

## **CHAPTER 4**

### **General Provisions**

#### **Section 4.1 Intent and Purpose**

The general regulations contained in this Chapter shall apply to all Zoning Districts except as otherwise expressly indicated. The regulations apply to multiple Zoning Districts and are not repeated within the individual chapters.

#### **Section 4.2 Yard, Area and Lot Regulations**

- A. No lot, parcel, yard, setback area, court, parking area, or other space shall be reduced to less than the minimum required under this Ordinance. No lot, parcel, or other area shall be further reduced if already less than the minimum.
- B. Property and bottomlands located under a lake shall be excluded from lot area or dimension calculations for purposes of determining minimum lot area and dimension requirements pursuant to this Ordinance.
- C. Where property is located on opposite sides of a public road or public street right-of-way and is in common ownership, the property shall not be considered to be one (1) lot or parcel but shall be deemed separate lots or parcels. Furthermore, the land on each side of the public road or street shall meet all applicable requirements specified by this Ordinance or an individual lot or lots.
- D. No more than one (1) main building may be erected on a lot and no more than one (1) principal use shall occur on a lot, unless such lot is appropriately zoned and used for Multiple Family Dwellings, mobile home parks, commercial or industrial purpose, or unless the same is expressly authorized in an approved Planned Unit Development in accordance with this Ordinance. Agricultural buildings which are regulated as a principal uses may be erected on an appropriately zoned lot in addition to one (1) dwelling otherwise permitted on such a lot.
- E. In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one (1) main building or use, and no area necessary for compliance with the space requirements for one (1) main building or use shall be included in the calculation of the space requirements for any other building, structure or use.
- F. All parcels or lots must have a minimum frontage of twenty-five (25) feet on an approved and constructed public road, private street, or shared driveway.

- G. No lot or parcel (platted or unplatted) shall be divided, split, or subdivided unless said action meets this Ordinance and all other applicable Township ordinances.
- H. No accessory use or accessory building may occur or be constructed, maintained, or built on a lot absent a lawful principal use on that lot. Notwithstanding such prohibition, bona fide agricultural buildings are allowed if agricultural or farming uses are permitted in the Zoning District where the lot is located.

### **Section 4.3 Lots Located Partially Outside Township Boundaries**

In cases where a lot lies partially outside of the Township’s boundaries, if a proposed lot, building, structure, or use would not satisfy the minimum area, dimensional, and street frontage provisions of this Ordinance with respect to that part of the lot located within the Township, then the minimum provisions of this Ordinance shall be applied with respect to the lot, building, structure, or use as if the entire lot were located within the Township, provided, however, that the entire lot shall comply with the minimum area, width, and frontage requirements of this Ordinance. For purposes of this Section, the Township boundaries shall not be deemed to be a lot line.

### **Section 4.4 Categories of Businesses or Uses not Designated**

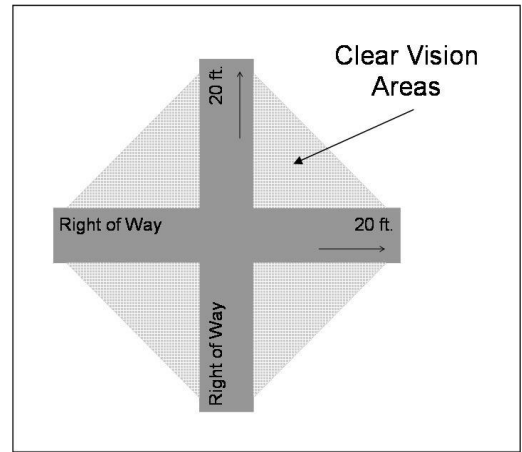
When the Zoning District into which a business or use belongs is not specified in this Ordinance, the Zoning Administrator may request the Planning Commission to make the determination into which Zoning District (if any) it shall be placed and such use shall then be permitted as a special use and the procedure for special uses shall be followed.

### **Section 4.5 Essential Public Services**

- A. The erection, construction, alteration or maintenance of essential public services shall be permitted as authorized or regulated by law and other ordinances in any Zoning District, except those as otherwise provided for in this Ordinance, and shall be subject to Site Plan Review per Chapter 25 of this Ordinance.
- B. New utility substations, transmission lines, and switching stations in any Zoning District except the I-1 and I-2 Zoning Districts must receive Special Land Use approval from the Planning Commission.
- C. Commercial Wireless Communication Facilities are not an essential public service.

**Section 4.6 Clear Vision Areas**

- A. No plantings, fences or structures shall be installed, established or maintained on any corner lot or along any driveway that will likely result in obstructing the view of a vehicle driver approaching the intersection or entering or exiting the driveway.
- B. On corner lots, the clear vision area shall mean a triangular area formed by the street property lines and a line connecting them at points twenty (20) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended.
- C. This shall not prohibit the maintaining of shrubbery less than thirty (30) inches in height in this area.
- D. Tree branches shall be a minimum of six (6) feet above the adjoining street level within the clearance corner.



