

Vergennes Township

Zoning Ordinance

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201.1000 EFFECTIVE DATE 1

201.000 ZONING*

Ord. No. 11-10-78

Adopted: November 10, 1978

***Cross reference(s)**--Building numbering, Pt. 161; building and construction codes, Pt. 181; private roads, Pt. 202.

TITLE AND PURPOSE

An ordinance enacted pursuant to the authority contained in Public Act 110 of 2006, as amended, known as the Michigan Zoning Enabling Act for the establishment of zoning districts in the unincorporated portions of Vergennes Township, within which districts the use of land for agriculture, forestry, recreation, residence, industry, trade, migratory labor camps, soil conservation, water supply conservation, and additional uses of land may be encouraged, regulated or prohibited; for the adoption for such districts of provisions designating or limiting the location, height, number of stories, and size of dwellings, buildings and structures, including tents and trailer coaches which may hereafter be erected or altered; for the regulation of the area of yards, and other open spaces and the sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures, including tents and trailer coaches; for the designation of the maximum number of families which may be housed in buildings, dwellings and structures, including tents and trailer coaches; to establish a zoning board of appeals, to grant authority to said board in addition to that expressly provided in said Public Act 110; to provide standards to guide actions and decisions of said board; to provide for the enforcement of the provisions of said ordinance and penalties and other relief for the violation of said ordinance; and to provide for the amendment thereof and the repeal of all ordinances or parts of ordinances in conflict therewith.

PREAMBLE

In accordance with the authority and intent of Act 110 of the Public Acts of 2006, as amended, the Township of Vergennes desires to provide for the orderly development of the Township which is essential to the well-being of the community. Accordingly, there is hereby established a comprehensive zoning ordinance, which is adopted for the following purposes:

- A. To protect and promote the public health, safety and general welfare of all persons and property owners within the Township.
- B. To guide and protect the future growth and development of the Township in accordance with the Vergennes Township Land Use Plan and the goals contained therein.
- C. To protect the character and the social and economic stability of all parts of the Township, and to encourage its orderly and beneficial development for the well being of the Township as a whole.
- D. To protect and preserve the value of land throughout the Township and the value of buildings appropriate to the various districts established by this Ordinance.
- E. To prevent against conflicts among the uses of land and buildings, to provide for the free movement of vehicles upon the streets and highways of the Township, and to assure that all uses of land and buildings within the Township are so

related as to provide for economy in government and mutual support.

- F. To provide a guide for public policy and action in the efficient provision of public facilities and services, and for private enterprise in building development, investment and other economic activity relating to uses of land and buildings throughout the Township.
- G. To protect the natural environment; to prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and sound management of the natural resources throughout the Township in order to preserve the integrity, stability and beauty of the community and the value of the land.
- H. To preserve the natural beauty of the topography of the Township and to discourage development which is destructive of or inappropriate to these natural features.
- I. To preserve farmland for agricultural uses, especially prime agricultural lands.
- J. To discourage sprawl development, especially in areas where residential development is not considered the highest and best use of the land.

(Amended: Ord. No. 2007-1, 5-21-07)

CHAPTER 1

201.100 ENACTING CLAUSE

The Township of Vergennes, County of Kent, State of Michigan ordains:

201.101 Short title.

1.01. This Ordinance shall be known as the Vergennes Township Zoning Ordinance.

CHAPTER 2

201.200 DEFINITIONS

201.201 General.

2.01. When not inconsistent with the context, words used in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. The word "shall" is always mandatory and not merely directory. The word "building" includes the word "structure" and vice versa. Terms not herein defined shall have the meanings customarily assigned to them or as defined by the Michigan Zoning Enabling Act 110 of 2006, as amended.

201.202 Specific terms.

2.02. The following terms shall have the following meanings when used in the within Ordinance:

Accessory building: Shall mean a building or a portion of a building subordinate to and on the same lot as a main building and occupied by or devoted exclusively to an accessory use, including, but not limited to, a private garage, and to include a satellite dish antenna capable of receiving communications from a transmitter or transmitter relay located in planetary orbit and also to include a radio antenna erected under the provisions of this Ordinance by the holder of a valid amateur radio operator's license.

Accessory building, minor: A minor accessory building shall be an accessory building as defined herein with a gross floor area of not more than two hundred (200) square feet and a maximum height of twelve (12) feet.

Accessory Dwelling: A dwelling unit consisting of either a stick built house, mobile home, converted out-building or other habitable space/structure used in conjunction with the main dwelling for the housing of non-paying visitors, guests or family, separate from the primary dwelling containing separate kitchen, sleeping and bathroom facilities, and not exceed the size of the main floor of the primary dwelling unit.

Accessory use: A use of a building, lot or portion thereof, which is customarily incidental and subordinate to the principal use of the main building or lot.

Adjusted Parcel Acreage: Shall mean the acreage of a parcel that remains after the primary conservation area has been deducted.

Adult Book Store: An establishment having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

Adult Business: An adult business shall mean an adult book store, adult cabaret, adult motion picture theater, massage establishment, nude artist photography studio and any other business involved in the sales or marketing of obscene, lewd, lascivious, filthy, indecent or disgusting materials which are defined as including representations, descriptions or depictions of ultimate sexual acts, (normal or perverted, actual or simulated) or representations, descriptions or depictions of masturbation, excretory functions and lewd exhibition of the genitals.

Adult Cabaret: A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

Adult Motion Picture Theaters: Any establishment used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", as defined herein for observation by patrons therein.

Agriculture: Raising of crops, animals, livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals and animal products, forestry, horticulture, floriculture, dairying, aquaculture, raising of tree crops, or other commonly accepted agricultural operations for commercial purposes including the sale of products grown on the premises.

Agritourism Business: A farm enterprise operated for the enjoyment and education of the public that may also generate additional farm income by promoting farm products and whose owner or resident manager resides on the site in a single-family dwelling unit; and which may include educational and/or outdoor recreational programs; a public accommodation use; farm tours; horseback riding; and similar activities.

Apartment house: A building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three (3) or more family units, and with a yard, compound, service, or utilities in common.

Appurtenance: means a structure or accessory building incidental to a principal or exempt use including all of the following: (i) Detached garage. (ii) Residential storage shed. (iii) Barn and other agricultural storage and livestock structure. (iv) Pump house. (v) Private access roads and driveway. (vi) Electrical service line.

Attached Communication System: The equipment (i.e. antennas, radios, cables, hangers, accessory building, enclosures and etc.) used for the transmission and/or reception of signals for radio, television, cellular telephone, microwave, enhanced mobile radio, personal communication, pagers, internet and similar devices. This definition shall not include support structures.

Attached Single Family Dwelling: Shall mean a residential structure, other than a manufactured housing unit, designed for and consisting of up to four (4) residential dwelling units, each such residential dwelling unit having private and independent egress.

Bankfull: means the width of the stream that corresponds to the depth where water fills a main channel to the point of overflowing.

Basement: That portion of a building below the first floor joists, at least half of whose clear ceiling height is below the level of the adjacent ground.

Bed and Breakfast: An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day primarily for overnight guests only.

Bluff: means a bank that rises at a slope of 33 degrees or greater from within 10 feet of the river's edge. The crest of the bluff is the first riverward facing area (approximately parallel to the river) that breaks to a slope of less than 18 degrees for a distance away from the river of at least 25 feet. If an existing flat area begins at the water's edge before rising into the bank, the bluff setback does not apply.

Boardinghouse: A dwelling in which lodging or meals, or both, are furnished to three (3) or more guests for compensation.

Boat Slip: A space designed for the mooring of a single watercraft. Such spaces may extend

from a dock or shoreline.

Bridge: means any structure of any span length designed to provide a pedestrian, vehicle, livestock, or any other stream crossing, including but not limited to, a culvert, open bottom arch, and clear-span or multi-span structure.

Building: A structure having one or more stories and a roof, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

Building height: The elevation measured from the average finished lot grade at the front of the building to the highest point of the roof.

Child care center: Any facility in which one or more preschool or school-age children are given care and supervision for periods of less than 24 hours per day on a regular basis where the parents or guardians are not immediately available to the child. Child care centers provide care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. Child care centers do not include Family or Group Day Care Homes, or Schools. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall be considered accessory to such principal use and shall not be considered to be a child care center and a special land use shall not be required for these types of accessory uses. Activities for children sponsored by and supervised by organized club or hobby groups such as youth clubs, scouting, recreational or educational programs shall not be considered a child care center.

Child care – family child care home: Is a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

Child care – group child care home: Is a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group child care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

Cluster: Shall mean a grouping of residential dwellings arranged in harmony with the natural features and topography of the site and in compliance with the terms of this Ordinance.

Co-Location: The activity of placing more than one Attached Communication System on a Support Structure.

Commercial recreation establishment: Any establishment whose main purpose is to provide the general public with a sport or recreational activity and where tickets are sold or fees are collected for the activity, including without limitation, skating rinks, miniature golf, driving ranges, arcades, bowling alleys, billiard halls, go-cart tracks, exercise and health clubs, tennis clubs, rural recreation facilities and similar uses.

Common Open Space: Shall mean land within an Open Space Preservation Development or PUD which is not individually owned and which may not be subdivided. Such land shall be permanently protected from development and preserved in an undeveloped state. Areas not considered common open space shall include areas devoted to public or private road right-of-ways or any land that has been or is to be conveyed to a public agency for utilities, areas devoted to County drain easements, existing surface water bodies and regulated wetlands.

Condominium: Shall mean that portion of a condominium project designed and intended for

separate use and ownership, as described in a master deed.

Condominium Project: Shall mean a plan or project consisting of not less than two (2) condominium units established in conformance with Act 59 of the Public Acts of 1978, as amended.

Conservation easement: A less than fee simple interest in land, that is donated or sold by a landowner to a governmental unit or a nonprofit land trust. The landowner or resident association retains ownership and continues to pay property taxes, and ordinarily gives up the right to fully develop the property. The existence of a conservation easement does not imply free ingress and egress by the general public or any other group. The purpose of a conservation easement is to permanently protect significant open space, recreational, natural, agricultural, or historical resources.

Country club: A private club catering primarily to its membership, providing recreational, entertainment and social activities, which customarily includes golf, swimming, a clubhouse, riding, etc; but which does not include sleeping facilities.

Cutting edge of the river: means the outside bend of a river or stream channel where the water velocity is such that it may cause soil or stream bank erosion.

Density: Shall mean the total number of dwelling units divided by the area of land under consideration.

Designated Natural River: means a river designated by the director under the authority of part 305, natural rivers, 1994 PA 451, MCL 324.30501 to 324.30515.

Dock, permanent: See "Permanent Dock."

Dock, temporary: See "Temporary Dock."

Dog kennel: Any place where more than three (3) dogs over six (6) months of age are boarded for hire or held for sale and which is not an animal hospital.

Driveway: A driveway is that portion of a lot intended to be the area upon which vehicles travel from a road (private or public) to a dwelling or other improvements located upon the lot.

Duplex: Dwelling, two-family.

Dwelling:

1. *Earth bermed:* A dwelling where the ground floor area is partly below grade to provide climatic, noise, or life safety protection, but is so designated not to include any portion of a basement in the floor area calculation.
2. *Earth sheltered:* A dwelling where the ground floor area is partly below grade to provide climatic, noise, or life safety protection and includes all or part of a basement in the floor area calculations; providing that any basement area used in floor area calculations meets the requirements of the ordinance for residential use.

Dwelling, single-family: A detached residential dwelling unit other than a mobile home, designed for and occupied exclusively by one family.

Dwelling, two-family: A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

Dwelling, multiple-family: A building containing three (3) or more dwelling units (an apartment house).

Essential services: The term "Essential Services" means the erection, construction, alteration or maintenance by public utilities or township departments or commissions of underground or overhead gas, electrical, steam or water transmissions or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings EXCEPT THOSE EXPRESSLY REFERRED TO HEREIN), reasonably necessary for the furnishing of adequate service by such public utilities or township departments or commissions or for the public health or safety or general welfare.

Family: An individual or a group of two (2) or more persons related by blood, marriage or adoption including foster children, together with not more than one additional person not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

Filtered view of river: Maintenance or establishment of woody vegetation of sufficient density to screen new development from the river, provide for stream bank stabilization and erosion control, serve as an aid to infiltration of surface runoff and provide cover to shade the water. It need not be so dense as to completely block the river view. It means no clear cutting.

Fire, open: See "Open Fire."

Flammable material: Any substance that will burn, including, but not limited to, refuse, debris, water, forest material, brush, stumps, logs, rubbish, fallen timber, grass, stubble, leaves, fallow land, slash, crops or crop residue.

Golf course: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens, fairways and hazards. A golf course may include a clubhouse, shelters, driving ranges, incidental retail sales, repair of equipment used at the facility, and small-scale restaurant and banquet facilities as accessory uses, but shall not include miniature golf or other similar commercial enterprises.

Grade: As applicable to buildings, that surface of the earth or finished material located immediately adjacent to the structure.

Ground Floor: That floor of a dwelling whose elevation is nearer to grade than other floors of the dwelling and is not a basement and no part of which is a basement. For a split-level dwelling, the ground floor shall be that floor whose elevation is nearer to grade than other floors of the dwelling and is not a basement and no part of which is a basement; plus any upper or lower extension of such floor accessed by an internal stairway and located at an elevation that is not more than five (5) feet above or three (3) feet below the grade of the site.

Home based business: A business operation conducted from a residential property which is clearly subordinate and incidental to the residential nature of the property and which involves business activities generally conducted at other locations.

Home occupations. An occupation customarily conducted within a residential dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation. One accessory building incidental and secondary to the residential use of the property may be used in conjunction with the home occupation.

Improved park: A noncommercial, not-for-profit facility designed to serve the recreation needs of the community, designed primarily as an outdoor, open space and for passive or active use.

An improved park typically includes some ancillary constructed or installed facilities, such as playground equipment, modern restrooms or picnic shelters, but does not include a commercial recreation establishment or rural recreation facility.

Indemnity: Insurance or other forms of financial security protecting against possible damage, or loss(es), arising out of or related to the use of a wireless communication facility or the obligation to remove the same upon abandonment.

Impervious surface: means a surface, including a paved and unpaved driveway, deck, rooftop, road, patio, swimming pool, or parking lot, that does not allow storm water to infiltrate the ground.

Junkyard: An open space or any land or building where waste, surplus, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including housewrecking and structural steel materials and equipment and dismantling, storage or salvaging of automobiles or other vehicles not in running conditions, or of machinery or parts thereof.

Key Street Segment: Specific streets and portions of streets identified in Chapter 4 and subject to additional standards of this Ordinance.

Landscaping and mowing services. A facility or site and associated buildings used primarily for the office operations and the storage of equipment, vehicles, machinery, or other materials used by the owner or occupant of the premises in the conduct of businesses providing lawn mowing, landscaping, snowplowing and similar services, including incidental sales of materials.

Lawn and Garden Center: A retail sale and service establishment with retail sales of nursery stock and accessory supplies, fresh produce, landscaping supplies, lawn furniture, playground equipment, topsoil, mulching materials, garden tractors, utility vehicles, lawn mowers and similar powered lawn and garden equipment and other similar supplies and equipment used for lawn and garden purposes and retail repair and service for garden and lawn equipment.

Lighting:

1. *Bulb:* The source of electric light.
2. *Decorative Lighting:* The placement of lighting fixtures meant to illuminate exterior areas along a sidewalk or a driveway or to define landscape plantings or architectural features of a dwelling.
3. *Exterior Lighting:* Temporary or permanent lighting that is installed, located or used in such a manner as to illuminate an exterior area or objects.
4. *Floodlighting:* Light that is intended to illuminate a large area and generally produce between 1,000 and 1,800 lumens.
5. *Fully Shielded:* The light emitted from a fully shielded fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. No light is emitted and the bulb is not visible from the sides of the fixtures. This type of fixture is also considered a full cut-off fixture.
6. *Light Trespass:* Light that shines onto the property of others.
7. *Partially Shielded:* The bulb of the fixture is shielded by a translucent, frosted, partly opaque or colored siding and the bulb is not visible. The top of the light fixture will be capped to prevent light from shining upwards. Light may be emitted at the horizontal

level of the bulb, but clear glass with visible light bulbs is not considered partially shielded.

8. *Post Mounted Lighting:* Fixtures attached to a post to illuminate an exterior yard area.

9. *Recessed:* When a light is built into a structure or portion of a structure such that the light is fully shielded and no part of the light extends or protrudes beyond the underside of a structure or portion of a structure.

10. *Wall Mounted Entrance Lighting:* The placement of lighting fixtures meant to illuminate exterior door entrances outside of dwellings or accessory buildings.

Lots: For the purpose of this ordinance, a lot is a parcel of at least sufficient size, and containing sufficient buildable area, to meet the minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required by the Vergennes Township Zoning Ordinance as amended. The word "lot" includes the word "plot" and "parcel." In the context of the Condominium Act, Act 59 of the Michigan Public Acts of 1978, the word "lot" shall also mean the same as "building site" and is that portion of a site condominium subdivision project designed and intended for separate ownership and/or exclusive use, as described in the site condominium subdivision project's Master Deed and which meets minimum zoning requirements for use, coverage accessibility, and area as required for the zoning district in which it is located.

In the context of the Condominium Act, lot may be further defined as:

1. A condominium unit consisting of the area under a building or building envelope and the contiguous area around the building or building envelope; or
2. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit for the owner(s) exclusive use.

Lot area: The total horizontal area included within lot lines. However, "lot area" shall not include land lying below the ordinary high water mark of a lake, river or pond which is not totally enclosed within the boundary lines of the lot. (Also see Chapter 7, section 201.704, Variances.) Where a front, rear or side lot line lies in part or in whole in a public right-of-way or private road easement, the lot area may include that part of the lot within said right-of-way or easement.

Lot, corner: A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less as measured on the lot side. The point of intersection of the street lot lines is the "corner." In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above.

Lot depth: The horizontal distance between the front line and the rear lot line as measured on the median centerline of the lot.

Lot, front line: That side of the lot abutting upon a public or private street right-of-way or abutting on a river or lake. In the case of a corner lot, either street right-of-way may be considered the front line of the lot, provided at least one driveway opening adjoins the street which is parallel to the front lot line and the official address of the lot is the street parallel to the front lot line. In the case of a back or stacked lot accessed by an easement, the front line is the boundary line either parallel to the public road or on an extended easement the minimum width permitted for its underlying zoning district requirement.

Lot, interior: A lot other than a corner lot.

Lot, rear line: Ordinarily that lot line which is opposite and most distant from the front lot line as hereinbefore defined. In the case of an irregular-shaped lot, a line ten (10) feet in length entirely within the lot and parallel to and at the maximum distance from the front lot line shall be considered the rear lot line for the purpose of determining required rear yard spacing.

Lot, side line: Any lot line not qualifying as a front or rear lot line. A side lot line separating a lot from a street right-of-way shall be known as a Side Street Lot Line. A side lot line separating a lot from another lot or lots shall be known as an Interior Side Lot Line.

Lot width: The continuous horizontal distance between the side lot lines measured at the building setback line and at right angles to the lot depth.

Manufactured home: means a structure, transportable in 1 or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Manufactured home development: means a parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, non recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

Marina: A facility which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include retail and/or sales facilities intended primarily for the marketing of marine related products and/or services.

Massage Establishment: An establishment or place of business where massages are administered solely or in combination with any other service or activity for pay, including but not limited to massage parlors, health clubs, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Michigan, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. This definition shall not be construed to include exercise clubs exclusively for members without massages in any form.

Massage: A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

Master Deed: Shall mean 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. A master deed shall conform to the requirements of Act 59 of the Public Acts of 1978, as amended.

Mobile home: see Manufactured home.

Natural Features: Shall mean existing land forms, indigenous vegetation, water bodies, wetlands, wildlife habitat and vistas.

Natural Features Inventory: Shall mean a detailed, written analysis of a given site and a listing of the natural features found thereon.

Natural Features Ranking: Shall mean an ordering of a natural features inventory so as to arrange the natural features on a site in order of importance to the rural character of the site.

Neighborhood Local Business: Retail uses and personal or professional service businesses intended to serve convenience needs for only a localized area within Vergennes Township as opposed to a regional area of several townships or counties. Uses intended to have minimal physical impact upon adjacent residential neighborhoods which may include but are not limited to: Bait shops, barber/beauty shops, floral shops, cafes and ice cream parlors, insurance and medical offices, and uses similar in impact upon surrounding properties.

Non-conforming uses or structures: A building or structure or the use of a building, structure or land lawfully existing at the time this Ordinance became effective but which does not conform with the present use regulations of the district in which it is located.

Nude Artist and Photography Studios: Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display "specified anatomical areas" as defined herein for artists and photographers for a fee or charge.

Office: A room, suite of rooms, or building in which are located desks, chairs, tables, couches, bookcases (accounting, filing, recording, communication and/or stenographic) equipment for current use in the office business, and personnel engaged in executive, administrative, professional, political, informative, research and/or clerical duties; and other similar, related or incidental furniture, equipment or personnel connected or concerned with the performance of a personal service which causes or creates no external disturbance, nuisance, or annoyance beyond the confines of said rooms or building.

Open fire: Any fire set outside a building by a person or persons (including an individual, corporation, partnership, association, municipality or other public body or legal entity or any officer, employee or agent of the foregoing), and outside a debris burner constructed of metal or masonry with a covering device, with openings not larger than three-quarter ($\frac{3}{4}$) inch, that will contain the fire and prevent escape.

Open Space Community or Open Space Preservation Development: Shall mean a residential development of land arranged and developed so as to preserve not less than fifty percent (50%) of the adjusted parcel area in permanent open space.

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

Permanent dock, stairway, boardwalk: A structure located within the FR District that is attached to the ground or riverbed and is not intended to be moved seasonally.

Primary Conservation Area: Shall mean land which includes bodies of water, regulated wetlands, ponds, lakes, streams, lands within a 100-year floodplain, permanent easements and covenants that restrict development.

Private road, private street: Any road or thoroughfare for vehicular traffic contained within a private road easement which is privately owned and maintained and which provides the principal means of access to three (3) or more parcels abutting the private road easement. *Note that specific private road definitions are located in the Private Road Ordinance Section 202.000.

Recreational Uses: For the purposes of an Open Space Preservation Development,

Recreational Uses shall mean walking and hiking trails, picnic areas, wildlife preserves, children's play areas, greenways and linear parks.

Recreational vehicle: A vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers, and tent trailers; provided, however, that any such vehicle or unit which is forty (40) feet or more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

River access boardwalk: A permanent walkway constructed primarily of natural materials used to provide access to the river where a marshy area is present, and no other access point is available; which does not exceed three (3) feet in width nor does it exceed the length determined by the Zoning Administrator needed to reach the river's edge.

River access dock: means a seasonal or permanent platform constructed of primarily natural materials located at the water's edge or extending into the river channel, intended for securing and facilitating access to watercraft or to facilitate access to deeper water for swimming, fishing, or other water-oriented recreational activity and does not include a wall, railing, a storage locker, an attached bench, or any similar structure attached thereto. A seasonal dock is not permanently attached to the riverbed and is intended to be moved seasonally. A permanent dock is attached to the riverbed and is not intended to be moved seasonally.

River access stairs: : A permanent stairway constructed primarily of natural materials on steep slopes to the river where no other environmentally sound footpath access is feasible; which does not cut into the stream bank; which does not exceed four (4) feet in width and allows transitional landings between stair sections.

River stairs transitional landing: One or more horizontal areas not exceeding four (4) feet in width to connect sections of stairs for topography and safe stair step rise and run.

Rural recreation facility: A place designed and equipped for the conduct of sports and leisure-time activities in an outdoor setting, including polo fields, archery clubs, outdoor sports fields, golf courses, country clubs and similar uses.

Rural and Scenic Easement: Shall mean a common area within a condominium subdivision or a permanent easement granted to the Township or an approved conservancy for the perpetual preservation of a natural area along a public roadway.

Seasonal Manufactured Home Development: means a parcel or tract of land under the control of a person upon which three or more manufactured homes are located on a continual or temporary basis but occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, enclosure, street, equipment, or facility used or intended for a use incident to the occupancy of a manufactured home. A seasonal manufactured home development does not include a camp ground licensed pursuant to sections 12501 to 12516 of the Public Health Code, Act No. 368 of the Public Acts of 1978, being sections 333.12501 to 333.12516 of the Michigan Compiled Laws, as amended.

Setback: The minimum horizontal distance on a lot or parcel that a building or structure (or any portion thereof) situated thereon is required to be located from the front line, side line and rear lot line or if the lot or parcel abuts the Flat River from the ordinary high water mark of the river or crest of a bluff, and for a lake, measured from the outside edge of the building to the nearest point of intersection with the front line or ordinary high water mark of the lake.

Side line and rear line spacing: The minimum horizontal distance on a lot or parcel that a

building or structure (or any portion thereof) situated thereon is required to be located from the side line or rear line, measured from the outside edge of the building to the nearest point of intersection with the side or rear line.

Sign: Any device, structure, fixture, billboard or placard using graphics, symbols and/or written copy which is designed, intended or used to advertise or inform.

Sign; abandoned: A sign which no longer identifies or advertises a currently operating business, service, owner, product or activity and/or for which no legal owner can be found.

Sign; Billboard: A sign directing attention to a use, activity or product not located, sold, manufactured or processed on the premises on which the sign is located.

Sign; directional: A sign giving directions or instructions for vehicular or pedestrian circulation. A directional sign shall not contain advertising display copy.

Sign; directory: A sign which displays names and/or location of occupants or users of a premises.

Sign; free standing: A sign, as defined herein, permanently affixed to the ground by means of its own foundation, monument base, post, pole or other permanent mounting and not attached to another structure or building on the site.

Sign; illegal: A sign which does not meet the requirements of this ordinance and which does not have a legal nonconforming status.

Sign; nonconforming: A sign which was legally erected prior to the effective date of this section (201.403) and does not have a legal nonconforming status.

Sign owner: The owner of a premises upon which a sign is located is presumed to be the owner of the sign unless facts are submitted to the Township showing other ownership.

Sign; temporary: A sign designed for use for a limited period of time to announce special events, sales or sale/lease or rental of property; or a sign political in nature and advocating action on a public issue or indicating a candidate for public office.

Site development plan or site plan: A site development plan or site plan shall mean the plan or plans required to be submitted and approved as discussed in or required by this Ordinance.

Solar Energy:

Solar Energy Collector: A system (including solar collector surfaces and ancillary solar equipment) either affixed to a permanent principal or accessory building or functioning as a freestanding structure, that collects, stores, and distributes solar energy for heating or cooling, generating electricity, or heating water. Solar Energy Systems include, but are not limited to, photovoltaic (PV) power systems and solar thermal systems.

Ancillary Solar Equipment: Any accessory part or device of a solar energy system that does not require direct access to sunlight, such as batteries, electric meters, converters, or water heater tanks.

Property Owner or Lessor: Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the County Register of Deeds to be the owner of a particular property shall be presumed to be the person in control of that property.

Solar Collector Surface: Any part of a solar energy system that absorbs solar energy for use in the system's transformation process. The collector surface does not include frames, supports, and mounting hardware.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar energy system.

Building-Mounted Solar Energy Collector: A solar energy collector attached to the roof or wall of a building, or which serves as the roof, wall, or other element in whole or in part of a building. Also includes building-integrated photovoltaic systems (BIPV).

Ground-Mounted Solar Energy Collector: A solar energy collector that is not attached to and is separate from any building on the lot on which the solar energy collector is located.

Small-Scale Solar Energy Collector: A solar energy collector primarily intended to provide energy for on-site uses and to provide power for use by owners, lessees, tenants, residents, or other occupants of the lot on which it is erected. It may be comprised of the following: building-integrated photovoltaic (BIPV) systems, flush-mounted solar panels, ground-mounted solar energy collectors, or building-mounted solar energy collectors.

Utility Scale Solar Energy System: A solar energy system that meets one or more of the following:

1. It is primarily used for generating electricity for sale and distribution to an authorized public utility for use in the electrical grid;
2. The total surface area of all solar collector surfaces exceeds 1,500 square feet; and/or
3. It is not considered an accessory use or structure by the Township Zoning Administrator.

Specified Anatomical Areas: Specified anatomical areas are defined as less than completely and opaquely covered human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Specified sexual activities are defined as human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Structure: Anything constructed, erected, or located on any lot and located on the ground, including a building, mobile home, sign, billboard, communication structure, apparatus, ornamentation, or fence. For the purposes of this ordinance, sidewalks, driveways, septic tanks, patios, and the like shall not be considered structures. Within the Flat River District, an enclosed, self-contained camping unit is not considered a structure if on site fewer than 30 days per calendar year and if located landward of the natural vegetation strip in the Flat River District, or if the structure is located on a campsite within a campground licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, if both the individual campsite and the campground were established before the effective date of these rules.

Support Structure or Tower: Structures or other materials attached directly to the ground which may be utilized in conjunction with the transmission or reception of radio, telephone, cellular telephone, television, microwave, or any other form of telecommunication signals. A support structure does not include any of the following, provided that they meet the requirements of the Vergennes Township Zoning Ordinance: citizen band radio facilities, short wave facilities, ham and amateur radio facilities, television reception antennas, satellite dishes, a farmer's

communication system, and government facilities which are subject to state and federal law or regulations that preempt municipal regulatory authority.

Temporary dock: A landing for riparian access that is located within the FR District, not permanently attached to the riverbed and is intended to be moved seasonally.

Townhouse: A building consisting of five (5) or more attached single family dwellings.

Undeveloped State: Shall mean a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state shall not include a golf course but may include a recreation trail, picnic area, children's play area, greenway, or linear park.

Unimproved park: A non-commercial, not-for-profit facility designed to serve the recreation needs of the community, designed as an outdoor, open space and for passive use, such as interpretive programs and trail systems that take advantage of geological, biological or scenic resources located within the park.

Utility Vehicle: A lawn or garden use off road drivable vehicle with a cargo box similar to a golf cart such as a "Gater" or "Mule" brand designed to carry loads and pull small garden or lawn equipment. This definition does not include ATV's (All Terrain Vehicle), motorcycles, snowmobiles or other recreational vehicles.

Variance: A relaxation of the terms of the Zoning Ordinance authorized on appeal by the Zoning Board of Appeals, where the Board determines that such variance will not be contrary to the public safety or interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. (See Section 7.04).

Wetland: means land characterized by the presence of hydric soils or water at a frequency and duration sufficient to support wetland vegetation or aquatic life as defined in the wetlands protection act, part 303, 1994 PA 451, MCL 324.30301 to 324.30329.

Wetland, Regulated: Shall have the same meaning as set forth in Act 451 of the Public Acts of 1994, as amended. A regulated wetland shall mean land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh and which is and of the following:

1. Connected to or located within five hundred (500) feet of an inland lake or pond, or a river or stream.
2. Not connected to or located within five hundred (500) feet of an inland lake or pond, or river or stream, but more than five (5) acres in area.

Wind Energy Conversion System (Wind Turbine): A wind energy conversion system shall mean all or any combination of the following:

1. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
2. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
3. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;

4. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
5. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wind Energy Conversion Systems, Small (Windmill, Small): A Wind Energy Conversion System, as defined herein, which has a rated capacity of not more than 100kW/1MW and which is intended primarily to reduce on-site consumption of utility power.

Wireless Communication Facility: The combination of a Support Structure, and at least one Attached Communication System. A wireless communication facility shall not be considered an essential services.

Yards:

1. *Front.* A yard extending across the full width of the lot and with a depth of the distance between the public road right-of-way line or the private road easement line and the main wall of the principal building.
2. *Rear.* A yard, unoccupied except for accessory buildings, extending across the full width of the lot and with a depth of the distance between the rear lot line and the rear wall of the principal building.
3. *Side.* A yard between the principal building and the side lot line, extending from the front yard to the rear yard, with a width measured from the side lot line to the nearest part of the principal building.

(Amended: Ord. of 12-11-89, Ord. of 11-12-90; Ord. No. 92-1, 3-9-92; Ord. No. 92-3, 7-13-92; Ord. No. 93-1, 5-10-93; Ord. No. 93-2, 5-10-93; Ord. No. 94-3, 7-20-94; Ord. No. 95-1, 2-20-95; Ord. No. 97-3, 3-31-97; Ord. No. 98-2, §§ 1, 3, 3-30-98; Ord. No. 98-8, 8-17-98; Ord. No. 99-1, § 1, 2-15-99; Ord. No. 99-6, 7-19-99; Ord. No. 2000-1, 2-21-00; Ord. No. 2000-2, 3-20-00; Ord. No. 2000-3, 7-17-00, Ord. No. 2000-4, 10-16-00, Ord. No. 2001-1, 07-16-01, Ord. No. 2002-1, 01-21-02, Ord. No. 2002-6, 5-20-02, Ord. No. 2002-9, 6-17-02; Ord. No. 2002-11, 10-21-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2003-4, 8-18-03, Ord. No. 2003-6, 10-20-03, Ord. No. 2004-1, 2-16-04, Ord. No. 2006-2, 8-21-06, Ord. No. 2007-1, 5-21-07, Ord. No. 2007-2, 10-15-07, Ord. No. 2009-2, 10-19-09, Ord. No. 2009-1, 8-17-09, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10), Ord. No. 2011-2, 2011-3, 09-19-11, Ord. No. 2017-1, 5-15-17, Ord. No. 2018-1, 4-16-18, Ord. No. 2019-02, 6-17-19; Ord. No. 2019-03, 6-17-19).

CHAPTER 3

201.300 ZONING DISTRICTS

201.301 Division of Township.

3.01. The Township of Vergennes shall be divided into zoning districts, as hereinafter described, within which districts no buildings or premises shall be used and no building shall hereafter be erected, altered, or located except for the uses and purposes hereinafter set forth as "Permitted Uses" under each separate zoning district classification, or hereinafter set forth as "Special Exception Uses" under each such zoning district classification; subject, however, to such prior approval as is hereinafter required to be obtained from the Township Board for such Special Exception Uses. The following districts are hereby established:

R-A - Rural Agricultural

R-1 - Low Density Residential

R-2 - Medium Density Single Family Residential

R-3 - Special Residential

RL - Residential Lake District

FR - Flat River

C - Commercial

I - Industrial

CO - Court Ordered

(Amended: Ord. of 11-12-90; Ord. No. 92-5, 12-14-92, Ord. No. 2003-5, 8-18-03)

201.302 Use district boundaries and zoning map.

3.02.

- A. The location and boundaries of the zones established in the township shall be shown on a map entitled Zoning Map of Vergennes Township and said map, section, or portion thereof, together with all notations, dimensions and other data shown thereon, are hereby made a part of this Ordinance to the same extent as if the information set forth on said map were fully described and incorporated herein.
- B. Regardless of the existence of copies of the Zoning Map that may from time to time be made or published, the official copy of the Zoning Map of Vergennes Township, properly attested, shall be in the custody of the Township Clerk, and shall be identified by the signature of the Township Supervisor attested to by the Township Clerk.
- C. Such Zoning Map may be amended from time to time to reflect changes in zones and the rezoning of property shown thereon in the same manner as amendments may be made to the text of this Ordinance. Such changes shall be recorded to scale on duplicate copies of the original official Zoning Map and shall be accomplished by written legal descriptions in appropriate amending ordinances.

201.303 Interpretation of zoning district boundaries.

3.03. Where uncertainty exists as to the boundaries of any of the districts or zones shown on the Zoning Map, the following rules shall apply:

- A. Zoning district boundary lines are intended to be parallel or perpendicular to street or lot lines, unless such district boundary lines are fixed by dimensions, as shown on said Zoning Map.
- B. Where district boundaries are indicated as approximately following street lines or proposed street lines, such lines shall be construed to be such boundaries.
- C. Where district boundaries are so indicated that they approximately follow lot lines and are not more than twenty-five (25) feet distant therefrom, such lot lines shall be such boundaries.
- D. Where district boundaries cross unsubdivided property or where a district boundary divides a lot, the location of any such boundary, unless the same is indicated by dimensions shown on such maps, or described in the text of the Ordinance, shall be determined by the use of the map scale shown thereon, and scaled to the nearest foot.
- E. If all or any portion of any public street, alley, right-of-way, easement or land which is not included in any district shall ever revert to or come into private ownership or shall ever be used for any purpose other than a public purpose, said land shall be subject to all of these regulations which apply within the zone immediately adjacent thereto, or within the most restricted of the immediately adjacent zone, if there be more than one (1).

201.304 "R-A" Rural-Agricultural District.

3.04.

- A. *State of Purpose.* Rural--Agricultural Districts are those open areas of the township where farming, forestry operations and other such rural-type activities exist and should be preserved and encouraged, and where woodlot, wetlands, wildlife and open space contribute to the natural beauty and diversity of the Township and should be preserved and conserved. Accordingly, agricultural land, as well as large vacant areas, fallow land, wooded areas and wetlands may be included. Although the demand for other uses in these districts may ultimately outweigh their use as zoned, any such zoning changes should be made cautiously with the realization that adequate food supply and protection of the air, water and other natural resources are essential to the health and welfare of the Township, county, state and nation.
- B. *Permitted Uses.*
 - 1. Farm dwellings, barns, stables, silos, grain bins, milk-houses, housing for farm labor, and structures and uses customarily incidental thereto if located on the same parcel, or on an abutting parcel under common ownership with a farm dwelling.
 - 2. Agricultural, horticultural, viticultural, raising livestock including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals, farm forestry and other similar bona fide farming or agricultural enterprises, EXCLUDING, HOWEVER, rendering plants, commercial

fertilizer production, or garbage feeding or disposal activities.

3. Greenhouses or nurseries.
4. Markets for the sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of said business including an advertising sign subject to the requirements of Section 201.403 (D) (1) (d).
5. Private single-family dwellings including earth-bermed and earth-shelter dwellings.
6. Home Occupations and Home Based Businesses as defined in this Ordinance.
7. Churches and parish houses.
8. Community buildings, government owned open space.
9. Essential services (See Section 4.11).
10. Cemeteries.
11. Wildlife reserves.
12. Hunting preserves.
13. Amateur radio antennas conforming to the terms of this Ordinance.
14. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.
15. Open Space Preservation Development, subject to Section 4.35.
16. Rental Storage; subject to the requirements of Section 201.431A.
17. Improved park, when direct access is provided from a public, paved road.
18. Unimproved park.
19. Licensed family child care home (1-6 children in a private home).

C. *Special Exception Uses.*

1. Public utility and service buildings.
2. Concentrated livestock or poultry feeding operations at or above the following population numbers:
 - a. A total of seven hundred fifty (750) dairy cattle (all classes), seven hundred fifty (750) slaughter and feeder cattle, one thousand eight hundred (1,800) swine (all classes), one hundred thousand (100,000) poultry (all classes), five thousand (5,000) sheep and goats (all classes), two hundred (200) horses (all classes), or;
 - b. A population per contiguous acre of four (4) dairy cattle (all classes), four (4) slaughter and feeder cattle, twenty (20) swine (all classes), seven hundred (700) poultry (all classes), ten (10) sheep and goats (all classes), four (4) horses (all classes).
 - c. On a lot of less than five (5) acres, a total population per acre in

excess of one (1) cattle (all classes), one (1) horse (all classes), two (2) swine (all classes), two (2) sheep and goats or twenty (20) poultry (all classes).

3. Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.
4. Private landing fields.
5. Dog Kennel.
6. Rural recreation facility, subject to the following standards:
 - a. The use shall have direct access to a public, paved road.
 - b. No clubhouse or similar building shall be located within 150 feet of any road right-of-way line, and within 400 feet of any side or rear lot line.
 - c. Any clubhouse or similar building shall not exceed 5,000 square feet of floor area and must be designed consistent with structures on neighboring properties.
 - d. Any clubhouse or similar building may include light refreshments, restroom facilities or offices; but shall not include indoor sports facilities.
 - e. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 - f. The Planning Commission may limit the hours of operation of the facility to protect the character of surrounding uses.
 - g. Facilities must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission. Tees, fairways, greens and trails shall be arranged in a manner to limit stray golf shots and other trajectories and trespassing onto neighboring properties. The Planning Commission may require fencing and other measures to prevent trespassing into neighboring properties.
 - h. The applicant shall demonstrate that large increases in the number of patrons and/or spectators shall not occur except upon approval of an amended special exception use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.
 - i. Violation of these standards shall be cause for revocation of the special exception permit.
 - j. A traffic study may be required by the Planning Commission.
 - k. To approve the use, the Planning Commission must find that it would support the Township's goal of rural character preservation; and not create congestion or unsafe conditions for users of the development or the general public.

7. Disposal and dumping of septic wastes.
8. Public or private elementary, middle and/or high schools offering courses in general education and not operated for profit.
9. Lawn and Garden Center subject to section 201.502 and additionally the following standards:
 - a. The minimum lot size for the business shall be three acres and 300 feet of lot width. Buildings shall be setback a minimum of 75 feet from the road right of way, 25 feet from side lot lines and 50 feet from a rear lot line.
 - b. Outdoor display of product for sale shall be setback a minimum of 20 feet from any road right of way. Sales display area for used equipment shall be limited to a maximum of 15% of the total display sales area. All display sales areas must be maintained in a neat manner such as grass mowed or gravel, concrete or pavement in good repair.
 - c. Outdoor storage of loose material such as bark or soils must be contained to keep dust and materials from blowing onto adjacent properties.
 - d. Parking areas shall comply with section 201.417 except 201.417 (A) and additionally the customer vehicle parking area shall be set back a minimum of 25 feet from any road right of way.
 - e. The applicant shall submit a landscape plan identifying the location and size of both existing vegetation to be retained and proposed new vegetation to screen the business from any adjacent residential uses.
 - f. Exterior lighting shall be designed and constructed in such a manner to:
 - (1) Insure that direct or indirectly reflected light is confined to the development site.
 - (2) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way. The light source shall not be directly visible from beyond the boundary of the site and light rays may not be emitted by the installed fixture at angles above the horizontal plane of the fixture.
 - (3) The light from any illuminated source shall be designed so that the light intensity or brightness will not be objectionable to surrounding areas.
 - (4) Light sources shall be low-pressure sodium or similar fixtures, which emit light that may be filtered for astronomical viewing.
 - (5) No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed fourteen (14) feet in height.

