Section 6.3 – R-4, Multiple Family Residential District**

- A) **PURPOSE** – This zoning district is provided to encourage the development of a sound and stable environment of multiple family dwelling units. This zone district will be established only upon approval of an application from the owner of the property proposed for a pre-planned apartment, garden apartment or condominium apartment complex. Establishment of this zone district shall follow the provisions of Article IV, Section 4.18 of this Ordinance.
- B) **USE REGULATIONS** – Land and/or Buildings in the R-4 Zoning District may be used for the following purposes only:
  - 1) Multiple family dwellings as defined herein.

- 2) Two (2) family dwelling units.
  - 3) Playgrounds, parks, tot lots, open spaces and other recreational uses, either enclosed or in the open, for the use of occupants only.
  - 4) Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off street parking and loading spaces, as required in Article VIII, and signs as regulated in Article VII of this Ordinance.
- C) **HEIGHT REGULATIONS** – No building shall exceed thirty five (35) feet or three (3) stories in height, whichever is less.
- D) **AREA REGULATIONS** – No building or structure shall be hereafter erected, altered or enlarged, unless the following yards and lot area requirements are provided and maintained in connection with such construction, alteration, or enlargement for multiple family residential development.
- 1) **Front Yard** – Where it is the intention of the developer to utilize the front yard area for parking, there shall be a setback from the right of way of each street on which the R-4 Zoning District abuts of a least seventy five (75) feet, the front twenty five (25) feet of which shall be landscaped. Where the front yard setback area is not used for parking, there shall be a setback from the right of way of all street on which the R-4 Zoning District abuts of forty (40) feet, the total of which shall be landscaped.
  - 2) **Side and rear Yards** – There shall be a minimum side yards and rear yard of thirty (30) feet, except where the subject property abuts any Farm and Forest or single-family zoning district in which case side yards and rear yards shall be forty (40) feet.
- E) **DENSITY REGULATIONS** – No land shall hereafter be used in this zone district unless the following density regulations are followed and maintained.
- 1) Not more than four (4) dwelling units per gross acre shall be permitted in this zone district, except as otherwise herein proved.
  - 2) There shall be a minimum of fifty (50) percent of the gross area of the proposed R-4 Zone District maintained as open space or non profit recreational uses.
  - 3) Density bonuses will be allowed provided the developer follows the accompanying schedule:

<u>Open Space</u> *	<u>Density</u> **
50%	4 Units per acre
55%	6 Units per acre
60%	8 Units per acre
70%	10 Units per acre

\*Percent of Gross Acreage

\*\* Units/Gross Acre

- 4) In the process of determining the usable gross acreage in a particular R-4 project, the developer shall not consider the following:
  - a) Lands having a slope greater than twenty (20) percent (twenty (20) feet of vertical fall in one hundred (100) lineal feet).
  - b) Lands having a ground water table four (4) feet or less from the surface.
  - c) Lands covered by water.
  - d) Lands currently being utilized as a powerline or gasline right of way, or dedicated as some other type of right of way.
  
- F) **FLOOR SPACE REGULATIONS** – Each dwelling unit in this Zone District shall have an average floor area of seven hundred twenty (720) square feet of usable floor area exclusive of porches, patios, garages, basements and utility areas. If the developer proposes a mixture of units having differing floor plans, a minimum floor space of six hundred (600) square feet shall be maintained.
  
- G) **OTHER DEVELOPMENT REGULATIONS**
  - 1) The horizontal distance measured in feet between parallel or nearly parallel elements of buildings forming courts and courtyards shall be not less than twice the height of the taller building measured in feet.
  - 2) Not less than two (2) off street parking spaces shall be required for each dwelling unit. Such parking shall be so placed as not to interfere with any recreation or service area and shall not be less than twenty five (25) feet from any property lines or street right of way lines.
  - 3) All areas provided for use by vehicles shall be surfaced with bituminous asphalt, concrete or similar materials.

- 4) Areas for loading and unloading delivery trucks and other vehicles and for refuse collection service, fuel and other services shall be provided and shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of access ways or automobile parking facilities.
- 5) Provisions shall be made for safe and efficient ingress and egress to the public streets and highways servicing the R-4 Zoning District without undue congestion or interference with normal traffic flow.
- 6) All buildings within the Zoning District shall be served by an approved sanitary sewage disposal system and an approved water supply system. Approvals shall be obtained from the District Health Department. All utility lines (power, telephone, water, gas, cable TV) serving the R-4 Zoning District shall be placed underground.
- 7) The developer shall be required, where possible, to preserve or incorporate natural features such as woods, streams and open spaces which add to the overall development of the area.
- 8) The developer shall be encouraged to give consideration to the provision of community areas, laundry facilities, playground and tot lots, and other services necessary for the comfort and convenience of R-4 residents.
- 9) A development plan shall be submitted for each multiple family development or other permitted use in the R-4 Zoning District in accordance with Article IV, Section 4.18 of this Ordinance, and said plan shall indicate or illustrate how the requirements of this section are being met

### **Section 6.4 – B-1, General Business District**

- A) **PURPOSE** – This Zoning District is designed to provide sites for diversified business types that are located so as to serve tourists and passer-by traffic or to provide for the establishment of neighborhood shopping areas, personal services and professional office areas that are compatible with and of service to township residential uses.
- B) **PERMITTED USES**– Land and/or buildings in the B-1 Zoning District may be used for the following purposes only:
  - 1) Any generally recognized retail business which supplies such

commodities as: groceries, meats, package take-out stores, baked goods, restaurants, taverns, hardware, drugs, dry goods, sporting goods, sundries, and flower shops.

- 2) Personal service establishments, such as beauty shops, barber shops, tanning salons, fitness clubs, and spas.
- 3) Churches, Lodge halls, private clubs, veteran's clubs.
- 4) Motels, hotels, cabins, tourist lodging facilities, and any accessory residence.
- 5) Banks and Financial Institutions
- 6) Office buildings for any of the following occupations: executive, administrative, professional, governmental and sales office.
- 7) Medical and dental offices, clinics, funeral homes, and mortuaries.
- 8) Nursery, flower plant or garden shops.
- 9) Mini Storage Buildings.
- 10) Contractor business establishments, provided all storage of material or any incidental repair shall be within the confines of enclosed buildings or otherwise obscured from view.
- 11) Automobile and other vehicle sales, new and used.
- 12) Vehicle washes if wholly enclosed and provided with adequate vehicle waiting lanes.
- 13) Automobile service stations, provided that gasoline pumps shall be set back not less than 50 feet from the road right-of-way.
- 14) Automobile repair shops or garages provided all operations are conducted within a completely enclosed structure.
- 15) Boat and/or ATV repair, sales, and/or storage establishments.
- 16) Lawn and Garden Tractor repair and sales.
- 17) Private dog kennels and related facilities

- 18) Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off street parking and loading spaces, as required by Article VIII, and signs, as regulated by Article VII of this Ordinance.
- C) **SPECIAL USES** – The following uses shall be classified as conditional uses and shall require a Special Use Permit as specified in Article X of this Ordinance.
- 1) Contractor’s outdoor equipment and/or material storage yard.
  - 2) Plant materials sales centers, greenhouses and nurseries, including accessory garden equipment.
  - 3) Drive-in restaurants and drive-in theaters provided that the screen is not visible from the roadway.
  - 4) Freight or trucking terminals.
  - 5) Tire and Battery shops and stores.
  - 6) Veterinary or dog and cat hospitals and commercial kennels.
  - 7) Bowling alley, including associated restaurant and/or tavern.
  - 8) Ski resorts including associated uses such as taverns, shops, restaurants, lodging and convention facilities.
  - 9) Accessory uses customarily incidental to the proceeding listed permitted uses including, but not limited to, off street parking and loading spaces, as required by Article VIII, and signs, as regulated by Article VII of this Ordinance.
- D) **HEIGHT REGULATION** – No building shall exceed thirty five (35) feet.
- E) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered or enlarged unless the following yards and areas are provided and maintained in connection with such alteration, construction or enlargement.
- 1) **Front Yard** – There shall be a front yard of not less than fifty (50) feet.
  - 2) **Side Yard** – There shall be side yards of not less than twenty-five (25) feet, excepting the street side of a corner lot or where the side of a lot in the B-1 Zoning District abuts a lot in any residential district in which case

a fifty (50) foot side yard shall be required and maintained.

- 3) **Rear Yard** – There shall be a rear yard of not less than thirty five (35) feet unless the rear of the lot abuts a lot in any residential district in which case a fifty (50) foot rear yard shall be required and maintained.
  - 4) **Lot Area** – The minimum lot area for use in this Zoning District shall be one (1) acre with a minimum width of one hundred fifty (150) feet at the front lot line.
- F) **FLOOR AREA REQUIREMENTS** – There shall be no minimum floor area requirements in this Zoning District.
- G) **OTHER DEVELOPMENT REGULATIONS.**
- 1) All business shall be conducted in such a manner that no unreasonable noise, dust, vibration or any other like nuisance shall exist to adversely affect adjoining properties.
  - 2) A greenbelt, as required by Article IV, Section 4.19 of this Ordinance, shall be provided where required.
  - 3) A development Plan, in accordance with Article IV, Section 4.18 shall be submitted for uses in this Zoning District.

### **Section 6.5 – Saved for Future Use**

### **Section 6.6 – C-3, Village Commercial** (Amended 12-10-13)

- A) **PURPOSE** – This Zone District is intended to provide a village scale development area for business uses that serve township residents and tourists. It is recognized that uses found within this portion of the township will continue to serve both the year round and seasonal residents, as well as visitors. The following regulations take into account the existing lot layout and the need for a planned approach to locating additional commercial facilities within this important part of our community.
- B) **USE REGULATIONS** – Land and/or buildings in the C-3 Zoning District may be used for the following purposes only:
- 1) Retail shops.
  - 2) Personal service shops.

- 3) Professional offices, i.e. doctors, lawyers, real estate, accountants, etc.
- 4) Restaurants and taverns.
- 5) Museum, galleries and potteries.
- 6) Community Centers.
- 7) Inns providing temporary (30 days or less) lodging facilities.
- 8) Other uses developed within this Zone District which do not need to comply with Article IV, Section 4.20 of this Ordinance, being the Shoreline Protection Strip section, are as follows:
  - a) Boat houses and wet storage.
  - b) Boat, motor or related in-water marine repair establishments.
  - c) Excursion or sight-seeing boats.
  - d) Marinas.
- 9) Other similar uses, provided that such uses shall be found to be similar to the preceding listed permitted uses by the Township Zoning Board of Appeals. The Township Zoning Board of Appeals shall make its determination of whether or not a proposed use is similar only after a public hearing has been held, with notice of said hearing published in a newspaper of general circulation a minimum of 15 days prior to the date of the hearing.
- 10) Apartments above all of the allowed uses, except dry boat storage and accessory uses.
  - a) Off street parking requirements – refer to Section 8.2 for residential uses.
- 11) Floor space requirements – refer to Section 6.3(f) (Section 6.6(e) does not apply). Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to, off street parking and loading spaces, as required by Article VIII, and signs, as regulated by Article VII of this Ordinance.
- 12) Dry Boat Storage.

**C) HEIGHT REGULATIONS** – No building shall exceed thirty-five (35) feet.

D) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot areas are provided and maintained in connection with such alteration, construction or enlargement.

- 1) **Front Yard** – There shall be a front yard of not less than twenty five (25) feet, provided that where established buildings on adjacent lots vary from this minimum, a new building shall be constructed with a front yard of no less depth than the average front yards of those buildings located on each side of the proposed building and provided that this provision shall not be interpreted to allow a front yard of less than fifteen (15) feet.
- 2) **Side Yards** – There shall be a side yard of not less than ten (10) feet in the “C-3” Zone District, provided that where it is the intent of two (2) buildings to share a common wall, side yards on the remaining sides be a minimum of twenty (20) feet. Where a use within the “C-3” Zone District is located on a corner lot, the side yard on the street side shall be twenty-five (25) feet.
- 3) **Rear Yard** – For non-lake front property, there shall be a rear yard of not less than twenty-five (25) feet. For lake-front property, there shall be a rear yard of not less than 50 feet (except for uses listed in Section 6.6 B-8 above) and the regulations of the Walloon Lake Shoreline Protection Overlay District, Section 6.11, shall also be complied with.
- 4) **Lot Area** – The minimum lot area for use in this Zone District shall be six thousand six hundred (6,600) square feet, with a minimum width of sixty-six (66) feet at the front lot line.

E) **FLOOR AREA REQUIREMENTS** – There shall be no minimum floor area requirements in this “C-3” Zone District.

F) **OTHER DEVELOPMENT REGULATIONS.**

- 1) Docks, boat landings and similar structures shall comply with the side yard requirements of the “C-3” Zone District.
- 2) No subsurface footings drain system shall empty directly into any water body.
- 3) Any fill material used shall be of sand or gravel or other pervious material and shall not be allowed to enter the water by erosion or mechanical means.
- 4) The developer or builder shall be required to ensure that new or altered

structures in this Zoning District will not be damaged by flooding or flood hazards and that excessive soil erosion, adverse changes in the natural drainage courses, or unnecessary destruction of natural features will be avoided, or remedies will be provided.

- 5) A development plan, in accordance with Article IV, Section 4.18, shall be submitted for uses in this Zoning District.

### **Section 6.7 – “I”, Industrial District**

- A) **PURPOSE** – This Zone is intended to accommodate the industrial needs to the entire community in such a manner that no unreasonable noise, dust, vibration or any other like nuisance shall exist to adversely affect adjoining properties.
- B) **USE REGULATIONS** – Land and/or buildings in the I, Industrial Zoning District may be used for the following uses only:
  - 1) Lumber and building material and bulk storage yards.
  - 2) Facilities for the manufacture, compounding, processing and packaging of such products as candy, cosmetics, drugs, perfumes, ceramics, pharmaceuticals, toiletries and food products, except the rendering or refining of fats and oils.
  - 3) Warehousing, truck terminals and transportation shipment facilities.
  - 4) The manufacture, compounding, assembly or treatment of articles from the following previously prepared materials including, but not limited to, aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, leather, paint, paper, plastics, rubber, tin, iron, steel, tobacco, wood and yarn.
  - 5) Public service installations, including public utility buildings and structures for gas, water and electrical service, telephone exchanges, transformer stations, substations, power generating plants including the storage of equipment and vehicles.
  - 6) Machine shops, blacksmith shops, and tool and die shops.
  - 7) Shops for plumbing, sheet metal and woodworking.

- 8) Assembly and repair of electrical appliances, instruments and devices.
  - 9) Sales, service and repair of motor vehicles, farm machinery, boats, trailers and heavy equipment.
  - 10) Contractors supply and building materials, sales and storage yards, including equipment storage yards.
  - 11) Concrete or cement products manufacture.
  - 12) Storage of bulk petroleum products.
  - 13) Off-street parking and loading spaces as required by Article VIII and signs as regulated by Article VII of this Ordinance.
  - 14) Accessory uses, customarily incidental to the proceeding listed permitted uses, including, but not limited to, restaurant or cafeteria facilities for employees and office facilities.
  - 15) Other uses provided that such uses shall be found to be similar by the Township Zoning Board of Appeals. The Township Zoning Board of Appeals shall make its determination of whether or not a proposed use is similar only after a public hearing has been held with notice of said hearing published in a newspaper of general circulation between five (5) and fifteen (15) days prior to the date of the hearing.
- C) **HEIGHT REGULATIONS** – No building shall exceed thirty-five (35) feet in height. Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with the ordinance.
- D) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot area requirements are provided and maintained in connection with such building erection, alteration or enlargement.
- 1) **Front Yard** – There shall be a minimum front yard of fifty (50) feet.
  - 2) **Side Yard** – There shall be a minimum side yard of twenty (20) feet in this district except on the street side of corner lots where fifty (50) feet shall be required. Where an industrial district abuts a residential or Farm and Forest zone on the side, there shall be maintained a fifty (50) foot side yard.

- 3) **Rear Yard** – There shall be a minimum rear yard of twenty-five (25) feet in this district except that where such uses abut a residential or Farm and Forest District, a minimum rear yard of fifty (50) feet shall be provided.
  - 4) **Lot Area** – The minimum lot area for use in this zone shall be two (2) acres with a minimum width of one hundred fifty (150) feet.
- E) **FLOOR AREA REGULATIONS** – There shall be no minimum floor area requirements in this zone.
- F) **OTHER DEVELOPMENT REGULATIONS.**
- 1) All uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height. All business shall be conducted in such a manner that no unreasonable noise, dust, vibration or any other like nuisance shall exist to adversely affect adjoining properties.
  - 2) A greenbelt, as required by Article IV, Section 4.19 of this Ordinance, shall be provided.
  - 3) A development plan, in accordance with Article IV, Section 4.18 shall be submitted for uses in this Zoning District.
- G) **SPECIAL USES** – The following uses shall be considered conditional, and shall require a Special Use Permit as specified In Article X of this Ordinance:
- 1) Telecommunication towers and facilities and alternative tower structures.