**Section 4.8 Outdoor Residential Lighting**

All directional outdoor residential lighting shall be designed and arranged so that it will not shine directly on adjacent occupied dwellings or interfere with the vision of traffic on streets and alleys.

**Section 4.9 Moving of Buildings or Structures**

The moving of a building or structure into the Township, or from one location to another within the Township, shall be considered to be the erection of a new building or structure; and as such, all provisions, regulations and requirements of this Ordinance concerning the erection of a new building or structure shall equally apply to any building or structure so moved. No building or structure shall be moved without a zoning permit.

**Section 4.10 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors**

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the Lot or parcel of land on which the use is located. All land shall be stabilized in such manner as is necessary to prevent erosion, sand blows, or other soil conditions which cause dust, sand, dirt or other materials to be blown,

washed or otherwise transported to adjoining Lots or parcels of land. The provisions of this Section shall not be deemed to prohibit uses which are a part of a Farm operation.

### **Section 4.11 Temporary Dwelling Structures**

- A. No cabin, garage, cellar, basement, or any temporary structure, whether of a fixed or movable nature may be erected, altered, or moved upon and used in whole or in part for any dwelling purpose whatsoever for any length of time whatsoever. Notwithstanding such prohibition, a property owner may utilize one (1) temporary dwelling for a limited period of time if expressly approved in writing by the Zoning Administrator if one of the following two situations is involved:
1. The lot or parcel is vacant and the owner desires to occupy a temporary dwelling on the property while a new house or dwelling is built.
  2. A house or dwelling is destroyed or damaged to the extent that it is uninhabitable for a period of time, by a natural or man-made event, such as fire, flood, windstorm, or tornado.
- B. The Building Inspector, prior to approval of such temporary structure, shall determine that the proposed structure is safe for habitation and is adequately served by public utilities. The temporary dwelling shall be placed so as to conform to all yard requirements of the Zoning District in which it is located. Where municipal water and/or sanitary sewage disposal systems are not available, such on-site services shall be approved by the Kent County Health Department.
- C. The Zoning Administrator shall establish a reasonable date for removal of the temporary dwelling, said date not to exceed two (2) years from the date of said destruction or damage or the date of issuance of a Building Permit for new construction; however, the temporary dwelling shall be removed from the premises within six (6) months (180 days) of the date of issuance of an occupancy permit for the permanent dwelling. All utility connections shall be severed and temporary dwelling permit shall expire on issuance of an occupancy permit for the permanent dwelling.

### **Section 4.12 Site Condominium Development**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the platting provisions of the Land Division Act, Public Act 288 of 1967, as amended.

- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed on it and uses conducted within it as allowed in its Zoning District provided the unit meets the regulations and requirements for the Zoning District in which it is located.
- C. Site condominium developments containing 4 or fewer lots/units must submit the following information to the Zoning Administrator in order to receive approval and before any building permits can be issued for any dwellings or structures located within the development:
1. A completed application form and applicable fees.
  2. Written proof of fee ownership of the land contained within the proposed site condominium development.
  3. A certified survey of the land contained within the proposed site condominium development. The certified survey must show:
    - a. The dimensions and legal descriptions of the lots/units proposed to be created by the site condominium development.
    - b. The dimensions and legal descriptions of any easements.
    - c. The location of all existing structures and the location of proposed structures.
    - d. The accessibility of the parcels for vehicular traffic and utilities from existing public roads.
- D. Preliminary Site Plan Approval for Site Condominium Developments with More than 4 Units.
1. A preliminary site plan shall be reviewed and approved by the Planning Commission and Township Board in accordance with the requirements of Chapter 25.
  2. Approval of a preliminary site plan shall be for a period of two (2) years.
  3. One (1) year extensions may be granted by the Township Board if applied for in writing prior to the date of expiration of approval of the preliminary site plan.
  4. After a period of two (2) years from approval, unless extensions as provided for in this Section have been granted, the preliminary site plan approval shall become null and void if substantial construction has not commenced and proceeding in a meaningful manner.
- E. Final Site Plan Approval for Site Condominium Developments with More than 4 Units.
1. A final site plan for the condominium project must be approved by the Township Board prior to the issuance of any building permits for any structures on the proposed site, unless they already exist.
  2. At its regular meeting, or at a meeting called within 20 days of the date of submission, the Township Board shall examine the final plan for general compliance with applicable Township ordinances. The proprietor or his/her designee may request

an extension of the 20 day time limit, which the Township Board may grant at its discretion.