- (6) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and searchlights are not permitted.
 - (7) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
 - g. Proposed signs shall meet the standards of Section 201.403 and sign type shall meet 201.403 (D) (3) (a) (1-3).
- 10. Free-standing farm buildings. Farm buildings, such as barns, stables, silos, and structures, if not located on the same parcel, or on an abutting parcel under common ownership with a farm dwelling, may be permitted as a special exception use, after review by the Township Board, subject to the terms of Section 5.02, under the following conditions:
 - a. The parcel shall be not less than twenty (20) acres in area,
 - b. Free-standing farm building(s) shall be constructed and intended for use exclusively in connection with agriculture.
 - c. Free-standing farm building(s) shall not be used
 - (1) As a permanent, temporary or seasonal residence,
 - (2) For private or commercial storage of personal property, except in connection with a bona fide agricultural activity,
 - (3) For the retail sale of any product, whether grown or processed on site,
 - (4) For the processing or manufacture of any product, except in connection with a bona fide agricultural activity.
- 11. Licensed group child care home (7-12 children in a private home)
 - a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The child care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
- 12. Licensed day care/child care center [being those facilities licensed or registered as a day care center/child care center (being any number of children in a non-home building) by the state under Public Act 116 of 1973]; subject to the following standards:

- a. All day care centers must be located on a paved county primary road.
- b. That the building be setback as follows:
 - (1) Front yard setback: Seventy-five (75) feet for the main building.
 - (2) Side setback: Thirty (30) foot minimum from any side lot line, except that the setback shall increase to fifty (50) feet from any adjacent residential zone and one hundred (100) feet from any existing residence.
 - (3) Rear setback: Fifty (50) foot minimum from any rear lot line, except that the setback shall increase to one hundred (100) feet from any existing residence.
 - (4) Outdoor play areas shall be setback at least fifty (50) feet from the street right-of-way line and twenty-five (25) feet from the side and rear property lines.
 - (5) Parking areas shall be setback at least thirty-five (35) feet from the street right-of-way line and thirty (35) feet from any other property line.
- c. The Township, in addition to those general standards established in Section 201.502, Special Exception, shall consider standards and may set conditions on the site plan and building design to insure that on the property, and at the day care facility, there is:
 - (1) Adequate ingress and egress to provide separation of incoming and exiting traffic, with appropriate acceleration, de-acceleration lanes and turning lanes;
 - (2) Adequate off-street loading, unloading, and stacking areas for vehicles that is separated from the parking areas;
 - (3) Paved parking and loading areas which comply with the parking requirements for elementary schools [Section 201.417(F)(12)];
 - (4) Appropriate lighting that is directed away from adjacent residential areas and the street;
 - (5) Adequate fencing or screening of active playground and outdoor play areas;
 - (6) Compliance with the institutional identification signs requirements for the R-A District [Section 201.403 (D)(1)(a)];
 - (7) No dormitory style facilities and that the day care facility be designed in appearance to be consistent with those uses and structures in the surrounding area.
- d. The Township shall be provided with a copy of the state license and each re-issued license. The day care/child care center shall not operate without a state license.

- e. The day care/child care center shall not maintain regular hours of operations before 6:00 am or after 7:00 pm.
13. Wireless communication facilities subject to Section 201.432.
 14. Planned Unit Development (PUD) subject to Section 210.429.
 15. Rental Storage Special Exception Use Permit subject to Section 201.431 (B).
 16. Agritourism Business, subject to the following standards:
 - a. The parcel or parcels on which the use is located shall be owner-occupied or appointed resident manager occupied.
 - b. The business shall not be incompatible with other allowed uses in the vicinity, as determined by the Township Board.
 - c. Bedrooms in the dwelling unit may be offered for rental as sleeping rooms, subject to the following:
 - (1) The establishment shall be the principal dwelling unit on the property and shall be owner-occupied or appointed resident manager occupied at all times.
 - (2) The accommodation use shall be limited to five (5) or fewer sleeping rooms.
 - (3) The rental sleeping rooms shall have a minimum size of one-hundred and twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
 - (4) A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1"=8' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
 - (5) The business shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - (6) Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
 - d. Sleeping tents may be permitted on the site, provided:
 - (1) The site shall not provide more than ten (10) total sleeping units, including rental sleeping rooms and sleeping tents.
 - (2) Sleeping tents shall only be offered to guests generally from April to September, unless the Township Board determines that adequate heat facilities will be provided.
 - e. Markets for the sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an

unsubstantial part of the business are permitted.

- f. The Fire Chief and Building Inspector shall establish a capacity for meetings, training, special events or educational events which shall be appropriate to the site and facilities in terms of safe capacity in buildings, parking area and sanitation limitations of the site.
- g. All buildings and structures on the site shall conform to the minimum setback requirements of the R-A, Rural-Agricultural District.
- h. Minimum parking requirements shall be as follows: two (2) off-street spaces for the use of the proprietor; one (1) off-street space per rental sleeping room or rental sleeping tent, as applicable; and, one (1) off-street space per additional employee, as applicable. If additional, seasonal or future activities are anticipated to occur on the site, the applicant shall demonstrate to the Township Board that the proposed parking area, or any future parking area, would meet the demand generated by the use.
- i. Section 4.03, D, (1) (b) shall govern signage on the site.
- j. Accessory buildings shall comply with Section 4.02 and may include, but are not limited to: nature centers; pavilions; picnic facilities; and restroom facilities.
- k. Where livestock or poultry feeding operations or similar activities are proposed, animal population numbers shall comply with Section 3.04, C, 2.
- l. Any refuse containers on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
- m. The establishment shall be located and designed such that no objectionable noise, or odor or fumes, shall be carried onto adjoining property.
- n. The accommodation use shall not alter the residential character of the building or structure, and shall not alter the agricultural character of the site, as determined by the Township Board.
- o. The permit holder shall secure and maintain all required state and local permits.
- p. Where off-site activities or tours are proposed, the Township Board shall identify and approve travel routes.
- q. The Township Board may establish hours of operation for agritourism business uses, or specific elements thereof, consistent with the character of the land uses in the vicinity.
- r. An application for an Agritourism Business shall include a complete description of the proposed use, the services to be provided, hours of operation, activities to be conducted and any other information necessary to properly convey the nature of the facility proposed.

- s. A small bakery, café, ice crème, sandwich shop or similar small scale eating area may be included in the general floor plan that allows customers of the establishment, whether sleeping there or attending a conference or event, and the general public, to receive other meals or food during specific open hours.
17. Bed and Breakfast, subject to the following:
- a. The use is not incompatible with other allowed uses in the vicinity.
 - b. The impact of the establishment is no greater than that of a private home with houseguests.
 - c. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - d. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - e. Signs shall be in accordance with Section 4.03, D, (1) (b).
 - f. Two (2) off-street parking spaces shall be provided for the use of the owner/occupant and one (1) off-street space per rental sleeping room. Parking shall be located within two hundred (200) feet of the building.
 - g. The parcel or parcels on which the use is located shall be owned and operated by a single proprietor.
 - h. The establishment shall have at least two (2) exits to the outdoors.
 - i. The Bed and Breakfast shall not alter the residential character of the building or structure.
 - j. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
 - k. Special Exception Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
 - l. A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1"=8' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
 - m. The permit holder shall secure and maintain all required state and local permits. Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
 - n. No conference/meeting room facilities will be permitted.
 - o. The Bed and Breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.

- p. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
18. Neighborhood Local Business, subject to Section 201.440 (Key Street Segments). All developed portions of a Neighborhood Local Business in the R-A District shall have primary access upon a Key Street Segment. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the front setback. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the front setback.
19. Accessory Dwelling subject to section 201.441.
20. Utility Scale Solar Energy Systems, subject to the following:
- a. Site Plan Required. An application for special land use approval for a Utility Scale Solar Energy System shall include a site plan in accordance with Article 201.502,D. In addition to the information required for site plan approval in Section 201.502,D,1, all applications must also include the following:
 - 1. Equipment and unit renderings
 - 2. Elevation drawings
 - 3. Setbacks from property lines and adjacent structures, and height of proposed structures
 - 4. Notarized written permission from the property owner authorizing the Utility Scale Solar Energy System
 - 5. All additional plans and requirements set forth in this Section.
 - b. Permits. No utility-scale solar energy system shall be constructed, installed, operated, maintained, or modified as provided in this section without first obtaining a zoning permit, building permit, and all other applicable permits. The construction, installation, operation, maintenance, or modification of all utility-scale solar systems shall be consistent with all applicable local, state, and federal requirements, and all buildings and structures that comprise a utility scale solar energy system shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications. Installation of the utility-scale solar energy system shall not commence until all necessary permits have been issued.
 - c. Lot Area. Utility scale solar energy systems shall be located on a lot of at least twenty (20) acres.
 - d. Setbacks. Utility scale solar energy systems shall be located at least 75 feet from all property lines or rights of way. The Township may modify the setbacks if it is determined that an alternate setback distance would protect adjacent residents and property

owners. Screening methods may be permitted within the setbacks.

- e. Height. Utility scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the natural grade below the unit to the highest point at full tilt.
- f. Noise. Noise emanating from the solar energy collector system shall not exceed 50 decibels (dBA) as measured from any property line. The Township may reduce this maximum noise level in order to protect adjacent residents and property owners.
- g. Screening. The Planning Commission may require that a utility scale solar energy system be screened from residential properties or public rights-of-way. Screening methods may include the use of material, colors, textures, screening walls, fencing, berms, landscaping, and/or natural vegetation that will blend the facility into the natural setting and existing environment.
- h. Glare and Reflection. The exterior surfaces and structural components of utility scale solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A solar collector surface shall not be installed or located so that sunlight or glare is reflected into neighboring residences or onto adjacent streets.
- i. Location. Solar energy systems shall be located in the area least visibly obtrusive to adjacent residential properties while remaining functional.
- j. Obstruction. Solar energy systems shall not obstruct solar access to adjacent and neighboring properties.
- k. Power lines. On site power lines between all structures and ancillary equipment and inverters shall be placed underground.
- l. Fencing. For the purpose of restricting unauthorized access to the site, the Planning Commission may require that the perimeter of a utility scale solar energy system be fenced in with at least a six (6) foot high fence.
- m. Operation and Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the utility scale solar energy system, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures of operational maintenance of the installation, as applicable.
- n. Emergency Services. Upon request by Vergennes Township, the owner/operator of the utility scale solar energy system shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner/operator shall identify a responsible person for public inquiries throughout the life of the installation. An information sign shall be posted and maintained at the entrance(s) which lists the name and phone number of the operator.

- o. Maintenance. The utility scale solar energy system owner/operator shall maintain the facility in good condition at all times. Maintenance shall include, but not be limited to, structural repairs, safety-related upgrades, and integrity of security measures. Site access roads or drives shall be maintained to a level acceptable to local emergency services personnel. The owner/operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s).
- p. Decommissioning.
 - 1. Any utility-scale solar energy system which has reached the end of its useful life or has not operated continuously for one year or more shall be removed and the owner/operator shall be required to restore the site. The owner/operator shall physically remove the installation no more than one hundred and fifty (150) days after the date of discontinued operations.
 - 2. The owner/operator shall notify the Township personally or by certified mail of the proposed date of discontinued operations and plans for removal.
 - 3. If the owner/operator fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Township may enter the property and physically remove the installation.
 - 4. Removal of the installation shall consist of the following:
 - a. Physical removal of all aboveground or underground utility-scale solar energy systems, structures, equipment, security barriers, and transmission lines from the site.
 - b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - c. Stabilization or re-vegetation of the site as necessary to minimize erosion.
- q. Financial Guarantee. The applicant for a utility scale solar energy system shall provide a form of surety, either through escrow account, letter of credit, bond, or other instrument acceptable to the Township Attorney. The purpose of the surety is to cover the cost of removal of the utility scale solar energy system in the event the Township must remove the installation. The amount of the financial surety shall not exceed more than 125 percent of all costs of removal and compliance with the additional requirements set forth herein. It shall be submitted by the applicant and be prepared by a qualified engineer. The surety shall be subject to review and approval by the Township Board and shall be a condition of special exception use approval.

- D. *Height.* No residential or other building, excepting silos and amateur radio antennas (see Section 201.602), shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.
- E. *Lot Area.* The minimum lot area for use in this District shall be three (3) acres with a minimum lot width of three hundred (300) feet.
- F. *Setback and Side Line Spacing.* No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following setback and side line spacing requirements are met in connection with the lot or parcel on which such building, structure or enlargement is located:
1. *Setback.* There shall be a setback from all street right-of-way lines of not less than thirty-five (35) feet.
 2. *Side Line Spacing.* There shall be a space of not less than twenty-five (25) feet from the interior side line of the lot to the building, structure or enlargement, except on corner lots where there shall be a setback of not less than thirty-five (35) feet from all street right-of-way lines.
 3. *Rear Line Spacing.* There shall be a space of not less than fifty (50) feet from the rear line of the lot to the building, structure or enlargement.
- G. *Floor Area Requirements.* All single family dwellings hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.
- No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.
- All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.
- In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.
- H. *Key Street Segments:* Within the R-A district, the following Key Street Segments are established:
1. Alden Nash Avenue, north of Lally Road to the Township Boundary.
 2. Lally Road, between Alden Nash and Murray Lake Road.

(Amended: Ord. No. 91-7, 12-9-91; Ord. No. 95-01, 2-20-95; Ord. No. 98-2, §§ 4, 9, 3-30-98; Ord. No. 99-2, 5-17-99; Ord. No. 99-8, 8-16-99; Ord. No. 2000-2, 3-20-00; Ord. No. 2002-12,

10-21-02; Ord. No. 2002-11, 10-21-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2003-6, 10-20-03, Ord. No. 2005-1, 8-15-05, Ord. No. 2006-1, 1-16-06, Ord. No. 2006-2, 8-21-06, Ord. No. 2007-2, 10-15-07, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2011-2, 2011-3, 09-19-11; Ord No. 2019-03, 6-17-19)

201.305 "R-1" Low Density Residential District.

3.05.

- A. *Statement of Purpose.* This district classification is designed to be a transition area between the Rural Agriculture District and the higher density residential, commercial and industrial districts in the southeast area of the Township. The district will have a mixture of residential and agriculture uses and accessory and compatible uses together with a minimum of other residential and agricultural related facilities and activities primarily of service and convenience to the residents in the area.
- B. *Permitted Uses.*
1. Private single-family dwellings including earth-bermed dwellings.
 2. Home Occupations and Home Based Businesses as defined in this Ordinance.
 3. Schools, libraries, and other municipal structures and uses.
 4. Churches and parish houses.
 5. Essential services (See Section 4.11);
 6. Accessory buildings and uses customarily incidental to any of the permitted uses when located on the same lot or parcel of land.
 7. Farm dwellings, barns, stables, silos, grain bins, milk-houses, housing for farm labor, and structures and uses customarily incidental thereto if located on the same parcel, or on an abutting parcel under common ownership with a farm dwelling.
 8. Agricultural, horticultural, viticultural, raising livestock including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals, farm forestry and other similar bona fide farming or agricultural enterprises, EXCLUDING, HOWEVER, rendering plants, commercial fertilizer production, or garbage feeding or disposal activities.
 9. Greenhouses or nurseries.
 10. Markets for the sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of said business including an advertising sign subject to the requirements of Section 201.403 (D) (1) (d).
 11. Community buildings, government owned open space.
 12. Cemeteries.
 13. Wildlife reserves.
 14. Hunting preserves.

15. Amateur radio antennas conforming to the terms of this Ordinance.
16. Open Space Preservation Development, subject to Section 4.35.
17. Improved park, when direct access is provided from a public, paved road.
18. Unimproved park.
19. Licensed family child care home (1-6 children in a private home).

C. *Special Exception Uses.*

1. Private two (2) family dwellings.
2. Dog Kennel.
3. Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.
4. Hospitals.
5. Licensed group child care home (7-12 children in a private home)
 - a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The day care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
6. Licensed day care/child care center [being those facilities licensed or registered as a day care center/child care center (being any number of children in a non-home building) by the state under Public Act 116 of 1973]; subject to the following standards:
 - a. All day care centers must be located on a paved county primary road.
 - b. That the building be setback as follows:
 - (1) Front yard setback: Seventy-five (75) feet for the main building.
 - (2) Side setback: Thirty (30) foot minimum from any side lot line, except that the setback shall increase to fifty (50) feet from any adjacent residential zone and one hundred (100) feet from any residences existing at the time that the special exception use is granted.
 - (3) Rear setback: Fifty (50) foot minimum from any rear lot line, except that the setback shall increase to one hundred

- (100) feet from any residences existing at the time that the special exception use is granted.
- (4) Outdoor play areas shall be setback at least fifty (50) feet from the street right-of-way line and twenty-five (25) feet from the side and rear property lines.
 - (5) Parking areas shall be setback at least thirty-five (35) feet from the street right-of-way line and thirty-five (35) feet from any other property line.
- c. The Township, in addition to those general standards established in Section 201.502, Special Exceptions, shall consider standards and may set conditions on the site plan and building design to insure that on the property, and at the day care facility, there is:
- (1) Adequate ingress and egress to provide separation of incoming and exiting traffic, with appropriate acceleration, de-acceleration lanes and turning lanes;
 - (2) Adequate off-street loading, unloading, and stacking areas for vehicles that is separated from the parking areas;
 - (3) Paved parking and loading areas which comply with the parking requirements for elementary schools [Section 201.417 (F)(13)];
 - (4) Appropriate lighting that is directed away from adjacent residential areas and the street;
 - (5) Adequate fencing or screening of active playground and outdoor play areas;
 - (6) Compliance with the institutional identification sign requirements for the R-1 District [Section 201.403 (D)(1)(a)];
 - (7) No dormitory style facilities and that the day care facility be designed in appearance to be consistent with those uses and structures in the surrounding area.
- d. The Township shall be provided with a copy of the state license and each re-issued license. The day care/child care center shall not operate without a state license.
- e. The day care/child care center shall not maintain regular hours of operations before 6:00 am or after 7:00 pm.
7. Planned Unit Development (PUD) subject to Section 201.429.
8. Bed and Breakfast, subject to the following:
- a. The use is not incompatible with other allowed uses in the vicinity.
 - b. The impact of the establishment is no greater than that of a private home with houseguests.
 - c. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.

- d. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - e. Signs shall be in accordance with Section 4.03, D, (1) (b).
 - f. Two (2) off-street parking spaces shall be provided for the use of the owner/occupant and one (1) off-street space per rental sleeping room. Parking shall be located within two hundred (200) feet of the building.
 - g. The parcel or parcels on which the use is located shall be owned and operated by a single proprietor.
 - h. The establishment shall have at least two (2) exits to the outdoors.
 - i. The Bed and Breakfast shall not alter the residential character of the building or structure.
 - j. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
 - k. Special Exception Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
 - l. A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1"=8' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
 - m. The permit holder shall secure and maintain all required state and local permits. Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
 - n. No conference/meeting room facilities will be permitted.
 - o. The Bed and Breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.
 - p. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
9. Rural recreation facility, subject to the following standards:
- a. The use shall have direct access to a public, paved road.
 - b. No clubhouse or similar building shall be located within 100 feet of any property line.
 - c. Any clubhouse or similar building shall not exceed 5,000 square feet of floor area and must be designed consistent with structures on neighboring properties.

- d. Any clubhouse or similar building may include light refreshments, restroom facilities or offices; but shall not include indoor sports facilities.
- e. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
- f. The Planning Commission may limit the hours of operation of the facility to protect the character of surrounding uses.
- g. Facilities must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission. Tees, fairways, greens and trails shall be arranged in a manner to limit stray golf shots and other trajectories and trespassing onto neighboring properties. The Planning Commission may require fencing and other measures to prevent trespassing into neighboring properties.
- h. The applicant shall demonstrate that large increases in the number of patrons and/or spectators shall not occur except upon approval of an amended special exception use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.
- i. Violation of these standards shall be cause for revocation of the special exception permit.
- j. A traffic study may be required by the Planning Commission.
- k. To approve the use, the Planning Commission must find that it would support the Township's goal of rural character preservation; and not create congestion or unsafe conditions for users of the development or the general public.

10. Accessory Dwelling subject to section 201.441.

- D. *Height.* No residential or other building, excepting silos and amateur radio antennas (see Section 201.602), shall exceed the lesser of thirty-five (35) feet or two and one-half (2¹/₂) stories.
- E. *Lot Area.* The minimum lot area for use in this District shall be one acre with a minimum lot width of one hundred sixty-five (165) feet.
- F. *Setback and Side Line Spacing.* No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following setback and side line spacing requirements are met in connection with the lot or parcel on which such building, structure or enlargement is located:
 - 1. *Setback.* There shall be a setback from all street right-of-way lines of not less than thirty-five (35) feet.
 - 2. *Side Line Spacing.* There shall be a space of not less than ten (10) feet from the interior sideline of the lot to the building, structure or enlargement, except on corner lots where there shall be a setback of not

less than thirty-five (35) feet from all street right-of-way lines.

3. *Rear Line Spacing.* There shall be a space of not less than fifty (50) feet from the rear line of the lot to the building, structure or enlargement.

- G. *Floor Area Requirements.* All single family and two (2) family dwelling units hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

(Amended: Ord. No. 95-01, 2-20-95; Ord. No. 98-2, § 5, 3-30-98; Ord. No. 99-5, 7-19-99; Ord. No. 99-8, 8-16-99; Ord. No. 2000-2, 3-20-00; Ord. No. 2002-12, 10-21-02; Ord. No. 2002-11, 10-21-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2003-4, 8-18-03, Ord. No. 2006-2, 8-21-06, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2011-3, 09-19-11)

201.306 "R-2" Medium Density Single-Family Residential District.

3.06.

- A. *Statement of Purpose.* This district classification is designed to permit an environment of predominately medium density single-family dwellings together with a minimum of facilities designed to serve the inhabitants of the area.

B. Permitted Uses.

1. Essential services (See Section 4.11).
2. Private single-family dwellings including earth-bermed dwellings.
3. Home Occupations and Home Based Businesses as defined in this Ordinance.
4. Accessory buildings and uses customarily incidental to any of the permitted uses when located on the same lot or parcel of land.
5. Cemeteries.
6. Amateur radio antennas conforming to the terms of this Ordinance.
7. Improved park, when direct access is provided from a public, paved road.
8. Unimproved park.
9. Licensed family child care home (1-6 children in a private home).

C. *Special Exception Uses.*

1. Private two (2) family dwellings.
2. Medical clinics and doctors' and dentists' offices for the treatment of human beings and licensed child care center, provided that they are constructed in appearance as a residence. Off street parking shall be subject to section 201.417.
3. Licensed group child care home (7-12 children in a private home)
 - a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The day care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
4. Farming and agricultural operations, including raising livestock and horses, together with a reasonable number of accessory buildings, and the right to sell products, poultry or animals produced, raised or grown upon the premises.
5. Planned Unit Development (PUD) subject to Section 201.429.
6. Open Space Preservation Development, subject to Section 4.35.
7. Rural recreation facility, subject to the following standards:
 - a. The use shall have direct access to a public, paved road.
 - b. No clubhouse or similar building shall be located within 100 feet of any property line.
 - c. Any clubhouse or similar building shall not exceed 5,000 square feet of floor area and must be designed consistent with structures on neighboring properties.
 - d. Any clubhouse or similar building may include light refreshments, restroom facilities or offices; but shall not include indoor sports facilities.
 - e. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 - f. The Planning Commission may limit the hours of operation of the facility to protect the character of surrounding uses.
 - g. Facilities must employ effective physical barriers and isolation

- G. *Floor Area Requirements.* All single family and two (2) family dwelling units hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

(Amended: Ord. of 11-12-90; Ord. No. 93-1, 5-10-93; Ord. No. 95-01, 2-20-95; Ord. No. 96-2, 5-20-96; Ord. No. 97-2, 3-31-97; Ord. No. 98-2, § 6, 3-30-98; Ord. No. 99-8, 8-16-99; Ord. No. 2000-2, 3-20-00, Ord. No. 2002-5, 5-20-02; Ord. No. 2002-12, 10-21-02; Ord. No. 2002-11, 10-21-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2003-4, 8-18-03, Ord. No. 2004-1, 2-16-04, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2011-3, 09-19-11)

201.306A "R-3" Special Residential.

3.06A.

- A. *Statement of Purpose.* This district classification is designed to permit the greatest density of residential uses appropriate to the Township, together with other residentially related facilities designed to service the inhabitants of the area.

B. *Permitted Uses.*

1. Essential services (See Section 4.11).
2. Private single-family dwellings including earth-bermed dwellings.
3. Private two (2) family dwellings.
4. Home Occupations and Home Based Businesses as defined in this Ordinance.
5. Accessory buildings and uses customarily incidental to any of the permitted uses when located on the same lot or parcel of land.
6. Cemeteries.
7. Amateur radio antennas conforming to the terms of this Ordinance.
8. Improved park, when direct access is provided from a public, paved road.
9. Unimproved park.
10. Manufactured Home Developments subject to section 201.416.
11. Licensed family child care home (1-6 children in a private home).

C. *Special Exception Uses.*

1. Medical clinics and doctors' and dentists' offices, nursing and convalescent homes for the treatment and care of human beings and licensed child care center, provided that they are constructed in appearance as a residence. Off street parking shall be subject to section 201.417.
2. Licensed group child care home (7-12 children in a private home)
 - a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The day care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
3. Multiple family dwellings.
4. Hotels, motels, lodging houses, and other transient-type residential buildings.
5. Rural recreation facility, subject to the following standards:
 - a. The use shall have direct access to a public, paved road.
 - b. No clubhouse or similar building shall be located within 100 feet of any property line.
 - c. Any clubhouse or similar building shall not exceed 5,000 square feet of floor area and must be designed consistent with structures on neighboring properties.
 - d. Any clubhouse or similar building may include light refreshments, restroom facilities or offices; but shall not include indoor sports facilities.
 - e. Outdoor lighting shall be the minimum required for safe use of the facility and be directed away from neighboring properties and public rights-of-way. Limitations on lighting may be imposed by the Planning Commission.
 - f. The Planning Commission may limit the hours of operation of the facility to protect the character of surrounding uses.
 - g. Facilities must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission. Tees, fairways, greens and trails shall be arranged in a manner to limit stray golf shots and other trajectories and trespassing onto neighboring properties. The Planning Commission may require

fencing and other measures to prevent trespassing into neighboring properties.

- h. The applicant shall demonstrate that large increases in the number of patrons and/or spectators shall not occur except upon approval of an amended special exception use application. All parking facilities shall be located on the property and shall not be allowed to spill over into any right-of-way or road.
 - i. Violation of these standards shall be cause for revocation of the special exception permit.
 - j. A traffic study may be required by the Planning Commission.
 - k. To approve the use, the Planning Commission must find that it would support the Township's goal of rural character preservation; and not create congestion or unsafe conditions for users of the development or the general public.
- 6. Planned Unit Development (PUD) subject to Section 201.429.
 - 7. Open Space Preservation Development, subject to Section 4.35.
 - 8. Schools, libraries, community buildings and other municipal structures and uses.
 - 9. Churches and parish houses.
 - 10. Accessory Dwelling subject to section 201.441.
- D. *Height.* No residential or other buildings shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.
- E. *Lot Area.*
- 1. Single Family Dwellings. The minimum lot area for use in this District shall be seventeen thousand (17,000) square feet for a single family dwelling, within a minimum lot width of one hundred (100) feet.
 - 2. Two (2) Family Dwellings. The minimum lot area for a two (2) family dwelling in the District shall be twenty-five thousand (25,000) square feet, with a minimum lot width of one hundred (100) feet.
 - 3. Special Exception Residential Uses. For special exception residential developments located outside of an Open Space Preservation Development approved pursuant to Section 4.35, the following limitations shall apply:
 - a. Special exception use permits for multiple family dwellings shall be limited to three dwelling units per acre in the absence of public sewer and water.
 - b. Notwithstanding the availability of public water and sewer, a special exception use permit will not be issued for a multiple family dwelling containing more than six dwelling units per acre.
 - c. The minimum lot width for a multiple family dwelling of three units is one hundred fifty (150) feet and, in the event the multiple family dwelling unit contains more than three units, the minimum lot

width shall be specified by the special use permit as granted by the Township Board.

- d. No more than six (6) dwelling units shall be permitted in any multiple family building.
- 4. Special Exception Non-Residential Uses. Lot areas and minimum width for non-residential special uses shall be specified by the special use permit as granted by the Township Board.
- F. *Setback and Sideline Spacing.* Setback and sideline spacing requirements for this District shall be the same as for the R-2 District.
- G. *Floor Area Requirements.* All single family and two (2) family dwelling units hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

All multiple family dwelling units hereafter constructed shall provide not less than the following minimum square feet of living space:

Efficiency and one (1) bedroom: 750 square feet

Two (2) bedrooms: 870 square feet

Three (3) bedrooms: 990 square feet

In excess of three (3) bedrooms: 120 additional square feet per bedroom

(Amended: Ord. of 11-12-90; Ord. No. 93-1, 5-10-93; Ord. No. 98-2, § 7, 3-30-98; Ord. No. 99-8, 8-16-99, Ord. No. 2000-4, 10-16-00, Ord. No. 2002-6, 5-20-02; Ord. No. 2002-12, 10-21-02; Ord. No. 2002-11, 10-21-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2003-4, 8-18-03, Ord. No. 2004-1, 2-16-04, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2011-3, 09-19-11)

201.306B "LFP" Little Farms Plat Overlay District.

3.06B.

- A. *Statement of Purpose and Description.* The "LFP" Little Farms Plat Overlay District is established to account for the unusual size and layout of lots within the Little Farms Plat located within the R-A District. This overlay district consists of the land within the Little Farms Plat recorded in Liber 48 of Plats, page 2, of Kent County Records.

The Little Farms Plat Overlay District is established as an overlay zoning district.

Such district shall be construed, not as a separate and distinct district, but as a secondary district which overlays the Little Farms Plat within the underlying R-A district. All property owners must comply with all requirements of the underlying R-A district and the requirements and restrictions of the Little Farms Plat Overlay District. Where there is conflict between other provisions of the Vergennes Township Ordinances, including the zoning ordinance and the R-A zoning requirements and those specifically applied to the Little Farms Plat Overlay District, the latter shall control.

B. *Permitted Uses.*

1. Single family dwellings, including earth-bermed and earth-shelter dwellings, as permitted in the underlying District in which the particular use is proposed.
2. Essential Services (See Section 4.11).
3. Greenhouses.
4. Markets for the sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an unsubstantial part of said business including an advertising sign subject to the requirements of Section 201.403 (D) (1) (d).
5. Home Occupations and Home Based Businesses as defined in this Ordinance.
6. Amateur radio antennas conforming to the terms of this Ordinance.
7. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.
8. Improved park, when direct access is provided from a public paved road.
9. Unimproved park.
10. Licensed family child care home (1-6 children in a private home).
11. In modification of Section 201.404 of the Vergennes Township Zoning Ordinance, the raising and keeping of poultry, rabbits, goats, sheep, cattle, horses, pigs and other similar farm type of animals is permitted pursuant to the following restrictions:
 - a. The animals or fowl shelters, coops or barns shall be located at least 75 feet from the road right of way and 40 feet from a side lot line and 50 feet from a rear lot line. Fenced pens or pastures shall be located at least 50 feet from a road right of way, 15 feet from a side lot line and 30 feet from a rear lot line.
 - b. Such animals may only be kept on a parcel of land of at least two (2) acres except small animals such as fowl and rabbits may be on existing lots of less than two acres.
 - c. The keeping of such animals shall be accessory to the principal use.
 - d. There shall be no more than one such animal per acre with a maximum of six such animals on any parcel or lot excluding

poultry, rabbits, or other similar sized animals which are typically caged or kept inside of a building. Roosters or other birds that typically make loud sounds are not permitted.

- e. The area on which the animal(s) are kept shall be completely enclosed by a fence or similar barrier to prevent the animal(s) from trespassing on adjoining property.
- f. Animal generated waste must be stored at the same setbacks as in (11.) (a.) above. The animal waste may not pile up and must be taken care of in a manner that keeps accumulation and odors at a minimum.
- g. The premises shall be maintained in a sanitary condition and may be inspected at any reasonable time, or times, by the Zoning Administrator, Building Inspector and/or Township or County Health Officer.
- h. The provisions of this section do not apply to farms and farm operations governed by and complying with the Michigan Right to Farm Act, MCL 286.471 et seq.

C. *Special Exception Uses.*

- 1. Licensed group child care home (7-12 children in a private home)
 - a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The child care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
- 2. Bed and Breakfast, subject to the following:
 - a. The use is not incompatible with other allowed uses in the vicinity.
 - b. The impact of the establishment is no greater than that of a private home with houseguests.
 - c. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
 - d. A bed and breakfast shall maintain a smoke detector in proper working order in every sleeping room and a fire extinguisher in proper working order on every floor in the immediate vicinity of the sleeping rooms.
 - e. Signs shall be in accordance with Section 4.03, D, (1) (b).

- f. Two (2) off-street parking spaces shall be provided for the use of the owner/occupant and one (1) off-street space per rental sleeping room. Parking shall be located within two hundred (200) feet of the building.
 - g. The parcel or parcels on which the use is located shall be owned and operated by a single proprietor.
 - h. The establishment shall have at least two (2) exits to the outdoors.
 - i. The Bed and Breakfast shall not alter the residential character of the building or structure.
 - j. The rental sleeping rooms shall have a minimum size of one hundred-twenty (120) square feet for one (1) or two (2) occupants with an additional fifty (50) square feet for each occupant to a maximum of four (4) occupants per room.
 - k. Special Exception Use approval shall not be granted if the essential character of the lot or structure in terms of traffic generation or appearance will be changed substantially.
 - l. A site plan shall include a floor plan layout of the proposed structure drawn to a scale of not less than 1"=8' that shows the specific layout of the proposed facility in accord with the provisions of this Zoning Ordinance.
 - m. The permit holder shall secure and maintain all required state and local permits. Any food preparation areas shall be licensed and approved by the Health Department, as applicable.
 - n. No conference/meeting room facilities will be permitted.
 - o. The Bed and Breakfast shall employ no more than three (3) persons in addition to the owners and their immediate family, including spouses, siblings and children.
 - p. Any dumpsters on site shall be enclosed on four (4) sides with an opaque fence equipped with a lockable gate and shall not be visible from lot lines.
3. Accessory Dwellings subject to section 201.441.
- D. *Height.* No residential or other building shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.
- E. *Lot Area and Lot Width.* The minimum lot area for uses in this District shall be not less than two (2) acres and the minimum lot width shall not be less than one hundred (100) feet. Existing parcels or lots as of the effective date of this amendment may have farm type of animals as long as conformance with section (B. 11.) is met.
- F. *Setback and Side Line Spacing.* No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following setback and side line spacing requirements are met in connection with the lot or parcel on which such building, structure or enlargement is located:
- 1. *Setback.* There shall be a setback from all street right-of-way lines of not less than thirty-five (35) feet.

2. *Side Line Spacing.* There shall be a space of not less than ten (10) feet from the interior side line of the lot to the building, structure or enlargement, except on corner lots where there shall be a setback of not less than thirty-five (35) feet from all street right-of-way lines.
 3. *Rear Line Spacing.* There shall be a space of not less than fifty (50) feet from the rear line of the lot to the building, structure or enlargement.
 4. Any farm type of animals, shelters or pens shall meet the minimum setbacks as established in 201.306B (B.) (11.).
- G. *Floor Area Requirements.* All single family dwellings hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

(Amended: Ord. of 11-12-90; Ord. No. 2015-4, 10-19-15)

201.307 "FR" Flat River District.

3.07.

- A. *Statement of Purpose and Description.* The "FR" District as established to preserve, protect and enhance the river environment in a natural state for the use, and enjoyment of present and future generations, and to ensure that any development which may occur shall be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream by regulating the use of land along the waterway. This district consists of land lying within three hundred (300) feet from the ordinary high water mark on each side of and paralleling the Flat River, including the river water area and all designated streams flowing through the Township as defined in 201.307 H. The State of Michigan designated the Flat River as a Natural River in November of 1979 under the provisions of the Natural Rivers Part 305, 1994 PA 451.

The Flat River District is established as an overlay zoning district. Such district is construed as not to be a separate and distinct district, but a secondary district which overlays those parts of the following underlying districts: "R-A", "R-1", "R-2", "R-3", etc., which are adjacent to the Flat River. In all cases, applicants for zoning and/or building permits in the Flat River District must meet all requirements of the underlying district, receive their respective permit, and in addition, must conform to the additional provisions, requirements and restrictions of the Flat River District. Where there is conflict between other provisions of this Ordinance and those specifically applied to the Flat River District, the latter shall

control.

B. *Permitted Uses.*

1. Single or two family dwellings as permitted in the underlying District in which the particular use is proposed.
2. Essential Services (See Section 4.11).
3. River Access Docks. Construction of docks along the Flat River is discouraged because of the visual impact to the Natural River and potential hazards to anglers and watercraft users. Vergennes Township regulates permanent structures on land within the Flat River District. Temporary structures in the river itself are also regulated by Vergennes Township with guidance from the Natural Rivers Program Administrator of the Michigan Department of Natural Resources. Permanent structures placed in the river itself are regulated by Vergennes Township with consultation and approval by the Michigan DEQ.
 - a. River Access Dock. One (1) dock per parcel containing a residence is permitted if necessary to provide safe and ecologically sound access for riparian landowners. A portion of the dock will be constructed within the setback from the river. Owner must obtain a zoning compliance permit from Vergennes Township prior to installation or construction, and may need a permit from the Michigan Department of Environmental Quality depending upon individual circumstances.
 - (1) Docks constructed seasonally on the natural course of the river, or within the No-Wake-Zone where the river is less than five hundred (500) feet in width may not exceed four (4) feet in width with no more than four (4) feet extending over the water, nor longer than twelve (12) feet in length extending along the shoreline. Previously approved zoning permits for docks 16 feet in length may remain and be maintained.
 - (2) Docks constructed in the No-Wake Zone within the portion of the river defined as the "No-wake Zone", and where the river is over five hundred (500) feet in width, the length of temporary docks may be such as to allow access to a river depth of up to three (3) feet, but not to exceed fifty (50) feet in length out into the water. Permanent docks needing to extend over four (4) feet into the water in this portion of the river require a permit and review from the Michigan Department of Environmental Quality.
 - (3) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.
 - b. River Access Stairs. Stairways are permitted if there is no other safe, feasible, environmentally sound footpath access to the river. A stairway shall be low-profile, not more than 4 feet wide and constructed without stairs being recessed into the ground surface,

except if site and soil conditions dictate that a recessed stairway is appropriate. A landing shall not be constructed unless required by building code, in which case the landing shall be the minimum number and size required by building codes. Not more than 1 handrail shall be associated with a stairway unless for safety purposes a handrail is needed on both sides. A stairway shall be constructed using natural materials. A stairway shall be located and maintained to blend with the natural surroundings, and where removal of vegetation in the natural vegetation strip can be minimized. Replanting of native vegetation around the disturbed areas are required. A zoning compliance permit and building permit are required prior to construction.

- c. River Access Boardwalk. One (1) boardwalk per parcel containing a residence associated with a footpath to the river's edge placed only in an area that is generally too wet to be traversed without significant disturbance of the soils is permitted; constructed within the setback from the river; all parts shall be constructed of natural materials; must be low profile with top of boardwalk not more than twelve (12) inches above grade without disturbing natural plant and animal habitats; which does not exceed three (3) feet in width nor does it exceed the length determined by the Zoning Administrator needed to reach the river's edge, a handrail is allowed on each side for safety; must obtain a zoning compliance permit and a building permit from Vergennes Township prior to construction, and may need a permit from the Michigan Department of Environmental Quality if constructed within the 100-year floodplain or wetlands.

4. Improved park, when direct access is provided from a public paved road.
5. Unimproved park.

C. *Special Exception Uses.*

1. Any use permitted in the underlying District in which the particular use is proposed, EXCLUDING, HOWEVER, mining operations, wireless communication facilities, barns, stables, silos, concentrated livestock or poultry operations (see Section 201.304,C, 2)
2. Accessory Dwelling subject to section 201.441.

D. *Height.* No residential or other building shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.

E. *Lot Area and Lot Width.* The minimum lot area and lot width for use in this District shall be not less than the minimum lot area and lot width of the underlying district in which the particular use is proposed.

F. *Setback and Side Line Spacing.* The setback and side line spacing requirements in this District shall be not less than the setback for front and side line spacing requirements of the underlying district in which the particular use is proposed, AND IN ADDITION, the following special requirements shall apply:

1. *Building and Structure Setback From River.* There shall be a setback of one hundred (100) feet from the ordinary high water mark or twenty-five

(25) feet from the identified 100-year floodplain line, whichever results in the greatest distance from the edge of the water and, further, that for parcels with a shoreline constituting a bluff, as defined in Section 201.202, Definitions (Bluff), new buildings, structures and appurtenances must additionally be set back not less than fifty (50) feet from the top of the bluff.

2. *Sanitary Facilities Setback From River.* All septic tanks, drain fields and other sanitary facilities shall be set back a minimum of one hundred (100) feet from the ordinary high water mark or twenty-five (25) feet from the identified one hundred (100) year floodplain line, whichever results in the greatest distance from the edge of the river. Such facilities shall meet the requirements for Kent County Health Department approval specified in Chapter 4, Section 201.421, and, in addition, the bottom of the absorption field shall not be less than four (4) feet above the ordinary high water table.
3. *Natural Vegetation Strip (Greenbelt).* A natural vegetation strip not less than twenty-five (25) feet in width measured perpendicular to the ordinary high water mark shall be maintained along, parallel to and on each side of the Flat River and its tributaries. This vegetation strip or greenbelt shall be left in its natural state and shall consist of native trees, shrubs and vegetation which shall not be killed, destroyed, removed or moved, provided, however, that dead, diseased, unsafe or fallen trees, and poisonous plants may be removed, and provided further, that trees, shrubs and vegetation may be selectively trimmed or pruned for landscaping purposes to provide a filtered view of the river not more than 50 feet wide parallel to the river, so long as a root system remains intact to provide for stream bank stabilization and erosion control, and to serve as an aid to infiltration of surface runoff, AND so long as sufficient natural vegetation is retained to provide cover to shade the water and to maintain the vegetation strip essentially in its natural condition. Up to a four (4) foot wide footpath may be cut through the strip leading to a single point on the river's edge and placement of wood chips in the path are permitted. Mowing is prohibited in the natural vegetation strip except in an area maintained in a mowed condition before the effective date of these rules. Any island in any stream segment is subject to the natural vegetation strip standards as described in these rules. Camping, except for tent camping, is not permitted in the natural vegetation strip. A motorized vehicle shall not be operated off road in the natural vegetation strip except for an existing or approved boat launch. Selected removal or trimming of trees for timber harvest, access or woodlot improvement, landscaping, or public utility lines to service dwellings is permitted upon approval of the zoning administrator after consultation with the State Natural Rivers Administrator.
4. *Access to and Use of Property for Recreational Purposes.* Development and use of private land along the Flat River and its tributaries for recreational purposes such as hunting, fishing, camping and picnicking shall be at the discretion and under the control of the owner of the land subject to the conditions, limitations and restrictions applicable in this District, and access to the Flat River and its tributaries across private land shall be subject to the discretion and control of the owner of the land,

provided, however, that no canoe rental, canoe livery or other business or commercial activity involving the lease or rental of canoes, boats or other watercraft shall be permitted to operate in or from this District except that any such proposed use shall be deemed a Special Exception Use and shall be subject to the Special Exception Use Standards and Procedures set forth in Chapter 5 [201.500] of this Ordinance.