### **Section 6.8 – “FF”, Farm and Forest District**

(Amended and name change 11-20-18)

- A) **PURPOSE** – This Zoning District is intended for larger tracts used for farming, forestry, residential, or which are idle. It is not intended for any use except Farm and Forest, low density, single-family residential use and other specialized rural uses requiring larger tracts of land. This restriction is necessary to prevent development without proper planning. If development and subdividing are to occur, they should be preceded by sound planning and either review of a PUD overlay district or re-zoning.
- B) **USE REGULATIONS** – Land and/or buildings in the FF, Farm & Forest District may be used for the following purposes only:
- 1) Any use permitted in the R-2 Zone.

- 2) Farms for both general and specialized farming, together with farm dwellings and buildings and other installations useful to such farms.
- 3) Roadside stands for the sale of products raised on the lot or parcel provided that off street parking shall be provided, and no hazardous traffic condition shall result from such activity.
- 4) Private dog kennels and related facilities
- 5) Accessory uses customarily incidental to the preceding listed permitted uses including but not limited to off street parking and loading spaces as required by Article VIII, and signs as regulated by Article VII of this Ordinance.
- 6) Accessory Dwelling Unit (ADU) that shares a common wall with the primary dwelling on a single zoning lot subject to the following:
  - a) A maximum of one ADU is allowed. Properties with two dwellings or more on the property shall not be permitted an ADU.
  - b) An ADU shall not be used for tourist lodging.
  - c) The floor area of the ADU shall not exceed 780 sq. ft.
  - d) The ADU shall not have more than two (2) bedrooms.
  - e) A minimum of two conforming off-street parking spaces are required on the property.
  - f) The property owner shall occupy either the primary or accessory dwelling.
  - g) All sanitary code permits shall have been obtained for the main use and for the ADU.
  - h) The addition of an ADU to the principal dwelling shall be designed so that the appearance of the building remains that of a single-family dwelling.
  - i) The accessory dwelling unit shall not be condominiumized or sold separately from the primary use.
  - j) No more than 40% of the lot shall be covered with impervious surfaces.
  - k) Driveway ingress and egress shall be shared.
  - l. A Declaration of Covenants, Conditions, and Restrictions shall be filed with the Charlevoix County Register of Deeds which includes the restrictions identified in "a" thru "k" above, prior to issuance of a Township Zoning Permit for this use.
  - m. A copy of the recorded document from paragraph "l" above shall be provided to the Zoning Administrator prior to issuance of a Township Zoning Permit for this use.

- 7) Special uses that may be authorized in this Zoning District, if the tract is 10 acres or larger, include the following uses, provided that an application is submitted for a special use permit and approved in accordance with the provisions and standards of Article X of this Ordinance:
- a) Junkyards, salvage yards, sewage treatment facilities, and sanitary landfills, provided that all applicable regulations of the State of Michigan are complied with.
  - b) Commercial natural resource extraction or relocation, including sand and gravel. Specifically exempted are cases where land grades are changed in connection with the construction of roads or driveways, and other land improvements.
  - c) Camps, clubs, campground, provided no commercial activity shall be conducted on the premises, buildings shall not exceed thirty (30) feet in height, and parking facilities shall be no closer than twenty (20) feet to any property line.
  - d) Housing for transient labor, provided that such housing shall not be occupied for more than one hundred eighty (180) days of any calendar year, such use shall comply with all applicable regulations of the State of Michigan and the Health Department of Northwest Michigan
  - e) Airports and their associated facilities.
  - f) Golf courses, country clubs, riding stables and publicly owned recreation areas.
  - g) Non-intensive recreation facilities such as ski hills and lifts, snowmobile trails, archery and rifle, skeet or gun range, and hunting and fishing preserves or clubs. Commercial activities such as taverns, restaurants, hotel and/or lodge accommodation, retail stores, service establishments are not permitted.
  - h) Property owner's personal storage building as a primary use
  - i) Commercial dog kennels and related facilities.
  - j) Telecommunication towers and facilities and alternative tower structures.
  - k) Commercial Storage Buildings that are shielded from view along the access road and neighboring properties and that are maintained and landscaped. All storage shall be inside an enclosed building. All parking, maneuvering and drive lane areas shall be provided with a paved or dust free surface and shall meet the approval of the Township Fire Department. There shall be a designated manager to provide a security function and to ensure compliance with the Zoning Ordinance. A sign (minimum size 11' X 17') indicating how to contact the manager shall be posted on the building and the contact information shall be provided, in writing, to the Township.

- C) **HEIGHT REGULATIONS** –Only Agricultural structures can exceed thirty-five (35) feet. Height restrictions in this Article do not apply to telecommunication towers and facilities and alternative tower structures located in accordance with this ordinance.
- D) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered or enlarged unless the following yards and lot area requirements are provided and maintained in connection with such building erection, alteration or enlargement:
- 1) **Front Yard** – There shall be a front yard of not less than fifty (50) feet, except for residential buildings and accessory residential buildings which shall maintain a thirty-five (35) foot front yard.
  - 2) **Side Yard** –There shall be side yards of sixty (60) feet, except for residential buildings and residential accessory buildings, which shall maintain twenty-five (25) foot side yards.
  - 3) **Rear Yard** – There shall be a rear yard of not less than one hundred (100) feet, except for residential buildings and residential accessory buildings, which shall maintain a sixty (60) foot rear yard.
  - 4) **Lot Area** – The minimum lot area for use in the FF Zone District shall be five (5) acres. For lots ten (10) acres and larger, there shall be a minimum lot width of three hundred (300) feet at the front lot line. If the lot is less than ten (10) acres, this minimum lot width at the front lot line shall be reduced to the percentage of the lot’s actual size to 10 acres, subject to a minimum width of two hundred (200) feet. These lot widths only apply to a front lot line on a public road.
- E) **FLOOR AREA REQUIREMENTS** - Each dwelling in this Zone District shall contain a minimum floor area of seven hundred twenty (720) square feet of usable floor area exclusive of porches, garages, basements and utility areas if a one (1) story building. One and one half (1 ½) story buildings shall have one thousand (1,000) square feet of usable floor area, and buildings over one and one half (1 ½) stories shall have a one thousand two hundred (1,200) square feet of usable floor area.

### **Section 6.9 – CR, Forest Conservation District**

- A) **PURPOSE** – This Zone District is intended for those lands owned by the township and/or lying within the boundaries of the State Forest. It is the purpose of the following regulations to preserve the natural characteristics of this area by requiring large lots for dwelling and by limiting uses allowed in this Zone District. It is not intended by these regulations to create undue hardships for property

owners with this district, but rather to preserve natural resources unique to Melrose Township.

B) **USE REGULATIONS** – Land and/or buildings in the CR, Forest Conservation Zone District may be used for the following purposes only:

- 1) One (1) single family dwelling on each lot.
- 2) Farms for both general and specialized farming, together with farm dwellings and buildings and other installations useful to such farms.
- 3) Non-intensive recreation facilities such as ski hills and lifts, snowmobile trails, archer and rifle or gun ranges, and hunting and fishing preserves or clubs, provided that commercial activities such as bars, hotel and/or lodge accommodations, retail stores, service establishments are not permitted.
- 4) Dog kennels and related facilities.
- 5) Accessory uses customarily incidental to the preceding listed permitted uses including, but not limited to off street parking, as required in Article VIII, and signs, as required by Article VII of this Ordinance.

C) **HEIGHT REGULATIONS** – No building shall exceed thirty-five (35) feet.

D) **AREA REGULATIONS** – No building or structure shall hereafter be erected, altered, enlarged or moved unless the following yards and lot area requirements are provided and maintained in connection with such building erection, alteration, enlargement or movement.

- 1) **Front Yard** – There shall be a minimum front yard of not less than fifty (50) feet.
- 2) **Side Yard** – There shall be side yards of not less than one hundred (100) feet in the Forest Conservation District.
- 3) **Rear Yard** – There shall be a rear yard of not less than one hundred (100) feet.
- 4) **Lot Area** – The minimum lot area in this Zone District shall be forty (40) acres with a minimum lot width of five hundred (300) feet at the front lot line.

E) **Floor Area Requirements** – Each dwelling in this Zone District shall contain a minimum of six hundred (600) square feet of usable floor area exclusive of porches, garages, basements and utility areas if a one (1) story building. One and one half (1 ½) story buildings shall have one thousand (1,000) square feet of usable floor area and buildings more than one and one half (1 ½) stories shall have one thousand two hundred (1,200) square feet.

## **Section 6.10 RR, Rural Residential Conservation Design District**

- A) **PURPOSE** - The purpose of this zone is to preserve the open space and rural character of the township and to maintain larger tracts of land for uses requiring large parcels, including but not limited to, farming, forestry, and recreation. In addition to the resource dependent uses such as those indicated above, a limited number of single-family residential dwellings will be allowed. These dwellings will be allowed on lots having sufficient size to insure the safe disposal of septic wastes and provide a potable water supply while minimizing sprawl.

Maintenance of the rural character will be allowed by the creation of only a limited number of residential lots. To minimize public costs which typically result from residential development, and to maximize open space, these residential lots will be required to be clustered upon a small portion of the parcel. The remaining part of the original parcel shall be used for farming, timber production, hunting or other non-intensive recreational use or other similar types of uses that typically require large blocks of land.

The areas of the Township which contain numerous large parcels of property that are not designated in the Township Future Land Use Plan as being serviced by community sewer and/or water in the foreseeable future and that are well suited for resource production or low intensity recreation uses may be designated RR and will be subject to the regulations provided below.

- B) **PERMITTED USES**. No building or part thereof in an "RR, Rural Residential Conservation Design District" shall hereafter be used, erected, altered or converted, or land used, in whole or in part, except for:
- 1) Farms for both general and specialized farming, together with farm dwellings and buildings, and other installations usual to such farms, including roadside stands, which are situated so as to provide adequate off-highway parking for customers.
  - 2) Greenhouses, nurseries, orchards, groves, vineyards, apiaries, farms for breeding of domestic animals, and sanctuaries for wild birds and animals provided the sanctuaries shall be approved by the Michigan Department of Natural Resources.
  - 3) Forest preserves and wood lots.
  - 4) Hobby farms for the keeping of horses and other animals typical and commonly raised on farms in northern Michigan.
  - 5) Conservation areas for fauna and flora.
  - 6) Non-intensive, non-commercial recreation activities.
  - 7) One-family residential dwellings with accessory uses as defined in this Ordinance which are considered necessary and compatible with a residential neighborhood.

C) **SPECIAL USES** – the following uses shall be classified as conditional uses and shall require a Special Use Permit as specified in Article X of this Ordinance.

- 1) Private and Quasi-public Facilities - Lodges, Fraternal Organizations, Clubs, meeting places, churches, and other non-publicly owned or operated gathering places, and related accessory structures (including but not limited to rectories, convents, and halls).
- 2) Public Facilities
  - a. Libraries
  - b. Schools teaching subjects commonly taught in pre-school through 12<sup>th</sup> grade
  - c. Museums
  - d. Public and privately-owned parks and playgrounds with ancillary service buildings and/or structures.
- 3) Transmission and distribution lines, and pipelines of utility companies regulated by the Michigan Public Service Commission.
- 4) Essential service structures.
- 5) Dog Kennels.
- 6) Home Based Businesses.
- 7) Agricultural warehouses and storage plants, milk processing plants, primary processing plants for non-animal farm products, and other enterprises commonly considered to be agricultural activities.

D) **AREA, LOT LINE SETBACK AND BUILDING HEIGHT REQUIREMENTS OF PLATTED AND UNPLATTED LOTS.** Every parcel having an independent real property tax identification number in this Zone upon which a structure is to be constructed or expanded, or a land use is to occur, shall meet the following requirements:

- 1) There shall be a front yard of not less than fifty (50) feet.
- 2) There shall be side yards of not less than ten (10) feet, excepting the street side of a corner lot in which case a thirty-five (35) foot side yard shall be required and maintained, or where the side lot line abuts Farm and Forest zoned land in which case a twenty-five (25) foot side yard shall be required and maintained.
- 3) There shall be a rear yard of not less than thirty-five (35) feet.
- 4) Building height shall not exceed thirty-five (35) feet. Height restrictions in this

Article do not apply to Agricultural structures, telecommunication towers and facilities or alternative tower structures located in accordance with this ordinance.

- 5) Every dwelling shall have a minimum useable floor area of one thousand (1,000) square feet. At least one section of the dwelling shall contain a core living area having minimum horizontal dimensions of twenty (20) feet by twenty (20) feet. The portion of the dwelling comprising the minimum width shall not be made up of additions of a dissimilar type or quality of construction or materials.
- 6) Lot Area
  - a. Parent Parcel

The parent parcel shall be any parcel of property in existence at the time of adoption of Section 6.10 of this Ordinance or a parcel zoned RR at a later date having a size of 40 acres or more.
  - b. Divisions

The creation of parcels, lots, or site condominiums from the parent parcel shall result in a combined number of parcels, lots, and/or site condominiums not to exceed one per five acres of the parent parcel size.

    - i) Minimum Lot Area - All parcels, site condominium units, or lots in this zone created for residential use shall contain a minimum area of one (1) acre.
    - ii) Maximum Lot Area – All but one of the parcels, site condominium units, or lots in this zone created for residential use shall contain a maximum area of two (2) acres. The one parcel or lot which is allowed a size in excess of two acres shall contain the balance of the parent parcel.
  - d. Additional Divisions

The creation of additional parcels, lots, or site condominium units, in excess of the number provided for above, shall only be allowed if:

    - i) The development is accepted as a PUD; or
    - ii) All of the following occur:
      1. The entirety of the property is rezoned to another zone district; and
      2. Community sewer and/or water is provided to the property; and
      3. The Township Future Land Use Plan is amended to allow for a higher density of land use encompassing the property in question; and
  - e. Parcel, Lot and/or Site Condominium Unit Layout

All parcels, lots and/or site condominium units between 1 and 2 acres shall be clustered together and accessed via a shared common access road or driveway connected directly to a county road or State Highway, which provides the primary means of accessing the development.

**E) USES SUBJECT TO DEVELOPMENT PLAN REVIEW AND APPROVAL**

- i. The creation of parcels, platted lots, site condominium building envelopes or other lands having an independent real property tax identification number and which are less than forty (40) acres in size.
- ii. All uses requiring a special use permit.

**F) REGULATIONS OF DESIGNATED OPEN SPACE**

Designated open space land shall remain as one (1) contiguous parcel. It may continue to be owned in common by any or all owner(s) of lots, parcels or site condominium units created from the parent parcel(s).

**Section 6.11 Walloon Lake Shoreline Protection Overlay District**

**A) DEFINITIONS**

**Ordinary High Water Mark** —The Level of Walloon Lake is defined in a 1916 court order at 687.23 feet. This elevation is the ordinary high water mark.

**Vegetative Buffer Zone** – 40 feet landward from the ordinary high water mark

**B) DISTRICT LOCATION**

The Melrose Township Walloon Lake Shoreline Protection Overlay District includes all land lying between the ordinary high water mark of Walloon Lake upland to the centerline of the following roads:

Shadow Trails to South Shore Drive;  
then  
South Shore Drive North to M-75 highway;  
then  
M-75 North to Windsor Street in the Village;  
Then

Windsor Street and West Street to North Shore Drive;  
then  
West on North Shore Drive to Country Club Shores;  
then  
North on Country Club Shores to the Township line at  
Bear River Road.

**C) WALLOON LAKE SHORELINE PROTECTION OVERLAY DISTRICT**

Amended 11-14-2023

## 1. **Purpose and Intent**

The provisions of the Melrose Township Walloon Lake Shoreline Protection Overlay District are intended to protect the unique and sensitive natural environment of the lake as well as the shore areas adjacent to Walloon Lake in Melrose Township. Its purpose is based on the recognition that:

- a) The economic and environmental wellbeing and health, safety, and general welfare of Melrose Township is dependent on, and connected with, the preservation of its Walloon Lake shoreline areas;
- b) The shoreline zone has unique physical, biological, economic, and social attributes;
- c) Future land development and redevelopment should not be conducted at the expense of these attributes;
- d) Property values will be enhanced when the natural features of the shoreline zone are preserved;
- e) Pollution, impairment or destruction of the shoreline area and the adjacent bottomlands and waters of Walloon Lake should be prevented or minimized.