3. To receive final approval for the site condominium development, the owner shall submit ten (10) copies of the plan to the Township Engineer who shall place the final site plan on the agenda of the Township Board. Copies of the final site plan shall be distributed to the appropriate Township departments for their review and comment to the Township Board.
- F. Prior to the issuance of a building permit for any building in any proposed site condominium development, the following items must be submitted to the Zoning Administrator, unless waived by the appropriate Township department:
1. The Master Deed for the condominium development.
  2. The Articles of Incorporation for the condominium association.

### **Section 4.13 Representations and Promises of Developers and Property Owners**

If, pursuant to any zoning approval (including, but not limited to, the granting of a variance or the approval of a special use, PUD, site plan, or other zoning approval), the property owner or applicant makes any representation, promise, or offer of a condition or voluntary restriction should the zoning approval be approved or granted, such promise, condition, or representation shall be deemed to be an enforceable condition of any such zoning approval (whether or not such promise, condition, or restriction was made orally or in writing, and whether or not it is reflected in the zoning approval motion, resolution, or other Township approval document) if the Township deems such promise, representation, or condition to have been a consideration by the official or Township body which granted the zoning approval and the Township also deems such promise, representation, or condition to be consistent with the zoning approval. In such case, the promise, condition, or representation shall be deemed an express and enforceable condition of the zoning approval.

## **Section 4.14 Wind Energy**

- A. **Intent.** The purpose of this section is to promote clean and renewable energy utilizing Wind Energy Turbines, Community Wind Turbines, or Wind Energy Conversion Systems (WECS) while providing the necessary regulations to maintain the health, safety, welfare, and aesthetics of the Township.
- B. **Wind Energy Conversion Systems (WECS).** Because of their size, scale and potential impact on surrounding properties, it is the intent of this Ordinance that Wind Energy Conversion Systems (WECS) proceed through the Planned Unit Development (PUD) approval process (see Chapter 11). No Wind Energy Conversion Systems (WECS) shall be installed, commenced, used, or initiated without a PUD approval.
- C. **Application Requirements for All Turbines**
1. In considering a zoning permit for a Turbine, the following must be provided to the Township at the time of application:
    - a. The Turbine size, blade clearance, proposed location, and setbacks from all lot lines and structures.
    - b. The color and architectural nature of the Turbine.
    - c. Make and model information for the Turbine, including noise and kilowatt output.
    - d. The location of all landscaping, enclosures, and signage related to the Turbine.
    - e. Copy of all required Gerald R. Ford International Airport zoning approvals. All Turbines must receive the applicable building and electrical permits prior to installation, construction and use.
- D. **General Regulations for All Turbines**
1. **Noise**
    - a. No Turbine located in the Agricultural or Residential Zoning Districts shall produce more than 50 decibels of noise at the lot line located closest to the Turbine.
    - b. No Turbine located in the Office Service, Commercial, or Industrial Zoning Districts shall produce more than 60 decibels of noise at the lot line closest to the Turbine.
    - c. The above noise restrictions may be exceeded only during short-term events such as utility outages and/or severe wind storms.
  2. **Other Licenses and Permits.** Turbines shall maintain, at all times, all required state, federal, local, and operator licenses and permits, and shall meet all applicable standards and regulations of the Federal Aviation Administration requirements, the

Michigan Airport Zoning Act (Public Act 23 of 1950, MCL 259.432 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, MCL 259.481 et seq.), the Gerald R. Ford International Airport Zoning Ordinance requirements, the Michigan Public Service Commission, and the Federal Energy Regulatory Commission. Failure to so maintain necessary all necessary approvals or permits shall be grounds for revocation of the zoning permit.

3. **Abandonment.** Any Turbine which does not function properly, becomes obsolete, is abandoned, or fails to meet any of the requirements of this Ordinance for a period greater than 12 months shall be considered abandoned and shall be promptly dismantled and removed at the cost of the property owner.
  4. **Aesthetics.** All Turbines shall either maintain a galvanized steel finish on the exterior, or be painted a neutral white, gray or blue, unless otherwise regulated by the FAA.
  5. **Lighting.** All lighting related to the Turbine must meet any applicable standards of Chapter 18, unless otherwise authorized by a state or federal agency.
  6. **Safety.** All Turbines shall maintain the following safety requirements:
    - a. In the Residential and Agricultural Zoning Districts, all Turbine electrical equipment shall be locked in such a manner so as to prevent unauthorized access or entry.
    - b. In the Office Service, Commercial, and Industrial Zoning Districts, all Turbines and electrical equipment must be completely enclosed by a locked gate or wall in such a manner so as to prevent unauthorized access or entry.
    - c. In the Office Service, Commercial, and Industrial Zoning Districts, a sign or placard must be provided on the outside of the enclosure with the Turbine’s owner and emergency contact information.
  7. **Maintenance.** All Turbines shall be kept in good and reasonable repair and appearance at all times.
- E. **Wind Energy Turbine Regulations:** In addition to the regulations contained in subsection “D”, Wind Energy Turbines are subject to the following specific regulations:
1. **Location.** Wind Energy Turbines are permitted by right in all Zoning Districts.
  2. **Accessory Use.** With the exception of lots in the A-B or A-R Zoning Districts, there must be a principal dwelling or building of primary use, or one under substantial construction, on the lot where the Wind Energy Turbine is to be located.



