

Picture or Pictures

# **HIGGINS TOWNSHIP**

## Zoning Ordinance

**Draft – For Public Hearing November 25, 2024**

Adopted Date:

Amended Date:

# About this Zoning Ordinance

Below is a brief description on what content is in each Zoning Ordinance article.

**Short Title** – Includes catch all provisions regarding severability and if there are conflicting regulations within the Ordinance.

**Definition** – This Article goes over specific terms for the zoning ordinance that can be unique to our community. Common purposes is to determine use classification, yard type (side or rear), etc.



DEFINITIONS

**Zoning District** – This Article lists all of the zoning districts in the township and which uses are permitted, special land use, or not allowed in each district. The setbacks, lot coverage and other dimensional lot requirements are also listed for each district.



ZONING DISTRICTS

**Use Requirements** – For all the specific uses listed in the Zoning Ordinance if there are additional requirements due to the use it is listed here. The Article is done by category as noted in the Table of Use in Sec. ## then alphabetically.



GENERAL PROVISION

**General Provisions** – A combination of requirements that apply to all properties which include accessory buildings, fences and walls, swimming pools, requirements regarding natural features, and more.



GENERAL DEVELOPMENT DESIGN

**General Development Design** – These are requirements that primarily involve the construction of a development such as performance standards, landscaping, exterior lighting, and community impact statement.

**Parking & Loading Requirements** – This Article includes general requirements for all parking lots including number of required spaces, dimensions, and loading and unloading requirements.



PARKING

**Signage** – This Article reviews all of the sign requirements regarding type, size, location, illumination, and number. This also includes the sign permit review process.

**Nonconformities** – Nonconformities or commonly known as grandfathered items are defined here. The three types of nonconforming lot, uses, building and structures criteria to continue to exist or be expanded are explained here.



ADMINISTRATION

**Administration & Enforcement** – This Article lists the duties of official positions in the Ordinance, zoning permit, site plan review, condominium, subdivision control, and special land use review processes. Also clarified are conditional approvals, public hearing procedure, inspection, violation, and enforcement processes.

**Amendments** – Guides through the rezoning and text amendment process.

**Zoning Board of Appeals (ZBA)** – Lists duties of the ZBA and processes for a variance, interpretation, and appeal.

# Table of Amendments

Ord #	Amendment Description	PC Approval	Twp Board Approval	Adoption Notice	Effective Date

**Municipal Contact Information:**



Website:  
Phone Number:  
Address:

**Planning Services Provided by:**

Website: <https://www.wadetrим.com/>



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## Article 1 Short Title

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### Section 1.00 Short Title

This Ordinance shall be known as the Higgins Township Zoning Ordinance.

### Section 1.10 Purpose

The purpose of this Ordinance is to:

- A. Protect the public health, safety, and general welfare of Higgins Township through the regulation of land uses
- B. Establish the roles and responsibilities involved in the administration and enforcement of the Ordinance.
- C. Ensure that any new building or structure, or part thereof, that shall be erected, constructed or altered and maintained, or any new use or change that shall be made to any building, structure of land, or part thereof, shall be completed in conformity with the provisions of this Ordinance.

### Section 1.20 Enabling Authority

This Ordinance is adopted pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended (MZEAA). The Zoning Map and Zoning Ordinance text are built upon the goals and actions that are described in the Higgins Township Master Plan. Any revisions to the Zoning Map are to be in accord with the most current Future Land Use Map, and all discretionary decisions regarding Zoning Ordinance administration should consider their impact upon Master Plan implementation.

### Section 1.30 Conflicting Regulation

Whenever any provisions of this Ordinance impose more stringent requirements than are imposed by the provisions of any other law or ordinance, the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance shall govern.

### Section 1.40 Interpretation and Application

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinances or by rules, regulations or permits, the provisions of this Ordinance shall control

### Section 1.50 Severability

Sections of this Ordinance shall be deemed to be severable and should any Section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holding shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

**Section 1.60 Vested Rights**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

## Article 2 Definitions

### Section 2.00 Construction of Language

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

- A. All word used in the present tense shall include the future, all words in the singular number include the plural number, and all words in the plural number include the singular number.
- B. The word "building" includes the word "structure".
- C. The word "dwelling" includes "residence".
- D. The word "person" includes "corporation", "copartnership", "association", as well as an "individual".
- E. The word "shall" is mandatory and the word "may" is permissive.
- F. The word "lot" includes the words "plot" or "parcel".
- G. The words "used" or "occupied" includes the words "intended", "designed" or "arranged to be used or occupied".
- H. Terms not herein defined shall be what is defined in the Webster's Dictionary.

### Section 2.10 List of Definitions

Below is the list of definitions included in the Township Zoning Ordinance:

### Section 2.20 Definitions

For the purposes of this Ordinance, the following terms and words are defined as follows:

Accessory Building - A supplemental building or structure on the same lot or parcel of land as the main building, or buildings, or part of the main building occupied by or devoted exclusively to any accessory uses, but such use shall not include any building used for dwelling, residential or lodging purposes, or sleeping quarters for human beings."

Accessory Dwelling Unit – An Accessory Dwelling Unit (ADU) is a smaller, independent residential unit located on a parcel with a principal use. The ADU may be located within the principal building, attached to the principal building, or within an accessory structure on the parcel.

Accessory Use - Use or activity normally and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or buildings.

Adult Foster Care Home: Family or Group – An adult foster care family home is a private residence with the approved capacity to receive six or fewer adults to be provided with foster care for 5 or more days a week and for two or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence. An adult foster care small group home is an adult foster care facility with the approved capacity of up to twelve (12) adults to be provided with care. An adult foster care large group home may receive between thirteen (13) and twenty (20) adults to be provided with foster care.

Adult Entertainment Uses - A commercial establishment which offers for sale or rental for any form of consideration, as one of its principal business purposes, includes items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas," or an establishment with a segment or section devoted to the sale or display of such material or items. Includes adult



bookstores or video stores, adult motion-picture theaters, adult mini-motion-picture theaters, adult motels, adult nightclubs, and massage parlors.

Agribusiness - An establishment directly associated with an agricultural operation and by-product that does not include on site public sales of products. Examples include: bulk feed and fertilizer outlets and distribution centers; farm machinery sales, service, rental, and repair; grain elevators; grain and livestock truck and cartage facilities; greenhouses; livestock or feed development; produce packaging; saw mills; seed dealership outlets and distribution centers.

Agriculture - Farms and general farming, including horticulture, floriculture, dairying, livestock and poultry raising, farm forestry, and other similar enterprises or uses, in accordance with generally accepted farming practices.

Agricultural Tourism - An establishment directly associated with an agricultural operation that may include onsite sales of products to the public or include activities to the general public. Examples include: haunted hayrides, farm to table restaurant, petting zoos, wedding chapels, etc.

Alterations - Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

Apartments - The term "Apartments" shall mean the dwelling units in a multiple dwelling as defined herein:

Efficiency Unit: is a dwelling unit consisting of not more than one (1) room, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density shall be considered as a one (1) room unit.

One Bedroom Unit: is a dwelling unit consisting of not more than two (2) rooms, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density, shall be considered as a two (2) room unit.

Two Bedroom Unit: is a dwelling unit consisting of not more than three (3) rooms, in addition to kitchen, dining and necessary sanitary facilities, and for the purpose of computing density, shall be considered as a three (3) room unit.

Three or More Bedroom Unit: is a dwelling unit wherein for each room in addition to the three (3) rooms permitted in a two (2) bedroom unit, and for the purpose of computing density, said three (3) bedroom unit shall be considered a four (4) room unit, and each increase in a bedroom over three (3) shall be an increase in the room count by one (1) over the four (4).

Automobile Repair - A place where, with or without the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; or painting and undercoating of motor vehicles.

Automobile Fueling Station - A place where automotive fuels are retailed directly to public on premises including sale of minor accessories and services performed for automobiles and light-duty trucks. Accessory retail and restaurant uses may be collocated within the primary building.

**Basement** - That portion of a building partly below grade, but so located that the vertical distance from the grade level to the basement floor is greater than the vertical distance from the grade level to the basement ceiling. A basement shall not be included as a story for height measurement, nor counted as floor area, unless the room has walk-out capability. A walk-out basement shall be defined as a room with a least one wall below grade which provides barrier free access to the exterior of the structure and with at least fifty percent of one wall with no grade and two exits which are fire escape routes.

**Battery Energy Storage Systems:** One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle system.

**Battery Energy Storage System – Utility Scale:** A battery energy storage system (BESS) that is principal use (or co-located with a second principal use) and that is designed and built to connect to the transmission grid with nameplate capacity of 2.5 megawatt or more and an energy discharge capability of 10 megawatt hours or more.

**Bedroom** - A bedroom is a dwelling room used for or intended to be used safely for sleeping purposes by human beings.

**Block** - The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

**Breezeway** - A permanent building, sharing common walls with the main and accessory buildings, principally used as sheltered, direct access to and from the main and accessory buildings. Structures such as pergolas or wooden beams do not constitute breezeways.

**Building** - Any structure, either temporary or permanent, having a roof supported by columns or walls, which includes sheds, garages, stables, greenhouses, tent structures, or other accessory structures and intended for the shelter or enclosure of persons, animals, chattels, or property of any kind.

**Building Area** - The space remaining after the minimum open space requirements of this Ordinance have been complied with.

**Building Height** - The vertical distance from the established grade to the highest point of the roof surface for flat roofs, to the decline of mansard roofs; and to the average height between eaves and ridge for gables, gambrel, hip, and shed roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

**Building Permit** - A building permit is the written authority issued by the Building Inspector in conformity with the provisions of the Construction Code Ordinance.

**Building, Principal** - A building in which is conducted the principal use of the premises on which it is situated.

**Car Wash Establishment** - A building or portion thereof containing facilities for washing more than two vehicles, using production-line methods. The use of personnel for one or more phases of this operation in conjunction with or without complete automatic or mechanical devices does not alter its classification. For the purpose of this chapter, coin-operated devices operated on a self-service basis shall be construed to be the same.

**Child Care Center** - A facility, other than a private residence, receiving one or more preschool or school-age children for care for periods less than 24 hours a day, and where the parents or

guardians are not immediately available to the child. Child-care center or day-care center includes a facility that provides care for more than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child-care center, day-care center, day nursery, nursery school, parent cooperative preschool, play group, before or after-school program, or drop-in center.

Child Care Home, Group or Family - "Family child care home" and "group child care home" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group child care home.

Clinic, Animal -A building or group of buildings and/or structure where domestic animals are admitted for examination, treatment and care by a licensed veterinarian or related para-professionals and technicians and where such animals may be provided with overnight housing.

Clinic, Human -A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional; such as, a physician, dentist, or the like, except that such human patients are not lodged therein overnight.

Club - An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit, and open only to members and not the general public.

Common Areas, Uses and Services - Land areas, improvements facilities and utilities, the use, enjoyment and maintenance of which are intended to be shared by the owners and occupants of individual building units in a subdivision or a planned development.

Convalescent or Nursing Home - A structure with sleeping rooms where persons are housed or lodged and are furnished with meals, nursing, and medical care.

Drive-in Restaurant - A Drive-in Restaurant shall be deemed to be any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages, or other food served directly to or permitted to be consumed by patrons in cars or other vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.

Driveway - An access serving a single lot from a public or private road. When a driveway extends more than 200' from the public or private road it accesses, it shall be deemed an "Extended Length Driveway" (See "Extended Length Driveway").

Driveway, Shared – A shared driveway may serve up to four separate lots. The shared driveway easement shall be at least twenty-five (25) feet wide with a prepared drive lane of fourteen (14) feet in width with two (2) feet of cleared and compacted shoulder on each side of the drive lane with a recorded easement that includes maintenance provisions. For emergency vehicle access, fourteen (14) feet of vertical clearance shall be provided for and maintained over the drive lane and shoulders for its entire length. Shared driveways may be up to four hundred (400) feet in length.

Dwelling, Conventional - A building designed in accordance with the Township Construction Code or used exclusively as a living quarters for one (1) or more families but not including single-wide mobile homes, automobile chassis, tents or portable buildings, and having a minimum width cross-section through one portion of the dwelling of twenty (20) feet and a minimum floor dimension in one portion of the dwelling of at least one area having a width of twenty (20) feet and a length of twenty (20) feet.

Dwelling, Farm - A dwelling used to house the principal family operating a farm, and which is accessory to the operation of the farm, which is the principal use of the land upon which it is located.

Dwelling, Mobile Home - A dwelling unit manufactured in one or more sections, designed for year-round dwelling purposes, capable of being transported upon its own wheeled chassis and not motorized or self-propelled, but which meets the minimum floor area requirements of this Zoning Ordinance and installed in accordance with all of the other requirements of this Ordinance and the Construction Code specified for dwellings, when located outside of a licensed mobile home park.

Dwelling, Multiple Family - A dwelling structure, or portion thereof, designed for occupancy by three (3) or more families living independently of each other.

Dwelling, One Family - A dwelling structure designed exclusively for occupancy by one (1) family.