## 2. **General Requirements**

### a) **Allowable Uses**

The uses allowed by the underlying zoning districts are not altered by the overlay. All allowable uses that occur within the Walloon Lake Shoreline Protection Overlay District shall also comply with the standards set forth in this section. These requirements shall be met in addition to use restrictions or other applicable regulations for each zoning district. These requirements only apply to properties that fall within the shoreline Protection Overlay District, as described in item B. above and shown on the official zoning map. In the event that regulations imposed by this overlay district conflict with regulations of an underlying zoning district, the regulations established by this overlay district shall prevail to the extent of the conflict and no further.

### b) **Requirements to Receive Zoning Permit**

Before conducting any construction, earth moving or removal of vegetation within the Walloon Lake Shoreline Protection Overlay District, all of the following criteria must be met:

- 1) A site plan meeting the requirements outlined in D. below shall be submitted to the Zoning Administrator.
- 2) A zoning permit shall be withheld pending verification that the applicant has received all required county, state or federal permits, as may be applicable, including septic and water well permits; soil erosion and

sedimentation control permits; wetland permits; flood plain and culvert permits; and/or driveway permits.

**c) Setback Requirements**

- 1) All structures proposed to be built within the Walloon Lake Shoreline Protection Overlay District shall be set back a minimum of 50 feet from the ordinary high water mark, except for the following uses: pump houses (up to 3 feet X 3 feet X 3 feet tall), recreational docks, storm water and erosion control measures, picnic tables, benches, recreational watercraft, and stairways and walkways up to 4 feet wide.
- 2) If a greater setback is required under the provisions of any state or federal law than is required by this section, then such greater setback requirement shall apply.
- 3) Where the imposition of the setbacks in # 1 and 2 above precludes the location of a dwelling or other primary structure, the applicant may request a variance. Any variance must be obtained from the Zoning Board of Appeals in accordance with Article XII of the Melrose Township Zoning Ordinance. To obtain a variance, the applicant must show there is no other feasible and prudent location or design on the property that meets the zoning regulations and that the dwelling or structure will otherwise meet the intent and spirit of the Walloon Lake Shoreline Protection Overlay District as specified in C)1. Conditions may be imposed as part of the variance where they are reasonably proportional to the risks regulated by the Walloon Lake Shoreline Protection Overlay District.

**3. Lakefront Vegetative Buffer Zone Requirements**

Maintaining a natural strip of vegetation along the shoreline is very important to maintaining the aesthetic character and ecological integrity of the shoreline.

- a) Vegetative buffer zones protect water quality and shoreline habitat, preserve scenic and aesthetic character, and control erosion and flooding. To preserve the fragile and transient nature of the shoreline environment, a Lakefront Vegetative Buffer Zone shall be maintained 40 feet landward of the Ordinary High-Water Mark. The vegetated zone with native shoreline species shall serve as a natural transition between the shoreline and adjacent upland development. This minimum 40 foot wide permanent vegetative buffer shall remain natural and undisturbed, except as otherwise permitted by this section. Prior to any alteration or removal of trees, shrubs, ground cover or other native vegetation, the items to be altered or removed shall be marked by

the applicant and approved by the Zoning Administrator as being in compliance with the landscaping component of the site plan prior to work commencing to ensure impacts to the shoreline resources are minimized.

- b) The following standards apply to all uses within the 40 foot wide vegetative buffer zone:
  - 1) Vegetation removal shall be limited to the amount necessary for safety or the development of the site. Protection of tree crowns and root zones shall be required for all trees.
  - 2) Vegetation shall be restored in areas affected by construction activities. Vegetation must be indigenous to the Walloon Lake shoreline. Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. Stumps of trees cleared or harvested within the vegetative buffer zone must remain undisturbed in the ground.
  - 3) Tree removal of fallen, dead, diseased or dangerous trees and selective clearing of trees to provide an unfiltered view of the water is limited to 30% of the parcel, but clearings must be limited to 30 feet per 100 feet of the shoreline width. Those trees to be removed shall be so identified and approved by the Zoning Administrator
  - 4) Cutting or removal of trees on the parcel (other than those mentioned in the above subsection) shall be limited to 20% of the parcel, with clearings limited to 20 feet per 100 feet of shoreline width. Prior to cutting or removal of these trees, they shall be marked by the applicant and approved by the Zoning Administrator as being in compliance with the approved site plan.
- c) In cases where native vegetation does not exist within a buffer zone, the landowner is encouraged to replant the buffer zone with native plant species.

#### **D. SITE PLAN REVIEW**

To protect water quality, valuable views and fragile shoreline resources, it is important for projects within the Shoreline Protection Overlay District to undergo a more thorough site plan review than is normally required for single family projects in the R-1 district. The site plan requirements for residential applicants are not designed to be burdensome but are meant to give the Zoning Administrator or Planning Commission enough information about the intended activity to ensure that

the site plan approval standards are met. The following “site approval standards” and “site plan data required” apply to all vegetation removal, proposed land uses or development within the Shoreline Protection Overlay District, unless it is a special use, or the property proposed for development is subject to the requirements of the Subdivision Control Act or the Condominium Act:

1. **Site Plan Approval Standards**

The following standards shall be considered by the Zoning Administrator or Planning Commission when reviewing the site plan submission:

- a) The site plan shall demonstrate that the impact to fish, birds, wildlife, native vegetation, and general water quality is minimized by preserving natural habitat;
- b) The site plan shall demonstrate that erosion and sedimentation shall be prevented;
- c) The site plan shall demonstrate that the natural character and aesthetic value of the shoreline is maintained by minimizing the visual impact of any development;
- d) Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance;
- e) All structures shall be located to maintain any existing open and unobstructed view to the waterfront from adjacent properties, roadways and pedestrian ways, to the maximum extent possible, after consideration of the natural character and aesthetic value as required in item c above.
- f) The Zoning Administrator can review and administratively act upon site plans for tree or vegetation removal that comply with the requirements of subsection C 3(b) (3) above. Additionally, the Zoning Administrator can review and administratively act upon the site plans for the construction of one single family dwelling, or accessory buildings, or additions to existing single family dwellings, or similar disturbances of the Lakefront Vegetative Buffer Zone in the R-1 District on parcels with less than 120 feet of Walloon Lake frontage. All other site plans shall be reviewed and acted upon by the Planning Commission.

2. **Site Plan Data Required**

All development, excavation, land changes, plantings or construction in the Walloon Lake Shoreline Protection Overlay District requires submittal of a site plan or sketch, and approval by the Zoning Administrator or the Planning

Commission, prior to the start of any of these activities. All applicants shall submit site plans or sketches that contain the following information:

- a) Two complete sets of plans or sketches for Zoning Administrator review or 8 complete sets for Planning Commission review that show the placement of any buildings or other structures, delineates a perimeter line encompassing all proposed activities, identifies the location and extent of the shoreline Protection Overlay District boundary, and proposed land changes including plantings;
- b) All shoreline types and coastal resources, including but not limited to, bluff ridges, wetland boundaries, ordinary high water mark; and a landscape plan which contains an existing and planned vegetation inventory (trees and shrubs over 2" in diameter, and ground cover, including a written list and map showing the location of trees, shrubs and grasses, with notes as to the locations of native and non-native species) shall be identified and submitted with the site plan or sketch.
- c) A description of existing and proposed outdoor lighting;
- d) A plan for controlling traffic to the lakefront, detailing construction and maintenance of paths, stairs or boardwalks;
- e) A grading plan or sketch that delineates areas of cut and fill and identifies changes in topography and drainage. If the area to be graded exceeds 5,000 square feet, the applicant shall submit a diagram showing the existing contours of the site and finished contours to be achieved by grading. Contours shall be sufficiently detailed to define the topography over the entire site (generally at two-foot intervals);
- f) Detailed drawings and descriptions of all temporary and permanent soil erosion and sedimentation control measures, and bank stabilization measures as submitted to the Soil Erosion Control Enforcement Officer;
- g) Detailed drawings delineating areas to be cleared of vegetation before and during development activities, with area calculations and descriptions of the vegetation to be removed, and detailed drawings and descriptions of proposed vegetation restoration for those same areas;
- h) Detailed drawings that show the location of existing structures on the property, as well as dwellings on neighboring parcels;
- i) The site plan or sketch shall identify the location of property, including a full tax identification number, location of the nearest public road intersection, the high-water mark of Walloon Lake, a north arrow and map scale;

The site plan shall include the name, address, professional status, license number (if applicable), and phone number of the person who prepared the plan along with the date of the original drawing and the date of the most recent revision.

The Zoning Administrator, for site plans that can be reviewed administratively, or the Planning commission, may waive certain requirements of a plan if deemed to be unnecessary to the site approval standards under subsection D 1 above.

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# ARTICLE VII – SIGN REGULATIONS

Entire Article Amended 9-12-17

## Section 7.0 – Purpose and Scope

Sign plans shall be reviewed for approval, conditional approval or rejection by the Township Planning Commission if a site plan is required, or by the Zoning Administrator, in consultation with any Advisory Sign Review Committee if appointed by the Township. For disagreements with the rulings of the Zoning Administrator, the applicant may seek a review by the Planning Commission, who in such instances has final authority on the sign plan.

### INTENT

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, safety, and welfare of the citizens of Melrose Township, and are based on the following objectives:

- To reflect the primary purpose of signage as being the identification of a particular user or use on a property, but not necessarily every activity or service performed thereon.
- To promote signs which are visible at eye level and can be readily seen from moving vehicles with the least amount of eye distraction.
- To encourage native plants and other landscaping materials around all freestanding signs so as to complement the site and integrate the sign with the buildings, parking areas and natural site features.
- To avoid excessive use of signs in order to give each use optimum visibility to passer-by traffic and if possible, to prevent one sign from blocking the view of another sign.
- To place and size signs in such a way that scenic views are protected and visual obstructions to the natural landscape are minimized.
- To protect the resource character and Northern Michigan image of Melrose Township by encouraging the design of signs that reflect the Township's favorable environment as a permanent and seasonal home community.
- To maintain and enhance economic stability by retaining aesthetic appeal and encourage sign planning that will complement the Township's natural environment and preserve its scenic and natural beauty by minimizing visual obstructions to the natural landscape.
- To encourage the use of aesthetically pleasing sign materials and colors and to encourage signs to be predominately natural in appearance, through the use of weather tolerant wood or material of equivalent character.
- To encourage the use of subdued colors, with bright colors used only for accent.

- To avoid creation of obstacles or traffic hazards by distracting or confusing motorists, impairing motorists' ability to see pedestrians, read other traffic signs, or see other vehicles.
- To enhance the effectiveness of necessary directional and warning signs.
- To preserve property values from the negative impacts of unsafe, cluttered, and otherwise unregulated signs on abutting property or in the area.
- To avoid bright lights and reflection and to protect views of the night sky against poorly shielded lights.
- To encourage wall-mounted signs to complement the architecture of the building to which they are attached.

The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes.

Compliance with this Section does not relieve the applicant from the responsibility for compliance with other local, state or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the Township Zoning Ordinance.

It is also acknowledged that the Township's economic well-being is heavily dependent upon the resort and tourist industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to this Township.

### **Section 7.1 - Definitions**

The following definitions apply only to words and phrases used in this Section.

1. **BANNER**: A flexible sign made of natural, synthetic or plastic material used to call attention to a land use or product, service or activity; however, not including pennants or flags.
2. **CHANGEABLE MESSAGE SIGN**: A sign on which the message can be changed by hand, mechanically, or electronically.
3. **FLAG**: Usually a rectangular piece of fabric made of natural, synthetic or plastic material having a distinctive size, color and design used as a symbol or emblem.
4. **FREESTANDING SIGN**: A sign supported by one (1) or more uprights, poles, braces, or some other structure, placed in or upon the ground surface and not attached to any building.

5. ILLUMINATED SIGN: A sign that provides artificial light by either emission (usually from inside) or reflection (usually either from light above or below the sign).
6. NON-CONFORMING SIGN: A sign lawfully existing on the effective date of this Ordinance which does not conform to one (1) or more of the regulations set forth in this Ordinance.
7. PENNANT: A small, often triangular, tapering flag often used in multiples as a device to call attention to a land use or activity.
8. PORTABLE SIGN: A freestanding sign not permanently anchored or secured to either a building or the ground (such as a sandwich sign), and includes trailered or similarly mounted signs or signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object while it is parked.
9. PROJECTING SIGN: A sign which is affixed to any building or structure other than a marquee and projects in such a way that the message is not parallel to the wall to which it is attached.
10. ROOF SIGN: A sign erected, constructed, or maintained upon, or which projects above, the roof line of a building.
11. SIGN: Any identification, description, illustration, display or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, banner, pennant, placard or temporary display designed to advertise, identify or convey information. For the purpose of removal, signs shall also include all sign poles and similar supporting structures. Signs under one-square foot in size on or next to a door or on a mailbox or post are not regulated by this ordinance.
22. SIGN, ACCESSORY: A sign which is accessory to the principal use of the premises.
23. SIGN, NON-ACCESSORY: A sign associated with a use that is located on a property other than the property on which the sign is located.
24. SIGN FACE: That part of a sign structure which is used to graphically communicate a message or announcement.
25. TEMPORARY SIGN: A device with or without a structural frame such as a portable or trailer sign designed to convey a message, intended for a limited period of display.
26. WALL-MOUNTED SIGN: A sign which is attached directly to or painted upon a building wall which does not project more than twelve (12) inches there from. The exposed face of the sign must be in a plane parallel to the building wall or structure. The sign shall not extend above the height of the building, wall or structure.

The figure below illustrates many of the different types of signs defined above.

**TABLE 7.1 - SIGNS AUTHORIZED REQUIRING A PERMIT**

	R-1, R-2, R-3 AND R-4		FF		B-1 and Village Commercial	
	Number allowed	Maximum size allowed	Number allowed	Maximum Size allowed	Number allowed	Maximum Size allowed
<b>Freestanding Sign – Permit Required for new signs</b>	1	12 sq. ft. 8 ft. in height	1	32 sq. ft.  ratio of one side to the other can't exceed four (4) to one (1).  10 ft in height	1	32 sq. ft. in B-1 16 sq. ft. in Village Commercial  (Signs located in the road ROW shall not exceed an area of 32 sq. ft)*  Shall not be longer than four (4) times its width  10 ft. in height
	AND/OR		OR		AND/OR	
<b>Wall-Mounted Sign – Permit required for new signs</b>	1	8 sq. ft.  May project outward up to One (1) foot	1	32 sq. ft.  ratio of one side to the other can't exceed four (4) to one (1)	1  Or  2	10% of the surface area of the mounting wall  (computed on the ground level story only-ground level story height may not exceed 12 feet)  A second wall-mounted sign may be permitted on a buildings located on a corner lot.  A banner may be permitted in lieu of a wall-mounted sign provided it is securely attached to the wall and it meets all other requirements of a wall-mounted sign.
	Wood crafted or is a sign of equivalent character.		Shall not project beyond or overhang the wall face by more than five (5) feet.  No sign shall project above the ridge line of a hip, gambrel, gable, or mansard roof, or above the parapet of a flat roof.			
<b>Canopy or Marquee Signs</b>	Integral canopy signs shall be allowed in place of permitted wall mounted signs with message information, i.e., letters, numerals, symbols etc., not to exceed fifteen (15) percent of the canopy surface. For the purposes of calculation, the subject canopy will be considered to fall within a measurable square or rectangular enclosure.					
<p><b>*Signs cannot obstruct the view of permanent signs, drives, roads, and etc. Signs in a right-of-way are subject to any further rules, provisions, or prohibitions as determined by the governmental unit or agency having jurisdiction.</b></p> <p>The number and location of freestanding sign(s) to be located at an approved driveway shall be included in the Site Plan for the Development Plan Review, if there is one, for approval as to location and number by the Planning Commission, or the sign plan for approval as to location and number by the Zoning Administrator</p>						

**TABLE 7.1 - CONTINUED**

	R-1, R-2, R-3 AND R-4		FF		B-1 and Village Commercial	
	Number Allowed	Maximum size allowed	Number Allowed	Maximum size allowed	Number Allowed	Maximum size allowed
<b>Additional Signs – Permit required for new signs</b>			Four accessory signs not to exceed four (4) square feet each on buildings; except that one sign may be located at each approved driveway not to exceed four (4) sq. ft. and six (6) feet in height			
<b>Additional Signs – no permit required</b>	1	Non-illuminated, Up to two (2) sq. ft.	(1) non-illuminated up to three (3) sq. ft.			
<b>Additional Signs – permit required for new signs</b>			1	Up to twenty-four (24) sq. ft. and eight (8) ft. in height		
<b>Window Signs – no permit required</b>		Up to 10% of the total window space		Up to 10% of the total window space		Up to 10% of the total window space

**Section 7.2 - General**

A) Signs as a Main Use

Signs on vacant property shall be restricted to the B-1 District provided the area of the sign does not exceed fifty-six (56) square feet, the height of the sign does not exceed ten (10) feet, there is at least two thousand (2,000) feet of separation between any two such signs on both sides of the road and two hundred (200) feet of separation between a sign as a main use and an accessory sign, and two hundred (200) feet of separation between a sign as a main use and any other existing building over two hundred (200) square feet.