5. *Land Alterations.* Land alterations shall not occur within the natural vegetation strip except for the placement of wood chips for a foot path. The natural contour of the face and crest of the bluff shall not be altered. The land between the crest of the bluff and the minimum building setback line shall not be altered except for minor landscaping activities. No improved surface paths are allowed except for wood chips or stairs in the river setback. Structures, walkways, and sidewalks are prohibited in the Flat River District setbacks. A seawall, vertical bulkhead, gabion basket, concrete bag riprap, broken concrete, and other similar structures are prohibited in the river or along the bank edge.
 6. *Advertising Signs and Billboards Prohibited.* No advertising signs or billboards of any size or type shall be erected or maintained in this District.
 7. *Boating and Canoeing.*
 - a. Non-motorized boating and canoeing is permitted.
 - b. Use of motorized watercraft will be permitted in accordance with local controls promulgated under the Marine Safety Act, MCLA 324.8010 Et. Seq., FKA MCLA 281.1001. Such local controls consist of the Flat River Slow-No Wake Ordinances.
- G. *Floor area requirements.* Residential buildings in this district shall comply with the floor area requirements set forth for the R-2 District.
- H. *Flat River Boundaries.* The boundaries of the Flat River and its tributaries in Vergennes Township are as follows:
1. The mainstream of the Flat River from the entrance into the Township into section 1 from Ionia County to the northern limits of the city of Lowell in section 35, T7N, R9W.
 2. Clear creek from Lincoln Lake avenue in section 27, T10N, R9W to its confluence with Coopers creek.
 3. Coopers creek from Lincoln lake Avenue, in section 34, T10N, R9W to its confluence with the Flat River.
 4. All lakes, ponds, impoundments or other surface water bodies not traditionally considered rivers, streams or creeks if they are a contiguous part of the stream segments listed in subdivisions (1) to (3) of this rule.
 - (5) The lands lying within 300 feet of the river's edge as described in subdivisions (1) to (4) of this rule.

(Amended: Ord. of 11-12-90; Ord. No. 92-3, 7-13-92; Ord. No. 93-1, 5-10-93; Ord. No. 96-2, 5-

20-96; Ord. No. 97-3, 3-31-97; Ord. No. 98-8, 8-17-98; Ord. No. 99-8, 8-16-99; Ord. No. 2000-3, 7-17-00, Ord. No. 2001-1, 07-16-01, Ord. No. 2009-4, 11-16-09, Ord. No. 2011-1, 05-16-2011, Ord. No. 2011-3, 09-19-11, Ord. No. 2017-1, 5-15-17, Ord. No. 2019-02, 6-17-19)

201.3075 "R-L" Lake Residential District.

3.075.

- A. *Statement of Purpose and Description.* This district classification is intended to (1) encourage the proper development of land abutting lakes and waterways, (2) avoid pollution and (3) preserve lakes and waterways for the best use of the land, and includes those properties in Section 4 on Lally Street, Causeway Drive or Murray Lake Avenue with frontage on Murray Lake.
- B. *Permitted Uses.* Only the following uses are permitted:
1. Single-family dwellings including earth-bermed dwellings.
 2. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.
 3. Home Occupations and Home Based Businesses as defined in this Ordinance.
 4. Improved park, when direct access is provided from a public paved road.
 5. Unimproved park.
 6. Cemeteries.
 7. Licensed family child care home (1-6 children in a private home).
 8. On a waterfront lot without a dwelling, one building for lake related storage purposes is permitted with a maximum of 200 square feet of floor area, not exceeding 12 feet in height, located a minimum of 30 feet from the high water mark, 5 feet from a side lot line and 35 feet from a street right of way. An application for a zoning permit is required before construction.
- C. *Special Exception Uses.*
1. Planned Unit Development (PUD) subject to Section 201.429.
 2. Marina, subject to Section 201.438 (*Marinas*) and Section 201.440 (*Key Street Segments*)
 3. Neighborhood Local Business, subject to Section 201.439 (*Neighborhood Local Business*), and Section 201.440 (*Key Street Segments*). All developed portions of a Neighborhood Local Business shall have primary access upon a Key Street Segment, being either Alden Nash Avenue or Lally Road. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the front setback. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the front setback.
 4. Licensed group child care home (7-12 children in a private home)

- a. Application shall meet section 125.3206 of the Michigan Zoning Enabling Act 110 of 2006 and the Child Care Licensing Act 116 of 1973 and the State Construction Code Act 230 of 1972, as amended.
 - b. The Township shall be provided with a copy of the state license and each re-issued license. The day care facility shall not operate without a state license.
 - c. The exterior of the private home must have residential characteristics consistent with the neighborhood.
 - d. All parking must be off street and adequate size for the number of patrons dropping off and picking up children and employee parking. Parking is also subject to the provisions of section 201.417.
- 5. Accessory Dwelling subject to section 201.441.
- D. *Height.* No residential building shall exceed thirty-five (35) feet or two and one-half (2¹/₂) stories, whichever is lesser. No accessory building shall exceed a height of sixteen (16) feet.
- E. *Set Back and Side Line Spacing.* No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following set back and side line spacing requirement are met in connection with the lot or parcel on which such building, structure or enlargement is located except as provided for in section (B) (8) above:
 - 1. *Set Back.* There shall be a set back from all street right-of-way lines of not less than thirty-five (35) feet.
 - 2. *Side Line Spacing.* There shall be a space of not less than ten (10) feet from the interior sideline of the lot to the building, structure or enlargement, except on corner lots where there shall be a setback of not less than thirty-five (35) feet from all street right-of-way lines.
 - 3. *Rear Line Spacing.* There shall be a space of not less than thirty (30) feet from the building, structure or enlargement to the rear line of lot or not less than thirty (30) feet from a waterfront property line, or the highwater of a body of water, whichever is greater.
- F. *Lot Area.*
 - 1. Single-Family Dwelling with Public Sewers. The minimum lot area for use in this district shall be ten thousand (10,000) square feet. The width of such a lot shall be at no point less than fifty (50) feet.
 - 2. Single-Family Dwelling Without Public Sewers. For lots not served by public sewers in the R-L District, the minimum lot dimensions, including lot area, width and setbacks, shall be equivalent to those for the R-1 District; provided that for lots located on Murray Lake, the rear yard setback shall be measured from the ordinary high watermark.
- G. *Floor Area Requirements.* All single family dwelling units hereafter constructed shall contain not less than eleven hundred fifty (1,150) square feet of total living space as measured around the exterior of said building. Of that, not less than

seven hundred fifty (750) square feet of total living space shall be on the ground floor, as defined herein.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

- H. Key Street Segments. Within the R-L district, the following Key Street Segments are established:
- ◆ Alden Nash, north of Lally Road to the Township Boundary
 - ◆ Lally Road, between Alden Nash and Murray Lake Road.

(Amended: Ord. No. 2000-2, 3-20-00; Ord. No. 2002-12, 10-21-02, Ord. No. 2002-16, 12-16-02, Ord. No. 2003-3, 3-10-03, Ord. No. 2007-2, 10-15-07, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2011-3, 09-19-11, Ord. No. 2017-2, 5-15-17)

201.308 "C" Commercial District.

3.08.

- A. *Statement of Purpose.* This district is designed to provide retail sales and commercial service uses catering to the general public as distinguished from industry or general business customers.
- B. *Uses permitted by Right.* The following uses shall be permitted by right in the Commercial District, but shall be subject to site plan review and approval, pursuant to section 502 D of this Zoning Ordinance.
1. Retail sales businesses including but not limited to bakeries, drug stores, hardware stores, appliance and furniture stores, clothing shops, variety, dry goods, clothing, notions, music, book, florist, appliances or furniture stores, bait and tackle shops, sign shop and similar uses where no assembling, treatment or manufacturing is required.
 2. Professional Offices of doctors, dentists, lawyers, architects, travel agent, insurance and other similar professions.
 3. Banks, building and loan associations, and other lending institutions.
 4. Restaurants, without drive through facilities.
 5. Cleaning and laundry service customer stations, but without on-site cleaning facilities.
 6. Barber shops and beauty parlors.
 7. Professional Offices of doctors, dentists, lawyers, architects, travel agent,

insurance and other similar professions.

8. Repair shops such as repairing radio, television, shoes, jewelry, upholstery items, lawn mower, snowmobile, boat, air conditioner and similar items.
9. Grocery and convenience stores, without gasoline service.
10. Essential Services, subject to Section 201.411 of this Zoning Ordinance.
11. Improved park, when direct access is provided from a public paved road.
12. Unimproved park.
13. Child care center
14. Mini-warehouse and self-storage units
15. Municipal buildings, post office and similar governmental office buildings.
16. Printing, copying, publishing facility
17. Commercial farm market,
18. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.

C. *Special Exception Uses.* The following commercial uses shall require a Special Exception Use application and approval and site plan review and approval pursuant to Section 502.

1. Funeral parlors.
2. Restaurants, with drive through facilities
3. Assembly buildings including dance pavilions, auditoriums and private clubs, theaters and drive-in theaters.
4. Hotels and motels, rooming houses, boarding houses, inns and bed and breakfast establishments.
5. Churches.
6. Veterinary Hospitals and clinics.
7. Dog or animal kennels and pet shops.
8. Cider mill.
9. Nursery and greenhouses, outdoor retail sales of trees, fruit, seeds, lawn furniture, playground equipment, and other home garden supplies and equipment,
10. Dry cleaning or laundry facilities.
11. Bait houses.
12. Gasoline stations and grocery and convenience stores with gasoline sales and car washes.
13. Automobile repair garages.

14. Open air businesses including but not limited to sales and service of new and used motorized vehicles, farm implements, motor homes, mobile or modular homes, travel trailers, boats, recreation vehicles or similar uses.
 15. Lumber yards and building supply establishments.
 16. Commercial amusement and recreation establishments, both indoor and outdoor, including bowling alleys, video and pinball arcades, handball courts, bowling alley, roller skating and tennis courts, miniature golf, go-carts and skate parks subject to the following standards:
 - a. Facilities that include outdoor activity (i.e., paintball, miniature golf) must employ effective physical barriers and isolation distances to ensure that on-site activities shall not be perceptible beyond the lot line, as determined by the Planning Commission.
 - b. A traffic study may be required by the Planning Commission.
 - c. The use shall have direct access to a public, paved road.
 17. Accessory buildings and uses customarily incidental to the special uses when located on the same lot or parcel of land.
 18. Residential uses, consisting of private single-family dwellings including earth-bermed dwellings, licensed family and group child care home, home occupations and customary incidental accessory buildings and uses when located on the same lot or parcel of land.
 19. Any commercial building with a proposed building footprint or ground floor coverage in excess of fifteen thousand (15,000) square feet.
 20. Adult Businesses, subject to Section 201.433.
 21. Planned Unit Development (PUD) subject to Section 201.429.
 22. Commercial schools including art, music, dance, business, professional and trade, accredited colleges and universities.
 23. Multi-tenant retail or service buildings involving one or more storefronts.
 24. Facilities for banquets, weddings, meetings, receptions, trade and craft shows.
 25. Landscaping and mowing services
- D. *Height.* No building shall exceed the lesser of thirty-five (35) feet or two and one-half (2 1/2) stories.
- E. *Lot Area, Lot Width, Setback, Side Line Spacing and Floor Area*
1. *Residential Uses.* The following lot area, lot width, set back and side line spacing requirements shall apply and be binding for any residential use in this "C" District.
 - a. *Lot area; Single Family Dwellings.* The minimum lot area shall be seventeen thousand (17,000) square feet with a minimum lot width of one hundred (100) feet.
 - b. *Setback and Side Line Spacing.* No building or structure, nor the enlargement of any building or structure, shall be hereafter

erected unless the following setback and side line spacing requirements are met in connection with the lot or parcel on which such building, structure or enlargement is located:

- (1) *Setback.* There shall be a setback from all street right-of-way lines of not less than thirty-five (35) feet.
- (2) *Side Line Spacing.* There shall be a space of not less than ten (10) feet from the interior side line of the lot to the building, structure or enlargement, except on corner lots where there shall be a setback of not less than thirty-five (35) feet from all street right-of-way lines.
- (3) *Rear Line Spacing.* There shall be a space of not less than thirty (30) feet from the rear line of the lot to the building, structure or enlargement.

- c. *Floor Area Requirements.* All dwelling units hereafter constructed shall contain not less than one thousand one hundred fifty (1150) total square feet and a minimum of seven hundred fifty (750) square feet on the ground floor for a two story home as measured around the exterior of said building.

No dwelling shall be less than twenty-four (24) feet in width as measured along the exterior front elevation of the dwelling except for mobile homes the minimum width may be twenty-two (22) feet.

All measurements and area requirements herein set forth shall be computed without regard to porches, garages, breezeways and carports.

In the event of any controversy concerning what constitutes habitable floor area, the Board of Appeals is hereby given the authority to determine the same upon application thereto by either the Zoning Administrator of the Township or by the applicant for a building permit.

2. *Commercial Uses.* The following requirements shall apply to any permitted or special exception commercial uses.
 - a. The minimum lot area shall be seventeen thousand (17,000) square feet with a minimum lot width of one hundred (100) feet.
 - b. Maximum building footprint. The maximum ground coverage or building footprint size for any individual building shall be fifteen thousand (15,000) square feet. Provided, however, that buildings of greater floor area may be considered as a special exception use.
 - c. The minimum setback line for commercial buildings shall be seventy-five (75) feet from all street right-of-way lines abutting the property and there shall be a minimum setback line for the parking or storage of automobiles and vehicles outside buildings or structures of not less than twenty-five (25) feet; provided, however, that in any such districts where there are commercial buildings (other than private residences or buildings originally constructed as private residences) already existing on the

effective date of this Amended Ordinance, on the side of the street between two (2) intersecting streets, the minimum setback for buildings on such side of the street between such intersecting streets shall be to the depth as established by such existing commercial building which is closest to the street line. In no event, however, shall vehicle parking be allowed on private premises closer than twenty-five (25) feet to the street right-of-way line abutting such premises except where such parking is presently being conducted on the effective date of this Ordinance, and no other parking area on the premises is available which would permit parking beyond said twenty-five (25) foot setback requirement. There shall be no side or rear line restriction from interior lot lines for commercial buildings within such commercial districts except that if such buildings are to be located with a fire separation distance of less than 30 feet, the exterior walls shall be protected or constructed to provide the level of fire resistance specified in the current edition of the Building Code enforced in the Township, or unless otherwise specified in this Ordinance. Any residential buildings, however, constructed within said district shall be set back not less than five (5) feet from such interior, side and rear lot lines.

- d. It is further provided that notwithstanding anything herein contained to the contrary, the minimum setback line shall be fifteen (15) feet for gasoline pumps, display racks, air pumps, and other equipment; seventy-five (75) feet for cars, stored or placed upon property used for storage of, or occupancy by, junk cars or used cars for the purpose of sale of parts or junk therefrom; and twenty-five (25) feet for cars and other vehicles on property used for the sale of used cars. The minimum setback line for poultry or animal shelters, co-ops, barns, or sheds shall be seventy-five (75) feet; provided, however, that in platted property no such structure shall be erected closer than twenty (20) feet to the interior side line of the lot upon which such structure is located.
- e. No temporary outside toilets shall be erected closer than fifteen (15) feet to the side line of the premises upon which such structure is to be placed; provided, however, that such structure shall not be erected closer than twenty-five (25) feet to any building being used as a permanent habitation upon adjoining premises.
- f. A twenty (20) foot wide planting strip shall be provided around the interior side and rear lines of any commercial property abutting residential property in which there shall be planted trees and shrubs not less than four (4) feet in height at the time of planting and which contain foliage throughout the calendar year, sufficiently compact in nature to form a natural buffer or screening between the commercial property and adjoining premises. In lieu of or as a supplement to the foregoing, an artificial fence which cannot be seen through may be constructed not less than five (5) feet in height within said area, commensurate with the character of the adjoining development, which shall be maintained at all times

in a neat and attractive manner.

- F. *Lighting Standards.* Exterior lighting shall be designed and constructed in such a manner to:
1. Insure that direct or directly reflected light is confined to the development site.
 2. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way. The light source shall not be directly visible from beyond the boundary of the site and light rays may not be emitted by the installed fixture at angles above the horizontal plane of the fixture.
 3. The light from any illuminated source shall be designed so that the light intensity or brightness will not be objectionable to surrounding areas.
 4. Light sources shall be low pressure sodium or similar fixtures which emit light that may be filtered for astronomical viewing.
 5. No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed twenty (20) feet in height.
 6. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
 7. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- G. *Landscaping and Paving.*
1. The applicant shall submit a comprehensive landscape plan for any project in the Commercial district, identifying the location and size of both existing vegetation to be retained and proposed new vegetation, typical planting materials, the phasing of landscape installation, and planting methods. Such landscape plan shall include detail on the landscape maintenance procedures to be followed to assure the continued viability of all plantings and landscaped areas.
 2. All parking areas and driveways shall be paved.
- H. *Construction Materials.* At least eighty (80) percent of the front side of commercial buildings, as well as any other sides that face adjacent residential areas, shall be finished with face brick, wood, glass, stone, fluted cement block or future acceptable building materials compatible with surrounding properties. All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
- I. *Modifications.* The Township Board may grant a modification of the requirements of this Section. In granting modifications, the Township Board may impose such conditions as will, in its judgment, secure the objectives and purposes of this Ordinance. Applicants must demonstrate that such modifications will not substantially diminish the traditional character of the proposed development and that they would be within the spirit of this Section.
- J. *Change in Occupant or Tenancy.* Approval of site plans and special exception

uses shall apply to the uses and tenants proposed at the time of application. In the C Commercial District, a change in the nature of the tenancy or occupancy of a previously approved building may require a new or revised site plan, unless the Zoning Administrator determines that the proposed new use is reasonably able to comply with all conditions of approval pertaining to the original site plan.

(Amended: Ord. No. 92-2, 3-9-92; Ord. No. 93-1, 5-10-93; Ord. No. 99-8, 8-16-99; Ord. No. 2000-2, 3-20-00, Ord. No. 2002-2, 2-18-02, Ord. No. 2002-10, 6-17-02; Ord. No. 2002-12, 10-21-02, Ord. No. 2003-4, 8-18-03, Ord. No. 2004-7, 4-19-04, Ord. No. 2009-1, 10-19-09, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2014-1, 5-19-14, Ord. No. 2017-5, 11-20-17)

201.309 "I" Industrial District.

3.09.

- A. *Statement of purpose.* It is the intent of the district to provide for the development of low intensity processing, warehousing, assembly, testing and manufacturing uses characterized by low land coverage and the absence of objectionable external effects. Furthermore, due to the lack of available public utilities and major highway access, such uses must be limited in nature to those requiring minimal process water effluent discharge and transportation demands. Ordinance requirements of the Industrial District are therefore designed to accommodate the development of only those uses that are compatible with one another and, with the inclusion of appropriate buffering, siting and design elements, are least offensive and disruptive to nearby residential or other properties and transportation abilities.
- B. *Permitted uses.* Land and/or buildings may be utilized for the following permitted uses subject to the standards outlined below and subject further to site development plan approval under the procedures and criteria outlined in section 201.502 D, site development plan review procedures.
1. Use and development of separate individual lots or building sites for the following purposes provided that not more than one (1) such use shall occupy any one (1) lot and that such use does not exceed twenty eight thousand (28,000) square feet of building floor area or employ thirty (30) or more persons on-site during any one shift.
 - a. Warehouses, cold storage and transfer buildings, excluding bulk storage of petroleum, chemicals, garbage, rubbish, scrap materials or raw materials.
 - b. Tool, die and gauge and machine shops, pattern makers.
 - c. Mini-storage facilities.
 - d. Printing and publishing and bookbinding.
 - e. Essential services (See sections 201.202 and 201.411).
 - f. Parts assembly.
 - g. Cabinet making shops.
 - h. Office buildings when accessory to a permitted industry.
 - i. Wireless communication facilities which are sited as principal uses

and subject to Section 201.432.

- j. Accessory buildings and uses customarily incidental to the permitted uses when located on the same lot or parcel of land.
 - k. Vehicle repair shops providing all vehicles and materials are kept within a building or in an area well screened from the view of nearby properties and roadways.
 - l. Research and development establishments and laboratories, manufacturing, testing, and repair of engineering, measuring, optic, medical, lenses, photographic and similar instruments.
 - m. Construction contractors such as plumbing, heating and electrical providing parts are stored indoors.
 - n. Contractors of concrete and paving providing no raw material production or storage of product are kept on site (asphalt, concrete).
 - o. Crating and packing or mailing service.
 - p. Wholesale distributors.
 - q. Service establishments such as upholstering, office machine repair, sign painting design and repair, vending machine service, machine repair and taxidermist.
 - r. Lumber and wood products including millwork, prefabricated structural wood products and containers, furniture and fixtures.
 - s. Wholesale establishments including automotive equipment, drugs, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.
 - t. Veterinary Hospitals, clinics and commercial kennels
 - u. Facilities for banquets, weddings, meetings, receptions, trade and craft shows.
 - v. Landscaping and mowing services.
2. Use and development of separate individual lots or buildings sites for the uses specified in paragraph 3.09, B, 1 located in multiple-occupant structures intended for or used by two (2) or more separate and distinct businesses, provided that such structure shall not exceed ten thousand (10,000) square feet of building floor area. For the purposes of this paragraph, subsidiary or related businesses with common or similar ownership shall not be regarded as separate and distinct businesses.
3. Improved park, when direct access is provided from a public paved road.
4. Unimproved park.
- C. *Special exception uses.* Land and/or buildings may be utilized for the following special exception uses subject to the procedures for approval of special exception uses itemized in [sub]section D below and any specific standards adopted for the special exception use.

1. Any industrial use itemized as a permitted use in subsection B above which exceeds twenty eight thousand (28,000) square feet of floor area or employs more than thirty (30) persons on-site during any one shift.
2. Any multiple occupant structure with a building floor area in excess of ten thousand (10,000) square feet, intended for or used by two (2) or more separate and distinct businesses. For the purposes of this paragraph, subsidiary or related businesses with common or similar ownership shall not be regarded as separate and distinct businesses.
3. Land developments creating two (2) or more industrial lots or building sites which under the terms of this Ordinance will entail or require the construction of a public or private street or road in order to achieve the required street frontage or legal access to each lot or building site.
4. Wireless communication facilities which are sited as secondary uses subject to Section 201.432.
5. Planned Unit Development (PUD) subject to Section 201.429.
6. The manufacture, compounding, processing, packing, blending, storage or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, fuels and food products, except the rendering or refining of fats and oils.
7. The assembly of prefinished materials of articles from the following previously prepared materials: aluminum, bone, cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn.
8. Utility scale solar energy systems, subject to the requirements of section 201.304(C)(20).

D. *Site development standards.*

1. *Height.* No industrial building or structure shall exceed the lesser of thirty five (35) feet or two and one-half (2 1/2) stories.
2. *Lot area and lot width.* The minimum lot area for use in this district shall be two (2) acres with a minimum lot width of two hundred (200) contiguous feet. No more than thirty (30) percent of the lot area shall be occupied including outdoor storage areas, but excluding employee and visitor parking areas.
3. *Setback and sideline spacing.* No building or structure for industrial use, nor the enlargement of any such building or structure shall be erected unless the following setback and site line spacing requirements are met:
 - a. *Setbacks.*
 - (1) *Front.* The minimum setback line for industrial buildings or structures, including outdoor storage areas, shall be seventy five (75) feet from all street right of way lines or private road easement lines abutting the parcel, and there shall be a minimum setback for the parking of automobiles or vehicles outside buildings or enclosed areas of not less than twenty five (25) feet.

- (2) *Side.* The minimum side line spacing for industrial buildings or structures including outdoor storage areas shall be thirty (30) feet except that for such buildings, structures, or areas abutting a residential area such minimum spacing shall be fifty (50) feet, and except further that no such building or structure shall be located less than one hundred (100) feet from any occupied residential building (see section 201.420).
- (3) *Rear.* The minimum rear line spacing for, industrial buildings or structures including outdoor storage areas shall be forty (40) feet except that for such buildings, structures or areas abutting residential areas such minimum spacing shall be fifty (50) feet, and except further that no such building or structure shall be located less than one hundred (100) feet from any occupied residential building (see section 201.420).
4. *Construction materials.* At least eighty (80) percent of the front side of industrial buildings, as well as any other sides that face adjacent residential areas, shall be finished with face brick, wood, glass, stone, fluted cement block or future acceptable building materials compatible with surrounding properties. All materials shall meet appropriate architectural, aesthetic and safety concerns as provided for in duly adopted ordinances and/or building and fire codes.
5. All utility lines shall be underground.
6. Landscaping, fencing and signs.
 - a. *Landscaping.* All ground surfaces between the edges of public or private roads and streets and the property line shall be landscaped and maintained as such. All unused areas must be landscaped or kept natural.
 - (1) For property lines abutting a residential district a screen of fencing, berms, plantings or a combination of these not less than six (6) feet above ground level shall be provided. If plantings alone are used such plantings must provide a thirty-foot wide strip that will present a solid sight barrier.
 - (2) Fencing must be solid, berms must be landscaped and screen plantings shall retain foliage throughout the year. The site plan shall include a planting plan giving the numbers, species and height of plantings at time of installation.
 - (3) Maintenance of fencing, berms and plantings following installation is the responsibility of the property owner. A performance bond covering maintenance of plantings until established and construction of fencing and berms may be required by the Township.
 - b. *Fencing.* Except for loading and unloading docks and employee and visitor parking areas, all uses not in an enclosed building must be enclosed by a solid fence not less than six (6) feet in height. An

alternative screening feature such as a berm in combination with obscuring vegetation, fencing or walls may be approved when in the judgement of the Planning Commission such alternative screening, taken in context of the specific location and outdoor use, would provide equal or better permanent year round noise and visual protection.

- c. *Signs.* Signs in an industrial district shall comply with the provisions of section [subsections] 201.403 D., E., F. and G.

E. *Roads, streets and parking.*

- 1. *Private roads and streets.* All private roads and streets must be hard surfaced and must comply with sections 202.003 through 202.007, as applicable, with particular reference to [subsection] 202.005 (d).
- 2. *Ingress and egress.*
 - a. *Access roads.*
 - (1) Access roads serving an industrial development containing more than one industrial operation shall be designed to include a dual throat at the public street intersection. The raised island in the driveway throat shall be a minimum of ten (10) feet in width and thirty (30) feet in length. The ingress lane shall be a minimum of sixteen (16) feet wide and the egress lane shall be a minimum of twenty two (22) feet wide. Final driveway throat geometrics are subject to approval by the Kent County Road Commission.
 - (2) An access road intersection wholly within the industrial district shall have not less than a sixty six-foot wide easement. If such an intersection abuts non-industrial property the easement shall be not less than eighty (80) feet wide.
 - b. For an industrial development larger than twenty (20) acres that will serve more than one industrial operation the Township may require provision in the site plan for an additional ingress-egress road.
- 3. *Parking.* All parking areas must be in compliance with applicable provisions of section 201.417, including [subsections] 201.417 E.2. and 201.417 F.4.

F. *External lighting.* All industrial operations shall comply with the lighting provisions of sections 201.413 A. and C., section 201.403 and the additional standards below.

Exterior lighting shall be designed and constructed in such a manner to:

- 1. Insure that direct or directly reflected light is confined to the development site.
- 2. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way. The light source shall not be directly visible from beyond the boundary of the site and light rays may not be emitted by the installed

fixture at angles above the horizontal plane of the fixture.

3. The light from any illuminated source shall be designed so that the light intensity or brightness will not be objectionable to surrounding areas.
4. Light sources shall be low pressure sodium or similar fixtures which emit light that may be filtered for astronomical viewing.
5. No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed twenty (20) feet in height.
6. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
7. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

- G. *Change in Occupant or Tenancy.* Approval of site plans and special exception uses shall apply to the uses and tenants proposed at the time of application. In the I Industrial District, a change in the nature of the tenancy or occupancy of a previously approved building may require a new or revised site plan, unless the Zoning Administrator determines that the proposed new use is reasonably able to comply with all conditions of approval pertaining to the original site plan.

(Amended: Ord. No. 93-1, 5-10-93; Ord. No. 95-6, 4-17-95; Ord. No. 99-8, 8-16-99, Ord. No. 2001-2, 7-16-01; Ord. No. 2002-12, 10-21-02, Ord. No. 2002-17, 12-16-02, Ord. No. 2003-1, 1-20-03, Ord. No. 2003-4, 8-18-03, Ord. No. 2004-7, 4-19-04, Ord. No. 2009-2, 10-19-09, Ord. No. 2009-4, 11-16-09, Ord. No. 2011-1, 5-16-11, Ord. No. 2014-1, 5-19-14, Ord. No. 2017-5, 11-20-17, Ord. No. 2018-8, 12-17-18; Ord. No. 2019-03, 6-17-19)

201.310 "CO" Court Ordered.

3.10. In accordance with the opinion of the Circuit Court of the County of Kent, State of Michigan, in the matter of Fay O. Johnson, et. al., plaintiffs, vs. the Township of Vergennes, County of Kent, State of Michigan, defendants, Case No. 90-67591-CE, April 7, 1992, the following described property:

Real property situated in the Township of Vergennes, Kent County, Michigan, described as:

Those parts of Section 24, Town 7 North, Range 9 West, described as government lots 7 and 8, excepting therefrom;

- (a) That portion of government lot 8 North of a line parallel to the East and West quarter line of said section and 660 feet South of said East and West quarter line.

Is hereby rezoned to permit the development of the property into not more than twenty-two (22) lots, with no deviation in the number of lots or more than ten (10) percent in any lot area from the "Appendix 1" plan attached to the court order, and in compliance with all other governmental requirements (including the requirements of the flat river district) other than lot area or width.

(Ord. No. 92-5, 12-14-92)

201.311 Bulk Table.

3.11. The table accompanying this Ordinance, entitled the "Bulk Table" [not printed] is

hereby incorporated as part of this Ordinance. The Bulk Table has been included in this Ordinance for convenience of administration and implementation of various requirements applicable in the zoning districts. The Bulk Table supplements but does not supplant any of the specific provisions of this Ordinance. In the event of any ambiguity or uncertainty concerning the provisions of the Bulk Table, or any real or apparent conflict between the Bulk Table and any specific provision of this Ordinance, the specific provisions of this Ordinance shall at all times control.

**VERGENNES TOWNSHIP
ZONING ORDINANCE**

1	2	3	4	5	6	7	8	9
<i>District</i>	<i>Uses</i>	<i>Bulk Regulations⁽¹⁾</i>						
	<i>For Permitted and Special Exception Uses, See Chapter 3</i>	<i>Minimum Lot Area</i>	<i>Minimum Lot Width (in feet)</i>	<i>Front Setback* (in feet)</i>	<i>Minimum Side Yard (in feet)</i>	<i>Minimum Rear Yard (in feet)</i>	<i>Maximum Building Height</i>	<i>Required Floor Area</i>
R-A	Rural Agricultural See also Section 3.04 B & C	3 acres	300	35 min.	25 (35 for corner lots)	50	The lesser of 2 1/2 stories or 35 feet	See R-2 District
R-1	Low Density Residential See also Section 3.05 B & C	1 acre	165	35 min.	10 (35 for corner lots)	50	Same as R-A	See R-2 District
R-2	Medium Density Single Family Residential See also Section 3.06 B & C	17,000 Sq Ft: 1 family, 25,000 Sq Ft: 2 family See also Section 3.06 E	100	35 min.	Same as R-1	30	Same as R-A	1,150 Sq Ft 750 Sq Ft on ground floor
R-3	Special Residential See also Section 3.06A A, B & C	17,000 Sq Ft: 1 family, 25,000 Sq Ft: 2 family See also Section 3.06A "E"	100	35 min.	Same as R-1	30	Same as R-A	See R-2 District Multiple family: Efficiency, 1 bed: 750 2 beds: 870 3 beds: 990 120 per additional bed
R-L	Lake Residential See also Section 3.075	10,000 Sq. Ft. See also Section 3.075-E	50	35 min.	Same as R-1	30 See also Section 3.075-D-3	Same as R-A	See R-2 District
FR	Same as Underlying District			Same as for underlying districts, buildings and drain fields, etc., shall be set back 100 feet from ordinary high watermark or 25 feet from established 100 year floodplain line. Bluff lots shall have an additional 50 foot setback from the edge of bluff. A 25 foot natural vegetation strip shall be maintained. See also Section 3.07, F, 1, 2, 3, for additional requirements.				
C	Residential Commercial See also Section 3.08 B & C	Same as R-2	Same as R-2	Same as R-2	Same as R-2	Same as R-2	Same as R-2	See R-2 District
I	Industrial	2 acres	200	75	30 See also 201.309 D.3a	50 See also 201.309 D.3a	Same as C	No minimum, but if over 28,000 Sq. Ft. See 201.309 C
	CAUTION	THIS BULK TABLE IS INCLUDED AS PART OF THE VERGENNES TOWNSHIP ZONING ORDINANCE AS A QUICK REFERENCE TABLE. FOR ADDITIONAL REGULATIONS, REQUIREMENTS AND RESTRICTIONS APPLICABLE IN THE VARIOUS ZONING DISTRICTS, CONSULT THE FULL TEXT OF THE ORDINANCE.						

(1) For Open Space Preservation Developments, see Section 4.34 for permitted adjustments to the standards of this Bulk Table.

*The Front Setback shall be measured from the edge of the road right of way line

CHAPTER 4

201.400 GENERAL AND SPECIAL REGULATIONS

201.401 Scope of regulations and unclassified uses.

4.01.

- A. *Scope of Regulations.* These Regulations have general application throughout the Township and, unless otherwise specifically stated, apply in all Zoning Districts in the Township.
- B. *Unclassified Uses.* Where a use of land or use of building proposed in the Commercial (C) or Industrial (I) Districts is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which involves features not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that involves features that were not contemplated or specified herein, the Planning Commission may permit such use as an Unclassified Special Exception Use. In addition to the standards for approval of special exception uses set forth in Chapter 5 of this Ordinance, the Planning Commission shall determine:
 - 1. That the Unclassified Special Exception Use will have no adverse effect upon adjacent property;
 - 2. That such use is similar to other uses in the district in which it is proposed to be located, and;
 - 3. That the spirit, purpose and intent of the Zoning Ordinance and the Master Plan will not be impaired by permitting such use.

(Amended: Ord. No. 99-9, 12-9-99)

201.402 Accessory buildings, construction timing and location limitation.

4.02.

- A. Except as provided in Section 3.04, C, 10, in Section 3075 B 8, in Sections 4.02, B. and 4.02, C, below, and in this paragraph, no accessory building or use shall be used or engaged in prior to the establishment of the principal building or use upon the premises except as a construction facility for the principal building or buildings upon the premises. An accessory building may not be constructed prior to the principal building unless a surety bond, cash deposit or bank letter of credit of an amount approved and accessible by the Township Board is posted prior to the issuance of a building permit and kept in place until the dwelling is built and a certificate of occupancy issued. An applicant shall present to the Board a timeline graph of the proposed construction of the accessory building and the future dwelling and submit a signed statement of the proposed use of the building. The maximum number of years between construction of the accessory building and the dwelling may be set by the Township Board. Accessory buildings, other than minor accessory buildings, shall be subject to the same

setback requirements as the principal building and shall be a minimum of ten (10) feet from any other building.

Accessory buildings shall be stick-built or the equivalent new building construction. No mobile home, tank, junk object, or salvage materials, semi-trailer, vehicle or similar item shall be utilized as an accessory building or storage structure, provided, however, that such requirement shall not be applicable to tool sheds, or similar temporary storage structures utilized pursuant to the construction of a building as long as the period of construction does not exceed one year.

- B. In the R-A, R-1, R-2, R-3, F-R, R-L and C-O (Court Ordered) Districts, one (1) accessory building may be permitted as a special exception use on a vacant parcel adjacent to a parcel with an existing residence as the principal use, subject to Section 5.02 and the following standards:
1. The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
 2. To be considered adjacent, the two parcels shall share a common boundary extending not less than one hundred (100) feet or be directly across a public street, private street, access easement or right-of-way; such that the side lot lines of both parcels under consideration are aligned or off-set by no more than fifty (50) feet, measured perpendicular to the side lot line.
 3. The applicant shall demonstrate that placement of the accessory building on the parcel with an existing residence as the principal use is physically impractical; or that physical or other constraints exist on the adjacent vacant parcel that limit the use of that parcel. In addition, the applicant shall demonstrate that approval of the special exception application will not have an adverse impact on adjacent lands.
 4. The two parcels must be and must remain in common ownership and a deed restriction, satisfactory to the Township Attorney, shall be recorded for the two parcels, stipulating that the two parcels shall be conveyed jointly so long as the accessory building is in existence.
 5. The provisions of this Section 4.02, B. shall be limited to two (2) parcels, so as to prohibit more than one (1) vacant adjacent parcel from having an accessory building. Only one vacant adjacent parcel shall include an accessory building.
 6. The accessory building shall comply with the minimum setback requirements for a principal building, except the Planning Commission or Township Board may require greater or lesser setbacks to preserve rural views or to position the accessory building so that any future dwelling built on the parcel would meet minimum setback requirements.
 7. Other applicable provisions pertaining to accessory buildings shall be met.
- C. In the R-A, R-1, R-2, R-3, FR, R-L, and Court Ordered Districts, up to two (2) minor accessory buildings may be permitted on a vacant parcel adjacent to a parcel with an existing residence as the principal use, subject to the following

standards:

1. Minor accessory buildings shall not require a building permit or site plan approval by the Planning Commission; however, a sketch detail must be provided showing the proposed location, existing buildings on adjacent parcels, setbacks and lot lines. Approval shall be required by the Zoning Administrator.
 2. The applicant shall document that the two parcels under consideration cannot be permanently combined so as to form one parcel due to ordinance, statutory or other legal constraints.
 3. To be considered adjacent, the two (2) parcels shall share a common boundary.
 4. The two (2) parcels must be and must remain in common ownership so long as the minor accessory buildings exist and the minor accessory buildings shall be removed prior to a change in ownership, unless a dwelling is constructed on the secondary adjacent parcel.
 5. The provisions of this Section 4.02, C. shall be limited to two (2) parcels, so as to prohibit more than one vacant adjacent parcel from having minor accessory buildings. Only one vacant adjacent parcel shall include minor accessory buildings.
 6. Minor accessory buildings shall comply with the minimum setback requirements for a principal building.
 7. Other applicable provisions pertaining to accessory buildings shall be met.
- D. Accessory buildings may be permitted in the front yard where the Zoning Administrator finds the following:
1. Where the accessory building is used exclusively for a permitted agricultural use in the RA District, as specified in Sections 201.304 (B) (1) - (4), and also 201.304 (C), (2a., 2b., 2c.); and 201.402 (D), 201.404 (B).
 2. Where the accessory building is used for any other permitted purpose, the front yard setback is at least one hundred fifty (150) feet. However, the setback may be less than one hundred fifty (150) feet when:
 - a. The accessory building's furthest most point from the principal residence is no more than seventy-five (75) feet in front of the residence; and
 - b. The accessory building is constructed of similar exterior materials and is similar in design and roof pitch with the principal residence, and shall not exceed the height of sixteen (16) feet or the height of the principal residence, which ever is taller.
 3. The accessory building complies with all other setback requirements of the district.
 4. In the R-2 and R-3 Districts, the square footage shall not exceed nine hundred (900) square feet.
 5. Any accessory building located in the front yard which cannot comply with the standards of this subsection (D) may be approved as a Special

Exception Use. In consideration of the Special Exception Use, the Planning Commission shall consider the following standards, in addition to those in Section 201.502 (D):

- a. The size, location, and intended use of the accessory building is consistent with adjoining properties;
 - b. That there are extraordinary or exceptional circumstances or conditions applying to the property which limit the applicant's ability to otherwise comply, such as topography and other developmental limitations;
 - c. Whether the proposed building will affect the views, light, and air circulation of any adjoining buildings or properties.
- E. In all zoning districts, up to two (2) minor accessory buildings shall be permitted per lot. Minor accessory buildings may be located in the side and rear yards but not closer than five (5) feet from existing lot lines. Minor accessory buildings shall not be located in the front yard. Minor accessory buildings shall not require a building permit; however, a sketch detailing placement must be provided showing location of existing buildings and lot lines.

F. Exempt Structures:

Minor accessory buildings that function as school bus stop shelters shall be exempt from the provisions of this section. However, such shelters are not permitted to be located in the road right-of-way without a permit from the Kent County Road Commission. School bus stop shelters shall not require a building permit.

Exempt structures such as birdbaths or feeders, shore stations, kayak or boat racks, landscaping elements, small decorative items, and the like may be placed anywhere on a lot provided that such structures are five (5) feet from the side lot line, as extended perpendicular to the shore of a lake or other body of water. Except for temporary boat shore stations and other temporary structures meeting all other applicable ordinances and legal requirements, no exempt structure shall be installed, located, kept, stored, or maintained in any zoning district within thirty (30) feet of the normal high-water mark of any lake or stream. Exempt structures shall also not unreasonably obstruct views from neighboring property owners and not otherwise adversely impact the neighboring properties or the public health, safety, and welfare. If the exempt structure has a canopy that extends out further than other parts of the structure, the measurement used shall be from the edge of the canopy.

(Amended: Ord. No. 93-2, 5-10-93; Ord. No. 99-3, 5-17-99; Ord. No. 2000-2, 3-20-00, Ord. No. 2005-1, 8-15-05, Ord. No. 2009-3, 10-19-09, Ord. No. 2011-4, 09-19-11, Ord. No. 2015-2, 1-19-15, Ord. No. 2017-2, 5-15-17, Ord. No. 2019-02, 6-17-19)

201.403 Signs and billboards.

4.03.

- A. *Intent and purpose.* It is the intent of this section to regulate the size, number, location and manner of construction and display of signs in Vergennes Township. This section does not regulate official traffic and government signs, or official

notices, the flags of any nation, government or corporate or non-commercial organizations, or religious symbols or commemorative plaques.

The purpose of these regulations is to:

1. Protect the public health, safety and welfare of residents and visitors and to protect the natural beauty and distinctive character of Vergennes Township.
2. Protect all zoning districts from visual chaos and clutter.
3. Eliminate distractions hazardous to vehicular traffic.
4. Protect appropriately identified usages from too many and too large signs.
5. Provide ability for the public to identify premises and establishments.