Dwelling, Two Family or Duplex - A multiple family dwelling structure designed exclusively for occupancy by two (2) families' independent of each other; such as, a duplex dwelling unit.

Dwelling Unit - A dwelling unit is any building or portion thereof or a mobile home having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one (1) family, either permanently or transiently. In cases of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to a dwelling.

Erected - Any physical operations on the premises required for the construction or moving on and includes construction, reconstruction, alteration, building, excavation, fill, drainage, installation of utilities and the like.

Essential Services - The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

Excavation - Any breaking of ground, except farm use, common household gardening and ground care.

Extended Length Driveway- An access serving a single lot from a public or private road and extending more than 200' from a public or private road.

Family - A domestic family which is one or more persons living together and related by the bonds of consanguinity and marriage or adoption which function as a single housekeeping unit in the dwelling. A family shall be deemed to include domestic servants, gratuitous guests and not more than three (3) boarded children.

The functioning family is one or more persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functioning equivalent of a domestic family with a demonstratable and recognizable bond and function as cohesive unit. This definition shall not include any society, club, fraternity, sorority, association, lodge,

coterie, organization or group where the common living arrangement and/or basic unit for the establishment of the functioning equivalent of the domestic family is likely or contemplated to exist for a limited or temporary duration. In no case, shall more than six (6) persons reside in a dwelling be considered a functional family.

**Farm** - A "farm" means the land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. The carrying on of agriculture as a primary source of income.

**Fence** - A structure of definite height and location to serve as an enclosure. An ornamental fence is one that is less than three (3) feet in height and is normally employed to demark planting areas and gardens.

**Fill** - The depository or dumping of any matter into or onto the ground, except common household gardening and general care.

**Flood Plain** - That portion of land adjacent or connected to a water body or water course which is subject to periodic inundation in accordance with the 100 year flood cycle.

**Floor Area, Gross (GFA)** -The sum of the gross horizontal areas of the several floors of the building measured from the exterior face of the exterior walls or from the centerline of walls separating two (2) dwelling units. The gross floor area of a building shall include the basement (see definition) floor area when more than one half (1/2) of the basement height is above the established curb level or finished lot grade and of interior finished construction similar to first or main floor. Any space devoted to off-street parking or loading shall not be included in gross floor area. Areas of dwelling basements, unfinished attics, utility rooms, breezeways, porches (enclosed or unenclosed) or attached garages are not included.

**Foster Home, Family or Group** - A Foster Family Home is a private home in which at least one but not more than four minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan Adoption Code, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian. A Foster Family Group Home means a private home in which more than four (4) but fewer than seven (7) minor may reside. PA 116 of 1973, as amended, governs foster homes.

**Frontage** - That portion of any property abutting a public street or private road; a corner lot and a through lot having frontage on both abutting streets.

**Garage, Commercial** - Any garage, other than a private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting, or equipment of automobiles or other motor vehicles.

**Garage, Private** - An accessory building not to exceed the height of the principal structure used for parking of vehicles or storage as may be required in connection with the permitted use of the principal building.

**Grade** - The term "Grade" shall mean a ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Greenbelt** -A buffer area consisting of an open space, except as specifically required in

certain sections of this Ordinance, which shall be either level or a berm and landscaped with trees, shrubs, vines and ground covers.

Greenway – A greenway is a contiguous or linear open space, including habitats, wildlife corridors, and trails, that link parks, nature reserves, cultural features, or historic sites with each other, for recreation or conservation purposes.

Historical Building, Site or Area- Those parcels and/or uses of land and/or structures whose basic purpose is to (a) safeguard the heritage of the local unit by preserving or allowing a structure or use which reflects elements of the community's cultural, social, economic, political, or architectural history; (b) stabilize and improve property values in the area; (c) foster civic beauty; (d) strengthen the local economy; and (e) promote the use of such sites for the education, pleasure, and welfare of the local residents and of the general public.

Home-based Business – any use where the business activity occurs off-premise or occurs predominately in an outbuilding. Class 1 home-based businesses include contractors who store limited equipment and supplies on-site while Class 2 home-based businesses may include larger fleets of vehicles and equipment, on-site storage of equipment and vehicles, and/or small-scale non-intensive on-site fabrication. Class 2 home-based businesses are more intensive and if not properly designed and buffered, may have offsite impacts. Class 1 home-based businesses include small contractors and landscape businesses, and haulage companies. Class 2 home-based businesses include larger firms with more than three fleets of vehicles, equipment storage of over six pieces of equipment, light manufacturing facilities of less than 2,000 square feet with no more than three non-resident employees working on-site. Class 1 home-based businesses shall meet the requirements found with the General Provisions section while Class 2 require Special Use approval.

Home Occupation - Any use customarily conducted entirely within the dwelling or an accessory structure and carried on by the inhabitants thereof, involving two or less employees other than members of the immediate family, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes. Such occupation shall not require internal or external alterations of construction features, outdoor storage, or signs not customarily in residential areas.

Hospital - An institution providing health services, primarily for inpatients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

Hotel/Motel - A building or buildings occupied or used as a more or less temporary abiding place of individuals or groups of individuals with or without meals, and in which there are more than five (5) sleeping rooms/cottages designed for transient overnight lodging.

Industrial - A business operated primarily for profit, including those of product manufacturing or conversion through assembly of new or used products or through the disposal or reclamation of salvaged material, and including those businesses and service activities that are a normal integral part of an industrial enterprise or area.

Improvements - Those features and actions associated with a project that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of zoning approval.



Institutional -An organization having a social, educational or religious purpose established by law, custom, practice or a system to serve the public.

Intensity of Development – Height, bulk, area, density, setback, use, and other similar characteristics of development all contribute to the intensity of development.

Junk -All rubbish, refuse, waste material, garbage, including, but not limited to, the following: waste composed of animal, fish, fowl, fruit or vegetable matter, dead animals, putrescible and nonputrescible solid waste (except body wastes), ashes, glass, cans, bottles, discarded or abandoned machinery, household appliances, industrial wastes, discarded, inoperative, dismantled or partially dismantled motorized vehicles or parts thereof. This shall not preclude home or farm composting for on-site use.

Junk Yard - Any lot, parcel, field or tract of land on which there is an accumulation of junk, equipment or machinery, whether operated for profit or not for profit bases. The term "junk yard" includes automobile wrecking yards and salvage areas of more than 200 square feet for the storage, keeping or abandonment of junk or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses contained entirely within an enclosed building.

Kennel - Any lot or premises on which four (4) or more dogs of more than 6 months in age are kept or boarded temporarily or permanently, for the purpose of breeding, for sale, or otherwise. It shall also include any lot or premises on which other furbearing household or domestic pets of like number are bred or sold.

Lake - A permanent natural or man-made body of surface water of at least five (5) acres in area.

Land Use - The principal and accessory uses and activities being made of all land areas and buildings and structures located upon a lot or parcel.

Light Duty Manufacturing Facility – Manufacturing facilities whose processes have minimal off-site impacts and manufacturing operations are fully located within an enclosed building. Examples of these types of operations include machine and tool and die shops, metal plating and finishing facilities, high-tech manufacturing facilities without noxious fumes or creation of toxic wastes, and similar operations.

Lighting. Source of - For purposes of this Ordinance, the source of light shall refer to the light bulb or filament which is exposed or visible through a clear material. Exposed mercury vapor lamps, neon lamps, and LED lights' diffuser/PC cover shall be considered a direct source of light.

Loading Space - An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and/or unloading merchandise or materials.

Lot - A parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot shall not include road easements or road right-of- ways.

Lot Area - The total horizontal area within the lot lines of a lot or parcel.

Lot. Comer - A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) roads is less than 135 degrees. A lot abutting upon a curved road or roads shall be considered a comer lot for the purpose of this Ordinance if the arc is of less radius than 150

feet and the tangents to the curve at the two (2) points where the lot lines meet the curve or the straight road line extended, form an interior angle of less than 135 degrees.

Lot Coverage - That percentage of the lot or parcel covered by the primary and accessory building's area.

Lot Depth - The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot, Double Frontage - Any interior lot having frontages on two (2) more or less parallel roads as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to road shall be considered frontage and front yards shall be provided as required.

Lot, Interior - Any lot other than a corner lot.

Lot Lines – The line bounding a lot as defined herein:

Front Lot Line. In the case of an interior lot, that line separating said lot from the road. In the case of a corner lot, or double frontage lot, "front lot line" shall mean that line separating said lot from that road which is designated as the front road in the plat and in the application for a Zoning Permit.

Rear Lot Line. That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line not less than ten (10) feet long farthest from the front lot line and wholly within the lot.

Side Lot Line. Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a road is a side road lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of Record - A lot existing prior to the adoption of this Ordinance and recorded in the office of the County Register of Deeds. For the purpose of this Ordinance, land contracts and purchase options not recorded in the County Register of Deeds' Office, but dated and executed prior to the effective date of this Ordinance shall also constitute a "lot of record".

Lot, Waterfront - A lot having a frontage directly upon a lake, river or other reasonable sized impoundment of water. The portion adjacent to the water shall be designated as the lake frontage of the lot, and the opposite side shall be designated the road frontage of the lot.

Lot Width - The horizontal distance between the side lot lines, measured at the two (2) points where either the building line, or front lot line intersects the side lot lines.

Master Plan -The comprehensive plan prepared and adopted by the Township Planning Commission in accordance with Public Act 33 of 2008 relative to the agreed upon desirable physical land use pattern for future Township development. The plan consists of a series of maps, plans, charts, and written material, representing in summary form, the soundest planning direction to the Township as to how it should develop in order to realize the vision and goals included with the plan.

Mobile Home - A dwelling unit manufactured in one or more sections, designed for year-round, temporary, or transient dwelling purposes, capable of being transported upon its own wheeled chassis, not motorized or self-propelled, built according to applicable State and Federal requirements, and installed in accordance with this Zoning Ordinance and the Construction Code.

Mobile Home Park - For the purpose of this Ordinance a specifically designated parcel of land constructed and designed to accommodate three (3) or more mobile homes for



residential dwelling use which meets the requirements of this Zoning Ordinance, the Construction Code and Public Act 96 of 1987 "Mobile Home Commission Act".

Mobile Home Space or Pad - Specified area of ground within a mobile home park designed for the accommodation on one (1) mobile home.

Nonconforming Building - A building or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the dimensional provisions of the Ordinance, nor to the use regulations of the district in which it is located.

Nonconforming Use - A use which lawfully occupies a building or land at the time this ordinance, or amendments thereto, become effective, that does not conform to the use regulations of the district in which it is located.

Nonconforming Lot - Means a lot which exists as a legal lot of record and which existed as a legal lot of record at the effective date of adoption or amendment of this Ordinance, which does not conform to the lot requirements of this Ordinance.

Nuisance - An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being.

Nuisance Per Se - Any act, erection, or use of property that is unlawful or unauthorized by a competent authority can be a nuisance per se. A nuisance per se is also defined as an act, occupation, or structure which is a nuisance at all times and under any circumstances, regardless of location or surroundings. Buildings open to trespass or condemned are nuisances per se.

Occupied - A building, structure, or land area designed and used for the purpose of and occupied for a useful purpose permitted under the provisions of this Ordinance.

Open Air Business Uses - Business uses operated for profit, substantially in the open air, usually with only small buildings or structures for office or customer transactions, including uses such as the following:

- a. Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, repair, or rental services.
- b. Outdoor display and sales of garages, motor homes, mobile homes, snowmobiles, farm implements, swimming pools and similar products.
- c. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer.
- d. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving range, children's amusement park or similar recreation uses (transient or permanent).

Open Space - Any land area suitable for growing vegetation, recreation, gardens or household service activities, such as clothes drying, but not occupied by any buildings.

Open Space Uses - Any principal or accessory use of a lot or parcel not involving the use of buildings or structures, which are required to meet the Township Construction Code.

Open Storage - A land area occupied and used for outdoor storage of building materials, sand, gravel, stone, lumber, equipment, and other supplies.

Ordinance Officer – An ordinance officer enforces Township Codes and may include the Building Inspector, Building Official, Code Enforcement Officer, or Zoning Administrator.

Parking, Off-street - Vehicular parking provided on a lot or parcel, but not within a highway or road right-of-way.

Parking, Off-street, Lot - A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than two (2) automobiles and where appropriate, buffer and interior parking lot landscaping.

Parking, Off-street, Space - An area of definite length and width; said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles on lots or parcels, but not within a public highway or public or private road right-of-way.

Parking Space - A land area of not less than nine (9) by twenty (20) feet, exclusive of driveways and aisles, and so prepared as to be useable for the parking of a motor vehicle and so located as to be readily accessible to a public road or alley.

Pet - Shall mean only such animals as may commonly be housed within domestic living quarters.

Planning Commission – The term shall refer to the Higgins Township Planning Commission, whose powers are defined in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

Plat - A map or plan of the layout of the subdivision of a parcel of land which is in conformance with all of the provision of Public Act 288 of 1967, as amended, being the Land Division Act, and the Subdivision Regulations of the Township, if and when enacted.