A sign as a main use may not include a changeable message sign or changeable message component.

All required permits from the Michigan Department of Transportation shall also be obtained before erecting the sign as a main use.

B) Changeable Message Signs

Changeable message signs, including, but not limited to, electronic changeable message signs, shall be permanently affixed to, and be parallel with, the wall of the main building or designed into the freestanding sign as an integral part of the freestanding sign structure. Changeable message signs may not exceed 40% of the allowable sign area. Such changeable message signs shall have no moving parts. The background shall be unlit and the letters shall be of all one color. Electronic changeable message signs must meet all other standards of this article and may be permitted to change the message up to one time per quarter hour.

C) **Accessory Signs in Planned Unit Developments (PUD's)**

In PUD's, sign standards shall be determined by site plan, PUD development plan and the proposed uses. Signs in Residential PUD projects may be allowed as regulated in Residential Zoning Districts. Business and/or Industrial uses may be permitted to have signs as regulated in Business and/or Industrial Zoning Districts

**Section 7.3 – Non-Conforming Signs**

**INTENT:**

It is the intent of this Section to permit the continuance of all permanent signs or sign structures existing at the effective date of this Section, although such sign or sign structure may not conform with the provisions of this Section. It is also the intent that nonconforming signs or sign structures shall not be enlarged upon, expanded or extended. Further, it is the intent that nonconforming signs and sign structures shall be gradually eliminated and terminated upon their natural deterioration, destruction, removal or replacement. The continuance of all nonconforming signs and sign structures within the Township shall be subject to the conditions and requirements set forth below.

**Structural Changes:** Signs may be repaired, or renovated, and shall be kept in good condition, provided that, the faces, supports, or other parts of any nonconforming sign or sign structure shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign or sign structure conforms to the provisions of this Section for the use it is intended.

A) **Placement:** No nonconforming sign shall be relocated on a property, unless located in conformance with this Ordinance and sized to conform to this Ordinance.

B) **Illumination:** Illumination may not be added to any nonconforming sign.

C) **Destruction:** Should any nonconforming sign or any portion thereof be destroyed by any means it shall be reconstructed only in conformity with the provisions of this ordinance.

D) **Change on Sign Face:** The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating a non-accessory sign under circumstances where such a sign would not be allowed.)

**Section 7.4 – Signs Prohibited**

A) Signs containing flashing, intermittent, or moving: lights, images, motion pictures, messages, graphics, or similar mechanisms.

B) Signs with moving or revolving parts and/or messages.

C) Signs affixed to trees, rocks, shrubs, fences, utility poles, or other similar features.

D) Signs which are insecurely fixed, unclear, in need of repair, or signs which imitate official traffic signals or traffic directional signs or devices.

- E) Portable signs, changeable message signs, tripod or sandwich boards utilizing vehicles, trucks, vans, or other wheeled devices, except that licensed vehicles painted or affixed with signs shall not be prohibited from properly parking in a designated parking space.
- F) Signs which overhang or extend closer than five feet from a dedicated public right-of-way.
- G) Signs that have concrete foundations or other solid anchoring devices that project above the surface of the ground and located so as to constitute a safety hazard to vehicle traffic.
- H) Signs and sign structures associated with a business or service that no longer occupies the premises and has not occupied the premises for 60 consecutive days.
- I) Signs using luminous or phosphorescent paints or, tapes, glass beads, and/or reflectors of any kind shall be prohibited as main background treatment of the sign but may be used in minor proportions for lettering or incidental artistic details, provided there are no visual conflicts with official traffic signs.
- J) Signs closer than five (5) feet from the road right-of-way, unless the Zoning Administrator determines that the placement will not restrict vehicle and/or pedestrian passage and visibility. Signs established by or approved by federal, state, county, or township units of government are exempt from this five-foot setback requirement.

**Section 7.5 - Signs Not Requiring a Zoning Permit**

The following signs are allowed without a permit, provided such signs are established in a lawful manner, placed so as not to cause a nuisance or create a safety hazard, and are at least 5' from the road right-of-way:

- A) Signs that have been approved in conjunction with a valid Zoning Permit or Building Permit for any principal use or accessory use in connection with a Plot Plan or Site Plan.
- B) Signs required by federal, state, county or township government.
- C) Signs established by or approved by federal, state, county or township units of government.
- D) Banners, balloons, flags, pennants, and pinwheels, or other devices with similar characteristics may be displayed for periods not to exceed fifteen (15) days.
- E) Other temporary signs, not listed in Section 7.5, shall be regarded and treated in all respects as permanent signs which require a permit.
- F) Signs under one (1) square foot in size on or next to a door or on a mailbox or post.

### **Section 7.6 - Placement of Signs and Setback**

- A) Signs shall be no closer than five (5) feet from a public road right-of-way and shall meet the required side yard setback. Signs established or approved by federal, state, local or township units of government are exempt from this requirement.
- B) Signs shall be sited to prevent one sign from blocking the view of another sign.
- C) Signs shall be sited to prevent one sign from blocking the view of another sign. Meet all setback requirements for the zoning district in which they are located.

### **Section 7.7 - Flags**

Flag pole heights shall not exceed thirty (30) feet. The total number of flagpoles shall be limited to three (3) per site. Flag Poles must be located a minimum of five (5) feet from the road right-of-way.

### **Section 7.8 – Application Procedure**

Applications for sign permits shall be made upon forms provided by the Zoning Administrator and shall contain or have attached thereto the following information:

- A) Name, address, telephone number and e-mail address of the applicant and property owner (if other than the applicant).
- B) Location of building, structure or lot to which the sign or sign structure is to be attached or erected.
- C) Site or plot plan showing the location of the sign.
- D) One (1) graphic of the proposed sign(s), including dimensions, height, and lighting details (as applicable).
- E) Written authorization of the property owner where the sign is to be erected.

The sign plan may be separately submitted or be an integral feature of the Site Plan, however, a separate application process and fee applies.

### **Section 7.9 Sign Removal from Public Right-Of-Way**

Any unauthorized sign that is placed on public property or within the road right-of-way is subject to removal by the Zoning Administrator or designee. If the owner or party responsible for such sign is known, the Township shall provide the owner or responsible party with an opportunity to retrieve the removed sign. Any such sign that has not been retrieved within thirty (30) days following notification that the sign was removed is subject to disposal. The Township shall not be responsible for any loss or damage incurred in connection with the removal or temporary storage of any unauthorized sign.

# ARTICLE VIII – OFF-STREET PARKING AND LOADING SPACE REQUIREMENTS

## Section 8.0 – Description and Purpose

To permit and regulate the parking and loading of automotive vehicles in all zones.

## Section 8.1 – General Regulations and Definitions

The following regulations and definitions shall apply in all Zoning Districts.

- A) A plan of the proposed parking and loading areas shall be submitted to the Zoning Administrator for all new commercial, industrial, multiple family and mobile park uses.
- B) A minimum area of two hundred (200) square feet shall be provided for each vehicle parking space exclusive of aisles and access.
- C) “Gross floor area” is the sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of walls separating two buildings.
- D) The Board of Appeals may, without proof of unnecessary hardship, grant any applicant a variance on the requirements of this Article if the Board finds from the evidence presented that the intended use of a proposed building does not require parking or loading facilities to the degree specified herein. However, the Board shall require that adequate open areas be retained around such a building to permit development of the required parking or loading areas should the use of the building change at a later date.

## Section 8.2 – Parking Requirements

Hereafter, no building shall be erected or altered, and no land used unless there is provided adequate off-street parking spaces in accordance with the following schedule.

<u>USES</u>	<u>REQUIREMENTS</u>
Residential Uses	Two (2) spaces per dwelling unit
Commercial, Service and Office Uses	One (1) square foot of parking per square foot of commercial floor area
Industrial Uses area	One (1) square foot of parking per square foot of gross floor area

In the case of a use not specifically mentioned, the requirements of off-street parking facilities shall be the same as for the most similar use listed.

### **Section 8.3 – Loading Space Requirements**

For every building, or addition to an existing building, hereafter erected to be occupied by a use allowed in any commercial or Industrial Zone District or other similar use requiring the receipt or distribution in vehicles, of materials or merchandise, there shall be provided and maintained on the same premises with such building or addition, off-street loading spaces in relation to floor area as follows:

- A) Up to twenty thousand (20,000) square feet – one (1) space.
- B) Twenty thousand (20,000) to fifty thousand (50,000) square feet – two (2) spaces.
- C) Fifty thousand (50,000) to one hundred thousand (100,000) square feet – three (3) spaces.
- D) One (1) additional space for each additional one hundred thousand (100,000) square feet or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height. No such space shall be located closer than fifty (50) feet to any lot in any residential or Farm and Forest district unless wholly within a completely enclosed building or enclosed on all sides by a wall.

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# ARTICLE IX – NONCONFORMING USES, LOTS, AND STRUCTURES

## **Section 9.0 – Continuance of Use**

The lawful use of any premises existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the provisions hereof, but if such nonconforming use is discontinued, the future use of said premises shall be in conformity with the provisions of this Ordinance.

- A) If a structure or use is nonconforming because of height, floor area, parking or loading space provisions of this Ordinance, it may be extended, enlarged, altered, remodeled or modernized to comply with these provisions. Once in compliance, no structure or use shall again become nonconforming in these categories.
- B) An existing nonconforming building may be altered or remodeled within the interior dimensions of the building, provided no exterior structural alterations are made.
- C) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception, be changed to another nonconforming use, provided that the Zoning Board of Appeals, either by general rule or by making findings in a specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the ZBA may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

## **Section 9.1 – Restoration**

The Zoning Board of Appeals may, upon application and notification to the property owners and occupants, as required by Section 12.3, permit reconstruction of a pre-existing nonconforming use and structure which has been damaged or destroyed by fire, wind, act of God, or criminal act, regardless of the amount of destruction, provided that such reconstruction be of the same size, on the same location, be of equal or greater value, and shall not be substantially detrimental to the surrounding neighborhood or contrary to the spirit of this Ordinance. Such reconstruction or renovations shall be completed within six (6) months from the issue date of the Building Permit.

If a nonconforming use is destroyed, and the use is not rebuilt or restored, the owner shall have six (6) months from the date of the occurrence to clear the property of the remaining portion of the nonconforming use.

## **Section 9.2 – Change of Nonconforming Use**

Whenever a Zoning District shall be changed, any than existing nonconforming use in such changed district may be continued, provided all other regulation governing the use are complied with. An existing nonconforming use may be changed to another nonconforming use as long as that use is similar or more restrictive and less intensive in nature than the current nonconforming use as determined by the Zoning Board of Appeals.

Whenever a nonconforming use of a building, structure or premise has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

## **Section 9.3 – Nonconforming Use Discontinued**

In the event that any nonconforming use is discontinued for a period of one (1) year, any subsequent use shall conform to the uses permitted in the district in which the premises are located.

## **Section 9.4 – Repair of Nonconforming Buildings**

Nothing in this Ordinance shall prevent the repair, reinforcement or reconstruction of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration or depreciation, provided such work shall not exceed twenty-five (25) percent of the existing structure's area.

## **Section 9.5 – Nonconforming Lots of Record**

Lots of record that are nonconforming because of lack of the required land area shall be allowed to be built on, and variances may be allowed for required setbacks and yard sizes, provided that adequate portable water supply and proper and safe sewage disposal facilities are provided. The Zoning Board of Appeals in granting the variance must ensure that the spirit of the Ordinance is observed, public safety secured, and substantial justice is done.

## **Section 9.6 – Expansion of Nonconforming Use**

The Zoning Board of Appeals may, upon application and notification to the property owners and occupants, as required by Section 12.3, permit expansion of a pre-existing nonconforming use, provided such expansion shall not be substantially detrimental to the surrounding neighborhood and contrary to the spirit and intent of the Ordinance.

## **Section 9.7 – Elimination of Nonconforming Uses**

The Township may, from time to time, acquire properties, or interest in properties, on which nonconforming uses or structures are located, by condemnation, purchase, or otherwise, and may remove such structures, and lease or sell the property for a conforming use, or develop it for public use. The net cost may be assessed to a special district in accordance with applicable statutory provisions or may be paid from general funds.

# ARTICLE X – SPECIAL USE PERMITS

## Section 10.0 – Permit Required for Certain Uses

- A) Purpose – Certain land use activities entitled “Special Uses” may be authorized in the various Zoning Districts but only if adequate safeguards are provided to ensure the protection of the public health, safety and general welfare. The special uses that may be authorized are listed in the “Use Regulation” Section of each Zoning District.
- B) Special uses may be authorized by the Township Planning Commission by the issuance of a special use permit provided:
  - 1) The proposed use is one listed as a special use for the district in which said use is located.
  - 2) The provisions of this Article are complied with.
  - 3) The standards for the particular use as stated in the provisions for that district in which said use is located are fulfilled, and the standards or other requirements of the Ordinance are met.
  - 4) A development plan is submitted and approved pursuant to Article XI.

## Section 10.1 – Procedure

- A) Application for special use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form supplied for such purposes. Applications shall be accompanied by the payment of the fee specified in Section 13.4. When the application is for public sanitary landfills, commercial and industrial sanitary landfills, or natural resource extraction operations the application shall also include a topographic map showing contour lines at an interval not greater than five (5) feet and proposed contour lines at the same interval.
- B) An application for a special use permit shall be processed in the following manner.
  - 1) The Zoning Administrator shall forward the application and supporting data to the Township Planning Commission.
  - 2) The Township Planning Commission shall review the proposed development as presented in the application and in terms of the specifications established in this Ordinance.

- 3) After adequate review and study of any application, the Township Planning Commission shall hold a public hearing or hearings when the following requirements are met. A notice of the purpose, time and place of such hearing shall appear in at least one (1) newspaper of general circulation within the township not less than fifteen (15) days prior to the date of said hearing. (amended November 17, 2017)
- 4) The Township Planning Commission shall give a notice to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed and the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given at the last assessment roll. If the tenants name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission prior to the hearing. The notice shall be made not less than fifteen (15) days prior to the hearing stating the time and place of the hearing, describing the property and the nature of the special land use request. (amended November 17, 2017)
- 5) The Township Planning Commission, after public hearing, may issue a special use permit. The Commission shall render its decision denying, approving, or approving with conditions, a request for a special land use, which decision shall incorporate the conclusions reached by the Commission, which formed the basis for their decision, and any conditions imposed. A copy of the decision shall be sent promptly to the Zoning Administrator and to the applicant.

### **Section 10.2 – Basis of Determination**

The Township Planning Commission shall review the proposed special use in terms of the standards stated within this Ordinance and shall find adequate evidence that such use in the proposed location:

- A) Will be designed, constructed, operated and maintained so as to be harmonious with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed to be located.
- B) The location and size of the proposed use, the nature and intensity of the principal use and all the accessory uses, the site layout and its relation to the streets giving access to it, shall be such that traffic to and from the use, the assemble of persons in connection therewith, will not be hazardous or otherwise detrimental to the neighborhood or its normal traffic.
- C) Will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide

adequately any such service or facility.

- D) Will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township.
- E) Will be consistent with the intent and purposes of the Ordinance.

### **Section 10.3 – Conditions and Safeguards**

The Township Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights of nearby parcels, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special use is proposed will be observed. Special use permits may be issued for specific time periods as determined by the Township Planning Commission.

### **Section 10.4 – Reapplication**

No application for a special use permit which has been denied wholly or in part shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify reconsideration by the commission. Costs for meetings of the Planning Commission for such subsequent reapplications shall be paid by the applicant.

### **Section 10.5 – Jurisdiction of Zoning Board of Appeals**

The Zoning Board of Appeals shall have no jurisdiction over decisions of the Township Planning Commission in regard to matters concerning the granting of special use permits.

### **Section 10.6 – Cancellation of Special Use Permits**

The Planning Commission shall have the power to revoke or cancel any special use permit in case any false statement or misrepresentation is made in any application, plan or sketch submitted or filed pertaining to a special use permit, or for failure to carry out any provisions of such application, plan or sketch, or for failure to meet conditions or provisions set forth by the Planning Commission on which such special use permit was granted.

