

ZONING ORDINANCE OF WHITEFISH TOWNSHIP

CHIPPEWA COUNTY, STATE OF MICHIGAN

ADOPTED BY THE WHITEFISH TOWNSHIP BOARD January 4, 2018
Amended Whitefish Township Board May 21, 2019
Amended Whitefish Township Board March 25, 2024
Amended Whitefish Township Board November 13, 2025

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ARTICLE 1 TITLE, PURPOSES, AND LEGAL CLAUSES

SECTION 1.01 TITLE

This Ordinance shall be known and may be cited as “The Whitefish Township Zoning Ordinance.”

SECTION 1.02 REPEAL OF PRIOR ZONING ORDINANCE

All prior zoning ordinances of Whitefish Township, are hereby repealed and replaced with this Ordinance and such repeal shall be effective coincident with the effective date of this Ordinance.

SECTION 1.03 PURPOSES

This Ordinance is established in accordance with the Whitefish Township Master Plan for the purposes of:

- A. Promoting and protecting the public health, safety, and general welfare;
- B. Protecting the aesthetics, character, and stability of the recreational, agricultural, residential, commercial, industrial, and wilderness areas within Whitefish Township;
- C. Promoting and regulating growth of Whitefish Township to obtain orderly and beneficial development;
- D. Conserving life, property, and natural resources;
- E. Conserving the expenditure of funds for public improvements and services;
- F. Providing adequate light, air, and privacy to property;
- G. Lessening and avoiding congestion on highways and streets, and providing safe and convenient access for property; and
- H. Conserving the taxable value of land, buildings, and structures of Whitefish Township.

SECTION 1.04 SEVERABILITY CLAUSE

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling.

If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular parcel, lot, use, building, or structure, such ruling shall not affect the application of said provision to any other parcel, lot, use, building, or structure not specifically included in said ruling.

SECTION 1.05 CONFLICT WITH OTHER LAWS

- A. Where any condition imposed by any provision of this Ordinance upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this Ordinance or by the provision of an ordinance adopted under any other

law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.

- B. This Ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this Ordinance shall govern.

SECTION 1.06 EFFECTIVE DATE

This Ordinance was adopted by the Township Board of Trustees of the Whitefish Township, at a meeting held on March 25, 2024, and ordered published as required by the Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3101 *et seq.*, as amended. This Ordinance shall be effective 7 days after publication as provided by law.

ARTICLE 2 RULES OF CONSTRUCTION AND DEFINITIONS

SECTION 2.01 RULES OF INTERPRETATION

For the purpose of this ordinance, certain terms or words shall be interpreted as follows:

- A. The word “person” includes any entity, firm, association, organization, partnership of any kind, trust, corporation, or company as well as an individual.
- B. The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.
- C. The word “shall” is mandatory; the word “may” is permissive.
- D. The words “used” or “occupied” include the words “intended”, “designed”, or “arranged to be used or occupied.”

SECTION 2.02 DEFINITIONS

ACCESSORY BUILDING means a building or structure customarily incidental and subordinate to the principal building or structure and located on the same lot as the principal building or structure.

ACCESSORY USE means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

ADULT USE - An establishment which draws its customers from one or more segments of the public aged 18 and over.

ADULT FOSTER CARE FAMILY HOME - A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

AGENT – Any individual who is authorized by the owner to act on their behalf as stated by a notarized affidavit.

BED AND BREAKFAST – Owner-occupied home that can provide ten (10) or fewer sleeping accommodations, without a state license (MCL125.1504b), for the traveling and vacationing public.

BILLBOARD - See **SIGN, OUTDOOR ADVERTISING**.

BLUFF - The top of a steep bank rising sharply from the water's edge.

BUILDING - A structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT - The vertical distance measured from grade to the highest point of flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs.

CAMPGROUND; Shall mean any parcel of land which has received a special land use permit to operate under the control and/or ownership of any person, organization or corporation where one (1) or more sites are offered to the general public or members of organization, either free of charge or for a fee, for the location and placement of the individual's temporary living quarters such as recreational vehicles and /or camping shelters.

CAMPING SHELTERS; Shall mean any soft or hard sided structure that offers temporary living quarters and protection from the elements and includes by is not limited to tents, yurts, tee-pees and/or domes. These do not contain cooking and/or sanitary facilities.

COMMUNICATIONS TOWERS - A structure that is intended to hold apparatus which transmits or receives radio, television, pager, telephone or other electronic communications, excluding those used exclusively for amateur radio operations, dispatch communications associated with an individual business establishment or domestic radio or television reception.

CONDITIONAL USE - A use which may be permitted by the Planning Commission subject to special approval. A conditional use may be granted in a zoning district only when there is a specific provision for such conditional use in this Ordinance. A conditional use is also referred to as a special land use as provided in Act 110, PA 2006, as amended, and the terms are intended to be used synonymously.

DWELLING (Residence) means one or more rooms with bathroom (privies permitted by Chippewa County Health Department Environmental Health Division included), bedroom, and kitchen facilities designed as a self-contained unit for occupancy for living, cooking and sleeping purposes. (2025 amendment)

DWELLING, MULTIPLE-FAMILY - A building or portion thereof used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY – A structure, including a mobile home, designed or used for residential occupancy by one family.

DWELLING, SINGLE-FAMILY ATTACHED – A building containing dwelling units, each of which has primary ground floor access to the outside and which are attached to each other by party walls without openings. The term is intended primarily for such dwelling types as townhouses and duplexes.

EASEMENT – The right of person to use the property of another for purposes of ingress, egress, utilities, drainage and similar uses. In the context of this Ordinance, private road easements shall be designated for purposes of vehicle and pedestrian ingress and egress.

ESSENTIAL SERVICES - The term “essential services” shall mean the erection, construction, alterations, or maintenance by public utilities or municipal departments, commissions, or boards, or by other government agencies of underground, surface, or overhead gas, electric, steam, or water transmission or distribution system, communications (including publicly owned communications towers), waste or storm water collection, supply or disposal systems, dams, weirs, culverts, bridges, canals, locks, poles, wires, mains, drains, sewers, towers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, or signs and fire hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions, or other government agencies, for the public health, safety, or general welfare, but not including buildings other than those buildings which are primarily enclosures or shelters for the installed central services equipment.

EQUIPMENT MOBILIZATION SITE – A lot and/or building used by any contractor where vehicles, equipment and materials used by the contractor are stored or where the contractor performs maintenance, shop or assembly work.

FAMILY - An individual or a group of two (2) or more persons related by blood, marriage, or adoption, including foster children and servants, together with not more than three (3) additional persons not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.

FAMILY DAY-CARE - A private home in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (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. The term “family day-care” includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. Family day cares shall be specifically exempt from regulations by this Ordinance but are otherwise subject to applicable State law. However, the owner of the Family Day-Care must also be the owner and resident of the private home where such business is operated.

FLOODPLAIN - Lands which are subject to periodic flooding and have been defined by the Corps of Engineers, Soil Conservation Service of the U.S. Department of Agriculture, or by any other relevant State or Federal Agency to have alluvial soil deposits, indicating that such flooding has taken place; or as defined by any registered engineer or land surveyor and accepted by the Township Board as such a flood plain.

GRADE – The degree of rise or descent of a sloping surface.

GRADE, FINISHED – The final elevation of the ground surface after development.

GRADE, NATURAL – The elevation of the ground surface in its natural state, before man-made alternations.

GRADE CHANGING ACTIVITIES- All earth changes, including dredging, cutting, filling and grading, within five hundred (500) feet of the water’s edge shall be done in accordance with the requirements and permit issued by the local soil erosion and sedimentation control enforcement agency pursuant to Public Act 347 of 1972, as amended. Commercial mining and extraction of topsoil or subsurface sand, gravel or minerals is not permitted within three hundred (300) feet of the water’s edge.

GROUP DAY-CARE HOME - A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (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. The term “group day-care home” includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. The owner of the child group day-care home business must also be the owner and resident of the private home.

GUEST HOUSE - Defined as meeting minimum dwelling size per Section 6.02, same ownership as primary dwelling, not for commercial use, and limited to one per parcel.

HOME OCCUPATION - A use or occupation conducted on the premises either within the main residential dwelling or an accessory building which is clearly incidental and secondary to residential occupancy and does not change the character thereof and meets the standards set out in Section 5.08.

LOT - A lot is the contiguous land in the same ownership that is not divided by a street right-of-way or a street or drive easement, including any part thereof subject to any easement for any purpose other than a street or drive, and excluding any portion thereof in a street right-of-way or a street or drive easement of at least sufficient size to meet minimum requirements of the zoning district in which it is located. Such lot shall have frontage on a public street, or on a private street approved by the Township Board, and may consist of:

1. A single lot of record;
2. A portion of a lot of record;
3. Any combination of complete and/or portions of lots of record;
4. A parcel of land described by metes and bounds; or
5. Any parcel of land which constitutes or is treated as a condominium unit in accordance with the Michigan Condominium Act, being P.A. 1978, No. 59, as amended, shall be defined and treated as a lot for all purposes of this ordinance provided that in no case of division or combination shall the area of any lot or parcel created, including residuals, be less than that required by this Ordinance.

LOT AREA - The area within the lot lines, except any portion of a lot in a street right-of-way, a street or drive easement shall not be included in measuring minimum lot area necessary to meet zoning district regulations.

LOT COVERAGE - The percentage of the lot area covered by the ground floor of principal and accessory buildings.

LOT DEPTH - The distance between the midpoints of the straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

LOT FRONTAGE - The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. For the purpose of determining minimum lot width, the frontage of only one street shall be used.

LOT LINE - The lines bounding a lot.

LOT OF RECORD - A lot which is part of a subdivision and is shown on a plat or map thereof which has been recorded in the Office of the Register of Deeds for Whitefish Township prior to the effective date of this Ordinance; or a parcel of land described by metes and bounds which is the subject of a deed or land contract recorded in said office prior to said date.

LOT TYPES -

1. **Corner Lot** - A lot located at the intersection of two (2) or more streets. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.
2. **Interior Lot** - A lot other than a corner lot with only one frontage on a street.
3. **Through Lot** - A lot other than a corner lot with frontage on more than one (1) street, and may be referred to as a double frontage lot.

LOT WIDTH - The required distance between the side lot lines, measured in a straight line at the two (2) points where the required front setback intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to eighty (80%) percent of the required lot width.

MANUFACTURED HOUSING - A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site and bearing a seal that it is built in compliance with the National Manufactured Housing and Construction Standards Code or the State of Michigan Construction Code.

MOBILE HOME - A structure, transportable in one 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. Mobile home does not include a recreational vehicle.

NON-CONFORMING BUILDING OR STRUCTURE - A structure or building lawfully constructed that does not conform to the requirements of this Ordinance on the date it became effective.

OCCUPANT- Means an individual living in, sleeping in, or otherwise having possession of the dwelling.

OFF-STREET PARKING- Means a dedicated area on the assigned property for all-vehicles, trailers, boats, off-road vehicles etc., of those individuals occupying the premises and shall not include a public and/or private right of way.

OPERATING LICENSE- Means the document that is required prior to any approved Short-Term Rental Operation.

OWNER- Means an Individual(s) holding legal title to the premises.

POINT OF CONTACT-means an individual who is the authorized representative for a given Short-Term Rental property. A point of contact must reside within a thirty (30) mile radius of the short-term Rental.

PREMISES- Means the property or parcel with any land including the improvements on it such as a dwelling.

PRIVATE ROAD/SHARED DRIVEWAYS- Shall mean in undedicated path, trail or road extending from a public street or private road, easement, or right-of-way to more than one parcels or building, dwelling or structures, intended to provide ingress and egress primarily for the occupant's owners of property. The term road shall be synonymous with the term street, avenue, court, place, lane way, boulevard or any other thoroughfare. Ther term "private road" shall also include all portions of private road and shall not be altered or changed by use if intended for private land ownership. Any Commercial entity, business or for-profit/non-profit use shall be required to have a developed commercial easement of a minimum of

thirty-three feet (33') in width to provide property ingress and egress. Private roads may be utilized for residential or agricultural purposes. No shared private road may be created, altered or changed or used for commercial, business, industrial or mercantile uses or purposes.

PARCEL - A piece or tract of land.

PRINCIPAL USE - The main use to which the premises are devoted and the principal purpose for which the premises exist.

PUBLIC RIGHT OF WAY: Shall mean any street, avenue, boulevard, highway, sidewalk or alley which is owned or controlled by a government entity.

RECREATION VEHICLE – A vehicle or a unit that is mounted on or drawn by another vehicle primarily designed for temporary living. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

ROADSIDE STAND - a temporary building or structure operated for the purpose of selling only products and its use shall not make a commercial district, nor shall its use be deemed a commercial activity.

SALVAGE YARD – An open area where waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals. "Salvage yard" includes automobile wrecking yards and any area of more than two hundred (200) square feet used for the storage, keeping or abandonment of salvaged materials, but does not include uses established entirely within enclosed buildings.

SEASONAL DWELLING – A dwelling with intermittent occupancy marked by continuous unoccupancy of three or more months during any one-year period.

SETBACK - The required distance between every structure and any lot line on the lot on which it is located.

SHORT TERM RENTAL (STR) – The renting or leasing for a term of twenty-seven (27) days or less of an existing as of Township record December 31, 2023, home, cabin, cottage, yurt, residence, or any such habitable dwelling suitable for residential occupancy under the Michigan Building Code. (2025 amendment)

SIGN - Any structure or part thereof, or device attached thereto or painted or represented thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, word, model, banner, emblem, insignia, device, code mark or other representation used as, or in the nature of, an announcement, advertisement, direction, or designation, of any person, firm, organization, place, commodity, service, business, profession, or industry, which is located upon any land or in any building, in such manner as to attract attention from outside the premises. Except signs not exceeding one (1) square foot in area bearing only property numbers, post box numbers, or names of occupants of premises; the following additional definitions shall apply in the regulation of signs:

1. Off-Site Sign: (Off-Premises Sign) A sign other than an on-site sign.
2. On-Site Sign: (On-Premises Sign) A sign which advertises or identifies only goods, services, facilities, events, or attractions on the premises where located.

SITE PLAN – A map showing the size and location of structures on the property, location of proposed building/addition, distance to property lines, streets and roads, location of well and sewage disposal system, and other information as required in Section 7.01.

SPECIAL LAND USE - A use which may be permitted by the Planning Commission subject to special approval. A special use may be granted in a zoning district only when there is a specific provision for such conditional use in this Ordinance. A special use is also referred to as a conditional use as provided in Act 110, PA 2006, as amended, and the terms are intended to be used synonymously.

STORY – The first story living space (floor to ceiling) of a building is identified as that portion of the structure that is ten (10) feet above ground. Each story would be measured as 10 additional feet.

STRUCTURE – Anything constructed or erected which requires permanent location on the ground or attachment to something having such location, including, without limitation, a walled or roofed building, mobile home or storage facility.

TRAVEL TRAILER - A vehicular, portable structure built on a non-motorized chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

TEMPORARY STRUCTURE – Object used for storage with ability to be removed in pre-established time frame on approved land use permit. Examples; Shipping container, pre-manufactured shed type building,

UNDEFINED TERMS - Any term not defined herein shall have the meaning of common or standard use.

VARIANCE - A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

YARD, FRONT - An open, unoccupied space extending the full width of the lot and situated between the street line and the front building line and parallel to the street line.

YARD, MINIMUM - The minimum distance which any building must be located from a property line, a street right-of-way line, an easement line of an approved private street, or a high-water line.

YARD, REAR - An open, unoccupied space extending the full width of the lot and situated between the rear line of the lot and the rear building line and parallel to the rear lot line.

YARD, SIDE - An open, unoccupied space situated between the side building line and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard and parallel to the side lot line.

ARTICLE 3 ADMINISTRATION AND ENFORCEMENT

SECTION 3.01 ZONING ADMINISTRATOR

The office of Zoning Administrator is hereby created. The Zoning Administrator shall be appointed by the Township Board.

SECTION 3.02 DUTIES AND POWERS OF THE ZONING ADMINISTRATOR

The Zoning Administrator shall be appointed by the Township Board and shall serve at its pleasure. He or she shall receive such compensation as the Township Board may from time to time determine. Job description for Zoning Administrator will be written and approved by the Township Board and reviewed with appointed Zoning Administrator as direction from the Township Board.

Additional to the job description, the Zoning Administrator, or authorized designees, shall have the following duties and powers:

- A. The Zoning Administrator shall interpret, administer, and enforce all provisions of this Ordinance and shall issue all necessary notices or orders to insure compliance with said provisions, except as otherwise provided elsewhere in this Ordinance.
- B. The Zoning Administrator shall use all forms as approved, revised and provided by the Planning Commission. Zoning Administrator shall receive Applications for Land Use Permits and issue approved Application for Land Use Permits in accordance with this Ordinance.
- C. The Zoning Administrator shall make all inspections required by this Ordinance, and all inspections necessary to enforce the provisions of this Ordinance and may engage the assistance of the Township's attorney with Township Supervisor approval, the Chippewa County Building Official, Chippewa County Planner or other appropriate authorities as deemed necessary in making such inspections. The Zoning Administrator may engage other experts to assist in making such inspections, subject to approval of the Township Board.
- D. The Zoning Administrator shall identify and process all violations of the Zoning Ordinance. The Zoning Administrator shall be responsible for making inspections of the Township or parts thereof for the purpose of identifying violations of this Ordinance.
- E. The Zoning Administrator shall keep official records of applications received whether approved or denied, certificates issued, certificates denied, fees collected, complaints received, reports of inspections, and notices and orders issued.
- F. The Zoning Administrator shall, upon request, submit to the Township Board and Planning Commission an annual report in which a summary of the activities of the office is presented.

SECTION 3.03 APPLICATION FOR LAND USE PERMIT

- A. Change in Use of Structure. A structure, or part thereof, shall not be changed to or occupied by a use different from the use that is existing at the effective date of this Ordinance unless an Application for Land Use Permit is first issued for the different use.
- B. New or Altered Structure. A structure, or part thereof, which was erected or altered after the effective date of this Ordinance, shall not be occupied by, or devoted to a use different from the use that is existing at the effective date of this Ordinance, unless an approved Application for Land Use Permit is issued for the different use, or unless the Zoning Administrator shall have established a reasonable time schedule for corrections pursuant to Section 11.04.C.
- C. Non-Conforming Uses, Lots or Structures. An approved Application for Land Use Permit may be issued for a legally non-conforming use or structure. An Application for Land Use Permit shall not be approved for any illegal non-conforming use or structure.
 - 1. Application Requirements. An Application for Land Use Permit shall be made to the Zoning Administrator. Each application shall include all information necessary to determine Zoning Compliance.
 - 2. Applicants. An Application for Land Use Permit may be made by the owner, or authorized agent of the owner, of the use or structure. If the application is made by a person other than the owner in fee, it shall be accompanied by a verified affidavit of the owner, or authorized agent of the owner that the proposed work or operation is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, authorized agent of the owner shall be stated in the application.
 - 3. Plan Requirements. An Application for Land Use Permit shall be accompanied either by a plot plan as required in this Section, or by a site plan as required under Article 7, whichever applies. If a site plan is not required under Article 7, a plot plan shall be submitted, with the following information:
 - a. Scale, date, and north directional arrow.
 - b. Location map showing major intersections, and dimensioned diagram of the parcel.
 - c. Dimensioned location, outline, and dimensions of all existing and proposed structures, and the location and extent of all uses not involving structures.
 - d. A clear description of existing and intended uses of all structures, including documentation of any legal non-conforming uses and structures.
 - e. Additional information as required by the Zoning Administrator for the purposes of determining compliance with the provisions of this Ordinance.
 - 4. Plan Amendments. Approved amendments to a plan, application, or other records accompanying the same may be filed at any time with the Zoning Administrator before completion of the work for which the certificate was approved and such amendments, when approved, shall be deemed part of the original application and shall be filed therewith.
 - 5. Review. The Zoning Administrator shall examine all applications for a land use permit and amendments thereto within 10 days after filing. If the application or the plans do not conform to all requirements of this Ordinance, the Zoning Administrator shall reject such application in writing, stating the reasons therefore. If the application or plans conform, the Zoning Administrator shall issue an approved application for a land use permit. Zoning

Administrator shall attach his/her signature to every application. The Zoning Administrator shall endorse by initial and dating all sets of corrected and approved plans submitted with such application as "Approved".

6. Abandonment and Extensions. An Application for Land Use Permit shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been diligently pursued or a building permit shall have been issued, or a Certificate of Occupancy shall have been issued for a use not requiring a building permit. The Zoning Administrator may, for reasonable cause, grant one or more extensions of time for additional periods not exceeding ninety (90) days each. Any certificate issued shall become invalid if the authorized work is suspended or abandoned for a period of six (6) months after time of commencing the work.
7. False Statements or Misrepresentation. If an applicant makes a false statement or misrepresentation of fact in the application or on the plans on which the certificate was based, the approved Application for Land Use Permit shall be deemed void from the beginning and of no force or effect.
8. Conditions for Issuance. Issuance of an approved Application for Land Use Permit shall be subject to the following conditions.
 - a. No approval shall be issued until the required fees have been paid.
 - b. All work or use shall conform to the approved application and plans for which the certificate has been issued and any approved amendments thereto.
 - c. All work or use shall conform to the approved final site plan, if required.

SECTION 3.04 BUILDING PERMITS

No building permit shall be issued for the erection, structural alteration, moving or repair of any structure or part thereof which does not comply with all provisions of this Ordinance as indicated through an approved Whitefish Township Application for Land Use Permit

SECTION 3.05 RECORDS

The Zoning Administrator shall maintain records of all certificates and permits issued under this Ordinance and said records shall be open for public inspection through the Freedom of Information Act (FOIA).