Pond-A small body of surface water of less than five (5) acres in area which exists in a natural state or is established by either the damming of surface water or by excavation of soil.

Porch, Enclosed - A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Porch, Open - -A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Practical Difficulty - For determining dimensional variances, a practical difficulty exists when all four of the following apply:

- 1) Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use or would render conformity necessarily burdensome.
- 2) The practical request, or a lesser relaxation of the ordinance standard, would provide substantial justice to the landowner and neighbors.
- 3) The plight of the applicant is due to unique circumstances of the property and is not shared by neighboring properties in the same zone.
- 4) The problem is not self-created.

Principal Use - The primary or dominant use or activity to which a lot or parcel is put.

Public Use - Any of the publicly-owned or leased uses of land, buildings or structures administered and operated by a public agency or official and

Public Utility- Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish, and furnishing under federal, state, or municipal regulations to the public; electricity, gas, steam, communications, telegraph, transportation, water, storm water collection, or wastewater collection and treatment.

Recreation Vehicle -A vehicle primarily designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Recreation Vehicle Park (RV Park) - A family recreation oriented facility for the overnight or short-term (not to exceed four (4) weeks consecutively) parking of travel trailers, recreation vehicles, or tents. May also be known as a campground.

Restaurant – A business in which food or beverages are cooked or prepared and offered for sale, and where consumption is permitted on the premises whether or not entertainment is offered, and includes establishments commonly known as grills or cafes. Restaurants offering drive-thru services are more intensive and require Special Land Use Approval.

Road - Any public thoroughfare dedicated and maintained for the use and operation of vehicular traffic by the Michigan Department of Transportation or Roscommon County Road Commission and affords the principal means of access to abutting property.

Road, Frontage - The legal line of demarcation between a dedicated road right-of-way or easement and abutting land.

Road, Private - A non-publicly-owned roadway that is not a shared driveway and provides access to two or more parcels.

Road, Right-of-Way The line which forms the outer limits of a road right-of-way or easement, and which forms the line from which all setbacks and front yards are measured, unless otherwise specified in this Ordinance.

Roadside Stand A building, structure, or location where farmers may sell goods to a customer. The structure may measure up to 10 feet by 15 feet. The farm market must be located on property owned or controlled (e.g., leased) by the producer of the products offered for sale at the market. Fresh products as well as processed products may be sold at the farm market.

Sanitary Landfill - A private or public sanitary landfill that meets all of the requirements of Part 115 of Public Act 451, as amended and rules promulgated under this Act by the Michigan Department of Environment, Great Lakes, and Energy.

Sensitive Areas - Areas with important natural resources, as identified by Roscommon Township, Lapeer County, state, or federal authorities such as: Floodplains, Designated environmental areas, such as wetlands and migration routes; High risk erosion areas; Priority habitat areas (if any, from Michigan Natural Features Inventory); State/federal/county/ township

owned lands; known water well locations from District Health Department Historic; and other cultural resources.

**Setback** - The distance required to meet front, side or rear yard open space provisions of this Ordinance

**Shopping Center** - A combination of two or more commercial retail uses located on a single parcel of land and managed collectively by a single ownership under central administration.

**Shoreline** - The line of demarcation between land and a surface water feature may be (a) established as a matter of record as the mean level elevation of the surface water or (b) as determined by the legal establishment of the surface water level elevation by the County. For the purpose of this Ordinance the legally established surface water level elevation shall take precedence, if established, over the mean level elevation.

**Sign** - The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as to show an individual firm, profession, business, product or message and visible to the general public.

- I. **Sign, Area** - The total surface area of a sign. In the case of signs having two sides back-to-back, the sign area shall be the total surface area of one side of the sign. For irregular sizes, the maximum height or letter by total width shall be measured.
- J. **Sign, Accessory** - A sign advertising services or products, activities, persons or events which are made, produced, assembled, stored, distributed, leased, sold or conducted upon the premises on which the accessory sign is located.
- K. **Sign, Canopy or Marquee** - A sign attached to or constructed within or on a canopy or marquee.
- L. **Sign, Freestanding** - A three-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.
- M. **Sign, Height** - The vertical distance to the top edge of the copy area or structure, whichever is higher, as measured for the adjacent street grade.
- N. **Signs, Illuminated** - Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.
- O. **Sign, Obsolete** - A sign that advertises or identifies a product that is no longer made an event that has already occurred, or that advertises a business that has closed.
- P. **Sign, Portable** - Any sign not permanently attached to the ground, a structure, or a building.
- Q. **Sign, Temporary** - A sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or a without structural frame, or any other sign intended for a limited period of display, but not including decorative display for holidays or public demonstration.
- R. **Sign, Wall** - A sign painted or attached directly to and parallel to the exterior wall of a building.
- S. **Sign, Window** - A sign installed on or in a window for purposes of viewing from outside the premises. This term does not include merchandise located in a window.

Site Plan - Documents and drawings required by the zoning ordinance to ensure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

Solar Energy System - Large - A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by photovoltaic devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end-user, and typically the power output of that system is equal to or greater than 1 megawatt.

Solar Energy System – Small - A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether photovoltaic devices or other conversion technology, primarily for consumption by a single end user at the same property upon which the solar energy system is located. The power output of the system shall not exceed 150 kilowatts. Small solar energy systems shall only be an accessory use to a primary use.

Special Use - A use which is subject to approval by the Township prior to site plan review. A special use may be granted when specified by this Ordinance. A permitted special use is not considered to be a nonconforming use.

Special Use Permit -A permit issued by the Township Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure which is specifically mentioned in this Ordinance and possesses unique characteristics more intensive than permitted uses but with additional care, may not be injurious to the health, safety, convenience, and general welfare of the Township's inhabitants.

Specified Anatomical Areas - Defined as less than completely or opaquely covered: (i) human genitals, pubic region, (ii) buttock and (iii) female breast below a point immediately above the top of the areola; and human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activities - May include one or multiple of the following: human genitals in a state of sexual stimulation or arousal; acts of human masturbation; sexual intercourse, or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

Story- That part of a building included between the surface of one (1) floor, and the surface of the next floor; or if there is no floor above, then the ceiling next above.

Story, Half - An uppermost story lying under a sloping roof, the usable floor area of which, at a height of four (4) feet above the floor does not exceed two-thirds (2/3) of the floor area in the story directly below, and the height above at least two hundred (200) square feet of floor space is seven (7) feet, six (6) inches or more.

Story, Height - The vertical distance from the top surface of one (1) floor to the top surface of the next above. The height of the topmost story is the distance from the top surface of the floor to the ceiling above it.

Structure - Any constructed or erected object, the use of which requires location on the ground or attachment to something having location on the ground, except driveways and pavement.

Structural Alterations - Any change in the supporting members of a building such as bearing walls, columns, beams or girders or any substantial changes in the roof and exterior walls.

Swimming or Bathing Pool - Any permanent, outdoor, non-portable structure or container located either above or below grade designed to hold water to depth greater than 18 inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Television Satellite Dish - A structure used to receive television programs from satellites located in space above the Earth.

Tent -As used in this Ordinance, shall mean a shelter of canvas or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of small tents used solely for children's recreational purposes.

Travel Trailer - A portable non-motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for periodic overnight lodging. This term also includes folding campers and truck mounted campers but does not include mobile homes.

Use - The lawful purpose for which land or premises or a structure or building thereon is designed, arranged, intended, or for which is occupied, maintained, let or leased for a use or activity.

Use, Principal – The primary or dominant use or activity to which a lot or parcel is put.

Use, Temporary - A use, activity, or building permitted to exist during period of construction of the main building or use, or for special events.

Yard - The open spaces on the same lot with a main building unoccupied and unobstructed from the ground up-ward, except as otherwise provided in this Ordinance and as defined herein.

- A. Front Yard - The open space extending the full width of the lot, the depth of which is the minimum of horizontal distance between the front lot line and the nearest point of the main building.
- B. Rear Yard - The open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.
- C. Side Yard - The open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot to the nearest point of the main building.

Zoning Administrator - The public official or other designated authority charged with the administration and enforcement of the Higgins Township Zoning Ordinance or his/her duly authorized representative.

Zoning District - A portion of the unincorporated portion of the Township within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

Zoning Permit – Written approval from the Zoning Administrator or his/her authorized representative that illustrates compliance with the requirements of this Ordinance and is required before commencing any construction, reconstruction, alteration of any building or other structure, or before establishing, extending, or changing any use on any lot.



## Article 3 Zoning Districts

### Section 3.00 Districts

For the purposes of this Ordinance, Higgins Township is hereby divided into the following seven districts:

- A. Forest and Forest Residential
- B. Rural Residential
- C. Urban Residential
- D. Mobile Home Park Residential
- E. Neighborhood Service Commercial
- F. General Service Commercial
- G. Industrial

### Section 3.10 Zoning District Boundaries & Map

- A. Zoning district boundaries are hereby established as shown on the Zoning Map of Higgins Township which accompanies this Ordinance, and which, with all notations, references, and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein.
- B. Unless shown otherwise, the boundaries of the districts are lot lines, section lines, the centerlines of streets, alleys, roads or such lines extended, and the unincorporated limits of the Township.
- C. Where, due to the scale, lack of detail, or illegibility of the Zoning Map accompanying this Ordinance, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries, shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application, or upon its own motion, by the Zoning Board of Appeals.

### Section 3.20 Rezonings

From time to time, the Township will authorize a map amendment to the official zoning map. The date of these changes shall be listed on the official zoning map.

### Section 3.30 Zoning Vacated Areas

Whenever any street, alley or other public way, within Higgins Township shall have been vacated by official governmental action, and when the lands within the boundaries thereof attach to and become a part of the land formerly within such vacated street, alley or public way shall automatically, and without further governmental action, thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach, and the same shall be used for that same use as is permitted under this Ordinance for such adjoining lands.

### Section 3.40 Zoning Districts

- A. Intent
  1. The purpose of the F&FR – Forest and Forest Residential District is to provide for the arrangement of land uses that are compatible with the conservation and preservation of large tracts of land presently having a most desirable natural environment that



should be minimally disturbed for recreational or agricultural purposes. Low density homes on exceptionally large lots are permitted to be built but located in such a way that reserves and conserves that land in way that meets the goals of the Township's Master Plan and conserves and reserves significant portions of the property for present and future agricultural, woodland, and natural and recreational resources. This area will remain unserved by public sewer and water systems

2. The purpose of the RR – Rural Residential district is to provide for low density housing free from other uses, except those which are (1) normally accessory, (2) compatible, supportive and convenient to the residents living within such a district, and (3) retains the rural undeveloped character of the Township.
3. The purpose of the UR – Urban Residential district is to provide for moderate density residential developments adjacent to the Village of Roscommon on lots sized to be sufficiently large enough that will not require either water or sanitary sewer services.
4. The purpose of the MHP – Mobile Home Park district is to provide an area in the Township whereby households desiring this form of congregate mobile home park housing may be accommodated within the Township.
5. The purpose of the NSC – Neighborhood Service Commercial district is to provide locations wherein retail trade and service outlets may be located in order to satisfy the day-to-day needs of the adjacent residents.
6. The purpose of the GSC – General Service Commercial district is to provide locations wherein retail trade and service outlets may be located that service both Township and neighboring Township residents and travelers coming to and passing through the Township.
7. The purpose of the I - Industrial district to provide for the development of sites for industrial plants in which the manufacture of goods in the form of finished or semi-finished products or the assembly, compounding, or treatment of product parts or ingredients in order to create finished or semi- finished goods for sale to other industrial manufacturers, or to bulk or wholesale commercial purchasers. It is the further intent of this district to permit only those industrial manufacturing uses having use, performance or activity characteristics which emit a minimum amount of discernible noise, vibration, smoke, dust, dirt, glare, toxic materials, offensive odors, gases, electromagnetic radiation or any other physically adverse effect to the extent that they are abnormally discernible beyond the lot lines of the parcel or site upon which the industrial manufacturing activity is located.

B. Table of Uses

1. Permitted Use (P) are land and/or buildings in this district may be used for the purposes listed by right.
2. Special Use (SU) are uses which may be permitted by obtaining special land use approved when all applicable requirements in that designated zoning district and special land use standards are met.
3. If a use not marked with a P or SU then that use is not allowed in that corresponding zoning district.

Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
Agricultural								

Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
General & specialized farming	P	P	P					
Greenhouses and nurseries for trees, shrubs, and plants	P	P						
Raising and keeping of cattle, horses, ponies, sheep, goats, swine and similar livestock	P	P						
Raising and keeping of rabbits, poultry, and similar small animals	P	P						
On-site production of food for animals	P							
Agribusiness	SU	SU						Sec 4.10.A
Agritourism	SU							
Apiaries	P	P						
Hatcheries	P							
Outdoor kennels for dogs	SU	SU						Sec. 4.10.G
Mobile homes as accessory dwellings	SU							
Roadside stand	SU							Sec 4.10.H
<b>Residential</b>								
Single-family residences	P	P	P					
Adult Day Care Home	P	P	P	P				
Adult Foster Care Family Home	P	P	P	P				
Adult Foster Care Group Home	SU	SU	SU	SU				
Child Care Family Home	P	P	P	P				
Child Care Group Home	P	P	P	P				
Home-based Business – Class 1	P	P						
Home-based Business – Class 2	SU	<u>SU</u>						Sec 4.10.C

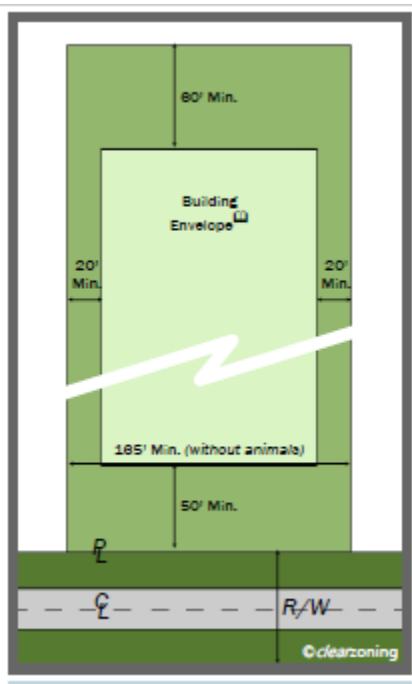
Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
Home Occupation	P	P	P	P				
Housing for the elderly in detached mobile homes	SU	SU	SU					Sec. 4.10.F
Mobile home as accessory building	SU							Sec. 4.10.D
Temporary Mobile Homes Located Outside of a Mobile Home Park, including Trailers, Motor Homes, and Recreational Vehicles	SU	SU	SU	SU				Sec. 4.10.I
<b>Institutional</b>								
Child care centers		SU	SU	SU				
Health, educational, and social institutions			SU	SU	P	P		
Funeral Home					SU	P		
Primary and secondary educational facilities		SU	SU		P	P		
Public, private, or pet cemeteries	P	P						
Places of worship		SU	P	SU	P	P		
Public buildings		SU	SU		P	P		
Social clubs		SU			P	P		
Theaters, indoor or outdoor						P		
<b>Recreational</b>								
Parks and playgrounds	SU	SU	SU	SU				
Public and private conservation areas or forest preserves	P	SU						
Hunting and fishing reservations and game preserves	P							
Public fishing and boating sites and boat launches	SU							

Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
Campgrounds and RV Parks	SU							
Miniature golf courses					P	P		
Golf driving ranges	SU					P		
Public and private golf courses and country clubs	SU	SU	SU					
Swimming and court game clubs	SU							
<b>Commercial</b>								
Adult entertainment uses							SU	
Automobile fueling station					SU	SU		Sec 4.10.B
Bakeries and delicatessens					P	P		
Bowling alleys, pool halls, and arcade/amusement halls						P		
Car washes						SU		
Commercial garages						P		
Drive-thru accessory uses, any					SU	SU		
Educational and training facilities					P	P		
Financial Institutions					P	P		
Funeral homes					SU	P		
General offices					P	P		
Greenhouses and nurseries					SU	P		
Indoor kennel, veterinary clinic or hospital					P	P		
Medical and dental clinics					P	P		
Mini-warehouses							P	
Motels and hotels						P		

Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
Personal and professional service offices					P	P		
Retail stores (under 5,000 sq ft)					P	P		
Retail stores (5,000 sq ft and larger)					SU	P		
Restaurant					P	P		
Restaurant, drive-in					SU	SU		
Self-service laundry and dry cleaners					P	P		
Tailor and dressmaking shop					P	P		
Temporary Transient Amusement Enterprises	SU				SU	<u>SU</u>	SU	Sec. 4.10.J
Vehicle sales, new and/or used cars, boats, RVs/campers/trailers, mobile homes, and motorcycles						P		
Vehicle service and repair for automobiles, trucks, buses, and trailers							P	
<b>Industrial</b>								
Construction storage yards							P	
Light-duty manufacturing facilities							P	
Extraction of natural resources (e.g. sand, gravel, rock)	P	P						
Truck terminals and multi-modal facilities							P	
Warehousing							P	
<b>Misc.</b>								

Uses	F&FR	RR	UR	MHP	NSC	GSC	I	Req.
Battery Energy Storage System – Utility Scale	SU	SU						
Solar Structures	SU	SU					P	Sec 4.10.L
Solar Energy System - Large	SU							Sec 4.10.M
Wind Turbines	SU	SU						Sec. 4.10.N
Wireless communications towers (new)	SP	SP			SP	SP	SP	Sec. 4.10.O
Wireless communications towers (collocation on existing towers)	P	P	P	P	P	P	P	

C. Table of Dimensional Requirements

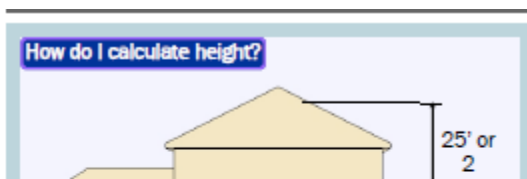


**Section 3.50 Summary Schedule of Dimensions Requirements**

District	Min Lot Area	Min Lot Width	Lot Coverage	Setbacks			Building Height	Min Floor Area
				Front	Side	Rear	Feet	
<b>F&amp;FR</b>	20 acres	400'	5%	50'	40' ea.	50'	35' 35' access. bldg.	960 sq ft
<b>RR</b>	5 acres	250'	10%	50"	30' ea.	50'	35' 35' access. bldg.	960 sq ft
<b>UR</b>	1	100'	30%	50'	25' total, w/ min. 10' on 1 side	50'	35' 25' access. bldg.	960 sq ft
<b>MHP</b>								
<b>NSC</b>	½	100'	25%	25'	20' total w/ min. 10' on 1 side	20"	35' 25' access. bldg.	N/A
<b>GSC</b>	1	150'	40%	25'	20' total w/ min. 10' on 1 side	20'	35' 25' access. bldg.	N/A
<b>I</b>	2	200'	40%	50'	50' total w/ min. 20' on 1 side	50'	40' 35' access. Bldg..	N/A

Footnotes:

Quick Reference:



## Article 4 Special Use Requirements

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### Section 4.00 Purpose

The formation and enactment of this Zoning Ordinance is based upon the division of the Township into distinct zoning districts, each of which include permitted uses that are wholly compatible with other permitted uses within the district. In addition to such permitted uses in districts, it is recognized that there are certain specific or unique uses which may be necessary or desirable to allow in definable locations within certain districts; but, which on account of their actual or potential impact on neighboring uses, need to be carefully regulated with respect to their location and design, for the protection of the permitted uses within the district. Such uses, on account of their peculiar locational need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as an unrestricted permitted use.

### Section 4.10 Design Requirements for Specific Special Uses

#### A. Agribusiness

An agribusiness shall be buildings, structures, lots, parcels, or parts thereof, which provide services, goods, storage, transportation or other activities directly related to the production of agricultural commodities. Permitted agribusinesses are listed below with the following conditions:

1. All agribusiness uses shall be located at least 250 feet from all RR, UR and MFR zoning district boundary lines, and existing residential structures located on adjacent properties.
2. All agribusiness uses shall meet the requirements of the State and County Health Departments for water supply, liquid and solid waste disposal and other applicable health and sanitation requirements.
3. The following uses are permitted agribusinesses permitted within the F&FR district:
  - a. Agricultural products, production and processing operations. Agricultural products storage facilities.
  - b. Auctions for livestock.
  - c. Bulk feed and fertilizer outlets and distribution centers. Farm machinery; sales, service, rental and repair.
  - d. Grain elevators for storage, drying and sales. Grain and livestock truck and cartage facilities. Greenhouses and nurseries.
  - e. Processing of agricultural materials produced on the farm into commercial products, including pie making, honey production, and other similar activities.
  - f. Riding stables.
  - g. Seed dealership outlets and distribution centers.
  - h. Veterinary hospitals, clinics and indoor kennels.

#### B. Automobile Fueling Stations

All automobile fueling stations shall conform to the following regulations in addition to all applicable regulations in effect in the district in which they are to be located.



1. Frontage and Area: Every gasoline service station shall have a minimum frontage of 200 feet and a minimum area of 30,000 square feet.
2. Setbacks: Every structure, including gasoline pumps and other equipment, erected or installed for use as a gasoline service station shall have a minimum setback from the road right-of-way as required by the regulations in the zone in which they are to be located, and a minimum setback from all property lines of fifty (50) feet.
3. Construction Standards: All vehicle service areas shall be constructed to conform to the following standards:
  - a. Suitable separation shall be made between the pedestrian sidewalk and vehicular parking or moving area with the use of appropriate bumper, wheel guards or traffic islands.
  - b. The entire area used for vehicles service shall be paved with a hard surface, except for such unpaved area as is landscaped and protected from vehicle use by a low barrier.
  - c. Hydraulic hoist, lubricating, greasing, washing, and repair equipment shall be entirely within a building. Tire and battery service and minor automobile repair, excluding automobile body repair and painting, are permitted if conducted entirely with a building.
  - d. The maximum widths of all driveways at the public sidewalk crossing or road like shall be no more than twenty four (24) feet.
  - e. Minimum angle or driveway intersection with the roadway from the curb line to lot line shall be no less than sixty (60) degrees.
  - f. The minimum distance of any driveway from any property line shall be at least twenty (20) feet.
  - g. The minimum distance between roadway curb cuts shall be no less than sixty (60) feet.
  - h. All accessory retail or restaurant uses shall be located within the primary building.
  - i. All outside storage areas for trash shall be screened by a six-foot tall decorative wall or fence on three sides and opaque gates on the fourth side.
  - j. All surfaces necessary for vehicular movements shall be paved with a dustless permanent surface while any unpaved open areas shall be covered with grass or ground-cover and protected by a low barrier or curb or landscaping.
  - k. All side and rear property lines shall be buffered by a double row of staggered five-foot tall evergreen trees planted on eight foot centers.
4. Lighting: All exterior lighting shall be erected and hooded so as to shield the glare of such lights from view from adjacent properties. Maximum illumination for under canopy lighting is 15 foot-candles. Canopy lighting shall be recessed such that the light source cannot be seen from off site. In no instance shall such lighting exceed a brightness of 1.0 foot-candles as measured at the commercial property line and 0.1 foot-candles at all residentially zoned or used p

C. Battery Energy Storage System – Utility Scale

All utility-scaled Battery Energy Storage Systems (BESS) shall comply with the following requirements:

1. Location: These systems shall only be located within the F&FR zoning district.

2. Siting: The minimum site size for a BESS shall be 20 acres.
3. Setbacks: All battery storage facilities shall be setback at least 500 feet from all adjoining property lines.
4. Noise: The maximum sound at the non-participating property lines shall not exceed 45 dBA.
5. Secondary Containment: Engineered drawings shall be provided that illustrate secondary containment for any necessary firefighting activities.
6. First Responder Training: Prior to construction, the applicant will provide Roscommon County first responders with training necessary for addressing emergency response during construction, and prior to operation, additional training shall be provided to address all potential operational emergency issues.
7. Decommissioning: A decommissioning plan meeting or exceeding the requirements as detailed in Public Act 233 of 2023 shall be accepted by the Township prior to commencement of construction activities.

#### D. Home-based Businesses – Class 2

Class 2 Home-based business shall be permitted in all F&FR and RR districts as a special use as long as the commercial use is clearly secondary and incidental to the residential primary use and shall not result in a change to the essential residential character of the premises including dwelling and yard area. These operations shall meet the following additional conditions:

1. The business operations shall not produce any noise, odors, vibration, fumes, or smoke detectable to normal sensory perception beyond the lot lines.
2. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all operation of the business.
3. Less than 10,000 square feet of outdoor area shall be devoted to storage of vehicles and equipment. This outdoor vehicle and equipment area shall be at least 50 feet from any adjoining lot lines and buffered by intensive landscaping or structures. This buffering will prevent the storage area from being visible from adjacent properties or roadways.
4. Any light manufacturing activities shall occur completely within a building and not occupy more than 2,000 square feet of a structure.
5. No more than three non-resident workers may work on-site at any one time.
6. On-site work and loading activities shall only occur between the hours of 7 AM and 8 PM Monday through Saturday, and the Planning Commission shall be able to limit hours further based upon nature of the activities, proximity to neighboring properties, and potential impacts upon neighbors.
7. Bulk storage of materials shall not be permitted.
8. No on-site sales of any manufactured products shall be permitted.

#### E. Mobile Homes as Accessory Dwellings

1. Permitted on forty (40) acres or more of land uses for agricultural production with the following conditions:
  - a) The parcel has a principal farm dwelling located on it.