### **Section 10.7 – Telecommunication Tower or Alternative Tower Structure**

- A) In addition to the standards set forth in a particular zone and the standards set forth in section 10.2 of this ordinance, the uses below must meet the following additional standards
  - 1) Telecommunication tower or alternative tower structures.

- a) Application The applicant must demonstrate that no existing tower, alternative tower structure or alternative technology not requiring the use of towers or alternative tower structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other alternative towers or alternative technology. Evidence submitted to demonstrate that no existing tower, alternative tower structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- i) No existing towers or alternative tower structures are located within the geographic area which meet applicant's engineering requirements.
  - ii) Existing towers or alternative tower structure are not of sufficient height to meet applicants engineering requirements.
  - iii) Existing towers or alternative tower structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or alternative tower structure or the antenna on the existing towers or alternative tower structure would cause interference with the applicant's proposed antenna.
  - v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - vii) The applicant demonstrates that an alternative technology that does not require the use of towers or alternative tower structure such as cable microcell network using multiple low powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology suitable.

- b) Setbacks. The following setback requirements shall apply to all towers for which a Special Use Permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:
  - i) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
  - ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- c) Security fencing. Towers and attendant accessory structures shall be enclosed by security fencing not less than six feet (6) in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements as it deems appropriate.
- d) Landscaping The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of the ordinance would be better served thereby.
  - i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a land landscape strip at least four feet (4') wide outside the perimeter of the compound.
  - ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.
- e) State and Federal Regulations All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations

changed, then the owners of the towers and antennas governed by this ordinance, shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- f) Aesthetics. Towers and antennas shall meet the following requirements:
- i) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - ii) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - iii) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - iv) Where a feasible alternative exists, towers, alternative tower structures and supporting structures shall not utilize a power source which generates noise able to be heard by a person of normal aural acuity at adjoining property lines or public property; however, this section shall not be construed as limiting the use of temporary generators or similar devices used to create power during periods of interruption of the primary power source.
  - v) The type of Telecommunication Tower or Alternative Tower Structure shall be constructed as a guyed lattice tower, as approved by the Planning Commission, unless the applicant can demonstrate that such structure cannot accommodate the user or future co-locators.
- g) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. Applicant shall demonstrate

such lighting is required by the FAA or other Federal or State authority having jurisdiction over the lighting of towers. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

- h) Compliance with Codes. Antennas and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical connections and wiring and as to structural integrity with all applicable state and local building codes and the applicable standards for towers published by the Electronic Industries Association, as amended from time to time.
- i) Interference with Residential Reception. Towers shall be located so that they do not interfere with television and radio reception to neighboring residential areas.
- j) Signs No signs shall be allowed on an antenna or tower.
- k) Spacing Towers- Towers shall be located in clusters where existing towers are located, spaced as close as technically possible from an engineering perspective or no closer than one (1) mile from an existing telecommunications tower or alternative tower structure, as measured in a straight line between the base of the existing tower and the proposed base of the proposed tower.
- l) Spacing – Residences A tower shall not be located within two hundred feet (200') or 300 hundred percent (300%) of the height of the tower, whichever is greater, of a single family or multiple family dwelling unit church, school, or other structure normally used and actually used for the congregation of persons. Distance for the purpose of this section shall be measured from the base of the tower structure to the lot line of the single family or multiple family dwelling unit church, school, or other structure normally used and actually used for the congregation of persons.
- m) Removal of Abandoned Antennas and Towers Any antenna or tower that is not operated for a period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Along with said removal, said owner shall restore the site of said antenna or tower to its original condition prior to location of the antenna or tower subject to reasonable wear and tear. Failure to remove an abandoned antenna or tower within said Ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The Planning Commission may require applicant to file a bond equal to the of

reasonable cost of removing the tower, antenna alternative tower structure or other supporting structure(s) as a condition of a special use permit given pursuant to this section.

## **Section 10.8 – Utility Grid Wind Energy Systems**

Utility Grid WES's applications and projects, and Wind Site Assessment systems, shall comply with the following standards in addition to the standards of Section 4.31

### **1 Site Plan Review:**

A site plan and a site plan review, meeting the requirements of Section 11 of the Melrose Township Zoning Ordinance, shall be required. The application shall also include:

- a. A copy of an Environment Analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
- b. A copy of the Avian and Wildlife Impact Analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

### **2. Maps shall be presented showing:**

- a. The physical features and land uses of the project area, both before and after construction of the proposed project;
- b. Project area boundaries;
- c. The location, height, dimensions, color, and materials of all existing and proposed structures and fencing;
- d. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road; and
- e. All new infrastructure above ground related to the project.

**3. Insurance:** Public liability insurance must be maintained throughout the life of the project. Each renewal period will require a copy of certificate of insurance be provided to Melrose Township

**4. Sound Pressure Level:** Copies of modeling and analysis report.

**5. Certifications:** Certification that applicant has complied with or will comply with all

applicable state and federal laws and regulations. Copies of all such permits and approvals that have been obtained or applied for at time of the application.

6. **Visual Impact:** Visual simulations of how the completed project will look from a minimum of four viewable angles. Each WES, except for anemometer towers, shall be monopole or monotube style construction (as distinguished from a lattice-style tower) and shall not utilize guy wires. Anemometer towers may, for up to 3 years, be lattice type towers and may use guy wires.
7. **Shadow Flicker:** The applicant shall provide a shadow flicker model for any proposed WES. The model shall:
  - a. Map and describe within a one-mile radius of the proposed project site the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways;
  - b. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and wind directions and speeds;
  - c. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations;
  - d. Calculate the total number of hours per year of flicker at all locations;
  - e. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed measures to mitigate these problems, including, but not limited to, a change in siting of the facility, a change in the operation of the facility, or grading or landscaping mitigation measures.
  - f. The facility shall be designed such that shadow flicker will not fall on, or in, any existing dwelling. Shadow flicker expected to fall on a roadway, or a portion of a residential parcel may be acceptable under the following circumstances:
    - 1) The flicker will not exceed 30 hours per year; and
    - 2) The flicker will fall more than 100 feet from an existing residence; or
    - 3) The traffic volumes are less than 500 vehicles per day on the roadway as determined by either the County Road Commission or the Michigan Department of Transportation.
8. **Height.** The minimum vertical blade tip clearance from grade shall be forty (40) feet for a WES employing a horizontal axis rotor. The maximum height for Utility Grid Wind Energy Systems and Wind Site Assessment Systems is one hundred ninety-nine (199) feet.
9. **Maximum Noise Levels.** Any proposed Wind Energy System shall produce sound pressure levels that are no more than fifty-five (55) decibels as measured on the dB(A) scale at the property lines of the site in question. A noise report shall be submitted with any application for a WES. A noise report shall be prepared by a qualified professional and shall include the following, at a minimum:
  - a. A description and map of the project's noise producing features, including the range of noise levels expected, and the basis of the expectation.

- b. Description and map of the noise sensitive environment, including any sensitive noise receptors, i.e. residences, hospitals, libraries, schools, places of worship, parks, areas with outdoor workers and other facilities where quiet is important or where noise could be a nuisance within two (2) miles of the proposed facility.
- c. A survey and report prepared by a qualified engineer that analyzes the preexisting ambient noise (including seasonal variation) and the affected sensitive receptors located within two (2) miles of the proposed project site. Potential sensitive receptors at relatively less windy or quieter locations than the project shall be emphasized, and any problem areas identified;
- d. A description and map of the cumulative noise impacts with any problem areas identified; and
- e. A description of the project's proposed noise control features and specific measures proposed to mitigate noise impacts for sensitive receptors as identified above to a level of insignificance.

**10. Soil Conditions.** A proposal for any Wind Energy System or anemometer tower shall be accompanied by a report of the soils present on the site based on soil boring, and a description of the proposed foundation size, materials, and depth.

**11. Sign.** A sign no more than four (4) square feet in area displaying an address and telephone number for emergency calls and informational inquiries shall be posted at the WES. The emergency telephone number shall allow a caller to contact a responsible individual to address emergencies at any time during or after regular business hours, on weekends or holidays. No Wind Energy System tower or anemometer tower or site shall include any advertising sign.

**12. Lighting.** WES's shall not be artificially lighted, unless required by the FAA or other applicable governmental authority. If lighting is required, the lighting alternatives and design chosen:

- a. Shall be the lowest intensity allowable under FAA regulations.
- b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by the FAA. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to the FAA.
- c. May be a red top light that does not pulsate or blink.
- d. All tower lighting required by the FAA shall be shielded to the extent possible and acceptable to the FAA to reduce glare and visibility from the ground.
- e. Where acceptable to the FAA, the Township will approve white lights over red lights, and steady lights over strobed or intermittent lights.
- f. The Planning Commission may require design changes in order to lessen the visual clutter associated with the siting of multiple wind turbines with non-complementary, inconsistent design within sight of each other.

**13. Removal of Abandoned or Unsafe WES's:** Any WES that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Any tower found to be unsafe or not in compliance with the standards related to noise or shadow flicker placed upon it by the Planning Commission, shall be found to be in violation of

the permit. The owner of any WES that is abandoned or in violation of the permit shall remove the same within ninety (90) days of receipt of notice from the Township of such abandonment or violation. In addition to removing the Wind Energy System or anemometer tower, the owner shall restore the site of the WES to its original condition prior to location of the WES, subject to reasonable wear and tear. Any foundation associated with a WES shall be removed to a minimum depth of five (5) feet below the final grade and site vegetation shall be restored. Failure to remove an abandoned WES within the ninety (90) day period provided in this subsection shall be grounds for the Township to remove the WES at the owner's expense. The Planning Commission shall require the applicant to provide a performance guarantee equal to the reasonable cost of removing the WES and attendant accessory structures as a condition of a permit given pursuant to this section.

14. **Complaint Resolution**: The applicant shall develop a process to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude Melrose Township from acting on a complaint.

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# ARTICLE XI – DEVELOPMENT PLAN REVIEW

## Section 11.0 – Purpose

To minimize impacts from various uses that are allowed to locate within Melrose Township, certain types of uses and uses in certain zoning districts are subject to a more rigorous review to ensure the health, safety and welfare of the residents of Melrose Township are protected.

## Section 11.1 – APPLICATION FOR DEVELOPMENT PLAN REVIEW

- A. An application package for a Development Plan Review shall be submitted to the Township Zoning Administrator. This application package shall contain one (1) copy of the application and seven copies of the plan maps.
- 1) The application shall contain the following information:
    - a) The applicant's name, address and telephone number in full.
    - b) Proof of property ownership, and whether there are any options on the property, or any liens against it.
    - c) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
    - d) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).
    - e) The address, parcel number and legal description of the property.
    - f) Name and address of the developer (if different from the applicant).
    - g) Name and address of all registered professionals involved with the proposed project including the engineers, architects and surveyors. Plans shall contain the seal of a minimum of one of the registered professionals responsible for the preparation of the same.
    - h) Project description, including the total number of structures, units, bedrooms, offices, total floor area, parking spaces, carports or garages, projections of employment levels for commercial and/or industrial uses, amount of recreation and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by this Ordinance.

- i) The total acreage of the project.
  - j) Project's proposed beginning and completion schedule (by phase if the entire project is to be divided into phases).
  - k) Written narrative stating anticipated impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities), community facilities, and on the natural environment of the site and adjoining lands.
  - l) The proposed Master Deed is to be included as a portion of the application package if the development is proposed to be a condominium or site condominium project.
  - m) Where jointly owned private lands, roads, structures or other infrastructure will be created, the means of guaranteeing long term maintenance shall be provided.
- 2) Twelve (12) copies of the development plan maps shall be submitted with the application, one of which shall be capable of being reproduced. The development plan maps shall consist of accurate drawings at a scale of 1" =100' or less, showing the site and all land within 150' of the site. If multiple sheets are used, each shall be labeled, and the preparer identified. Each set of development plan maps shall depict the following:
- a) Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations as well as the location of current land uses, zoning classifications and existing structures on and uses of the subject parcel and adjoining parcels.
  - b) Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.
  - c) Location and type of significant existing vegetation to be retained as well as those proposed to be removed.
  - d) Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands, regulated under the following state statutes as amended: Public Acts 245 of 1929, 346 of 1972, 203 of 1979; and Federal Codes as amended: Section 10 of the River and Harbor Act of 1899 and Section 404 of the Clean Water Act of 1972.
  - e) Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.

- f) Proposed location of accessory structures, buildings and uses, including but not limited to all satellite dishes, antennas, flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening, where applicable.
- g) Location of all existing public and private easements including road and utility rights-of-way on or abutting the property.
- h) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes serving the development. Details of entryway and sign locations should be separately depicted with an elevation view. Proposed street names shall be included.
- i) Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including type of material proposed to be used for surfacing), fire lanes and all lighting thereof.
- j) Location, size and characteristics of all loading and unloading areas.
- k) Location and design of sidewalks, walkways, bicycle paths and areas for public use.
- l) Location of water supply lines and/or wells, including the fire hydrants and shutoff valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean out locations, connection points and treatment systems, including septic systems, if applicable.
- m) Location of all other utilities, including but not limited to natural gas, electric, cable TV, and telephone.
- n) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- o) Location, size and specifications of all signs.
- p) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- q) Location and type of fencing, walls, and other screening devices.

- r) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material, the type and size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its general size and specific location.
- s) Location, size and specifications for screening of all trash receptacles and other solid waste disposal facilities.
- t) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.
- u) Identification of any significant amenities or unique natural features.
- v) Identification of any significant views onto or from the site to or from adjoining properties.
- w) North arrow, scale and date of original submittal and last revision.
- x) For facilities or uses where hazardous substances as defined by the Resource Conservation and Recovery Act are stored, used or generated, the following information shall be provided.
  - 1) Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
  - 2) Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
  - 3) Location of exterior drains, dry wells, catch basins, retention/detention areas and other facilities designed to collect, store or transport storm water. The point of discharge for all drains.
  - 4) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of cleanup.
  - 5) Copies of all Federal/State/County permits required.

- y) Other information deemed necessary by the Planning Commission to allow the Commission to determine whether the development will be harmonious with the community and to insure the health, safety, and welfare of the community is protected, including but not limited to the following:
  - 1) The location and type of existing soils on the property and any certifications of borings.
  - 2) Elevations of buildings, signs and other structures and typical elevation views of proposed structures.
- B) The applicant shall submit the required fees to Zoning Administrator as set forth in the Melrose Township Fee Schedule.
- C) The Zoning Administrator shall review the contents of the application package and shall forward said material to the Planning Commission upon determination that the application package is complete with all requirements of this ordinance being met.
- D) Planning Commission upon the request of the applicant may waive certain requirements of the plan listed above provided the Commission shall document on the record specific reasons why specific requirements are being waived.

### **Section 11.2 – Development Plan Review and Approval**

- A) The applicant or agent of the applicant must be present at any meeting at which the development plan is to be considered. Should the applicant (or agent of) not be present for two (2) consecutive meetings at which the development plan is an agenda item, the development plan shall be rejected by the Township Planning Commission. The development plan may be resubmitted at a later date as a new application.
- B) Only one (1) development plan shall be considered by the Planning Commission for a parcel of property at one time. The applicant may withdraw an application and apply with a new development plan. In this instance, the first development plan shall no longer be considered, and a notation shall be made on the development plan that it has been withdrawn by the applicant.
- C) The Planning Commission shall review and approve, review and approve with conditions, or review and deny all development plans submitted under this Ordinance. Each development plan shall comply with Section 11.04 of this Ordinance. Each action taken with reference to development plan review shall be duly recorded in the minutes of the Planning Commission. Prior to any final

decision, the Planning Commission shall seek the recommendations of other Federal, State, County or other local groups or agencies, where applicable.

- D) Development Plan approval shall be by the Planning Commission. The Planning Commission shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies have been met including any conditions that may be necessary. Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final development plan approval can be granted. An approved development plan shall include a note referencing the case number and date of all variances granted.
- E) All development plans shall be acted upon within ninety (90) days of receipt by the Planning Commission of a complete application and development plan meeting the requirements above. Before final approval of any development plan, the petitioner shall apply for all appropriate Township, County, State and/or Federal permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.
- F) All requirements of the Township shall be included in the Master Deed.

**Section 11.3 – Agency Review** (amended on November 13, 2017)

- A) The Zoning Administrator shall mail one (1) copy of the Application for Development Plan review and one (1) copy of the development plan to the following agencies:
  - 1) Charlevoix County Soil Erosion and Sedimentation Control Officer
  - 2) Charlevoix County Road Commission and/or the Michigan Department of Transportation.
  - 3) Charlevoix County Drain Commissioner.
  - 4) Health Department of Northwest Michigan.
  - 5) Charlevoix County Department of Building Safety.
  - 6) Charlevoix County Planning Department.
  - 7) Melrose Township Fire Chief.
  - 8) Michigan Department of Natural Resources.
  - 9) All other agencies with jurisdiction in regard to a particular project.