SECTION 3.06 FEES

The Whitefish Township Board shall, by resolution from time to time, establish a schedule of fees for administering this Ordinance. The Zoning Ordinance schedule of fees shall be on public display in the office of the Zoning Administrator and may be changed only by the Whitefish Township Board. No certificate or permit shall be issued unless required fees have been paid in full.

SECTION 3.07 COMPLIANCE WITH PLANS

Building permits and certificates of occupancy issued on the basis of plans and applications approved by the County Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction that conflicts with the approved plans shall be a violation of this Ordinance.

SECTION 3.08 VIOLATIONS AND PENALTIES

- A. Notice of Violation. The Zoning Administrator shall serve a notice of violation to the property owner and on the person responsible for the erection, construction, structural alteration, extension, structural repair, use, or occupancy of a structure or lot in violation of the provisions of this Ordinance, or in violation of a site plan or application approved hereunder, or in violation of a an approved Application for Land Use Permit issued hereunder, and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- B. Prosecution of Violation. If the notice of violation is not complied with promptly, (within thirty (30) days) the Zoning Administrator is to issue a citation with board approval. The Zoning Administrator may also request the Township's attorney with the approval of the Whitefish Township Supervisor institute appropriate legal or equitable action to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the lot or structure.
- C. Violation Penalties. Any person who shall violate a provision of this Ordinance or shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter, or make structural repairs in violation of an approved site plan or directive of the Zoning Administrator or of an approved Application for Land Use Permit issued under the provisions of this Ordinance, shall be guilty of a civil infraction and, upon conviction thereof, shall be punishable by a fine of not more than two hundred fifty dollars (\$250.00) to be resolved in as much as two (2) weeks. If no compliance, then the Whitefish Township Zoning Administer may go to a court to pursue a legal action of competent jurisdiction. Each day a violation occurs is a separate offense.
- D. Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the Township's attorney from instituting legal or equitable action to prevent unlawful construction or to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct, business, or use of a structure or premises.
- E. Stop-work Order. Upon notice from the Zoning Administrator that work on any structure or premises is being pursued contrary to the provisions of this Ordinance, such work shall be

immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the person doing the work, and shall state the conditions under which the work may be resumed. Any person who shall continue any work in or about the structure or premises after having been served with a stop-work order, except such work as he is directed by the Zoning Administrator to perform to remove a violation or unsafe conditions, shall be liable for a fine of not less than one hundred dollars (\$100.00) per day.

- F. Nuisance Per Se. Any structure which is erected, altered, or converted, or any use of any structure or lot which is commenced or changed after the effective date of this Ordinance, in violation of any of the provisions herein, is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction.

SECTION 3.09 COMPLETION OF CONSTRUCTION

Nothing in this Ordinance shall require a change in plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently, progress toward accomplishing the end objective has been made in the last 30 days of the most recent building season.

Where a building permit has been issued in accordance with the law prior to the effective date of this Ordinance and provided that construction is begun within three hundred sixty-five (365) days of such effective date and diligently pursued to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and further, may upon completion, be occupied by the use for which it was originally designated, subject thereafter to the provisions of Article 14 of this Ordinance, if applicable. No basement, cellar, garage, or any incompletely constructed structure in use as a dwelling at the effective date of this Ordinance shall be used as a dwelling for more than twelve (12) months following said date, unless such structure has been completed in conformance with the regulations of the zoning district in which it is located.

ARTICLE 4 ZONING DISTRICT REGULATIONS

SECTION 4.01 ESTABLISHMENT OF ZONING DISTRICTS

The following zoning districts are hereby established:

- A. Residential District (RD)
- B. Recreational Forest District (RF)
- C. Commercial District (CD)
- D. Light Industrial District (LD)
- E. Preservation District (PD)
- F. Planned Unit Development (PUD)

SECTION 4.02 PROVISION FOR OFFICIAL ZONING MAP

- A. The official zoning map, with all explanatory matter thereon, is hereby made a part of this Ordinance.
- B. If, in accordance with the procedures of this Ordinance and of the Michigan Zoning Enabling Act, as amended, a change is made in a zoning district boundary, such change shall be entered on the official zoning map by the Zoning Administrator promptly after the Ordinance authorizing such change shall have been adopted and published. No change of any nature shall be made to the official zoning map except in conformity with the procedures set forth herein.
- C. Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the office of the Zoning Administrator and open to public inspection, shall be the final authority as to the current zoning status of any land, parcel, lot, zoning district, use, building, or structure in the Township.
- D. Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules for interpretation shall govern:
 - 1. A boundary indicated as approximately following the centerline of a highway, street, alley, or easement shall be construed as following such centerline.
 - 2. A boundary indicated as approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
 - 3. A boundary indicated as approximately following the municipal boundary line of a Township or County shall be construed as following such line.
 - 4. A boundary indicated as following a railroad line shall be construed as being located midway between the main tracks.
 - 5. A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in a shoreline shall be construed as following the actual shoreline.
 - 6. A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following such centerline.
 - 7. A boundary indicated as parallel to, or an extension of, a feature indicated in Paragraphs 1 through 6, preceding, shall be so construed.
 - 8. A distance not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
 - 9. Where a physical or cultural feature existing on the ground is at variance with that shown on the Official Zoning Map, or in any other circumstances not covered by Paragraphs 1 through 8, preceding, the Board of Appeals shall interpret the location of the zoning district boundary.
 - 10. Where a zoning district boundary line divides a lot which is a single ownership at the time of adoption of this Ordinance, the Board of Appeals may permit the extension of the regulations for either portion of the lot to the nearest lot line, but not to exceed fifty (50) feet beyond the zoning district line into the remaining portion of the lot.

SECTION 4.03 APPLICATION OF REGULATIONS

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare, and shall be uniform for each class of land or buildings and structures throughout each zoning district.

SECTION 4.04 SCOPE OF PROVISIONS

- A. Except as may otherwise be provided in Article 11, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this Ordinance shall be subject to all regulations of this Ordinance which are applicable in the zoning district in which such use, building, or structure shall be located.
- B. Uses are permitted by right only if specifically listed as principal permitted uses in the various zoning districts or is similar to such listed uses. All other uses are prohibited. Accessory uses are permitted as listed in the various zoning districts or if similar to such listed uses, and if such uses are clearly incidental to the permitted principal uses. Special uses are permitted as listed or if similar to the listed special uses and if the required conditions are met. No more than one principal structure or use may be permitted on a lot, unless specifically provided for elsewhere in this Ordinance.
- C. All uses, buildings, and structures shall conform to the area, placement, and height regulations of the zoning district in which located, unless otherwise provided in this Ordinance.
- D. No part of a yard, open space, off-street parking or loading space required in compliance with this Ordinance, shall be included as part of a yard, open space, or off-street parking lot or loading space required for any other use, building, or structure.
- E. No yard or lot existing at the time of adoption of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established herein.
- F. No lot, out lot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the ordinances of the Township and statutes of the State of Michigan as applicable.
- G. Yards shall be measured from the exterior faces of a structure. Architectural features such as chimneys, bay windows, eaves, gutters, roof overhangs and cornices that project one foot or less from the exterior face shall not be included in the yard measurements.
- H. Front and corner side yards that abut a public or private street, shall be measured from existing street right of way or private street easement lines, unless otherwise noted herein.

SECTION 4.05 INTENT, PERMITTED USES AND SPECIAL USES WITHIN ZONING DISTRICTS

The following subsections set forth the intent, permitted uses and conditional uses with each Zoning District.

A. Residential District (RD)

Intent. To establish and preserve quiet single and two-family (duplex) home neighborhoods in which each structure is located on an individual lot or premises adequate in size and shape to provide for safe water supply and disposal facilities, to minimize hazards of spreading fires, and to require setback from the public thoroughfare to facilitate safe exit from an entrance to the premises. The zoning district shall be free from other uses except those which are both compatible with and convenient to the residents of such a zoning district. Because of the nature of existing residential uses in this zoning district, special dwelling standards will be enforced.

Permitted Uses (*Without Special Approval*)

1. Single-family dwelling
2. Accessory Building
3. Church
4. Class I & III Animals (section 6.04)
5. Duplexes
6. Family Day Care
7. Home Occupation
8. Roadside Stand
9. Class I & III Animals (section 6.04)

Conditional Uses (*by Special Approval*)

1. Bed & Breakfast
2. Building over two stories
3. Class II Animals (Section 6.04)
4. Equipment Mobilization Site
5. Guest House
6. Mobile Home Park
7. Multi-family units, including condominiums and apartments
8. Private recreation areas (i.e. marinas, swimming pools, parks, and playgrounds).
9. Public recreation areas (i.e. marinas, swimming, pools, parks, and playgrounds).
10. Sawmill Operation
11. Short Term Rental
12. Steeples, Flagpoles, Chimneys, Smokestacks, Individual Domestic Radio And Television Aerials And Wireless Masts or similar structures greater than 40 feet

B. Recreational Forest District (RF)

Intent. To establish and maintain for residential and recreational use those areas with natural resources, including forests and lakes.

Permitted Uses (*Without Special Approval*)

1. Single-family dwelling
2. Church
3. Cottages, Cabins, Hunting, Fishing, Trapping Cabins
4. Class I, II, III Animals (section 6.04)
5. Duplexes
6. Accessory building
7. Road Side Stands

Conditional Uses (*by Special Approval*)

1. Adult Foster Care
2. Archery and shooting ranges
3. Bed and breakfast facility
4. Building over two stories in height
5. Campground
6. Equipment Mobilization Site
7. Family Day Care
8. Farm & Agriculture Use
9. Forest Industries
10. Group Day Care
11. Guest house
12. Home Occupations
13. Kennels
14. Lodge and Cabin Rental
15. Mobile Home Park
16. Motel
17. Private recreation areas (i.e. marinas, swimming pools)
18. Public and Private Parks
19. Sawmill Operators
20. Sand and Gravel Extraction
21. Short Term Rentals
22. Stables
23. Other types of land use not listed would be given consideration in the special use application process.

C. Commercial/General Business District (CD)

Intent. To establish and preserve general commercial areas to provide services directly to the public at that property location. Refer to Article VII, Site Plan Review, when building a new facility, renovating an existing building and/or seeking special approval.

Permitted Uses (*Without Special Approval*)

1. Accessory building
2. Arts and crafts studios
3. Banks
4. Barber, beauty, and other personal service shops
5. Bed and breakfasts
6. Church
7. Class I, III Animals (section 6.04)
8. Clinics
9. Clothing and dry goods stores
10. Funeral homes
11. Hospitals
12. Hotels
13. Kennels
14. Mental Health Centers
15. Motels
16. Nursing homes
17. Offices
18. Private clubs
19. Restaurants
20. Retail stores and shops
21. Short term renting or leasing of home, cabin or cottage
22. Theatres (not drive-in)

Conditional Uses (*by Special Approval*)

1. Adult Foster Care Congregate facility
2. Automobile dealerships and repair/servicing
3. Class II Animals (section 6.04)
4. Commercial parking lots and structures
5. Gas Stations
6. Group day care centers
7. Indoor Recreational Centers (i.e. bowling alleys, arcades, roller and ice skating rinks)
8. Other types of businesses not listed would be given consideration in the special use application process.

D. Light Industrial District (LD)

Intent. To establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial use which are most appropriately located as neighbors of industrial uses. Refer to Article VII, Site Plan Review, when building a new facility, renovating an existing building and/or seeking special approval.

Permitted Uses (*Without Special Approval*)

1. Accessory building
2. Church
3. Commercial printing and newspaper offices
4. Construction and farm equipment sales.
5. Contractors’ yards and shops
6. Class I & III Animals (section 6.4)
7. Equipment Mobility Site
8. Food packaging and bottling works
9. Forest industries
10. Lumber and coal yards, and storage of similar materials
11. Manufacturing, extractive processing
12. Motor vehicle sales, service, and rental
13. Sales of mobile homes, campers, and recreational vehicles, boards, and monuments
14. Salvage Yard
15. Sawmills and other industrial uses
16. Wholesale and storage use

Conditional Uses (*by Special Approval*)

1. Concrete, asphalt and rock crushing facilities
2. Class II Animals (section 6.4)
3. Gas stations
4. Laundry and cleaning/dyeing plants
5. Mining and Sand Extraction
6. Oil refining
7. Public utilities
8. Reduction, conversion, and disposal of waste goods and materials
9. Scientific research
10. Slaughterhouses and other commercial livestock auctions
11. Tanneries
12. Other types of businesses not listed would be given consideration in the special use application process.
13. Wind Energy Harvest Sites
14. Wireless Communication Facilities

E. Preservation District (PD)

Intent. To ensure that development in the zoning district protects and conserves natural resources.

Permitted Uses (*Without Special Approval*)

1. Conservation areas for wildlife and vegetation
2. Museums.
3. Reforestation operations.
4. Wildlife refuges.
5. Essential services that do not have associated buildings.

Conditional Uses (*by Special Approval*)

1. Public and private park.
2. Essential services with associated buildings.

F. Planned Unit Development District (PUD)

Intent. The zoning district is intended to accommodate developments that are exclusively residential, exclusively non-residential, or a compatible and complementary mix of residential and non-residential uses. See Article 9, Planned Unit Development.

ARTICLE 5 GENERAL REGULATIONS

SECTION 5.01 PURPOSE

It is the purpose of this article to provide regulations which may generally apply to all uses regardless of the particular zoning district.

SECTION 5.02 ACCESSORY BUILDINGS

A building attached to a principal building of a lot shall be considered a structural part thereof, shall comply with the provisions of the zoning district in which it is located, and shall not be considered an accessory building. Accessory buildings shall be subject to the minimum yard requirements of Section 6.02 for the zoning district within which they are located.

SECTION 5.03 TEMPORARY DWELLING STRUCTURES

No cabin, garage, cellar, basement, or any temporary structure, whether of a fixed or movable nature may be erected, altered, or moved upon and used in whole or in part for any dwelling purpose whatsoever for any length of time whatsoever, except as provided in this section.

During construction of a new residence, or if a dwelling is destroyed or damaged to the extent that it is uninhabitable for a period of time, by a natural or man-made event, such as fire, flood, windstorm, or tornado, a mobile home or other temporary dwelling approved by the Zoning Administrator may be moved onto the premises for use as a temporary dwelling during construction or repair of the permanent dwelling after obtaining a permit from the Zoning Administrator. Application for said permit shall be filed with the Zoning Administrator along with all fees established by resolution of the Township Board. The Building Official, prior to approval of such temporary structure, shall determine that the proposed structure is safe for habitation and is adequately served by public utilities. The temporary dwelling shall be placed so as to conform to all yard requirements of the zoning district in which located. Where municipal water and/or sanitary sewage disposal systems are not available, such on-site services shall be approved by the Chippewa County Health Department.

The Zoning Administrator shall establish a reasonable date for removal of the temporary dwelling, said date not to exceed one (1) year from the date of said destruction or damage or the date of issuance of a Building Permit for new construction; however, the temporary dwelling shall be removed from the premises within six (6) months (180 days) of the date of issuance of an occupancy permit for the permanent dwelling. All utility connections shall be severed and temporary dwelling permit shall expire on issuance of an occupancy permit for the permanent dwelling.

SECTION 5.04 TEMPORARY CONSTRUCTION STRUCTURES

Temporary buildings and/or structures may be used as construction facilities provided that a permit is obtained for such use from the Zoning Administrator. The Zoning Administrator shall, in each case, establish a definite time limit on the use of such facilities.

SECTION 5.05 ESSENTIAL SERVICES AND OTHER PUBLIC PROPERTY

It is the intent of this Ordinance to place essential services and property owned, leased or operated by public agencies, including local, state, federal or any other public or governmental body or agency, under the provisions of this Ordinance, as follows:

- A. Essential services shall be permitted in any zoning district.
- B. Buildings constructed in conjunction with an essential service shall constitute and be treated as special uses in any zoning district pursuant to the requirements of Article 8 hereof.

- C. Property owned, leased, or operated by the State of Michigan or the United States shall be exempt from the provisions of this Ordinance only to the extent that said property may not be lawfully regulated by Whitefish Township.
- D. Communication towers shall not be regulated as an essential service and are subject to the provisions of 6.06. Communication towers owned by a governmental agency shall be regulated as a special approved use in all Zoning Districts.

SECTION 5.06 DWELLING UNIT STANDARDS

- A. Each dwelling unit and any addition thereto shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. If the dwelling is a mobile home, as defined herein, such dwelling and any addition shall be installed pursuant to the manufacturer's instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and Michigan State laws and shall have a perimeter wall as required above.

If the dwelling unit is a mobile home, as defined herein, each unit shall be installed with the towing system, axles, wheels and undercarriage or chassis removed.

- B. Each dwelling unit and any addition thereto shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 PART 1700 to End, PART 3280 et. seq. CFR. Additionally, all dwellings should meet or exceed all applicable roof snow load and strength requirements as mandated by Chippewa County.
- C. All construction shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Codes and Chippewa County provisions and requirements.

SECTION 5.07 CAMPFIRE WOOD SALES

A resident may sell campfire wood from their property provided that they meet the following restrictions:

- A. The maximum amount of wood on display for sale is not to exceed one (1) face cord and no more than two (2) face cords beyond the display.
- B. The display of campfire wood may include one sign, that shall not exceed six (6) square feet and shall not be illuminated or have working parts. It shall abide by Article 10, Sign Regulations.

SECTION 5.08 HOME OCCUPATIONS

Any home occupation shall comply with the following:

- A. A home occupation shall employ only those members of the family residing on the premises and not more than one outside employee.
- B. There shall be no outdoor storage, except storage otherwise permitted in the zoning district pursuant to this ordinance, and there shall be no exterior evidence of the conduct of home occupation, other than an approved sign.
- C. There shall be no storage, display, or sale of merchandise not directly related to the approved special use.
- D. Home occupation may be conducted within the principal dwelling unit or in an accessory building.
- E. The use of the dwelling unit for home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and if such home occupation is conducted in the principal dwelling, not more than twenty-five (25) percent of the usable floor area of the dwelling shall be used in the conduct of home occupation excluding home daycare and adult foster care.
- F. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in that neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided for on the premise.
- G. No equipment or processes shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- H. One sign advertising the home occupation shall not exceed six (6) square feet and shall not be illuminated or have working parts. It shall abide by Article 10, Sign Regulations. The approved sign may be located anywhere on the property.
- I. Within any single-family residence, in any zoning district, the occupant may give instructions in a craft or fine art so long as the provisions of a home occupation are adhered to.

ARTICLE 6 SUPPLEMENTARY REGULATIONS

SECTION 6.01 PURPOSE

It is the purpose of this Article to provide regulations for specific uses, which may be regulated as either a permitted or conditional land use.

SECTION 6.02 PLACEMENT REGULATIONS

1. Except as otherwise specifically provided in this Ordinance, no structure shall be erected or maintained between any lot line and the pertinent setback distance listed below. Where there is no rear lot line as otherwise defined herein, the required rear setback distance shall be measured from a line through the point on the lot most distant from any front lot line of the same lot, through the point to the closest point on any front lot line. If there is more than one such line, the rear setback shall be maintained from any one of them at the option of the owner. Where a lot fronts on two streets within 30 degrees of being parallel but not of their intersection, no rear setback is required. The side setback requirement applies to a side lot line and also to any lot line which is neither a front, rear, or side lot line. All distances are measured in feet.

ZONING DISTRICT		MINIMUM LOT SIZE		MINIMUM SETBACK			MINIMUM DWELLING SIZE
		SQ. FT.	WIDTH	FRONT	REAR	SIDE	SQ. FT.
RD	DWELLINGS	15,000	100'	30' fr. R.O.W.	10'	10'	N/A
	ACCESSORY BLDG*						
	MOBILE HOMES <i>(OnaLot)</i>						
RF	DWELLINGS	109,000	100'	30' fr. R.O.W.	30'	30'	N/A
	ACCESSORY BLDG*						
	MOBILE HOMES <i>(OnaLot)</i>						
CD	COMMERCIAL & ALL OTHER BUILDINGS	15,000	100'	30' fr. R.O.W.	10'	10'	**576
LD	INDUSTRIAL & ALL OTHER BUILDINGS	15,000	100'	30' fr. R.O.W.	10'	10'	**576

*Minimum Size is regulated by Chippewa County Building Codes

*Structures or objects less than 200 Square Feet do not require a Zoning Permit

**Site Plan Review may allow smaller units by conditional approval.

Chippewa County does not require a building permit for structures, 200 square feet or less as designated by the Michigan Residential Code 2015, Section R105, unless these structures are used as dwellings. As a dwelling they will still be inspected and need to meet Chippewa County Building Codes.

- A. Lot width shall be measured along the roadway. Lot widths shall be measured along a designated federal, state, or county road or along a private road which is 22 feet wide and has a 66-foot-wide easement.
- B. For waterfront lots, see subsection (4), below.