3. **Number.** There shall be no more than two (2) Wind Energy Turbines located on a lot.
4. **Development Standards.** All Wind Energy Turbines are subject to the development standards contained in the following table:

Development Standard		Zoning District			
		RL -10,RL-14, R-3, R-4	A-B, A-R	O-S, C-1, C-2	I-1, I-2
<i>Design</i>	<b>Maximum Height</b>	75 feet	100 feet	75 feet	100 feet
	<b>Blade Clearance</b>	15 feet	15 feet	20 feet	20 feet
<i>Distance</i>	<b>Front Yard</b>	Not Permitted	60 feet	50 feet	50 feet
	<b>Side and Rear Yard</b>	The height of the Wind Energy Turbine + 10 feet			
	<b>Separation Distance from Other Structures</b>				
	<b>Separation Distance from Residential or Agricultural Zoning Districts</b>	N/A		200 feet	

- F. **Accessory Wind Turbine Regulations.** In addition to the regulations contained in subsection “D”, Accessory Wind Turbines are subject to the following specific regulations:
1. **Location.** Accessory Wind Turbines are permitted by right in all Zoning Districts.
  2. **Number.** There shall be no more than one (1) Accessory Wind Turbine located on a structure.
  3. **Height.** All Accessory Wind Turbines are subject to a maximum height of the overall height of the structure it is attached to, plus 10 feet.
- G. **Community Wind Turbine Regulations.** Community Wind Turbines are permitted by right in all Zoning Districts, subject to special use approval from the Planning Commission. In addition to the regulations contained in subsection “D” and the general review standards of Chapter 19, when reviewing a special use request for a Community

Wind Turbine, the Planning Commission shall consider all of the following additional standards:

1. No Community Wind Turbine shall be taller than 75 feet, unless a taller Turbine is deemed by the Planning Commission to be more appropriate based on the following:
  - a. The number of properties served by the Turbine.
  - b. The proximity of nearby structures.
  - c. Any topographical or vegetative features of the site or nearby properties the efficiency or use of the Turbine.
2. All Community Wind Turbines shall be set back from all property boundary lines for a distance equal to or greater than the height of the Turbine, plus 10 feet, unless a reduced setback which is more appropriate is approved by the Planning Commission based on the following:
  - a. The proximity and type of nearby structures.
  - b. Any topographical or vegetative features of the site or nearby properties affecting the efficiency or use of the Turbine.
3. The proposed Community Wind Turbine shall not have any negative visual, aesthetic or audible impacts on neighboring properties.

## **Section 4.15 Keeping of Animals; Non-Commercial Uses**

This section regulates the keeping of animals for non-commercial uses in all Zoning Districts. Nothing in this section is intended to circumvent the Michigan Right to Farm Act as it regulates commercial farming operations.

### **A. Household Animals**

1. The keeping of household animals for non-commercial uses on a lot or parcel with a dwelling unit thereon is permitted in all Zoning Districts.
2. Household Animals include cats, dogs, fish, household birds, hamsters, rabbits, and other animals generally regarded as household pets. The Zoning Administrator shall make the final determination as to whether an animal constitutes a household animal.

3. A maximum of 3 dogs or 4 cats, or a combination of not more than 4 such animals in total (so long as not more than 3 of the animals are dogs), can be kept on any lot or parcel with a dwelling unit.
4. Any non-dwelling structure which acts as housing for household animals is subject to the requirements of “Section 20.2 – Accessory Buildings”.
5. Kennels are subject to the Special Land Uses regulations of Chapter 19 Section 19.9 (J).
6. Household Animals shall not be allowed to roam or wander beyond the boundary lines of the lot or parcel where they are kept except on a tether or leash under the control of a person.

**B. Non-Household Animals; Not Permitted**

1. The phrase “Non-Household Animal” includes any animal that is not a Household Animal as defined in this Ordinance. The Zoning Administrator shall make the final determination as to whether an animal constitutes a Household Animal or Non-Household Animal
2. Non-Household Animals are not permitted in any of the following circumstances:
  - a. On lots or parcels zoned RL-10, R-3, or R-4.
  - b. Within Platted Subdivisions.
  - c. Within Site Condominium Developments.
  - d. Within Planned Unit Developments, unless expressly permitted during the zoning approval process.