- B) These agencies shall be granted fifteen (15) working days in which to respond with their comments and concerns.
- C) Upon the passage of the fifteen days prescribed above, the application for Development Plan Review will be placed on the agenda of a meeting of the Planning Commission for discussion and action.
- D) The Planning Commission will consider all applications for Development Plan Review submitted to it for approval, revision, or disapproval, at a scheduled meeting.
  - 1 Upon determination of the Planning Commission that a development plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the development plan.
  - 2 Upon determination of the Planning Commission that a development plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately addressed, the petitioner shall resubmit the development plan to the Planning Commission for Final Development Plan Approval.
  - 3 If extensive revisions to the development plan are necessary to meet the Zoning Ordinance, and other applicable regulations, the development plan shall be disapproved and the applicant requested to prepare an alternate development plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's minutes.
- E. When a development plan is reviewed and approved or disapproved by the Planning Commission and all steps completed, three (3) copies of the development plan will be marked with said action and distributed as follows:
  - 1 One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission including any conditions of approval.
  - 2 One (1) copy forwarded to the Planning Commission Secretary for filing.
  - 3 One (1) copy forwarded to the Zoning Administrator.
  - 4 Upon Final Development Plan Approval by the Planning Commission, a Zoning Permit may be obtained.

#### **Section 11.4 – Standards for Development Plan Approval**

- A Each development plan shall conform to all applicable provisions of this Zoning Ordinance and the standards listed below:

- 1 All elements of the development plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The development shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
- 2 The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.
- 3 Special attention shall be given to proper development drainage so that removal of storm waters will not adversely affect neighboring properties. Run-off from such developments must run through detention and settling basins before being discharged off development. Such basins shall have the storage capacity to handle all storm water runoff from a four and two tenths (4.2) inch rainfall (a 100 year rain fall event) in a twenty-four (24) hour period.
- 4 The development plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- 5 All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- 6 Every structure or dwelling unit shall have access to a street, walkway or other area dedicated to common use.
- 7 There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- 8 All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height.
- 9 Exterior lighting shall be arranged so that it is deflected away from neighboring properties and so that it does not impede the vision of traffic along adjacent streets nor add to the visual light pollution of neighboring properties.
- 10 All approaches to paved public roads shall be surfaced with bituminous

asphalt, concrete or similar materials.

- 11 The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets. Streets which are part of an existing or planned pattern which serve adjacent development shall be of a width appropriate to handle the traffic volumes they will carry.
- 12 All proposed streets shall be shown on the development plan and include a Civil Engineer's Signature and Seal with a statement that the Engineer is responsible for the design and will oversee the construction and development of the road system. The Engineer shall further document that the design of the street shall result in safe travel within the site as well as a safe interface(s) between the traffic pattern within the site and the traffic which is located off site including the ability of vehicles to stop in a safe manner.
- 13 Public streets to be deeded to the Charlevoix County Road Commission shall meet their applicable standards.
- 14 Private roads shall at a minimum meet the following standards:
  - a Shall contain a sixty-six (66) foot road right-of-way.
  - b Shall contain a grade that does not exceed a eight (8) percent.
  - c All dead-end roads shall contain a cul-de-sac at the end which shall meet Charlevoix County Road Commission specifications.
  - d The traveled portion of the road shall be a minimum of eighteen (18) feet in width with a two (2) foot shoulder on each side.
- 15 All common drives or private roads servicing or to serve three (3) or more lots shall have a road maintenance agreement and deed restrictions which provides for the perpetual private (non-public) maintenance of such drives and roads to a necessary and reasonable standard to serve the several interests involved. These documents shall contain the following provisions:
  - a A method of financing road maintenance and upkeep in order to keep the road in a reasonably good and usable condition.
  - b A workable method of apportioning the costs of maintenance, upkeep, and improvements.
  - c Contain provisions that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress, egress, and use of the

road. Normal ingress, egress and use shall include use by family, guests, invitees, tradesmen and others bound to or returning from any of the properties having a right to use the road. Provisions shall be included to allow ingress and egress by emergency and other public vehicles for whatever public services are necessary.

- d A notice that if repairs and maintenance are not made, the Township may bring the drive or road up to safe design standards and assess owners of lots served by the common drive or private road for the improvements, plus an administrative fee in the amount of 25% for out-of-pocket costs.
- e A notice that no public funds of Melrose Township are to be used to build, repair or maintain the common drive or private road.

16 The guarantee of long-term maintenance of roads, structures, other infrastructure, open space, or jointly owned private lands shall meet the approval of the Planning Commission. Said language shall be included in any and all associated legal documents, recorded with the Charlevoix County Register of Deeds, and a recorded copy furnished to the Melrose Township Zoning Administrator.

17 Development plans shall conform to all applicable requirements of Township, County, State and Federal statutes and approval shall be conditioned on the applicant receiving all necessary permits before final development plan approval.

B Except where otherwise allowed in this Ordinance, lots on lands developed pursuant to the Subdivision Control Act or the Condominium Act, shall conform with the following requirements:

- 1 All public streets shall be constructed to meet or exceed Charlevoix County Road Commissions Standards and Specifications.
- 2 All utility lines (power, telephone, water, gas, cable TV) serving these parcels shall be placed underground.

C For all proposed natural resource extraction, mining, or relocation operations, the following requirements shall be established:

- 1 A performance guarantee shall be required for all proposed projects. This fee shall be of an amount sufficient to cover the costs to the Township of completing the earthmoving and landscaping to the conditions detailed in approved development plan.
- 2 Sufficient native topsoil shall be left on the development as a ready resource

- to be used in reclamation work following excavation/extraction activity, unless a guaranteed replacement plan is approved.
- 3 Fences, berms, walls and other visual screening devices of sufficient height and construction shall be required to screen operations and stockpiles from views on public roadways or waterways.
  - 4 The operation of mechanical equipment of any kind may be limited by the day and/or hour if the development is in a location that directly impacts homes and/or residential zoned lands, by creating an operating nuisance.
  - 5 All structures, equipment and machinery shall be considered temporary and shall be removed from the development upon completion of the mineral extraction, mining or relocation.
  - 6 Air pollution, noise, and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.
  - 7 If necessary to protect the area, access routes serving the development may be specified for the purpose of limiting the exposure of residential areas to earth moving vehicles.
  - 8 The location of earth stockpiles, machinery, equipment and any buildings, shall be approved by permit but only in terms to protect adjoining properties and obtain the optimum use of the development. Topography, vegetation, screening devices, and physical isolation from residential properties shall be considered in locating development facilities and earth stockpiles.
  - 9 The final grading and land reclamation plan for each permitted excavation shall be in general accordance with the character of uses and natural features on adjoining lands to the extent practical. All reclamation, grading and seeding practices shall be done per USDA Soil Conservation Service standards and specifications.
  - 10 Specific development reclamation requirements may vary depending on the location of the development in terms of its exposure to view, physical isolation, influence on residential areas, sensitivity to the natural environment and/or reuse potential. The Planning Commission shall state specific reasons.
  - 11 Time limits may be established in the approval of a development plan to ensure the removal of the resource and restoration of the property in a timely fashion.
- D. For private recreational facilities or uses that have inland lake frontage, the following limitations shall be established:

- 1 Camping is not permitted except as an accessory function of a larger resort complex.
- 2 Vehicle parking is permitted only as necessary for reasonable access to the location.
- 3 If a private lake front park or playground is being developed as part of a subdivision, plat, condominium or other form of development, a minimum of one hundred (100) feet of shoreline and twenty thousand (20,000) square feet of land area shall be required for five (5) or fewer non-lake front lots. For each additional lot, an additional ten (10) feet of frontage and two thousand (2,000) square feet of land area shall be required.
- 4 Boat docks shall not exceed one (1) per one hundred (100) feet of lot width. No dock shall be located in a manner that will impede the use of the lake by adjoining properties.
- 5 Not more than three (3) motor powered crafts shall be moored per one hundred (100) feet of lot width.
- 6 Only one (1) raft shall be allowed per one hundred (100) feet of lot width.
- 7 Plans for permanent residential dwelling recreational apparatus must be shown on the development plan.
- 8 All uses shall be compatible with the adjacent property uses. Therefore, additional limitations may be imposed.

E. Developments where hazardous substances are stored, used or generated the following standards shall apply:

- 1 Said developments shall be designed in such a manner to prevent spills and (unless permitted by state or federal statute) discharges to the air, surface or the ground, groundwater, lakes, streams, rivers or wetlands.
- 2 Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- 3 General purpose floor drains shall only be allowed if they are connected to a public sewer system providing primary, secondary and tertiary treatment, or an on-development closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.

### **Section 11.5 – Conditional Approvals**

- A. The Planning Commission may condition approval of a development plan on conformance with the standards of another local, county or state agency, when the following conditions apply:
- 1 Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
  - 2 Would protect the natural environment and conserve natural resources and energy.
  - 3 Would insure compatibility with adjacent uses of land.
  - 4 Would promote the use of land in a socially and economically desirable manner.
- B The Planning Commission may conditionally approve a development plan based upon conformance with fencing, screening, buffering or landscaping requirements as established by the Planning Commission. When so doing, the following findings shall be made and documented as part of the review process:
- 1 That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels.
  - 2 That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

### **Section 11.6 – Conformity to Approved Development Plan Required**

Following Final Approval of a development plan by the Township, the applicant shall construct the development plan improvements in complete conformity with the approved plan. Failure to do so, or to amend the development plan to conform with the development shall be deemed a violation of this Ordinance.

### **Section 11.7- Performance Guarantee**

The Township Board may require a performance guarantee by the applicant to insure completion of improvements associated with a development project and/or to insure compliance with the Zoning Ordinance. The improvements subject to the performance guarantee are those features or actions considered necessary by the Township to protect natural resources, or the health, safety and welfare of the residents of the Township, the

project area, or the project itself. The performance guarantee is exclusive of those improvements that are guaranteed and deposited in accordance with the Subdivision Control Act or other public acts, ordinances or regulations of the state, county or Melrose Township. The performance guarantee shall be in an amount as determined by the Township which is sufficient to accomplish the purposes stated above. The Township may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond which will be deposited with the Township Treasurer at the time the permit is issued. The performance guarantee shall be proportionally rebated based upon the type and amount of work completed.

### **Section 11.8 – Amendments to Approved Development Plans**

A. Amendments to an approved development plan may be made by the Planning Commission provided that such changes conform to the Zoning Ordinance. Minor changes to an approved development plan may be approved by the Planning Commission after construction has commenced, provided no such change results in any of the following:

- 1 A significant change in the use or character of the development.
- 2 An increase in overall coverage of structures.
- 3 A significant increase in the intensity of use.
- 4 A reduction in required open space.
- 5 A reduction in required off-street parking and loading.
- 6 A reduction in required pavement widths or utility pipe sizes.
- 7 A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

B Minor changes approvable by the Planning Commission shall include the following:

- 1 Relocation of building entrances or exits, or shortening of building canopies.
- 2 Changing to a more restricted use provided there is no addition in the amount of off-street parking as originally provided.
- 3 Changing the angle of parking provided there is no reduction in the amount of required off-street parking.
- 4 Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate State, County or other local road authority with jurisdiction.

- 5 Substituting landscape materials or species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and will accomplish the same or an increased screening effect.
- 6 Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.
- 7 Increase perimeter yards.
- 8 Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

#### **Section 11.9 – As Built Development Plan**

Upon completion of the installation of required improvements as shown on the approved development plan, the property owner shall submit to the Zoning Administrator seven (7) copies of an “as built” development plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the as built plans among the appropriate departments for review to insure conformity with the approved development plan and other township requirements. Once each department has approved the as built plans the Zoning Administrator shall make the final inspection and issue the Occupancy Permit provided the development plan has been complied with.

#### **Section 11.10 – Revocation of Development Plan Approval**

- A A Development Plan Approval may be revoked by the Township Planning Commission at any time in the development process if the development plan application or plans contained erroneous information that was supplied by the applicant.
- B A Development Plan Approval may be revoked by the Township prior to the commencement of the project if a twelve (12) month time period has elapsed from the approval date and any of the following conditions can be demonstrated by the Planning Commission.
  - 1 Zoning regulations applicable to the project have been changed and the previously approved development plan does not comply with them.

- 2 Changes in state law, county or township ordinances affecting the previous approval have occurred.
  - 3 Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as approved.
- C Revocation of an approved development plan shall be communicated in writing by certified mail to the applicant. The County Building Department shall be notified to withhold or revoke any building permit until a new development plan is approved.
- D Any subsequent submittal of a revoked development plan shall be processed as a new request with new fees.

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# **ARTICLE XII – ZONING BOARD OF APPEALS**

## **Section 12.0 – Purpose**

In order that the objectives of this Ordinance may be fully and equitably achieved, that a means shall be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be provided in the application of this Ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Township Zoning board of Appeals.

## **Section 12.1 – Creation, Membership and Terms of Office**

The Melrose Township Board shall appoint a Township Zoning Board of Appeals to consist of three (3) members. The first member of such Board of Appeals shall be the Chairman of the Township Planning Commission. The second member shall be a member of the Township Board, and the third member shall be selected and appointed by the Township Board. No elected officer of the township nor any employee of the Township Board may serve simultaneously as the third member of or as an employee of the Township Zoning Board of Appeals.

The Township Board may provide that the Township Zoning Board of Appeals shall have five (5) members. The additional members shall be selected and appointed by the Township Board from among the electors residing in the unincorporated area of the township. An additional member shall not be an employee of the Township Board. The member who is a member of the Township Board appointed by the Township Board shall not serve as Chairman of the Township zoning Board of Appeals.

The Township Board shall appoint two (2) alternate members to serve in case of absence. The acting Chairperson will be responsible for notification of the alternates.

Members of the Township Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after a public hearing.

## **Section 12.2 – Rules of Procedure**

- A) The Board shall adopt rules and regulations to ensure proper conduct of its meeting. Copies of such regulations shall be made available to the public at the office of the Township Clerk.
- B) Upon request and available, the Chairperson may call a special meeting with a fee charged to the applicant, in accordance with Section 13.4. (amended November 17, 2017)
- C) The Board shall act by resolution. The concurring vote of a majority of the members of said Board shall be necessary to reverse any order, requirement,

decision or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which the Board is required to pass under this Ordinance or to grant variances from the requirements of this Ordinance.

- D) Records – Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with the votes of the members and the final disposition of each case. The grounds of every determination shall be stated. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals permanent records. Such minutes shall become a public record and as such be filed in the Office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant, the Zoning administrator, Planning Commission and the Township Board.
- E) Secretary and Counsel – the Township Clerk shall be responsible for acting as Secretary, or of providing secretarial services for the Zoning Board of Appeals, and all records of the Board's action shall be taken and recorded under his/her direction. The Township Attorney may be requested, by the chairperson of the Zoning Board of Appeals, to attend any meeting of the Zoning Board of Appeals.

### **Section 12.3 – Appeals**

- A) Appeals to the Zoning Board of Appeals may be taken by any person aggrieved, or by an officer of The Board of The Township.
- B) Time Limit – Any appeal from a ruling of the Zoning Administrator shall be made within thirty (30) days after receipt of the ruling. The person making the appeals must file with the Zoning Administrator a signed notice of appeal specifying the grounds for the appeal. The Zoning Administrator shall immediately transmit to the Zoning board of Appeals all papers concerning the case being appealed.
- C) Hearings – When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the secretary shall place the request for appeal upon the calendar for a hearing and shall cause notice stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal, and to all property owners located within three hundred (300) feet of the land involved in the appeal, at least fifteen (15) days prior to the date of the scheduled hearing. (amended November 17, 2017)
- D) Decisions – The Zoning Board of Appeals shall return a decision upon each case within sixty (60) days after a request or appeal has been filed with the Board unless additional time is agreed upon with the parties concerned. Decisions made by the Zoning Board of Appeals will be forwarded, in writing, to the appealing party and the Zoning Administrator.

- E) Representation – Any party may appear in person or by agent or by attorney at a hearing considering his request or appeal.