- C. For building purposes, front setbacks shall be a distance of 30' from the right of way line of all public roads, private roads, and road easements, but shall not exceed 60' from the centerline of an existing road or easement. No right of way shall be built upon.
 - D. Property lines adjoining designated alleys and walkways shall be deemed to be "rear lot lines" and not as front lot lines such as those adjoining a road.
- 2. If the area or width of any lot on public record on the date of enactment of this ordinance in a zoning district permitting the erection of dwellings is less than the minimum required by this ordinance, the lot may be used for a single one family dwelling and the required width of each side yard reduced not more than fifty percent (50%) of the requirement, but not less than five feet in any instance with approval of the Chippewa County Health Department.
 - 3. Any portion of a lot or portion of a parcel, which, through a lease agreement exceeding 90 days in length, is separated from a larger parcel of land, will for zoning purposes, be considered a land division. As such, all lot line setbacks must be met, all lot line depth requirements must be met, and all square foot requirements set forth in this section.
 - 4. Any building or structures abutting any body of water, including, but not limited to, inland lakes, rivers, streams, creeks, or impoundments, shall maintain the minimum setback as determined by the Michigan Department of Environment, Great Lakes and Energy (MDEGLE). All uses shall be designed so as not to unreasonably interfere with, degrade or decrease the enjoyment of existing uses and water resources.

SECTION 6.03 MOBILE HOME PARK REQUIREMENTS

The Mobile Home Code, as established by the Manufactured Housing Commission under the authority of the Mobile Home Commission Act, Act 96 of 1987, as amended, regulates development of mobile home parks.

In addition to the rules and standards of the State of Michigan, the Township imposes the following conditions:

- A. Mobile home parks shall be constructed, licensed, operated, and managed in accordance with the provisions of the Mobile Home Commission Act, Act 96 of 1987, as amended and subsequently adopted rules and regulations governing mobile home parks.
- B. Any mobile home park development that covers more than 2.5 acres shall refer to Article 9, Planned Unit Development.
- C. In no case shall an open space requirement be less than that required under R125.1946, Rule 946 of the Michigan Administrative Code.
- D. The on-site storage of boat trailers, boats, camping units, horse trailers and similar recreational equipment shall be prohibited on mobile home sites and in designated open space areas. The mobile home park may provide, within the confines of the park, a common outdoor storage area for the storage of the above-mentioned equipment.
- E. Mobile Home Parks shall be subject to preliminary plan review requirements in accordance with 1987 PA 96, as amended.

- F. A permit shall not be required for the construction or erection of canopies or awnings which are open on three (3) sides. A building permit shall be required, however, before the construction of erection or any screened, glassed-in, or otherwise enclosed awning or canopy.

SECTION 6.04 REGULATION OF ANIMALS

- A. Class I Animals (Domesticated household pets may be maintained in any zoning district classification zoning district, subject to specific restrictions herein.)
- B. Class II Animals (An animal which is normally part of the livestock maintained on a farm including: Bovine and like animals, such as cows; Equine and like animals, such as horses; Swine and like animals, such as pigs and hogs; Ovis (ovine) and like animals, such as sheep and goats), subject to the following conditions:
1. There shall be adequate fencing, or other restraining device, for the purpose of maintaining animals within the restricted areas provided for in this ordinance.
 2. The refuse and wastes resulting from the maintenance of animals shall be controlled upon the premises, and shall be cared for or disposed of within a reasonable time so as to minimize hazards of health and offensive effects upon neighboring people and uses.
- C. Class III Animals (Rabbits which are not maintained or kept as domesticated household pets; animals considered as poultry, animals considered as waterfowl, such as pheasant, quail, geese or grouse, and other animals weighing less than thirty (30) pounds not specifically classified herein), subject to the following conditions:
1. There shall be adequate fencing, or other restraining device, for the purpose of maintaining animals within the restricted areas provided for in this ordinance.
 2. The refuse and wastes resulting from the maintenance of animals shall be controlled upon the premises, and shall be cared for or disposed of within a reasonable time so as to minimize hazards of health and offensive effects upon neighboring people and uses.
- D. Except as authorized by Michigan Department of Natural Resources or in a wildlife reserve approved by the Township, wild animals shall not be permitted to be maintained in the Township, temporarily or permanently. For purposes of this section, the term wild animal shall mean an animal not otherwise defined as a Class I, II, or III animal, and which is not customarily domesticated and customarily devoted to the service of mankind in Whitefish Township. Wild animal also means any animal which a person is prohibited from possessing by law. The characterization of an animal as being wild shall not be altered by virtue of the fact that one or several generations of the animal in question have been maintained in captivity.

SECTION 6.05 SALVAGE YARDS

In addition to other regulations set forth in this Ordinance, all salvage yards shall conform to county, state and federal agency regulations and to the following requirements:

- A. All materials stored outside shall be enclosed within a solid, unpierced fence or wall at least eight (8) feet in height, and not less in height than the materials. The fence or wall shall meet all setback requirements of the Zoning district in which the salvage yard is located. All gates, doors, and access ways through said fence or wall shall be of solid, unpierced materials. In no event shall any materials to be stored in the area between the lines of said lot and the solid, unpierced fence or wall.
- B. All ingress or egress shall be limited to one (1) entrance to a major thoroughfare as identified in the Whitefish Township Master Plan.

SECTION 6.06 WIRELESS COMMUNICATION FACILITIES

- A. Purpose and Intent.

It is the general purpose and intent of the Township to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems. However, it is the further purpose and intent of the Township to provide for such authorization in a manner which will protect the public health, safety and welfare and retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, attempt has been made to balance these potentially competing interests.

Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is the further purpose and intent of this section to:

- 1. Facilitate adequate and efficient provision of sites for wireless communication facilities and ensure that wireless communication facilities are situated in appropriate locations and relationships to other land uses, structures and buildings.
- 2. The Whitefish Township Planning Commission shall establish predetermined zoning districts in the location, considered best for the establishment of wireless communication facilities, subject to applicable standards and conditions.
- 3. The communications company may require engineered facilities in locations not within the predetermined zoning districts. In such cases, it has been determined that it is likely that there will be greater adverse impact upon neighborhoods and areas within the community. Consequently, more stringent standards and conditions should apply to the review, approval and use of such facilities.
- 4. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems, and other public services and facility needs.
- 5. Provide for adequate information about plans for wireless communication facilities in order to permit the community to effectively plan for the location of such facilities.

6. Minimize the adverse impacts of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.
7. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community land marks, historic sites and buildings, natural beauty areas and public rights-of-way. This contemplates the establishment of as few structures as reasonably feasible, the use of structures which are designed for compatibility, and the use of existing structures.

B. Authorization.

1. As a Special Approved Use

In all Zoning Districts, a proposal to establish a new wireless communication facility shall be deemed a special approved use in the following circumstances, subject to the standards set forth in Subsections C, D and E.

- (a) An existing structure which will serve as an Attached Wireless Communication Facility within a nonresidential zoning district, where the existing structure is not, proposed to be either materially altered or changed in appearance.
- (b) A proposed collocation upon an Attached Wireless Communication Facility which has been approved by the Township for such collocation.
- (c) An existing utility pole structure located within a right-of-way, which will also serve as an Attached Wireless Communication Facility where the existing pole is not proposed to be materially altered or changed in appearance.
- (d) If it is demonstrated by an applicant that a wireless communication facility in order to operate, is required to be established outside of an area identified in Subsection B.1, subject to the following:
 - 1) At the time of the submittal, the applicant shall demonstrate that a location within the zoning districts identified in Subsection B.1 above cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - 2) Wireless communication facilities shall be of a design such as, without limitation, a steeple, bell tower, or the form which is compatible with the existing character of the proposed site, neighborhood and general area, as approved by the Township.
 - 3) Locations outside of the areas identified in Subsection B.1 above shall be permitted on the following sites, subject to application of all other standards contained in this section:
 - a) Municipally owned site.
 - b) Other governmentally owned site.
 - c) Religious or another institutional site.
 - d) Public or private school site.
 - 4) All other criteria and standards set forth in Subsection C and D are met.

C. General Regulations

1. Standards and Conditions Applicable to All Facilities

All applications for wireless communication facilities shall be reviewed in accordance with the following standards and conditions, and, if approved, shall be constructed and maintained in accordance with such standards and conditions.

- (a) Facilities shall not be demonstrably injurious to neighborhoods or otherwise detrimental to the public safety and welfare.
- (b) Facilities shall be located and designed to be compatible with the existing character of the proposed site and harmonious with surrounding areas.
- (c) Facilities shall comply with applicable federal and state standards relative to the environmental effects of radio frequency emissions.
- (d) Applicants shall demonstrate an engineering justification for the proposed height of the structures and an evaluation of alternative designs which might result in lower heights.
- (e) The following additional standards shall be met:
 - 1) The maximum height of the new or modified support structure and antenna shall not exceed one hundred eighty (180) feet and shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and by other entities to collocate on the structure. Additional height over one hundred eighty (180) feet may be permitted, in the sole discretion of the Township Board, when it can be demonstrated by the applicant that additional height is required to permit collocation. Evidence of collocation shall be provided by the applicant if additional height over one hundred eighty (180) feet is requested. The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective zoning district.
 - 2) The setback of the support structure and accessory structures shall be five hundred (500) feet from the boundary of any residentially zoned property. Otherwise, the setback shall be equal to the height of the support structure from an adjacent property boundary. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall be no less than the height of the support structure.
 - 3) There shall be unobstructed access to the support structure, for police, fire and emergency vehicles, and, for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement.
 - 4) The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met.
 - 5) The equipment enclosure may be located within the principal building or may be an accessory building. If proposed as an accessory building, it shall

conform to all zoning district requirements for principal buildings, including yard setbacks. Where an attached wireless communication facility is proposed on the roof of a building, any equipment enclosure proposed as a roof appliance or penthouse on the building, shall be designed, constructed and maintained to be architecturally compatible with the principal building.

- 6) The Township shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.
- 7) The support system shall be constructed in accordance with all applicable building codes and shall include the submission of a soils report from a geotechnical engineer, licensed in the State of Michigan. This soils report shall include soil borings and statements indicating the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be submitted by the applicant in the original application for approval. The applicant shall furnish a written certification from the manufacturer or designer of the support system that the support system has been evaluated by a registered professional engineer and that the support system can safely accommodate attached antennas under expected weather conditions.
- 8) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard. Such plans shall include the names, pager number, if any, business and home telephone numbers, mobile telephone numbers, if any, and identity of no fewer than two persons who can be contacted at any hour of the day or night who have full authority to act on behalf of the applicant in the event of a malfunction or emergency. Such list of persons shall be kept current and updated or confirmed to the Township in writing at least every four months, and shall be posted prominently on the premises so as to afford convenient viewing to a person on the outside of the premises where the facility is located.

2. Standards and Conditions Applicable to Conditional Land Use Facilities.

Applications for wireless communication facilities which may be approved as conditional land uses shall be reviewed, and if approved, constructed and maintained, in accordance with the standards and conditions in Subsection C.1 and in accordance with the following standards:

- (a) The applicant shall demonstrate the need for the proposed facility based upon one (1) or more of the following factors:
 - 1) Proximity to an interstate or major thoroughfare.
 - 2) Areas of population concentration.

- 3) Concentration of commercial, industrial, and/or other business centers.
 - 4) Areas where signal interference has occurred due to tall buildings, masses of trees, or other obstructions.
 - 5) Topography of the proposed facility location in relation to other facilities with which the proposed facility is to operate.
 - 6) Other specifically identified reason creating facility need.
- (b) The proposal shall be reviewed in conformity with the collocation requirements of this section.

D. Application Requirements.

1. A site plan prepared in accordance with Article 7 shall be submitted, showing the location, size, screening, lighting and design of all buildings and structures. Costs for all application requirements are incurred by the applicant.
2. The site plan shall also include a detailed landscape plan. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure. In all cases, fencing of a minimum of six (6) feet in height shall be required for protection of the support structure and security from children and other persons who may otherwise access facilities.
3. The application shall include a description of security to be posted at the time of receiving a building permit to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in Subsection F. In this regard, the security shall be posted and maintained in the form of: (1) cash; (2) surety bond; (3) irrevocable letter of credit; or, (4) other security arrangement accepted by the Township Board.
4. The application shall include a map showing existing and known proposed wireless communication facilities within the Township, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the Township in the location, and in the area, which are relevant in terms of potential collocation or in demonstrating the need for the proposed facility. If and to the extent the information in question is on file with the community, the applicant shall be required only to update as needed. Any proprietary information may be submitted with a request for confidentiality in connection with the development of governmental policy, in accordance with MCL 15.243(1)(f). This ordinance shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the community.
5. The name, address identity, home and business telephone numbers, pager number, if any, and mobile home number, if any, of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated or confirmed in writing to the Township no less than every four (4) months, during all time the facility is on the premises.

E. Collocation.

1. Statement of Policy:

It is the policy of the Township to minimize the overall number of newly established locations for wireless communication facilities and Wireless Communication Support Structures within the community, and encourage the use of existing structures for Attached Wireless Communication Facility purposes, consistent with the statement of purpose and intent, set forth in Subsection A. Purpose and Intent above. Each licensed provider of a wireless communication facility must, by law, be permitted to locate sufficient facilities in order to achieve the objectives promulgated by the United States Congress. However, particularly in light of the dramatic increase in the number of wireless communication facilities reasonably anticipated to occur as a result of the change of federal law and policy in and relating to the Federal Telecommunications Act of 1996, it is the policy of the Township that all users should collocate on Attached Wireless Communication Facilities and Wireless Communication Support Structures in the interest of achieving the purposes and intent of this section, as stated above, and as stated in Subsection A Purpose and Intent. If a provider fails or refuses to permit collocation on a facility owned or otherwise controlled by it, where collocation is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of and in direct contradiction to the basic policy, intent and purpose of the Township. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the Township.

2. Feasibility of collocation:

Collocation shall be deemed to be “feasible” for purposes of this section where all of the following are met:

- (a) The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
- (b) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
- (c) The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
- (d) The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in Subsections B and C, above.

3. Requirements for Collocation:

- (a) The construction and use of a new wireless communication facility shall not be granted unless and until the applicant demonstrates that a feasible collocation is not available for the coverage area and capacity needs.
- (b) All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.
- (c) The policy of the community is for collocation. Thus, if a party who owns or otherwise controls a facility shall fail or refuse to alter a structure so as to accommodate a proposed and otherwise feasible collocation, such facility shall

thereupon and thereafter be deemed to be a non-conforming structure and use, and shall not be altered, expanded or extended in any respect.

- (d) If a party who owns or otherwise controls a facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Township for a period of five years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

F. Removal.

1. A wireless communication facility must furnish reasonable evidence of ongoing operation at any time after the construction of an approved tower.
2. A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners upon the occurrence of one or more of the following events:
 - (a) When the facility has not been used for one hundred-eighty (180) days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - (b) Six (6) months after new technology is available at reasonable cost as determined by the Township Board, which permits the operation of the communication system without the requirement of the support structure.
3. The situations in which removal of a facility is required, as set forth in paragraph 1 above, may be applied and limited to portions of a facility.
4. Upon the occurrence of one (1) or more of the events requiring removal, specified in paragraph 1 above, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to as nearly as possible to its original state, blending in with the surrounding area and not creating a health or safety hazard. To insure that this condition will be met, a bond to insure compliance shall be required by the Township Board in an amount deemed necessary to rehabilitate the site as nearly as possible to its original state or as deemed in the plan of operating conditions as reasonably determined by the Zoning Administrator.
5. If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, with a court order, the Township may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge with a

court order, to be drawn or collected from the security posted at the time application was made for establishing the facility.

SECTION 6.07 MINERAL MINING AND EXTRACTIVE OPERATIONS

- A. Purpose and Intent. It is the purpose and intent of this section to promote the underlying spirit and intent of the entire Zoning Ordinance, but at the same time allow for the extraction of minerals in locations where they have been naturally deposited, and to insure that mineral mining activity shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use, and, to insure that mineral mining activities are consistent with the public health, safety and welfare of the Township.
- B. Conditional/Special Use Approval. The extraction, removal, and/or processing of sand, gravel, stone and/or other mineral mining in the Township requires the prior approval of a Special Land Use approval by the Whitefish Township Planning Commission. Application costs are incurred by the applicant.
- C. Exemption. Usual and customary land balancing by cutting and filling, in preparation for immediately planned and approved development in accordance with this and all other applicable ordinances and law, shall be exempted from the provisions of this section.
- D. Application. An application shall be filed with the Zoning Administrator and shall include the following:
 - 1. All costs incurred by the petitioner/applicant.
 - 2. Site plan prepared in accordance with Article 7;
 - 3. Vertical aerial photograph, enlarged to a minimum scale of one (1) inch equals two hundred (200) feet. The date of the aerial photograph shall be certified, and shall have been flown at such time as the foliage shall be off of on-site trees, provided, if there are changes in the topography from the date of the photograph, an accompanying text shall be provided explaining each change. The vertical photograph shall cover:
 - (a) All land anticipated to be mined in the application, together with adjoining land owned by the applicant.
 - (b) All private and public roads from which access to the property may be immediately gained, including means of vehicular access to property and the proposed operation.
 - (c) Identify all traffic in and out of property to have access to county-maintained road or signed contract with all property owners when a private road is used for site access.
 - 4. Certified boundary survey of the property.
 - 5. Site topography and natural features including location of water courses within the planned mining area.

6. Duration of proposed operation, and location, timing, and any other relevant details with respect to the phasing and progression of work on the site.
7. Land use study/drawing showing the existing land uses with specification of type of use, e.g., single-family residential, multiple-family residential, retail, office, etc., and density of individual units in areas shown, including:
 - (a) Property within a radius of one-half (1/2) mile around the site; and
 - (b) The property fronting on all vehicular routes within the Township contemplated to be utilized by trucks which will enter and leave the site.
8. Geological/hydrological/engineering survey prepared by appropriate and qualified experts, indicating:
 - (a) All anticipated impact to the qualitative and quantitative aspects of surface water, ground water, and drainage during and subsequent to the operation to the geographical extent reasonably expected to be affected; and
 - (b) Opinion whether the exposure of subterranean waters and/or the impoundment of surface waters, where permitted, will establish a suitable water level at the level or levels proposed as part of the operation, and whether the same will not interfere with the existing subterranean water or cause any harm or impairment to the general public.
9. Description of the vehicles, machinery and equipment proposed for use on the property, specifying with respect to each, the anticipated noise and vibration levels.

E. Review Procedure.

1. The Zoning Administrator shall forward the original of the application to the members of the Planning Commission, and Chippewa County Road Commission or other appropriate authorities.
2. The Zoning Administrator shall retain the original of reports from the Chippewa County Road Commission or other appropriate authorities for the file, and forward copies to the Planning Commission.
3. The Zoning Administrator shall request a report from the Road Commission regarding traffic safety relevant to the application and any road improvements deemed appropriate to protect the public health, safety and welfare for areas located both within and outside of the Township.
4. After receiving all reports, including any additional reports of experts, if deemed appropriate the Planning Commission shall consider the application in accordance with the procedures set forth in Article 8.
5. Reasonable conditions may be required with the approval of the application for the conditional land use, to insure that public services and facilities affected by proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote

the use of land in a socially and economically desirable manner. Conditions imposed shall be reasonable and shall be in compliance with applicable law.

- F. Requirements and Standards. The determination on applications submitted under this section shall be based upon the following requirements and standards, as determined in the discretion of the Planning Commission, and if the application is approved, such standards and requirements shall be maintained as a condition to continued operation and use by the applicant:
1. Demonstration by the applicant that the proposed land use shall not result in a probable impairment to, pollution of, unreasonable impact upon and/or destruction of the following:
 - (a) The water table and/or private wells of property owners within the reasonably anticipated area of impact during and subsequent to the operation.
 - (b) The course, quantity, and quality of surface water, ground water, and/or the watershed anticipated to be impacted by the operation.
 - (c) The surrounding property and/or property along haul routes, in terms of noise, dust, air, water, odor, light, and/or vibration.
 2. The proposed land use shall have access to a road having a planned right-of-way with the Chippewa County Road Commission and or the Michigan Department of Transportation not less than one hundred twenty (120) feet and having necessary and appropriate load bearing and traffic volume capacity in relation to the proposed intensity of the use.
 3. All activities conducted in connection with the operation shall function within all county and state regulations.
 4. The hours of operation shall be restricted to Monday through Saturday, 9:00 am to 5:00 pm without special conditional approvals during the application process.
 5. After a period ten (10) years, use may be reviewed for possible renewal by the Whitefish Township Planning Commission; the maximum duration of the proposed use, if conducted in or immediately adjacent to a residential zoning district, shall be ten (10) years.
 6. The site shall be secured with fencing and screened from all adjacent public highways and residentially used parcels.
 7. The proposed transportation route or routes within the Township shall be as direct and minimal in detrimental impact as reasonably possible, as determined in the discretion of the Township at the time of application, and thereafter.
- G. Reclamation. Reclamation of the site shall be in accordance with a reclamation plan approved by the Township as part of the application review process. There shall be no final slopes having a grade in excess of a minimum ratio of one (1) foot vertical to five (5) feet horizontal, and, for permanent water areas, for a distance of not less than ten (10) feet nor more than fifty (50) feet, the submerged slopes shall be graded from the water's edge at a grade not in excess of a minimum ratio of one (1) foot vertical to seven (7) feet horizontal; the entire site shall be planted with sufficient, native vegetation so as to sustain short and long term growth, in order to avoid erosion and washout, and, to the extent necessary to achieve this objective, suitable soils shall be placed on the property; and, all structures, machinery, equipment and improvements shall be removed from the site. The

Township Board shall have the right to impose performance bonds or letters of credit to insure that the reclamation and restoration plans as submitted are implemented.

- H. **Inspection.** The Township shall be entitled to make periodic inspection to determine compliance with the Section.