**C. Non-Household Animals; Permitted**

1. In the A-B Zoning District and on parcels or lots of 3 acres or more in size in the A-R Zoning District, the keeping of Non-Household animals for non-commercial purposes is permitted, subject to the following requirements:
  - a. Poultry (Chickens) – No more than 10 chickens per acre are allowed.
  - b. Non-poultry – No more than 1 animal per acre is allowed.
  - c. A fence must be provided and regularly maintained to keep the animals from leaving the property. The Zoning Administrator shall determine what constitutes appropriate fencing.
  - d. Any non-dwelling structure which acts as housing for a Non-Household Animals must meet the requirements of “Section 20.2 – Accessory Buildings”.

**D. Non-Household Animals; Special Use Permit Required**

1. In the RL-14 Zoning District and on unplatted parcels or lots of less than 3 acres in size in the A-R Zoning District, the keeping of Non-Household Animals for non-commercial purposes is allowed only when authorized by the Planning Commission as a Special Use. In considering such authorization, the Planning Commission shall, in addition to the standards required by Chapter 19, consider the following standards:
  - (a) Can the requirements of “Subsection C (1)”, above, be met?
  - (b) Is the design of the housing for the Non-Household Animals appropriate for the character of the neighborhood?
  - (c) Is the design of the housing for the Non-Household animals compatible with any existing structures on the property involved?
  - (d) Does the location of the housing for the Non-Household Animals negatively affect adjacent properties because of potential noise?
  - (e) Does the location of the housing for the Non-Household animals negatively affect adjacent properties because of potential odors?
  - (f) Would approving the request establish a negative precedent for similarly zoned properties?

**E. Nonconforming Uses**

1. Any parcel or lot with any type or number of Non-Household Animals which was in compliance with the provisions of this Zoning Ordinance, but has been subsequently rendered non-compliant due to the amendment of this Ordinance, shall be deemed to be a nonconforming use, subject to the regulations of Chapter 21. However, any such use shall not expand, increase in size, or increase in intensity.

**Section 4.16 Adult-Oriented Businesses**

- A. Location and Approval.** An adult-oriented business shall be allowed as a special use only if all of the following standards are satisfied:

1. Adult-oriented businesses shall be allowed only within the I-2 Heavy Industrial Zoning District if approved as a special land use.
2. No adult-oriented business shall be located within five hundred (500) feet of another adult-oriented business.

For purposes of this subsection (2), and subsections (3) and (4) below, the distance between a proposed adult-oriented business and (A) another adult-oriented business, (B) the boundary of any land in the agricultural or any residential Zoning District or approved as a planned unit development for residential purposes, or (C) land used for

- any single-family, two-family or multiple-family dwelling; Township, County or State park; school; library; licensed childcare facility; playground; church or place of worship, shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed adult-oriented business is to be located to (A) the nearest property line of the parcel of land used for the other adult-oriented business, (B) the nearest boundary of the land in the agricultural or any residential Zoning District or approved as a planned unit development or a plat for residential purposes, or (C) the nearest property line of the parcel of land used for a single-family, two-family or multiple-family dwelling; Township, County or State park; school; library; licensed childcare facility; playground; church or place of worship.
3. No adult-oriented business shall be located on a parcel or lot that is within five hundred (500) feet of the boundary of any land in the agricultural or any residential Zoning District, or approved as a planned unit development for residential purposes.
  4. No adult-oriented business shall be located on a parcel or lot within five hundred (500) feet of any single-family, two-family or multiple-family dwelling; any Township, County or State park; school; library; licensed child care facility; playground; church or place of worship.
  5. No adult-oriented business shall be located within any principal or accessory building or structure already containing another adult-oriented business.
  6. The proposed use shall conform to all requirements of the Zoning District in which it is located.
  7. The proposed use shall be in compliance with all other ordinances of the Township and with all statutes, laws, rules and regulations of the County, State and Federal government and, to the extent required, all governmental approvals must be obtained.
  8. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or the adjacent right-of-way of a public street or private street.
  9. Any sign or signs proposed for the adult-oriented business shall comply with the provisions of this Ordinance; may not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form; and may not include animated or flashing illumination.
  10. Entrances to the proposed adult-oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those entering and exiting the business, and using clearly marked lettering no less than two (2) inches in height stating that: (1) ‘Persons under the age of 18 are not permitted to enter the premises’,

and (2) ‘No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission’.

11. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a public street or private street or a neighboring property.
12. Hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., Monday through Saturday. All adult-oriented businesses shall remain closed on Sundays and legal holidays.
13. All off-street parking areas shall comply with this Ordinance and shall be illuminated after sunset during all hours of operation of the adult-oriented business, and until one (1) hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one (1) foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect- on and shall be screened from adjoining properties.
14. Any booth, room or cubicle available in any adult-oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:
  - a. Be handicap accessible to the extent required by law;
  - b. Be unobstructed by any floor, lock or other entrance and exit control device;
  - c. Have at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
  - d. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
  - e. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

B. **Special Land Use Process.** Any special land use application for an adult-oriented business shall be processed under the provisions of Chapter 19 of this Ordinance.