**Section 12.4 – Duties and Power of the Zoning Board of Appeals**

- A) Review – Shall hear and decide appeals from any review, any order, requirement, decision or determination made by the Zoning Administrator in the administration of this Ordinance.
- B) Interpretation – Shall have the power to:
  - 1) Hear and decide upon appeals for the interpretation of the provision of this Ordinance.
  - 2) Determine the precise location of the boundary lines between Zoning Districts when there is dissatisfaction with the decision on such subject made by the Zoning Administrator.
  - 3) Determine the off-street parking and loading space requirements of any use which is not mentioned in Article VIII, Section 8.2 or 8.3, either by classifying it with one of the groups listed in the section or by an analysis of the specific need.
- C) Variances – The Zoning Board of Appeals shall have the power to authorize, upon appeal, specific variances from such dimensional requirements as lot area and width regulations, building height and square foot regulations, yard width and depth regulations, sign regulations and such requirements as off-street parking and loading spaces as specified in this Ordinance when all the basic conditions listed below are specified.

It shall be found by the Zoning Board of Appeals that any variance granted:

- 1) Will not be contrary to the public interest or to the spirit and intent of this Ordinance.
- 2) Shall not permit the establishment within a Zoning District of any use which is not permitted by right within that district.
- 3) Will not cause any adverse effect to property in the vicinity or in the Zoning District or the Township.
- 4) Relates only to property that is under control of the applicant.

- 5) Affects only property subject to exceptional or extraordinary circumstances or conditions that do not generally apply to other property or uses in the vicinity, and have not resulted from any act of the applicant.
- D) In addition to the foregoing conditions, the following rules shall apply in the granting of variances.
- 1) In granting a variance, the Zoning Board of Appeals may specify, in writing to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially, the objectives of the regulations or provisions to which such variance applies. The breach of any such condition shall automatically invalidate the permit granted.
  - 2) No application for variance which has been wholly or in part denied by the Zoning Board of Appeals shall be submitted for a period of one (1) year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board of Appeals to be valid.
  - 3) Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within six (6) months after the granting of the variance.

### **Section 12.5 – Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Zoning Board of Appeals after a notice of the appeal shall have been filed with him/her that, for reasons of facts stated in the certificate, a stay in his/her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or, on application, by the Circuit Court on notice to the officer from whom the appeal is taken and on due cause shown.

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# **ARTICLE XIII – ZONING ADMINISTRATION AND ENFORCEMENT**

## **Section 13.0 - Administration**

The provisions of this Ordinance shall be administered by the Melrose Township Board in accordance with the State of Michigan, Township Rural Zoning Act, Act 184, of the Public Acts of 1943, as amended.

The Melrose Township Board shall employ a Zoning Administrator to act as its officer and, except as otherwise provided in this Ordinance, the Zoning Administrator shall administer and enforce this Ordinance including the receiving and processing of applications for zoning permits, special use permits, sign permits, appeals for variances and other matters the Zoning Board of Appeals or Township Planning Commission is required to decide. The administrator shall also be responsible for the inspection of premises, the issuance of zoning permits and institution of proceedings for the enforcement of the provisions of this Ordinance.

## **Section 13.1 - Zoning Permits**

It shall be unlawful for any person to commence excavation for any building or structure or to commence the erection, addition, alteration or repair of any building, structure or parking area or repair or move any building or structure, and no land use shall be commenced until a zoning permit has been secured from the Zoning Administrator. Except upon written order of the Zoning Board of Appeals, no such zoning permit shall be issued for any building where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this Ordinance.

Exempted from permit requirements are interior alterations and ordinary maintenance repairs made on all dwellings and their related accessory buildings. Interior alterations on other buildings or structures are also exempt provided that the alterations shall not change the use thereof. Exterior changes which create additional floor area shall require a permit.

Detached residential buildings and structures having one hundred (100) square feet of floor area or less require a zoning permit. However, the permit fee shall be waived.

Zoning permits shall be valid for one (1) year. At the conclusion of this time period, a new permit may be issued at one half (1/2) of the permit fee.

## **Section 13.2 - Zoning Permit Application**

Application for a zoning permit shall be filed in writing with the Zoning Administrator, signed by the person, firm, co-partnership or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership or corporation. There shall be a plot plan, giving accurate dimensions on either a scale drawing or a rough sketch. Drawing shall be required on all structures and shall contain the following information:

- A) Existing and intended use of the structure.
- B) Lines and dimensions of the lots to be used.
- C) Location upon the lot of all existing and proposed structures and any streets bordering the property.
- D) Application for zoning permits under the provision of this Ordinance shall be accompanied by evidence of ownership of all property affected by the coverage of the permit.
- E) Evidence that all required federal, state and county licenses or permits have been acquired except building, electrical or plumbing permits.
- F) Other information with respect to the proposed structure, use, lot and adjoining property as may be required by the Zoning Administrator.

The written approval of the water supply and sewage disposal facilities, as obtained from the District Health Department, and as required in Article IV, Section 4.11 of this Ordinance, shall be accompanied by one (1) copy of both plans and specifications, which shall be filed and retained by the office of the Zoning Administrator.

In cases of minor alterations, the Zoning Administrator may waive portions of the foregoing requirements obviously not necessary for determination of compliance with this Ordinance.

Any permit required by this Zoning Ordinance shall be displayed face out, within twenty four (24) hours of its issuance by placing the same in a conspicuous place on the premises facing the nearest street and shall be continuously so displayed until all work is completed.

### **Section 13.3 - Amendments**

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

- A) The regulations and provisions stated in the text of this Ordinance and the boundaries of the Zoning Districts shown on the Zoning Map may be amended, supplemented or changed by Ordinance of the Melrose Township Board.
- B) Proposals for amendments, supplements or changes may be initiated by the Melrose Township Board on its own motion, by the Township Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.
- C) The procedure to be followed for initiating and processing an amendment shall be as follows:

- 1) Each petition by one (1) or more persons for an amendment shall be submitted by application to the Zoning Administrator on a standard form provided.
- 2) The Township Planning Commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal and in terms of the most likely effect on the community's physical development. The Township Planning Commission may recommend any additions or modifications to the original amendment proposal.
- 3) After deliberation on any proposal, the Township Planning Commission shall conduct at least one (1) public hearing, notice of time and place of which shall be given by two (2) publications in a newspaper of general circulation in the township, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second not more than eight (8) days before the date of such hearing. Not less than 15 (fifteen) days notice of the time and place of such hearing shall also be given by certified mail to each public utility company that has registered its name and mailing address with the Township Planning Commission and to each railroad within the zone affected. The notice shall include the places and times at which the tentative text and any map(s) of the Zoning Amendment may be examined.
- 4) The Township Planning Commission shall give a notice to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed and the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term occupant may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission prior to the hearing. The notice shall be made not less than fifteen (15) days prior to the hearing stating the time, place, date and purpose of the hearing. (amended November 13, 2017)
- 5) Following such hearing, the Township Planning Commission shall consider the testimony taken at the public hearing and its own findings and shall make determination as to its recommendation. This recommendation shall then be submitted to the Charlevoix County Planning Commission. The approval of the Planning Commission shall be conclusively presumed unless the Commission shall, within thirty (30) days of its receipt, have notified the Township Clerk of its disapproval.
- 6) After receipt of the County Planning Commission's recommendation, the Township Planning Commission shall transmit the proposed amendment to

the Township Board. If the Township Board shall deem any amendments, changed, additions, or departures, it shall refer the amendment to the Planning Commission for a report. After receiving the report, the Township Board shall grant a hearing on any proposed amendment to any property owner who by certified mail addressed to the Clerk of the Board requests to be so heard and shall request the Planning Commission to attend any such hearing. Thereafter at any regular meeting or at any special meeting called therefore the Township board may ordain and enact into law the proposed amendment to the Melrose Township Zoning Ordinance.

- D) The Township Board shall have the power to revoke or cancel any change of zone affected for any failure or neglect to comply with any provisions of this Ordinance, or in case any false statement or misrepresentation is made in any petition, application, specification, plan or sketch submitted or filed pertaining to rezoning proceedings, or for failure to carry out any provisions of such application, petition, specification, plan or sketch or conditions or provisions on which such amendment was granted.
- E) A written notification of amendments passed or denied by the Township Board shall be delivered to the Zoning Administrator, Township Planning Commission, Zoning Board of Appeals, County Clerk, the Township Attorney, and the County Planning Commission by the Township Clerk.

#### **Section 13.4 - Filing Fees**

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

6. Requests for rezoning of property by Individual property owners or amendments to the zoning ordinance text. Rezoning of property or text amendments initiated by the Township Board, or the Planning Commission shall not be subject to a zoning fee.
7. Approval of development plans.
8. Approval of land divisions and parcel splits.
9. Requests to change or expand nonconforming uses.
10. Any other discretionary decisions by the Planning Commission or Zoning Board of Appeals.

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

- C) If the Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by the Planning Commission or Zoning Board of Appeals equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the Planning Commission or Zoning Board of Appeals may require the applicant to deposit additional fees into escrow in an amount determined by the Planning Commission or Zoning Board of Appeals to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

- D) In addition to the zoning fees required under this section, the applicant shall pay a late fee when an otherwise lawful development in the "R-1", "R-2", "R-3", "R-4", "A", "CR", B-1, "C-3", or "I" zoning districts is started prior to applying for a zoning permit or obtaining the required zoning approval. This late fee is not intended to be a penalty but shall consist of the normal application fee plus an amount equal to the legal and administrative costs incurred by the township as the result of the applicant's failure to initially comply with the requirements of this Ordinance. (Amended 1998)

### **Section 13.5 - Enforcement**

- A) Buildings erected, altered, moved, razed or converted or any use of land or premises carried on in violation of any provisions of this Ordinance are declared to be a nuisance per se.
- B) Public Nuisance Per Se - Any building or structure which is erected transferred to, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- C) Procedures for processing violations of this Ordinance are set forth in Ordinance No. 6 of 1995, the Melrose Township "Municipal Civil Infraction Ordinance", as amended.

### **Section 13.6 - Interpretation and Conflict**

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements adopted for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties provided, however, that where this Ordinance imposes a greater restriction upon the use of a building or land than existing easements, covenants or other agreements, the provisions of this Ordinance shall govern and control. Whenever the requirements of this Ordinance differ from the requirements of other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

### **Section 13.7 - Validity**

Should a section, clause or provision of this Ordinance be declared by the court to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

### **Section 13.8 - Saving Clause**

The enactment of this Ordinance will not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of an Ordinance of the Township

of Melrose. It is the intent of this Ordinance to prohibit the expansion, or continuance, if abandoned, of uses or structures which were valid pre-existing non-conforming uses or structures prior to the adoption of the prior Melrose Township Zoning Ordinance adopted August 13, 1974, if such uses or structures are also prohibited by the provisions of this Ordinance. Accordingly, said prior Zoning Ordinance adopted August 13, 1974 is hereby preserved and not repealed as to such structures or uses which are prohibited by the provisions of both this Ordinance and the prior Zoning Ordinance. Regulation, modification or alteration of such pre-existing structures or uses in existence prior to August 13, 1974 shall be governed by the provisions of this Ordinance; however, in order to be classified as a valid pre-existing non-conforming use under the provisions of this Ordinance, such use or structure must have been validly in existence and used prior to August 13, 1974.

**Section 13.9 - Repeal**

The existing Zoning Regulations of the Township of Melrose, identified as the Melrose Township Zoning Ordinance of 1974, is hereby repealed, except as said provisions are saved pursuant to Section 13.8. The adoption of this Ordinance, however, shall not affect or prevent any pending or future prosecution of, or action to abate, an existing violation of said Zoning Ordinance, as amended, if the violation is also a violation of the provisions of this Ordinance.

**Section 13.10 - Effective Date**

This Ordinance, as revised, shall become effective thirty (30) days after the statutory publication giving notice of the revisions to the Ordinance has been published. Publication or revisions to the Ordinance shall be undertaken within fifteen (15) days following approval by the Township Board.

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# ARTICLE XIV – PLANNED UNIT DEVELOPMENTS

## **Section 14.0 - Intent and Purpose**

As used in this section, “planned unit development”, (or PUD) means cluster zoning, planned development, community unit plan, planned residential development, and other planned developments. The purposes of a PUD are:

- A) To accomplish the objectives of the zoning ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.
- B) To permit flexibility in the regulation of land development.
- C) To encourage innovation in land use in variety and design, layout, and type of structures constructed.
- D) To achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
- E) To encourage useful open space and provide better housing, employment, and shopping opportunities particularly suited to the needs of the residents of the township.

## **Section 14.1 - Use and Area Regulations.**

**A. Permitted Uses.** Planned unit developments shall be permitted in any zoning district, as a special use, according to the following:

- 1. Farm and Forest and all Residential Districts - Except as noted, PUD uses may include any of the range of uses provided for within the zoning district(s) where the PUD is proposed. Such uses may be placed either singularly or in combination. Institutional and commercial uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted, provided the total area devoted to institutional and commercial uses shall not exceed twenty-five (25) percent of the PUD site area.
- 2. Commercial District - Except as noted, PUD uses may include any of the range of uses provided for within the zoning district where the PUD is proposed. Such uses may be placed either singularly or in combination. Residential uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding neighborhood may also be permitted provided the total area devoted to residential uses shall not exceed fifty (50) percent of the PUD site area.

3. Industrial District - Except as noted, PUD uses shall be limited to the range of uses provided for within the zoning district where the PUD is proposed. Such uses may be placed either singularly or in combination. Commercial and/or residential uses determined by the Planning Commission to be compatible with the character of the PUD and surrounding area may also be permitted provided the total area devoted to commercial and/or residential uses shall not exceed thirty (30) percent of the PUD site area.

**B. Mixed Uses** - In approving a PUD with mixed uses, the Planning Commission may stipulate the sequence in which said uses, or portions thereof, are constructed.

**C. Area Regulations** - Except to the extent that a PUD or a portion of a PUD is subject to area regulations mandated by a state agency, a PUD shall meet the following area regulations:

- 1) Perimeter Setbacks - The setback maintained along the perimeter of the PUD shall be at least a fifty (50) foot buffer strip. The Planning Commission may require a greater setback for permitted commercial or industrial use in order to assure that the use remains accessory to the total development and does not become a commercial or industrial influence on adjoining property not zoned for commercial or industrial use. The Planning Commission may also reduce the required setback on the road side upon a finding that the reduced setback will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the township as a whole.

With the exception of access drives, parking areas, lighting, sidewalks and curbing, the perimeter setback shall be landscaped and maintained.

- 2) Open Space - A PUD project shall have open space of no less than twenty-five (25%) percent of the entire project area. This required open space shall be dedicated to the public or set aside for the common use of the owners and users within the PUD. Dedicated open space does not include parking lots, roads, and public rights-of-way, but may include flood plain areas and wetlands up to a maximum of twenty-five (25%) percent of the required open space and landscape area devoted to perimeter setbacks.
- 3) Height Regulations - The height of all buildings and structures within a PUD project shall not exceed thirty-five (35) feet.

For purposes of this subsection, the height of a building or structure shall be the vertical distance from the average finished grade of the property at the edge of the building or structure on all sides to the highest point of the building or structure.

- 4) Other Dimensional Regulations - To promote creativity and flexibility in site design, the Planning Commission may, subject to the following limitations, alter the other dimensional regulations, as required by the zoning district, including

but not limited to minimum lot size, density, and setbacks within the PUD project, upon a finding that the proposed dimensional regulations will not be detrimental to the public health, safety, or welfare of future occupants of the PUD, the surrounding neighborhood, or the township as a whole.

**D. Changes in Dimensional Regulations** - Prior to approving a change in dimensional regulations, the planning commission may require the applicant to demonstrate through bonafide documentation, including but not limited to traffic impact studies, environmental impact studies, market needs assessments, and infrastructure impact studies, that the change will not result in significant impacts to the PUD project and PUD occupants, the surrounding area, and the township as a whole.

Any change by the Planning Commission shall be limited as follows:

1. Density increases may be approved for the creation/preservation of open space, the protection of the natural environment, or for conservation of natural resources and energy. In no case shall densities be increased by more than fifty (50) percent. The following table shall be used as a guide:

<u>Open Space</u>	<u>Density increase</u>
25%	0
30	5%
35	13
40	23
45	35
50	50

Density bonuses are subject to Northwest Michigan Community Health Agency approval for water supply and sewage disposal.

2. Setbacks shall not be reduced by more than fifty (50) percent of the zoning district requirements.
3. Required parking shall not be reduced by more than sixty (60) percent of the parking normally required of the proposed use. In no case shall a single-family home, mobile or modular home, or other such detached single-family dwelling have less than two (2) on-site (off-street) parking spaces. In reducing the required parking, the Planning Commission may require the reservation of a portion of the PUD site for future parking.

## **Section 14.2 - Environmental Design Requirements**

The Planning Commission may require that the site be designed to preserve and protect, to the greatest extent feasible, existing natural or unique features such as, but not limited to, mature trees, significant vegetation, waterways, steep slopes or scenic views. The Planning Commission may also require additional plantings be added and maintained in order to minimize erosion potential or to increase aesthetic appearance of the development. Plantings that do not survive must be replaced no later than the next planting season.