SECTION 6.08 WIND ENERGY HARVEST SITES

1. **Introduction:** The purpose of this section is to provide regulations for the designation of property suitable for the location, construction and operation of Wind Energy Conversion Facilities in Whitefish Township, to protect the health, welfare, safety, and quality of life of the general public and to ensure compatible land uses in the vicinity of the areas affected by Wind Energy Conversion Facilities. Small Turbines exceeding sixty (60) feet in Total Height but equal to or less than one hundred twenty (120) feet in Total Height, Wind Assessment Sites and Wind Energy Harvest Sites (commonly referred to as “wind farms”) may be approved by the Planning Commission as a special use in the Light Industrial District, upon compliance with the conditions of this Ordinance.
2. **Definitions:** For the purposes of this section, the following terms and phrases shall be defined as provided below:

ANSI. The American National Standards Institute.

Applicant. An Owner/Operator that seeks to secure a conditional land use permit under this Ordinance.

Background Sound (L90). Background sound refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment, that is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Background Sound must be measured relative to A-weighting and C-weighting and denoted as LA90 or LC90 respectively.

Blade Reflection. Blade reflection is the intermittent reflection of the sun off the surface of the blades of a Wind Turbine Generator.

Blade Clearance. In reference to a horizontal axis rotor, the distance from grade to the lowest point of the rotor’s swept arc.

Horizontal Axis Wind Turbine (HAWT). A wind turbine generator designed with a rotor mounted on a horizontal axis of rotation. The rotor thus sweeps through a vertical plane perpendicular to the motion of the wind.

IEC. The International Electrotechnical Commission.

Inhabited Structure. Any structure that is, or is likely to be, occupied by any person or livestock. This includes, but is not limited to residential dwellings, places of business, places of worship, schools, and barns.

Low Frequency Noise (LFN). Sound Emission in the lower frequency range of 20 to 200 Hz.

Measurement Points (MP). The location where sound measurements are taken such that no significant obstruction blocks sound from the site.

MET Tower (Meteorological Tower). A tower (either of monopole design or guy-wire supported) containing or supporting instrumentation, including but not limited to anemometers, used to gather data necessary for site evaluation and development of a Wind Energy Harvest Site.

Nacelle. The structure that is mounted on top of the tower and houses the rotor support shaft, mechanical and electrical components, and generator.

Non-participating Property. Any property within the Notification Area other than Participating Property.

Notification Area. All land within Whitefish Township.

Owner/Operator. Any person (as defined by this Ordinance), including successors and assigns, with legal ownership or control (by lease, easement or any other agreement) of Participating Property, Wind Energy Conversion Facilities or a Wind Energy Harvest Site, including but not limited to actual or apparent authority and responsibility to operate the Wind Energy Conversion Facilities or Wind Energy Harvest Site on a daily basis.

Operations & Maintenance Office (OMO). A local facility constructed for the purpose of operating and maintaining the Wind Energy Harvest Site or Wind Energy Conversion Facilities, including the storage of spare parts or other materials.

Participating Landowner. The person who owns property on which one or more Wind Turbine Generators is located.

Participating Property. Any property or portion thereof in the Light Industrial District owned or under the control (by lease, easement or any other agreement) by the Owner/Operator and proposed for (i) the placement of a Small Turbine Tower in excess of sixty (60) feet, (ii) inclusion by the Applicant to be within a Wind Energy Harvest Site, or (iii) the placement of a MET Tower, transmission line or any other Wind Energy Conversion Facilities or easements which are directly or indirectly related to a Wind Energy Harvest Site.

Project Boundary. The external property boundaries of Participating Property represented on a plot plan view by a continuous line encompassing the area within which all Wind Energy Conversion Facilities and any other related equipment or OMO will be located.

Rotor. An element of a Wind Turbine Generator that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.

Receptor. Inhabited structure affected by or potentially affected by sound levels and sound pressure levels.

SCADA Tower. A tower (either of monopole design or guy-wire supported) containing instrumentation designed to provide present moment wind data for use by the supervisory control and data acquisition system (SCADA).

Setback. The minimal allowable horizontal distance as measured from the Project Boundary, as further described in this Ordinance, to an inhabited structure, property line, county road, or other location, as further described in this Ordinance.

Shadow Flicker. Alternating changes in light intensity caused by the movement of wind turbine generator blades casting shadows on the ground or a stationary object.

Shadow Flicker Receptor. An inhabited structure affected by or potentially affected by shadow flicker; plus an additional one hundred (100) foot area surrounding the exterior of the inhabited structure; and the entire outdoor public area surrounding schools, churches, public buildings and public roads within the area affected by or potentially affected by shadow flicker.

Small Turbine or Small Turbine Tower. A single Wind Turbine Generator, including the Tower and Wind Energy Conversion Facilities, that is not directly interconnected to an electrical transmission utility and intended only to service the energy needs of the property upon which the Wind Turbine Generator is located.

Sound Emission. Sound emitted by any Wind Energy Conversion Facilities.

Spectrum. The description of a sound wave's resolution into its components of frequency and amplitude.

Supervisory Control and Data Acquisition (SCADA). A control system designed to acquire data and perform both automatic and manual control function to the Wind Energy Harvest Site.

Total Height. The height from grade to the highest vertical point of the swept rotor arc. In the case of Wind Turbine Generator with horizontal axis rotor, the total height includes the distance from grade to the rotor axis of rotation within the nacelle plus one-half the swept rotor diameter. In the case of a MET Tower, the height from grade to the highest vertical point of any equipment or instrumentation attached to the MET Tower.

Tower. The tubular structure, above grade, that supports the nacelle, including the Wind Turbine Generator, and rotor assembly.

Wind Energy Conversion Facilities. Equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other components used in the conversion of wind into usable forms of energy.

Wind Energy Harvest Site (Wind Farm). A Wind Energy Harvest Site is a location where any number of commercial Wind Turbine Generators are sited for the purpose of extracting kinetic energy from the wind, generating electricity, and supplying the electricity to an electrical transmission utility ("grid").

Wind Energy Harvest Site Construction Application. An application to the Planning Commission seeking conditional land use approval to site and construct a Wind Energy Harvest Site.

Wind Site Assessment Application. An application to the Planning Commission seeking conditional land use approval to erect one or more anemometer towers (MET Towers") on Participating Property.

Wind Turbine Generator (WTG). A device designed to extract energy from the wind and supply it in the form of electrical energy.

3. Small Turbines:

- (a) Small Turbines exceeding one hundred twenty (120) feet in Total Height are prohibited.
- (b) Small Turbines may be approved in the Light Industrial District as a use permitted by right if the Total Height does not exceed sixty (60) feet and the Tower is set back at least two (2) times the Total Height from property lines and public road right of ways.
- (c) Small Turbines exceeding sixty (60) feet in Total Height but equal to or less than one hundred twenty (120) feet in Total Height may be approved in the Recreational Forest Zoning District as a special use pursuant to this section, provided it meets all of the following conditions:
 - 1) Installation shall be consistent with the public health, safety and welfare of Whitefish Township.
 - 2) Small Turbines must comply with all State, Federal and local laws and regulations, including but not limited to the applicable requirements of the Federal Aviation Administration ("FAA"), the Michigan Airport Zoning Act and the Michigan Tall Structures Act both prior to and after installation. No Small Turbine shall be located on any property in such a manner as to interfere with the safe takeoff, approach and landing of aircraft at any non-publicly owned airport as defined by the Michigan Airport Zoning Act, as amended.
 - 3) Small Turbines must minimize the adverse impacts of technological obsolescence of such equipment.
 - 4) Small Turbines shall be required to be of a neutral, non-reflective, non-obtrusive color which must be maintained throughout the life of the Small Turbine.
 - 5) Small Turbine shall not be artificially lighted except to comply with applicable FAA or other Federal, State or local requirements, or to the extent necessary for the reasonable safety and security thereof.
 - 6) No advertising is permitted upon a Small Turbine. Additional items such as banners, streamers, flags and similar items are hereby prohibited from being attached to any Small Turbine.
 - 7) Any electrical system components related to a Small Turbine, except necessary wiring from the base of the support structure to the turbine, are required to be placed underground within the boundary of each Participating Parcel at a depth designed to accommodate the existing land use to the maximum extent practical.
 - 8) There is a minimal negative visual impact of a Small Turbine on neighborhoods, community landmarks, historic sites and buildings, natural environmentally sensitive areas and public right-of-way.
 - 9) The Rotor diameter shall not exceed thirty-five (35) feet.
 - 10) No Small Turbine may produce Sound Emissions in excess of 35 dB(A) at Measurement Points at any adjacent property line of a Non-Participating Parcel. During short-term events including but not limited to severe wind, snow or rain storms if the ambient sound pressure level exceeds 35 dB(A), the maximum Sound Emissions permitted during the short-term event shall be the ambient dB(A) plus five (5) dB(A)s.

- 11) A Participating Parcel shall not be occupied by a number of Small Turbines that exceed a combined total potential power output greater than ten (10) kW per hour nor shall the number of Small Turbines on a Participating Parcel exceed two (2) for each whole five (5) acres.
 - 12) Small Turbines shall have a governing, breaking, feathering or other fail-safe system designed by a certified engineer in order to mitigate and prevent uncontrolled rotation during adverse weather conditions.
 - 13) Small Turbines must possess protection measures from lightning strikes.
 - 14) A structural analysis must be provided demonstrating the structural integrity of the proposed Small Turbine Tower support system in the event of adverse weather conditions.
 - 15) All setbacks required for Small Turbine Towers shall be measured from the outside edge of the base of the Small Turbine Tower at Measurement Points at the nearest adjacent property line of a Non-Participating Parcel.
 - 16) A Small Turbine Tower must meet the greater of either two (2) times the Total Height of the Small Turbine Tower away from a Non-Participating Parcel's property line or the minimum distance necessary for compliance with the permissible Sound Emission permitted by this section.
 - 17) A minimum separation distance equal to or greater than a one to one (1:1) ratio to Total Height is required between multiple Small Turbine Towers.
 - 18) No Small Turbine Tower shall be located in the Front Yard as defined by this Ordinance.
 - 19) All Small Turbine Towers must maintain a one-to-one (1:1) Total Height to setback ratio from existing utility easements, power lines or other public infrastructure related items which may exist upon the Participating Parcel.
 - 20) No collocation of any Wireless Communications Facilities shall be permitted on any Small Turbine Towers.
- (d) Applications for a conditional land use for Small Turbines exceeding one hundred twenty (120) feet in Total Height shall be on a form approved by the Township and submitted to the Whitefish Township Zoning Administrator with the required fee as set by the Township Board. At a minimum, the application shall include a site plan in substantial conformance with the requirements of this subsection. If the Whitefish Township Zoning Administrator determines that the application as submitted does not substantially conform to the requirements of this subsection, the Zoning Administrator shall notify the Applicant of his or her determination and the application shall be returned to the Applicant, together with any fees submitted with the application and the application shall not be submitted to Planning Commission for review. If the Zoning Administrator determines the application substantially conforms to the requirements of this subsection, the application package shall be submitted to the Planning Commission and reviewed pursuant to procedure outlined in Article 7 of this Ordinance.
4. Wind Site Assessments and Wind Energy Harvest Sites: The construction of Wind Energy Harvest Sites involves a two-phased process, whereby the feasibility of a Wind Energy Harvest Site is evaluated by way of a Wind Site Assessment and then, if testing is successful, a Wind Energy Harvest Site is constructed. Accordingly, each of these two phases shall require separate conditional land use applications.

(a) Wind Site Assessment Application Requirements: An Applicant seeking conditional land use approval (conditional land use permit) for a Wind Site Assessment shall submit a site plan complying with the requirements of Article 7 of this Ordinance and shall also include the following information:

- 1) The proposed number, location, size, height and type of all MET Towers intended to assess the wind resource.
- 2) The location of all buildings and any other structures on the proposed site as well as any buildings and dwellings on any Non-participating Property immediately adjacent to the proposed site.
- 3) The location of public and private roads, wood lots, property lines, and any other property features or characteristics deemed relevant by the Planning Commission.
- 4) The names, addresses, and phone numbers of the Applicant, the owner of all equipment proposed to be installed if different than the Applicant and the recorded owner(s) of the property or properties within the Project Boundary.
- 5) A copy of any and all agreements, leases or other written documentation evidencing the recorded owner's authorization permitting the installation of one or more MET Towers for the purpose of conducting a Wind Site Assessment, which shall include a provision requiring the Applicant to remove all equipment and restore the property to its original condition upon cessation of the Wind Site Assessment.
- 6) Proof of the Applicant's liability insurance for the Wind Site Assessment in a minimum sum of one million dollars (\$1,000,000), naming the recorded property owner and the Township as additional insureds.
- 7) A MET Tower shall not be located on a site in excess of thirty-six (36) months, without the express approval of the Planning Commission.
- 8) An approved Wind Site Assessment application shall not be considered or construed to mean future approval of a Wind Energy Harvest Site construction application.

(b) Wind Energy Harvest Site Application Requirements: An applicant seeking conditional land use approval for a Wind Energy Harvest Site shall submit a finalized site plan complying with the requirements of Article 7 of this Ordinance bearing the certification(s) of all licensed engineering consultants and agencies required by law and shall also include the following detailed information:

- 1) The proposed location of all Wind Energy Conversion Facilities and access roadways.
- 2) The proposed location of the OMO, and all substations, permanent MET Towers and/or SCADA Towers in anyway related to the proposed Wind Energy Harvest Site and wherever located in the Township.
- 3) The proposed location of all underground and/or overhead cabling.
- 4) The physical size and electrical production capacity of the proposed Wind Energy Conversion Facilities, including the Total Height and the swept rotor diameter.

- 5) The method, materials and color of fencing, if any.
- 6) The method and type of Tower lighting, plus details on shielding to avoid visibility of flashing lights from any ground level-based site lines.
- 7) A visual representation, including scale elevations of the proposed Wind Energy Conversion Facilities and perspective drawings or photographic representations depicting the Wind Energy Conversion Facilities in relation to the surrounding topography and structures.
- 8) A copy of any and all agreements, leases or other written documentation evidencing the recorded owner's authorization permitting the installation of Wind Energy Conversion Facilities, which shall include a provision requiring the Applicant to remove all equipment to a minimum depth of six (6) feet from the natural grade and restore the site upon cessation or removal of any Wind Energy Conversion Facilities or Wind Energy Harvest Site operations.
- 9) The Wind Turbine Generator manufacturer's specifications indicating:
 - i. The rated nameplate output, in kilowatts or megawatts, of the Wind Turbine Generators.
 - ii. Manufacturer safety manuals for all proposed Wind Energy Conversion Facilities including detailed information of features and sound characteristics.
 - iii. Type of materials used in foundation, Tower, blade, and/or rotor construction.
 - iv. Manufacturer's MSDS (Material Safety Data Sheet) documentation including the type and quantity of the materials, lubricants, and coolants used in the operation of all Wind Energy Conversion Facilities.
 - v. A discussion of the SCADA system employed to control and operates the Wind Energy Conversion Facilities.
- 10) A sound impact study (noise report) shall be prepared in accordance with subsection 4.c), and shall also include the following:
 - i. Sound level information, reported in both dBA and dBC, and showing sound level contours in 5 dB increments overlaid on an aerial view and property survey map of property within two (2) miles of the Project Boundary.
 - ii. Sound predictions shall be made for wind speed, direction and operating mode that would result in the maximum daytime and nighttime Sound Emissions.
- 11) A Background Sound study, dBA and dBC (as LA90 and LC90), shall be performed defining the Background Sound level for all Inhabited Structures within two (2) miles of the Project Boundary.
- 12) Proof that the Applicant has obtained or applied for approval from all other agencies having jurisdiction, including the following:
 - i. Federal Aviation Administration.
 - ii. Chippewa County Road Commission and/or MDOT, as applicable.

iii. other agencies having jurisdiction.

- 13) Proof of liability insurance for Wind Energy Conversion Facilities in a minimum amount of five million dollars (\$5,000,000), increased annually by the estimated multiplication factor for the agricultural class of property, as determined by Whitefish Township or another taxing jurisdiction; provided that, if the factor is less than 1.0, then 1.0 shall be the factor used.
- 14) Prior to final approval the Applicant must submit an acceptable plan that is approved by the Planning Commission for resolving health-related or other complaints, including but not limited to, sleep deprivation, headaches, dizziness or nausea reasonably attributed to the operation of Wind Energy Conversion Facilities.
- 15) Prior to final approval the Applicant must submit an acceptable plan that is approved by the Planning Commission for resolving claims by property owners within Whitefish Township where the inability to sell a property or a reduction in the value of a property can be reasonably attributed to the presence and/or operation of the wind turbine generators.

(c) Sound Studies and Requirements. All studies or tests related to sound conducted in accordance with this section shall meet the following standards and requirements:

- 1) Qualified Independent Acoustical Consultant. Persons conducting baseline and other measurements and reviews related to the application for a Wind Energy Harvest Site shall have Full Membership in the Institute of Noise Control Engineers (INCE) or other demonstrated acoustical engineering certification, or must demonstrate their qualifications and show field measurement experience with background data and wind turbine generator noise emission. The Professional Engineer (PE) certification does not test for competence in acoustical principles and measurement; a PE without adequate further qualification is not considered to be qualified under this section. The Qualified Acoustical Consultant shall not have any financial stake in the Wind Energy Harvest Site or any other financial stake in the Applicant or any related company of Applicant. Any person or entity performing tests or studies under this section shall provide proof of their qualifications to the Planning Commission.
- 2) Measurement. Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI and IEC standards:
 - i. ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
 - ii. ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
 - iii. ANSI S1.40 Verification Procedures for Sound Calibrators
 - iv. ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
 - v. ANSI S12.18 Measurement of Outdoor Sound Pressure Level
 - vi. IEC 61400-11 WTG systems –Part 11: Acoustic noise measurements

- 3) Background Sound Level. Because Wind Energy Conversion Facilities can potentially operate continuously, the Background Sound levels studies shall focus on the quieter periods which are often the evening and night. Sounds from the WTG, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment. Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/ microphone location 1.5 m height.
- 4) Sound Emission spectra imbalance. The spectra shall be determined not to be in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C weighted sound level is defined as the dBC measured during the operation of the wind turbine generator operated so as to result in its highest sound output.
- 5) Low Frequency Noise (LFN). LFN is deemed to be excessive when the difference between a C-weighted sound level and an A-weighted sound level is greater than 20 decibels at any measurement point outside an Inhabited Structure.
- 6) Measurement Point. The Measurement Point shall be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures shall be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.
- 7) Measurement Wind Speed. For measurements conducted to establish the Background Sound levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 2 m/s (4.5 mph) for valid measurements. For valid Wind Energy Conversion Facilities measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone (Measurement Point) and at its height, shall be less than 4m/s (9mph). The wind speed at the rotor blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the rotor blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone (Measurement Point) to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the Wind Energy Conversion Facilities to be submitted with the application, the wind speed shall be the speed that will result in the maximum dBA and dBC sound levels at Non-participating Properties closest to the Wind Energy Conversion Facilities. If there is more than one nearby receptor, models for each such receptor shall be evaluated and the results shall be included in the application.

- 8) Spectrum. The Wind Energy Conversion Facilities' manufacturer is required to supply a one-third octave band frequency spectrum of the Sound Emission at 90% of rated power. The published sound spectrum is often presented as A-weighted values, but C-

weighted values are also required. This information shall be used to construct a model of the Wind Energy Harvest Site's Sound Emission levels at locations of interest in and around the Project Boundary. The frequency range of interest for Sound Emission is approximately 6 Hz to 10 kHz.

5. Review Procedure: Wind Site Assessment and Wind Energy Harvest Site applications shall be evaluated by the Planning Commission pursuant to the procedures detailed in this section and Article 7. The Applicant and the entire Township shall be notified by regular mail or personal delivery of the public hearing in accordance with the notice requirements of the Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3101 *et seq.*, as amended.

- (a) General Standards: In addition to meeting the requirements of Article 7, all Wind Site Assessments and Wind Energy Harvest Sites shall comply with the following standards for approval:

- 1) No portion of any Tower or rotor blades shall display any name, symbol, words, letters, advertising message, graphic representation or other written or pictorial matter. A nacelle may have lettering that exhibits the manufacturer's and/or Applicant's identification, provided such markings are reviewed and approved by the Planning Commission.
- 2) All Wind Energy Conversion Facilities shall be finished in a single, non-reflective matte finished color that minimizes the visual impact.
- 3) Wind Energy Conversion Facilities, including any Wind Turbine Generator, MET Tower, and SCADA Tower, shall not be illuminated by artificial means and shall not display strobe lights unless specifically required by the Federal Aviation Administration or other state or federal authority having jurisdiction. If lighting is required, the lighting as installed shall not exceed FAA minimum standards.
- 4) Any and all Airports, Airfields or Landing Strips where ever public or private owned within the boundaries of the Township will come under the same guidelines for setbacks as required for any Public Airport in the State of Michigan as established by MDOT and the FAA and complying to the Michigan Tall Structures Act, Act 259 of 1959.
- 5) All access doors and interior access points shall be lockable and accessible only to those either constructing or maintaining the Wind Energy Conversion Facilities.
- 6) Appropriate warning signs shall be placed at the base of any Tower and other appropriate locations on Wind Energy Conversion Facilities warning of potentially dangerous conditions.
- 7) Any access drives or roads remaining on or within the Project Boundary shall be gated and locked at night or when not in use. Gates shall be located no closer than fifty (50') feet from the public road right-of-way.
- 8) Each Wind Turbine Generator shall be equipped with a manual and automatic braking device capable of stopping the rotor blades in high winds and adverse weather conditions.