B. *Definitions. Sign terms as defined in Section 201.202.*

C. *Standards:*

1. All signs, in addition to the requirements of this ordinance, must comply with the current BOCA Building Code and the National Electrical Code.
2. *Sign area.* The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame of other material or color forming an integral part for the display, message, drawing or similar device or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, poles or other structure necessary to support the sign. A back-to-back sign with both sign faces used for display and spaced not more than two (2) feet apart, shall be counted as one (1) sign. The maximum sign area standards of this Section shall be applied to the larger of the two sign faces; or, if the sign faces are of equal area, to any one of the sign faces.
3. *Illumination of signs.* Illumination of signs shall comply with the following requirements:
 - a. Illumination shall not be flashing, blinking, intermittent or an on-and-off type of lighting.
 - b. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any driver or pedestrian located in a public right of way, road or street easement or from any land in a residential district or used for residential purposes.
4. *Maintenance.* All signs shall be maintained in a safe condition with proper bracing, anchorage and foundation and be subject to inspection by the Zoning Administrator or designated representative. A sign which no longer serves the purpose for which intended or is abandoned or is not maintained in accordance with applicable regulations of Vergennes Township shall be removed by the owner, or by the Township at the expense of such owner, within thirty (30) days of written notice by Vergennes Township.
5. *Location.* In addition to the required setbacks (See 201.403 I) no sign

shall be located where, in the opinion of the Zoning Administrator, it will obstruct visibility for vehicular or pedestrian traffic.

6. Height: The height of a sign shall be measured as the vertical distance from the highest point of the sign to the average finished grade of the ground immediately beneath and within a ten (10) foot radius circle around the sign.

D. *Permitted signs:*

1. In the "R-A", "R-1", "R-2", "R-3" and "R-L" districts the following signs are authorized upon application for, and issuance of, a sign permit:
 - a. Institutional identification for churches, schools, professional buildings, nursing homes and public buildings may include one (1) free standing sign not exceeding four (4) feet in height and one (1) wall sign, one of which may be illuminated. The aggregate area of all signage shall not exceed fifty (50) square feet. No single sign shall be more than thirty-two (32) square feet.
 - b. Identification for open space activities such as golf courses, stables, nurseries and similar open space activities may include one (1) wall sign and one (1) free standing sign not exceeding four (4) feet in height, one of which may be illuminated. Provided that the total area of signage that may be illuminated shall not exceed sixteen (16) square feet. The aggregate area of all signage shall not exceed thirty-two (32) square feet, and the area of any one sign shall not exceed twenty-four (24) square feet.
 - c. A subdivision or other form of concentrated residential development may have one (1) free standing identification sign per entrance, not to exceed a sign area of sixteen (16) square feet or height of four (4) feet.
 - d. In the "R-A" district a farm stand (See Section 201.304 B 4) may include an advertising free standing sign not more than sixteen (16) square feet in sign area and not higher than four (4) feet.
2. In the "FR" district, except for exempted signs described in section 201.403 F or section 201.403 (D) (1) (c), no advertising signs or billboards of any size or type shall be erected or maintained.
3. In the "C" and "I" districts the following signs are permitted for each business upon application for, and issuance of, a sign permit pursuant to section 201.403 K.
 - a. *"C" Commercial:*
 - (1) One (1) wall sign facing each street or road frontage. Such a sign shall not exceed an area of sixteen (16) square feet.
 - (2) Traffic control or directional signs, bearing no advertising matter, and with each such sign not to exceed two (2) square feet in area.
 - (3) One (1) free standing sign with an area not to exceed thirty-two (32) square feet and five (5) feet in height.

- (4) Provided, however that multiple commercial businesses located on a single parcel or within a single building, shall not be entitled a free-standing sign under sub-paragraph (3) of this section, but one (1) free-standing sign with an area not to exceed sixty-four (64) square feet and five (5) feet in height may be permitted for the parcel and such sign may be a consolidated sign identifying each business within the development.

b. *"I" Industrial:*

- (1) For individual businesses located on a single parcel and occupying an entire structure, one (1) wall sign not to exceed sixteen (16) square feet facing each street or road frontage, one (1) free-standing sign not to exceed an area of thirty two (32) square feet and five (5) feet in height, and traffic control or directional signs, bearing no advertising matter, and with each such sign not to exceed two (2) square feet area.
- (2) For each business located in a multiple-occupant industrial building, one (1) wall sign not to exceed sixteen (16) square feet.
- (3) For a multiple-occupant industrial building, in addition to wall signs for each occupant permitted under sub-paragraph (2) of this section, one (1) free standing sign with an area not to exceed sixty-four (64) square feet and five (5) feet in height may be permitted for the building in addition to traffic control or directional signs, bearing no advertising matter, and with each such traffic control or directional sign not to exceed two (2) square feet area.
- (4) An industrial park or other form of planned industrial development with multiple users each located on separate parcels, may have one (1) free standing sign per entrance, not to exceed a sign area of sixty-four (64) square feet or height of five (5) feet.

E. *Special exception use signs:*

1. *Billboards.* Advertising billboards, not to exceed a sign area of sixty four (64) square feet may be allowed as a special exception use in the "C" or "I" districts as a principal use and shall not be located on a lot or parcel with any other principal use. Such a billboard shall be placed not less than fifty (50) feet from the right of way.
2. *Modifications of sign requirements:* In cases where extenuating or extraordinary circumstances create practical difficulties in complying with the requirements of this section and where a modification of the requirements may still result in achieving the objectives of the zoning district in which the sign is to be located, the size, placement, number and height requirements for signs may be modified as provided by this section and section 201.502. The modification procedure may be applied for as part of a development or special use permit review. In determining whether to approve a proposed modification, the Planning Commission

and the Township Board must each find, based upon the facts presented by the applicant, that the following criteria have been met:

- a. The modification of requirements is justified due to the nature, size, density, location or design of the proposed PUD, Site Condominium, Plat or other Development or Special Use permit, including the design or placement of proposed signs;
- b. The modification of requirements will not result in traffic or other safety hazards, will not be injurious to the use or enjoyment of nearby property, will not result in visual blight, distraction, or clutter, and will not otherwise result in a detriment to the public health, safety or general welfare, and;
- c. The modification will still achieve the intended purpose of the development or zoning district if it is a special land use, in which the sign is to be located.

F. *Exempted signs.* The following signs are allowed in all zoning districts without a sign permit, provided all other applicable requirements are met:

1. *Dwelling.* One (1) name plate not exceeding two (2) square feet in area. Such sign may be free standing.
2. *Building numbers, including residential buildings.* Building numbers shall be displayed as called for in Ordinance 91-1.
3. *Home occupations and home based business.* One (1) sign not exceeding four (4) square feet, giving the name and/or occupation of the business; provided that the sign complies with the other requirements of Sections 201.430 (A)(4) and (B)(4), or 201.431 (A)(5) as appropriate.
4. *"R-A" District.* In the "R-A" District one (1) sign not more than sixteen (16) square feet in area advertising permitted services offered on the premises. Such sign may be wall mounted or free standing and not to exceed four (4) feet in height.
5. *Family or group child care home.* One non-illuminated sign shall be permitted provided such sign does not exceed four (4) square feet in area, shall not be located in the road right of way and is not in excess of four (4) feet in height.
6. *Temporary signs.*
 - a. Real estate sale or lease.
 - (1) Residence or residential lot - One (1) sign not exceeding four (4) square feet. A housing development may have at the street entrance a temporary free standing sign not exceeding sixteen (16) square feet and four (4) feet in height.
 - (2) Property other than residential - One (1) free standing sign not exceeding sixteen (16) square feet and (4) feet in height.
 - b. Political signs.
 - c. Temporary event signs such as for special events and sales as

defined in Section 201.202 Definitions.

7. *Governmental signs:*

- a. Emergency and warning signs necessary for public safety and welfare.
- b. Traffic signs erected and maintained by an authorized public agency.
- c. Legal notices, licenses, permits and other signs required to be displayed by law.

8. *Miscellaneous:*

- a. Public signs identifying a neighborhood, district or community.
- b. Historic plaques erected or maintained by non-profit organizations, memorials, building cornerstones, and erection date stones and individual "Centennial Farm" signs.
- c. Signs located for viewing exclusively within the premises of the user and not visible otherwise.

G. *Non-conforming signs:*

1. Signs authorized by a valid permit and/or variance that complied with all applicable requirements prior to adoption of this ordinance shall be permitted to remain unless a determination is made by the Township Zoning Administrator that the sign is improperly maintained and/or presents a public danger.
2. Legal non-conforming status shall be lost if:
 - a. The sign is relocated or replaced.
 - b. The structure or size of the sign is altered except toward compliance with this ordinance. This does not refer to change of copy or normal maintenance.
 - c. The sign suffers more than fifty [50] percent damage or deterioration, in which case it must be removed or brought in compliance with this ordinance.

H. *Prohibited signs:* The following signs shall be prohibited:

1. A private use sign located on a public land or in a public right of way, or in a private road easement unless part of the traffic control information for that road, except that temporary real estate signs as defined in Section F. 5. (a) (1) and displayed only in front of the property for sale, and temporary political signs as specified in F.5 (b) are allowed if not obstructing for pedestrian or vehicular traffic, are not less than fifteen (15) feet from the driving surface of the street or road and not obstructing vehicular vision.
2. A sign with reflective material.
3. A portable sign on a trailer or other movable object, illuminated or non-illuminated, and designed primarily for advertising.

4. An abandoned sign.
 5. A sign imitating or resembling official traffic or governmental signs or signals.
 6. A flashing or intermittently illuminated sign.
- I. *Sign setbacks.* All signs shall be set back a minimum of ten (10) feet from all lot lines except that signs on any side bordering a public right of way shall not be located within such road right of way and further except that all billboards must be set back a minimum of fifty (50) feet from the right of way.
 - J. Signs within business, commercial or industrial areas, as defined in the "Highway Advertising Act of 1972" (1972 PA 106) bordering interstate highways, freeways or primary highways as defined in said Act, shall be regulated and controlled by the provisions of such statute, notwithstanding any contrary provisions of this ordinance.
 - K. *Permits, administration and enforcement:*
 1. *Permit procedures.*
 - a. Each person or entity desiring to erect or maintain a sign which requires a permit shall submit a sign permit application to the Zoning Administrator, who shall approve, approve with conditions or deny the permit, (except for (d) below), after reviewing the sign standards accompanied by the applicable fees, as adopted by the Township Board, which shall include the following:
 - (1) A site plan with sign plans drawn to scale, showing proposed location and type of the sign.
 - (2) Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, complies with the provisions of this Ordinance.
 - (3) Any other requirements on the sign application form.
 - b. All applications shall be accompanied by the written consent of the owner of record of the property on which the signs are proposed to be erected.
 - c. No sign requiring a sign permit shall be erected or installed until an application is approved.
 - d. The permit review may be eliminated if the required information is provided to the Planning Commission as part of a site plan review and/or special exception use review, in which case the Planning Commission shall recommend approval, approval with conditions or denial of the request to the Township Board.
 2. *Expiration.* Approval of a sign shall expire one year from its effective date unless an extension not to exceed one year has been granted by the Zoning Administrator. The Zoning Administrator may deny extension of time for the approved sign if substantial changes in circumstances are found.
 3. *Review criteria.* In considering a sign permit request, the Zoning Administrator or the Planning Commission shall base action on the

following criteria in addition to any other criteria elsewhere specified:

- a. The purpose of this ordinance (Section 201.403 A).
- b. The standards and criteria as set forth in Sections 201.403 C and D.
- c. Each sign shall be of a shape, material, style, letter types and color appropriate for the use, enhancing to the premises and harmonious with the neighborhood.

(Amended: Ord. of 11-12-90; Ord. No. 96-4, 10-21-96; Ord. No. 99-4, 5-17-99, Ord. No. 2002-9, 6-17-02, Ord. No. 2010-1, 06-21-10)

201.404 Animal and pet restrictions in residential areas.

4.04.

- A. Except as may be permitted by the Vergennes Township Residential Property Farm Animal Ordinance, the keeping of pigeons having free access outside their cages, or the permanent keeping of poultry, pigs, hogs, horses or livestock or more than three (3) dogs or cats is prohibited within or upon any platted properties, subdivided areas, or condominium subdivisions used primarily for residential purposes or within or upon any area located within one hundred fifty (150) feet of such platted properties or subdivided areas; provided, however, that any litter of dogs or cats which causes the aforesaid limit of three (3) to be exceeded shall not constitute a violation of this provision for a period of four (4) months after birth except that no more than two (2) such litters shall be allowed on the aforescribed premises within any consecutive twelve (12) month period.
- B. In any district, where animals are permitted, a stable, barn, or animal shelter shall be located not less than seventy-five (75) feet from any adjoining property line.

(Amended: Ord. No. 2000-2, 3-20-00, Ord. No. 2004-6, 4-17-04)

201.405 Basement and garage living prohibited.

4.05. No structure, the major portion of which consists of a basement, shall be occupied for living and/or sleeping purposes by human beings.

Any building erected as a garage or in which the main portion is a garage shall in no case be occupied for dwelling purposes unless it is auxiliary (attached) to a residence already being occupied upon the premises and unless it also complies with all the provisions of this Ordinance relating to the buildings for residential purposes but may be permitted under the accessory dwelling ordinance, section 201.441.

(Amended: Ord. No. 2011-3, 09-19-11)

201.406 Clear vision corners.

4.06. All intersections of public streets shall be provided and maintained with a clear unobstructed vision corner extending not less than twenty (20) feet from all right-of-way line intersections along said right-of-way line in the form of an isosceles triangle, within which no vehicle parking or obscuring structures, storage, growth or displays shall be located or allowed.

201.407 Dismantled, non-operating or unlicensed motor vehicles, scrap and equipment.

4.07.

- A. No person, firm or corporation shall store, place or permit to be stored or placed, or allow to remain on any parcel of land for a period of more than ten (10) days in any one year a dismantled, partially dismantled or inoperable motor vehicle, or any scrap, litter, garbage, refuse, trash, used equipment or junk, unless the same is kept in a wholly enclosed structure, or is located in an approved junkyard authorized as a Special Exception Use as provided by this Ordinance, or unless a Variance therefor is first obtained from the Zoning Board of Appeals to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.
- B. No person, firm or corporation shall park or store upon premises within the Township a motor vehicle in operating condition which is not regularly used for the purpose for which it was manufactured or designed unless the same is kept within an enclosed building or an approved junkyard authorized as a Special Exception Use as provided in this Ordinance, or unless a variance is first obtained therefor from the Zoning Board of Appeals, to be granted only in special hardship cases beyond the control of the applicant, where peculiar circumstances exist, where no adjoining property owner is adversely affected thereby, and where the spirit and purpose of these regulations are still observed.
- C. The purpose of these regulations is to limit and restrict the outdoor storage or unreasonable accumulation of junk cars, unused cars, stock cars, dilapidated non-operating motor vehicles, scrap, litter, garbage, refuse, trash, used equipment or junk upon land in the Township except within areas where such activities are authorized as a Special Exception Use or pursuant to a variance granted by the Zoning Board Appeals.
- D. These provisions shall not be construed as repealing any ordinance now in effect or hereafter made effective relating to rubbish, litter, garbage, refuse, trash or junk but shall be construed as supplementary any such ordinances, as well as any statutes of the State of Michigan relating thereto.

201.408 Driveways.

4.08.

- A. All driveways must abut a private or public road at right angles (except cul-de-sacs which may be at other than right angles), with clear traffic vision, and the first twenty-five (25) feet of the driveway from the road shall not be at a grade greater than five percent (5%). Before a building permit will be issued for any homesite, or other structure to which driveway access is to be provided, a driveway permit must be obtained from the Kent County Road Commission, and a site development plan must be submitted to and approved by the Zoning Administrator or designee pursuant to Section 5.02 [201.502][D] of this Ordinance.

(Amended: Ord. of 12-11-89; Ord. No. 94-4, 11-21-94; Ord. No. 97-2, 3-31-97; Ord. No. 99-1, § 2, 2-15-99; Ord. No. 99-7, 7-19-99; Ord. No. 2000-2, 3-20-00)

201.409 Dumping rubbish and waste matter.

4.09. It shall be unlawful to permit waste water from sinks or similar drains or sewage to drain or fall onto the land from dwellings or any other structures and accessory buildings, and it shall be unlawful to drain any waste water, or sewer, raw or treated, from dwellings or any other structures and accessory buildings by open ditch or by pipes into any ditch, creek or stream, of any kind in the Township, unless approved by the Kent County Health Department. It shall be unlawful to throw or dump refuse as defined in Act 87 Public Acts 1965, of the State of Michigan, upon any land or place unless such place has been designated as a disposal area by the Township, and as provided by Act 87 Public Acts 1965, State of Michigan.

201.409A Septic tank waste disposal.

4.09a.

- A. *Disposal of Wastes.* The disposal of commercial and industrial wastes from septic tanks, cesspools or seepage pits is prohibited. The disposal of wastes accumulated in residential septic tanks, cesspools or seepage pits (hereinafter referred to simply as "wastes") is not permitted in this Township unless all of the following requirements are met.
- B. *Bond.* The Township Board shall require a commercial surety performance bond in a minimum amount not to exceed Ten Thousand Dollars (\$10,000) to insure compliance with the provisions of this Ordinance.
- C. *Licenses.* Only persons properly licensed pursuant to law may dispose of wastes in Vergennes Township.
- D. *Sites.*
 - 1. No disposal of wastes shall be permitted within two hundred (200) yards of any residence, well, public building, place of business, public gathering spot, state, county or township road, road or highway, lake, stream, river, pond or drainage ditch.
 - 2. All sites shall be approved by the County Health Department of the Department of Natural Resources and the Township Board. The grounds and reasons for approvals of sites shall be obtained from such agencies.
 - 3. No disposal shall be permitted which may reasonably be expected to pollute or contaminate surface or underground water supplies, cause such pollution or contamination, or which constitutes a health hazard, an impending health hazard or nuisance.
 - 4. No disposal shall be permitted where the water table is within four (4) feet of the surface of the ground.
 - 5. No site shall be used for disposal of wastes if there is a significant potential that runoff of wastes will occur because of elevation, slope of the land, absence of suitable vegetation on the site, soil percolation characteristics, proximity of wells, rivers, streams, lakes, ponds or other bodies of water.
 - 6. The Township Board may require each site to be entirely fenced to prevent the entry of domestic animals and humans. Legible signs, at least twelve (12) by eight (8) inches in area, shall be affixed to all gates or access points and shall bear the following legend, together with the licensee's name:

WARNING!

DO NOT ENTER

SEPTIC TANK WASTE DISPOSAL SITE

E. *Application Methods.*

1. All wastes shall be disposed of by use of a liquid manure injection system during months of the year when the ground is not frozen. All wastes shall be disposed of under the surface of the soil and all ground openings shall be closed immediately after injection of wastes.
2. During the periods of the year when the ground is frozen, wastes shall be disposed of in trenches or within diked areas which shall be designed to prevent surface runoff of wastes. All wastes shall be covered with soil within twenty-four (24) hours after disposal. In any event, no surface deposit or accumulation of wastes is allowed.
3. All openings made in the ground shall follow the contours of the land so as to minimize the possibility of runoff of wastes or erosion of soil.
4. Crops shall be planted in accordance with sound farming practices on the soil in which wastes are deposited. Crops selected shall be of types and varieties which will:
 - a. Utilize the nutrients contained in the wastes;
 - b. Absorb wastes; and
 - c. Minimize the possibility of runoff or pollution of surface or underground water supplies.

F. *Entry Upon Land/Testing.* Members of the Township Board acting as a Board of Health, their agents and other health officials may enter upon the land to be used for disposal of wastes or which is being used for disposal of wastes at reasonable times and without prior notification for the purposes of observing compliance with the provisions of this Ordinance. Samples of soil, water and wastes may be removed for chemical, bacteriological or viral analyses, and the Township at its expense may conduct tests or take samples of ground or surface waters on the site.

G. *Additional Requirements.*

1. Disposal shall not take place other than during weekdays between 8:00 a.m. and 5:00 p.m. and no disposal shall be permitted on weekends or holidays.
2. In the interests of protecting the public health, safety and general welfare, the Township Board may impose additional requirements in addition to those set forth in this Ordinance including, but not limited to, such measures as may be appropriate to minimize objectionable odor.

H. *Cessation of Use.*

1. All disposal of wastes shall immediately cease upon the occurrence of one (1) or more of the following events:
 - a. Acceptance of residential septic tank cesspool and seepage pit wastes for treatment by the City of Grand Rapids or any other political subdivision located within fifteen (15) road miles of Vergennes Township.
 - b. Violation of one (1) or more of the above provisions of this Ordinance.
2. Disposal of commercial and industrial wastes, liquid or solid, is prohibited.

- I. *Penalties.* Every person who violates any of the provisions of this Ordinance or who fails to comply with or who permits a violation of any of the requirements thereof shall, upon conviction, be subject to a fine of not more than One Hundred Dollars (\$100) or to imprisonment not to exceed more than ninety (90) days, or both such fine and imprisonment. Each and every day such violation continues shall be deemed a separate and distinct violation of this Ordinance. The imposition of any sentence shall not exempt an offender from compliance with the provisions of this Ordinance, nor prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

201.410 Earth removal, quarrying, gravel processing, mining and related mineral extraction businesses.

4.10. Prior to the approval by the Township Board of a Special Exception Use Permit for earth removal, quarrying, gravel processing, mining and related mineral extraction businesses in any area of the Township, said board shall be satisfied that the following conditions and limitations are, or shall be, strictly complied with, in addition to any other requirements contained in this Ordinance or in any other Township Ordinance controlling such operations:

A. *Location.*

1. All such operations shall be located on a primary road, as defined by the County, for ingress and egress thereto, or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Township Board may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations, and for the purpose of routing traffic around residential areas and preventing the breakup of existing roads which are not "all weather" roads.
2. Sufficient setbacks shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such excavation operation shall be permitted closer than one hundred fifty (150) feet to interior boundary lines of the property or such larger setback as may be required by the Township Board to adequately protect adjoining properties. However, if the adjoining property is also used for such mining and excavation operation, then the Township Board may reduce or eliminate the required setback from that interior boundary line. In addition, such setback may be temporarily reduced to

fifty (50) feet if reclamation of the land is promptly effected to increase the setback to at least one hundred fifty (150) feet in accordance with a reclamation plan approved by the Township Board and adequate lateral support is at all times maintained.

3. No such excavation operation shall be permitted within fifty (50) feet of adjoining public rights-of-way except for the lowering of land adjoining said rights-of-way to the grade level of said rights-of-way. Such excavation business shall at no time be permitted where adequate lateral support for the maintenance of adjoining lands is not maintained.
4. Any permanent processing plant and its accessory structures shall not be located closer than two hundred fifty (250) feet from the interior property lines and adjoining public rights-of-way and shall, where practicable, be located at a lower level than the surrounding terrain to lessen visual and noise impact. In addition, the foregoing setback and height requirements shall apply to digging or excavating apparatus and to stockpiling or loading of materials as well as to the location of transportation equipment.
5. No such excavation operation shall be located within three hundred (300) feet of the banks of any stream or waterway unless previously approved, in writing, by the Michigan Water Resources Commission, or such other state commission having jurisdiction thereof. No such mining operations shall interfere with the natural established flow of surface waters to the detriment or damage of adjoining public or private properties.

B. *Sight Barriers.*

1. Sight barriers shall be provided along all boundaries of the site which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of one (1) or more of the following:
 - a. Earth berms constructed to a height of six (6) feet above the general level of terrain along interior property lines, as the case may be. Such berms shall have slopes that are not in excess of one (1) foot vertical to three (3) feet horizontal and shall be planted with grass, trees or shrubs.
 - b. Plantings or evergreen trees or shrubbery in rows parallel to the boundaries of the property, not less than four (4) feet in height at the time of planting and which grow to not less than six (6) feet in height at maturity and sufficiently spaced to provide effective sight barriers when six (6) feet in height.
 - c. Masonry walls or attractive solid fences made of uniform new materials, constructed to a height of not less than six (6) feet and maintained in good repair.

C. *Nuisance Abatement.*

1. Noise and vibration shall be minimized in their effect upon adjacent properties by the utilization of modern equipment designed to accomplish such minimization and by the proper use of berms, walls, and natural planting screens. All equipment shall be maintained and operated in such a manner so as to eliminate, as far as practicable, excessive noise and vibrations which are not necessary in the operation of such equipment.

2. Air pollution in the form of dust and dirt shall be minimized by the use of modern equipment and methods of operation designed to avoid any excessive dust or dirt or other air pollution injurious or substantially annoying to adjoining property owners. Interior and adjoining roads used in the operations shall have their surface treated to minimize any such nuisance.
3. Hours. The operation shall be restricted to the hours of 7:00 a.m. until 7:00 p.m. and no operations shall be allowed on Sundays.
4. Fencing. All dangerous excavations, pits, pond areas, banks or slopes shall be fenced and posted with signs around the perimeter thereof and maintained to prevent injury to children or others, and shall be eliminated as expeditiously as possible.

D. *Reclamation of Mined Areas.*

1. Reclamation and rehabilitation of mined areas shall be accomplished as soon as practicable following the mining or excavation of an area. Rehabilitation and reclamation shall be commenced immediately upon the termination of the mining or excavation operations in any area consisting of one (1) acre or more. Substantial completion of reclamation and rehabilitation shall be effected within one (1) year after termination of mining or excavation activity. Inactivity for a period of twelve (12) consecutive months shall constitute, for this purpose, termination of mining activity.
2. The following standards shall control reclamation and rehabilitation:
 - a. All excavation shall be either to a water-producing depth of not less than five (5) feet below the average summer level of water in the excavation, or shall be graded or back-filled with non-noxious, non-inflammable and non-combustible solids to insure:
 - (1) that the excavated area shall not collect stagnant water and not permit the same to remain therein; or,
 - (2) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce a gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
 - b. The banks of all excavations shall be sloped to the waterline in a water-producing excavation, and to the pit floor in a dry operation at a slope which shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
 - c. Top soil of a quality equal to that occurring naturally in the area shall be replaced on excavated areas not covered by water, except where streets, beaches or other planned improvements are to be completed within a one (1) year period. Where used, top soil shall be applied to a minimum depth sufficient to support vegetation, but not less than four (4) inches in any case.
 - d. Vegetation shall be restored by the appropriate seeding of grasses or the planting of trees and shrubs to establish a

permanent vegetative cover on the land surface and to minimize erosion.

- e. Upon cessation of mining operations by abandonment or otherwise, the operator, within a reasonable period of time not to exceed twelve (12) months thereafter, shall remove all plant structures, foundations, buildings, stockpiles and equipment, provided that buildings and structures which have a function under the reclamation plan and which can be lawfully used under the requirements of the zoning district in which they will be located under such plan may be retained.
3. A performance bond or cash shall be furnished the Township Clerk to insure the proper rehabilitation and reclamation of the mined and excavated areas prior to the commencement of any such mining or excavating operations. The amount of the guarantee shall be not less than Three Thousand Dollars (\$3,000) per acre proposed to be mined or excavated in the following twelve (12) months' period and which has previously been mined or excavated during any preceding period and not reclaimed and rehabilitated in accordance with this Ordinance and the applicant's filed plan. Mined areas resulting in a water depth of five (5) feet or more shall be deemed to be reclaimed areas to within fifteen (15) feet of any vertical shoreline thereof and to the extent of the shoreline where the same has been sloped to a grade of not more than one (1) vertical to three (3) horizontal, for the purpose of this financial guarantee. Such financial guarantee shall be reviewed annually on or about the anniversary date of the excavation permit for adjustment and compliance with the foregoing requirements by the Building Inspector and Zoning Administrator of the Township and by the Township Board. In no event shall such financial guarantee be less than Three Thousand Dollars (\$3,000) in amount.

E. *Submission of Operational and Reclamation Plans.*

1. No earth removal, quarrying, gravel processing, mining and related mineral extraction businesses shall be allowed or commenced until a site plan has been submitted in accordance with Section 5.02[201.502][D] disclosing compliance with all of the provisions of this Ordinance or the manner in which compliance will be secured by the applicant. In addition to the requirements of Section 201.502 D, such site plan shall include, among other things:
 - a. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto abutting public streets, and whether or not the same are "all weather" roads, additional roads, if any, to be constructed, and the location and nature of abutting improvements on adjoining property.
 - b. The number of acres and the location of the same proposed to be operated upon within the following twelve (12) months' period after commencement of operations.
 - c. The type of mining or processing equipment proposed to be conducted and the nature of the equipment to be used.
 - d. The location of the principal processing plant and the distance of

any proposed excavation or mining from the boundaries of the site.

- e. Soil boring tests shall be made around the perimeter of the excavation site in the event excavation or activities are to be conducted closer than one hundred fifty (150) feet from the boundaries of the site, said soil boring tests shall disclose conditions satisfactory for lateral support of adjacent premises as determined by a qualified professional engineer. The written consent of the owners of all adjoining premises and the Township Board shall be required if mining operations shall be closer than specified in the within Ordinance to the boundaries of the site.
- f. A map or drawing disclosing the final grades and elevations to be established following the completion of the mining operations, including the proposed uses then contemplated for the land, future lakes and roads and such other matters as may evidence the bona fide nature of the reclamation and rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed mining activities.

F. *Additional Conditions.* The Township Board shall grant or deny the application for Special Exception Use Permit for a business covered by this section in accordance with the provisions of Section 5.02 [201.502] and, in addition to other provisions of this Ordinance, its decision shall be based on a consideration of the following:

- a. The most advantageous use of the land, resources and property.
- b. The character of the area in question and its peculiar suitability, if any, for particular uses.
- c. Conservation of property values, as well as natural resources and the general and appropriate trend and character of development in the subject area.
- d. The protection and preservation of the general health, safety and welfare of the Township.
- e. The scarcity or value of the minerals sought to be mined as compared with the effect upon the adjacent community of the proposed operations.
- f. Whether or not the operations were previously in existence prior to the adoption of the text provision concerning the same and the extent and character of such previous operations.
- g. In making any decision, the Township Board shall have the right and authority to impose such additional conditions and safeguards as it deems necessary for the protection of the health, safety and general welfare of the neighborhood and of the adjoining residents and property owners. It may also limit the length of time its special exception permit is to be effective and may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same. It shall be empowered to renew or extend a special exception permit where all standards and conditions are complied with and may revoke or refuse to renew the same where non-compliance

exists. No revocation or failure to renew or extend a permit shall release the applicant from the duty of rehabilitation and reclamation of said mined or disturbed area.

A permit shall not be revoked or renewal thereof denied except on thirty (30) days' written notice of any violation forming the basis of such revocation or denial of renewal and unless the violation has not been cured within such thirty (30) day period. All permits shall be reviewed by the Township Board annually.

The operator shall be required to pay such annual fee to cover the cost of inspections and additional meetings of the Township Board.

- G. *Liability Insurance.* All operators shall be required to carry personal injury and property damage insurance while any unreclaimed or unrehabilitated area exists, in the amount of not less than One Hundred Thousand Dollars (\$100,000) for each person or property injured or damaged and not less than Three Hundred Thousand Dollars (\$300,000) for injury or damage to more than one (1) person or one (1) person's property arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operations as well as upon properties adjoining thereto, as a result of conditions or activities existing upon the site. A copy of the policy shall be filed with the Township Board.

(Ord. No. 99-1, § 3, 2-15-99)

201.411 Essential public services; exemptions, required approval.

4.11. It shall be lawful for essential public services to establish and conduct themselves in any district of the Township, and except as hereinafter provided, the erection, construction, alteration or maintenance of essential services shall be permitted in any district as authorized or regulated by law and other ordinances of the Township, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this Ordinance, except as hereinafter provided.

The erection or construction of any building or structure for essential services, including but not limited to electrical substations, gas regulator stations, sanitary treatment facilities or other similar facilities shall be designed and erected to conform harmoniously with the general architecture and plan of such district in which they are to be erected, shall not interfere with the planned use of such district, and shall be subject to the prior approval of the Township Board. Plans and specifications for such building or structure shall be tendered to the Zoning Administrator and the Township Board as a prerequisite of such approval; furthermore, the Township Board shall have the power to permit any essential public service to erect and use an essential service building or structure in any permitted district, to a greater height or of a greater area than the district requirements established, provided such board shall first find such structure or building necessary for public convenience and necessity.

201.412 Grade levels.

4.12.

- A. The Zoning Administrator and Building Official shall review existing grade levels, proposed grade levels, and the proposed grading plan prior to the construction of a building or structure requiring approval pursuant to this Ordinance. To assist with this review, a grading plan is required for all new construction to establish grade levels. The yard around a new building shall be graded such that surface

waters shall flow away from the building walls and prevent excessive runoff of surface water from flowing onto adjacent property. Proposed grade levels shall retain and not obstruct natural drainage. A retaining wall may be permitted in the required setback area if it is required for drainage purposes or for compliance with this Section. The Township may require the applicant to provide storm water management techniques to preserve the natural retention and storage capacity of any wetland, water body, or watercourse, while not increasing flooding or the potential of pollution of surface or groundwater, on-site or off-site.

- B. Sand, dirt, and similar materials shall not be used to build up or add to the natural grade of the land in connection with the installation, building, or expansion of a building or structure if such alteration would, in the opinion of the Zoning Administrator, do any of the following:
1. Unreasonably increase water runoff or drainage onto one or more adjoining properties due to the amount, concentration, or flowage rate of runoff waters; or
 2. Increase the height of a building or structure so as to unreasonably decrease the view on one or more adjoining properties of a lake, stream, or natural vista or create a situation which is incompatible with the surrounding uses.
 3. Increase the height of a sign or fence beyond the requirements of this Ordinance.

(Amended: Ord. No. 2019-02, 2019-6-17)

201.413 Lighting and screening requirements.

4.13.

- A. All lighting upon any premises in any zoning district shall be so arranged that such lighting does not produce any glare which is a nuisance or annoyance to residents or occupants of adjoining premises or to the traveling public on public highways.
- B. Except as otherwise provided in this Ordinance, all premises used for business, commercial or industrial purposes and located within a "C" or "I" District shall be screened from adjoining premises located in an "R-2" or an "R-3" District or higher district classification by any of the following:
1. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential district.
 2. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.
 3. No such planting area, wall or fence shall be closer than ten (10) feet

from any adjoining street right-of-way line.

- C. In the event of any controversy as to adequacy of any proposed or existing screening or the creation of any nuisance or annoyance by artificial lighting, the Zoning Board of Appeals shall have the right and is hereby given the authority to determine whether the same is in violation of these screening and lighting provisions and the purposes herein sought accomplished, being the screening of abutting business and residential properties and the prevention of nuisance from artificial lighting.

(Amended: Ord. of 11-12-90; Ord. No. 99-1, § 3, 2-15-99)

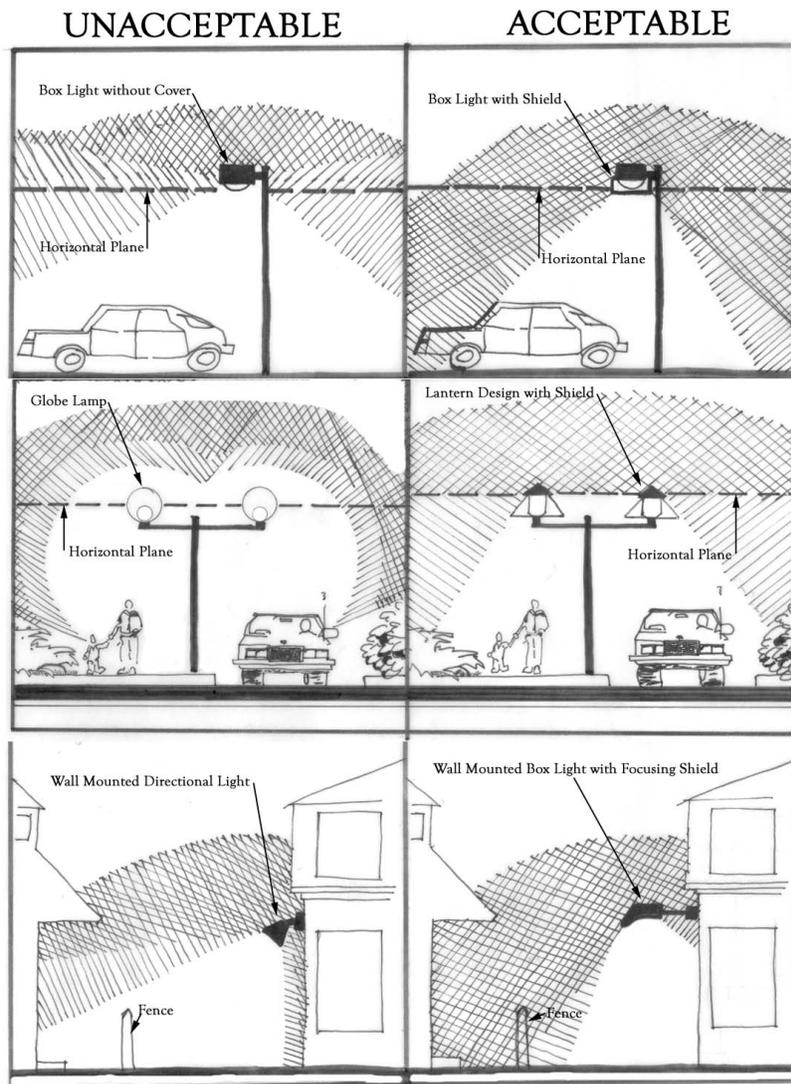
201.413A Residential Lighting Ordinance.

4.13A.

- A. Intent and purpose: To maintain the rural character of our Township, including its residential areas, by promoting the sensible energy efficient use of exterior lighting that limits unnecessary light from being directed skyward or onto neighboring properties. Insure that direct or directly reflected light is confined to each property to prevent light trespass and to prevent glare or excessive lighting as defined herein.
- B. Exterior Lighting shall be designed, constructed and installed in accordance with the following:
 - 1. Exterior lighting is subject to the applicable definitions and the following standards.
 - a. Flags may be up-lit by a single shielded bulb and directed to illuminate only the flag and pole.
 - b. Decorative lighting shall be at a minimum partially shielded as defined herein.
 - c. Wall mounted entrance lighting shall be at a minimum partially shielded as defined herein except clear side glass is also permitted. Spot or security lights (switch or motion detecting) shall be fully shielded and aimed downwards to not create a glare to neighboring properties or vehicle drivers on a road.
 - d. Post mounted lantern type yard lights shall be at a minimum partially shielded as defined herein.
 - e. Flood, spot (building or post mounted) or soffit/canopy under surface exterior lighting (switch, motion sensing or day/night sensing) shall be downward facing and fully shielded or recessed as defined herein
 - 2. No elevated exterior light fixture, including, but not limited to, light poles, canopy lights, soffit lights and similar fixtures, shall exceed twenty (20) feet in height above grade. The height of light fixtures required for doors on decks above grade can be measured from the walking surface (i.e. deck) they illuminate. Such elevated light fixtures shall be set back from the lot line one (1) foot per every one (1) foot of height.
 - 3. There shall be no lighting of a blinking, flashing or fluttering nature,

including changes in light intensity, brightness or color. Search lights, laser source lights or any similar high-intensity light shall not be permitted except in emergencies as directed by emergency personnel or night road repairs.

4. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
5. Exterior lighting in place prior to the adoption of this Ordinance is exempt (adopted 8-21-06, amended 10-19-09). Lighting used for agricultural production purposes and decorative lighting intended and used to illuminate church steeples shall be exempt.
6. Seasonal holiday lighting, such as for Christmas, is allowed providing it does not create objectionable glare.
7. Sign lighting is also subject to section 201.403.
8. Refer to lighting illustrations below for examples of acceptable and unacceptable lighting:



(New Ord. No. 2006-3, 8-21-06, Ord. No. 2009-2, 10-19-09)

201.414 Lot accessibility.

4.14. No dwelling unit shall be built on a lot unless the lot abuts upon a public street or upon a permanent unobstructed access easement of record to a public street. Such easement of record shall have a minimum width of thirty-three (33) feet if the easement serves no more than two (2) dwelling units, or sixty-six (66) feet if the easement serves more than two (2) dwelling units. All regulations contained in this Ordinance shall apply to such easements of record in the same manner as if the same were dedicated streets.

201.414A Private roads and streets.

4.14a. The layout, construction, maintenance and extension of Private Streets shall be subject to the review, approval and construction standards for Private Roads as contained in the following Vergennes Township Private Road Ordinance [202.000], being Ordinance No. 90-2, of the Township of Vergennes, Kent County, Michigan.

(Amended: Ord. of 12-11-89; Ord. of 11-12-90)

201.415 Mobile homes.

4.15. Mobile homes shall not be used for dwelling purposes within the Township unless located within a mobile home park as hereinafter provided, or unless used in accordance with the following:

- A. *Permanent Residences.* A mobile home may be eligible for use as a single family dwelling within the "R-A," "R-1", "R-2" and "R-3" districts; provided, however, that it meets the height, lot area, set back and side line spacing, and floor area requirements specified for a permanent single family residential use in the district in which the mobile home is to be located. In addition, the mobile home shall comply with the following standards in order to assure that it will compare favorably with other single family housing permitted in the district:
 - 1. The mobile home shall meet standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) Regulations and titled Mobile Home Construction and Safety Standards effective June 15, 1976, as amended.
 - 2. There shall be a minimum interior floor to ceiling height of seven and one-half (7 1/2) feet.
 - 3. There shall be a minimum width through the entire length of the mobile home of twenty-two (22) feet measured between the exterior part of the walls having the greatest width.
 - 4. There shall be a foundation around the entire exterior perimeter of the mobile home of concrete or block of minimum depth of forty-two (42) inches below grade with a maximum height of sixteen (16) inches exposed of foundation above grade of the same design as required by the Construction Code as adopted by the Township for single family residences.

5. There shall be a crawl space below the entire bottom of the mobile home of three (3) feet with a vapor barrier consisting of a minimum of two (2) inches of concrete on the floor of the crawl space provided with adequate drains to drain any accumulation of water in the crawl space.
6. The mobile home shall be firmly attached to the foundation so as to be watertight in such a way as water will not enter.
7. All wheels, towing mechanisms and tongues shall be removed and none of the undercarriage shall be visible from outside the mobile home.
8. There shall be connected to the mobile home a well and septic system approved by the county health department and/or public water and sewer if available.
9. Steps and/or porch areas shall be permanently attached to the foundation where an elevation differential exists between any door and surrounding grade.
10. There shall be a minimum of a double pitched roof of not less than three (3) feet of rise for each twelve (12) feet of run; and the roof covering shall meet the requirements of the construction code as adopted by the Township.
11. The exterior siding shall meet the requirements of the construction code as adopted by the Township.
12. There shall be no additions to the living space of the mobile home unless it meets all the requirement hereof and is built according to the same standard as the mobile home.
13. There shall be a minimum of two (2) doors to provide means of ingress and egress from the mobile home.
14. Submission of an application for building permit showing compliance herewith and with Section 6.02 [201.602].

B. *Temporary Residence.* The Township Board may grant a Special Exception Use Permit authorizing the occupancy of a mobile home as a temporary residence for a period not to exceed one year during construction of a permanent dwelling unit for occupancy by the applicant on the lot or parcel on which the mobile home is proposed to be temporarily located. The application for such Special Exception Use shall be made in accordance with Section 5.02 [201.502] of this Ordinance and the following requirements shall apply in addition to the other provisions of this Ordinance:

1. The applicant shall demonstrate his ability and intent to erect a permanent dwelling unit on the premises within the one (1) year period of the permit.
2. The lot or parcel shall have running water and sewage facilities to which the mobile home is to be connected.