- b) The farm parcel is at least forty (40) acres in area for the first mobile home, and an additional forty (40) acres for each additional mobile home.
- c) The occupants meet either one of the following conditions:
  - 1) Have a direct family relationship to those persons occupying the principal farm dwelling.
  - 2) A full-time employee of the occupants of the principal farm dwelling and engaged in an agricultural occupation on the farm on which the mobile home is located.
- 2. Both 1. and 2. shall also meet the following additional conditions:
  - a) Mobile homes used for this purpose shall be limited to only one (1) per single family residential lot or one (1) per each forty (40) acres of a farm parcel.
  - b) Mobile homes used for this purpose shall have immediate and unlimited access to all facilities located in the principal dwelling or on the farm or single family residential lot for the maintenance of proper health and sanitation, including potable water and sanitary disposal facilities for solid and liquid wastes.
  - c) All accessory mobile homes shall be located within the appropriate setback lines for the yard in which they are located, except that no accessory mobile home shall be located in a front yard of a principal dwelling.
  - d) Zoning permits shall be approved by the Planning Commission and reviewed annually thereafter for continued need and compliance.
  - e) Zoning permits issued for such use shall terminate at such time that any one or combination of the above conditions cease to be met.
  - f) Prior to the issuance of a zoning permit the owners of the principal use shall post a five hundred dollar (\$500) financial guarantee as prescribed by the Township Board.

F. Extraction of Natural Resources

1. Permitted Uses:

The following special uses will be permitted only in the F & FR District and when applicable, in conformance with PA 451 of 1994, as amended.

- a) The excavation or mining of sand and gravel. The incidental excavation of sand and gravel for on-site use only are excluded from the regulations of this Ordinance except for the setback and yard requirements specified in the F&FR Agricultural Residential District.
- b) The processing, storage, loading, and transportation of sand and gravel, incidental to its marketing.
- c) The mining of clay.
- d) The extraction of peat or marl.
- e) The quarrying of stone.
- f) The operation of transit-mix concrete plant.
- g) The operation of a concrete products plant.

2. Permitted Accessory Uses:

Any use customarily incidental to the permitted Principal Special Use.

3. Extractive Mining Area. Bulk and Equipment Location Requirements:

- a) Limits of Excavation: Sufficient setback shall be provided from all property lines and public highways, to assure adequate, lateral support. Minimum allowable setback shall be fifty (50) feet from any property line and seventy-five (75) feet from any public highway or road.
- b) Placement of Processing Plants: The permanent processing plant and its accessory structures shall not be closer than 250 feet from any property line or public highway or road.
- c) Elevation of Plant Site: Wherever practicable, the permanent processing plant shall be located within the excavation area, at a point lower than the general level of the surrounding terrain, in order to reduce the visual impact of the plant structure.
- d) Management of Storage Piles and Overburden: Storage piles of processed material and overburden stripped from mining areas shall not be located closer than fifty (50) feet from any property line, or one hundred (100) feet from any public highway or road.
- e) Minimum site area for natural resource extraction sites under this Ordinance shall be twenty (20) acres.

4. General Requirements:

Natural resource extraction operations shall be carried out under the conditions of a Mining Permit, issued and maintained under the following requirements:

- a) Before commencement of mining operations, the operating company shall file an operational plan with the Township Planning Commission, which plan and any necessary subsequent revisions shall be approved by the Commission, setting forth the area or areas to be mined, the location of permanent structures, the points of access upon public highways, and the highway routes to be followed in the transportation of finished materials. This plan, and any approved necessary subsequent revisions, shall be filed with the Zoning Administrator by the Planning Commission.
- b) The operational plan, which shall be submitted to and approved by the Planning Commission, shall include a determination of the net operational areas, i.e., the area stripped of overburden, the area being mined, the area used for structures and storage piles, and worked out areas, which have not been reclaimed. Performance bonds, hereinafter considered in relation to the reclamation of the area, shall be calculated on the basis of the net excavation and operational area as measured in acres.
- c) Upon commencement of mining operations, perimeter controls shall be established for the mining area:
  - 1) Earth berms, which shall be constructed to a height of five (5) feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or five (5) feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one (1) foot vertical to four (4) feet horizontal, and shall be planted with grass, trees and shrubs.
  - 2) Screen plantings of coniferous or other suitable species at least five (5) feet in height, in rows parallel to the boundary of the property, with the spacing of rows

and the spacing of trees within rows, which shall be sufficient to provide effective screening.

- d) Sight barriers shall be provided along all boundaries adjacent to roads, which lack natural vegetative or terrain conditions, which provide effective screening of mining operations. Sight barriers shall consist of one (1) or more of the following:
    - 1) Earth berms, which shall be constructed to a height of five (5) feet above the mean elevation of the centerline of the public highway adjacent to the mining property, or five (5) feet above the general level of terrain along property lines. These berms shall have slopes not in excess of one (1) foot vertical to four (4) feet horizontal, and shall be planted with grass, trees and shrubs.
    - 2) Screen plantings of coniferous or other suitable species at least five (5) feet in height, in rows parallel to the boundary of the property, with the spacing of rows and the spacing of trees within rows, which shall be sufficient to provide effective screening.
  - e) Noise and vibration shall be minimized in their effect on adjacent properties by the proper use of berms, walls, and screen plantings. In addition, all equipment used for the production of sand and gravel shall be constructed, maintained, and operated in such a manner as to eliminate, as far as is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity.
  - f) Air pollution in the form of dust and dirt shall be kept at a minimum. All equipment used for production of sand and gravel shall be operated in such a manner as to minimize, insofar as is practicable, dust conditions, which are injurious, or substantially annoying to persons living in the vicinity. Interior roads serving the mining operation shall be paved, treated, or watered, insofar as is practicable, to minimize dust conditions.
  - g) No mining of sand or gravel shall take place within the specified distance from the margin of any stream or waterway as established by the Michigan Department of Environment, Great Lakes, and Energy.
5. Reclamation of Mined Areas:
- a) All natural resource extraction areas shall be reclaimed and rehabilitated as soon as may be practicable after each mining phase has been completed in accordance with the plan approved by the Planning Commission. Wherever the operational plan shall permit, reclamation shall be accomplished concurrently with phased mining operations, i.e., a mined-out phase section of the area may be undergoing rehabilitation while a second phase may be undergoing rehabilitation while a second phase may be undergoing active mining, and a third phase area may be being stripped of overburden. Substantial completion of reclamation shall be effected for one phase of the three (3) permitted to be opened at any one time for extraction purposes prior to the proceeding with the next approved phase. After all extraction operations are completed, the final phases of extraction shall be reclaimed in accordance with the approved final reclamation plan within one (1) year after all extraction has been completed.
  - b) Before commencement of mining operations, the operating company shall submit a generalized reclamation plan to the Planning Commission, setting forth the intended disposition of all land and water areas, the proposed configuration of the

terrain as shown on a topographic map, a plat of any proposed streets or other improvements to be made upon the property, and a general statement of the intended final utilization of the mined property. This plan, and any subsequent revisions, shall be approved by the Planning Commission before any zoning permit is issued by the Zoning Administrator.

- c) Rehabilitation and Reclamation of natural resource extraction areas shall be in accordance with the following standards:
    - 1) All excavation shall have either a water depth of not less than ten (10) feet below the average summer level of water in the excavation, or shall be graded or backfilled with non-noxious, non-inflammable and non-combustible solids in accordance with the approved Reclamation Plan in order to insure:
      - (a) that the excavated area shall not collect and retain stagnant water, or
      - (b) that the surface of such area which is not permanently submerged is graded or back-filled as necessary to produce gently rolling surface that will minimize wind and water erosion, and which will be generally compatible with the adjoining land area.
    - 2) The finished grade of all slopes resulting from excavations shall not be steeper than one (1) foot vertical to three (3) feet horizontal.
    - 3) Topsoil of a quality equal to that occurring naturally in the surrounding area shall be replaced on all excavated areas not covered by water, except those areas where roads, beaches, or other planned improvements are planned. Topsoil shall be applied to a depth of at least four (4) inches.
    - 4) Vegetation shall be restored by the appropriate planting of grass, trees and shrubs, in order to establish a permanent vegetative cover on the land surface, and to minimize erosion.
    - 5) Upon cessation of mining operations by abandonment or otherwise, the operating company, within a reasonable period of time, not to exceed twelve (12) months thereafter, shall remove all plant structures, buildings, stockpiles, and equipment.
  - d) The operating company shall post a minimum financial guarantee in the amount of \$5,000 for the first five (5) net operational acres. The financial guarantee shall be increased on the yearly anniversary date of the mining permit at the rate of \$1,000 per each additional operational acre, which exceeds the first five (5) net operational acres. The guarantee shall be provided in one of the following forms: (1) cash, (2) certified check, (3) irrevocable bank letter of credit, or (4) surety bond acceptable to the Township Board. Upon rehabilitation of mined acreage, and reduction of net operational area, the bond or security shall be released in accordance with the amount of security required per acre.
6. Administration of Mining Districts:
- a) The following procedures shall be followed before establishing a mining operation:
    - 1) The operating company shall file an operational plan, in accordance with the requirements of Section 4.D.5. of this Ordinance. This plan may be in the form of a written statement and maps, and shall carry evidence of review and approval, if required, by an County or State agency of competent jurisdiction, in addition to the required approval of the Township Planning Commission. On



the basis of this plan, the operating company shall file a statement of net area to be excavated as measured in acres.

- 2) The operating company shall file a reclamation and rehabilitation plan, subject to the requirements of Section 4.D.5.b. and shall provide a financial guarantee in accordance with the requirements of Section 4.d.5.d. of this Ordinance.
  - 3) The Township Planning Commission shall review the Operations and Reclamation plans and make its recommendation to the Township Board.
  - 4) The Township Board shall review the recommendation and accept or reject the plan. Upon acceptance of the plan, the Township Board will receive the financial guarantee of reclamation in accordance with Section 4.D.5.d. of this Ordinance.
- b) Before commencement of mining operations, a Mining Permit shall be issued by the Zoning Administrator upon payment of an annual fee in accordance with the established Higgins Township "Fee Schedule". This fee shall defray any administrative expense rising out of the mining operation.
- c) Inspections and Conformance:
- 1) Inspections shall be made of the mining site, not less often than twice in each calendar year by the Zoning Administrator in order to insure conformance with the requirements of the approved Special Use Permits.
  - 2) Any violations shall be reported in writing to the Township Board. The report shall be forwarded with a request for compliance, to the operating company by the Zoning Administrator.
  - 3) Failure on the part of the operating company to correct a reported violation within thirty (30) days after such request is made by the Zoning Administrator shall be reason for revocation of the permit. Additional time for correction of the cited violation may be allowed upon submission to the Zoning Administrator of proof of good and sufficient cause by the operating company, otherwise the operating company shall be declared to be in violation of this Ordinance and subject to the penalties of both the Ordinance and the Special Use Permit approved for the natural resource extraction operation.

7. Special Requirements:

- a) Waiver of Excavation Limits: The Township Zoning Board of Appeals may approve a reduction of the setback limits required for excavations in Section 4.D.3.a. under the following conditions:
- 1) The operating company shall have provided the Zoning Board of Appeals with acceptable proofs that lateral support shall not be endangered.
  - 2) Adjacent property owner or owners shall have given written consent to the waiver off-limits for excavation.
  - 3) All other requirements of this Ordinance have been met and maintained at the time of applying for and receiving approval of any waiver.

G. Housing for the Elderly in Detached Single Family Homes

Housing of the elderly aged 55 or older at two (2) per bedroom, up to a maximum of six (6), per detached single family dwelling is permitted; provided that the bedrooms

so used shall be in excess of the bedroom needs of the family occupying the detached single family home. The family needs shall be computed at two (2) family members per bedroom. Further, each two (2) bedrooms designated for the elderly shall be provided with a full bathroom for sanitary and bathing purposes which shall be located within ten (10) feet of the most accessible door of the respective bedroom it is designated to serve

H. Outdoor Kennels for Dogs

1. All dog kennels shall be operated in conformance with all applicable county, state and federal regulations; permits being valid no longer than one (1) year.
2. Buildings wherein dogs are kept, dog runs, and/or exercise areas shall not be located nearer than 200 feet to any occupied dwelling or any building on an adjacent parcel used by the public and shall not be located in any required front, rear or side yard setback area.
3. Such facilities shall be under the jurisdiction of the Planning Commission, and subject to other conditions and requirements of said body deemed necessary to insure against the occurrence of any possible nuisance by requiring necessary minimum distances, berms, fencing, sound proofing and sanitary requirements.

I. Roadside Stand

Each farm may have one (1) roadside stand for the purpose of selling produce or other products principally raised or produced on that farm in the course of its permitted agricultural activity. The stand shall be located and constructed to meet the following requirements:

1. The structure shall not be more than one (1) story in height.
2. The floor area shall not be more than 400 square feet.
3. The stand shall be located no closer than forty (40) feet from the nearest highway pavement or other traveled surface. In no case, shall the stand occupy any part of the right-of-way.

J. Temporary Mobile Homes Located Outside of a Mobile Home Park, including Trailers, Motor Homes, and Recreational Vehicles

From and after the effective date of this Ordinance, it shall be unlawful for any person to move a mobile home, travel trailer, motor home or recreation vehicle on to any lot, parcel or tract of land in the Township for any purpose, except as provided and permitted hereinafter in this section, or as specifically permitted elsewhere in this Ordinance.