C. **Definitions.** For purposes of this Section 4.16, the following words, phrases, and terms shall have the following meanings:

1. *Adult cabaret* means a nightclub, restaurant, or other establishment which regularly features or displays:

- a. Live performances, displays, or dancing predominantly characterized by an emphasis on the exposure of any specified anatomical area or by any specified sexual activity; or
  - b. Films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or other visual media predominantly characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area.
2. *Adult merchandise store* means an establishment that emphasizes merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area. An establishment emphasizes merchandise that is predominantly distinguished by its ‘emphasis on matter depicting, describing, or relating to any specified sexual activity or any specified anatomical area’ if any one or more of the following applies to the establishment:
- a. 25% or more of the establishment’s retail display space (excluding bathrooms, office areas, fitting rooms, eating areas, storage areas, closets, and other nonpublic areas) is used for the sale of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
  - b. 25% or more of the establishment’s visible inventory is comprised of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
  - c. 25% or more of the establishment’s gross revenues are generated by the sale or rental of merchandise that is predominantly distinguished or characterized by its emphasis on matter depicting, describing or relating to any specified sexual activity or any specified anatomical area.
  - d. The establishment is operated consistently with its being an adult-oriented business (*e.g.*, advertising is directed to an ‘adults only’ market; the establishment self-imposes, or imposes consistent with state or federal law, prohibitions on minors being present in the establishment, etc.).
3. *Adult motel* means a hotel, motel or similar establishment that:
- a. Offers accommodation to the public for any form of consideration and provides patrons with close-circuit television (as distinguished from commercial cable services), transmissions, films, motion pictures, video cassettes, DVDs, slides, computer displays, other photographic reproductions or visual media that are characterized by an emphasis on the depiction or description of any specified sexual activity or any specified anatomical area; or
  - b. Offers a sleeping room for rent, or allows a tenant or occupant of a sleeping room to sub-rent the room, for a period of time that is less than ten (10) hours,





8. *Escort agency* means a person or entity which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An escort agency is deemed to be operated in the location where (1) a request for an escort is received, or (2) the escort and the person requesting the escort are together.
9. *Material* means anything tangible, whether through the medium of reading, observation, viewing, sound, or in any other manner, including, but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, DVD, film, computer display, transparency, slide, audiotape, audio disk, computer tape, holographic images, or any other medium used to electronically produce or reproduce images, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent. This definition is intended to include material which is the product of any technology, whether that technology is available on the effective date of the ordinance that added this definition or becomes available after that date.
10. *Merchandise* means material, products, and novelties.
11. *Novelty* means any instrument, device, or paraphernalia which depicts or describes any specific anatomical area or any specific sexual act, or which is designed for use, or commonly used, in connection with specific sexual activities, excluding condoms and other birth control and disease prevention products.
12. *Nudity, Nude, or State of Nudity* means the knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. Nudity, as used in this Section does not include a woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
13. *Nude or semi-nude model studio* means any place where a person who displays any specified anatomical area is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by any other person who pays money or any form of consideration, but does not include the following:
  - a. An educational institution funded, chartered, or recognized by the state of Michigan; or

- b. Any modeling session for a local, nonprofit organization, that is not open to the public or to any persons other than members of the organization, that is for the purpose of instruction in the artistic depiction in two-dimensional or three-dimensional media of the human form, during which no specified sexual activities occur and during which the model remains in a fixed pose.
- 14. *Operate* or *Cause to Operate* shall mean to cause to function or to put or keep in a state of doing business. *Operator* means any person on the premises of an adult-oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated an adult-oriented business regardless of whether that person is an owner or part owner of the business.
- 15. *Patron* means a customer of the adult-oriented business or a person from the general public, not an ‘employee’ of the business, who is on the premises to obtain, receive, or view the products, services, or performances offered by the business.
- 16. *Regularly* mean recurring, attending, or functioning at fixed or uniform intervals.
- 17. *Semi-Nudity* or *Semi-Nude* or *in a Semi-Nude Condition* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited in a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- 18. *Sexual encounter center* means an establishment, except that which is part of the practice of and under the supervision and control of a physician, psychologist, or psychiatrist licensed to practice in Michigan, that offers:
  - a. Activities between male and female persons and/or persons of the same sex when one or more of the persons exposes or displays any specified anatomical area; or
  - b. The matching and/or exchanging of persons for any specified sexual activities.
- 19. *Specified anatomical area* means any or more of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breast at or below the top of the areola; or

- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
20. *Specified sexual activity* means any of the following:
- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast; or
  - b. A sex act, actual or simulated, including intercourse, oral copulation, or sodomy; or
  - c. Masturbation, actual or simulated; or
  - d. Excretory functions as part of or in connection with any of activities set forth in (1), (2) or (3) above.
- D. Each adult-oriented business shall comply with all applicable Township ordinances and codes, including.