Upon expiration of the one (1) year period of a Special Exception Use Permit granted hereunder, the Township Board may renew the permit for one (1) additional period of one (1) year upon sufficient showing that the house construction could not be completed within one (1) year but has substantially progressed during the period. Said Board may require a Performance Bond, in

an amount satisfactory to it, which shall guarantee removal of the mobile home from the premises on expiration of the Temporary Special Exception Use Permit.

- C. *Accessory Dwelling.* Reference section 201.441 Accessory Dwellings.

(Amended: Ord. of 11-12-90, Ord. No. 2011-3, 09-19-11)

201.416 Manufactured Home Development.

4.16

- A. *Purpose and Intent.* To provide for manufactured home development, of long-term duration of stay in areas which are developed in a manner which takes into account such special characteristics as locational needs, site layout and design, demand upon community services, and the relationship to and effect upon surrounding uses of land, and conformance to the Comprehensive Land Use Plan. All manufactured home developments shall comply with the applicable requirements of Public Act 96 of 1987, as amended. The controlling standards in this Section 4.16 are not designed to generally exclude mobile homes of persons who engage in any aspect pertaining to the business of mobile homes or mobile home parks.
- B. *Permitted Uses.* Within a manufactured home development, the following uses shall be permitted, subject to the terms of this Section:
1. Manufactured homes
 2. Recreational facilities and open space land for the residents of a manufactured home development
 3. Community Centers
 4. Buildings such as administration office, stores, storage, laundry or other similar buildings
 5. Family day care homes consisting of 6 children or less
 6. Adult foster care family homes consisting of 6 residents or less
- C. *Application Procedures.* Pursuant to Section 11 of Act 96 of the Public Acts of 1987, as amended, and the rules promulgated thereunder, an application for the extension, alteration, or construction of a manufactured home development shall be accompanied by a preliminary plan of the proposed development and all permanent buildings indicating the proposed methods of compliance with these requirements. Said application, fees and preliminary plan shall meet the following requirements:
1. An application form shall be completed and fees paid in accordance with the fee schedule (as amended from time to time by resolution of the Township Board) and 10 copies of the preliminary plan shall be submitted to the Zoning Administrator for distribution to the Planning Commission.
 2. The preliminary plan need not include detailed construction plans, but shall include the following materials:
 - a. The applicant's name, address and telephone number and the

property owner's name, address and telephone number, if different than that of the applicant.

- b. Notation of all federal, state and local permits required.
- c. The location of the project including the permanent parcel number(s) of the property upon which the project is proposed to be located.
- d. The layout of the project including an illustration of the internal roadway system proposed and typical homesite layout.
- e. The general design of the proposed project including the proposed location and design of signs, trash receptacles, light fixtures and any accessory structures, open lands and recreation areas and accessory uses.
- f. The location, spacing, type and size of proposed plant materials.
- g. A general description of the proposed project including the number of homesites proposed, the anticipated phasing of project development and an indication of the number of homesites to be rented and the number to be sold, if any.

- D. *Review Process.* The Planning Commission shall review the submitted preliminary plan and communicate its recommendation for approval, approval with conditions or modifications, or denial of the preliminary plan to the Township Board. The Planning Commission shall approve and recommend to the Township Board a preliminary plan upon a finding that the proposed use will not, upon the facts known at the time of the submission of the site plan, cause undue hardship, or create unsafe or hazardous health or safety conditions to the general public. Not more than sixty (60) days following the receipt by the Township of a complete application for preliminary plan approval, the Township Board shall approve, approve with conditions or modifications, or deny an application and preliminary plan pursuant to the Mobile Home Commission Act, the rules promulgated thereunder and this ordinance.

Upon approval of the preliminary plan, the Township Clerk shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Township's files, one (1) copy shall be forwarded to the Zoning Administrator for issuance of a Zoning Permit, and one (1) copy shall be returned to the applicant. Construction shall commence within five (5) years after the date of issuance of a construction permit by the Michigan Department of Consumer and Industry Services unless an extension has been granted by said Department. Amendments to the approved preliminary plan must be submitted to the Planning Commission for recommendation to the Township Board for review and approval.

- E. *Noncompliance.* Any substantial noncompliance with the approved preliminary plan shall be reported to the Manufactured Housing Division of the Department of Consumer and Industry Services for remedy along with all pertaining evidence.
- F. *Site Development Requirements.* The following requirements for site development, together with any other applicable requirements of the State of Michigan, Act 96 of 1987, as amended, shall be complied with. If any of the requirements of this subsection are less than those in the State Act, the State requirements shall prevail. No manufactured housing community shall be

maintained, operated, or conducted without an annual license from the Michigan Department of Consumer and Industry Services. An inspection of construction may be performed at any appropriate time, pursuant to 1987 PA 96, as amended (the Mobile Home Commission Act).

1. *Site Size:* A minimum site size shall be fifteen (15) acres.
2. *Site Location:* The proposed site location shall be governed by the requirements of Section 11 of the Mobile Home Commission Act and rule 920(1)(b) of the Manufactured Housing Commission Rules.
3. *Side Yard Dimensions:* All buildings and manufactured houses within the manufactured housing community site shall be no closer than fifty (50) feet from any public street right of way line, and not closer than ten (10) feet from any side or rear lot line of the manufactured housing community site.
4. *Space Requirements:* The manufactured home development shall be developed with sites averaging 5,500 square feet per manufactured home unit. This 5,500 square feet average per site may be reduced by 20 percent provided that all individual sites shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, an equal amount of land shall be dedicated as open space. This open space shall in addition to that required under R125.1946, rule 946 and Rule 125.1941 and R125.1944, Rules 941 and 944 of the Michigan Administrative Code.
5. *Yard Requirements:* The required distances between manufactured home units and other structures and the required distances from property boundary lines shall meet the requirements of Rule 125.1941 and Rule 125.1944, and Rules 941 and 944 of the Michigan Administrative Code.
6. *Development Roads:* Two way streets within a manufactured home development shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted along one side of the street, and 41 feet where parallel parking is permitted along both sides of the street. The minimum width of a one-way street shall be 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted along one side and 33 feet where parallel parking is permitted along both sides.
7. *Paving:* All internal roads and parking facilities shall be provided with a paved surface in compliance with the standards of the AASHTO Specifications referenced in Rule 922 of the Michigan Manufactured Housing Commission Rules. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to prevent the drainage of water onto adjacent property or toward buildings. No portion of any off-street parking area shall be considered part of the sidewalk system.
8. *Sidewalks:* Sidewalks, which meet the standards established in Rule 928 of the Michigan Manufactured Housing Commission Rules, and AASHTO Standards shall be installed along one (1) side of all internal collector roads within the park and to the public right-of-way and to all service facilities including, but not limited to, central laundry, central parking, and central recreation/park areas. Sidewalks shall also be required along that

portion of a site fronting along public thoroughfares. Walks connecting the entrance of each manufactured housing unit to the balance of the development walk system shall be designed per Manufactured Housing Commission Rules.

9. *Utilities:* The installation of utilities within a manufactured housing community shall be in accordance with the following requirements:
 - a. All electrical, telephone, and utility service shall be underground and specifically designed in conformance with the standard established in rule 932(a), 934(a), 935(a), 937(2)(a), and 940 of the Manufactured Housing Commission.
 - b. All gas distribution lines shall be located underground. Each manufactured housing lot so served shall have the service line located underground to a connection point and the manufactured housing unit shall be supported so it cannot be abraded by the pad surface. If fuel oil is used, it shall be supplied from a central storage tank, with underground distribution and service lines to the individual manufactured home sites, and shall be subject to the same requirements given herein for gas lines. The use of independent bottled gas service for individual manufactured housing units is prohibited. All heating systems shall be designed and installed in accordance with Rules 934 and 940 of the Manufactured Housing Commission.
 - c. Minimum housing standard for the home or installation of the home plumbing, heating, and electrical systems shall be those either set forth by the United States Department of Housing and Urban Development (HUD) Manufactured Home Construction and Safety Standards or by ANSI (American National Standards Institute) for manufactured housing units predating HUD.
 - d. All manufactured housing sites and all other buildings within the development shall be connected to the water system of the governmental jurisdiction, if it is available to the development, or to another state approved system. The development water system shall conform to parts 2-4 of the Michigan Department of Environmental Quality (MDEQ) Manufactured Housing Community Standards.
 - e. All manufactured housing sites and all other buildings within the development shall be connected to the sanitary sewerage system of the governmental jurisdiction if it is available to the development, or to other state approved systems. The development sanitary sewerage system shall conform to MDEQ Manufactured Housing Community Standards.
 - f. All storm sewers shall be constructed in accordance with parts 2-4 of the MDEQ Manufactured Housing Community Standards by the developer.
10. *Skirting:* Skirting shall be installed around all manufactured housing units. Such skirting shall be compatible aesthetically with the appearance and construction of the manufactured housing unit. All skirting shall be installed prior to the issuance of a Certificate of Occupancy. In the event

that such installation is delayed due to weather, or for other similar reasons, a temporary certificate of occupancy may be issued for a period not to exceed ninety (90) days. All skirting shall meet the specifications established by the Michigan Manufactured Housing Commission Rules.

Individual manufactured housing units shall be skirted around the perimeter of the manufactured housing unit to conceal the underbody from view. Skirting shall be vented in accordance with the requirements of Rule 604 of the Manufactured Housing Commission Rules. All skirting shall be manufactured of fire-resistant material and certified as such by the manufacturer. Skirting shall be installed in a manner so as to resist damage under normal weather conditions and shall be properly maintained.

11. *Installation:* Each manufactured housing site shall conform with the Manufactured Housing Commission requirements of Rule 602 for installation of manufactured housing units.
12. *Screening, Buffering and Landscaping:* Manufactured housing communities shall provide the following screening, buffering and landscaping:
 - a. If a manufactured home development abuts an existing residential or non-residential development, the development shall provide screening along the boundary line abutting the adjacent development, if not in conflict with existing utilities.
 - b. The landscaping shall consist of evergreen trees or shrubs, which are spaced so they provide a continuous screen at maturity.
 - c. Landscape material shall consist of evergreen trees a minimum of four (4) feet in height at installation and evergreen shrubs a minimum of three (3) feet in height at maturity.
 - d. Alternative screening techniques (earth berms, fences, etc.) may be approved by the Planning Commission based upon a landscape plan for the site if they conceal the manufactured home development as effectively as the required landscaping described above.
 - e. *Homesite:* Landscaping within the Manufactured Housing Community shall consist of not less than one (1) deciduous or evergreen tree for every two (2) homesites.
13. *Public Health and Safety:*
 - a. Fire hydrants shall be installed in all manufactured housing developments and shall be in compliance with the requirements and provisions of the current local fire code, including the requirement that there be no more than five hundred (500) feet between hydrants as measured along adjacent roadways within the manufactured housing community. Such provision may be waived if required by the Michigan Department of Environmental Quality pursuant to Rule 1105(2) of the MDEQ Administrative Rules. If the central water system cannot support fire hydrants, "dry" fire hydrants shall be installed.

- b. For the protection of the public safety, an orderly street name system and numbering system that is not the same or similar to any other street name or numbers in Kent County shall be proposed by the manufactured housing development owner and a plan of this system of street names and addresses shall be approved by the Kent County Road Commission. Manufactured housing space numbers shall be located uniformly on each space, manufactured housing unit or identification marker, throughout the manufactured housing park and street names shall be adequately marked.
 - c. Cooking shelters, barbecue pits, fireplaces, and wood burning stoves shall be so located, constructed, maintained and used as to minimize fire hazards and smoke nuisance both on the site and on neighborhood property. Open fires shall not be allowed except in facilities provided and all such fires must be attended. No fuel shall be used or items burned which emit dense smoke or objectionable odors.
 - d. Every home shall be equipped at all times with fire extinguishing equipment in good working order, or a type, size, and number and so located within the home as to be in compliance with the applicable regulations of Rule 702a of the Manufactured Housing Commission.
 - e. Emergency access points shall be in compliance with Paragraph F, 2 of this Section.
 - f. Each manufactured housing unit shall have a safe and unobstructed primary exit and an emergency exit located away from the primary exit.
 - g. No open fire shall be permitted at any place which may endanger life or property.
 - h. No fire shall be left unattended at any time.
14. *Building Height:* No building or structure shall exceed thirty-five (35) feet in height.
 15. *Lighting:* Street lighting shall be provided and paid for by the owner of the community and shall be approved by the Manufactured Housing Commission as to the adequacy of illumination. No spot or flood lights shall be used for lighting or advertising purposes. No other lighting for identification or advertising purposes shall have a visible source of illumination. No lighting shall shine on adjacent properties. Lighting shall, if possible, be designed to point downward. All other lighting shall be in accordance with the State of Michigan, Act 96 of 1987 as amended.
 16. *Storage Areas:* All storage structures within a manufactured home development shall meet the requirements of Rules 941 and 944 of the Manufactured Housing Commission.
 17. *Open Space:* A manufactured home community that contains 50 or more home sites shall have not less than two (2) percent of the gross acreage of the total site dedicated to designated open space, but not less than

25,000 square feet.

18. *Telephone, Television, or Other Communication Technologies:* Central television antenna systems, cable television, telephone, or other similar communication services shall have their distribution systems installed underground in compliance with local and state regulations.
19. *Solid Waste and Resource Recovery:* The garbage and rubbish storage and disposal procedures in manufactured housing communities shall comply with Michigan Department of Environmental Quality Rules R325.3351-R325.3354.
20. *Severe Weather Warning and Storm-fallout Shelter:* A manufactured housing developer shall comply with Manufactured Housing Commission Rule 706.
21. *Signs.* Any and all signs provided within the manufactured home community shall not exceed a height of five (5) feet measured from the average grade, and shall be set back at least ten (10) feet from the side lot line and not located within the public road right of way.
 - a. *Development entrance:* One (1) sign not to exceed an area of sixteen (16) square feet, shall be permitted at each access entrance of the manufactured housing community, in accord with Section 201.403 of this Ordinance.
 - b. *Identification:* One (1) identification sign not to exceed an area of six (6) square feet shall be permitted for management offices and community buildings.
22. *School Bus Stops:* School bus stops, if provided, shall be located within the manufactured housing community in an area that is acceptable to the school district.
23. *Mailbox Clusters:* The United States Postal Service may require that manufactured home communities be served by clusters of mailboxes serving several homesites rather than individual mailboxes. If mailbox clusters are required, they shall be located at least two hundred (200) feet from any intersection of a manufactured housing community internal road and a public road.
24. *Miscellaneous Provisions:*
 - a. *Occupancy:* A manufactured housing community development shall be ready for occupancy when it has complied with rule 214k and 214n of the Manufactured Housing Commission.
 - b. *Removal of Towing Mechanisms:* Towing mechanisms shall be removed from the manufactured housing dwelling at the time of dwelling installations and stored so as not to be visible from the exterior of the manufactured housing community.
 - c. The grounds of a manufactured housing community shall be graded to drain properly.
 - d. New or used manufactured homes in manufactured home developments, which are to remain on-site, may be sold by resident, development owner, licensed retailer or broker, provided

the manufactured housing development management permits the sale.

- e. All requirements of Act 96 of the Public Acts of 1987, as amended, shall apply.
- f. The owner or operator of any manufactured housing community shall be responsible for all street construction and street maintenance within the confines of the manufactured housing community.

Fences on individual home sites, if provided, shall be so constructed as to provide firefighters and emergency response equipment reasonable access to manufactured housing units and site built structures.

(Amended: Ord. of 11-12-90; Ord. No. 99-1, § 4, 2-15-99, Ord. No. 2000-4, 10-16-00, Ord. No. 2002-6, 5-20-02, Ord. No. 2002-9, 6-17-02)

201.417 Off-street parking of motor vehicles.

4.17.

- A. Off-street parking shall be prohibited in the areas between buildings and the abutting street line or lines within the "R-A", "R-1", "R-2" and "R-3" Districts except for temporary parking within parking bays, strips or turnaround areas and within private driveways not exceeding twenty (20) feet in width upon such properties.
- B. Every property owner shall provide and maintain at all times an adequate number of off-street parking spaces, and the necessary loading and unloading facilities associated thereto in each district for all occupants, employees and patrons of said property.
- C. A plan showing the required parking and loading spaces including the means of access and interior circulation shall be provided at the time of application for a building permit for the erection or enlargement of any building other than a single family or two (2) family dwelling.
- D. Parking of motor vehicles in residential districts shall be limited to passenger vehicles and not more than one (1) commercial vehicle of the light delivery type not to exceed three-quarter (3/4) ton. The parking of any other type of commercial vehicle or bus, except for those parked on school property, is prohibited in residential districts.
- E. Requirements for all parking spaces and parking lots:
 - 1. Each automobile parking space shall be not less than two hundred (200) square feet and not less than ten (10) feet wide, exclusive of driveway space.
 - 2. All off-street parking facilities shall be drained so as to prevent damage to abutting properties or public streets and shall be constructed of materials which will have a dust-free surface resistant to erosion.
 - 3. Any lighting fixtures used to illuminate any off-street parking area shall be so arranged to reflect the light away from any adjoining residential lots

and meet the commercial and industrial zoning district lighting sections and the general lighting sections of 201.413 and 201.413A.

4. No parking space shall be closer than five (5) feet from the property line.
5. Off-street parking facilities in nonresidential areas shall be effectively screened on any side which adjoins or faces property in any residential area by a wall, fence or compact planting not less than four (4) feet or more than eight (8) feet in height. Plantings shall be maintained in good condition and not encroach on adjoining property. Screening shall not be so placed or maintained as to provide a traffic hazard through obstruction of visibility.
6. All off-street parking areas that make it necessary for vehicles to back out directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas of single or two (2) family dwellings.
7. Space for all necessary loading and unloading operations for any commercial, industrial or other use must be provided in addition to the required off-street parking spaces. All loading and unloading operations must be carried on entirely within the lot area of the use it serves and shall not interfere with pedestrian or vehicular movement.
8. The requirement for the provision of parking facilities with respect to two (2) or more property uses of the same or different types may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, cooperatively established and operated, provided that the number of spaces designated is not less than the sum of individual requirements and provided further that the other requirements of this Ordinance are complied with.
9. The number of parking spaces required for land or buildings used for two (2) or more purposes shall be the sum of the requirements for the various individual uses; parking facilities for one (1) use shall not be considered as providing the required parking facilities for any other use.
10. Requirements for barrier free (ADA) parking spaces, curb, ramps, and signs shall be as required by the Township Building Code and the Michigan Barrier Free Rules.

F. Minimum Required Parking Spaces:

1. Multiple family dwellings: two (2) parking spaces per family unit.
2. Office buildings:
 - a. Medical/dental, veterinary clinics or offices: four spaces per 1000 square feet of gross floor area. A minimum of six spaces shall be required.
 - b. General office buildings: One space per 300 square feet of gross floor area. A minimum of four spaces shall be required.
 - c. Banks, credit unions or savings and loans: Six spaces per 1000 square feet of gross floor area, plus two spaces per each non-drive-through automatic teller plus four on-site waiting spaces for each drive-up window or drive through automatic teller.

3. Retail and service uses:
 - a. Retail stores, grocery store, department store and similar uses: one space per 200 square feet of usable floor area plus one per employee.
 - b. Shopping Center: four spaces per 1000 square feet of the stores and usable floor area.
 - c. Personal service establishments and repair shops: One space per each 300 square feet of usable floor area plus one per employee.
 - d. Laundry and dry cleaning: two spaces per 1000 square feet of gross floor area. A minimum of four spaces shall be required. Laundromat with self-washers shall provide one space per three washing machines.
 - e. Motor Vehicle dealership: One space per 5000 square feet of outdoor sales area, plus one space per sales deck/office, plus three spaces per service bay. A minimum of six spaces shall be required.
 - f. Recreational vehicle and boat dealerships: One space per 800 square feet of gross floor area, plus two spaces per each vehicle service bay. A minimum of six spaces shall be required.
4. Industrial uses.
 - a. *Light manufacturing, processing, assembly and fabrication, research and testing labs*: One space for each five hundred (500) square feet of gross production floor area plus one space for each three hundred (300) square feet of net usable office area, or, two (2) spaces for each three (3) employees computed on the basis of the maximum number employed during the busiest shift, whichever is the greater number.
 - b. *Warehouse, packing, crating, wholesale establishments and distribution centers*: One space for each one thousand (1,000) square feet of gross storage and distribution floor area plus one space for each two hundred (200) square feet of net usable office area, or, one space for each employee based on the shift with the most employees, whichever is the greater number.
 - c. *Mini-warehouse*: Two (2) parking spaces plus one (1) space for every employee in the largest working shift, provided that parking and non-parking areas shall be clearly marked to facilitate ingress and egress and to eliminate hazards. Drive aisles serving mini warehouse facilities shall be at least twenty-four (24) feet wide to accommodate loading and unloading and the free flow of traffic between parked vehicles.
 - d. Vehicle repair shops: Two spaces per each service bay, plus one per each employee, plus one per each 200 square feet of retail area.
 - e. Construction contractors: One per employee plus one space per

500 square feet of usable floor area.

- f. For parking formulas not listed in this section (4) but listed in the remainder of section (F), the appropriate formulas shall be applicable.
5. Libraries, museums and post offices: one (1) parking space for each three hundred (300) square feet of floor area.
6. Commercial recreation establishments – bowling alleys: three (3) parking spaces for each alley; skating rinks, miniature golf, arcades, billiard halls, go-cart tracks, exercise and health clubs, and similar uses: seven (7) parking spaces for each one thousand (1,000) square feet of floor area; and tennis clubs: four (4) parking spaces for each court. Provided, the Planning Commission may require additional parking spaces, or may limit the number of parking spaces and/or patrons, for a proposed commercial recreation establishment where it finds that in doing so the rural character of an area would be preserved and the public health, safety and welfare would be protected.
7. Rural recreation facilities – golf courses and country clubs: nine (9) parking spaces for each hole; polo fields, archery clubs and similar uses: one (1) parking space per each member; outdoor sports fields: one (1) parking space per each five (5) seats, or per each five (5) anticipated patrons. Provided, the Planning Commission may require additional parking spaces, or may limit the number of parking spaces and/or patrons, for a proposed rural recreation facility where it finds that in doing so the rural character of an area would be preserved and the public health, safety and welfare would be protected.
8. Motels and tourist homes: one (1) parking space for each separate unit.
9. Theaters, auditoriums, stadiums and churches: one (1) parking space for each four (4) seats.
10. Dance halls, assembly halls and convention halls without fixed seats: one (1) parking space for each one hundred (100) square feet of floor area if to be used for dancing or assembly.
11. Restaurants and night clubs: one (1) parking space for each one hundred (100) square feet of floor area.
12. Roadside stand: two (2) parking spaces.
13. Schools, private or public elementary and junior high schools: one (1) parking space for each employee normally engaged in or about the building or grounds. Senior high schools and institutions of higher learning: one (1) parking space for each employee normally engaged in or about the building or grounds and one additional space for each five (5) students enrolled in the institution.
14. Group child care home: one (1) space for each employee, one (1) space for each family member's vehicle (unless garage is used) and adequate spaces and turn around area for drop off and pick up of children under care at the home.
15. Other uses not specifically mentioned: in the case of buildings which are

used for purposes not specifically mentioned in this section, the provisions for a use which is similar in terms of parking demand shall apply.

16. Mixed uses in the same building: in the case of mixed uses in the same building, the amount of parking space for each use specified shall be provided and the space for one (1) use shall not be considered as providing required spaces for any other use, except as to churches and auditoriums incidental to public and parochial schools.
17. No parking area, parking space or loading space which exists at the time this Ordinance becomes effective or which thereafter is provided for the purpose of complying with the provisions of this Ordinance shall be relinquished or reduced in any manner below the requirements established by this Ordinance unless additional parking area or space is provided sufficient for the purpose of complying with the provisions of this Ordinance within three hundred (300) feet of the proposed or existing uses for which such parking will be available.

(Amended: Ord. of 11-12-90; Ord. No. 95-6, 4-17-95, Ord. No. 2004-4, 4-19-04, Ord. No. 2009-4, 11-16-09, Ord. No. 2010-1, 06-21-10, Ord. No. 2014-2, 10-20-14)

201.418 One dwelling per lot; open space.

4.18. Not more than one (1) detached dwelling shall be constructed on any lot.

No single-family, two-family or multiple-family dwelling or dwellings together with buildings accessory thereto shall occupy more than thirty percent (30%) of the ground area of the lot or parcel upon which the same is located.

201.419 Private stables.

4.19. In any residential district, a private stable shall not be located less than seventy five (75) feet from any adjoining property line.

(Amended: Ord. No. 2000-2, 3-20-00)

201.420 Residential buffer area.

4.20. As a result of the lack of zoning for industrial and commercial uses prior to the adoption of this Ordinance, some residential dwellings have been constructed and located within areas that are predominately commercial or industrial. In order to protect such existing dwellings from new commercial or industrial activities or structures, no new commercial or industrial activities or structures shall hereafter be located closer than one hundred (100) feet to any such existing dwelling which is occupied for residential purposes. Any such new commercial or industrial structure or activity shall be screened from such adjoining dwelling in accordance with the provisions set forth in the Sections of this Ordinance governing the "C" and "I" Districts, as well as all other regulations and requirements of this Ordinance.

The foregoing provisions shall not operate to reduce by more than fifty percent (50%) the usable area of the adjoining commercial or industrial property under bona fide separate ownership on the effective date of this Ordinance. If the foregoing provisions would cause such a result, the residential buffer area shall be modified accordingly to permit such fifty percent (50%) use.

201.421 Sanitary facilities required.

4.21. Every structure hereafter erected for dwelling purposes shall be provided with running water, adequate inside water closet accommodations and sanitary or sewage facilities which shall meet the requirements and specifications prescribed by the Kent County Health Department, as evidenced by a permit issued by such department. No outside toilets shall hereafter be erected except such as may temporarily be needed during construction on the premises.

201.422 Swimming pools.

4.22. Swimming pools may be installed in any district as an accessory use. All pools must meet the following conditions:

- A. Pools may be installed in the side or rear yards of a lot in residential and agricultural districts. Motels and hotels may install pools in the front yard.
- B. Fencing, gates, pool decks, safety covers and door alarm systems shall comply with the State Building Code.
- C. Pools shall not be erected closer than five (5) feet to the rear and side property lines of the lot. In the case of corner lots, the pool shall not be located closer than twenty (20) feet from any property line abutting any right-of-way.
- D. Pools may not occupy more than forty percent (40%) of the area of the yard. In computing such area, all other accessory structures shall be excluded.
- E. If a public water supply system is available, only public water shall be used to supply water for the pool.
- F. The inlet of the water supply system shall be above the overflow level of the pool and shall be fitted with an anti-siphon device.
- G. The pool shall be chemically treated in a manner sufficient to maintain bacterial standards established by the provisions of the Department of Health relating to public swimming pools.

Amended: 5-15-17; Ord. No. 2017-3

201.423 Tents and Recreational Vehicles

4.23.

- A. Permit Required. Tents, recreational vehicles, and trailers shall not be used as permanent dwellings within the Township; provided, that recreational vehicles may be used for temporary dwellings for up to thirty (30) days per calendar year per property without a permit. For a duration exceeding 30 days, a permit for a temporary dwelling must first be issued by the Zoning Administrator pursuant to this section.
 - 1. A permit issued under this section shall be limited to a period of twelve (12) months. An approved permit shall be renewed on an annual basis. If the occupancy of the recreational vehicle continues beyond the terms of the permit, the Township shall notify the owner of the violation and intent to remove the recreational vehicle. If the owner fails to remove the recreational vehicle after the owner is notified, the Township may remove the recreational vehicle.

2. Upon applying for such a permit, the applicant shall pay an application fee, as established by the Township Board, along with other fees or guarantees as may be required.

B. General Provisions. In all cases, the following standards shall apply:

1. Recreational vehicles and trailers may only be used as temporary dwellings when accessory and incidental to a permanent dwelling.
2. The recreational vehicle shall be located such that it meets all required setbacks for the district in which it is located.
3. Recreational vehicles shall have, or be located on a lot that has, access to running water and sewage facilities approved by the Kent County Health Department.
4. The vehicle shall be designed for sleeping.
5. A recreational vehicle or trailer shall be licensed and registered, in compliance with State of Michigan regulations, and shall have properly inflated tires, working signals, brake lights, and shall be maintained in good condition.
6. The provisions of this section do not apply to travel trailer camps, campgrounds, manufactured housing communities, and similar licensed facilities.
7. A recreational vehicle, tent, trailer or motorhome shall not be used for rental purposes.

(Amended: Ord. No. 2019-02, 6-17-19)

201.424 Satellite dish antennas.

4.24. No satellite dish antenna shall be constructed, installed, maintained, or operated in any district except in conformance with this section and other applicable sections of the ordinance.

- A. The antenna shall be located to conform with the setbacks required for an accessory building.
- B. The antenna shall be securely anchored.
- C. The maximum height shall be fifteen (15) feet.
- D. No portion of the antenna shall contain any name, message, symbol, or other graphic representation.
- E. A site plan shall be submitted to the building inspector for approval prior to issuance of a zoning compliance permit (see Section 201.602 A. 2).
- F. Adjacent property owners shall be notified.

201.425 Site condominium subdivisions.

4.25.

- A. *Purpose and Scope.* Site condominium subdivisions are developments utilizing

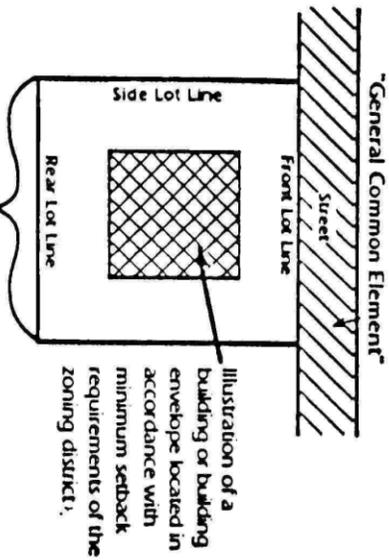
the technique of land division on the basis of condominium ownership. Such developments are not subject to the Subdivision Control Act, Public Act 288 of 1967 as amended and therefore the detailed review and approval procedures that are customarily relied upon to ensure "subdivision" development's compliance to local development standards are not applicable. In the absence of a similarly appropriate mechanism for uniform review and Approval Standards being contained in the Condominium Act, the purpose of these Regulations is to set forth the procedures under which Site Condominium Subdivision developments shall be reviewed in Vergennes Township.

It is the intent of these regulations to ensure that all applicable zoning and development standards of Vergennes Township are incorporated into the design and construction of site condominium subdivisions so that the results of this type of development are essentially the same as the results which would be accomplished under the Subdivision Control Act.

- B. *Definitions.* The following terms are defined both in the context of the Condominium Act and in a manner intended to make comparison possible between the terms of this Zoning Ordinance and other current or future land subdivision and utility extension regulations adopted by Vergennes Township.
1. *"Condominium Act"* means Public Act 59 of 1978, as amended.
 2. *"Condominium Project"* means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act.
 3. *"Condominium Structure" or "Building Envelope"* shall mean the principal building or structure intended for or constructed upon a lot or building site, together with any attached accessory structures; e.g. in a residential development, the condominium structure or building envelope would refer to the house and any attached garage.
 4. *"Condominium Unit"* means that portion of the condominium project designed and intended for separate ownership and use, as described in the Master Deed, regardless of whether it is intended for residential, office, industrial, business, or recreational use as time-share unit, or any other type of use.
 5. *"Lot(s)"* shall mean the same as building site(s) and is that portion(s) of a condominium project designed and intended for separate ownership and/or exclusive use, as described in the Master Deed. Lots shall be further defined as: (see diagram)

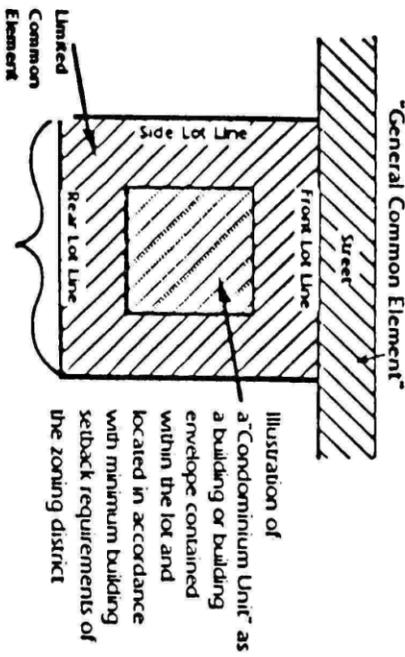
Examples of "Site Condominium Lots"

Definition "A"



In this case the entire "lot" is the "Condominium Unit". It is owned and used by one person. By itself, the "condominium unit" meets the minimum size and dimensional requirements for "lots" in the zoning district.

Definition "B"



In this case the "lot" consists of a limited common element which is owned by an association but is assigned to the exclusive use of one condominium unit owner. The limited common element together with the area within or under the condominium unit meets the minimum size and dimensional requirements for lots in the zoning district.

- a. A condominium unit consisting of the area under a building envelope and the contiguous area around the building envelope which, by itself, meets the minimum area and yard requirements for lots as defined in Section 201.202, Definitions, of this Ordinance; or
 - b. The contiguous limited common element under and surrounding a condominium unit that is or shall be assigned to the owner(s) of the condominium unit, for the owner(s) exclusive use, and which, together with the condominium unit, meets the minimum area and yard requirements of this Ordinance for lots as defined in Section 201.202.
6. *"Mobile Home Condominium Project"* means a condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.
7. *"Master Deed"* means the legal document prepared and recorded pursuant to Public Act 59 of 1978, as amended, to which is attached as exhibits and incorporated by reference the approved bylaws for the project and the approved condominium subdivision plan for the project.
8. *"Setback - Front, Side and Rear Yard"* shall mean the distance measured from the respective front, side, and rear yard boundary lines associated with the lot to the respective front, side, and rear of the condominium structure/building envelope.
9. *"Site Condominium Subdivision Plan"* means the drawings attached to the master deed for a site condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the site condominium subdivision, as well as the nature, location, and size of common elements.
- C. *Zoning Compliance.* Site condominium subdivision projects may be approved in any zoning district. All site condominium subdivision lots and structures therein shall conform with the size, height, area, setback, and general and special regulations applicable to the use and the zoning district in which the subdivision is located. Mobile Home Condominium projects shall conform to the requirements of this section and shall not be governed by Section 4.16 of this Zoning Ordinance.
- D. *Site Condominium Subdivision Review and Approval Procedures.* An application for a condominium development, together with all documents required by this section (201.425), the payment of all review fees established by the Township, and a site plan complying with this section and Section 201.502D shall be submitted to the Zoning Administrator. Once the applicant has submitted all the required documents and paid the required fees, the site plan and all other documents shall be reviewed by the Planning Commission who shall make a recommendation to the Township Board. The Township Board shall be the body to approve, reject, or approve with conditions the condominium documents and site plan.

As a condition of Final Site Condominium Subdivision approval, the Township Board shall require that the subdivision plans be submitted to the Kent County Health Department, Kent County Road Commission, Kent County Drain Commission, Michigan Department of Natural Resources, and other appropriate

state and county review and enforcement agencies having direct approval or permitting authority over all or part of the project's construction phase.

As part of the Planning Commission recommendation and the Township Board approval, the applicant may provide a conservation easement in the form set forth at Section 201.502D of the Ordinance.

The Zoning Administrator or designee shall only be authorized to issue the required Site Condominium Construction Permit for the construction of required improvements upon being furnished with evidence that all applicable approvals and permits for the project from appropriate county and state review and enforcement agencies have been received by the applicant. Such evidence shall also be transmitted by the applicant to the Township Clerk for receipt and filing.

- E. *Effect of Approval.* Approval of a Site Condominium Construction Permit for a Site Condominium Subdivision project shall serve as conditional authorization to proceed with the division of the land on the basis of condominium ownership and the construction of required improvements to the land in conformity with approved subdivision plans. Site Condominium Subdivision approval shall not serve as the authorization of land uses on individual lots within the subdivision. Individual uses shall be subject to authorization under the provisions of Chapter 6 and any general or special regulations applicable to the use as outlined in this Chapter and Chapter 3.
- F. *Site Condominium Subdivision Plans--Required Content.* The Site Plan submitted for a Site Condominium Subdivision shall be consistent with the requirements outlined in Chapter 5, Section 5.02 [201.502]D, showing, among other aspects, the location, size, shape, area, and width of all lots, all general and limited common elements and street and utility layout. In addition, the following shall be included as part of the application for site condominium subdivision approval:
1. A survey plan of the project.
 2. The use and occupancy restrictions and maintenance provisions for all general common elements as will be contained in the Master Deed.
 3. A "Consent to Submission of Real Property to Condominium Project", listing all parties which have ownership interest in the proposed site condominium subdivision; or evidence of authority or right that the developer has a legal option to purchase the subject project from the owner(s) of record.
 4. A storm drainage and stormwater management plan, including all lines, swales, drains, basins, and other facilities.
 5. A utility plan showing all easements to be granted to the public or private utility providers for installation, repair and maintenance of all utilities.
- G. *Site Condominium Subdivision Layout and Design, Required Improvements.* Site condominium subdivision plans shall conform to the design, layout, and improvements standards as may be required by the Township Board. Any such standards and regulations are hereby incorporated by reference in this Section.
1. Streets: If a site condominium subdivision is proposed to have public streets, the Township Board shall require that the streets be paved and developed to the minimum design, construction, inspection, approval, and

maintenance requirements for platted public streets as adopted by the Kent County Road Commission. All private streets in a site condominium subdivision shall conform to the minimum standards for private roads as adopted by the Township Board.

2. Utilities: Extension and provision of utilities shall be provided as may be required by the Township Board as conditions of approval.

H. *Master Deed--Contents.* All provisions of the site condominium plans which are approved by the Township pursuant to this Section must be incorporated, as approved, in the Master Deed for the site condominium subdivision. Encroachment of one condominium unit or site condominium lot upon another shall be prohibited. A copy of the Master Deed as filed with the Kent County Register of Deeds for recording must be provided to the Township Clerk within ten (10) days after such filing with the County.

I. *Site Condominium Subdivision Revisions.* Changes and revisions to a Site Condominium Plan shall be reviewed in accord with the following provisions:

1. Minor Amendments. Minor amendments shall be reviewed by the Zoning Administrator and shall be approved if the Zoning Administrator finds that such changes will not adversely affect the initial reasons for granting approval, significantly alter the nature of the project or limited relax any condition of approval approved by the Township Board. For the purposes of this paragraph, minor amendments shall be limited to the following:
 - a. Moving or adjusting condominium unit lot lines to accommodate a natural impediment such as soil conditions or subsurface geology or a standard of a public regulatory agency, providing that such change does not reduce the area of any condominium unit below the standards of the zoning district and provided the change does not result in a change in the total number of units approved.
 - b. Moving the ingress and egress drive a distance up to one hundred (100) feet, if required by the Kent County Road Commission or Michigan Department of Transportation.
 - c. Substituting a landscape material provided a nurseryman or landscape architect certifies that the substituted species is of a similar nature and quality.
 - d. Changing the location and/or design of exterior light fixtures provided that there will be no change in the intensity of site lighting and the location conforms to the requirements of this Ordinance.
 - e. Changing the dimensions or location of approved signage provided that the sign conforms to the requirements of this Ordinance.
 - f. Altering the location of an accessory structure that is less than one hundred (100) square feet in area provided that the location does not encroach on any approved parking, loading, or landscape areas and otherwise conforms to the requirements of this Ordinance.
 - g. Changing the height and/or material of fencing provided that the height conforms to the requirements of the Ordinance and that

any substituted material is similar in character and quality.

2. Other amendments. Any proposed changes to an approved Site Condominium Plan, other than minor amendments as defined in Section 201.425, I, 1, including the relocation of boundaries or the subdivision of a condominium lot, must be reviewed and approved by the Township pursuant to the requirements and procedure set forth in Paragraph D above.

(Amended: Ord. of 11-12-90; Ord. No. 99-1, § 5, 2-15-99; Ord. No. 2000-3, 7-17-00, Ord. No. 2002-13, 10-21-02)

201.426 Land Division of property.

4.26

- A. *Purpose and scope.* Michigan Public Act 591 of 1996 and Public Act 87 of 1997, the Land Division Act, substantially alters the Michigan Subdivision Control Act, P.A. 288 of 1967, with respect to the division of unplatted land by amending certain subsections and adding new subsections to the "General" portion of P.A. 288 of 1967.

Not addressed in P.A. 591 of 1996 and P.A. 87 of 1997 are those portions of P.A. 288 of 1967 not directly involved with the subdivision of unplatted property and these remain in effect. The Michigan Condominium Act (P.A. 59 of 1978), which provides for a separate method of establishing land division, is not a part of the amendments to the Subdivision Control Act that are stated in P.A. 591 of 1996.

The significant effect on unplatted land division resulting from P.A. 591 of 1996 and P.A. 87 of 1997, and the necessity under such changes for Vergennes Township to make certain determinations with regard to land division, has resulted in these ordinance amendments.

- B. Unless otherwise regulated under the provisions of the Vergennes Township Zoning Ordinance, prior to the subdivisions of any property, irrespective of the form of ownership and other provisions of Michigan law affecting the subdivision of property, a site development plan shall be submitted to the Clerk for the Zoning Administrator for review and approval under Section 201.502 D, and Section 201.426, if such subdivision involves or will involve the establishment of private roads or streets, driveways or any easement which will provide access to the property. Any private road must obtain the approval of the Township Board as required by Section 201.414A.

- C. *Definitions.*

1. *"Act"* means Michigan P.A. 288 of 1967 as amended, including P.A. 591 of 1996 and P.A. 87 of 1997, the Land Division Act.
2. *"Ordinance"* means The Vergennes Township Zoning Ordinance, as amended.
3. *"Plat"* means a map or chart of a subdivision of land (also see section 201.202, Definitions: Lots).
4. *"Land"* means all land area occupied by real property.
5. *"Preliminary plat"* means a map showing the salient features of a

proposed subdivision submitted to the Township for purposes of preliminary consideration for approval.