- (b) Setback Requirements: The following setbacks and separation requirements shall apply to all Wind Turbine Generators within the Project Boundary.
- 1) On a Participating Property, each Wind Turbine Generator shall be set back from the nearest Inhabited Structure a distance of no less than three (3) times the Total Height.
 - 2) A Wind Turbine Generator within the Project Boundary shall be set back not less than six (6) times the Total Height from the property line of the nearest Non-participating Property as measured from the closest point at the base of the Tower.
 - 3) No Wind Turbine Generator shall exceed five hundred (500) feet in Total Height.
 - 4) Any MET Tower or SCADA Tower shall be set back not less than two and one-half (2 ½) times the Total Height from any Inhabited Structure, public road right of way or property line of any Non-participating Property.
 - 5) Every Wind Turbine Generator within the Project Boundary shall be set back not less than six (6) times the Total Height from the center line of a "State" highway within the boundaries of the Township measured from the closest point at the base of the Tower. Every Wind Turbine Generator within the Project Boundary shall be set back not less than two (2) times the Total Height from every other Wind Turbine Generator or any public road right of way, power lines, gas line or County drain and Railroad Track, measured from closest point at the base of the Tower.
 - 6) No Wind Turbine Generator shall be located within a one (1) mile circumference (the "Exclusion Zone") of the City of Manistique. The Exclusion Zone shall be measured from the City limits existing on the date this section was adopted by the Township Board.
- (c) Sound Emission and Immission Limitations: The following Sound Emission limitations shall apply to a Wind Energy Harvest Site.
- 1) Sound Immission on Participating Properties shall not exceed 45 dBA.
 - 2) Sound Immission measured at the adjacent property line of Non-participating Properties shall not exceed 35 dBA Lmax.
- (d) Shadow Flicker and Blade Reflection: The Wind Energy Harvest Site shall be designed and sited to prevent shadow flicker and/or blade reflection from having a negative impact on any shadow flicker receptor, as defined herein.
- 1) A Wind Energy Harvest Site shall be designed so that shadow flicker or blade reflection does not discernibly impact any shadow flicker receptor for more than 30 hours per year.
 - 2) Based on reasonably valid complaints, the Planning Commission may verify such complaints by field verification and modeling by a qualified consultant engaged by the Township, the cost of which shall be paid for by the Owner/Operator.
 - 3) The Owner/Operator shall be responsible for mitigating verified complaints within 30 days from a final determination of any shadow flicker or blade reflection attributed to the operation of Wind Turbine Generator. Mitigation involving significant construction

or physical modification shall be completed within 90 days, unless an extension is granted by the Planning Commission for due cause.

- (e) Signal Interference: No Wind Energy Conversion Facilities shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, wireless phone, Auto GPS Steering Systems or other personal communications systems would produce electromagnetic interference with signal transmission or reception. No Wind Energy Conversion Facilities shall be installed in any location along the major axis of an existing microwave communication link where its operation is likely to produce electromagnetic interference in the link's operation.
- (f) Stray Voltage Assessment and Requirements:
 - 1) The Applicant shall conduct and include a report of a pre-construction stray voltage test on all livestock facilities located within and one mile beyond the Project Boundary.
 - 2) Following completed construction and interconnection of all Wind Energy Conversion Facilities within the Project Boundary, the Applicant shall conduct a post-construction stray voltage test on all livestock facilities within and one mile beyond the Project Boundary.
 - 3) The stray voltage tests shall be performed by a certified stray voltage investigator approved by the Planning Commission.
 - 3) Applicant shall seek written permission from property owners prior to conducting testing on such owners' property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.
- (g) Roads:
 - 1) A travel plan shall be provided depicting the routes to be used by construction and delivery vehicles and of any road improvements that will be necessary to accommodate construction vehicles, equipment of other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of Wind Energy Conversion Facilities must be submitted to and approved by the Chippewa County Road Commission prior to commencement of construction of any Wind Energy Conversion Facilities.
 - 2) The travel plan must include the load capacity of the roads, an assessment of the roadway prior to and after construction of the Wind Energy Conversion Facilities and an intersection display or diagram indicating where and what type of improvements are necessary for transportation, delivery or maintenance purposes for any Wind Energy Conversion Facilities. Any necessary post construction road repairs or reconstruction shall be the responsibility of the Owner/Operator of the Wind Energy Conversion Facilities and such necessary road repairs or reconstruction must be performed in compliance with all applicable requirements of the Chippewa County Road Commission.
- (h) Applicant shall provide a statement indicating what hazardous materials will be used and stored on the Wind Energy Harvest Site.

- (i) Applicant shall provide an anticipated construction schedule and project phasing plan shall be required prior to final site plan approval.
- (j) Applicant shall provide a statement certifying that all Wind Energy Conversion Facilities will be inspected on an annual basis to ensure proper working condition. The Owner/Operator shall maintain with the Township up to date name and contact information for the person responsible for maintenance of the Wind Energy Conversion Facilities.

6. Reporting Requirements:

- (a) The Owner/Operator shall notify the Whitefish Township Clerk of any Extraordinary Events within 24 hours of any such event. "Extraordinary Events" shall include but not be limited to Tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the Tower base, thrown blade or hub, any injury to any worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Township or its residents.

Additionally, the Owner/Operator shall provide the Whitefish Township Clerk and residents of the Township with a hotline phone number for reporting of any such Extraordinary Events to an individual or manned facility designated by the Owner/Operator that can be contacted at any time.

- (b) An annual report shall be submitted to the Whitefish Township Clerk which shall contain the following:

- 1) Annual proof of liability insurance pursuant to subsection – 4. b 13.
- 2) Annual proof of decommissioning funds pursuant to subsection – 10 b.
- 3) A summary of all complaints, complaint resolutions and Extraordinary Events.

- 7. Ownership change: The conditional land use permit is transferrable. The proposed new Owner/Operator shall be required to register with the Township Clerk prior to the transfer of ownership or operation of the Wind Energy Harvest Site. The new owner/operator shall conform to all requirements of this Section and any special use permit issued pursuant to this Section.

- 8. Operational Requirements: The operation of a Wind Energy Harvest Site shall conform to operational requirements that reasonably protect the public from excessive danger due to weather conditions, including but not limited to ice and snow.

9. Complaint Resolution:

- (a) Serious Violations: Except as otherwise provided in this Section, the Owner/Operator of the Wind Energy Harvest Site shall respond within five (5) business days to any complaint or complaints deemed by the Township Zoning Administrator to require immediate attention due to actual or probable endangering of persons or property. Testing, if required, shall be paid for by the Owner/operator and must commence within ten (10) working days of verification of the validity of the complaint. The Owner/Operator shall provide a mitigation plan within five (5) business days of being notified of the violation, which plan shall be implemented as quickly as needed to mitigate or avoid the actual or probable damage. Any costs attributable to mitigation or elimination of serious violations shall be borne by the Owner/Operator.

- (b) Other Violations: Except as otherwise provided in this Section, if the Township Zoning Administrator determines that a violation of this Ordinance or the conditional land use permit has occurred, and the violation is determined neither to be an emergency nor a serious violation as determined above, the Township Zoning Administrator shall provide written notice to the Owner/Operator alleged to be in violation of this Ordinance or conditional land use permit. The Township Zoning Administrator and the involved parties shall meet in good faith to resolve the alleged violation. Such meetings shall be conducted within thirty (30) days of the written notice of violation. The Owner/Operator shall pay for any necessary testing. The Owner/Operator is responsible for mitigating the problem within thirty (30) days. Notwithstanding the foregoing, the Township Zoning Administrator may permit the Owner/Operator up to ninety (90) days to mitigate problems that involve significant construction or physical modification.
- (c) If a complaint is not mitigated to the satisfaction of the Township or any affected landowner, nothing in this ordinance or the conditional land use permit shall preclude the Township or the landowner from pursuing legal action in a court of competent jurisdiction.

10. Removal/Decommissioning:

- (a) Should any Wind Turbine Generator discontinue producing power for a minimum of one (1) year, the Owner/Operator shall be required to provide a status report to the Whitefish Township Planning Commission. A review of the status report by the Whitefish Township Planning Commission may result in a request for the affected Wind Turbine Generator(s) or the entire Wind Energy Harvest Site to be decommissioned. Failure to comply with a decommissioning request may result in the issuance of a stop operation order by the Township Zoning Administrator, and revocation of the conditional land use permit in accordance with this Zoning Ordinance.
- (b) The Owner/Operator shall post and maintain decommissioning funds in an amount equal to the net costs of decommissioning the Wind Energy Harvest Site; at no point shall decommissioning funds be less than one hundred percent (100%) of decommissioning costs. Decommissioning cost shall be paid for by the owner/operator as determined by a third party known in this field, for their expertise and the cost of hiring a third party, will also be paid for by the owner/operator. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the owner/operator and participating landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and the form of the bonds is approved by an attorney representing the Township. No work can begin on the Wind Energy Harvest Site before the decommissioning bond is issued and accepted.
- (c) When a Wind Turbine Generator is decommissioned, all items must be removed from the subject property including buildings, electrical components, any roads, structural foundations, or other associated components to a depth not less than 6 feet (six feet) below grade. As nearly as possible the property is to be left to its original state, blending in with the surrounding area and not creating a health or safety hazard. To ensure that this condition will be met, a bond to ensure compliance shall be required by the Township Board in an amount deemed necessary to rehabilitate the site as nearly as possible to its original state or as deemed in the plan of operating conditions. These acts must be documented and recorded within the Whitefish Township Register of Deeds.
- (d) The Township Clerk shall be notified within thirty (30) days of any changes in the status of a Wind Energy Harvest Site, including cessation of use, a change in its ownership, or a change in the terms of the underlying lease to the subject property.

- (e) In the event the Owner/Operator defaults on any or all of the previously outlined decommissioning requirements, the landowner upon which any Wind Energy Conversion Facilities are located shall be responsible and liable for the removal of any Wind Energy Conversion Facilities. Failure of the landowner's compliance to the removal/decommissioning guidelines would result in the Township having the unit(s) removed at the expense of the landowner. If funding is not available to cover the costs of removal by the landowner, legal action to pursue the seizure of property(s) will take place to cover such costs.

11. Inspections:

Upon the provision of reasonable prior notice to the Owner/Operator, the Township Zoning Administrator, and/or his or her designated representative, may inspect any property for which conditional land use approval has been granted pursuant to this Section to determine whether the site complies with the applicable requirements of law and the terms of the conditional land use approval.

SECTION 6.09 WATERFRONT LOT USE REGULATIONS

Intent: It is the intent of this section to promote the integrity of Lake Superior, Whitefish Bay, Tahquamenon River, Betsy, Clark, Sheepshead, Andrus and all other lakes, rivers, and tributaries while preserving the quality of recreational use of those lakes; to protect the quality of those lakes by discouraging excess use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with waterfronts; and to maintain the natural beauty of waterfronts by minimizing man-made adjustments to the established shorelines. Nothing in this section shall be construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county or local government.

- A. Regulations: In any zoning district where a parcel of land is contiguous to a lake, such parcel of land may be used as access property or as common open space held in common by a subdivision, association or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront, only if the following conditions are met:
 - 1. Every use shall establish and maintain a green belt fifty feet wide from the water's edge. Within this belt no more than forty percent of the natural trees and shrubs may be removed – this forty percent to be distributed approximately evenly over the belt. The intent of the preceding ordinance is to prevent clear-cut patches along the water's edge. Special permission will be granted for more concentrated cutting necessary to establish roads and paths. A bond may be issued in the development process to cover the cost for replanting should the developer fail to do so. Trees and shrubs within the green belt may be trimmed or pruned to afford a view of the fronting waters and for access to any boat dock.
 - 2. In no event shall such parcel of land abut a man-made canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
 - 3. Access property, as provided for in and meeting the conditions of this section, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial or business use.

- B. Nonconforming uses: In any zoning district in which accesses have been established before the effective date of this ordinance or subsequent amendment thereto, such accesses shall retain historic uses. It is the intent of this ordinance to permit such lawful non-conformance to continue, but not to encourage additional uses and sites.
- C. Definitions: "Access Property" shall mean a property, parcel, or lot abutting a lake, and used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from off-shore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

SECTION 6.10 RENTING AND LEASING

PURPOSE: The intent of this Ordinance is to preserve and retain the residential community character of the Township, so that Short-Term Rental activity permitted and regulated through this Ordinance resembles the existing traditional residential uses by resident owners and lessees, and protects and promotes the health, safety, and welfare of all citizens of Whitefish Township, as well as those visiting the area, by requiring the Registration and Licensing of Short-Term Rentals (STRs).

Short-Term Rentals provide a community benefit by expanding the number and type of lodging facilities, however, the transient nature of occupants of Short-Term Rentals can impact any neighborhood. The provisions of this Ordinance are necessary to prevent negative impacts on residential neighborhoods posed by Short-Term Rental properties, and to minimize burdens placed upon Township services.

Reference: (from SECTION 2.02 DEFINITIONS:)

- SHORT-TERM RENTAL (STR) – The renting or leasing for a term of twenty-seven (27) days or less of an existing as of Township record December 31, 2023, home, cabin, cottage, yurt, residence, or any such habitable dwelling suitable for residential occupancy under the Michigan Building Code.
- DWELLING - (Residence) means one or more rooms with bathroom (privies permitted by Chippewa County Health Department Environmental Health Division included), bedroom, and kitchen facilities designed as a self-contained unit for occupancy for living, cooking and sleeping purposes.

- a. The Whitefish Township Board shall, by resolution from time to time, establish a Schedule of Fees for the administration of this Ordinance, and the Schedule of Fees shall be on public display in the office of the Zoning Administrator and within the Township website. Such Fees may be established and changed only by the Whitefish Township Board. No Certificate, Permit or Operating License shall be issued or renewed unless required Fees have been paid in full.
- b. A cap placing a limit upon the number of Short-Term Rental Operating Licenses to be issued in the Township at thirty-five (35) is established by the 2024 Amended Zoning Ordinance SECTION 6.10. The Whitefish Township Board may, by resolution from time to time, change that number at the sole discretion of the Township Board.
- c. Any Special Land Use Approval by the Planning Commission granting a Short-Term Rental Annual Operating License under SECTION 8, SPECIAL APPROVED USE REVIEW, Approves With Conditions a Special Land Use Permit for a Short-Term Rental Annual Operating License only. Operating Licenses shall be non-transferable with any arm's length change of ownership of the parcel, shall be renewed annually, and shall be subject to Application and Annual Renewal requirements per this SECTION 6.10, and Fees per paragraph a. above.
- d. Applications for Special Land Use Approval for Short-Term Rental Annual Operating License shall meet all requirements within this SECTION 6.10 RENTING AND LEASING, SECTION 4 ZONING DISTRICT REGULATIONS, and SECTION 8 SPECIAL APPROVED USE REVIEW.
- e. A Short-Term Rental Operating License shall not be granted or approved by the Planning Commission for any dwelling on a parcel with Recorded Deed Restrictions prohibiting such commercial use, whether by

Subdivision, Condominium, or Homeowners Association Covenants, Conditions, and Restrictions, or any Recorded Deed Restrictions that prohibit commercial use of the parcel.

f. A home inspection report completed by a certified home inspector stating that the proposed Short-Term Rental dwelling meets the State of Michigan Building Code for transient residential occupancy shall be required with all Applications, including documentation of the presence and operation of smoke detectors, CO detectors, and a minimum of one rated fire extinguisher on each floor of the dwelling.

g. A current Water Certificate of Analysis, including bacteria and nitrate analysis results shall be provided with all Applications.

h. Running water and a functioning septic system shall be provided, maintained, monitored, and reported as specified herein to the Township by any Licensee owner or operator of a Short-Term Rental dwelling.

i. A septic inspection report shall be completed every three years and provided by the Licensee during the appropriate year's annual renewal.

j. Quarterly Water Certificate of Analysis, (bacteria) and annual nitrate analysis shall be maintained by the Licensee owner or operator, and provided at each annual renewal. Seasonal rental parcel owners missing winter reports must state so at annual renewal. Failure to maintain or to provide quarterly water test reports at annual renewal may result in suspension or non-renewal of an Annual Operating License.

k. Only one (1) dwelling unit per parcel shall be eligible for a Short-Term Rental Operating License. All lodging by renters on a parcel with a Short-Term Rental Operating License must be within the dwelling unit and not in an accessory building, accessory dwelling unit, recreational vehicle, camper or tent.

l. All parking associated with a Short-Term Rental parcel must be out of the roadway and entirely on-site.

m. There shall be no more occupant renters than two (2) times the number of sleeping rooms or bedrooms in the dwelling unit, unless an Applicant demonstrates that the dwelling unit is suited to accommodate more guests.

n. A local point of contact person shall be specified in Applications and Annual Renewals to respond to emergencies and questions or concerns of the guest, the Township, or another person or entity that may need to address a local person with the Licensee's authority to take remedial action and respond to any violation of this Ordinance, or other matters.

o. Pets or other animals of renters of a Short-Term Rental parcel must be in compliance with Chippewa County Animal Control Ordinance, and SECTION 6.04 REGULATION OF ANIMALS. Whitefish Township does not enforce the Ordinances of Chippewa County. However, any verified citations by Chippewa County may be taken into consideration in the Application approval and renewal process.

p. One sign on the parcel may identify the STR, shall not exceed six (6) square feet, and shall not be illuminated or have working parts, in accordance with SECTION 10 SIGN REGULATIONS.

q. Secure trash receptacles and weekly trash removal services must be provided by the owner Licensee, and the method of disposal (transfer station or commercial pickup) specified in Applications.

r. Annual Renewal Applications including required documentation, and the Annual Renewal Fee, shall be provided by Licensees to the Zoning Administrator by April 1st of each year. The STR Operating License Annual Renewal form is available in the Township Office and website..

s. The Zoning Administrator shall furnish the Planning Commission, at it's first Regular Meeting of each year, with information detailing the status of all Short-Term Rental Operating Licenses, to include: The total number of STR Operating Licenses; The Annual Renewals received to date; Licensees delinquent or late in Annual Renewal, or lacking required water test reports; The number of STR Operating Licenses available under the present cap; A summary of documentation of all STR Ordinance Violation Complaints received the previous year; and, The outcome of investigations of complaints. The Planning Commission shall review the documentation and take lawful action as it may determine.

t. The Planning Commission shall identify, document, and report to the Whitefish Township Board in the Meeting Minutes of the first Regular Meeting of each year the number of Licensed Short-Term Rentals and the number of available Operating Licenses.

u. Each of the above SECTION 6.10 requirements of this Ordinance shall apply as Conditions of Approval for any new Application for Special Land Use Approval for STR Annual Operating License Granted or Approved by the Planning Commission beyond the date of this Ordinance amendment. (2025 amendment)

SECTION 6.11 RECREATIONAL VEHICLE USE

Any recreational vehicle in Residential or Recreational Forest Zoning Districts having a valid state license/registration may be used as a principal structure for a period of 180 calendar days in a calendar year. Owners of vehicles remaining unattended are encouraged to have the owner's name, address and telephone number on file with the Zoning Administrator for emergency services purposes (fire evacuation/missing person events/vandalism).

ARTICLE 7 SITE PLAN REVIEW

SECTION 7.01 PURPOSE

It is the purpose of this Article to require site plan approval for any new or renovation of buildings, structures, and uses in the Light Industrial and Commercial Districts that can be expected to have a impact on natural resources, traffic patterns, adjacent parcels and land uses, and on the character of future development. It is further the purpose of this Article to achieve, through site plan review, safe and convenient traffic movement, both within a site and in relation to access streets; harmonious relationships of buildings, structures, and uses, both within a site and with adjacent sites; and to conserve natural features and resources. It is further the intent of this Article to delegate certain aspects of site plan review authority to the Whitefish Township Planning Commission, within the standards and requirements set forth in this Article.

SECTION 7.02 SITE PLAN APPROVAL

Site Plans are required within the Whitefish Township Light Industrial District, Commercial District, and Special Approval Commercial Applications.

The Zoning Administrator shall not approve an Application for Land Use Permit for construction of, or an addition to, any of the above listed buildings or developments, until the final site plan has been reviewed.

No grading, removal of trees or other vegetation, land filling, or construction of improvements shall commence for any development which requires site plan approval, until a final site plan is approved and is in effect.

SECTION 7.03 PRELIMINARY SITE PLAN

- A. Purpose - The purpose of Preliminary Site Plan review is to provide an applicant with the option of presenting a generalized site plan for review by the Whitefish Township Zoning Administrator. The purpose of such preliminary review is to confirm compliance with Township standards, policies and relationship to the Master Plan, as well as to suggest changes necessary, if any, for the final site plan approval.
- B. Application - Any applicant may request Preliminary Site Plan review by filing with the Zoning Administrator a completed application and three (3) copies and required fee.
- C. Information Required for Review - Every preliminary site plan submitted shall include the following information:
 - 1. The legal description, location, map with major crossroads, size and shape of the property involved.
 - 2. The shape, size and location of existing and proposed buildings, parking areas and service drives, loading zones, location of existing and proposed public streets serving the property, and natural features such as topography soils, woodlands and wetlands.

3. The location of all existing and proposed water and sewage treatment systems serving the property.
4. Any other information deemed necessary to properly illustrate the development concept to the Planning Commission.

Such action on the part of the Zoning Administrator shall vest no rights in the applicant inasmuch as the specific details of a site plan prepared in accordance with Section 7.07 serve as the basis for determining that all Township standards have been met. Zoning Administrator should invite Planning Commission Chair or Vice-Chair and member of Township Board to Preliminary site plan review.