1. Mobile homes, travel trailers, motor homes, and recreation vehicles shall be permitted when located on a farm having forty (40) acres or more for the occupancy of farm workers. The farm owner or lessee shall first make written application to the Planning Commission, who shall issue the permit for one (1) or more mobile home, travel trailer, motor home or recreation vehicle units if they meet the following conditions:
  - a) The location of each unit is not to be less than 100 feet from any public highway and/or boundary of adjoining property.
  - b) An adequate pure water supply and sanitary facility is conveniently nearby and available to meet all public health and safety requirements



of the occupants of each mobile home, travel trailer, motor home or recreation vehicle.

2. Mobile homes, travel trailers, motor homes or recreation vehicles shall be permitted for construction contractor purposes when located on a construction site approved by the Planning Commission. The applicant must furnish all pertinent data, including description of land to be used, number of mobile home, travel trailer, motor home or recreation vehicle units involved, and the expected length of construction time. The Zoning Administrator must verify that (a) the location of units will be not less than 100 feet from any public highway and/or boundary of adjoining property, and (b) adequate fresh water supply and sanitary facilities are available on site. A "Temporary Permit" shall be issued covering the period of the specific construction job, not to exceed one (1) year; subject to an extension approved by the Planning Commission for good cause which shall not exceed one (1) year.
  3. For parking or storage of mobile homes in F & FR, RR, UR & MHP Zoning districts refer to Section 5.170.
  4. For temporary occupancy of visitor-owned mobile homes and recreation vehicles refer to Section 5.170.
  5. Use of mobile homes as an accessory use for reasons of health and infirmity as provided in Section 5.05D.2.a-d.
- K. Temporary Transient Amusement Enterprises  
The following provisions shall apply in addition to all applicable regulations in the districts in which they are to be located:
1. All "Temporary Transient Amusement" uses shall be located on sites large enough so that the use does not occupy or cover more than fifty (50) percent of the area of a lot or parcel upon which it is located.
  2. All fenced-in areas shall be set back at least 100 feet from any front road or property line.
  3. Side and rear yards shall be at least 100 feet in depth from all adjacent lots or parcels.
  4. All traffic ingress or egress shall be on public roads and all local traffic movements shall be accommodated within the site so that entering and exiting vehicles will make normal and uncomplicated movements onto or off from public roads. All points of entrance or exit for motor vehicles shall be located no closer than 200 feet from the intersection of any two (2) roads or highways.
  5. Temporary Transient Amusement uses are not permitted in any F & FR, RR, UR & MFR residential district.
- L. Solar Structures  
Solar structures are permitted in all districts as long as the glare from exterior reflective solar panels is deflected so as not to cause glare to be transmitted to adjacent properties below the maximum height established for each district.
- M. Solar Energy System - Large  
For all off-site solar installations that exceed 1 MW in power generation:
1. All solar structures shall be set back one hundred (100) feet from all non-participating property lines and public and private road rights-of-way.

2. All solar structures shall be set back three hundred (300) feet from all non-participating residences.
3. The 100' required non-participating property line and road right-of-way setbacks shall include trees and shrubs natural to Roscommon County to obscure views of the solar panels from adjacent property lines and roadways.
4. All installations except for fencing shall be setback 100' from all public trails.
5. All installations except for fencing shall be setback 100' from all streams and wetlands.
6. A decommissioning plan shall be submitted by the applicant that includes a description of how the solar structures will be removed and the land restored and proposes a binding means of enforcing the plan.
7. All solar farm transformation equipment including inverters and generation facilities shall not exceed 45 dBA at all non-participating property lines.
8. The Planning Commission may require distribution voltage electrical transmission lines outside of the fenced array areas to be buried underground, where feasible, to preserve the Township's forested rural character.
9. Fences shall comply with national electrical code height requirements ~~be seven feet tall.~~
10. The Planning Commission may modify any required setback where it finds that compliance is impracticable and the modifications or waiver is protective of public health, safety, and welfare.

#### N. Wind Turbines

Wind turbines are permitted in all districts as long as the height of the wind turbine does not exceed the setback distance of the base of the wind turbine from the nearest property line.

#### O. Wireless Communications Towers

1. Except in the F&FR, the minimum lot size shall be five (5) acres.
2. The lot shall be so located that at least one (1) property line abuts a public thoroughfare and the ingress and egress shall be directly upon said thoroughfare.
3. The front yard setbacks and side and rear yards for each tower from adjacent right-of-ways and/or property lines shall be not less than one and one-quarter (1.25) times the height of each tower above the ground.
4. Unless specifically waived by the Planning Commission, an open air fence between four (4) and six (6) feet in height shall be constructed around the base of the tower and equipment cabinet.
5. Construction plans and supervision shall be done by an engineer licensed by the State of Michigan.
6. Collocation of new equipment on existing towers shall be permitted as allowed in the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

## Article 5 General Provisions

### Section 5.00 Purpose

The intent of this Article is to recognize that there are certain conditions concerning land uses that warrant specific exceptions, regulations, or standard in addition to the requirements of the Zoning district in which they are permitted to be located.

### Section 5.10 Accessory Buildings

Buildings or structures that are customarily incidental to the operation of the principal use permitted within the district are permitted. Accessory buildings, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

- A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
- B. Accessory buildings shall not be erected in any required yard, except a rear yard, but may be located in any non-required portion of any yard, except that a garage on a waterfront lot shall be the only structure permitted in front of a principal building.
- C. The total square area of all detached accessory buildings in a rear yard may not exceed the ground floor area of the main building in the UR district. In the event that there is five (5) or more acres of property, the accessory building may be larger than the primary structure. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than five (5) feet to any side or rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.
- D. When an accessory building is located on a corner lot, the side lot line which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard line required on the lot in the rear of such corner lot. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said buildings shall not project beyond the side yard line of the lot in the rear of such corner lot. All buildings and structures shall be set back from each street upon which they front or abut equal to the front yard setback.
- E. No accessory building shall be constructed before the primary dwelling.
- F. Non-Accessory Accessory Structures within the F&FR and RR districts - One non-accessory garage or non-accessory storage structure may be constructed without a principal structure if a septic field and water well, approved by the Central Michigan District Health Department, are constructed concurrently with the construction of the non-accessory accessory structure. All non-accessory accessory structures shall be subject to all other regulations of this Section.

### Section 5.20 Essential Services

- A. This shall include the erection, construction, alteration or maintenance by public utilities, municipal departments, or other governmental agencies of underground or overhead gas, electrical, communication, steam, or water transmission or distribution systems or collection, supply or disposal systems; including electric power stations, relay stations, gas regulator stations, pumping stations, poles, wires mains, drains, sewers, pipes, conduits, cables, towers, fire alarm boxes, police or other call boxes, traffic signals, hydrants and

other similar facilities, equipment and accessories in connection therewith reasonable necessary for furnishing adequate service by such utilities or agencies, or for the public health or safety or general welfare; but not including offices and buildings or yards used for bulk storage, fabrication, or manufacture of materials used by such utilities or municipal departments or other governmental agencies. No such building constructed as a part of an essential service, shall be used for human occupancy.

- B. The surface of land used for pipeline rights-of-way shall be restored and maintained as near as possible to its original conditions prior to the construction of the pipeline.
- C. Essential service in all districts shall meet the requirements of the UR Residential District for all buildings, structures and areas used for offices, power generators, power transformers, storage, fabrication or manufacture of materials necessary to the provision of essential services.

**Section 5.30 Use of Yard Space**

No yard surrounding a dwelling, building or structure utilized for dwelling purposes, except farm dwellings, shall be used, occupied or obstructed by accessory buildings or structures, either permanently or temporarily and no dismantling in whole or in part of junked vehicles, machinery, second-hand building materials, or other discarded, disused or rubbish-like materials or structures. A side or rear yard may be used for the parking of not more than five (5) passenger automobiles in active service or for the location, parking, disposition, storage, or deposit.

**Section 5.40 Lot-Building Relationship**

Every building erected, altered, or moved shall be located on a lot as defined herein, and there shall be no more than one (1) principal building and its permitted accessory structures located on each lot

**Section 5.50 Damaged Building or Structure**

Any building that has been partially destroyed by fire or is in such a state of disrepair as to be uninhabitable and a hazard to the public health and safety shall either be entirely removed or repaired within twelve (12) months from the date of the occurrence of the damage.

**Section 5.60 Sanitary Code Compliance**

All occupied buildings that require a certificate of occupancy shall meet the requirements of the Central Michigan Health District Health Department Sanitary Code for water supply and septic service.

**Section 5.70 Access to Public Road or Highway**

Any lot of record created prior to the effective date of this Ordinance without any frontage on a public road or way shall not be occupied, except where access to a public road or way is provided by a public or private easement or other right-of-way no less than twenty (20) feet in width, and provides a travel lane that meets the requirement for a shared driveway as found in Section 5.270.

Existing privately owned lots located in F & FR that landlocked by land owned by the State of Michigan Department of Natural Resources (DNR) may receive zoning and building permits issued by the Township's building and zoning administrator to the owners of these landlocked parcels without regard to legal access rights to and from said parcel of land. Any permit issued shall warn the property owner that the State of Michigan DNR can and

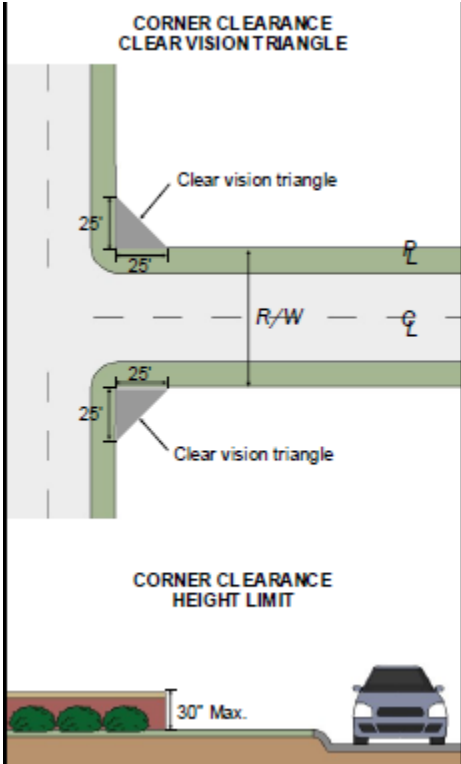
may revoke any right of public access, including the property owner, to utilize any access route and Higgins Township does not and cannot guarantee any rights of access. The property owner shall be required to execute a written Waiver of Liability and Indemnification Agreement, on a form approved by the Township.

**Section 5.80 Frontage on a Public or Private Road**

In any zoning district, every use, building or structure established after the effective date of this Ordinance shall be on a lot or parcel that fronts upon a public or private road right-of-way that meets all of the requirements for road construction as specified by the County Road Commission or is served by a shared driveway that meets the requirements for a shared driveway as found in Section 5.270.

**Section 5.90 Clear Vision Triangle**

In all districts, no fence, wall, shrubbery, sign or other obstruction to vision above the height of thirty (30) inches from the established street grades shall be permitted within a clear vision triangular area at the intersection of any street drawn at said right-of-way lines at a distance along each line of twenty five (25) feet from their point of intersection. Trees may be permitted within the clear vision triangle if all limbs are trimmed up to a minimum height of ten feet from roadway grade.



**Section 5.100 Height Regulations**

The height requirements established by this Ordinance shall apply informally in each zoning district to every building and structure except that the following structures and appurtenances shall be exempt from the height requirements of this Ordinance: spires, belfries, penthouses and domes not used for human occupancy, chimneys, ventilators, skylights, water tanks, bulkheads, utility poles, power lines, radio, television and other communication broadcasting and receiving antennae not directly linked to residential structures, silos, wind-driven electricity generators, parapets and other necessary mechanical appurtenances; provided, their location shall conform where applicable to the requirements of the Federal Communications Commission, the Michigan Aeronautics Commission, other public authorities having jurisdiction and any regulations established by authorized State, County and Township agencies and the provisions of P.A. 23 of 1950, "The Airport Zoning Act".

**Section 5.110 Outdoor Pools**

Private pools when eighteen (18) inches or more in depth shall be permitted as an accessory use within the rear and side yards only provided they meet the following requirements:

- A. There shall be a distance of not less than twenty (20) feet between the adjoining property line and outside of the pool wall.
- B. There shall be a distance of not less than six (6) feet between the outside pool wall and any building located on the same lot.
- C. No swimming pool shall be located less than fifty (50) feet from any front lot line.

- D. If electrical service drop conductors or other utility wires cross under or over a proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation of wires before a permit shall be issued for the construction of a swimming pool.
- E. No swimming pool shall be located in an easement.
- F. All pools shall be protected by an approved security system including fencing with locking gates, automated safety covers, or other means. The Zoning Administrator or Building Official shall approve these safety measures prior to initiation of construction.

### **Section 5.120 Home-based Business – Class 1**

Class 1 Home-based business shall be permitted in all F&FR and RR districts as long as the commercial use is clearly secondary and incidental to the residential primary use and shall not result in a change to the essential residential character of the premises including dwelling and yard area.