6. *"Division"* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than [forty] (40) acres or equivalent, and that satisfies the requirements of Sections F and G. Division does not include a property transfer between [two] (2) or more adjacent parcels, if the property taken from [one] 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the provisions of the Ordinance.
7. *"Exempt split"* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one [1] or more parcels of less than [forty] 40 acres or the equivalent. For a property transfer between [two] 2 or more adjacent parcels, if the property taken from one [1] parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Ordinance.
8. *"Subdivide"* or *"Subdivision"* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than [one] 1 year, or of building development that results in one [1] or more parcels of less than forty [40] acres or the equivalent, and that is not exempted from the provisions of this Ordinance by Sections F and G. "Subdivide" or "Subdivision" does not include a property transfer between [two] 2 or more adjacent parcels, if the property taken from [one] 1 parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Ordinance.
9. *"Parcel"* means a continuous area or acreage of land which can be described as provided for the Act or the Ordinance.
10. *"Tract"* means [two] 2 or more parcels that share a common property line and are under the same ownership.
11. *"Parent parcel"* or *"parent tract"* means a parcel or tract, respectively, in existence on the effective date of P.A. 591 of 1996 and P.A. 87 of 1997, the Land Division Act, which amended P.A. 288 of 1967, the Subdivision Control Act.
12. *"Accessible"* in reference to a parcel, means that the parcel meets [one] 1 or more of the following requirements:
 - a. Has an area where a driveway provides vehicular access to an existing road or street and that meets all applicable location standards of the Ordinance, or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards.
 - b. Is served by existing easement of record that provides vehicular

access to an existing road or street and that will meet all applicable location standards of the Ordinance, State or County when constructed.

13. *"Development site"* means any parcel or lot on which exists, or which is intended for, building development other than the following:
 - a. Agricultural production and associated uses as defined in the Ordinance and the Act.
 - b. Forestry use involving the planting, management or harvesting of timber.
 14. *"Forty [40] acres or the equivalent"* means [forty] 40 acres, a quarter-quarter section containing not less than [thirty] 30 acres, or a government lot containing not less than [thirty] 30 acres.
 15. *"Lot"* means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.
 16. *"Out lot"*, when included in the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park, or other land dedicated to public use or reserved to private use.
 17. *"Proprietor"* means a natural person, firm, association, partnership, corporation, or combination or any of them that holds an ownership interest in land whether recorded or not.
- D. An exempt split (see C. (7) above) is not subject to approval under the Act and this Ordinance so long as the resulting parcels are accessible.
1. A division (see C. (6) above) is not subject to the platting requirements of the Act but is subject to the requirements of Sections F. and G.
 2. A subdivision (see C. (8) above) is subject to the platting requirements of the Act and the Ordinance.
 3. An exempt split or other partitioning or splitting of a parcel or tract that only results in parcels of twenty [20] or more acres in size is not subject to approval under this act if the parcel or tract is not accessible and one [1] of the following applies:
 - a. The parcel or tract was in existence on March 31, 1997.
 - b. The parcel or tract resulted from an exempt split or other partitioning or splitting under this section.
- The proprietor shall provide the purchaser of a parcel resulting from an exempt split or other partitioning or splitting under this section with the following written statement before closing: "This parcel is not accessible as defined in the land division act, 1967 PA 288, MCL 560.101 to 560.298."
- E. Approval of a preliminary plat, or final plat, shall be conditioned upon compliance with all of the following:
1. The provisions of the Act and the Ordinance.
 2. The published rules of the Kent County Drain Commissioner, Road

Commission and Health Department pertaining to drainage, entry on to public roads or streets and suitability of a lot, parcel, tract or plat for an on-site sewage disposal system and an on-site well unless public systems are available.

- F. A division (see C. (6) above) is not subject to the platting requirements of the Act but is subject to the requirements of this Section and Section G.
1. Subject to subsection F. (2), the division, together with any previous divisions of the same parent parcel or parent tract, shall result in a number of parcels not more than the sum of the following, as applicable:
 - a. For the first [ten] 10 acres or fraction thereof in the parent parcel or parent tract, [four] 4 parcels.
 - b. For each whole ten [10] acres in excess of the first 10 acres in the parent parcel or parent tract, one [1] additional parcel for up to a maximum of [eleven] 11 additional parcels.
 - c. For each whole forty [40] acres in excess of the first [one hundred twenty] 120 acres in the parent parcel or parent tract, [one] 1 additional parcel.
 2. For a parent parcel or parent tract of not less than twenty [20] acres, the division may result in a total of two [2] parcels in addition to those permitted by section F if one [1] or both of the following apply:
 - a. Because of the establishment of one [1] or more new roads, no new driveway accesses to an existing public road for any of the resulting parcels under section F of this subsection are created or required.
 - b. One of the resulting parcels under section F and this subsection comprises not less than sixty [60%] percent of the area of the parent parcel or parent tract.
 3. A parcel of forty [40] acres or more created by the division of a parent parcel or parent tract shall not be counted toward the number of parcels permitted under section F and is not subject to Section G if the parcel is accessible.
 4. A parcel or tract created by an exempt split or a division is not a new parent parcel or parent tract and may be further partitioned or split without being subject to the platting requirements the Act or the Ordinance if all of the following requirements are met:
 - a. Not less than ten [10] years have elapsed since the parcel or tract was recorded.
 - b. The partitioning or splitting results in not more than the following number of parcels, whichever is less:
 - (1.) Two [2] parcels for the first ten [10] acres or fraction thereof in the parcel or tract plus [one] 1 additional parcel for each whole ten [10] acres in excess of the first ten [10] acres in the parcel or tract.
 - (2.) Seven [7] parcels, or ten [10] parcels if one of the resulting

parcels under this subsection comprises not less than sixty [60%] percent of the area or parcel or tract being partitioned or split.

- c. The partitioning or splitting satisfies the requirements of Section G.
5. A parcel or tract created under the provisions of section (F) (4) may not be further partitioned or split without being subject to the platting requirements of the Act and the Ordinance, except in accordance with the provisions of section (F) (4)
- G. The township shall approve or disapprove a proposed division within forty-five [45] days after the filing of a complete application for the proposed division with the assessor or other Township designated official.
1. If in addition to the requirements of section F, if all of the following requirements are met, with the stipulation that if all the requirements are not met at time of filing, the forty-five [45] day period will not start until all requirements are met:
 - a. A copy of the deed for the parent parcel is provided for determining the presence or absence of the statement on split conveyance in subsection (3) below, and each resulting parcel has an adequate and accurate legal description and is included in a tentative parcel map showing area, parcel lines, public utility easements, accessibility and other requirements of this section and section F. The tentative parcel map shall be a scale drawing showing the approximate dimensions of the parcels.
 - b. Each resulting parcel has a depth of not more than four [4] times the width except that these depth to width ratio requirements do not apply to a parcel larger than ten [10] acres and do not apply to the remainder of the parent parcel or tract retained by the proprietor. The Township may allow a greater than 4:1 depth to width ratio in specific and exceptional cases involving topography or other physical conditions with respect to the parcel and compatibility with surrounding lands.
 - c. Each resulting parcel has a width not less than that required by the Ordinance.
 - d. Each resulting parcel has an area not less than that required by the Ordinance.
 - e. Each parcel is accessible as defined in section C (12).
 - f. The division meets all the requirements of Section F.
 - g. Each resulting parcel that is a development site has all of the following:
 - (1.) Public water or Kent County Health Department approval for an on-site water supply.
 - (2.) Public sewer or Kent County Health Department approval for on-site sewage disposal.

- (3.) Adequate easements for public utilities from the parcel to existing public utilities.
2. The right to make divisions exempt from the platting requirements of the Act and this section and section F can be transferred, but only from a parent parcel or parent tract to a parcel created from the parent parcel or parent tract. A proprietor transferring the right to make a division pursuant to section F and the Act shall within forty-five [45] days give written notice of the transfer to the assessor.
3. A person shall not sell a parcel of unplatted land unless the deed contains a statement as to whether the right to make further divisions exempt from the provisions of the Act and this section and section F is proposed to be conveyed. The statement shall be in substantially the following form:
- "The grantor grants to the grantee the right to make _____ division(s) under section F of this Ordinance and the Act as amended."
- In the absence of a statement conforming to the requirements of this subsection the right to make such divisions stays with the remainder of the parent tract or parent parcel retained by the grantor.
4. After the effective date of the Act and this subsection all deeds for parcels of unplatted land within Vergennes Township shall contain the following statement:
- "This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management operations which may generate noise, dust, odors and other associated conditions may be used and are protected by the Michigan Right To Farm Act."

(Amended: Ord. of 11-12-90; Ord. No. 97-1, 3-31-97; Ord. No. 99-1, § 6, 2-15-99; Ord. No. 2000-3, 7-17-00, Ord. No. 2007-1, 5-21-07)

201.427 Historic Districts Commission. (Deleted)

(Amended: Ord. of 11-12-90, Deleted Entire Section Ord. No. 2008-1, 7-21-08)

201.428 Open burning.

4.28.

- A. No open burning of flammable material is permitted within the township except when the ground is snow covered unless a burning permit is obtained from the City of Lowell Fire Department, which has fire control responsibility for the township. The permit must be obtained prior to each burning, except that for those engaged in agriculture or other activities that may require more than one such burning each year, a permit may be obtained annually, and the City of Lowell Fire Department shall be notified not later than the beginning of each planned burning under the annual permit.
- B. Regardless of the possession of such burning permit, no open burning is permitted within 50 feet of a building or at any time a high wind is blowing.
- C. Prior to such open burning, an adequate fire line shall be prepared around the area in which burning is to take place; and sufficient water, shovels, and

manpower shall be present and remain at the site until the fire is completely extinguished.

- D. Any person who does not hold a burning permit when such permit is required, or who holds a burning permit and does not follow the terms of the permit, and allows a fire to escape and become an uncontrolled fire is, in addition to any penalties that may be prescribed under State statutes, liable for all expenses incurred by the Township in suppression of such fire and is also liable for all damage to property which may result.
- E. Exceptions. The provisions of this section shall not prevent:
 - 1. The burning of charcoal, wood or other accepted fuel for preparing of food in an approved container, fire proof ring or utensil while being used in a safe and sanitary manner.
 - 2. The use of approved gaseous or liquid fired "salamanders" commonly employed in conjunction with building and construction operations when used in accordance with accepted safety standards.
 - 3. Roofers, plumbers, tinnerns or other mechanics pursuing a business requiring the use of fire for the purpose of boiling tar, pitch or oil used in the regular course of an appropriate business or trade, and while being used in a safe manner.
 - 4. The burning of empty bags such as those used in agriculture to contain seed, fertilizer or for other agricultural usages, provided that such burning is carried out on tilled bare soil at least 50 feet from the nearest vegetation and is supervised until the fire is out.

(Amended: Ord. No. 92-1, 3-9-92)

201.429 Planned Unit Development (PUD).

4.29.

- A. *Purpose.* Generally accepted zoning practices are based on strict lot size and placement controls for each zoning district and usually result in a typical grid pattern of development.

Planned unit development offers a controlled method for flexible utilization and development of medium to large parcels of land in appropriate locations. In such a development the structures are typically clustered so as to retain the same overall density for the total parcel that would be the case with the conventional zoning pattern for the district. It then becomes possible to provide a more desirable living environment by protecting natural features such as wooded areas, streams, hills and similar natural assets.

The provisions of this Section are not intended as a device for ignoring the Zoning Ordinance or the land use planning on which it has been based. To that extent, provisions of this Section are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Section. A Planned Unit Development must comply with this Section.

- B. *Intent.* The intent of this Section shall be

1. To encourage open space and recreational facilities within and around residential development.
 2. To enable and encourage developers to use a more individual and imaginative approach in the development of medium to large parcels of land than is possible under traditional zoning practice.
 3. To encourage underground utilities which can be efficiently designed when planning a larger area.
 4. To permit a compatible mix of land uses that will result in safe and efficient uses of land, enhanced housing, shopping and job opportunities, and attractive living environments.
- C. *PUD Use Regulations.* A Planned Unit Development may be approved as a Special Exception Land Use in the RA, R-1, R-2, R-3, R-L, C and I Districts within Vergennes Township. Any land use authorized in this Ordinance may be included in a PUD, subject to adequate public health, safety and welfare mechanisms being designed into the development, and the following:
1. *Effect.* An approval granted under this section, including all aspects of the final site plan and the conditions imposed, shall become an enforceable part of the Zoning Ordinance.
 2. *Minimum Size.* The proposed area for PUD development shall be a minimum of three (3) acres.
 3. *Land Use Requirements.* Except for individual lot dimensions, setbacks and land uses, the PUD development shall conform to the requirements of the underlying zoning district. If more than one zoning district is involved in the proposed PUD development, the requirements of the more restrictive zoning district shall apply.
 4. *Approval Standards.* A proposed PUD must demonstrate that:
 - a. Granting of PUD approval will result in recognizable and valued benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unlikely to be achieved.
 - b. In relation to the underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities and utilities. Neither shall it place a material burden upon the subject or surrounding land or property owners and occupants or upon the natural environment.
 - c. The proposed development shall be compatible with the Vergennes Township Master Plan and shall be consistent with the purpose and intent of this Section.
 - d. In relation to underlying zoning, the proposed development shall not result in a substantial detriment to surrounding properties.
 - e. The proposed development shall contain at least as much green area and open space as would otherwise be required by this Ordinance with respect to the most dominant use in the development.
 - f. The proposed development shall be under ownership or control

such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control upon due notice to the Vergennes Township Board.

D. Design Standards.

1. *Site Density or Development Intensity.* The overall density, or development intensity of the proposed PUD shall not exceed that which would be permitted under the zoning district in place at the time of the PUD application. Density and development intensity shall be determined as follows:

- a. Test Plan. The applicant shall prepare a test plan or comparison plan for the proposed PUD site. Such test plan shall be prepared in accord with all applicable Township and State regulations and shall illustrate maximum residential density in terms of dwelling units per acre, or the maximum square footage of non-residential construction that may be permitted under the existing zoning.
- b. Maximum Density. The proposed PUD shall not result in more overall dwelling units than would be permitted on the site as determined from the test plan.
- c. Maximum Intensity. The proposed PUD shall not result in more overall non-residential building square footage than would be permitted on the site as determined from the test plan.
- d. For any areas held under common ownership, a maintenance agreement showing future maintenance provisions shall be submitted. Such provision shall include mandatory membership of all property owners in any association designed for maintenance of the common area. Those maintenance requirements are in addition to private road maintenance agreement requirements (Section 202.006 (a) (18)).
- e. Uses of Common Open Space. Use of common open space as defined herein, shall be limited to recreational uses, golf courses, tennis courts, ball fields, bike paths, walking paths, soccer fields, natural areas, bodies of water, regulated wetlands, ponds, lakes, streams, lands within a 100-year floodplain, parkland or woodlands. Further subdivision of open space lands, or their use for other than the above uses by site owners and/or the general public shall be prohibited.

2. Screening Requirements.

- a. All front, side and rear yards and greenbelts shall be suitably contoured, landscaped and maintained to provide protective screening between the proposed project and adjacent areas and to screen various ancillary uses within the project from other uses as, for example, off-street parking facilities in relation to residential buildings or patios from one dwelling unit in relation to other dwelling units.
- b. There shall be a minimum fifty (50) foot buffer or planting strip

provided, suitably landscaped and maintained, to serve as a protective screen between any multiple-family dwelling or non-residential use and adjacent single-family residential areas. The fifty (50) foot buffer or planting strip may be reduced or eliminated when the adjacent lands are not being used for residential purposes and if it is determined that such reduction or elimination would not materially impair the intent and purposes of the Zoning Ordinance.

3. Applicable Regulations.

- a. All of the other applicable provisions of Township Ordinances shall control in a PUD development except where inconsistent therefrom, in which case the provisions of the specific PUD shall supersede and control any other such provision.
- b. Uses allowed in any PUD shall include all uses permitted by right or special exception use, provided that all such uses within a PUD shall be compatible with one another and the entire PUD shall meet the approval standards of Section 201.429, C, 4.

4. Natural Resources/Features.

- a. Each PUD shall be designed to have a minimal adverse effect on the environment. Special emphasis shall be placed on maintaining the quality of ground water, streams and rivers. Trees and hills shall be preserved wherever feasible.
- b. The Planning Commission or Township Board may require that the applicant prepare and submit an environmental impact statement, describing in detail the effect and impact, adverse or otherwise, that the proposed development and land use will, or may, have on the following including, but not limited to:
 - 1. The land involved and the surrounding lands, including topographical contours and soil conditions.
 - 2. Streams, rivers, wetlands and the quality of surface and ground waters.
 - 3. Wildlife, trees or forests.
 - 4. Traffic congestion.
 - 5. Local school systems.
 - 6. Noise, vibration, odor, smoke, dust, dirt, litter, gases, light and glare.
 - 7. Drainage.
 - 8. Sanitation, including water supply and sewage disposal.
 - 9. General appearance character of the area.
 - 10. Such other matters as the Planning Commission or Township Board may request. These could include, but not be limited to, statements and comments from public agencies such as the Kent County Health Department,

5. Site Development.

- a. *PUD Perimeter Setback.* Notwithstanding any dimensional adjustments permitted under this Section, no building, structure or parking area shall be located closer than twenty-five (25) feet from the property line of a PUD site.
- b. *Streets, Curbs, Gutters and Sidewalks.* If the site proposed is to have private streets, the provisions of the Private Roads Ordinance (Part 202) shall apply. If the streets are to be dedicated, the requirements of the Kent County Road Commission shall apply. In either case, curbs, gutters and sidewalks may be required in some areas if necessary for reasons of public safety.
- c. *Traffic Control.* The proposed project shall be designed so that additional traffic generated by the project will not exceed the capacity of existing or proposed streets, nor have a detrimental effect on neighboring properties or on the health, safety and welfare of the Township residents.
- d. *Utilities.* Available utilities, at the time of proposal and subsequently if additional utilities become available, will be located underground on PUD lands from the point of entry.
- e. *Off-street Parking.* There shall be a minimum of two (2) off-street parking spaces for each dwelling unit of the development. At least one (1) of the parking spaces for each dwelling unit shall be within two hundred (200) feet of that unit. Off-street parking for non-residential uses shall be provided in accordance with the provisions of Section 201.417. In a mixed-use development, the applicant may propose shared parking arrangements to reduce pavement within the development. For such shared parking arrangement, the applicant shall provide for an enforceable mechanism to assure cooperation among future building owners and occupants to assure the viability of a shared parking arrangement. The minimum number of off-street parking spaces shall be determined by considering each proposed use and its likely peak hour parking demand. A maximum daily parking demand matrix will be used to determine the peak hour demand for all combined uses and the proposed PUD shall provide for not less than the greatest peak hour requirement for the combined uses reflected in such matrix. The use of deferred parking areas (or reserved interim green areas) may be considered to calibrate the required parking standards with evolving conditions.
- f. *Design Compatibility and Consistency.* A Planned Unit Development must conform to the objectives of the Vergennes Township Master Plan, and shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent properties and the underlying zoning district and shall not fundamentally change the essential character of the

surrounding area. It is intended that a PUD as a whole be thematically and aesthetically consistent. Individual building design as well as the overall design integrity of the PUD development will be a factor considered by the Planning Commission and Township Board in determining approval of the proposal.

E. *Review and Approval Process.* All PUD applications shall be considered under the Special Exception Use provisions of Section 201.502. Final approval or disapproval of an application for a PUD and the site plan pertaining to the PUD shall be the responsibility of the Township Board. The Board, prior to making its decision, shall receive the report and recommendation of the Planning Commission in accord with the following procedure:

1. *Pre-application Conference.* Prior to submitting an application for a PUD, the applicant shall arrange for an informal conference with the Planning Commission to obtain information and guidance regarding PUD regulation, the Township's land use plan, and the application process. The applicant shall present at such conference a preliminary sketch plan of the PUD, and the following information:
 - a. A legal description of the property;
 - b. The total number of acres to be included in the project;
 - c. The approximate number of residential units and/or the approximate number, type and square footage of non-residential units;
 - d. Known Ordinance deviations to be sought;
 - e. The number of acres to be preserved as open or recreation space; and
 - f. All known natural resources and natural features proposed to be preserved, lost and/or replaced.
 - g. Test plan as described in subsection D.1.a of this Section.
2. *Preliminary Development Plan Review.* Subsequent to the above conferences, the applicant shall submit to the Planning Commission ten (10) copies of a preliminary site plan and the supporting information. In addition to the requirements of Section 201.502 D the preliminary site plan shall contain the following:
 - a. Site map showing area, size, boundary lines and dimensions.
 - b. Existing and proposed land uses and their approximately locations.
 - c. Topographic character of the site.
 - d. Character and approximate density of the proposed PUD.
 - e. Circulation patterns, including pedestrian walkways and streets or roads.
 - f. Proposed public or common use areas, including parks, open space, and greenbelts.

- g. Existing flood plans, wetlands, bodies of water, other unbuildable areas and hydrological information.
- h. Plans for public services, such as roads, gas lines, electric lines, telephone lines, cable TV lines (and sewer and water lines if and when available).
- i. Soil borings.
- j. A narrative describing the overall objectives of the proposed PUD, financing plans, method for maintenance of open areas, private roads, recreation areas and parking areas, if any. In addition, a discussion of impact on local schools, environmentally-sensitive areas, stage of construction, expected commencement date and length of time for each stage and a statement of why the proposed PUD will enhance the area as compared to existing land use requirements for the underlying district.

The Planning commission shall review the preliminary development plan beginning within forty-five (45) days of receipt of all required materials, unless an extension is mutually agreed upon.

Following such review the Planning Commission shall transmit its recommendations on findings of fact (subsection C. above) and comments and recommendations to the site plan (subsection D. above) to the applicant.

The Planning Commission shall recommend approval, approval with conditions, or denial of the preliminary plan, and shall forward a report of its action and recommendations to the Township Board who shall schedule a public hearing on the preliminary proposal in accordance with Section 201.502 C 4 of the Zoning Ordinance. Following said hearing, the Township Board shall approve, approve with conditions or deny the application, taking into consideration the recommendations of the Planning Commission. The effect of approval or approval with conditions, shall be to authorize the concept embodied in the preliminary plan, subject to submission, review and approval of the final plan.

Approval of the preliminary plan shall not constitute final approval, and preliminary approval shall be subject to review and approval of the final plan as provided for in this section.

Following the public hearing, the applicant may modify the preliminary plan to conform with any conditions of approval established by the Township Board.

- 3. *Final Development Plan Review.* Within six (6) months following receipt of preliminary plan approval, the applicant shall submit to the Planning Commission ten (10) copies of a final site plan, conforming to subsection F.2 below. The Planning Commission shall review the Final PUD Plan and submit its recommendation to the Township Board. After receipt of the recommendation of the Planning Commission, the Township Board shall approve, approve with conditions or deny the Final PUD Plan. The Township Board will incorporate its conclusions, the basis for its decision and any conditions imposed, into a report for the public record.

F. *Applications.*

- 1. Applications for preliminary PUD approval shall include the following, unless specifically waived by the Planning Commission.

- a. Applicant's name and address.
 - b. Name of the proposed PUD.
 - c. Test plan (See subsection D.1.a. above)
 - d. Common description of the property and complete legal description.
 - e. Dimensions of land, width, length, acreage and frontage.
 - f. Existing zoning and land use of the proposed site and all adjacent properties.
 - g. Statement of intent of proposed use of land and any phasing of the project.
 - h. Name, address and phone number of: Firm or individual who prepared the plan; owner of the property; and applicant, if other than the owner.
 - i. Existing and proposed right-of-way width of all adjoining and internal roads, and layout of all internal roads.
 - j. Proposed acceleration, deceleration, and passing lanes, if applicable.
 - k. Location of existing drainage courses, flood plains, lakes, streams and wetlands.
 - l. Intentions with regard to public or private water and sewer.
 - m. All parking areas and number of spaces by size.
 - n. Number, locations and areas of open spaces to be preserved as open or recreational spaces.
 - o. All known natural resources and natural features and those to be preserved.
 - p. Gross and net density calculations, number and types of units (if applicable) and floor area per habitable space (if applicable).
 - q. Preliminary concept plan illustrating concept, including each proposed use; square footage or acreage allocated to each use, approximate locations of each principal structure and use, setbacks, and typical floor plan and elevation for each building.
 - r. Specification of each deviation from the applicable Ordinance regulations which will be sought to be approved, and the safeguards, features and/or planning mechanisms proposed to achieve the objectives intended to be accomplished by the regulations from which a deviation is being sought.
 - s. The Planning Commission may require a topographical map if such document would be meaningful to the review.
2. *Application for final development approval.* Such plan shall include the following:
- a. A final site plan meeting all the requirements of this section and

for site plan review under Section 201.502D of this Ordinance.

- b. All open spaces, including preserves and recreational areas, and each proposed use for such areas and the proposed conservation easement allowed by Section 201.429 D.1.b. and meeting the requirements of Section 201.502D.
 - c. Other information determined by the Planning Commission or Township Board to be helpful in evaluating the PUD and its possible impact on the community.
- G. *Performance Guarantees.* The Township Board may, as a condition of the PUD approval, require the applicant(s) to post a cash bond, an irrevocable bank letter of credit, performance bond or other security in order to insure that the development will be executed and completed in conformance with the final development plan approved by the Township Board. The bond, if required, will be filed with the Township Clerk prior to the start of construction.
- H. *Conditions.* Reasonable conditions may be required precedent to the approval of a planned unit development for the purpose of:
- 1. Insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased demand caused by the land use or activity;
 - 2. Protecting the natural environment and conserving natural resources and energy;
 - 3. Conserving compatibility with adjacent uses of land; and
 - 4. Promoting the use of land in a socially and economically desirable manner.

Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole. They shall be reasonably related to the matters affected by the Planned Unit Development, shall be necessary to meet the intent and purpose of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the approved Planned Unit Development.

- I. *Recordation.* Within one hundred-eighty (180) days of the effective date of an approved PUD, the applicant shall record an affidavit, a conservation easement, if applicable, and all other applicable documents, all in a form approved by the Township Board, with the Kent County Register of Deeds Office. The affidavit shall contain the legal description of the entire project, the date of approval of the Planned Unit Development, and a declaration to the effect that all future use and development of the property has been authorized and required to be carried out in accordance with the approved Planned Unit Development Plan, unless otherwise amended, by the Township of Vergennes.

(Amended: Ord. No. 93-10, 12-13-93; Ord. No. 99-1, § 7, 2-15-99; Ord. No. 2002-12, 10-21-02, Ord. No. 2004-9, 5-17-04)

201.430 Requirements of home occupations.

4.30.

- A. *Home Occupations Conducted within a Dwelling.* Home occupations shall be approved by the Zoning Administrator by the issuance of a Zoning Compliance Permit upon a finding that all of the following conditions are met. Following issuance of a Zoning Compliance Permit, the permit may be revoked if any of the conditions giving rise to the permit are violated.
1. The applicants proposed use of the property shall conform to the definition of a Home Occupation under this Zoning Ordinance.
 2. No person, other than the resident occupants and one (1) employee or independent contractor who need not be a resident, shall be engaged in the home occupation, except that for a home occupation operated within a dwelling located on a lot greater than one and one-quarter (1 1/4) acres in lot area, then up to three (3) employees or independent contractors who need not be residents may be engaged in the home occupation. A resident occupant of the dwelling from which the home occupation is conducted shall not be considered an employee or independent contractor of such home occupation for purposes of this subpart.
 3. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home occupation shall be operated in its entirety within the principal dwelling, but shall not, in any case, exceed a floor area more than forty-nine (49) percent of the gross living area above grade of the dwelling unit. All articles and materials used in connection with such home occupation shall be stored in the main dwelling. Other than items used in the normal maintenance of a dwelling unit, no items or materials used in conjunction with the home occupation shall be stored outside the dwelling unit.
 4. Except for normal maintenance, no changes shall be made to the outside appearance of the dwelling unit or lot area for their use in conjunction with a home occupation and there shall be no other visible evidence of the conduct of such home occupation on the lot area; Further, one (1) non-illuminated sign shall be permitted on the lot area provided the sign does not exceed four (4) square feet in area, shall not be located in the road right of way, is not in excess of four (4) feet in height and otherwise complies with Section 201.403, Signs and Billboards, if more restrictive than these provisions.
 5. Any parking areas provided specifically for such home occupations shall be located off the street and not in a front yard setback area and shall comply with Section 201.417, Off-street Parking of Motor Vehicles, if more restrictive than these provisions.
 6. A home occupation shall not have a material negative impact upon the public health, safety or welfare of Vergennes Township or areas immediately surrounding the lot area upon which the home occupation exists including but not limited to, overuse of streets and roads, reduction in property values, change to the character of the area, blight, excessive noise, odors, or electrical interference. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electronic device, or causes fluctuation in line voltage outside the lot area upon which the dwelling is located.

7. No merchandise or articles for sale shall be displayed for advertising purposes so as to be visible from outside the main dwelling. Except for one sign as permitted pursuant to Section 4.30 (A) (3) no other device or display visible from any vantage point off the property shall be used to advertise the home occupation.
 8. Hours of operation shall be reasonable and customary for the type of home occupation approved and in the zoning district in which the home occupation will exist.
 9. No goods, materials, or vehicles used only in connection with a home occupation shall be parked or stored outside of the dwelling used in conjunction with the home occupation.
 10. A person shall apply for a zoning compliance permit on a form provided by the Township and the applicant shall pay the required application fee and any other charges imposed by the Township. If requested by the zoning administrator, the applicant shall provide additional information showing the location of buildings, parking areas or any other features of the property related to such application. Once the application is complete, the zoning administrator shall issue the zoning compliance permit or decline to issue the zoning compliance permit. No public hearing shall be required. In issuing a zoning compliance permit, the zoning administrator may impose reasonable conditions and requirements consistent with the Township's ordinances. If the application is denied, the zoning administrator shall state in writing the reasons for denial.
- B. *Home Occupations with an Accessory Building.* Home occupations with an Accessory Building shall be approved by the Zoning Administrator by the issuance of a Zoning Compliance Permit upon a finding that all of the following conditions, including the requirements of Section 201.430 A are met. Following the issuance of a Zoning Compliance Permit, the permit may be revoked if any of the conditions giving rise to the permit are violated.
1. The applicants proposed use of the property shall conform to the definition of a Home Occupation under this Zoning Ordinance.
 2. An accessory building may be used in conjunction with a home occupation provided (a) it is located on the same lot area as the principal dwelling on which the operator of such home occupation resides or is located upon a lot which is owned by the owner of the home occupation and is contiguous (a lot shall be considered contiguous even if separated by a road) to the lot area upon which the principal dwelling exists, and (b) the use of the accessory building shall be clearly incidental and subordinate to the use of the lot area and/or the lot upon which the accessory building is located for residential purposes by its occupants.
 3. The minimum lot area required for the location and operation for any home occupation accessory building shall comply with the lot area requirements of the zoning district in which the home occupation is located.
 4. Except for normal maintenance, no change shall be made to the outside appearance of the dwelling unit, accessory building or lot area for their use in conjunction with a home occupation and there shall be no other

visible evidence of the conduct of such home occupation on the lot area. Further one non-illuminated sign shall be permitted on the lot area provided such sign does not exceed four (4) square feet in area, shall not be located in the road right of way, is not in excess of four (4) feet in height and otherwise complies with Section 201.403, Signs and Billboards, if more restrictive than these provisions.

5. Only one accessory building meeting the requirements of Chapter 2, Definitions, Section 201.202 (Accessory Buildings), and Chapter 4, General and Special Regulations, Section 201.402, Accessory Buildings, may be used in connection with a home occupation.
6. No parking or storage of any vehicles, equipment, or materials utilized only in connection with a home occupation shall be parked or stored outside of the dwelling or the accessory building used in connection with the home occupation.
7. Any other provisions of the Vergennes Township Ordinance pertaining to accessory buildings shall apply to the extent they are more restrictive than these provisions.
8. A person shall apply for a zoning compliance permit on a form provided by the Township and the applicant shall pay the required application fee and any other charges imposed by the Township. If requested by the zoning administrator, the applicant shall provide additional information showing the location of buildings, parking areas or any other features of the property related to such application. Once the application is complete, the zoning administrator shall issue the zoning compliance permit or decline to issue the zoning compliance permit. No public hearing shall be required. In issuing a zoning compliance permit, the zoning administrator may impose reasonable conditions and requirements consistent with the Township's ordinances. If the application is denied, the zoning administrator shall state in writing the reasons for denial.

C. *Existing Home Occupations as of the Effective Date of this Ordinance.*

1. Those businesses or activities which were in lawful existence on or before February 1, 2003 and which constitute home occupations as defined by this Ordinance. shall be allowed to continue as a non-conforming use. However, such non-conforming uses shall not be expanded, altered, added to, or occupy more land area, unless a Zoning Compliance Permit is obtained pursuant to Section 201.430 A and B for such changes.

(Amended: Ord. No. 98-2, § 2, 3-30-98; Ord. No. 2000-3, 7-17-00; Ord. No. 2002-14, 10-21-02, Ord. No. 2003-3, 3-10-03)

201.431 Home based businesses.

4.31.

- A. Home based businesses shall be approved by the Zoning Administrator by the issuance of a Zoning Compliance Permit upon a finding that all of the following conditions are met. Following the issuance of a Zoning Compliance Permit, the permit may be revoked if any of the conditions giving rise to the permit are violated.

1. The applicant's proposed use of the property shall conform to the definition of a home based business under this Zoning Ordinance.
2. The applicant shall provide adequate surveys and legal descriptions or other materials by which the Zoning Administrator may determine the land area which will be encompassed by the home based business and which is referred to as the "home based business area." The home based business area must include a residential dwelling unit and the use of the home based business area must clearly be an incidental and secondary use of the home based business area as a residential use and the home based business must be conducted primarily in locations off the home based business area. The home based business area may include the lot area containing the dwelling unit and adjacent and contiguous property to such lot area owned by the applicant. For purposes of this subpart, property may be contiguous even though separated by a road.
3. No person, other than the resident occupants and one employee or independent contractor who need not be a resident, shall be working on the home based business area as a part of the operation of the home based business, except for home based businesses operated on a home based business area greater than one and one-quarter (1 1/4) acres in area, up to three (3) employees or independent contractors, who need not be residents, may be engaged in the home based business on the home based business area. This does not preclude the use of additional employees who may be employed by the home based business who work in other locations off the home based business area. A resident occupant of the home based business area from which the home based business is operated shall not be considered an employee or independent contractor of the home based business for purposes of this subpart.
4. The use of the dwelling unit, for purposes related to the home based business, shall be clearly incidental and subordinate to its use for residential purposes by its occupants. The home based business shall be operated in its entirety on the home based business area except when operating the business activity at other offsite locations. The area of the dwelling unit dedicated to the operation of the home based business shall not exceed a floor area more than forty nine (49) percent of the total gross living area above grade of the dwelling unit. An accessory building meeting the requirements of the district in which it is located may be used in conjunction with the operation of a home based business.
5. Except for normal maintenance, no changes shall be made to the outside appearance of the dwelling unit, accessory building, or home based business area and there shall be no other visible evidence of the conduct of such home based business on the home based business area other than that permitted by this section. Further, one non-illuminated sign shall be permitted provided such sign does not exceed four (4) square feet in area, shall not be located in the road right of way, is not in excess of four (4) feet in height and otherwise complies with Section 201.403, Signs and Billboards, if more restrictive than these provisions.
6. A home based business shall not have a material negative impact upon the public health, safety or welfare of Vergennes Township or areas immediately surrounding the home based business area, upon which the

home based business exists including but not limited to, overuse of streets and roads, reduction in property values, change to the character of the area, blight, excessive noise, odors, or electrical interference. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any electronic device off the home based business area, or causes fluctuation in line voltage off the premises.

7. Parking or storage of vehicles or other equipment related to the home based business shall not be permitted in any required yard setback of the underlying zoning district. The permitted parking or storage area shall be screened from adjoining lots and adjacent streets by fencing, landscaping or screening generally consistent with the Industrial District zoning requirements of Vergennes Township. Any outside parking or storage of vehicles or items used in connection with the home based business shall occupy no more than the lesser of five (5) percent of the home based business area upon which a home based business is allowed to operate or six thousand five hundred (6,500) square feet of the home based business area upon which the home based business is allowed to operate.
8. No merchandise or articles for sale shall be displayed for advertising purposes so as to be visible from outside the main dwelling. Except for one sign as permitted pursuant to Section 4.30 (A) (3) no other device or display visible from any vantage point off the property shall be used to advertise the home occupation.
9. Hours of operation shall be reasonable and customary for the type of home based business approved and in the zoning district in which the home based business exists.
10. A person shall apply for a zoning compliance permit on a form provided by the Township and the applicant shall pay the required application fee and any other charges imposed by the Township. If requested by the zoning administrator, the applicant shall provide additional information showing the location of buildings, parking areas or any other features of the property related to such application. Once the application is complete, the zoning administrator shall issue the zoning compliance permit or decline to issue the zoning compliance permit. No public hearing shall be required. In issuing a zoning compliance permit, the zoning administrator may impose reasonable conditions and requirements consistent with the Township's ordinances. If the application is denied, the zoning administrator shall state in writing the reasons for denial.

B. *Existing Home-Based Business at the time of Adoption of this Ordinance:*

1. Those businesses or activities which were in lawful existence on or before February 1, 2003 and which constitute home based businesses as defined by this Ordinance, shall be allowed to continue as a non-conforming use. However, such non-conforming uses shall not be expanded, altered, added to, or occupy more land area, unless a Zoning Compliance Permit is obtained from the Zoning Administrator.

(Amended: Ord. No. 98-2, § 8, 3-30-98; Ord. No. 2002-14, 10-21-02; Ord. No. 2003-3, 3-10-03)

201.431A Rental Storage.

4.31A.

- A. Any building existing on or before February 1, 2003 may be used for rental storage (which use is otherwise not permitted) upon the Zoning Administrator finding that the Applicant has applied for and met the following requirements to obtain a Zoning Compliance Permit. Following the issuance of a Zoning Compliance Permit, the permit may be revoked if any of the conditions giving rise to the permit are violated.
1. The buildings utilized for storage shall be located upon not less than forty (40) acres of contiguous land which is referred to as the "rental storage area" and which is owned by the Applicant or the Applicant's parents, brothers or sisters. For purposes of this subpart, land shall be considered contiguous even if separated by a road right-of-way and regardless of differences in the tax identification numbers(s) assigned to the property. However, if the rental storage area approved for rental storage is sold, split, or otherwise changed in its dimensions, then the zoning compliance permit may be revoked. The applicant shall provide adequate maps and legal descriptions to determine the land area which will serve as the rental storage area.
 2. A dwelling shall be located upon the property upon which the storage facilities are located and the use of the storage facilities shall be clearly incidental and subordinate to the use of the property for residential purposes by its occupants.
 3. Except for normal maintenance, no changes shall be made to the outside appearance of any building or any part of the rental storage area and there shall be no other visible evidence of the conduct of such rental storage business upon the rental storage area.
 4. No merchandise, equipment, or articles shall be available for sale on the rental storage area as part of the operation of the rental storage.
 5. Other than de minimis amounts, no flammable, caustic, or other hazardous materials shall be permitted to be stored as part of the rental storage.
 6. Other than items or vehicles owned by the owners of the rental storage area, no vehicles, equipment, or materials shall be stored on the rental storage area outside of the buildings used for rental storage.
 7. A person shall apply for a zoning compliance permit on a form provided by the Township and the applicant shall pay the required application fee and any other charges imposed by the Township. If requested by the zoning administrator, the applicant shall provide additional information showing the location of buildings, parking areas or any other features of the property related to such application. Once the application is complete, the zoning administrator shall issue the zoning compliance permit or decline to issue the zoning compliance permit. No public hearing shall be required. In issuing a zoning compliance permit, the zoning administrator may impose reasonable conditions and requirements consistent with the Township's ordinances. If the application is denied, the zoning administrator shall state in writing the

reasons for denial.

(Amended: Ord. No. 98-2, § 8, 3-30-98; Ord. No. 2002-14, 10-21-02, Ord No. 2003-3, 3-10-03)

201.431B Rental Storage Special Exception Use Permit.

4.31B

A. Any building existing on or before February 1, 2003 may be used for rental storage (which use is otherwise not permitted) upon the Township Board finding that the Applicant has applied for and met the following requirements to obtain a Special Exception Use Permit. Following the issuance of a Special Exception Use Permit, the permit may be revoked if any of the conditions giving rise to the permit are violated.

1. The buildings utilized for storage shall be located upon any parcel or contiguous land which is referred to as the "rental storage area" and which is owned by the Applicant or the Applicant's parents, brothers or sisters. For purposes of this subpart, land shall be considered contiguous even if separated by a road right-of-way and regardless of differences in the tax identification numbers(s) assigned to the property. However, if the rental storage area approved for rental storage is sold, split, or otherwise changed in its dimensions, then the Special Exception Use Permit may be revoked unless an amendment to the Permit is applied for and granted by the Township Board. The applicant shall provide adequate maps and legal descriptions to determine the land area and buildings which will serve as the rental storage area.
2. A dwelling is not required to be located upon the property upon which the storage facilities are located.
3. Except for normal maintenance, no changes shall be made to the outside appearance of any building or any part of the rental storage area and there shall be no other visible evidence of the conduct of such rental storage business upon the rental storage area.
4. No merchandise, equipment, or articles shall be available for sale on the rental storage area as part of the operation of the rental storage.
5. Other than de minimis amounts, no flammable, caustic, or other hazardous materials shall be permitted to be stored as part of the rental storage.
6. Other than items or vehicles owned by the owners of the rental storage area, no vehicles, equipment, or materials shall be stored on the rental storage area outside of the buildings used for rental storage.
7. A person shall apply for a Special Exception Use Permit on a form provided by the Township and the applicant shall pay the required application fee and any other charges imposed by the Township. If requested by the zoning administrator or Township Board, the applicant shall provide additional information showing the location of buildings, parking areas or any other features of the property related to such application. Once the application is complete, the zoning administrator shall transmit the application and any additional materials to the Township Board. The public hearing, application review and approval standards

shall be in conformance with section 201.502 Special Exception Uses.

(New Ord. No. 2006-1, 1-16-06)

201.432 Wireless Communication Facilities.

4.32.

- A. *Intent:* It is the intent of this Section to provide regulations controlling the placement, design, and construction of wireless communication facilities including their accessory uses and attached communication systems. Changing technologies in the field of communications has resulted in a reliance upon more versatile and convenient forms of communication. Businesses, individuals and government have all developed a dependence upon the capability to contact others. The demand for this communication service has placed a burden on local communities in their ability to regulate wireless communication facilities. This ordinance intends to reduce the impact of these communication elements on adjacent land uses by reasonably regulating their location, height, safety, general appearance, and eventual removal. Additionally, this Ordinance intends to promote and encourage the co-location of attached communication systems on existing support structures.
- B. *Regulations.* The following regulations shall govern the placement, design and construction of wireless communication facilities including their accessory uses, attached communication systems and co-location.
1. *Permitted Uses.*
 - a. *Rural Agricultural District.* Within the "RA" Rural-Agricultural District, a Wireless Communication Facility shall be permitted as a special exception use if it meets the requirements of the RA District, the requirements of Section 201.502D Site Plan Review, and the requirements of Section 201.432 C and D and, with the approval of a Special Exception Use Permit.
 - b. *Industrial District.* Except as provided in subparagraph c of this section, within the "I" Industrial District, a Wireless Communication Facility shall be a permitted principal or accessory use if it meets the requirements of the Industrial District, the requirements of Section 201.502D Site Plan Review, and the requirements of this section 201.432 with the approval of a Special Exception Use permit.
 - c. *Accessory Use.* Within the Industrial and the Rural-Agricultural Districts, not more than one (1) Wireless Communication Facility may be permitted as a special exception use to occupy a lot with another existing use permitted in the District, however, provided that not more than one (1) Wireless Communication Facility shall be permitted on any lot in the Industrial or the Rural-Agricultural District. A Wireless Communication Facility proposed as an accessory use with another permitted use shall meet the requirements of the zoning district in which it is located, the requirements of Section 201.502D Site Plan Review, and the requirements of Section 201.432 C and D and with the approval of a Special Exception Use Permit. A Wireless Communication

Facility proposed as an accessory use with another permitted use shall meet the following additional requirements.