## **Section 14.3 - Traffic Circulation**

Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, and separation of vehicles from pedestrians and enhance the overall physical design of the PUD. Emergency design and safety standards should be adhered to. These standards apply to the location of residences relative to the community and the overall design of the PUD.

## **Section 14.4 - Private Streets**

Private streets must be designed to accommodate anticipated traffic loads including volume, vehicular weight and size, speed, emergency vehicles and turning radius. The following residential street standards shall be adhered to, unless the Planning Commission permits modifications.

<b>Type of Street</b>	<b>Users Served</b>	<b>Required R-O-W (feet)</b>	<b>Width of pavement</b>
Residential dead end or Local street	1-6 dwellings	30	20
	7-20 dwellings	35	20
	21-50 dwellings	40	20
Residential collector	51-200 dwellings	66	22
Neighborhood collector	Over 200 dwellings or and commercial use	66	24

### **Section 14.5 - Planned Unit Development Eligibility Requirements.**

To be eligible for a planned unit development, a parcel shall meet all of the following:

- A. The parcel shall be four (4) contiguous acres or more in area. In an R-2 or C-3 District, the Planning Commission may allow a PUD on a parcel of two (2) acres or more.
- B. Provided, however, if the proposed PUD will contain a mixture of residential and non-residential uses in a residential zone, the parcel shall be ten (10) acres or more in area.
- C. For purposes of this subsection, recreational amenities, such as health clubs and facilities providing swimming pools or tennis courts, and commercial activities customarily incidental to a residential use shall not be considered non-residential uses.
- D. The parcel on which the proposed PUD will be located shall be under single ownership, or the PUD application shall be filed jointly by all property owners.
- E. The proposed uses within the PUD shall be consistent with the Melrose Township Master Plan for the subject parcel.

### **Section 14.6 - Pre-application Conference**

- A. **Pre-Application Conference** - A pre-application conference shall be held with either the Zoning Administrator or the Planning Commission, unless waived by the applicant, for the purpose of determining the eligibility of the proposed PUD application and to review the procedures and standards for PUD approval. The goals of the pre-application conference are to acquaint the Zoning administrator and/or the Planning Commission with the applicant's proposed development, assist the applicant in understanding new or additional information which the Planning Commission will need to effectively consider the application, confirm that the application and all supporting documentation is ready for a public hearing, and to acquaint the applicant with the Zoning Administrator's and/or the Planning Commission's initial, but unofficial reaction to the application. In no case shall any representations made by the Zoning Administrator and/or the Planning Commission at the pre-application conference be construed as an endorsement or approval of the PUD.
- B. **Request for Pre-Application Conference** - A request for a pre-application conference shall be made to the zoning administrator who shall schedule a date and time for the pre-application conference. As part of the pre-application conference, the applicant shall submit five (5) copies of a conceptual plan which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.

## **Section 14.7 - PUD Application Requirements, Preliminary and Final**

- A. Preliminary Plan** - The Planning Commission shall perform a two-step review, a preliminary plan and a final plan. The Planning Commission may permit both plan reviews to occur at the same meeting for simple single use PUD's.

The preliminary plan can be more general than the final plan, but shall contain adequate information and detail for Zoning Administrator and Planning Commission analysis. At a minimum, the preliminary plan shall contain the following:

1. Legal description of property
2. A statement of the objectives of the planned development
3. Phasing of residential, public and commercial area and future selling and/or leasing intentions
4. A site plan which meets the requirements of Section 11.1, Application for Development Plan Review, of the Melrose Township Zoning Ordinance.
5. Payment of a fee as established by resolution of the Township Board

- B. Final Plan** - Within a period on not more than one (1) year from the date of approval of a preliminary plan. The applicant must present to the Zoning Administrator the final development plan. Drawings and plans presented in a general fashion in the preliminary plan shall be presented in detailed character in the final plan. The final plan shall include all the elements of the preliminary plan, plus all the changes and/or conditions stipulated by the Planning Commission, plus all of the following:

1. Payment of the fee as established by resolution of the Township Board.
2. A narrative statement describing, at a minimum:
  - a. The objectives of the proposed PUD and how they relate to the intent of the zoning ordinance as described in subsection (A), above.
  - b. The relationship of the proposed PUD to the Township of Melrose's Master Plan.
  - c. Phases of development, if any, and the approximate time frame for the start and completion of construction of each phase.
  - d. Proposed master deed, deed restrictions, covenants or similar legal instruments to be used within the PUD.
  - e. The location, type and size of areas to be dedicated for common open space.
  - f. Tabulation of land area ratios.
  - g. Environmental Impact Statement.

3. Twelve (12) copies of the development plan. If the PUD is to be developed in phases, the development plan shall show all phases. The development plan shall contain all of the following:
  - a. Applicant's name, address, and telephone and fax numbers.
  - b. Name, address, and telephone and fax numbers of the individual and firm who prepared the plan.
  - c. Name of development, scale of the plan drawing, and north arrow.
  - d. Location, shape, area and dimension of the lot, lots or acreage to be used, including a legal description of the property and the tax identification number(s) for the property.
  - e. Present zoning of the subject property and adjacent properties.
  - f. All public and private rights-of-way and easement lines located on and adjacent to the subject property which are proposed to be continued, created, relocated or abandoned, including the proposed use(s) and width(s) of all rights-of-way and easements.
  - g. Location and total number of curb cuts, driveways, off-street parking spaces and loading spaces, including the dimensions of a typical parking space and the location(s) of barrier free parking spaces.
  - h. Proposed exterior building dimensions (horizontal and vertical), gross floor area, number of floors and proposed uses.
  - i. Location, dimensions, and uses of all existing and proposed structures, walks, malls, open areas, walls, fences, screen plantings and/or other landscaping.
  - j. Existing and proposed sewer, water and other utility lines, plus location and type of sewage treatment facility, water source, and fire hydrants.
  - k. Required setbacks of the zoning districts.
  - l. Area of subject property to be covered by buildings.
  - m. Location, size, height and orientation of all signs.
  - n. All major environmental features, such as major stands of trees and other vegetation, wetlands, flood plains, drainage ways, outcroppings, slopes of ten (10%) or more gradient, and/or other surface features.

- o. Proposed methods of surface water drainage, including surface and subsurface facilities.
- p. Location and type of proposed lighting on the site.
- q. Percentage of the total site devoted to open space and the proposed uses of that open space.
- r. Proposed PUDs that include residential uses shall include the following additional information:
  - (1) Minimum floor area of dwelling units.
  - (2) Total number of dwelling units proposed.
  - (3) Number of bedrooms per dwelling unit.
  - (4) Areas to be used for open space and recreation.
- 4. All legal documents, such as easements, agreements, condominium documents, deed restrictions, etc, and the final Draft of Articles of Incorporation, any indentures as well as dedication.
- 5. Site plans and applicable engineering drawings shall be sealed by a professional engineer, surveyor, architect or landscape architect.
- 6. Such other information regarding the development area that may be required to determine conformance with this Ordinance.

**Section 14.8 - Public Hearing on PUD Request; Notice**

- A. Planning Commission Public Hearing** - Following receipt of a complete PUD application, the Planning Commission shall hold at least one (1) public hearing. A public hearing shall be held at both the preliminary and final PUD Plan reviews. The Planning Commission, in certain cases as stipulated in 14.7 A above, may allow the preliminary and final review to occur at the same meeting.

**B. Public Hearing Notice, When and To Whom**

1. Notice of the public hearing shall be given not less than five (5) nor more than fifteen (15) days before the date the application for the planned unit development will be considered.
2. The notice shall be sent via first class mail or personal delivery to all owners of the 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 being considered for planned unit development action, and to the occupants of all structures within 300 feet of the property being considered for planned unit development action.
3. Such notification need not be given to more than one (1) occupant of a structure; except that if a structure contains more than one (1) dwelling unit or spacial area owned or leased by different individuals, partnerships, businesses or organizations, one (1) occupant of each unit or spacial area shall receive notice. In the case of a single structure containing more than four (4) dwellings units or other spacial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

**C. Public Hearing Notice, Contents** - The notice shall do all of the following:

1. Describe the nature of the planned unit development application.
2. Describe the property which is the subject of the planned unit development application.
3. State when and where the planned unit development application will be considered.
4. Indicate when and where written comments will be received concerning the planned unit development application.

**Section 14.9 - Planning Commission Review of PUD**

Following the public hearing the Planning Commission shall review the PUD application and shall table for more information, approve, deny, or approve with conditions the PUD application based on the standards for PUD approval contained in Section 14.7 above. The Planning Commission's decision shall be in writing and shall include findings of fact, based on the evidence presented at the public hearing, on each standard.

## **Section 14.10 - Standards for PUD Approval; Conditions; Waiver of Standards**

**A. General Standards** - The Planning Commission shall approve, or approve with conditions, a PUD application if the Planning Commission finds that the proposed PUD meets all of the following:

1. The planned unit development shall be consistent with the Township Master Plan.
2. The planned unit development shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
3. Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property and will be consistent with outdoor pedestrian movement.
4. Vegetation proposed by the developer or required by the Planning Commission shall be maintained in a healthy living condition and such vegetation if dead shall be replaced.
5. The planned unit development shall not change the essential character of the surrounding area, unless such change is consistent with the Township Master Plan.
6. The planned unit development shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff odors, light, glare or other nuisance.
7. The planned unit development shall not place demands on public services and facilities in excess of current capacity, unless planned improvements which will increase the capacity sufficient to service the development have already been scheduled for completion.
8. The planned unit development shall be designed to preserve public vistas and existing important natural, historical, and architectural features of significance within the development.
9. The planned unit development shall be designed so that its pedestrian, non-motorized and automobile circulation systems are safely and conveniently integrated with those of abutting property and any linear trail or park systems intersecting or abutting such development.
10. The planned unit development shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not

adversely interfere with the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles to or within the development and adequate space for turning around at street ends shall be provided.

11. The planned unit development shall not result in any greater storm water runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion, and vegetation which no longer provides erosion control shall be replaced.
12. The design of the planned unit development shall exhibit a reasonably harmonious relationship between the locations of buildings on the site relative to buildings on lands in the surrounding area; and there shall be a reasonable architectural and functional compatibility between all structures on the site and structures within the surrounding area. It is not intended that contrasts in architectural design and use of facade materials is to be discouraged, but care shall be taken so that any such contrasts will not be so out of character with existing building designs and facade materials so as to create an adverse effect on the stability and value of the surrounding area.
13. The design of the planned unit development shall ensure that outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties.
14. The planned unit development shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, drainage or erosion control.
15. A copy of the Development Plan, along with a copy of all related documentation, shall be delivered to the Melrose Township Fire Chief for his review as relates to Public Safety and Fire related issues. The Fire Chief shall have the responsibility to ensure all streets and access routes, public or private, are adequate for emergency vehicle turning radius, vehicle weight and vehicle size. In the event the Development Plan provides for a combination of four (4) or more dwellings, commercial and/or industrial structures within any given area, the Fire Chief may require that an in-ground water holding tank be installed by the Developer(s), at their sole cost, for use by the Fire Department for Fire Suppression purposes. Additional water holding tanks may be required depending upon the overall size or volume of the proposed development. The Fire Chief shall provide the developer(s) specifications covering any required water holding tank(s).
16. The planned unit development shall meet the standards of other governmental agencies, where applicable.

**B. Conditions** - The Planning Commission may impose conditions with the approval of a planned unit development which are necessary to ensure compliance with the

standards for approval stated in this section. Such conditions shall be considered an integral part of the PUD approval and shall be enforced by the zoning administrator.

**C. Waiver of PUD Standards** - The Planning Commission may waive any of the standards for a PUD contained in Section 14.10 A. above where all of the following findings are documented along with the rationale for the decision:

1. No good public purpose will be achieved by requiring conformance with the standards sought by the applicant to be waived.
2. The spirit and intent of the PUD provisions will still be achieved.
3. No nuisance will be created.

#### **Section 14.11 - Continuing Adherence to Approved PUD Application**

Any property owner who fails to develop and maintain an approved PUD according to the approved PUD application and conditions, if any, shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties provided in this Ordinance.

#### **Section 14.12 - Recording of Action**

The applicant shall record an affidavit acceptable to the township attorney with the Charlevoix County Register of Deeds that contains the full legal description of the project site, specifies the date of final township approval, specifies the description or identification number which the township has assigned to the PUD project, and declares that all improvements will be carried out in accordance with the approved PUD application. If the Planning Commission approves an amendment to the PUD, the applicant shall record an amended affidavit acceptable to the township attorney that contains all of the information described above, describes the amendment, specifies the date the Planning Commission approved the amendment, and declares that the improvements will be carried out in accordance with the approved PUD, as amended. Finally, all deed restrictions and easements shall be duly filed with the Charlevoix County Register of Deeds and copies of recorded documents filed with the Zoning Administrator.

#### **Section 14.13 - Planned Unit Development Permit**

Following final approval of a PUD application and submittal, to the Zoning Administrator, of all recorded documents required in Section 14.9 above, a permit may be obtained from the Zoning Administrator. The issuance of this permit, however, shall not relieve the applicant from complying with applicable county, state, and federal permit requirements. The failure of the applicant to obtain any required county, state, or federal permit shall render the PUD permit issued under this subsection void.

### **Section 14.14- Amendment of an Approved PUD**

Amendments to an approved PUD shall be permitted only under the following circumstances:

- A) The owner of property for which a PUD has been approved shall notify the Zoning Administrator of any desired change to the approved PUD.
  
- B) Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - 1. Reduction of the size of any building and/or sign.
  - 2. Movement of buildings and/or signs by no more than ten (10) feet.
  - 3. Landscaping approved in the PUD plan that is replaced by similar landscaping to an equal or greater extent.
  - 4. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
  - 5. Internal re-arrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - 6. Changes related to items 1 through 5 above, required or requested by Melrose Township, Charlevoix County, or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval.
  
- C) All amendments to a PUD approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, the applicant shall prepare a revised development plan showing the approved amendment. The revised development plan shall contain a list of all approved amendments and a place for the Zoning Administrator and applicant to sign and date all approved amendments.
  
- D) An amendment to an approved PUD that cannot be processed by the Zoning Administrator under Section 14.11 B) above shall be processed in the same manner as the original PUD application.

### **Section 14.15 - Expiration of Approved PUD; Extension**

- A) An approved PUD shall expire one (1) year following final approval by the Planning Commission, unless substantial construction has begun on the PUD project prior to that time or the property owner applies to the Planning Commission for an extension prior to the expiration of the PUD. The Planning Commission may grant one (1) extension of an approved PUD for an additional one (1) year period if it finds:
1. The property owner presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner; and
  2. The PUD requirements and standards that are reasonably related to the development have not changed.
- B) If the PUD approval expires pursuant to subsection (1) above, no work pursuant to the PUD plan may be undertaken on the project until a new PUD approval is obtained from the Planning Commission, following the procedures for a new PUD application. In addition, if the PUD approval expires, the property shall again be subject to the zoning classification of the property which existed prior to the PUD approval as if no PUD approval had ever been granted.

### **Section 14.16 - Performance Guarantee**

- A) In connection with the development of a PUD project, the Planning Commission may require the applicant to furnish Melrose Township with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township in an amount equal to the estimated costs associated with the construction of public and site improvements.
- B) Public improvements mean by way of example and not limitation roads, parking lots, and water and sewer systems which are located within the PUD or which the applicant has agreed to construct even though located outside the PUD.
- C) Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the PUD.
- D) For purposes of this subsection, the costs covered by the performance guarantee shall include all of the following:
1. The purchase, construction, and/or installation of the improvements.
  2. Architectural and engineering design and testing fees and related professional costs.
  3. An amount for contingencies consistent with generally accepted engineering and/or planning practice.
- E) The performance guarantee shall be deposited with the township zoning administrator at or before the time the township issues the permit authorizing the PUD, or if the PUD

has been approved in phases, then the performance guarantee shall be deposited with the township zoning administrator prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the PUD public and site improvements in accordance with the plans approved by the Planning Commission.

- F) Any cash deposit or certified funds shall be refunded for the PUD or each phase of the PUD in the following manner:
1. One-third of the cash deposit after completion of one-third of the PUD public and site improvements;
  2. Two-thirds of the cash deposit after completion of two-thirds of the PUD public and site improvements; and
  3. The balance at the completion of the PUD public and site improvements.
- G) Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the PUD public improvements. If a PUD project is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this subsection for each phase of the PUD project. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the township as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this subsection.

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