#### **Section 4.17 Prohibition on Medical Marihuana Dispensaries**

- A. No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any Zoning District or on or from any property within the Township. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from any medical marihuana dispensary within the Township.

## **Section 4.18 Solar Energy Collectors and Commercial Solar Energy Systems**

- A. ***Applicability.*** This section applies to consumer scale ground-mounted and building-mounted solar energy collectors and commercial solar energy systems. This section does not apply to smaller-scale solar energy collectors (with a combined collector surface areas less than 50 square feet) that are mounted on fences, poles, or on the ground and less than five (5) feet above the ground.
- B. ***General Requirements.***
1. **Applications.** In addition to all other content required for the completion of an application for building permit and zoning approval, the applicant shall submit for review unit renderings and plan details for the proposed solar energy collector equipment.
  2. **Glare and Reflection.** The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit shall not be installed or located so that sunlight or glare is reflected into neighboring residences or occupied yard space or onto adjacent streets.
  3. **Location.** To the maximum extent practical while still being functional, solar energy equipment shall be located so as to be visually unobtrusive to adjacent residential properties.
  4. **Installation.**
    - a. A solar energy collector shall be permanently and safely attached to the ground or an approved structure. Solar energy collectors and the installation and use thereof, shall comply with building codes and other applicable Township, County, State and Federal requirements.
    - b. Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer’s instructions. Upon request of the building inspector, a copy of the instructions shall be submitted to the building department prior to the issuance of a permit allowing installation
  5. **Power lines.** On-site power lines between solar panels and inverters shall be placed underground.
  6. **Abandonment.** Solar energy collection systems that cease to produce energy on a continuous basis for 12 months will be considered abandoned unless the responsible party (or parties) with ownership interest in the system provides substantial evidence every six (6) months after 12 months of no energy production to the Township of the intent to maintain and reinstate the operation of that facility. The responsible party shall remove all equipment and facilities and restore the site to its condition prior to development of the facility within one (1) year of abandonment.

- C. ***Consumer Scale Building-Mounted Solar Energy Collectors.*** Consumer scale Building-Mounted Solar Energy Collectors are permitted by right in all zoning districts when upon application for a building permit and upon review of the building inspector, they are found to be in compliance with the above general requirements and following specific requirements and standards.
1. Certification. A building mounted unit shall be only of such weight as can safely be supported by the structure. A certification by a professional engineer or other qualified person, shall be submitted to the Township prior to installation.
  2. Location. Wall-mounted units shall not be located on the front wall of a building.
  3. Height.
    - a. Wall-mounted unit shall not exceed the height of the building wall to which they are attached.
    - b. A roof-mounted unit shall not project more than three feet above the highest point of the roof and may exceed the maximum building height limitation for the zone district by no more than three (3) feet.
  4. Extension. A solar energy collector that is wall-mounted shall not project horizontally beyond the eave of the roof, or 12 inches, whichever is less.
- D. ***Consumer Scale Ground-Mounted Solar Energy Collectors.*** Consumer Scale Ground-Mounted Solar Energy Collectors shall only be established through the issuance of a special use permit obtained under the application, review and approval procedures outlined in Chapter 19. In addition to the “*General Standards for All Special Land Uses*” contained in Section 19. 8, the following specific requirements shall apply:
1. Location. The unit shall be located in the rear yard and shall be subject to the setbacks for accessory buildings.
  2. Maximum Size. 1,500 square feet of collector panels per ground-mounted solar energy collector structure.
  3. Maximum Height. 12 feet, measured from the natural grade below the unit to the highest point.
  4. Screening. Screening may be required in cases where ground-mounted units impact views from adjacent residential properties.
- E. ***Commercial Solar Energy Systems (ref. definition contained in Chapter 28, .Section 28.2 subsection “S”)*** Commercial Solar Energy Systems may only be established as principle or accessory uses within the following zoning districts and in accordance with the following standards:
1. A-B Agricultural/Agri-Business District and A-R Agricultural / Rural-Residential Districts: Only when authorized by the planning Commission through the issuance of a special use permit obtained under the application, review and approval procedures and standards outlined in Chapter 19 and the site plan review requirements of Chapter 25.