- (1) The ownership interest of the land proposed to be occupied by a Wireless Communication Facility as an accessory use shall at all times be identical to the ownership interest of the entire parcel.
- (2) The land area occupied by a Wireless Communication Facility approved as an accessory use shall not be sold or otherwise conveyed independent of the principal use on the property, except as a part of a legal land division that results in a new lot and a remainder parcel that meet all the requirements of this Zoning Ordinance.

2. *Co-location.*

a. Wireless communications equipment is a permitted use of property and is not subject to special exception use approval if all of the following requirements are met:

- (1) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
- (2) The existing wireless communications support structure or existing equipment compound is in compliance with the Township's ordinance or was approved by the Township.
- (3) The proposed collocation will not do any of the following:
 - (a) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
 - (b) Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
 - (c) Increase the area of the existing equipment compound to greater than 2,500 square feet.
- (4) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the Township.

b. Wireless communications equipment that meets the requirements of subsection 2(a)(1) and 2(a)(2) but does not meet the requirements of subsection 2(a)(3) or 2(a)(4) is a permitted only if it receives a Special Exception Permit .3. *Failure to Cooperate in Co-location.* If a party who owns and/or otherwise controls a support structure shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible co-location, such failure or refusal shall be deemed a violation of this Zoning Ordinance, subject to the penalties provided in Section 201.603 of this Ordinance and the revocation of any approved application.

Co-location shall be deemed to be "feasible" for the purposes of this Section where all of the following are met:

- (1) The applicant under consideration for co-location shall undertake to pay market rent or other market compensation for co-location.
- (2) The Support Structure on which co-location is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- (3) The co-location being considered is technologically reasonable, e.g., the co-location will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennae, and the like.
- (4) The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained within this subsection.

C. *Application Requirements.* All applications for Wireless Communication Facilities and/or Attached Communication Systems, regardless of the zoning district in which they are proposed to be located, constructed or modified, shall include the following information and agreements unless certain requirements are waived by the Zoning Administrator upon the zoning Administrator determining that certain items are irrelevant and/or immaterial:

1. *Site Plan.* A plan which meets the requirements of section 201.502 (D). The site plan shall include the location of the Wireless Communication Facility, the height and type of construction.
2. *Proposed Use.* A complete written and graphic description of the proposed Wireless Communication Facility and/or Attached Communication System. This written and graphic description shall include an explanation of the existing technology which is being proposed.
3. *Location Justification.* A written explanation of the reason for the proposed location with reference to the coverage area and capacity.
4. *Ownership Interest.* The nature and extent of the applicant's ownership or lease interest in the property, building or structure upon which the facilities are proposed for placement; and, if a leasehold interest, the name and address of the owner of the lot and any other principal use on the lot. Both the lessee and the owner of the property must sign the application.
5. *Other Support Structure Locations.* A map showing existing and known proposed Support Structures within Vergennes Township and adjoining jurisdictions. The map shall also show existing buildings and/or other structures of the same approximate height as the proposed Wireless Communication Facility within a five (5) mile radius of the proposed site which could reasonably accommodate a co-location of the applicant's proposed Antenna. To the extent the information required is on file with

the Township, the applicant shall be required only to update as needed.

6. *Co-Locations.* Applications for Wireless Communication Facilities must be accompanied by documentation that the applicant has investigated the potential of co-location with other owners who have Wireless Communication Facilities or other reasonable Support Structures in Vergennes Township or neighboring communities. The documentation must include written evidence satisfactory to the Township that the applicant has had direct communication and response regarding the potential for co-location with the owners/operators of such other Wireless Communication Facilities, and determined that colocation is not feasible or will not achieve the applicant's coverage objectives. All applications for construction of a Wireless Communication Facility will be required to provide plans and drawings for future co-location with other owners/operators at a fair and reasonable rental rate.
7. *Engineering Certification.* The applicant shall provide verification with a certified, sealed print that the Attached Communication System and the support structure have been reviewed and approved by a professional engineer and that the proposed installation is in compliance with all the applicable codes.
8. *Liability.* The applicant shall provide documentation that indemnity and insurance coverage exist for the Wireless Communication Facility in the event that damage or personal injury occurs or the provider abandons the structure. Such indemnity and insurance shall name the Township as an additional insured. The specific dollar amount of the indemnity and insurance coverage shall be approved by the Township and the cancellation of such policy shall not be effective without the approval of the Township.
9. *Landscaping Plan.* Applications for a Wireless Communication Facility must be accompanied by a plan for landscaping, screening, fencing and buffering the site. The plans shall take into consideration any existing vegetation and any other natural features of the site. Landscaping shall be installed as soon as practicable and shall consist of species that provide adequate year-round visual screening. The Planning Commission or Township Board, as applicable, may waive the required landscaping if it is determined that existing vegetation on the site provides adequate visual screening from adjacent properties. Natural vegetation on adjacent properties shall not be used to satisfy the landscaping requirements of this section.
10. *Visual Impact.* The applicant shall demonstrate how the visual impact of the proposed Wireless Communication Facility will be reduced through the use of color or other techniques. The Township Board or Planning Commission, as applicable, may require a photo simulation or similar model to aid in determining the visual impact that the proposed facility will have on the Township and adjacent properties.
11. *Acknowledgment.* The owner and lessee shall sign an acknowledgment and agreement to the following: (a) that a lien and other costs may be imposed upon the property pursuant to Section 201.432 (D) (5), and (b) that the owner and lessee shall consent to a co-location as provided in this ordinance.

D. Timeframe for Decision.

1. Where a Special Exception Permit Is Not Required. Where a special exception permit is not required, the Zoning Administrator shall approve or deny an application for a colocation or wireless communication equipment. Any such approval does not circumvent the need for a building permit.
2. Where a Special Exception Permit Is Required.
 - a. Within fourteen (14) days of receipt of an application for a wireless communication facility special exception use permit, the Zoning Administrator, on behalf of the Township Board or Planning Commission, shall determine whether or not the application is administratively complete. Unless the Zoning Administrator provides a notice of deficiency as set forth below, the application shall be deemed administratively complete upon the earlier of when the Zoning Administrator makes such determination or fourteen (14) days after the application is received.
 - b. If the application is deemed administratively incomplete, the Zoning Administrator shall notify the applicant in writing, or by electronic notification, within such fourteen (14) day period that the application is not administratively complete and shall specify the information or fees necessary to make the application administratively complete. The time period specified in subsection a above shall be tolled until the applicant submits the information and fee required.
 - c. Once the application is deemed administratively complete, the Township Board or Planning Commission, as applicable, shall approve or deny the application within sixty (60) days of the date the application is deemed complete, except, however, within ninety (90) days for a special exception permit request for wireless equipment that does not meet the requirements of subsection B 2 a (1) or for a wireless communication support structure. A failure to timely approve or deny a special exception use request shall be deemed an approval. An approval may be conditioned only upon the wireless communications equipment meeting the requirements of this ordinance, other Township ordinances and other federal and state laws before the wireless communications equipment begins operations.

E. Performance Standards for Wireless Communication Facilities. Wireless Communication Facilities must meet the following applicable performance standards:

1. *Site Plan Review and Special Exception Use Permit.* A Wireless Communication Facility application must receive a Special Exception Use Permit and Site Plan approval from the Planning Commission and/or Township Board as set forth by the ordinance. Applications for approval of an Attached Communication System shall be approved by the Zoning Administrator.
2. *Engineering Certification and Fall Zone.* The application shall provide verification that the antenna mount and structure have been reviewed and

approved by a professional engineer and that the proposed installation is in compliance with all the applicable codes. The Wireless Communication Facility must be set back from all property lines a distance equal to height, unless engineering specifications certified by a licensed structural engineer and reviewed by the Township Engineer document a lesser fall zone. Such engineering certification must also provide that the final design meets all requirements of the Federal Communications Commission, the National Environmental Policy Act of 1969 and the Federal Aviation Administration and other applicable statutes and regulations. The Township may require any engineering certification be reviewed by the Township engineer or by a qualified third party engineer, and the applicant shall incur all costs associated with such review.

3. *Height.* The maximum height of a Wireless Communication Facility shall be 199 feet. A Wireless Communication Facility greater than 199 feet may be permitted, if in the opinion of the Planning Commission or Township Board, as applicable, the applicant has sufficiently demonstrated that a proposed Wireless Communication Facility in excess of 199 feet will reduce the total number of potential Wireless Communication Facilities within Vergennes Township and the surrounding areas.
4. *Accessory Structures.* Accessory structures are limited to the use associated with the operation of the Wireless Communication Facility. Accessory structures shall not exceed 600 square feet in area and a height of 20 feet. Accessory structures shall not be located closer than 50 feet from all property lines.
5. *Abandonment.* The Wireless Communication Facility shall be removed by the property owner or lessee within three (3) months of being abandoned. The Wireless Communication Facility shall be removed to the top of the footing. If the tower has not been removed within the period specified, the Township Supervisor, with the approval of the Township Board, may take all steps necessary to have the structure removed. All costs relating to the removal (including attorney fees) shall be charged to the owner and/or lessee of such Wireless Communication Facility and shall become a lien on the property until paid in full together with any and all costs of collection and the Township may record a lien against the property and proceed to foreclose upon the lien according to the laws of judicial foreclosure.
6. *Unsafe and Unlawful Wireless Communication Facilities.* When any Wireless Communication Facility is determined to be unsafe or is unlawfully erected or maintained and is found to be in violation of the provisions of this ordinance the use of the Wireless Communication Facility shall be discontinued until all violations are corrected or it shall be removed.
7. *Additional Equipment.* Wireless Communication Facility owners shall provide disclosure of additional Attached Communications Systems whenever installed on an existing structure.
8. *Additional Performance Requirements.* The following and additional regulations pertaining to Wireless Communication Facilities shall apply:

- a. All Support Structures shall be equipped with an anti-climbing device to prevent unauthorized access.
- b. No part of a Wireless Communication Facility shall be used for advertising purposes. The applicant shall install at least one informational sign on the service building(s) or cabinet, fence or tower base that lists the name, address and contact telephone number of the operator, as well as a safety-related sign signaling "danger" or "no trespassing."
- c. Antennas and metal structures shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes.
- d. All Wireless Communication Facilities shall be located so that they do not interfere with radio, television, telephone and other reception in nearby residential areas. In the event a Wireless Communication Facility causes interference, the applicant, or his/her agent shall take all steps necessary to correct and eliminate such interference.
- e. Wireless Communication Facilities shall not be artificially lighted unless required by the Federal Aviation Administration and if so required, the Wireless Communication Facility shall be equipped with the form of lighting deemed by the Planning Commission or Township Board, as applicable, to be least intrusive. White strobe obstruction lighting shall not be permitted during nighttime hours.
- f. The Site of a Wireless Communication Facility shall not serve as a regular place of employment for any employees of the owner or lessee of the Wireless Communication Facility.
- g. The Wireless Communication Facility shall incorporate a color scheme which reduces visual impact.

(Amended: Ord. No. 99-8, 8-16-99, Ord. No. 2003-4, 8-18-03, Ord. No. 2018-3, 5-21-18)

201.433 Adult Entertainment Establishments and Amusement Establishments

4.33

WHEREAS, the Township Board has considered the rights of all citizens to free expression and the provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market, and,

WHEREAS, the Township Board finds that sexually oriented businesses because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious and other similar public and private uses, and

WHEREAS, the Township board does not intend to prohibit sexually oriented businesses within the township but to minimize their negative secondary effects, and

WHEREAS, the regulation of sexually oriented uses is necessary to ensure that their negative secondary effects will not contribute to the blighting or downgrading of

surrounding areas and will not negatively impact the health, safety and general welfare of township residents, and

WHEREAS, the Township Board has determined that it is in the best interest of the public safety and welfare of the Township and its residents to regulate and control the deleterious secondary effects that may emanate from adult businesses;

A. Preamble: In the development and execution of this section, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities which are prohibited in other sections of this Ordinance. Uses subject to these controls are Adult Businesses as defined herein.

B. *Regulations and Conditions* :

1. Approval: Any Adult Business shall be permitted only after a finding has been made by the Planning Commission at a public hearing that the following conditions exist:
 - a. An Adult Business and any establishment which includes an adult business as one or more of the businesses located therein, shall only be permitted as a special exception use subject to the terms of this section.
 - b. The use shall be located outside a five hundred (500) foot distance of any zoning district in which residential uses are permitted by right, regardless of the jurisdiction in which said residential district is located.
 - c. The use shall be located outside a five hundred (500) foot distance of any property used as a single-family or multi-family residence, regardless of zoning district or the jurisdiction in which said residential land use is located.
 - d. The use shall be located outside a five hundred (500) foot distance of any existing public or private school or church, regardless of the jurisdiction in which said public or private school or church is located.
 - e. The use shall be located not less than a one thousand (1,000) feet of any other such Adult Business, regardless of the jurisdiction in which said other use is located.
 - f. An approved Adult Business shall at all times maintain any and all licenses required under the ordinances of Kent County and the laws of the State of Michigan, or Vergennes Township, if required. Failure to maintain any such required license shall be grounds for the revocation of a Special Exception Use Permit issued under this Ordinance.

2. Limit on Reapplication: No application for a use regulated under this Section which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of said order of denial, except on the grounds of new evidence not previously available or proof of changed conditions.

(Amended: Ord. No. 2002-1, 1-21-02)

201.434 Height Exceptions

4.34. Church spires or steeples shall be exempt from the height regulations in all zoning districts so long as they do not exceed 85 feet in height.

(Amended Ord. No. 2002-3, 3-11-02)

201.435 Open Space Preservation Community.

4.35

- A. *Purpose.* The purpose of an Open Space Preservation Community is to preserve the rural character of Vergennes Township while permitting reasonable use of the land consistent with the Master Land Use Plan. Provisions set forth provide incentives to encourage innovative residential development, which results in an enhanced living environment by preserving natural features and rural landscape. By grouping dwellings together in clusters on a limited portion of a development property, much of the rural land and natural features will be preserved, and construction and maintenance of streets, utilities, and public services will be achieved in a more economical and efficient manner.
- B. *Open Space Preservation Development Option.* Within the RA, R-1, R-2 and R-3 Districts, a land owner shall have the option to develop land located outside a platted or condominium subdivision in accord with the terms of this section.
- C. *Permitted Uses.* An Open Space Preservation Community may include the following land uses:
 1. Detached single family dwellings.
 2. Attached single family dwellings which shall number no more than twenty-five percent (25%) of the total number of dwellings and which shall not exceed four (4) dwelling units in one building.
 3. Accessory buildings.
 4. Common open space
 5. Recreational uses, provided such uses are accessory to the residential uses and designed primarily to be used by residents of the Open Space Preservation Community.
 6. Farming activities conducted in the common open space in such a manner as to not pose a nuisance or hazard to residents.
- D. *Development Requirements.*
 1. Ownership and Control. The proposed Open Space Preservation Community development shall be under a single ownership, such that one person or legal entity shall be empowered to apply for Township

approval and make reliable and binding commitments on behalf of the applicant. The applicant shall provide documentation of ownership or control in a form acceptable to the Township.

2. *General Approval Standards.* In addition to specific standards set forth in this Section 4.35, the Planning Commission shall evaluate all Open Space Preservation Community applications based on standards for site plan approval set forth in Section 201.502, D, E and F. Open Space Preservation Community applications located in the R-2 and R-3 Districts shall further meet the approval standards for special exception uses set forth in Section 201.502, A, B and C of the Vergennes Township Ordinance.

3. *Dimensional Standards.* The following dimensional standards shall apply to residential parcels and condominium units in Open Space Preservation Communities:

a. **Setbacks.**

(1) In Open Space Preservation Communities, the following minimum yards shall be provided:

Front yard setback: 25 feet

Rear yard setback: 30 feet

Side yard setback: 10 feet, (25 feet for corner lots)

(2) Open Space Preservation Communities that include attached units shall be exempted from side yard requirements pertaining to dwelling units attached to one another.

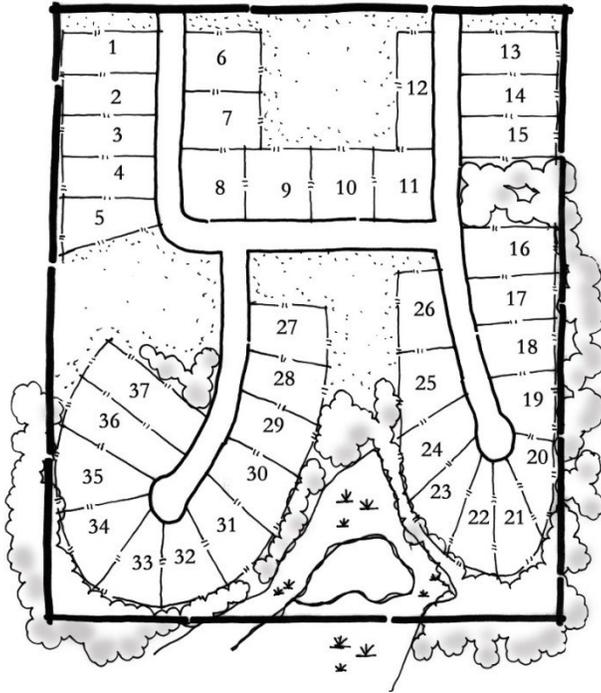
b. **Lot or Parcel Width and Area.** The following minimum parcel area and width standards shall be applied in an Open Space Preservation Community development:

Zoning District	Detached Units		Attached Units					
			2 Units		3 Units		4 Units	
	Area (sq. ft.)	Width (feet)						
RA	21,780	100	39,200	135	58,800	165	78,400	190

R-1	21,780	100	39,200	135	58,800	165	78,400	190
R-2	8,500	70	15,300	110	22,950	140	30,600	160
R-3	8,500	70	15,300	110	22,950	140	30,600	160

- c. Cluster Size and Isolation. A cluster may not exceed twelve (12) dwelling units, and clusters shall be separated from one another and from adjoining developments by a minimum of one hundred fifty (150) feet of common open space.
 - d. Common Open Space Area. Common open space may not constitute less than fifty percent (50%) of the adjusted parcel acreage.
 - e. Departures from Standards. The Planning Commission may recommend and the Township Board may approve departures from the standards set forth in subparagraphs 4.35, D, 3, (a) through (d) where the applicant demonstrates to the satisfaction of the Planning Commission and Township Board that a proposed Open Space Preservation Community will include features or design techniques that achieve the objectives of such standards.
4. Density Standards. The total number of residential dwelling units permitted in an Open Space Preservation Community may be up to 125% of the number provided by the base density as allowed in the underlying zoning district. The base density shall be determined by the following formula or by a comparison plan prepared pursuant to Subsection 6 hereof: The total area of regulated wetlands, bodies of water with surface area greater than one (1) acre, streams, rivers and land within a 100-year flood plain, and permanent easements that restrict development shall be subtracted from the gross area of the site to determine adjusted parcel acreage. The adjusted parcel acreage shall be multiplied by eighty-five percent (85%) to account for rights-of-way, drainage facilities and similar facilities, and the resulting product shall be divided by the minimum lot area for the underlying zoning district, rounded to the nearest whole number. In the event the parcel includes more than one underlying zoning district, the calculation set forth in this paragraph shall be applied to the portion of the site lying in each zoning district and the result for all districts shall be summed. See Open Space Community illustration (underlying zoning R-1)

Open Space Preservation Community Illustration



Gross Site Area:	40.0 Acres
Primary Conservation Area (wetlands)	<u>2.5 Acres</u>
Adjusted Parcel Area	37.5 Acres
R.O.W. Adjustment	<u>- 85%</u>
	31.8 Acres
Minimum parcel area for underlying zoning (R-1)	1 Acre
Base Density	31.8 Acres ÷ 1 Acre = 32 parcels
Maximum Dwelling Units Permitted	<u>x 125%</u>
	40
Required Open Space	37.5 Acres
	<u>x 50%</u>
	18.75 Acres
Parcels realized in this example	37
Estimated Open Space in this example	19 Acres

5. **Comparison Plan.** At the option of the applicant, a comparison plan may be used to demonstrate the base density for the parcel. To utilize this option, the applicant shall prepare a comparison plan meeting the requirements of Section 201.502, D of this Ordinance to illustrate a feasible development pursuant to the underlying zoning. The comparison plan shall be reviewed by the Zoning Administrator for compliance with the requirements of the underlying zoning. The Zoning Administrator shall provide a evaluative report on the feasibility of the comparison plan. The number of dwelling units illustrated in a feasible comparison plan may be used as the base density in lieu of the base density determined pursuant to Section 4.35, D, (4) and the total number of residential dwelling units permitted in an Open Space Preservation Community may be up to 125% thereof.

6. **Rural and Scenic Easement.** A rural and scenic easement shall be incorporated into an Open Space Preservation Community consisting of a natural area located parallel to and abutting any existing public roads. Such rural and scenic easement may be included in the required common area and shall be of sufficient depth and/or include sufficient year-round vegetation to preserve the character of the abutting roadway and minimize the visibility of the proposed development from the roadway. For the purposes of this paragraph, the rural and scenic easement shall be measured from the edge of the public right-of-way and shall be considered sufficient if it meets the following dimensions, regardless of vegetation:
 - a. In the RA District: One hundred-fifty (150) feet.
 - b. In the R-1 District: One hundred (100) feet.
 - c. In the R-2 and R-3 Districts: Thirty (30) feet.

- E. *Open Space Preservation Community Development Review Process.* The following steps shall be completed to implement an open space community.
1. Prior to implementing an open space community project design, applicants shall conduct a preliminary development review with the Township Zoning Administrator. The purpose of this review will be to discuss the nature of the site and the development, to reach a consensus about the potential for use as an Open Space Preservation Community, and to advise the Township of the applicant's intent to proceed.
 2. The applicant shall then complete a site analysis and prepare a detailed site inventory including a narrative description of the site. The site analysis shall address and locate water features, wetlands, topography, significant wooded areas, wildlife habitat areas, views, any endangered species, easements and rights-of-way, historic or cultural resources, steep slopes and any other features deemed important by the applicant. In a written narrative, the applicant shall discuss each of the features identified on the site and make an evaluation of each relative to the existing rural character of the Township. The site analysis will be illustrated on a topographic survey of the site prepared by a licensed surveyor. The site analysis shall illustrate the topography of the site with not greater than two (2) foot contour intervals where dwellings will be located and not greater than ten (10) foot intervals where common open space will be located.
 3. Based on the site analysis, the applicant shall identify common open space areas in the order of their importance to the protection of the overall natural features of the site and its immediate vicinity. The applicant may use the Vergennes Township natural features inventory and community opinion survey as guidance in completing the ranking of natural features. As a general guideline, the following listing of important natural features is presented in the rank order as determined from that survey:
 - Preservation of plant and animal habitat.
 - Preservation of open fields and vistas.
 - Protection of wetlands, streams, and lakes.
 - Preservation of large woodlots and hunting land.
 - Potential recreation and hunting areas.
 - Important agricultural land.
 - Educational and cultural enrichment.
 - Historic and cultural resource protection.
 4. Common open space may not constitute less than 50 percent (50%) of the adjusted parcel acreage. The applicant shall calculate the base density for the proposed development in accordance with the provisions of this Ordinance.
 5. Potential building sites shall be identified in areas outside the common open space areas. The number of potential building sites shall not

exceed the permitted density determined in accord with this Ordinance. The potential building sites shall be illustrated on the site analysis on a separate drawing or layer, at the applicant's option. The clustering requirements shall be met in laying out building sites.

6. The roads and trails system to serve the potential building sites shall be established. The road system shall comply with the terms of this Zoning Ordinance and the Township's Private Road Ordinance. The road system shall be illustrated as a separate drawing or layer, at the applicant's option.
7. The lot or condominium lines shall be illustrated for each building site. These shall be reflected on the site analysis as a separate drawing or layer, at the applicant's option. The dimensional requirements of this ordinance shall be met in the layout of the lot lines.
8. A preliminary site plan shall be prepared which shall illustrate the proposed project layout including the common open space, scenic easements, trails, building sites, road systems, lot or condominium lines. If the project will be undertaken in phases, an approximate implementation schedule for each phase shall be provided as a part of the site plan. The preliminary site plan shall meet the standards of Section 201.502, D, of the Vergennes Township Ordinance, and shall include a detailed narrative description of the site analysis and the management plan for the perpetual preservation of the proposed common open space. Any clearance, earth changes or recreational uses proposed to be included within the common open space shall be clearly described.
9. The preliminary site plan and the site analysis with all overlays shall be presented to the Zoning Administrator and the Township Planner for review and comment. Within 30 days of submission of all required information, the Zoning Administrator and the Township Planner shall provide written comments on the preliminary site plan. Based on the comments of the Zoning Administrator and the Township Planner, the applicant may make needed adjustments to the preliminary site plan and prepare a final site plan as directed by the Zoning Administrator or seek advisory judgement from the Planning Commission on any issues in dispute prior to preparing a final site plan. When the final site plan is prepared, it shall be submitted for Planning Commission review and approval in accord with Section 201.502, D, of this Zoning Ordinance. For Open Space Preservation Community developments in the R-2 and R-3 Districts, the site plan shall be accompanied by an application for special exception use approval pursuant to Section 201.502, A and B.
10. The Planning Commission shall hold a public hearing on the final Open Space Preservation Community development plan. The notice of public hearing and the conduct of the hearing shall proceed in accord with Section 201.502, C, 4.
11. Upon approval of the final Open Space Preservation Community development plan by the Planning Commission, the plan shall be submitted to the Township Board for its approval.

F. Use and Preservation of Common Open Space and Natural Features.

1. Further subdivision of open space lands, or their use for other than recreation, conservation or agricultural use by site owners, shall be prohibited. Pedestrian access points to common open space must be of common ownership and at least ten (10) feet in width. Access may be limited in areas of sensitive environmental features or wildlife habitat with the approval of the Planning Commission.
 2. All dwellings and accessory structures shall be located at least one hundred (100) feet from any lakes, ponds, rivers, or streams. A roadway may be placed within one hundred (100) feet of lakes, ponds, rivers, or streams only with the approval of the Planning Commission and the Township Board.
 3. The applicant and all subsequent owners shall establish, register and maintain a viable legal entity, which may be a homeowner's association, a condominium association or other organization acceptable to the Township which shall assume responsibility for the preservation of common open space. Common open space shall be set aside by the applicant through an irrevocable conveyance to said entity through a deed, master deed, irrevocable conservation easement, or other form of conveyance acceptable to the Township. All forms of ownership intended to protect common open space within an open space community development shall be subject to the review of the Township Attorney.
- G. *General Development Standards.* The following standards shall be observed in the preparation of an Open Space Preservation Community development:
1. **Siting.** Dwelling units shall be carefully sited and designed to screen homes from off-site vantage points whenever possible, away from environmentally sensitive areas, existing agricultural uses and away from areas subject to land management practices that will cause dust, noise, smoke, odors or similar problems.
 2. **Trees.** All lots or condominium units shall have no fewer than three (3) trees, each at least six (6) feet high, planted or retained in the front yard area prior to obtaining an occupancy permit.
 3. **Sanitary Sewer.** If either public sanitary sewer or private sanitary sewers are provided within the development, all provisions for review and approval by the Township must be followed.
 4. **Stormwater.** An Open Space Preservation Community development shall meet the requirements of the Kent County Drain Commissioner for containing stormwater within the development.
 5. **Septic System.** If not served by public sanitary sewer or a privately owned public sewer system, the proposed Open Space Preservation Community development shall fully comply with the requirements of the Kent County Health Department as they apply to siting and development of on-site wastewater treatment and disposal. With the approval of the Planning Commission, the Township Board, the Kent County Health Department, and the Homeowner's or Condominium Association, an approved drainfield may be located within an area dedicated as common open space.
 6. **Prior to Construction.** All required approvals shall be completed prior to

the start of any construction, as required by Section 201.602.

7. Performance Guarantees. The Township may require the posting of a performance bond or irrevocable letter of credit to assure the completion of the proposed open space community.
8. Minor Amendments. A minor change may be approved by the Zoning Administrator who shall notify the Planning Commission of the minor change and that such change does not substantially change the basic design or alter the conditions required by the Commission. Should the Zoning Administrator determine that the requested modification to the approved plan is not minor, the plan shall be re-submitted to the Planning Commission for an amendment.
9. Suitable Name. The applicant will give the development a suitable name. Compliance with this Ordinance will entitle the developer to use the term, "A Vergennes Open Space Community" in conjunction with the development name.

(Amended: Ord. No. 2002-11, 10-21-02)

201.436 Keyhole development and lake access regulations; lot width on Murray Lake

4.36. The following restrictions apply in all zoning districts and to Murray Lake, and are intended to limit the number of users of lake frontage in order to preserve the quality of the waters, to promote safety, and to preserve the quality of recreational use of Murray Lake waters within the Township.

- A. Where public sanitary sewer is available for the property involved, there shall be at least fifty (50) feet of lake frontage as measured along the normal high water mark of the lake for each single-family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit utilizing or accessing the lake frontage. Where public sanitary sewer is not available for the property involved, the above frontage requirement shall be increased to one hundred sixty-five (165) feet.
- B. Where public sanitary sewer is available for the property involved, any multiple-unit residential development in any zoning district that shares a common lakefront area or frontage may not permit lake use or access to more than one (1) single-family home, dwelling unit, cottage, condominium unit, site condominium unit, or apartment unit for each fifty (50) feet of lake frontage in such common lake front area, as measured along the normal high water mark line of the lake. Where public sanitary sewer is not available for the property involved, the above frontage requirement shall be increased to one hundred sixty-five (165) feet.
- C. Where public sanitary sewer is available for the property involved, any multiple-unit residential development shall have not more than one (1) dock for each fifty (50) feet of lake frontage, as measured along the normal high water mark of the lake in any zoning district in the township. All such docks and docking or mooring shall also comply with all other applicable township ordinances. Where public sanitary sewer is not available for the property involved, the above frontage requirement shall be increased to one hundred sixty-five (165) feet.
- D. The above restrictions shall apply to all lots, site condominiums, and parcels on

or abutting Murray Lake in all zoning districts, regardless of whether access to the lake or stream waters shall be by easement, park, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease.

- E. The access and use regulations contained in this section shall be fully applicable to all planned unit development (PUD), open space development community, plats and special exception use projects or developments.
- F. In addition to the above limitations, no easement, private park, common area, lot or access property abutting or adjoining Murray Lake shall be used to permit access to the lake for more than one (1) single-family home, dwelling unit, condominium unit, site condominium unit, apartment unit or any other use unless such additional access use is approved as a special exception use (if authorized in the zoning district involved).
- G. If a property is located within a zoning district where the minimum lot width requirement is greater than fifty (50) feet for the particular property involved, the minimum water frontage requirements of subsections A, B and C hereof shall be increased so as to equal the minimum lot width requirement of the zoning district in which the property is located which is applicable to that property.
- H. No channel, canal, or similar waterway or device shall be dug, constructed, dredged, enlarged, or created out of or that connects to Murray Lake in the Township. Nor shall the size or surface area of Murray Lake be increased by digging, dredging or excavation upland from the ordinary high water mark of the lake; provided, however, that this subsection H shall not apply to the following:
 - 1. Any lawful dredging occurring on the existing lake bottom lands which are lakeward of the ordinary high water mark of Murray Lake.
 - 2. Lawful dredging upland from the ordinary high water mark of Murray Lake so as to create not more than two boat wells (i.e., a mooring area for boats) so long as the water surface area dredged, excavated or otherwise created does not exceed 25 feet in width along the lake frontage and 20 feet of depth from the ordinary high water mark of the lake.
 - 3. The lawful creation or enlargement of a pond which does not abut or connect into Murray Lake.
 - 4. The lawful dredging of an existing canal or channel pursuant to applicable state laws and permit requirements, so long as such channel or canal is not enlarged or expanded.
- I. Lot Width. For all lots, site condominium units, or parcels abutting or having frontage on Murray Lake, each such lot, site condominium, or parcel shall have frontage on the lake, as measured at the normal high water mark, equal to or greater than the minimum lot width requirement of the zoning district within which the property is located.

(Amended: Ord. No. 2004-5, 4-19-04)

201.437 Marinas

4.37. *Purpose.* To provide for the storage and maintenance of boats, watercraft and related activities within the Lake Residential (L-R) District and along Key Street Segments within the Rural Agricultural (R-A) district.

A. *Regulations and Conditions:*

1. Such facilities shall maintain, at all times, all required state and local licenses and permits, and any failure on the part of the operator to maintain proper licensing shall be grounds for the revocation of a Special Exception permit.
2. All developed portions of a marina shall have primary access upon a Key Street Segment, being either Alden Nash Avenue or Lally Road. If the property gains access from Alden Nash, no developed portion of the site shall be more than 300 feet to the east of the right-of-way. If the property gains access from Lally, no developed portion of the site may be more than fifty (50) feet to the south of the right-of way.
3. Where a marina is located on a body of water, vehicular ingress and egress from the water body to the marina shall not interfere with the normal and customary use of neighboring property.
4. All Marinas shall be similar in architectural design, scale and character to adjacent structures in the vicinity, and shall be constructed of durable materials, such as brick, stone, wood, or similar material approved by the Planning Commission.
5. Onshore storage of boats and/or trailers may only be incorporated in a Marina special exception use approval where the Planning Commission is satisfied that such storage will be effectively screened from view from adjoining properties and rights-of-way and meets the height and setback standards of Section 201.3075. Screening shall consist of one or both of the following:
 - a. A natural compact planting area of evergreens or shrubbery which maintain their density and screening effect throughout the calendar year, not less than five (5) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining residential use.
 - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants or adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining residential district.

No such planting area, wall or fence shall be closer than ten (10) feet from any adjoining street right-of-way.
6. All off-street parking shall be in compliance with Section 201.417 of this Ordinance, except that the parking requirement for a Marina shall be one parking space for each 3 boat slips or 1 space for each 300 square feet of retail and office space, whichever is greater.
7. All on-site activity shall be in compliance with all applicable standards set forth in the Natural Resource Environmental Protection Act, 451 of 1994.
8. If boat storage is provided, all boat storage shall be contained within a fully enclosed building, or outside within a rear or side yard only. Boats for sale may be displayed without regard to season, but not within any minimum required setback.

9. All outdoor lighting shall comply with Sections 4.13 and 3.08, F of this ordinance.
10. Buildings associated with a Marina shall meet all district standards required in the underlying zoning district.

(Amended: Ord. No. 2007-2, 10-15-07)

201.438 Small Wind Energy Conversion Systems/ Wind Turbines

4.38. The purpose of this Section is to promote the safe, effective, and efficient use of small wind turbines installed to reduce the on-site consumption of utility-supplied electricity. All small turbines shall be subject to the requirements of Section 201.502, D (Site Plan Review Procedures), and the following requirements:

- A. Small wind turbines may be attached to an existing structure or mounted on a tower structure with the following height limitation, measured from the natural grade directly below the turbine to the uppermost component of the system with its blade in a vertical position:
 1. For parcels in all districts, wind turbines which are no greater than thirty-five (35) feet in height shall be a permitted accessory use.
 2. All other wind turbines shall require a Special Exception Use permit and shall conform to the standards of this section and any additional height or setback standards deemed reasonable for the specific site conditions by the Planning Commission.
- B. The minimum vertical blade tip clearance from grade shall be twenty (20) feet.
- C. No part of the wind system structure, including guy wire anchors, may extend closer than ten (10) feet to the property boundaries of the site upon which it is installed. The tower structure shall be setback from all adjoining property lines and rights-of-way (public or private) a distance equivalent to or greater than the combined height of the installation measured to the vertical tip of its blade.
- D. Small wind turbines shall not cause a sound pressure level in excess of 60 decibels, as measured at any property line.
- E. Small wind turbines shall be equipped with an automatic braking, governing or a feathering system to prevent uncontrolled rotation or over-speeding. Small wind turbines and towers shall be equipped with lightning protection.
- F. Building permit applications for all wind turbines shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of the tower showing compliance with the Uniform Building Code and certified by a licensed professional engineer shall be provided.
- G. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations in close proximity to an airport.
- H. All responsibilities for on-site wind turbines shall be transferred with the ownership of the land.

- I. Any wind turbine which sits idle, does not function, or fails to meet the requirements of this section for a period greater than six (6) months shall be considered abandoned and shall be dismantled at the cost of the owner.
- J. No small wind energy conversion system which is proposed to be connected to a public electric utility grid system shall be approved until evidence has been given indicating that the utility company has approved such installation.

(Amended: Ord. No. 2007-2, 10-15-07)

201.439 Neighborhood Local Business

4.39. The following standards shall apply only to those commercial facilities which are compatible with nearby residential development. This use is intended to serve a local area within Vergennes Township as opposed to a regional area of several townships or counties. The standards for developing the Neighborhood Local Business use are intended to limit the conflicts that might arise due to commercial and residential districts being located adjacent to one another. Decisions to permit such uses in any district within the Township shall be subject to the following standards and shall be informed by the Vergennes Township Comprehensive Plan and Future Land Use map.

A. *Uses.*

- 1. A Neighborhood Local Business shall be permitted as a Special Exception Use only along key street segments identified by the R-A and R-L district regulations in Chapter 3 of this ordinance.
- 2. Uses shall be limited in size and scale to those which can be determined to have a minimal impact upon the surrounding residential neighborhoods and rural character as determined by the Planning Commission. Such indicators as automobile traffic, noise, vibration, smoke, fumes, and light shall be considered.
- 3. Expected uses shall be comparable to ice cream parlors, bait and tackle shops, canoe liveries and/or rental facilities, small convenience stores, bakeries and cafes, and shall be intended to primarily serve the local population surrounding identified key street segments.

B. *Regulations and Conditions.*

- 1. Such facilities shall maintain, at all times, all required state and local licenses and permits.
- 2. Such facilities shall be located and designed such that no objectionable noise in excess of 60 decibels and no objectionable vibration shall be carried onto adjoining property zoned for, or occupied by, residential uses.
- 3. Such facilities shall be located and designed such that no objectionable odor, fumes or lighting shall be carried onto any adjacent property.
- 4. The Planning Commission may establish reasonable hours of operation.
- 5. Such facilities shall meet all required regulations of the underlying zoning district.
- 6. Such facilities shall front on and be accessed primarily from a key street segment, as defined in the underlying zoning district.
- 7. All parking areas shall be in conformance with Section 4.17 (Off-street

parking of motor vehicles) of this ordinance and shall meet all applicable lighting and screening requirements of this ordinance.

8. Such facilities shall be constructed and maintained in accordance with the rural and/or residential character of the surrounding properties. Local business facilities shall be designed with architectural features similar in style and appearance to the surrounding residential structures and shall be constructed of wood, brick or stone masonry.

(Amended: Ord. No. 2007-2, 10-15-07)

201.440 Key Street Segments

4.40. Key street segments are identified in the particular zoning districts established in Chapter Three (3) herein. Key street segments tend to include a mix of land uses, and, due to traffic patterns, are appropriate locations for certain uses within a zoning district. If a property fronts on, and gains access from, a key street segment, certain uses shall be permitted as Permitted or Special Land Uses that are not otherwise permitted in other locations within the zoning district boundaries. For the purposes of this ordinance the street segments are described in the respective zoning district sections of Chapter Three (3), and shall include both sides of the street unless specified otherwise.

(Amended: Ord. No. 2007-2, 10-15-07)

201.441 Accessory Dwellings

4.41

- A. Accessory dwelling units (ADU), as defined in section 201.202, are allowed with a special exception use permit and subject to the following provisions:
 1. The design of the ADU shall be compatible with the height, mass, and general design of local buildings and not detract from the general character in the immediate vicinity of the site.
 2. A maximum of one ADU is permitted per lot or parcel and must accompany a primary residence.
 3. ADU's shall be allowed in the R-A district and any other residential district on a parcel of at least 2 acres.
 4. Setbacks for the underlying zoning district shall apply to ADU's but it may not be located in front of the primary residence.
 5. Height of ADU shall not exceed the height of the primary dwelling.
 6. Minimum square footage of an ADU shall be 400 square feet.
 7. Maximum square footage of an ADU shall not exceed the size of the main floor of the primary dwelling on the lot.
 8. Owners of the property may occupy as a primary residence either the principal or the accessory dwelling but must live on the parcel. For purposes of this section, the "owner" shall mean one who holds legal or

beneficial title.

9. Regulations and permits for water and septic/sewer must be approved by the Kent County Health Department.
10. A building permit must be approved and all codes met before a certificate of occupancy is issued.
11. No ADU shall be separated by ownership from the principal dwelling unit unless sufficient land area and frontage is met for the underlying zoning district and the regular dwelling square footage size of the ADU is met or exceeded.
12. Mobile homes must also meet the applicable standards of section 201.415.
13. In addition to parking required for the principal dwelling, sufficient additional parking spaces shall be provided for the accessory residence.
14. The ADU shall not be rented or used for commercial or business purposes.
15. All ADU Permits for second dwelling units shall be recorded with the Kent County Register of Deeds, prior to issuance of any building permit. The purpose of recording the Special Exception Use Permit (SEUP) is to ensure that future property owners are made aware of the conditions and standards under which the second unit was approved and potential revocation for non-compliance with the conditions. The property owner is responsible for recording the SEUP.
16. The application for such special exception use permit shall be made in accordance with section 201.502 of this ordinance.

201.442 Small-Scale Solar Energy Systems

4.42. Applicability. This section applies to any system of small-scale solar energy collector systems. This section does not apply to solar energy collectors mounted on fences, poles, or on the ground with collector surface areas less than five (5) square feet and less than five (5) feet above the ground, nor does this section apply to utility-scale solar energy collector systems, which are regulated in Section 201.304(C). Nothing in this section shall be construed to prohibit collective solar installations or the sale of excess power through a net billing or net-metering arrangement.

A. General requirements.

1. Permit Required. No small-scale solar energy collector system shall be installed or operated except in compliance with this section. A zoning permit shall be obtained from the Zoning Administrator prior to the installation of a small-scale solar energy system. All small-scale solar energy systems shall be constructed, installed, operated, and maintained in strict accordance with the Michigan Building Code, the Electrical Code, and the manufacturer's specifications.