- A. The business use shall not produce any noise, odors, vibration, fumes or smoke detectible to normal sensory perception beyond the lot lines.
- B. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all operation of the business.
- C. Only three vehicles and trailers loaded with equipment may operate from a single premises.
- D. No outside storage of materials or equipment shall be permitted. All equipment not being used shall be stored inside of a garage or accessory structure.
- E. Vehicle and equipment storage shall be at least 50 feet from adjoining lot lines and buffered by landscaping or structures from being visible from adjoining properties or public roadways.
- F. All parking of employee vehicles and any equipment shall occur in a parking area outside of the road right-of-way.

### **Section 5.130 Home Occupations**

Home occupations shall be permitted in all detached single family residential dwellings and include such customary home occupations as: hairdressing, millinery, dressmaking, bookkeeping and accounting service, real estate and insurance sales; professional office, woodworking, arts and crafts, pottery making, antique collection and sales, and other similar occupations and other home occupations legally operating in detached single family homes at the time of adoption of this Zoning Ordinance.

- A. The non-residential use shall be only incidental to the primary residential use.
- B. The occupation shall utilize no more than twenty-five (25) percent of the ground floor area of the principal structure.
- C. Only nominal domestic or household equipment and equipment characteristic of small workshops, businesses and professional offices shall be used to accommodate the home occupation.
- D. The home occupation shall involve no employees other than members of the immediate family.
- E. All activities shall be carried on indoors. No outdoor activities or storage shall be permitted.
- F. No alterations, additions, or changes to a principal structure which will change



the residential character of the dwelling structure shall be permitted in order to accommodate or facilitate a home occupation.

- G. There shall be no external evidence of such occupations, except a small announcement sign not to exceed two (2) square feet in area in an F&FR, RR, and UR District, and is not required to be attached to the principal structure, but the sign shall not be located in any road right-of-way or easement.
- H. The permission for home occupations as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance; but such permission is not intended to allow the essential residential character of Residential Districts, in terms of use and appearance, to be changed by the occurrence of home occupations.

**Section 5.140 Temporary Buildings and Structures**

Temporary buildings and structures, including informational, for sale and similar signs, are permitted during the period of construction, and sales involving change of ownership or rental occupancy. Such buildings, structures and signs shall be removed upon completion or abandonment of construction, sale or rental activities and prior to occupancy and use of the building or structure for permitted uses. Prior to the issuance of a permit for temporary buildings and structures the applicant must deposit to the credit of the Township a \$3000 surety bond, cash deposit of \$500 or a letter of credit in the amount of \$500 from an incorporated financial institution or bonding company licensed to do business in the State of Michigan. Temporary signs having an area of less than 24 sq. ft. shall be excluded from this provision.

**Section 5.150 Driveways, Entrances, and Gates**

In driveway entrances, or gateway structures; including, but no limited to, walls, columns and gates marking driveway entrances to private or public uses may be permitted; and may be located in a required yard, except as provided in Section 5.80 "Clear Vision Triangle", provided that such entranceway structures shall comply with all codes and ordinances of the Township and County and shall be approved by the Zoning Administrator.

**Section 5.160 Parking and Storage of Mobile Homes, Trucks, Travel Trailer on Residential Lots**

Within the F&FR, RR, and UR districts, storage of not more than two (2) non-residential type recreational vehicles shall be completely within the side and rear yards or completely enclosed within the side and rear yards or completely enclosed within a structure.

**Section 5.170 Temporary Transient Uses**

Temporary construction offices and the outdoor storage of construction equipment and materials are permitted by right in all zoning districts as a Temporary Construction Yard provided the location of all temporary buildings and structures comply with the setback requirements of the zoning district and all buildings and structures are removed within three months of the completion of construction, unless such time period is extended by the Planning Commission for good cause shown.

Other temporary transient use of an existing land site, building or structure may be permitted in any district upon approval of the Planning Commission, and upon finding that the location of such an activity will not adversely affect public health, safety, and general welfare in the district in which it is to be temporarily located. All temporary transient uses, if approved by the Planning Commission, shall have a reasonable time limit placed upon their use based upon the normal periods of time such uses need to exist for an expressed number of days authorized by the

Planning Commission. Temporary transient uses may be granted a permit on the basis of compliance with the criteria stated in Section 12.30, "Site Plan Review".

**Section 5.180 Use of Mobile Homes as Temporary Dwellings by Visitors**

Mobile homes, travel trailers, motor homes, and recreation vehicles shall be permitted when parked by visitors in a side or rear yard of a permitting dwelling owner or lessee without charge, upon application by the owner or the issuance of a "Temporary Permit" by the Zoning Administrator. Application shall be made within seven (7) days after the date of arrival. The property owner or lessee shall present a written agreement to furnish the occupants of the mobile home, travel trailer, motor home or recreation vehicle with sanitary facilities approved by the Township. A "Temporary Permit" may only be issued to one (1) mobile home, travel trailer, motor home or recreation vehicle at a time in any one location and shall be valid for a maximum period of thirty (30) days. Extensions of time shall not be permitted and the mobile home, travel trailer, motor home or recreation vehicle shall be removed from the property on or before the 30<sup>th</sup> days of the permit period.

For parcels within the F&FR and the RR districts without a primary structure, a "Temporary Permit" may be obtained for a single mobile home, travel trailer, motor home, or recreational vehicle for up to a maximum of 260 days within the period of March 15<sup>th</sup> to November 30<sup>th</sup> of each year. No mobile homes, travel trailers, motor homes, or recreational vehicles shall be permitted to be stored on such parcels without a "Temporary Permit" or outside of this specific time period.

**Section 5.190 Building Grades**

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls. All surface waters created by new buildings or impervious surfaces related to site development must be retained on-site and cannot be allowed to flow off-site.

**Section 5.200 Moving Buildings**

Buildings may not be moved into or relocated within the Township unless the building design and construction are compatible with the general architectural character of other structures located in the immediate area of the proposed site. Site Plan Approval shall be required for such buildings moved from the Planning Commission, and the placement of moved buildings must be within conformance of all Zoning Ordinance requirements including setbacks that are in force at the time of the relocation.

**Section 5.210 Television Satellite Receiving Dishes**

All television satellite receiving dishes are designated accessory uses to the principal uses permitted on each lot or parcel in each respective zoning district, and are governed by the same requirements as any other accessory use permitted in each zoning district. They may be located in a side or rear yard but not in a front yard. They may be erected on top of buildings and structures.

**Section 5.220 Use of Financial Guarantees Due to Seasonal Weather**

If in the judgment of the Planning Commission, during the course of Site Plan Review Procedures, it appears prudent to permit the delay of constructing certain provisions as required in this Zoning Ordinance, the Planning Commission may grant such a delay to a specific future date provided that the applicant/owner submits a satisfactory financial guarantee to the Township Board. The financial guarantee shall remain in effect prior to or coincident with the



issuance of the zoning permit and shall remain in effect until the requirements so delayed are fully completed and approved by the Zoning Administrator

**Section 5.230 Household Pets**

Small domesticated household pets, such as dogs, cats, birds, and other animals are limited to the maximum number normally existing in normal family homes in the Township which is generally no more than four (4). If more than four (4) are desired, as long as all other County, State and Federal laws are complied with, and an additional land equal to one-sixth (1/6) acre per animal is provided, additional domesticated household pets will be permitted up to a maximum of six (6).

**Section 5.240 Non-commercial Domestic Animals**

Large domestic animals which are used essentially for pet, contest, riding, educational or other special purpose as individual animal specimens are permitted at the rate of one (1) per acre on a minimum of five (5) acres for the first animal and one (1) acre for each additional animal are permitted in F&FR, RR & UR Districts.

**Section 5.250 Mobile Homes as Accessory Dwellings for the Sick and Infirm**

Mobile homes shall be permitted as an accessory dwelling on a single family lot in any zoning district with the following conditions:

- A. The lot or parcel has a principal single family dwelling occupied and used located upon it.
- B. The lot is a legal lot or parcel of record.
- C. The occupants occupying and using the mobile home have a need as determined by their acquisition of a physician's certificate prescribing the need for such housing during the period of illness or infirmity.
- D. The mobile home shall not be placed in the front yard or any other required yard setback.
- E. The mobile home shall be connected to the primary permitted dwelling's potable water and septic services.
- F. Upon conclusion or termination of the need the mobile home shall be removed from the premises within ninety (90) days.

**Section 5.260 Mobile Home Compatibility**

Mobile homes when constructed outside of a mobile home park shall be compatible with standard houses with a roof pitch of at least 3 over 12 and similar exterior cladding as found on standard constructed houses. When a mobile home is not constructed with a continuous solid foundation wall but by piers or other forms of open foundations, the mobile home shall be skirted with no less than twenty-six (26) gauge metal and connected with a rat-proof wall or slab, so constructed and attached to the mobile home as to make it impossible for the entrance of rodents, flies, bugs, or other insects. One access door in the skirting shall be permitted and a screen vent shall be installed along such skirting at intervals of twenty (20) feet so as to provide adequate cross-ventilation.

**Section 5.270 Use of Trash Bins**

All trash bins and/or trash containers are designated accessory uses to the principal uses permitted on each lot or parcel in each respective zoning district, and are governed by the same requirements as may other accessory use permitted in each zoning district. They shall be only stored in a side or rear yard but not in a front yard. For collection, they shall be brought to and left out at the road side for the maximum of a twenty-four (24) hour period.

### Section 5.280 Extended Length Driveway

(See definition of "Extended Length Driveway"). All Extended Length Driveways shall have an improved drive lane (paved or compacted gravel) of not less than ten (10) feet in width, with cleared shoulders providing a total horizontal clearance of at least fourteen (14) feet. The improved drive lane and shoulder shall have a height clearance of at least (14) feet, and shall be constructed and maintained in a manner suitable for access by emergency vehicles.

### Section 5.290 Shared Driveways

Shared driveways may provide access for up to four (4) parcels off of a public or private roadway. The minimum width of the improved drive lane (either paved or gravel) shall be no less than fourteen (14) feet in width with two (2) feet of improved shoulder on each side of the drive. Any stream crossing that utilizes a bridge or culvert shall be constructed and maintained in such a manner that it suitable for emergency vehicle access. Fourteen feet (14) feet of vertical access shall be maintained over the drive lane for the entire length of the shared driveway. Shared driveways shall not extend more than four hundred (400) feet for the point that it leaves a public or private road. A permanent access easement of at least twenty-five (25) feet wide shall be recorded at the Roscommon County Register of Deeds that ensures permanent access for the properties that utilize the shared driveway.

### Section 5.300 Private Road Development

- A. General Requirement: In any zoning district where a private road is allowed, every use, building or structure to be served by a private road must first have such private road established and approved as set forth herein before a zoning and/or building permit may be issued.
- B. Application and Process:
  1. An application for a private road shall be submitted to the Zoning Administrator along with an application fee as determined by Resolution of the Township Board. The application shall include the following:
    - a) The applicant's name and address in full.
    - b) The owner(s) of the lots to be serviced by the private road.
    - c) A written description of the proposed development to be served by the private road.
    - d) A sealed construction plan and/or site plan specifically showing the proposed location of the private road, all existing or proposed lots adjoining any portion of the proposed private road, proposed grades, drainage systems, and signage, and shall otherwise evidence compliance with the private road construction standards and requirements set forth herein.
    - e) A Maintenance Agreement with a detailed description of how and by whom the private road will be maintained and repaired, who will be financially responsible for extending and/or enlarging the private road to serve additional lots in the future, including provisions for the assessment of maintenance fees to be paid by the owners of benefited lots and as further specified in Section 5.280.D.7. Such property owner maintenance agreement, and any revised version of same required by the Zoning Administrator, shall be in recordable form and shall provide that the obligations there under run with the benefited lots.

- f) A written Waiver of Liability and Indemnification Agreement, on a form approved by the Township, releasing Higgins Township and Roscommon County from any liability for any claims of whatever nature resulting from or relating to the construction, maintenance/repair, or use of the private road. Such agreement shall include the witnessed and notarized signatures of the owners of all lots adjoining any portion of the proposed private road, and shall extend to the successors and assigns of said lot owners.
2. The application form and all required application materials shall be reviewed by the Zoning Administrator for administrative completeness. An administratively complete application shall be processed and reviewed by the Zoning Administrator. The Zoning Administrator may engage the services of the Township Attorney and/or the Township Engineer in the review of the application. Provided the Zoning Administrator determines that the applicant has met the standards for approval, the approval shall be considered a "tentative" approval unless and until the Zoning Administrator gives final approval pursuant to subsection F herein.
- C. Review Standards: The Zoning Administrator shall review the application and supporting materials to determine whether the proposed private road can and will be constructed and maintained as required herein.
- D. Construction and Maintenance Standards and Requirements for a Private Road
1. The private road shall be constructed with a deeded and recorded easement or right-of-way width of at least 66' for its entire length.
  2. The private road shall be constructed parallel to, and as close as practical to, the center line of the easement or right-of-way.
  3. The private road shall be constructed in accordance with the appropriate public road standards and specifications. The private road is not required to be paved, but if a paved surface is to be applied, the private road must be constructed in accordance with the Roscommon County Road Commission's paved public road standards and specifications.
  4. Evidence shall be submitted to the Zoning Administrator that such private road has been named, and the name of such road has been accepted by the Township Board, and that the dwelling(s) or principal structure for which a building permit is sought will be designated by a number so as to facilitate fire protection and other emergency services.
  5. All permits required by the Roscommon County Road Commission and other County/State permits shall be obtained.
  6. Upon construction the private road shall be properly maintained.
  7. A private road Maintenance Agreement shall provide for the perpetual private (nonpublic) maintenance of the private road and shall contain necessary and reasonable standards to serve the several interests involved. The Maintenance Agreement shall contain as a minimum the following provisions.
    - a) A method of initiating the financing of the private road in order to keep the road in good and useable condition and to continuously meet the standards contained in this Section 5.280.
    - b) A workable method of apportioning the cost of maintenance and improvements.