SECTION 7.04 PROCEDURES FOR SUBMISSION AND REVIEW OF APPLICATION FOR MAJOR PROJECTS

- A. Major Projects. All developments greater than twenty-five thousand (25,000) square feet of structure, or larger than two (2) acres of size, and all PUD's and projects within industrial zoned districts are major projects which require preliminary site plan review by the Planning Commission pursuant to the requirements below. All other projects are subject to review and approval by the Planning Commission which are processed pursuant to the requirements in Section 7.05 et seq., below.
- B. Submission Requirement. The applicant shall complete and submit the required number of copies of an applicant for Site Plan Approval, site plans, and other information where applicable. Compliance with the requirements of the Zoning Ordinance is mandatory. The Applicant or his/her representative must be present at each scheduled review or the matter will be tabled for a maximum of two (2) consecutive meetings due to lack of representation. The procedure for processing major project site plans includes three (3) phases; conceptual review via a pre-application conference, preliminary site plan review and final site plan approval.
- C. Pre-application Conference. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator and such other Township representatives as appropriate, including a member of the Planning Commission. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as are requests to the appropriate zoning board for a variance. There is no charge or fee to the applicant for this pre-application meeting.
- D. Preliminary Site Plan Review. The second phase is called Preliminary Site Plan Approval. At this step, a preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by the Whitefish Township Planning Commission. The purpose of such preliminary review is to confirm compliance with Township standards, policies and relationship to the General Development Plan, as well as to suggest changes necessary, if any, for the final site plan approval.
- E. Final Site Plan Review. Final Site Plan approval shall be in accordance with Section 7.05 et seq.

SECTION 7.05 FINAL SITE PLAN

- A. Application. Following approval of a preliminary site plan, if required under Section 7.03 hereof, the applicant shall submit six (6) copies of a final site plan as well as other data and exhibits hereinafter required to the Zoning Administrator, the review fee, and a completed application form. The Zoning Administrator, upon receipt of the application shall transmit the application and copies of the final site plan to the Planning Commission prior to the Commission's next regular meeting.
- B. Information Required for Review. Every final site plan submitted for review under this Article shall contain information as required Section 7.07.
- C. Planning Commission Action. All final site plans shall be considered within sixty (60) days of placement on the first available Planning Commission agenda.
 - 1. Approval. Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 7.06, the Planning Commission shall grant approval.
 - 2. Approval with Minor Revisions. Upon finding the Application and Site Plan meet the Criteria of Site Plan Review in Section 7.06, except for minor revisions, the Planning Commission may grant approval conditioned upon said revisions being made by the applicant.
 - 3. Tabling. Upon finding that the Application and Site Plan do not, but could, meet the Criteria of Site Plan Review in Section 7.06, upon making the revisions, the Planning Commission may table its decision until the revised Plan is resubmitted to the Planning Commission.
 - 4. Denial. Upon finding that the Application and Site Plan do not meet one (1) or more of the Criteria of Site Plan Review in Section 7.06, and that revisions necessary to meet said Criteria are so extensive as to require the preparation of a new Site Plan, the Planning Commission shall deny the application.
- D. Township Board Action – For PUD Only. All final site plans shall be considered after action is taken by the Planning Commission and within sixty (60) days of placement on the first available Township Board agenda.
 - 1. Approval. Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 7.06, the Township Board shall approve the site plan.
 - 2. Approval with Minor Revisions. Upon finding that the Application and Site Plan meet the Criteria of Site Plan Review in Section 7.06, except for minor revisions, the Township Board may approve the site plan conditioned upon said revisions being made by the applicant and reviewed by the Whitefish Township Planning Commission, Zoning Administrator and/or consultants.
 - 3. Tabling. Upon finding that the Application and Site Plan do not, but could, meet the Criteria of Site a Plan Review in Section 7.06, upon the making of revisions, the Township Board may table action until the revised Plan is resubmitted.
 - 4. Denial. Upon finding that the Application and Site Plan do not meet one (1) or more of the Criteria of Site Plan Review in Section 7.06, and that revisions necessary to meet said Criteria are so extensive as to require the preparation of a new Site Plan, the Township Board shall deny the site plan.

- E. Filing of Approved Site Plan. Upon approval of the final site plan, the applicant and/or owner(s) of record, and the Zoning Administrator, shall sign two (2) copies of the approved plan, one copy for the Zoning Administrator and one copy for the applicant.
- F. Effect of Approval. Approval of a final site plan authorizes issuance of a building permit or, in the case of uses without buildings or structures, issuance of an approved Application for Land Use Permit. Approval shall expire and be of no effect after three hundred sixty-five (365) days following approval. The Planning Commission may extend the time limits upon a showing of good cause.

SECTION 7.06 CRITERIA OF SITE PLAN REVIEW

The Site Plan shall be reviewed and approved upon a finding that the following criteria are met:

- A. The proposed use will not be injurious to the general health, safety and welfare of the Township and surrounding neighborhood.
- B. The design of storm sewers, stormwater facilities, roads, parking lots driveways, water mains, sanitary sewers and other site improvements meets the design and construction standards of the appropriate agencies.
- C. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides. Site features such as, but not limited to, trees and other plant materials, fences, retaining walls, berms, outdoor furniture, outdoor structures, and natural and artificial water bodies shall be arranged to permit adequate emergency vehicle access.
- D. An Environmental Impact Study may be required of the developer.
- E. Wastewater treatment systems, including on-site septic systems will be in accordance with Health Department requirements
- G. As accepted practice of the Michigan Department of Environment Great Lakes & Energy ~~at Quality~~, sites which include storage of hazardous materials waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground ~~air~~ or to the air ~~ground~~, groundwater or nearby water bodies, with a specific plan to achieve such objectives being incorporated as part of the site plan.
- H. The means of ingress and egress to and from the site shall be planned with the objective of achieving recognized planning, engineering and safety standards, and shall not result in an unreasonable risk of danger to persons and/or property on the site and/or off the site. In general, this standard shall be met based upon the design of ingress and egress in terms of the number, location and design of access(es), and utilization of acceleration, deceleration and passing lanes and approaches. MDOT or the Chippewa County Road Commission shall review the ingress and egress proposed for the purpose of promoting and protecting traffic safety, and shall require improvements accordingly.
- I. The site plan complies with all Township Ordinances and design standards, and any other applicable laws.

SECTION 7.07 INFORMATION REQUIRED ON SITE PLAN

A Site Plan submitted for review and approval shall contain all of the following data prior to its submission to the Planning Commission for review and recommendation as provided in Article 7. Site Plans shall consist of an overall plan for the entire development, with plan view drawn to a maximum scale of 1" = 50' for property less than five (5) acres or a maximum scale of 1" = 100' for property five (5) or more acres. Included on the Site Plan shall be all dimensions and the following:

A. General Information.

1. Proprietors', applicants, and owners' names, addresses and telephone numbers.
2. Date (month, day, year), including revisions.
3. Title block.
4. Scale.
5. Northpoint.
6. Legal description and certified survey.
7. Location map drawn with north point and indicating the proximity of the site to major roads and intersections.
8. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal.
9. Existing lot lines, building lines, structures, parking areas, etc., on the parcel, and within one hundred (100) feet of the site.
10. Proposed lot lines, property lines and all structures, parking areas, etc. within the site, and within one hundred (100) feet of the site.
11. Centerline and existing and proposed right-of-way lines of any street.
12. Zoning classification of petitioner's parcel and all abutting parcels.
13. Gross and net acreage figures.

B. Physical Features.

1. Proposed locations of access drives, street intersections, driveway locations, sidewalks, bike paths, curbing and areas for public use.
2. Location of existing and proposed service facilities above and below ground, including:
 - (a) Well sites.
 - (b) Septic systems and other wastewater treatment systems. The location of the septic tank and the drain field (soil absorption system) should be clearly distinguished.
 - (c) Chemical and fuel storage tanks and containers.
 - (d) Storage, loading, and disposal areas for chemicals, hazardous substances, salt and fuels.
 - (e) Storm water control facilities and structures including storm sewers, swales, retention and detention basins, drainage ways and other facilities, including calculations for sizes.
 - (f) Location of all easements.
3. All structures with dimensioned floor plans, setback and yard dimensions and typical elevation views.

4. Dimensioned parking spaces and calculations, drives and method of surfacing.
5. Location and description of all existing and proposed landscaping berms, fencing and walls.
6. Trash receptacle pad location and method of screening.
7. Transformer pad location and method of screening.
8. Dedicated road or service drive locations.
9. Entrance details including sign locations and size.
10. Designation of fire lanes.
11. Any other pertinent physical features.

C. Natural Features.

1. Grading plan, showing finished contours at a maximum interval of two (2) feet, correlated with existing contours so as to clearly indicate required cutting, filing and grading.
2. Location of existing drainage courses and associated bodies of water,

D. Additional Requirements for Multiple-Family.

1. Density calculations by type of unit by bedroom counts.
2. Designation of units by type and number of units in each building.
3. Carport or garage locations and details where proposed.
4. Specific amount and location of recreation spaces.
5. Type of recreation facilities to be provided in recreation space.
6. Details of Community Building and fencing of swimming pool if proposed.

E. Additional Requirements for Commercial and Industrial Developments.

1. Loading/unloading areas.
2. Total and usable floor area.

SECTION 7.08 ADMINISTRATIVE REVIEW

The Township Zoning Administrator may review a site plan without submission to the Planning Commission, subject to all of the criteria, requirements and standards set forth in this Article and the following standards:

- A. The Zoning Administrator may review and consider for approval, conditional approval or denial of site plans without submission to the Planning Commission in the following cases:
1. Expansion or reduction to an existing conforming structure or use of one thousand (1,000) square feet or less.
 2. Provision for additional parking, loading/unloading spaces and landscape improvements as required by Ordinance.

- B. The Zoning Administrator may contact other experts to assist in the review of site plans submitted under this section; if a charge may be incurred, then permission by the Township Board will be needed.
- C. At the direction of the Zoning Administrator, any information required in Section 7.07 of the Zoning Ordinance may be required for administrative site plan approval. However, at a minimum, submissions of a site plan including the following information:
 - 1. Proprietors', applicants', and owners' names, addresses and telephone numbers.
 - 2. Date (month, day, year), including revisions.
 - 3. Title Block and Scale.
 - 4. Northpoint.
 - 5. Proposed and existing structures, parking areas, etc. on the parcel, and within one hundred (100) feet of the parcel.
- D. The Zoning Administrator shall consider the criteria set forth in Section 7.06 in the review of the site plans submitted under this Section.

SECTION 7.09 AMENDMENT OF APPROVED SITE PLAN

- A. A site plan may be amended upon application and in accordance with provisions and the procedures provided in Section 7.05 herein for a final site plan. Site plans amended in order to be brought into compliance with the requirements of governmental agencies of authority, other than Whitefish Township, are subject to the provisions of this ordinance. The Township Zoning Administrator shall have the authority to determine if a proposed change is substantive and therefore requires an amendment to the approved site plan.
- B. Minor changes of an approved final site plan may be incorporated without amendment to the approved preliminary site plan at the discretion of the Planning Commission.

SECTION 7.10 MODIFICATIONS DURING CONSTRUCTION

All improvements shall conform to the approved final site plan. If the applicant chooses to make any changes in the development in relation to the approved final site plan, he shall do so at his own risk, without any assurance that the Township will approve the changes. It shall be the responsibility of the applicant to notify the Zoning Administrator of any such changes. The Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

SECTION 7.11 PHASING OF DEVELOPMENT

An applicant may divide a proposed development into two (2) or more phases with the approval of the Planning Commission. Such phasing shall be in conformance with Section 7.05.F. Future development beyond approved phases shall not appear on the approved final site plan.

SECTION 7.12 CONDOMINIUM PROJECT REGULATIONS

- A. Intent. Pursuant to the authority conferred by the Condominium Act, site plans for all condominium projects shall be regulated by the provisions of this Ordinance and approved by the Township.
- B. General Requirements.
 - 1. Where a site condominium is proposed, each site condominium lot shall be considered equivalent to a single lot and shall comply with all regulations of the zoning district in which it is located, and the provisions of any other statutes, laws, ordinances, and/or regulations applicable to lots in subdivisions.
 - 2. Relocation of boundaries between adjoining site condominium lots, if permitted in the condominium documents, as provided in Section 48 of the Condominium Act, shall comply with all regulations of the zoning district in which located and shall be approved by the Zoning Administrator. These requirements shall be made a part of the bylaws and recorded as part of the master deed.
 - 3. Each site condominium lot that results from a subdivision of another condominium lot, if such subdivision is permitted by the condominium documents, as provided in Section 49 of the Condominium Act, shall comply with all regulations of the zoning district in which located, and shall be approved by the Zoning Administrator. These requirements shall be made a part of the condominium bylaws and recorded as part of the master deed.
 - 4. No permit for construction shall be issued until final engineering plans have been approved and all applicable permits and approvals have been secured from other governmental entities.
- C. Site Plan Approval. Approval of the site plan and condominium documents by the Township shall be required as a condition to the right to construct, expand or convert a condominium project.
 - 1. Preliminary Site Plan. A preliminary site plan pursuant to the standards and procedures set forth in Article 7 of this Ordinance may be requested by an applicant and be submitted to the Planning Commission for preliminary review.
 - 2. Final Site Plan. The following information shall be submitted for final site plan approval:
 - a. A final site plan in accordance with the standards and procedures set forth in Article 7.
 - b. Master Deed and Bylaws which shall be reviewed with respect to all matters subject to regulation by the Township including, without limitation: ongoing preservation and maintenance of drainage, retention, wetland and other natural and/or common

area; maintenance of private roads, if any; and maintenance of stormwater, sanitary, and water facilities and utilities.

- c. Engineering plans and information in sufficient detail to determine compliance with all applicable laws, codes, ordinances, rules and regulations for the construction of the project.
- d. The applicant shall provide proof of approvals by all County and State agencies having jurisdiction over improvements in the site condominium development, including but not limited to the Chippewa County Road Commission, Chippewa County Health Department, and the Michigan Department of Natural Resources. The Township shall not approve a final site plan until each County and State agency having such jurisdiction has approved that portion of the final site plan that is subject to its jurisdiction.

D. Monuments. Monuments shall be established in the manner required by the Michigan Condominium Act, P.A. 59 of 1978, as amended.

E. Approval Required Prior to Occupancy.

- 1. Following construction of the condominium development, and prior to the issuance of any certificates of occupancy, the applicant shall submit to the Township:
 - a. A copy of the recorded Master Deed and Bylaws (including exhibits).
 - b. Two (2) copies of an “as-built plan or survey” for required improvements including streets, utilities and drainage facilities.
 - c. A copy of the site plan on photographic hard copy laminated photostatic copy or mylar sheet of at least thirteen by sixteen (13 x 16) inches with an image not to exceed ten and one-half by fourteen (10 1/2 x 14) inches and a scale of at least 1” = 100’.
- 2. The Zoning Administrator shall review the information submitted to insure that the condominium development has been constructed in accordance with the approved condominium plan, approved condominium documents, and any other applicable laws or regulations. The Zoning Administrator may refer any documents to the Township attorney with approval by the Whitefish Township Supervisor, regional planner, or appropriate authorities for review.
- 3. In the event required monuments, storm water drainage facilities, sewage disposal facilities, water supply facilities, or any other required improvements are not completed at the time the request for occupancy is made, the Township Board may allow temporary occupancy permits for a specified period of time, and for any part of the condominium development, provided that a deposit in the form of cash, bond, certified check, or irrevocable letter of credit be made with the Township, in form and amount as determined by the Township, to insure the installation and/or completion of such improvements without cost to the Township, in accordance with Section 3.09. Financial guarantees shall not be required for improvements under the jurisdiction of other governmental agencies provided the applicant can prove that appropriate guarantees are in place.

- F. Revision of Site Condominium Plan. If the condominium subdivision plan is revised, the final site plan shall be revised accordingly and submitted for review and approval or denial by the Township before any building permit may be issued, where such permit is required.
- G. Amendment of Condominium Documents. Any amendment to a master deed or bylaws that affects the approved preliminary or final site plan, or any conditions of approval of a preliminary or final site plan, shall be reviewed and approved by the Township before any building permit may be issued, where such permit is required. The Township may require its review of an amended site plan if, in its opinion, such changes in the master deed or bylaws require corresponding changes in the site plan.

SECTION 7.13 UTILITIES

Reserved.

SECTION 7.14 INSPECTION

All sub-grade improvements such as utilities sub-base and base installations for drives and parking lots, and similar improvements shall be inspected by the appropriate authority and approved prior to covering. The Zoning Administrator shall be responsible for the inspection of all improvements for conformance to the approved final site plan. The applicant shall be responsible for requesting the necessary inspections. The Zoning Administrator shall notify the Township Board, the Building Inspector and the Planning Commission, in writing, when a development for which a final site plan was approved has passed inspection with respect to the approved final site plan. The Zoning Administrator shall notify the Building Inspector, the Township Board, and the Planning Commission, in writing, of any development for which a final site plan was approved which does not pass inspection with respect to the approved final site plan, and shall advise the Board and Commission of steps taken to achieve compliance. In such case, the Zoning Administrator shall periodically notify the Township Board and Planning Commission of progress towards compliance with the approved final site plan, and when compliance is achieved.

ARTICLE 8 SPECIAL APPROVED USE REVIEW

SECTION 8.01 GENERAL

The formulation and enactment of this Ordinance is based upon the division of Whitefish Township into zoning districts in which certain specified uses are permitted by right. In addition to permitted uses, there are certain other special uses which may be necessary or desirable to allow in certain locations but, due to their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated.

SECTION 8.02 AUTHORITY TO GRANT PERMITS

The Planning Commission shall have the authority to grant conditional use permits, subject to such conditions of design and operation, safeguards and time limitations as it may determine for all special approved uses specified in the various zoning district provisions of this ordinance.

SECTION 8.03 APPLICATION AND FEES

Application for a Special Land Use Approval shall be made to the Zoning Administrator, along with the required information and the required fee. After receipt for filing, the Zoning Administrator shall transmit a copy of the application form and the required information to the Whitefish Township Planning Commission. Burden of documentation required is on the applicant: Zoning Administrator or Planning Commission are not responsible for missing documents that may cause applicant denial or delay.

SECTION 8.04 INFORMATION REQUIRED

- A. The applicant's name, address, telephone number and email address. Person Identified as point of contact shall also provide name, address, Telephone number and email address.
- B. The names and addresses of all owners of record and other parties of interest.
- C. The applicant's interest in the property, and if the applicant is not the owner, the owner's signed notarized authorization for the applicant named as agent.
- D. Recorded legal description, address, and tax parcel number of the property.
- E. A scaled and accurate survey drawing, correlated with the recorded legal description, and showing all existing buildings, drives, and other improvements.

- F. A detailed written description of the proposed use, addressing the standards set forth in Section 8.07.
- G. Any and all additional documents deemed needed by Zoning Administrator.

SECTION 8.05 PLANNING COMMISSION PUBLIC HEARING

- A. Notification Requirements - The Planning Commission shall schedule a public hearing on an application for a special use permit within sixty-five (65) days of the recorded acceptance/file date. A notice of the public hearing shall be published once in the nearest circulating newspaper and the Whitefish Township website. A notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than fifteen days (15) before the date of the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or structure notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
- B. Contents of Notification - The notice of public hearing shall:
 - 1. Describe the nature of the special use request.
 - 2. Describe the property which is the subject of the special use request.
 - 3. State date, time and place of the public hearing.
 - 4. Indicate when and where written comments will be received concerning the request.

SECTION 8.06 PLANNING COMMISSION ACTION

The Planning Commission shall review the application for a special use permit in reference to the standards and findings required herein and in relation to the information provided at the public hearing. The Planning Commission may request additional information it deems necessary to make a decision. The Planning Commission shall grant, approve with conditions or deny the application for a special use permit.

SECTION 8.07 REQUIRED STANDARDS AND FINDINGS

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information and evidence showing that such a use on the proposed site, lot or parcel meets the following standards:

- A. Will be harmonious, and in accordance, with the objectives and regulations of this Ordinance.
- B. Will be compatible with the natural environment and existing and future land uses in the vicinity.
- C. That the proposed use will be served adequately by essential public facilities and disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D. That the proposed use will not be detrimental, hazardous, or disturbing to the existing or future neighboring uses, persons, property or the public welfare.
- E. That the proposed use will not create additional requirements at public cost for public facilities and services that will be detrimental to the economic welfare of the community.
- F. Will be compatible with the Township's Master Plan.

If the facts do not establish that the findings and standards set forth in this Ordinance will apply to the proposed use, the Planning Commission shall not grant a special use permit.

A request for approval of a land use or activity shall be approved if the request is in compliance with the standards stated in the zoning ordinance, the conditions imposed under the zoning ordinance, other applicable ordinances and state and federal statutes.

No application for a special use permit which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of three hundred and sixty-five (365) days from the date of such denial, except on grounds of new evidence or proof of changed conditions found by the Planning Commission to be valid.

SECTION 8.08 CONDITIONS OF APPROVAL

In granting a special use permit, the Planning Commission may impose conditions it deems necessary to achieve the objectives and standards of this ordinance, the Michigan Zoning Enabling Act, Act 110 of 2006, and the public health, safety and welfare of Whitefish Township. Example: Limited time frame of operation and renewal of approval. Failure to comply with any such conditions shall be considered a violation of this ordinance.

ARTICLE 9 PLANNING AND DEVELOPMENT REGULATIONS

FOR PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

The Planned Unit Development District (PUD) regulations are set forth in Article 9 of this Ordinance.