2. Applications. In addition to all other required application contents as listed in Section 201.602(C) equipment and unit renderings, elevation drawings, and site plans depicting the location and distances from lot lines and adjacent structures shall be submitted for review by the Zoning Administrator.
 3. Glare and Reflection. The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light. A unit may not be installed or located so that sunlight or glare is reflected into neighboring dwellings or onto adjacent roads or private roads.
 4. Installation.
 - a. A solar energy collector shall be permanently and safely attached to the ground or structure. Solar energy collectors, and their installation and use, shall comply with building codes and other applicable Township and State requirements.
 - b. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy shall be submitted to the Township prior to installation.
 5. Power Lines. On-site power lines between solar panels and inverters shall be placed underground.
 6. Abandonment and Removal. A solar energy collector system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned. Following the abandonment of a solar energy collector system, the following standards are applicable:
 - a. The responsible party may reinstate the system up to six (6) months after the system is declared abandoned if the Township is given substantial evidence of the responsible party's intent to maintain and reinstate the operation of that system.
 - b. The responsible party shall remove all equipment and facilities and restore the lot to its condition prior to the development of the system within one (1) year of abandonment.
- B. Building-Mounted Solar Energy Collectors. These systems may be established as accessory uses to principal uses in all zoning districts subject to the following conditions.
1. Maximum Height. Building-mounted solar energy collectors shall be attached directly to the building and shall not be taller than the peak of the building to which they are attached.
 2. Obstruction. Building-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
- C. Ground-Mounted Solar Energy Collectors. These systems are permitted in all zoning districts subject to the following conditions.
1. Rear and Side Yards. The unit may be located in the rear yard or the side yard but shall be subject to the setbacks for principal buildings.

2. Front Yard. The unit may be located in the front yard only if located not less than one hundred fifty (150) feet from the front lot line.
3. Obstruction. Ground-mounted solar energy collectors shall not obstruct solar access to adjacent properties.
4. Vegetation. All vegetation underneath solar energy infrastructure shall be properly maintained as to not block access to solar collectors.
5. Maximum Number.
 - a. Residential uses. There shall be no more than one (1) ground-mounted solar energy collector per principal building on a lot.
 - b. Agricultural, Commercial, and Industrial uses. There shall be no limit to the number of ground-mounted solar energy collectors on a lot.
6. Maximum Size.
 - a. Residential uses. There shall be no more than one percent (1%) of the lot area, up to two thousand (2,000) square feet, of collector panels on a ground-mounted solar energy collector system.
 - b. Agricultural, Commercial, and Industrial uses. There shall be no more than ten thousand (10,000) square feet of collector panels on a ground-mounted solar energy collector system unless a Utility Scale Solar Energy Systems is approved pursuant to Section 201.304,C,20.
7. Maximum Height.
 - a. Residential uses. The maximum height shall be ten (10) feet, measured from the natural grade below the unit to the highest point at full tilt.
 - b. Agricultural, Commercial, and Industrial uses. The maximum height shall be sixteen (16) feet, measured from the natural grade below the unit to the highest point at full tilt.
8. Minimum Lot Area. Two (2) acres shall be the minimum lot area to establish a ground-mounted solar energy collector system.
9. Screening. Screening shall be required in cases where a ground-mounted solar energy collector impacts views from adjacent residential properties. Screening methods may include the use of material, colors, textures, screening walls, and landscaping that will blend the unit into the natural setting and existing environment.
10. Applicants requesting ground-mounted solar energy collectors shall demonstrate the system's projected electricity generation capability, and the system shall not regularly exceed the power consumption demand of the principal and accessory land uses on the lot. However, larger systems may be approved if greater electricity need is demonstrated to power on-site buildings and uses.

201.443 Fences

4.43.

A. Fences shall meet the following requirements:

1. Installation of fencing shall not require a building permit or site plan approval by the Planning Commission; however, a sketch detail must be provided showing the proposed location, existing buildings on adjacent parcels, setbacks, and lot lines. Approval shall be required by the Zoning Administrator.
2. No solid fencing in excess of three (3) feet in height shall be located within a front setback area or within 30 feet of a waterfront property line. If the fencing is at least 50% transparent, it shall not be in excess of four (4) feet in height. Fences or walls may be placed along a property line; however, no fence shall be placed within a clear vision corner area as defined herein. In other portions of a lot or parcel, fencing shall not exceed six (6) feet in height. Provided, however, that the Planning Commission or Zoning Administrator may approve fencing of greater height as part of the review and approval of a site plan.
3. The maximum height of a fence shall be measured from ground level adjacent to the fence, provided that fill shall not be permitted for the purpose of achieving a greater height than otherwise would be permitted.
4. Fences, walls, and screens shall be maintained in good repair and in safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements with the same materials.
5. Fencing materials shall consist of wood, vinyl, wrought iron, anodized aluminum, brick, stone, masonry, or other durable commonly accepted fencing materials.
6. Any fencing or wall with a single finished side shall be installed with the finished side facing the neighboring property or the road right-of-way.
7. The provisions of this section do not apply to farms and farm operations as defined in the Right to Farm Act (Act 93 of 1981), provided that such farms and farm operations are in compliance with adopted Generally Accepted Agricultural Management Practices (GAAMPs).

(Amended: Ord. No. 2011-3, 09-19-11, Ord. No. 2019-02, 6-17-19; Ord. No. 2019-03, 6-17-19)

CHAPTER 5

201.500 NONCONFORMING USES, SPECIAL EXEMPTIONS, SITE DEVELOPMENT PLANS

201.501 Non-conforming uses, structures and lots.

5.01. The following regulations shall control lawful non-conforming uses in existence at the time of passage of this Ordinance:

- A. Lawful non-conforming uses or structures in existence at the time of passage of this Ordinance may be continued but shall not be extended, added to or altered unless each such extension, alteration or addition is in conformity with the provisions of this Ordinance.
- B. If the cost of repair or replacement of a non-conforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or public enemy exceeds fifty percent (50%) of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this Ordinance.
- C. If the non-conforming use of any land or structure shall terminate for a continuous period of one year or more, such use shall not be reestablished and any future use of such land or structure shall be in conformity with this Ordinance.
- D. If a non-conforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall not revert or be changed back to a less restrictive non-conforming use.
- E. Notwithstanding the provisions of subsection A. above, any special exception use granted approval, but subsequently made non-conforming by this Ordinance or amendments hereto, may continue under the terms of the special exception approval. Such use may expand if the expansion was contemplated and specifically laid forth on the site plans approved at the time the special exception use permit was approved. Any expansion not so contemplated, approved and documented shall be required to comply with all applicable regulations and approval procedures currently in effect.

(Amended: Ord. No. 95-6, 4-17-95)

201.502 Special exceptions.

5.02.

- A. Purpose of Special Exception Uses. In order to make this Ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the Township, the Township Board is authorized to approve certain uses designated as Special Exception Uses within the various zoning districts set forth in the Ordinance.

The Special Exception Uses have been selected because of their unique characteristics which, in the particular district involved, could cause such uses to be incompatible with or detrimental to uses permitted in such district without proper controls and limitations.

The fact that any particular use is not designated as a Special Exception Use in this Ordinance shall not be deemed to suggest or imply that such use is permitted or authorized. Additional Special Exception Uses other than those enumerated in this Ordinance may be designated only by amendment to this Ordinance in the manner provided by law, or designated pursuant to section 201.401 Unclassified Special Exception Uses and any such newly designated Special Exception Uses shall thereupon become subject to all applicable provisions of this Ordinance.

- B. Standards for Approval of Special Exception Uses. A Special Exception Use is not permitted within the particular district in which it is listed unless the Township Board, in its discretion, is satisfied that such use, under the conditions, controls, limitations, circumstances and safeguards proposed by the user and/or imposed by the Township Board will be compatible with and will not be detrimental or injurious to the uses permitted within the district and will, where applicable, comply with any general or special provisions, conditions or limitations set forth in this Ordinance (e.g., where earth removal or quarrying, etc., is proposed, the requirements of Section 4.10 [201.410] shall be met; and where septic disposal is proposed, the requirements of Section 4.09(a) [201.409] shall be met).

In determining whether to approve a proposed Special Exception Use the Township Board shall consider the following:

1. The public health, safety, peace and comfort and general welfare of the community, including:
 - a. The accessibility of the property in question to fire and police protection and to public utilities and other essential public services.
 - b. The suitability and adequacy of existing and proposed streets to carry anticipated traffic in connection with the proposed use.
2. The compatibility of the proposed use (including the type and kind of buildings and structures to be erected) with the use or development of adjacent or nearby properties, including the safety, welfare and convenience of the occupants of such adjacent or nearby properties.
3. The extent to which the proposed use may decrease or impair the value or marketability of adjacent or nearby properties, whether improved or unimproved.
4. The extent to which the proposed use is compatible with the character and adaptability of the land comprising the property in question, and is in harmony with the Vergennes Township Land Use Plan.
5. Any hazards or nuisances that may be directly or indirectly caused or created by the proposed use.

Notwithstanding anything herein to the contrary, operations in connection with any proposed Special Exception Use shall not create or emanate more noise, fumes, air or water pollution, vibration or artificial lighting than operations of any use permitted in the district in question, and no Special Exception Use Permit shall be issued for any property in respect of which there is an existing violation of this Ordinance.

- C. *Procedure for Obtaining Special Exception Use Permit.* No use other than those

uses expressly permitted by this Ordinance or designated pursuant to section 201.401 Unclassified Special Exception Uses and no designated Special Exception Use is permitted in any zoning district in the Township unless a Special Exception Use Permit covering the proposed use shall have first been issued by the Township Board after consideration of the application for the proposed use in light of the foregoing standards. The burden of establishing the feasibility and permissibility of a Special Exception Use under the foregoing standards shall be upon the applicant. The following procedures shall govern all special exception use applications:

1. All applications for Special Exception Use Permits shall be filed in writing with the Township Zoning Administrator a minimum of 5 days prior to the next Township Board meeting and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely in requesting a Special Exception Use permit and shall also include a site plan in conformity with the requirements of 201.502 D. Upon receipt of an application the Zoning Administrator shall endorse the date of receipt thereon, and shall forward the same to the Township Board. The Zoning Administrator may set a public hearing at the next Township Board meeting based on the nature of the application and consultation with the Township Supervisor and Clerk.

If the Zoning Administrator determines that an application for a special exception use should be determined as an unclassified special exception use pursuant to section 201.401 then the application will be transmitted directly to the Planning Commission. The application deadline for unclassified special exception uses is a minimum of 10 days before the next Planning Commission meeting. The Planning Commission will apply the standards of section 201.401 and determine the application's suitability to the zoning district and related uses. If the standards are favorably met then the Planning Commission shall set a public hearing date and proceed with the application by holding the hearing and making a recommendation to the Township Board.

2. The Township Board may, upon receipt of the application in proper form accompanied by the required plans and specifications and permit fees, hold the public hearing if previously scheduled, or set a future public hearing date or submit the same to the Township Planning Commission for its review and recommendation.
3. Following such submission, the Planning Commission shall review the application and make its recommendation in writing to the Township Board after a public hearing has been held and shall briefly state the reasons for its recommendation. In making its recommendation, the Planning Commission shall consider the Standards for Approval of Special Exception Uses hereinabove set forth, together with all other applicable provisions of this Ordinance.
4. Upon receipt of the application in proper form accompanied by the required plans and specifications and permit fees, and a public hearing date has been determined; notice that the application has been received shall be published in a newspaper of general circulation in the Township and sent by mail or personal delivery to (1) the owners of property for which approval of the application is being considered, (2) to all persons to

whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and (3) to the occupants of all structures within three hundred (300) feet of such boundary regardless of whether the property or occupant is located in the zoning jurisdiction. The notice shall be given not less than fifteen (15) days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" or "current resident" may be used in making notification under this section. The notice shall do all of the following:

- a. Describe the nature of the application.
 - b. Indicate the property which is the subject of the application request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c. State when, where and by which body the application will be considered.
 - d. Indicate when and where written comments will be received concerning the application.
 - e. For Special Exception Use Permit applications, indicate that a second public hearing on the application may be requested in writing by the owner of any property or the occupant of any structure located within three hundred (300) feet of the boundary of the property being considered for a Special Exception Use Permit, regardless of whether the property or occupant is located in the zoning jurisdiction.
5. At the initiative of the Zoning Administrator or Planning Commission or the Township Board, or upon the request of the applicant, or upon written request of an owner of property or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a Special Exception Use, a public hearing shall be held before a decision is made on the application, regardless of whether the property or occupant is located in the zoning jurisdiction. A notice of public hearing on the application shall be given in the manner provided by Section 5.02 [201.502] C.4.
 6. Following receipt of the recommendation of the Planning Commission (if requested or required) and after the public hearing, the Township Board shall consider the application for Special Exception Use Permit. The Township Board shall in writing either grant, deny or approve with conditions a permit for the proposed Special Exception Use. The decision of the Township Board shall be incorporated into a statement containing the conclusions relative to the application under consideration, which specifies the basis for decision and any conditions imposed. The statement may be set forth in the minutes of the meeting at which the decision is made, or may be otherwise prepared, as deemed appropriate by the Township Board.
 7. All conditions, limitations and requirements upon which any Special

Exception Use Permit is granted shall be specified in the permit, and the permit shall be filed with the minutes of the Township Board with a copy to the Township Zoning Administrator. All conditions shall remain unchanged except upon the mutual consent of the landowner and the Township Board.

8. The Township Board shall have the right to limit the duration of a Special Exception Use Permit where the proposed use is of a temporary nature or is approved only as a temporary Special Exception Use. The Township Board may also reserve the right to review annually the permittee's compliance with the conditions and limitations imposed in the permit. If the holder of a Special Exception Use Permit shall fail to comply with any conditions and limitations of a permit, the Township Board may revoke the permit after a hearing called upon the Board's own initiative or upon application of any aggrieved party. Upon a finding by the Township Board that there has been a violation of any term, condition or limitation of a Special Exception Use Permit, corrective remedies pursuant to the zoning ordinance or other laws may be initiated or the permit may be canceled and the Special Exception Use permitted thereby shall thereupon cease to be a lawful use.
9. In the event that any property which is the subject of a Special Exception Use Permit has not been used for the purposes for which such permit was granted for a period of one (1) year or more after approval of the special exception use permit, even though improvements may have been made to the site (except where such non-use is shown to be due to causes or circumstances beyond the owner's control), the Special Exception Use Permit shall be subject to revocation on written notice by the Township Board to the holder of the permit. Following such revocation, the Special Exception Use permitted by the revoked permit shall cease to be a lawful use.
10. Amendments. Except as provided in Section 5.02, G, of this Zoning Ordinance, amendments to an approved Special Exception Use application shall be processed as a new application pursuant to this Section 5.02.

D. *Site Plan Review Procedures.*

1. *Filing Requirements.* When a final site development plan is required, and unless such requirements are modified or waived by the approving body or official, the applicant shall file the following:
 - a. A review fee as determined by resolution of the Township Board based upon the cost of processing the review.
 - b. Ten (10) copies of the complete application form for site plan review which shall contain as a minimum the following:
 - (1.) the name and address of applicant;
 - (2.) the legal description of the subject parcel of land;
 - (3.) the area of the subject parcel of land stated in acres or, if less than an acre, in square feet;
 - (4.) the present zoning classification of the subject parcel; and

- (5.) a general description of the proposed development.
- c. Ten (10) copies of the proposed site development plan which shall include as a minimum the following:
- (1.) a scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, showing the topography of the site and its relationship to adjoining land;
 - (2.) existing man-made features;
 - (3.) dimensions of setbacks, locations, heights and size and structures and other important features;
 - (4.) percentage of land covered by buildings and that reserved for open space or to be restricted from development by a recorded conservation easement.
 - (5.) dwelling unit density where pertinent;
 - (6.) location of public and private right-of-way, driveways and easements contiguous to and within the proposed development which are planned to be continued, created, relocated, or abandoned, including grades and type of construction of those upon the site;
 - (7.) curb-cuts, driving lanes, parking and loading areas;
 - (8.) location and type of drainage, sanitary sewers, storm sewers, and other facilities;
 - (9.) fences;
 - (10.) landscaping;
 - (11.) screening;
 - (12.) proposed earth changes;
 - (13.) environmental impact of the project;
 - (14.) signs and on-site illumination; and
 - (15.) any other requirements specified by ordinance for a special exception use permit if such a permit is being pursued;
 - (16.) such additional material information necessary to consider the impact of the project upon adjacent or nearby properties and the general public as may be requested by the reviewing and/or approving official or body.
- d. Provide an open space or conservation easement agreement if applicant elects to do so. The agreement, when approved by the Approving body or official, shall be executed by the applicant and all others claiming an interest in the property, and shall be in recordable form or in a master deed to be recorded and shall, at a minimum, set forth the following:
- (1.) a description of the areas of the development that shall be

conserved as open spaces or for recreational areas;

- (2.) preclude development of the open spaces and set forth the uses for which the open spaces may be utilized;
- (3.) specify who and how the open spaces will be maintained and provide the Township with the right to maintain the open spaces if not adequately maintained and then with the right to place a lien against such open spaces and foreclose upon the property unless waived by the Township Board;
- (4.) specify that the easement shall not preclude the transfer of such property, but will bind future grantees and require that notice of such transfer be provided to the Township;

2. *Optional Sketch Plan Review.* Preliminary sketches of a proposed site development plan may be submitted for review in connection with any application for Special Exception Use Permit or where a site development plan is otherwise required by this Ordinance. The purpose of such procedures is to allow discussion between an applicant, the Township Board, the Planning Commission or the Zoning Administrator to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site development plan approval. Such sketch plans shall include as a minimum the following:

- a. The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or partners of a partnership.
- b. A legal description of the property.
- c. Sketch plans showing tentative site and development plans.

The Township Board, the Planning Commission and the Zoning Administrator shall not be bound by any tentative approval given in connection with the review of an optional sketch plan.

3. *Criteria for Review of Site Development Plan.*

a. In reviewing a site development plan, the approving and/or reviewing body or official shall consider the standards of the ordinance provisions requiring site plan approval, other standards and requirements of the zoning ordinance, township planning documents, other applicable ordinances and state and federal statutes and in addition, shall be governed by the following criteria:

- (1.) That there is a proper relationship between the existing streets and highways and proposed deceleration lanes in the vicinity of the proposed site development so as to service drives, entrance and exit driveways and parking areas to assure the safety and convenience of existing and anticipated pedestrian and vehicular traffic.
- (2.) That the buildings, structures and entryways thereto

proposed for the site development are so situated and designed as to minimize adverse effects upon owners and occupants of adjacent and nearby properties.

- (3.) That as many natural landscape features as possible in the site development area shall be retained where they furnish a barrier or buffer between the proposed site development and adjoining properties used for dissimilar purposes and where they assist in preserving the general appearance of the vicinity or help control erosion or discharge of storm waters.
 - (4.) That any adverse effects of the proposed site development and any noise, light or activities expected to emanate therefrom upon adjoining residents or owners shall be minimized by appropriate screening, fencing or landscaping.
 - (5.) That all provisions of this Ordinance are complied with unless an appropriate variance therefrom has been granted by the Township Board.
 - (6.) That all buildings and structures are accessible to emergency vehicles.
 - (7.) That sanitary facilities have been provided for which meet the requirements and specifications prescribed by the Kent County Health Department, as evidenced by a permit issued by said department.
 - (8.) That the plan as approved is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability; to avoid the overcrowding of population; to lessen congestion on the public roads and streets, to reduce hazards to life and property; to facilitate adequate provisions for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area in light of its peculiar suitability for the particular use proposed.
- b. The approving body or official shall approve the site plan if all provisions of the Ordinance are complied with unless an appropriate variance therefrom has been granted by the Township Zoning Board of Appeals.
 - c. One copy of each approved final site development plan shall be maintained as part of the Township records for future review and enforcement. One copy shall be returned to the applicant. Each copy shall be signed and dated with the date of approval by the

approving body or official. The signature(s) and date is for the purpose of identifying the final approved plan.

4. Approving Body or Official. The Planning Commission shall review and recommend (if requested or required) to the Township Board by either 1. approval, 2. approval with conditions or 3. denial of a site plan for uses designated in the Ordinance for site plan review pursuant to section 201.502 (D). The Township Board has the final authority to grant, grant with conditions or deny Special Exception Use Permits after consideration of Planning Commission recommendation, if any.

E. *Reserved.*

F. *Conformity of Approved Site Development Plan.*

1. Property which is the subject of an approved site development plan must be developed in strict compliance with the approved plan. The approving body or official may require a Performance Bond in connection with the Site Plan.
2. If construction and development does not conform with the approved site plan, all work, construction or development under which the site plan is based shall be forthwith terminated by the Zoning Administrator by written stop order posted upon the premises involved and mailed to the applicant at his last known address. Upon such termination all further construction activities shall cease upon the site, other than for the purpose of correcting the violation. However, the Township Board may, upon proper written application by the applicant and after a hearing, approve a modification in the site plan to coincide with the developer's construction provided such construction complies with the criteria contained in the site plan approval provisions and with the spirit, purpose and intent of this Ordinance.
3. Approval of the site development plan shall be valid for a period of one (1) year after the date of approval provided development actually commenced within such one-year period. Once expired, a new site plan shall be required before any construction or development is commenced.

G. *Amendment to Site Plan.* A proposed amendment, modification or alteration of a previously approved site development plan shall be processed as follows:

1. A minor amendment shall be reviewed by the Zoning Administrator and shall be approved if the Zoning Administrator finds that such changes will not adversely affect the initial reasons for granting approval, significantly alter the nature of the project or limit or relax any condition of approval approved by the Township Board. For the purposes of this paragraph, minor amendments shall be limited to the following:
 - a. Moving or adjusting condominium unit lot lines, lot lines or proposed buildings to accommodate a natural impediment such as soil conditions or subsurface geology or a standard of a public regulatory agency, providing that such change does not reduce the area of any condominium unit or lot below the standards of the zoning district and provided the change does not result in a change in the total number of units or total square footage approved.

- b. Moving the ingress and egress drive a distance up to one hundred (100) feet, if required by the Kent County Road Commission or Michigan Department of Transportation.
 - c. In the C Commercial and I Industrial Districts, a change in the nature of the tenancy or occupancy of a previously approved building will require a new or revised site plan, unless the Zoning Administrator determines that the proposed new use is reasonably able to comply with all conditions of approval pertaining to the original site plan.
 - d. Substituting a landscape material provided a nurseryman or landscape architect certifies that the substituted species is of a similar nature and quality.
 - e. Changing the location and/or design of exterior light fixtures provided that there will be no change in the intensity of site lighting and the location conforms to the requirements of this Ordinance.
 - f. Changing the dimensions or location of approved signage provided that the sign conforms to the requirements of this Ordinance.
 - g. Altering the location of an accessory structure that is less than one hundred (100) square feet in area provided that the location does not encroach on any approved parking, loading, or landscape areas and otherwise conforms to the requirements of this Ordinance.
 - h. Changing the height and/or material of fencing provided that the height conforms to the requirements of the Ordinance and that any substituted material is similar in character and quality.
2. Other amendments. Any proposed changes to an approved Site Development Plan, other than minor amendments as defined in Section 201.502, G, 1, shall be submitted to the same approving body or official who initially approved the site plan for review in the same manner as the original application was submitted and reviewed.

(Amended: Ord. of 12-11-89; Ord. No. 99-1, § 9, 2-15-99; Ord. No. 99-9, 12-20-99, Ord. No. 2000-4, 10-16-00, Ord. No. 2001-3, 07-16-01, Ord. No. 2003-2, 2-17-03, Ord. No. 2004-7, 4-19-04, Ord. No. 2007-1, 5-21-07)

CHAPTER 6

201.600 ADMINISTRATION AND ENFORCEMENT

201.601 Enforcement.

6.01. The duty of administering and enforcing the provisions of this Ordinance, including the issuance and revocation of permits, shall, unless otherwise provided for, rest in the Township Zoning Administrator, who shall be appointed by the Township Board for such term and subject to such conditions and at such rate of compensation as the Township Board shall determine.

201.602 Permits for erection or alteration of buildings and structures.

6.02.

A.

1. *Building Permit Required.* Except as otherwise provided in this Ordinance, it shall be unlawful to erect a satellite dish antenna or a radio antenna as defined in Section 201.202, Definitions (Accessory buildings) [or] to erect any new building or structure or to make a major alteration or improvement of any existing building or structure until a permit therefor has been obtained from the Zoning Administrator or Building Inspector by the owner or the owner's duly authorized agent. A building permit is not required for any building incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade, for minor repairs to existing buildings or structures, and for minor improvements to existing buildings or structures such as unenclosed patios, interior or exterior painting or siding work, installation of new water wells or interior plumbing, repair or installation of roofs, or home insulation work. The Zoning Administrator shall determine whether a permit is needed for any proposed work.
2. *Zoning Compliance Permit Required.* Except as otherwise provided in this Ordinance, it shall be unlawful to erect any new building or structure for agricultural purposes as defined in Section 201.202, Definitions (Agriculture) or to make a major improvement of any such existing building or structure until a zoning compliance permit has been obtained from the Zoning Administrator by the owner or his duly authorized agent. A zoning compliance permit is not required for minor repairs to existing agricultural buildings or structures and for minor improvements to existing agricultural buildings or structures such as interior remodeling for the purpose of continuing agricultural use, fencing, painting or siding work, water systems, or repair or installation of roofs.
3. *Sign Permits:* The Zoning Administrator is the approving body for sign permits except that the Planning Commission may review a proposed sign as part of a site plan review or special exception use review and may make a recommendation to the Township Board after considering the review standards of Section 201.403 (K).

- B. *Application for Permit.* Application for a building or zoning compliance permit shall be in writing and upon duplicate printed forms furnished by the Township. Such permits shall be nontransferable and must be obtained before any work, excavation, erection, alteration, or movement is begun. Satisfactory evidence of ownership of the premises may be required by the Zoning Administrator or Building Inspector and shall be furnished upon request. If the application is approved, the Zoning Administrator or Building Inspector shall so mark both copies over his signature, shall submit one copy to the Township Clerk for filing in the Township records and shall return the other copy to the applicant together with a construction card signed by the Zoning Administrator or Building Inspector stating the extent of the work authorized, which card shall be attached to and remain on the premises during the progress of the work authorized.
- C. *Contents of Application.* Each application shall show, among other matters, the location and actual dimensions of the land to which the permit is to apply; the kind of buildings or structures to be erected or altered; the width of all abutting streets and highways; the area, size, and location of all buildings or structures erected or to be erected or altered upon premises; the type of use to be made of the building or structure to be erected or altered. In addition to the above, applications for a permit to erect a radio antenna as defined in Section 201.202, Definitions (Accessory building) shall include a copy of a valid FCC radio operator's license, a copy of the tower/antenna manufacturer's installation instructions including details on structural support and location of the proposed antenna and any guy wires on the site and the maximum height above ground level. All such antennas [are] to be located in the backyard with the guy wires within building setbacks. Height above ground level shall not exceed two hundred (200) feet in the R-A and R-1 Districts and sixty-five (65) feet in the R-2 and R-3 Districts, except that the maximum height of such antennas within 6.1 kilometers (3.75 miles) of an airport runway shall be determined by the provisions of the Code of Federal Regulations (47 CFR Part 97.15(b)) and of Michigan Public Act 259 of 1959 (Tall Structures Act) which defines structural heights in relation to airport approach and departure paths. The application shall further show, if pertinent, that the applicant has obtained a driveway permit from the Kent County Road Commission. The Zoning Administrator or Building Inspector is hereby empowered to waive the inclusion of any details specified herein in any case in which the facts are not pertinent.
- D. *Accessory Buildings or Structures.* Accessory buildings or structures, when erected or altered at the same time as the principal building on the same lot or premises and when shown on the application for a building permit, shall not require the issuance of a separate building permit. A permit shall be required for the erection or alteration of any accessory building or structure as defined in this Ordinance when the same is erected or altered separately or at a different time than the principal building on the same lot or the applicable permit and otherwise complies with applicable provisions of this Ordinance.
- E. *Issuance of Permit.* Within a reasonable period after receipt of an application for a permit, the Zoning Administrator or Building Inspector shall issue a permit to the owner or his agent, provided that the building or structure or the proposed use, erection or alteration, as set forth in the application, are in conformity with the provisions of this Ordinance and require no further review or action by the Township Board or otherwise. If the application for building permit is denied by the Zoning Administrator or Building Inspector, he shall state the reason or cause

for such refusal in writing. Upon receipt of the application the Zoning Administrator shall review the application to determine whether action of the Township Board is required, and if so, the applicant shall be so advised within a reasonable period.

- F. *Expiration of Permits.* Any permit under which no work has been done within one year from the date of issuance shall expire upon expiration of such period. A new permit must be issued before any work commences. Any permit under which no work has been done above the foundation walls or other foundation support within one year from the date of issuance shall expire upon expiration of such period, but such permit shall, upon reapplication and on payment of a one-half (1/2) of the original fee be renewable, subject, however, to compliance with the provisions of ordinances in force at the time of such renewal. If the work authorized by the permit has not been completed and certified for occupancy at the end of two (2) years from the date of original issuance, the permit can be renewed for an additional year upon the payment of one-half (1/2) of the original fee, also subject to the provisions of the ordinance in force as the time of such renewal. Failure to complete the authorized work at the end of such renewal will result in cancellation of the permit, and the Township Board may require the posting of a completion bond or comparable guarantee before a permit can again be issued.
- G. *Cancellation of Permits.* The Zoning Administrator or Building Inspector shall have the power to revoke or cancel any permit in case of failure or neglect to comply with any of the provisions of this Ordinance, or in case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing. If construction and development does not conform with the permit, the permit shall be forthwith revoked by the Zoning Administrator or Building Inspector by the written notice of revocation posted upon the premises involved and mailed to the applicant at his last known address. Upon such revocation, all further construction activities shall cease upon the site, other than for the purpose of correcting the violation.
- H. *Certificate of Occupancy.* No building or structure or part thereof erected or altered pursuant to a building permit as required by this Ordinance shall be used or occupied in whole or in part until the owner thereof shall have been issued a certificate of occupancy by the Building Inspector affirming that such building or structure conforms in all respects to the applicable provisions of this Ordinance. A certificate of occupancy will not be issued until the building complies with the provisions of the Zoning Ordinance and other applicable ordinances.
- I. *Schedule of Fees.* The Township Board shall establish a schedule of fees for administering this Ordinance which shall be adopted by resolution. The required fee shall be collected by the Zoning Administrator prior to the processing of any application for building or zoning compliance permit, variance or appeal. No permit shall be issued until the required fee or fees have been paid.

(Amended: Ord. No. 94-5, 11-21-94; Ord. No. 95-01, 2-20-95; Ord. No. 98-7, 7-20-98; Ord. No. 2000-3, 7-17-00, Ord. No. 2002-9, 6-17-02, Ord. No. 2007-1, 5-21-07)

201.603 Penalty for violation.

6.03. Any person, corporation or firm who disobeys, omits, neglects or refuses to comply with any provision of this Ordinance or any permit, license or exception granted hereunder, or

any lawful order of the Zoning Enforcement Officer, Zoning Board of Appeals or the Township Board issued in pursuance of this Ordinance shall be in violation of this Ordinance. Any such violation is hereby declared to be a nuisance, per se. A violation of this Ordinance is a municipal civil infraction, for which the fine shall be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for subsequent offenses, in the discretion of the Court, and in addition to all other costs, damages and expenses provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person with twelve (12) months of a previous violation of the same provision of this Ordinance for which said person admitted responsibility or was adjudicated to be responsible. Each day during which any violation continues shall be deemed a separate offense.

The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

(Amended: Ord. No. 95-16, 9-18-95)

CHAPTER 7

201.700 ZONING BOARD OF APPEALS

201.701 Creation of board.

7.01.

- A. A Township Zoning Board of Appeals shall be appointed by the Township Board as prescribed by statute with all the powers and authority prescribed by law or delegated to it under specific provisions of this Ordinance. The Zoning Board of Appeals shall consist of five (5) members. One (1) member shall be a member of the Township Planning Commission. One (1) member may be a member of the Township Board, provided that an elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals, and an employee or contractor of the Township Board may not serve as a member of the Zoning Board of Appeals. The Township Board may appoint not more than two (2) alternate members who may sit as regular members in the absence of regular members or in the case of abstention due to a conflict of interest. The alternate member appointed shall serve on the case until a final decision is made. The alternate member has the same voting rights as a regular member while serving on the Zoning Board of Appeals.
- B. The term of each member or alternate member shall be for three (3) years, except that of the members appointed for less than three (3) years to fill out an expired term. Each member shall serve until his successor has been appointed and qualified. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. Business shall not be conducted unless a majority of the regular members are present.
- C. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(Ord. No. 97-4, 6-16-97, Ord. No. 2007-1, 5-21-07)

201.702 Additional authority and jurisdiction.

7.02. In addition to the duties and powers prescribed in other sections of this Ordinance, the Zoning Board of Appeals shall hear and decide all matters relating to the following:

- A. It shall hear and decide, appeals from and shall review any order, requirements, decision or determination made by the Township Zoning Administrator.
- B. It shall hear and decide appeals from any decision of the Township Board granting or denying an application for Special Exception Use Permit, or for a Planned Unit Development under Section 4.29 [201.429].
- C. It shall be empowered to grant variances in accordance with the provisions of this Ordinance.
- D. It shall act upon all questions as they may arise in the administration of this Ordinance, and may fix rules and regulations to govern its procedures as the

Zoning Board of Appeals.

- E. It shall be empowered to hear and interpret questions on the meaning of the text and map provisions of this Ordinance.

(Ord. No. 97-4, 6-16-97, Ord. No. 2007-1, 5-21-07)

201.703 Procedure on appeal.

7.03.

- A. Except as otherwise provided in this Ordinance, all appeals from any order, requirement, decision or determination of the Township Zoning Administrator shall be taken within twenty (20) days after the action appealed from by filing with the Township Clerk a notice of appeal specifying the grounds thereof. An appeal may be taken by a person aggrieved or by an officer, department, board, or bureau of the state or local unit of government.
- B. The presence of a majority of the members shall constitute a quorum for the conduct of business, except that the concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination of an administrative official or body or to decide in favor of the applicant/appellant a matter upon which the Zoning Board of Appeals is required to pass under, or to effect any variation from the Vergennes Township Zoning Ordinance.
- C. Upon any such appeal, the Board of Appeals shall set a public hearing and give due notice thereof as described in section 201.502 (C) (4) and decide the same within a reasonable time after said hearing. Upon the hearing, any party may appear in person or by agent or attorney. The Zoning Board of Appeals may, in its judgment and discretion, reverse or affirm in whole or in part, or may modify, the order, requirements, decision or determination appealed from or applied for, and to that end shall have all the powers of the Township Zoning Administrator from whom the appeal was taken and may issue or direct the issuance of a permit.

201.704 Variances.

7.04.

- A. The Zoning Board of Appeals shall have the power to authorize, upon appeal in specific cases, such variances from the provisions or requirements of this Ordinance as will not be contrary to the public safety or interest.
- B. Following a written variance application and fee paid, a public hearing date shall be set and notice given according to section 201.502 (C) (4).
- C. Upon a written request seeking an interpretation of the zoning ordinance, a notice stating the time, date and place of the public hearing shall be published in a newspaper of general circulation within the Township and shall be sent to the person requesting the interpretation not less than 15 days before the public hearing. In addition, if the request for an interpretation involves a specific parcel, written notice stating the nature of the interpretation request and its time, date and place of the public hearing on the interpretation request shall be sent by first-class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the border of the property in question and to the occupant of all

structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used.

D. A variance may be authorized only where the Zoning Board of Appeals finds that owing to special conditions pertaining to a specific piece of property, the literal enforcement of the provisions or requirements of this Ordinance would cause undue or unnecessary hardship, and only where the Board further finds:

1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or types of uses in the same zoning district;
2. That such a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return to the appellant shall not of itself be deemed sufficient to warrant a variance;
3. That the authorizing of such variance will not have a substantial adverse impact on the value or enjoyment of adjacent property and will not materially impair the spirit or purposes of this Ordinance or the public interest; and
4. That the variance:
 - a. Will not permit establishment within the "FR" District of any use which is not permitted by right within that district.
 - b. Will relate only to property under ownership and control of the appellant.
 - c. Will not materially increase the risk of fire, flood or similar dangers.
 - d. Will not materially increase traffic congestion.
 - e. Will not produce nuisance conditions to occupants of nearby premises, whether by reason of dust, noise, fumes, odor, vibration, smoke or lights.
 - f. Will not otherwise impair the public health, safety, comfort or the general welfare of the residents of the Township.

E. *Under no circumstances shall the Zoning Board of Appeals:*

1. Grant a variance to allow a use not authorized under the terms of this Ordinance in the zoning district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. The Zoning Board of Appeals shall not use its variance authority to accomplish what would, in effect, be rezoning.
2. Grant a variance to allow construction of a building on or development of a lot of less lot area than the minimum requirement for the zoning district in question, even though such lot existed at the time of passage of this Ordinance, if the owner or members of his immediate family then or thereafter owned adjacent land which could without undue hardship be or have been included as part of the lot.

F. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by

the decision may appeal to the circuit court for the County in which the property is located. The court may affirm, reverse, or modify the decision. An appeal shall be filed within 30 days after the Zoning Board of Appeals certifies its decision in writing or approves the minutes of its decision. The court shall have jurisdiction to make such further orders as justice may require. An appeal may be had from the decision of any circuit court to the court of appeals.

(Ord. No. 97-4, 6-16-97, Ord. No. 2007-1, 5-21-07)

CHAPTER 8

201.800 VALIDITY

8.01. Should any section, subsection, clause or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of this Ordinance in its entirety nor shall it affect the validity of any other section, subsection, clause or provision of this Ordinance.

CHAPTER 9

201.900 AMENDMENTS AND SUPPLEMENTS

201.901 Ordinance Adoptions.

9.01. Amendments and supplements to this Ordinance may be adopted by the Township Board as provided by law.

201.902 Conditional rezoning agreements.

9.02.

- A. Any person affected by this Ordinance may submit a petition in writing to the secretary of the Planning Commission requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition.
- B. *Purpose.* It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this section to provide a process consistent with the Michigan Zoning Enabling Act, PA 110 of 2006, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and development of land as part of the rezoning request.
- C. Application and offer of conditions.
 - 1. Any interested property owner may voluntarily offer in writing, and the Township may approve, certain conditions relating to the “use conditions” and “development conditions” of the land as conditions to a rezoning of the land. The use conditions and the development conditions are sometimes collectively referred to as the “conditions”.
 - 2. *Application Procedure.*
 - a. If the applicant wishes to submit an offer of conditions or restrictions along with a petition to rezone land, the applicant shall do so in writing. Proposed conditions shall be stated clearly, as determined by the Zoning Administrator. The offer of conditions shall be received with the application to rezone the land, except as provided in subparagraph d hereof.
 - b. The applicant may request a pre-application meeting, in which the Zoning Administrator and other Township officials may identify concerns reasonably related to the rezoning request. The Township shall not require the applicant to offer conditions as a prerequisite for rezoning nor shall the presentation of an offer of conditions create any obligation on the part of the Township to rezone any land.
 - c. Vergennes Township shall not add to, alter, or augment the offer of conditions or restrictions.

- d. The offer of conditions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. However, if an offer of conditions is proposed by the applicant in writing at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Township time to consider the offer; and if a written offer of conditions is proposed by the applicant at a Township Board meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
- e. The Planning Commission or Township Board may table a request to give residents of the Township more time to fully understand the offer of conditions.
- f. The offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- g. The applicant's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- h. Any use or development proposed as part of an offer of conditions that would require a special use permit, variance, and/or site plan approval under the terms of this Ordinance may only be commenced if granted in accordance with the provisions of this ordinance.

D. *Standards of approval for conditional rezoning.*

- 1. When reviewing a rezoning request and an offer of conditions, the Township may consider, but shall not be limited to, consideration of the following: future land use recommendations in the Master Plan; goals and objectives in the Master Plan; the availability and capacity of utilities; potential impact on neighboring land uses and the natural environment; and other concerns related to the general welfare, safety and health of area residents.
- 2. Offers of conditions shall not be approved if such conditions would have the effect of departing from the standards of the Zoning Ordinance or other regulations or ordinances promulgated by or applicable in Vergennes Township.
- 3. When considering an offer of conditions, the Township may determine whether the conditions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

E. *Expiration of agreement, reversion and extensions.*

- 1. In approving the conditions, the Township may establish a time period during which the development conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the development conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, per subparagraph 4 hereof.
- 2. The Township shall not add to or alter the approved conditions during the

time period specified under subparagraph 1.

3. The time period specified under subparagraph 1 may be extended upon the application of the property owner and approval of the Township.
 - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and his/her recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being solicited.
 - b. Upon recommendation of the Planning Commission, the Township Board may extend the time period specified under subparagraph 1. If the extension is approved, but the development conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, per subparagraph 4.
4. If the development conditions are not satisfied within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall establish that the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and recommend to the Township Board that it determine that the land will revert back to its former zoning classification. If the Township Board determines that the land shall revert to its former zoning classification, and adopts that recommendation, thereafter, the owner may initiate a new rezoning of the property subject to all conditions of Section 201.902 (C), (F) and (G).

F. *Coordination and performance bonds.*

1. Where proposed conditions involve public improvements, the applicant shall submit the following to the Township prior to final approval of the rezoning and offer of conditions:
 - a. A construction schedule.
 - b. Costs and obligations.
 - c. Responsible parties for obtaining permits.
 - e. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
 - f. The Township may require submission of performance bonds or similar tools as part of the agreement or approval.
2. *Recording.*
 - a. If the Township finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and the Township, and conforming to the provisions of this section. The Statement of Conditions shall be incorporated by

attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

- b. The Statement of Conditions shall:
 - (1) Be in a form recordable with the Kent County Register of Deeds.
 - (2) Contain a legal description of the land to which it pertains.
 - (3) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - (4) Incorporate by attachment any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions.
 - (5) Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
 - (6) Contain a statement as to when the conditions must be met, unless extended, and that a failure to meet the conditions by such date will result in the property reverting back to its original zoning classification.
- c. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

3. *Amendment of Conditions.*

- a. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township Board shall not add to or alter the conditions in the Statement of Conditions.
- b. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for in the original rezoning and statement of conditions.

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

- G. *Violation.* Any failure to comply with a use condition shall constitute a violation of this ordinance and such violation may be enforced as described in this ordinance (Chapter 6).

(New: Ord. No. 2007-3, 11-19-07)

CHAPTER 10

201.1000 EFFECTIVE DATE

10.01. This Ordinance shall take immediate effect. All prior zoning ordinances and any other ordinances or parts of ordinances in conflict herewith are hereby repealed.