2. I-1 Light Industrial and I-2 heavy Industrial Districts: When authorized by the Planning Commission under the site plan review provisions of Chapter 25.
3. Specific standards: In addition to the site plan review standards of section 25.6 and when applicable, the general standards applicable to all special land uses contained in Section 19.8, the following specific standards shall apply to all Commercial Solar Energy Systems:
  - a. Minimum Setbacks. 100 feet minimum.
  - b. Maximum Height. 16 feet, measured from the natural grade below the unit to the highest point.
  - c. Minimum Acreage. Five (5) acres.
  - d. Screening. Views of collectors and equipment from residential properties or public right-of-way may be required to be screened. Screening methods may include the use of materials, colors, textures, screening walls, and landscaping, that will blend the facility into the natural setting and existing environment.
  - e. Decommissioning. A decommissioning plan signed by the responsible party and the landowner (if different) addressing the following shall be submitted prior to approval:
    - I. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, abandonment, etc.)
    - II. Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels, and foundations.
    - III. Restoration of property to condition prior to development of the system.
    - IV. The timeframe for completion of decommissioning activities.
    - V. Description of any agreement (e.g. lease) with landowner regarding decommissioning, if applicable.
    - VI. The entity or individual responsible for decommissioning.
    - VII. Plans for updating the decommissioning plan.
    - VIII. A performance guarantee shall be posted in the form of a bond, letter of credit, cash, or other form acceptable to the township, to ensure removal upon abandonment. As a part of the decommissioning plan, the responsible party shall provide at least two (2) cost estimates from qualified contractors for full removal of the equipment, foundations, and structures associated with the facility. These amounts will assist the township when setting the performance guarantee valid throughout the lifetime the facility. Bonds and letters of credit shall be extended on a bi-annual basis from the date of special use permit approval.

## **Section 4.19 Prohibition on Marihuana Establishments and Marihuana Facilities Prohibited**

- A. ***Marihuana establishments.*** Pursuant to Section 6 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, marihuana establishments are prohibited within the boundaries of Gaines Charter Township.
- B. ***Marihuana facilities.*** Marihuana facilities are prohibited within the boundaries of the Gaines Charter Township.

As used in this section, “marihuana establishment(s)” means that term as defined in the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, and “marihuana facility(ies)” means that term as defined in the Medical Marihuana Facilities Licensing Act, 2016 PA 281, as amended.

## **Section 4.20 Setback Averaging**

- A. ***Intent.*** This section intends to allow for the reduction of the minimum front and side building setbacks within specified established neighborhoods to allow new single-family detached and two-family dwellings, garages, accessory buildings, and additions to existing dwellings to be placed on sites in a manner similar to the prevailing historic development pattern of the block. This section acknowledges that many existing buildings within the specified areas do not conform to the required minimum front and side setbacks. As such, the setback averaging provision will allow landowners to minimize the potential for inconsistency between new dwellings and accessory buildings and the physical character of existing neighborhoods due to the prevalence of nonconforming buildings.
- B. ***Applicability.*** This section applies to lots and parcels located within the RL-10 and R-3 zoning districts in Sections 6 and 7 of the Township and that are also within blocks with established building patterns that consistently vary from current setback requirements of Sections 6.3 and 7.3 of the Zoning Ordinance. In these areas, an applicant may request front and side setback reductions for new single-family detached and two-family dwellings, garages, accessory buildings, and additions to existing dwellings as determined by the average of the setbacks of residential buildings on adjoining and nearby properties.
- C. ***Process.*** An applicant may seek setback reductions authorized by this section through the special land use process.
- D. ***Method for Determining Setbacks.*** The following process shall be used to determine the allowable setback range for a property based on averaging:
  - 1. The average front and/or side setbacks will be determined by measuring the front and/or side setbacks of at least two, but no more than four, contiguous developed properties on the same block on either side of the property to be developed (vacant lots may be

skipped). The average shall include at least one property on each side of the subject site. In the case of a corner lot, two to four properties along both street frontages may be used in the average.

2. The total gross setback distances shall be divided by the number of properties measured to find the average, which is the “initial” setback line. The front and/or side building line(s) of the building shall be proposed within five feet of either side of the initial setback line. However, in no case shall the front or side building line of a proposed building be less than the lowest of the front and/or side setbacks used to determine the average.
  3. Properties with different zoning categories cannot be used in the averaging. For example, a residential property next to a commercial property cannot use the commercial property setback in the averaging calculation.
  4. The setbacks used for the calculations must be for the same type of building that is proposed. For example, only garage entrance setbacks may be used to average a garage entrance setback, and only dwelling setbacks may be used to average a dwelling setback.
- E. ***Final Setback Approval.*** The Planning Commission shall determine the allowable setback range based on the method for determining setbacks, as well as the special land use general standards within Section 19.8. Based on the review of the proposal against Section 19.8, the Planning Commission may approve a greater minimum setback and/or a maximum setback if it is required to protect public health, safety, and welfare, or the character of the neighborhood.