SECTION 9.01 INTENT

The zoning district is intended to accommodate developments that are exclusively residential, exclusively non-residential, or a compatible and complementary mix of residential and non-residential uses. The PUD District is intended to permit flexibility in the application of zoning standards and requirements where it can be demonstrated that the intent set forth in Section 9.01 and criteria set forth in Section 9.02 can be achieved through use of the PUD regulations. This Article is also intended to ensure the use of land in a manner that encourages the preservation of rural character and large areas of open space, protects valuable natural resources of the Township as identified in documents such as the Township Master Plan and Natural Features Inventory, enhances ecological functions, and permits development that is enhanced by the inclusion of open space and active and/or passive recreation planned as an accessory part of the development.

Specifically, the PUD District regulations set forth herein are intended to achieve the following purposes:

- A. Encourage innovation in land use and excellence in design, layout, and type of structures constructed through the flexible application of land development regulations;
- B. Achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities;
- C. Encourage the provision of open space for active and passive use;
- D. Emphasize a planning approach which identifies and integrates natural resources and features in the overall site design concept;
- E. Provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the Township;
- F. Incorporate design elements that unify the site through landscaping, lighting, coordinated signage, and pedestrian walks and pathways;
- G. Encourage the use, reuse and improvement of existing sites and buildings when developed in a compatible manner with surrounding uses.

SECTION 9.02 GENERAL PROVISIONS

- A. Where Permitted. A planned unit development (PUD) which includes only residential and accessory recreational uses may be applied for in any zoning district. A planned unit development (PUD) which is either exclusively non-residential or includes a mix of residential and non-residential uses may be applied for in all zoning districts. Approval of a planned unit development application shall be a two (2) step process. The first step shall be a preliminary review as set forth in Section 9.03.B. The final step, as set forth in Section 9.03.C, shall include a rezoning by way of amendment of this Ordinance upon the recommendation of the Planning Commission and approval of the Township Board.
- B. Uses Permitted. Any land use authorized in this Ordinance may be included in a planned unit development, subject to the limitations of non-residential and mixed-use developments to all zoning districts and the adequate protection of public health, safety, and welfare to protect and ensure the compatibility of varied land uses both within and outside the development.
- C. Qualifications of Subject Parcel for Consideration as PUD. The applicant for a planned unit development must demonstrate through the submission of both written documentation and site development plans that all of the following criteria are met:
1. The intent of Section 9.01 is met.
 2. Approval of the planned unit development will result in one (1) or more of the following:
 - (a) A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
 - (b) Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or
 - (c) A non-conforming use shall, to a material extent, be rendered more conforming to and compatible with the zoning district in which it is situated.
 3. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, roads, and utilities.
 4. The proposed development shall be consistent with the public health, safety, and welfare of the Township.
 5. The proposed development shall minimize any negative environmental impact on the subject site or surrounding land.
 6. The proposed development shall minimize any negative economic impact upon surrounding properties.
 7. The proposed development shall be consistent with the Goals and Policies of the Whitefish Township Master Plan.
- D. Project Responsibilities. The written authorization of all parties claiming legal or equitable ownership of the property must be provided as part of the PUD application. The PUD application

shall include a statement indicating who has responsibility and authority for completing the project in conformity with the approved plan and authority or acknowledgment that any successors shall be bound by conditions of approval.

SECTION 9.03 PROCEDURE FOR REVIEW

- A. Preliminary Meetings. Prior to the submission of an application for planned unit development approval, the applicant is encouraged to meet with the Zoning Administrator to review required information and procedures.
- B. Whitefish Township Planning Commission Review Meeting. Following receipt of an application together with the plans and information set forth below, the Zoning Administrator shall schedule a meeting with the applicant, Planning Commission, and/or consultants to review the following:
 - 1. A preliminary site plan of the proposed planned unit development, in accordance with Section 7.03A of this Ordinance.
 - 2. A site inventory and analysis depicting existing topography, woodlands, wetlands and other significant natural features, addressing the criteria set forth in Section 9.04.
 - 3. An area analysis which shows the location of the project in relation to existing and proposed uses in the surrounding area.
 - 4. An Environmental Impact Study may be required of the developer.
 - 5. A written statement how the PUD application meets the criteria in this Article. Specifically, the statement shall address Sections 9.01 and 9.02.
 - 6. For any project contains a residential component, a preliminary plan with a conventional layout, as set forth in Section 9.05.A.
 - 7. A preliminary list of all anticipated deviations from this ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
- C. Preliminary Review Recommendation. Following the Whitefish Township Planning Commission Review Meeting, the applicant shall submit the preliminary site plan of the proposed planned unit development to the Planning Commission for Preliminary Review Recommendation. The preliminary site plan shall be, prepared in accordance with the standards set forth in Section 9.02.A along with the site and area analyses described in Section 9.04.B.

A project narrative report shall also be submitted by the applicant providing a description of the project and proposed uses, the market concept and feasibility of the project, the manner in which the criteria set forth in Sections 9.01 Intent and 9.02 General Provisions have been met, and the known deviations from current Ordinance requirements and standards.

- 1. *Planning Commission Action*. The Preliminary Plan shall be scheduled for a public hearing and review before the Planning Commission. Notice for the public hearing shall meet the requirements for a zoning amendment. The Planning Commission shall review the preliminary site plan and make a recommendation to the Township Board.

2. *Township Board Action.* Upon receiving the recommendation of the Planning Commission, the Township Board shall review the preliminary site plan and take one of the following actions:

- (a) Approval. Upon finding that the Preliminary Plan meets the criteria set forth in Sections 9.01 Intent and 9.02 General Provisions, the Township Board shall grant preliminary approval. Approval shall confer upon the applicant the right to proceed to preparation of the Final Plan, but shall not bind the Township Board to approval of the Final Plan.
- (b) Tabling. Upon finding that the Preliminary Plan does not meet the criteria set forth in Sections 9.01 Intent and 9.02 General Provisions, but could meet such criteria if revised, the Township Board may table action until a revised Preliminary Plan is resubmitted. The Township Board may refer a tabled Preliminary Plan back to the Planning Commission for additional review.
- (c) Denial. Upon finding that the Preliminary Plan does not meet the criteria set forth in Sections 9.01 Intent and 9.02 General Provisions, the Whitefish Township Planning Commission shall deny preliminary approval.

C. Final Plan Review. Within six (6) months following receipt of Township Board approval of the preliminary plan, the applicant shall submit a final plan and supporting materials conforming to this Section. If a final plan is not submitted by the applicant for final approval within six (6) months following the date of Township Board approval, the preliminary plan approval becomes null and void. An extension of the preliminary plan, beyond the specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the six (6) month expiration period.

1. *Information Required.* A final site plan and application for a PUD shall contain the following information:

- (a) A site plan meeting all requirements of Section 7.05, Final Site Plan.
- (b) A separately delineated specification of all deviations from this ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
- (c) A specific schedule of the intended development including phasing or timing.
- (d) A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
- (e) A specification of the exterior building materials for the structures proposed in the project.
- (f) A draft of the proposed master Deed and Bylaws, if applicable.
- (g) Signatures of all parties having an interest in the property.

2. *Planning Commission/Consultant Review.* The Zoning Administrator shall submit the application, final PUD plan, and supportive materials to relevant review agencies, the Whitefish Township Planning Commission, regional planning office, and appropriate authorities for review and comment. In addition to customary reports prepared for the Township, the regional planner may prepare draft Permit Conditions and Development Agreement.

3. *Planning Commission and Township Board Action.* The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission, and the Township Board, as provided by law.

The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the planned unit development project including, without limitation, recommendations with respect to matters on which the Township Board must exercise discretion.

SECTION 9.04 SITE DEVELOPMENT CAPABILITY

- A. Inasmuch as it is the intent of the Ordinance to permit development which preserves and protects natural resources and natural features, the applicant shall establish the development capability of the site and indicate the specific area(s) of the site within which the development activity shall be contained.
- B. In establishing the development capability of the site, the applicant shall submit a site analysis and supportive documentation which will illustrate the following:
 - 1. Visual impacts, including but not limited to ridgeline protection areas and protection of scenic views.
 - 2. Erosion prevention and control, including but not limited to protection of natural drainage channels and compliance with an approved stormwater drainage management plan.
 - 3. An Environmental Impact Study which may include the following but not limited by the following.
 - a) Preservation of significant native trees and other native site vegetation, including protection of natural area buffer zones.
 - b) Conservation of water, including but not limited to preservation of existing native vegetation, reduction in amounts of irrigated areas and similar considerations.
 - c) Stream corridor and wetland protection and buffering.
 - d) Site topography, including but not limited to such characteristics as steepness of slopes, existing drainage features, rock outcroppings, river and stream terraces, valley walls, ridgelines and scenic topographic feature.
 - e) Floodplains and floodways.
 - f) Wildlife movement corridors.
 - g) Natural area buffer zones as delineated below.
 - h) The practical needs of approved construction activity in terms of ingress and egress to the developed project and necessary staging and operational areas.
 - i) Hydrology and groundwater flow.

SECTION 9.05 PROJECT DENSITY

- A. Residential Density.
 - 1. Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to classification under this Article. If the parcel is not zoned for residential use immediately prior to classification under this Article, the Township shall make a determination as to appropriate density based

upon existing and planned residential densities in the surrounding area, the availability of utilities and services, and the natural features and resources of the subject parcel.

2. Project density shall be demonstrated by a preliminary site plan with a conventional layout and with all applicable ordinances and laws observed, including proof of water supply and sewage disposal as set forth below.
3. An applicant shall demonstrate that all dwelling units proposed within a planned unit development are capable of meeting applicable County and/or State agency approvals for on-site water supply and sewage disposal where such on-site systems are proposed. Inasmuch as the capability of the parcel for on-site water supply and sewage disposal is material to the determination of potential development density, the Chippewa County Health Department requires percolation tests, soil borings and other information to determine suitability of soils for on-site sewage disposal.

A preliminary site plan with a conventional layout is required in order to demonstrate project density.

4. Additional density for residential uses may be allowed in the discretion of the Township Board upon the recommendation of the Planning Commission and based upon a demonstration by the applicant of consistency with the Master Plan and of planning and design excellence resulting in a material benefit to the Township, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations.

In the determination whether a project warrants additional density, the Township Board may also consider the following factors including, without limitation: innovative design; pedestrian or vehicular safety; long term aesthetic beauty; protection and preservation of natural resources and features; preservation of open space which avoids fragmentation of the resources base and contributes to an area wide open space network; and improvements to the Township's infrastructure.

- B. Mixed Use Projects. For planned unit development projects which contain residential component and non-residential components, the Township shall make a determination as to appropriate residential density based upon existing and planned residential densities in the surrounding area, the availability of utilities and service and the natural features and resource of the subject parcel.

SECTION 9.06 DESIGN STANDARDS

A. Open Space Preservation.

1. When completed, the development shall have significant areas devoted to open space, which shall remain in its natural state and/or be restricted for use for active and/or passive outdoor recreational purposes harmonious with peaceful, single-family residential uses in and surrounding the development. Priority shall be on preserving the most important natural features on the site, as identified by a site analysis prepared in accordance with Section 9.04. The amount of open space, including the area and percentage of the site, shall be specified on the site plan.
2. In addition to preservation of the most important natural features, additional open space shall be, where possible, located and designed to achieve the following: provide areas for active recreation, provide areas for informal recreation and pathways convenient to the majority of the residents within the development, connect into adjacent open space, parks, bike paths or pedestrian paths, provide natural greenbelts along roadways to preserve the

rural character as viewed from the roads, and to preserve a buffer from adjacent land uses where appropriate.

3. Areas Not Considered Open Space. The following land areas are not considered as open space for the purposes of this Article:

- (a) The area within a public street right-of-way or private road access easements or other easements that include roads, drives or overhead utility lines.
- (b) The area located below the ordinary high-water mark of an inland lake, river or stream, or any pond with standing water year round.
- (c) The area within any manmade stormwater detention or retention pond.
- (d) The required yard (setbacks) area around buildings which are not located on an individual lot or condominium site.

B. Setbacks within the PUD Project. All regulations applicable to front, side and rear yard setbacks, shall be met in relation to each respective land use in the development based upon zoning district regulations in which the proposed use is listed as a Permitted Principal or Special Use.

C. Preservation of Natural Resources and Natural Features. Taking into consideration the criteria set forth in Section 9.01 and 9.02, the Township shall evaluate the site analysis and the proposed plan to determine the following:

- 1. Natural resources will be preserved to the maximum extent feasible.
- 2. The proposed development respects the natural topography and minimizes the amount of cutting, filling, and grading required.
- 3. The development will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, and woodlands, and will preserve and incorporate such features into the development's site design.
- 4. The proposed development will not cause off-site soil erosion or sedimentation problems.
- 5. The conveyance and storage of stormwater will enhance aesthetics of the site.
- 6. The development will not substantially reduce the natural retention or storage capacity of any wetland, water body, or water course, or cause alterations which could increase flooding or water pollution at this site or other locations.

D. Buffering from Adjacent Property. There shall be a perimeter setback and buffering, of up to one hundred (100) feet, taking into consideration the use or uses in and adjacent to the development. The setback distance shall be determined in the sole discretion of the Township Board, considering the recommendations of the Planning Commission, and need not be uniform at all points on the perimeter of the development. The Township Board may reduce the perimeter setback and buffering in cases where the density of the proposed use is compatible with adjacent uses and/or natural features such as woodlands and topographical features provide adequate buffering to protect adjacent uses.

If natural features, such as woodlands and topographical features do not provide adequate buffering from adjacent property, the perimeter setback shall include noise reduction and visual screening mechanisms such as landscaping, berms and/or decorative walls.

E. Vehicular and Pedestrian Circulation.

1. Vehicular circulation shall be designed in a manner which provides safe and convenient access to all portions of the site, promotes safety, contributes to coherence of site design, and adapts to site topography.
2. Physical design techniques, known as traffic calming are encouraged. These techniques are intended to alter driver behavior to reduce speed and cut-through traffic, improve vehicular safety, and improve conditions for non-motorized traffic.
3. Walkways shall be provided in a manner which promotes pedestrian safety and circulation. Walkways shall be separated from vehicular traffic except where roadway crossings are necessary. The plan shall provide pedestrian/bicycle access to, between or through all open space areas, and to appropriate off-site amenities, and located in accordance with the environmental inventory of the site. Informal trails may be constructed of gravel, wood chip or other similar material, but the Township Board may require construction of a pathway of up to eight (8) feet in width and constructed of concrete or asphalt through portions of the development or along any public right-of-way abutting the development.
4. Locations for school bus stops shall also be provided on the site plan.

F. Utilities. There shall be underground installation of utilities, including electricity and telephone, as found necessary by the Township.

G. Design Elements. It is the intent of this Article to promote excellence and innovation in design. Signage, lighting, landscaping, architecture and building materials for the exterior of all structure, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

Residential projects shall be designed to complement the visual context of the natural area. Techniques such as architectural design, site design, the use of native landscaping and choice of colors and building materials shall be utilized in such matter that scenic views across or through the site are protected, and man-made facilities are screened from off-site observers and blend with natural character of the area.

Non-residential and/or mixed-use projects shall contribute to the enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor playground area, kiosk area, water feature, clock tower or other such deliberately shaped area and/or focal feature or amenity that, in the judgment of the Township adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

H. Stormwater Drainage/Erosion Control. All stormwater drainage and erosion control plans shall meet the standards adopted by the Township for design and construction and shall, to the maximum extent feasible, utilize non-structural control techniques, including but not limited to:

1. limitation of land disturbance and grading;
2. maintenance of vegetated buffers and natural vegetation;

3. minimization of impervious surfaces;
4. use of terraces, contoured landscapes, runoff spreaders, grass or rock-lined swales;
5. use of infiltration devices;

I. A deck, terrace or patio which is associated with a residential structure within a Planned Unit Development shall not occupy any required side or front yard area or any perimeter buffer required in a Planned Unit Development, but shall be permitted to encroach in a required rear yard by no more than ten (10) feet and shall be subject to the following restrictions:

1. The portion of a deck which occupies the required rear yard shall not be above the elevation of the first floor of the residence;
2. The portion of a deck, terrace or patio which occupies the required rear yard shall not contain any enclosed or covered structures, such as a gazebo or screened porch;
3. A deck, terrace or patio shall be subject to lot coverage limitations.

SECTION 9.07 RESOLUTION OF AMBIGUITIES AND ORDINANCE DEVIATIONS

The Township Board, based upon the recommendation of the Planning Commission, shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, Master Plan, and other Township standards or policies as a guide.

Notwithstanding the immediately preceding standards, deviations with respect to such regulation may be granted as part of the overall approval of the planned unit development, provided there are features or elements demonstrated by the applicant and deemed adequate by the Township Board upon the recommendation of the Planning Commission designed into the project plan for the purpose of achieving the objectives of this Article.

SECTION 9.08 CONDITIONS

- A. Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
- B. 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; reasonably related to the purposes affected by the planned unit development; and, necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

SECTION 9.09 PHASING AND COMMENCEMENT OF CONSTRUCTION

- A. Phasing. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable in the discretion of the Township Board after recommendation from the Planning Commission.
- B. Commencement and Completion of Construction. Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as approved by the Township. If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the Township Board, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

SECTION 9.10 EFFECT OF APPROVAL

When approved, the planned unit development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and conditions shall be recorded at the Register of Deeds of Chippewa County.

SECTION 9.11 AMENDMENT AND REVISION

A developer may request a change in an approved preliminary PUD plan, or an approved final PUD plan. A change in an approved preliminary PUD plan or change in an approved final PUD plan which results in a major change, as defined in this section, shall require an amendment to the preliminary PUD plan and final PUD plan. All amendments shall follow the procedures and conditions herein required for original submittal and review. A change which results in a minor change as defined in this section shall require a revision to the approved final PUD site plans and approval by the Township Board following review by the Planning Commission.

- 1. The following changes shall be considered major:
 - a) change in the concept of the development,
 - b) change in use or character of the development,

- c) change in the type of dwelling unit,
- d) change in the number of dwelling units (density)
- e) change in non-residential floor area,
- f) change in lot coverage or floor area ratio of the entire PUD,
- g) change in the character or function of any street,
- h) change in land area set aside for common space or the relocation of such areas,
- i) change in building height.

2. The following changes shall be considered minor:

- a) a change in residential floor space,
- b) minor variations in layout which do not constitute major changes.

3. The Planning Commission shall have the authority to determine whether a requested change is major or minor, in accordance with this section. The burden shall be on the applicant to show good cause as to any requested change.

ARTICLE 10 SIGN REGULATIONS

SECTION 10.01 REGULATIONS FOR SIGNS

No strobe or other pulsating lights shall be permitted in any zoning district.

No sign shall be lighted as to create a traffic hazard or to adversely affect neighboring land uses.

No sign may be lighted to such intensity or in such a manner that it creates a public nuisance or adversely affects the public health, safety, or general welfare.

Campfire Wood Sale signs are specified in section 5.07, paragraph B.

Home Occupation signs are specified in Section 5.08, paragraph H.

Short Term Rentals signs are specified in Section 6.10, paragraph H

ARTICLE 11 NONCONFORMING USES, STRUCTURES AND LOTS OF RECORD

SECTION 11.01 INTENT

Certain existing lots, structures, and uses of lots and structures were allowed before this ordinance was adopted, but have become nonconforming under the terms of this ordinance and its amendments. It is the intent of this ordinance to permit such nonconformities to remain until they are discontinued or where discontinuance or removal is not feasible, to gradually change such nonconformities to conforming status. Nonconforming uses and structures shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Nonconforming uses and structures are declared by this ordinance to be incompatible with the structures and uses permitted in the various zoning districts.

SECTION 11.02 NONCONFORMING LOTS OF RECORD

- A. A permitted principal structure and uses, and customary accessory structures and uses may be erected or placed on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lots must be in separate ownership and not contiguous with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zoning district, provided that yard dimensions and requirements other than these applying to area or width or both, of the lot shall conform to the regulations for the zoning district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Zoning Board of Appeals.

- B. If two (2) or more lots or combinations of lots and portions of lots, which are contiguous and in single ownership, are of record at the time of adoption or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area less than the requirements stated in this ordinance.
- C. Upon application of any person claiming to be the owner of the legal or equitable title to a parcel of land which was the subject of a deed or land contract not recorded in the Office of the Register of Deeds on the effective date of this Ordinance, the Board of Appeals is authorized to conduct a hearing to determine whether a variance should be granted to such owner entitling him to have the parcel treated as a lot of record. The Board shall grant said variance when it finds by a preponderance of the evidence that the instrument purporting to transfer title to the parcel to said owner was executed prior to the effective date of this Ordinance. In making its determination, the Board is authorized to consider all matters it deems relevant including, but not limited to, the tax roll of the Township, the relationship of the parties to the purported transfer, the degree of formality of the purported document of transfer, and the testimony of the applicant and his witnesses. Such a determination shall have only the effect of equating such an owner with the owner of a lot of record and shall not relieve such owner from complying with the other conditions set forth in Section 3.03 in order that a building permit be granted.

SECTION 11.03 NONCONFORMING STRUCTURES

- A. A nonconforming structure shall be a structure which was lawful prior to the effective date of adoption or amendment of this ordinance and which does not conform to the new ordinance regulations currently in effect.
- B. A nonconforming structure may continue after the effective date of adoption or amendment of this ordinance. A nonconforming structure which is damaged by any means may be replaced in its location existing prior to such damage, provided such replacement is commenced within three (3) years of the date of damage and is diligently pursued to completion. Failure to complete replacement shall result in the loss of legal, nonconforming status.
- C. A nonconforming structure which is moved within a site or to another site shall conform, after is moved, to the regulations of the zoning district in which it is located.
- D. Expansion of Nonconforming Structures. Nonconforming structures may be expanded in compliance with the following regulations:
 - 1. Nonconforming buildings used in farm operations may be expanded if approved by the Zoning Administrator subject to the following requirements:
 - (a) Farming shall be a permitted use and the intended use of the structure shall be a permitted use in the zoning district in which it is located.
 - (b) The expansion shall meet all requirements of the zoning district in which it is located. The existing structure(s) and the expansion shall not exceed the ground

floor coverage or floor area ratio limits of the zoning district in which they are located.

2. A single-family detached residential dwelling unit and accessory buildings may be expanded if approved by the Zoning Administrator subject to the following requirements:

- (a) The single-family residence shall be a permitted use in the zoning district in which it is located.
- (b) The expansion shall meet all yard requirements of the zoning district in which it is located.

3. All other nonconforming structures may be expanded provided such expansion does not increase the nonconformance of the structure. The Township may attach conditions to the approval of the expansion of a nonconforming structure. Conditions imposed shall be designed to protect the public health, safety and welfare of individual users of the site, those immediately adjacent property owners, and community as a whole.

- E. A nonconforming structure may be altered to decrease its nonconformity.

SECTION 11.04 NONCONFORMING USES

Where, on the date of adoption or amendment of this Ordinance, a lawful use exists that is no longer permissible under the regulations of this Ordinance, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. An existing building or structure devoted to a use not permitted by this ordinance in the zoning district in which it is located shall not be enlarged, constructed, reconstructed, moved, or structurally extended or altered except in changing the use of such building or structure to a use permitted in the zoning district in which such building or structure is located.
- B. Any lot, structure, or lot and structure in combination, in or on which a nonconforming use is succeeded by a permitted use, shall thereafter conform to the regulations for the zoning districts. The Zoning Administrator shall be authorized to establish a reasonable time schedule within which the lot and/or structure shall be required to conform to the zoning district regulations as required herein, assuming that such corrections as required will be commenced at the earliest time that weather conditions permit.
- C. Where a nonconforming status applies to a lot and structure in combination, intentional removal or destruction of the structure shall eliminate the nonconforming status of the lot. Unless the site plan review was processed to the planning commission to continue use while improving visual appearance.

Should any building or structure devoted to a use not permitted by this Ordinance in the Zoning District in which it is located be destroyed by causes beyond the control of the owner or occupant, such building or structure may be replaced providing such replacement does not result in any enlargement or expansion. Such replacement shall be subject to the provisions of Article 7 Site Plan Review.

- D. A nonconforming use of a lot shall not be enlarged, expanded or extended to occupy a greater area of the lot than was occupied on the date of adoption or amendment of this ordinance, and no accessory use, building, or structure shall be established therewith.
- E. In commercial and industrial districts, a nonconforming residential use may expand to occupy the floor area necessary for living purposes provided no increase in the number of families residing therein results, and subject to Zoning Board of Appeals approval.
- F. A nonconforming use in any zoning district may expand into a part of the building originally designed and constructed for such use, after approval by the Zoning Board of Appeals, provided that no structural alterations are made, the floor area of the building is not increased, and that such use shall not be extended to occupy any land outside such building.

SECTION 11.05 REPAIRS AND MAINTENANCE

Except as provided in Section 11.03 and 11.04, herein, alteration or repair work may be done on a nonconforming structure containing a nonconforming use, provided that the floor area or volume of such building, or the number of families housed therein, or the dimensions, height, or number of stories of such structure as it existed on the date of adoption or amendment of this ordinance shall not be increased. No

other alterations or repairs shall be permitted unless the structure or use is made to conform to all requirements of this ordinance.

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition, of any building or structure or part thereof declared to be unsafe by any official charged with protecting the public safety.

SECTION 11.06 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership or management of an existing nonconforming use, building or structure. Approved special uses may have non-transferable restrictions placed on them at the time of approval. (Example; section 6.10 requires an annual renewal application for operating licenses.)

SECTION 11.07 EXPANSION AND SUBSTITUTION

- A. Where the Zoning Board of Appeals is required to determine whether a nonconforming structure may be enlarged, expanded, or extended, the following provisions shall apply:
1. Limitations: The reasons for the nonconformity shall be limited to minimum lot area, lot width, required yard, and off-street loading and parking requirements. In no case shall a building or structure that is nonconforming because of lot coverage, floor area ratio, or height requirements be permitted to expand without removing the nonconformity, except as permitted under a variance.
 2. Permitted Uses: The existing and proposed uses of such buildings and structures must be among those permitted in the zoning district in which situated.
 3. Conformance Required: The proposed improvement shall conform to all requirements of the zoning district in which situated.
 4. Determinations: The Board of Appeals shall determine the following in approving a request:
 - (a) That the retention of the nonconforming building or structure is necessary for the proposed improvement or that the requiring of removal of such building or structure would cause unnecessary hardship.
 - (b) That the proposed improvement is necessary for the continuation of activities on the property.
 - (c) That the enlarged or otherwise improved nonconforming building or structure will not adversely affect the public health, safety and welfare.
 5. Authority of Board: The Board of Appeals shall have authority to require modification of the nonconformity, where such is reasonable, as a condition for approval. The Board of Appeals may attach other conditions for its approval which it deems necessary to protect the public health, safety and welfare.

6. All expansions permitted under this section shall meet all requirements of Article 7, herein, Site Plan Review, if a site plan is required.

- B. A nonconforming building or structure shall not be substituted for, or replace, another nonconforming building or structure. A nonconforming use of a building or structure may be substituted for another nonconforming use upon permission by the Board of Appeals, as set forth in Article 12 herein, provided that no structural alterations are made and that such other nonconforming use is equal to or more appropriate than the existing nonconforming use in the zoning district in which it is located. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accordance with the provisions and intent of this Ordinance. A nonconforming use not including a building or structure shall not be substituted for another nonconforming use not involving a building or structure.

ARTICLE 12

ZONING BOARD OF APPEALS

SECTION 12.01 BOARD ESTABLISHED; PRIOR BOARD ACTIONS RATIFIED

A Zoning Board of Appeals, hereinafter referred to as the Board of Appeals, is hereby established, in accordance with Act 110 of the Public Acts of 2006, as amended. All actions of the Zoning Board of Appeals established under any prior zoning ordinance are hereby ratified and confirmed.

SECTION 12.02 MEMBERSHIP AND TERMS

- A. The Board of Appeals shall consist of five (5) members appointed by the Township Board. The first member shall be a Whitefish Township Planning Commissioner. The remaining members shall be selected from the electors of the Township one (1) regular member may be a member of the Township Board. The members selected shall be representative of the population distribution and of the various interests present in the Township. An elected officer of the Township shall not serve as chairman of the Board of Appeals.

The Township Board may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called as specified in the Zoning Ordinance to serve as a regular member of the Zoning Board of Appeals in absence of a regular member if the regular member is absent from or will be unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or is absent from or will be unable to attend meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve as a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member has the same voting rights as a regular member of the Zoning Board of Appeals.

- B. Members of the Board of Appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to

disqualify himself from a vote in which he has a conflict of interest shall constitute misconduct in office.

- C. The term of office of each member shall be three (3) years, except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board respectively, and the period stated in the resolution appointing them. A successor shall be appointed within 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. The expiration of the terms of members appointed from the electorate shall be adjusted so that all do not expire at the same time. 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.

SECTION 12.03 RULES AND PROCEDURES FOR THE BOARD OF APPEALS

- A. Rules. The Board of Appeals shall adopt rules and regulations to govern its procedures. The Board of Appeals shall elect a Chairman, Vice-Chairman, and Secretary from its membership at its first meeting following January 1, of each year. The officers shall serve until successors are elected.
- B. Votes. A concurring vote of a majority of the members of the Board of Appeals shall be necessary for any decision. The Board of Appeals shall not conduct business unless a majority of its members is present.
- C. Representation. Any person(s) may appear on his/her behalf at a hearing or may be represented by an agent or attorney.
- D. Time Limit. The Board of Appeals shall decide upon all matters within a reasonable time, not to exceed ninety (90) days from the filing date. The decision of the Board of Appeals shall be in the form of a resolution containing a full record of its findings and determinations in each case. The time limit may be extended by written agreement between the applicant and appellant and the Board of Appeals.
- E. Meetings. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such times as the Board in its rules and regulations might specify. Minutes shall be kept of each meeting and the Board shall record into the minutes all findings, conditions of approval, facts, or other relevant factors, and all its official actions. The vote of each member upon a question, or a member's absence or abstention, shall be recorded into the minutes of the meeting. All meetings and records shall be open to the public. All records of meetings shall be filed in the office of the Township Clerk.
- F. Oaths. The Chairman of the Board of Appeals, or in the Chairman's absence, the acting chairman, may administer oaths and compel the attendance of witnesses.
- G. Public Hearings and Notification
 - 1. The Board of Appeals shall hold a public hearing on each question submitted to it for decision. The Chairman shall fix a reasonable time and date for the hearing, said date not to exceed forty-five (45) days from the filing date. A notice of the public hearing shall be published once in the nearest circulating newspaper and the Whitefish Township website. A notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three

hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Board of Appeals prior to the public hearing. The notice shall be given not less than fifteen (15) days before the date of the public hearing. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations,, one (1) occupant from each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or structure who shall be requested to post the notice at the primary entrance to the structure. Where the hearing, as determined by the Board of Appeals, concerns matters of general applicability in Whitefish Township and does not concern only individual lots or parcels, the notice of the hearing need only be given in the nearest circulating newspaper and the Whitefish Township website.

2. Contents of Notification – The notice of public hearing shall:

- (a) Describe the nature of the request.
- (b) Describe the property which is the subject of the request.
- (c) State date, time and place of the public hearing.
- (d) Indicate when and where written comments will be received concerning the request.

SECTION 12.04 POWERS AND DUTIES OF BOARD OF APPEALS

- A. General. The Board has the power to act on matters as provided in this Ordinance and Act 110 of the Public Acts of 2006, as amended. The specific powers of the Board are enumerated in the following sections of this Article.
- B. Delegated Duties. To hear and decide on all matters referred to it upon which it is required to pass under this ordinance.
- C. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official or body in the enforcement of this ordinance. In exercising the powers set forth in this article, the Board of Appeals may reverse or affirm wholly or partly, or may modify, the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.
- D. Interpretation.

1. The Board shall hear and decide requests for interpretation of this Ordinance or the Zoning Map, taking into consideration the intent and purpose of the Ordinance.
 2. In an interpretation of the Zoning Map, the Board shall be governed by the Rules of Interpretation set forth in Section 4.02.D.
 3. A record shall be kept by the Board of all decision for interpretation of this Ordinance or Zoning Map and land uses which are approved under the terms of this Section. The Board shall request the Planning Commission to review any ordinance amendment it deems necessary.
- E. Variances. Where, owing to special conditions, a literal enforcement of the provisions of this ordinance would involve practical difficulties or cause unnecessary hardship within the meaning of this Article, the Board of Appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this ordinance in accordance public law 125.3604 Zoning Board of Appeals; Procedures Section 6.04 of the Michigan Zoning Enabling Act 110 of 2006.
- F. Limitation of Authority. The Board shall not have the power to alter or change zoning district boundaries, except where uncertainty exists as to the location of a boundary, land use classifications of any property, or Zoning Ordinance text.

SECTION 12.05 SPECIFIC PROCEDURES FOR ADMINISTRATIVE APPEALS

- A. All questions concerning administrative decisions under this ordinance shall first be presented to the applicable Township official. Such questions shall be presented to the Board of Appeals only on appeal from the decisions of the applicable Township official.
- B. Appeals shall be filed within sixty (60) days of the decision in question at the Township office. The Zoning Administrator shall transmit a copy of the appeal and related information to each member of the Board of Appeals within three (3) days of the filing date. The appellant shall submit a clear description of the order, requirement, decision, or determination for which the appeal is made and the grounds of the appeal. The appellant may be required by the Board of Appeals to submit additional information to clarify the appeal. The Zoning Administrator shall transmit to the Board of Appeals copies of all papers constituting the record upon which the action appealed from was taken, within seven (7) days of the filing date.
- C. Appeals may be taken by the person aggrieved or by any officer, department, board, agency, or bureau of Township, County, State or Federal governments.
- D. An appeal stays all proceedings in the furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals that a stay would cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken, and on due cause shown.

SECTION 12.06 SPECIFIC PROCEDURES FOR VARIANCES

- A. An application for a variance shall be filed by the record owner of the lot in question, or by an agent authorized in writing to act on the record owner's behalf, with the Township Clerk. The applicant

shall provide such information as is required by the Board of Appeals by way of completed application form, fee and additional information.

- B. No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than one (1) year; unless a building permit for such erection or alteration is obtained within such a period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. Upon reapplication to the Board of Appeals, extensions not exceeding six (6) months each may be granted upon a showing of good cause and good faith efforts being made to achieve completion.

No order of the Board of Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year unless such use is established within such a period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit. Upon reapplication to the Board of Appeals, extensions not exceeding six (6) months each may be granted upon a showing of good cause and good faith efforts being made to achieve completion.

- C. An application for a variance which has been denied wholly or in part by the Board of Appeals shall not be resubmitted for a period of three hundred sixty-five (365) days from the date of denial, except on grounds of new evidence or changed conditions found by the Board of Appeals to be valid.

SECTION 12.07 SITE PLAN REQUIREMENTS

If an application or appeal to the Board of Appeals requires site plan approval by the Planning Commission, the applicant or appellant shall first apply for preliminary site plan approval as set forth in Article 7.0. The Planning Commission shall review said plan and shall determine the layout and other features required to obtain approval of said plan. The Planning Commission shall then transmit the plan and the Commission's findings thereon to the Board of Appeals. The Board of Appeals shall, upon deciding on the application or appeal, return the plan and its decision thereon to the Planning Commission for Commission action on the preliminary site plan.

ARTICLE 13 AMENDMENTS

SECTION 13.01 INITIATING AMENDMENTS

The Township Board may, from time to time, amend, modify, supplement, or revise the zoning district boundaries or the provisions and regulations of this Ordinance. Amendments may be initiated by the Township Board, the Whitefish Township Planning Commission, by petition of one or more property owners of Whitefish Township, or by one (1) or more persons acting on behalf of a property owner(s) of Whitefish Township. All proposed amendments shall be referred to the Whitefish Township Planning Commission for review, public hearing, and recommendation before action may be taken thereon by the Township Board.

SECTION 13.02 AMENDMENT PROCEDURE

Only the Township Board of Trustees may amend this Ordinance. Proposals for amendments or changes may be initiated by the Township Board on its own motion, by the Planning Commission, or by petition of one (1) or more property owners to be affected by the proposed amendment. Amendments are governed by the Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3101 *et seq.* ("MZEA").

- A. Each petition shall be submitted to the Zoning Administrator, accompanied by the proper fee, and then referred to the Planning Commission for their review at a public hearing held in accordance with the MZEA.
- B. Following the public hearing, the Planning Commission shall transmit their recommendation and a summary of the comments received at the public hearing to the Township Board.
- C. The Township Board will either accept or reject proposed changes as an Ordinance amendment or, if the Township Board considers amendments, changes, additions, or departures advisable to the proposed ordinance provision, it shall refer the same to the Planning Commission for a report thereon within a time specified by the Township Board. After receiving the report, the Township Board shall grant a hearing on a proposed ordinance provision to a property owner who has filed a written request for same prior to the regular meeting at which the proposed amendment is to be considered, as provided by the MZEA. The Township Board may then adopt, by a majority vote of its membership, pursuant to the MZEA, a zoning ordinance or amendments to the zoning ordinance with or without amendments that have been previously considered by the Planning Commission or at a hearing, and shall thereafter cause the ordinance or amendment thereto to be published as required by law.
- D. No petition for amendment, which has been disapproved by the Township Board, shall be resubmitted for a period of one year from the date of disapproval, except as may be permitted by the Township Board after learning of new and significant facts or conditions which might result in favorable action upon resubmittal. Resubmittal shall follow the same procedure as outlined in this Section.
- E. The petitioner shall transmit a detailed description of the petition to the Zoning Administrator. When the petition involves a change in the Zoning Map, the petitioner shall submit the following information:
 - 1. A legal description of the property;

2. A site plan correlated with the legal description, and clearly showing the property's location;
3. The name and address of the petitioner;
4. The petitioner's interest in the property;
5. Date of filing with the Zoning Administrator;
6. Signatures of petitioner(s) and owner(s) certifying the accuracy of the required information; and
7. The desired change and reasons for such change.

F. In viewing any petition for a zoning amendment, the Planning Commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the Township Board within sixty (60) days of the filing date of the petition. The facts to be considered by the Planning Commission shall include, but not limited to, the following:

1. Whether the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance;
2. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the petition;
3. The ability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition is approved;
4. Whether any significant and negative environmental impacts would reasonably occur if the petitioned zoning change and resulting permitted structures were built, including but not limited to, surface water drainage problems, wastewater disposal problems, or the loss of locally valuable natural resources; and
5. Effect of approval of the petition on adopted development policies of the Township and other governmental units.

G. All findings of fact shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

SECTION 13.03 INFORMATION REQUIRED

A. If a petition involves an amendment to the official zoning map, the petitioner shall submit the following information:

1. A legal description of the property, including a street address and tax code number(s).
2. A scaled map of the property, correlated with the legal description, and clearly showing the property's location.
3. The name and address of the petitioner, the record owner, and all other parties claiming an interest in said property.
4. The petitioners interest in the property. If the petitioner is not the record owner, the name and address of the record owner(s), and the record owner(s) and other interested parties signed consent to the petition. The consent of mortgagees, lienors, and similar such parties shall not be required.
5. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the information.

6. Identification of the zoning district requested and the existing zoning classification of property.
 7. A vicinity map showing the location of the property, and adjacent land uses and zoning districts.
- B. If a petition involves a change in the text of the zoning ordinance, the petitioner shall submit the following information:
1. A detailed statement of the proposed amendment, clearly and completely setting forth all proposed provisions and regulations, including all changes in the zoning ordinance necessary to accommodate the proposed amendment.
 2. Name and address of the petitioner.
 3. Reasons for the proposed amendment.

SECTION 13.04 REVIEW

- A. In reviewing any petition for a zoning amendment, the Planning Commission shall evaluate all factors relevant to the petition and shall make its recommendations for disposition of the petition, to the Township Board within a period of sixty (60) days from the date of the Public Hearing. The time limit may be extended by mutual written agreement between the Planning Commission and the applicant.
- B. The factors to be considered by the Planning Commission may include, but shall not be limited to, the following:
1. Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the original ordinance.
 2. The precedents and the possible effects of such precedents, which might result from approval or denial of the petition.
 3. The capability of the Township or other government agencies to provide any services, facilities, and/or programs that might be required if the petition were approved.
 4. Effect of approval of the petition on the condition and/or value of property in the Township or in adjacent civil divisions.
 5. Effect of approval of the petition on adopted development policies of Whitefish Township and other government units.
- C. All findings shall be made a part of the public records of the meetings of the Planning Commission and the Township Board.

SECTION 13.05 CONFORMANCE TO COURT DECREE

Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and the amendment published

SECTION 13.06 PUBLICATION

Following Township Board approval of a petition to amend the zoning ordinance, notice of the amendment shall be published within fifteen (15) days after adoption in the nearest circulating newspaper and the Whitefish Township website. The notice of adoption shall include the following information:

- A. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
- B. The effective date of the amendment.
- C. The place and time where a copy of the ordinance may be purchased or inspected.

SECTION 13.07 REFERENDUM

Within seven (7) days after publication of a Zoning Ordinance under Section 13.07, a registered elector residing in the portion of the Township outside the limits of the cities and villages, may file with the Township Clerk a notice of intent to file a petition under this section. If a notice of intent is filed, then within thirty (30) days following the publication of the Zoning Ordinance, a petition signed by a number of registered electors residing in the portion of the Township outside the limits of cities and villages equal to not less than fifteen (15%) percent of the total vote cast for all candidates for governor, at the last preceding general election, at which a governor was elected in the Township may be filed with the Township Clerk requesting the submission of an ordinance or part of an ordinance to the electors residing in the portion of the Township outside the limits of cities or villages for their approval.

Upon the filing of a notice of intent, the ordinance or part of the ordinance adopted by the Township Board shall not take effect until one (1) of the following occurs: (a) The expiration of thirty (30) days after publication of the ordinance, if a petition is not filed within that time. (b) If a petition is filed within thirty (30) days after publication of the ordinance, the Township Clerk determines that the petition is inadequate. (c) If a petition is filed within thirty (30) days after publication of the ordinance, the Township Clerk determines that the petition is adequate and the ordinance or part of the ordinance is approved by a majority of the registered electors residing in the portion of the Township outside the limits of cities and villages voting thereon at the next regular election which supplies reasonable time for proper notices and printing of ballots, or at any special election called for that purpose. The Township Board shall provide the manner of submitting an ordinance or part of an ordinance to the electors for their approval or rejection, and determining the result of the election.

ARTICLE 14 ZONING MAPS

SECTION 14.01 ZONING MAPS

The location and boundaries of the zoning district established by this Ordinance are set forth on the zoning maps of the Whitefish Township which accompany this Ordinance, and which maps, with all notions, references, and other information shown thereon, is incorporated herein and is as much a part of the Ordinance as if fully described and set forth herein. The zoning maps of the Whitefish Township are available in the office of the Whitefish Township Zoning Department.

ZONING MAP