- c) A provision that all land owners gaining access from the private road irrevocably and perpetually consent to the establishment of a special assessment district to ensure the proper maintenance of the private road.
  - d) A notice that no public funds of Higgins Township are to be used to build, repair or maintain the private road.
  - e) Easements to the public for the purpose of emergency and other public vehicles for whatever public services are necessary.
  - f) A provision that the owners of any and all property using the private road shall refrain from prohibiting, restricting, limiting or in any manner interfering with the normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitee, tradesmen, and others bound to or returning from any of the properties having the right to use the road.
- E. Certification of Construction/Inspection Fee: Upon completion of construction of the private road the applicant shall submit to the Zoning Administrator the certification of a registered civil engineer stating that the private road has been completed in accordance with the site plan and construction plan, and the tentative approval. The certification shall be accompanied by such reasonable inspection fee as may be established by Resolution of the Township Board. The Zoning Administrator shall review the certification and inspect the constructed private road with such assistance from the Township Engineer or other designee as may be necessary to determine compliance. The Zoning Administrator shall identify any deficiencies therein and inform the applicant of same. (notwithstanding the foregoing, the certification of a registered civil engineer shall not be required with respect to a private road in accordance with the site plan and construction plan shall be verified by inspection of the Zoning Administrator or designee). The tentative approval of the private road shall be considered final upon the Zoning Administrator's verification of the following:
1. The completion of the private road as required, including the correction of any deficiencies identified by the Zoning Administrator.
  2. Proof of recording in the records of the Roscommon County Register of Deeds of the fully executed Maintenance Agreement and the fully executed Waiver of Liability and Indemnification Agreement.
  3. Proof that the applicant has furnished the location and description of the completed private road to the Roscommon County Sheriff's Department to be coordinated with the 911 emergency services network serving the area.
- F. Issuance of Permits: Final approval of the private road by the Zoning Administrator shall be required before a building permit is issued for any construction on lots served by the private road and/or before a zoning permit is issued.
- G. Maintenance and Repair Responsibility: All maintenance, repair and responsibility for a private road shall belong exclusively to the right-of-way owner/owners of benefited lots, and in no circumstances shall the Township have any responsibility or liability therefore. Further, the Roscommon County Road Commission shall have no responsibility for an approved private road, unless and until such private road is accepted by the Roscommon County Road Commission as dedicated public road.
- H. Prior Nonconforming Private Roads/Conforming Private Road Upgrade: Any existing lawfully created private road/dive shall not be extended or expanded to serve additional lots unless such private road is approved by the Zoning Administrator as provided herein.



## Article 6 General Development Design

### Section 6.00 Purpose

The purpose of this article is to centralize the design requirements related to the construction of improvements within the Township. These requirements are designed to improve the overall appearance of the community and ensure that developments operate safely while limiting adverse off-site impacts.

### Section 6.10 Performance Standards

Except for agricultural operations using generally recognized, good farming techniques, no use otherwise allowed shall be permitted within any district which does not conform to the following minimum requirements and standards of use, occupancy and operation:

- A. **Smoke.** It shall be unlawful for any person, firm or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 of the Ringlemann Chart; provided that the following exceptions shall be permitted; smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period, or periods aggregating four minutes in any thirty minutes.
- B. **Dust, Dirt and Fly Ash.**
  - 1. No person, firm or corporation shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using said process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gas borne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
  - 2. Method of Measurement: For the purpose of determining the adequacy of such devices these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty (50) percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The Building Inspector or Official may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt and fly ash have been made.
- C. **Open Storage.** The open storage of any industrial or commercial equipment, vehicles, and all materials, including wastes, except new vehicles for sale and/or display, shall be screened from public view, from a public street and from adjoining properties by an obscuring wall or fence not less that the height of the equipment, vehicles, or materials to be stored. Whenever such open storage is adjacent to any residential zone, the required obscuring all or fence shall be at least six (6) feet in height. In no instance shall any open storage of equipment, vehicles, and/or materials be permitted within a required front yard in any zoning district.
- D. **Glare and Radioactive Materials.** Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electro-magnetic radiation such as x-ray machine operation, shall not be emitted

to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.

- E. **Fire and Explosive Hazards.** The storage and handling of flammable liquids, liquefied petroleum, gases, and explosives shall comply with the State Rules and Regulations as established by Public Act. No. 207 of 1941, as amended.
- F. **Noise.** No operation or activity shall cause or create noise that becomes a nuisance to adjacent uses.
- G. **Odors.** Odorous matter released from any commercial or industrial use or district shall not exceed the odor threshold concentration beyond the property lines when measured either at ground level or habitable elevation.
- H. No garbage, sewage, filth, refuse, waste, trash, debris, or rubbish, including cans, bottles, waste paper, cartons, boxes, and crates, or other offensive or obnoxious matter shall be piled, placed, stored, or dumped on any land within the Township until the operator has obtained a landfill permit from the Michigan Department of Natural Resources and special land use approval pursuant to Section 4.39 of this Ordinance. All uses in every zoning district shall place waste materials in an appropriate covered container and properly dispose of same at least once every fifteen (15) days in accordance with State Law and Township Ordinance. Nothing contained herein shall prevent the reasonable use of fertilizers, manures, and similar materials for the improvement of land utilized for agricultural purposes where such use does not constitute a public or private health hazard.

## Section 6.20 Landscaping and Screening

- A. Purpose: The intent of this section is to provide general landscaping and screening requirements that will enhance the aesthetic character of the Township, protect property values by buffering uses from each other, support the rural character of the Township, and assist in accomplishing the goals of the Master Plan.
- B. Applicability: All uses subject to site plan approval according to Section 12.30 shall provide landscaping and screening according to this Section.
- C. Landscaping Requirements
  - 1. In UR and MHP districts, street canopy shade trees shall be planted in a row within ten feet along the right-of-way line on forty (40) foot centers along the entire lot frontage.
  - 2. In NSC, GSC, and I districts, frontage landscaping shall be provided to buffer the commercial and industrial uses from the roadway and to retain a more rural character to the development. For each forty (40) feet lineal feet of frontage, one deciduous canopy shade tree and six evergreen trees shall be planted. The required evergreen trees may be spread across the entire frontage or planted in clusters of up twelve (12) evergreens each. Frontage landscaping shall be planted within fifteen feet of the front property line. Installation of additional trees, decorative shrubs, perennials, and decorative grasses are encouraged within the frontage landscape areas.
  - 3. Parking Lot Landscaping:
    - a) Landscaping in the parking lot areas within NSC, GSC and I districts is intended to provide visual and intrinsic environmental benefits while reducing negative impacts including heat island effect, blight, and stormwater run-off. Parking lot trees must be located within ten (10) feet of the parking lot.
    - b) The number of required parking lot trees based on size are as follows:



- 1) Parking lot areas containing less than twenty (20) parking spaces are not required to plant parking lot trees.
- 2) Parking lots areas containing fifty (50) parking spaces or less shall provide one (1) tree per six (6) parking spaces.
- 3) Parking lots areas containing fifty-one (51) or more parking spaces shall provide one (1) tree per five (5) parking spaces.
- 4) Parking lots fifty-one (51) or more parking spaces shall have one-third (1/3) of the required trees must be located within the interior or the parking lot envelop in an island or peninsula.
- 5) The minimum size for interior parking lot islands or peninsula shall be eight (8) foot width with a total gross floor area of two-hundred (200) square feet.
- 6) Placement of parking lot landscaping should be done in a manner that permits convenient snow storage during winter while protecting the required interior parking lot landscaping from damage caused by plows, snow mounding, and ice melter distribution and run-off.
- 7) Parking lot design encourages the use of connected islands with combination of spill ways into bio-swales or rain gardens.

1. Plant Materials:

- a) Canopy shade trees shall measure two inches in caliper at five feet diameter breast height.
- b) Evergreen trees shall measure five feet tall at the time of planting.

2. Plant Material: Plant material and grasses shall be of generally acceptable varieties and species, be comprised predominantly of species indigenous to the Roscommon County area, be free of insects and diseases, and not be prone to disease, low wood strength and/or high wood-splitting tendencies, such as box elder, mulberry and willows, unless specifically authorized otherwise during site plan approval. A mixture of plant species shall be required as a protective measure against insect and disease infestation.

3. Maintenance:

- a) Any required plant materials shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.
- b) All plant growth in landscaped areas be controlled by pruning, trimming or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard;
- c) All planted areas be maintained in a relatively weed-free condition and clear of undergrowth and irrigated at such intervals as are necessary to promote optimum growth.
- d) Any dead or diseased plants shall be replaced with the same or similar credited species of similar size in a timely manner.



4. Waivers and Modifications: Any of the requirements of this Article may be modified through site plan review proceedings, provided the approving body makes a finding that identifies characteristics of the site or site vicinity that would make required buffer areas, fencing, or screening unnecessary, inappropriate, or ineffective, or where it would impair vision at a driveway or street intersection.
  5. Non-recommended species: Certain species of trees should not be considered for planting due to a variety of reason but upon determination by the Planning Commission, may be permitted during site plan review. These species include:
    - a) Box Elder
    - b) Soft Maple (Amur, Hedge, Silver, Tatarian, Paperback, or Norway)
    - c) Black Locust
    - d) Honeysuckle
    - e) Colorado Blue Spruce
    - f) Austrian Pine
    - g) Buckhorn
    - h) Callery Pear
    - i) Non-disease resistant Elms (Lacebark, Siberian)
    - j) Poplars
    - k) Willows
    - l) Horse Chestnut
    - m) Catalpa/Tree of Heaven
    - n) Ash
    - o) Beech
    - p) Paper Birch
- D. Fencing Requirements:
1. The erection, construction, or alteration of any fence or other type of protective barrier shall be approved through permit by the Zoning Administrator as to their conforming to the requirements of the zoning districts wherein they are required because of land use development.
  2. Fences in an F&FR Districts are exempt from the provisions of this Ordinance, except when required for specific principal or accessory uses and special uses.
  3. Any existing fence not in conformance with this Ordinance shall not be altered or modified, except to make it more conforming.
  4. Fences which are not specifically required otherwise under the regulations for the individual zoning districts, shall conform to the following requirements:
    - a) No fence shall hereafter be erected along the line dividing lots or parcels of land or located within any required side or rear yard in excess of six (6) feet in height above the grade of the surrounding land, except as provided in Section 6.20.
    - b) Barbed wire, spikes, nails or any other sharp point or instrument of any kind on top or on the sides of any fence, electric current or charge in said fences is

prohibited. Barbed wire cradles may be placed on top of fences enclosing public utility buildings or whenever deemed necessary in the interests of public safety.

- c) In an "I" Industrial District, no fence shall exceed twelve (12) feet in height, except that a fence in the front yard shall not exceed four (4) feet in height.
  - d) Fences on all lots which extend toward the front of the lot, past the front line of the main building, shall not exceed four (4) feet in height.
  - e) No fence or structure shall be erected, established or maintained on any corner lot which will obstruct the view of a vehicle approaching the intersection as required in Section 5.90. This shall not prohibit the establishment of shrubbery thirty (30) inches or less in height.
  - f) Within the limits of a side or front yard space of a lot; no fence, wall (other than necessary retaining wall), or other screening structure shall be higher than six (6) feet. No such fence or wall located within a rear yard shall exceed eight (8) feet in height, except as required in Section 5.90.
- E. Wall and Protective Screening Requirements: In order to provide adequate protective screening adjacent to or near non-residential areas and to buffer uses within commercial and industrial uses, the following regulations shall apply:
- 1. Where an NSC, GSC, and I district abuts directly upon an RR, UR and MHP residentially zoned district, or residentially used property in any district, a landscaped greenbelt as defined below, shall be provided and maintained along its entire length by the users of the said business, commercial, or industrial zoned property. In addition, the latter mentioned districts shall be screened from such contiguous, residentially zoned district by either a building which houses a permitted use, or else by a solid masonry wall four (4) to six (6) feet in height above grade, between said greenbelt area and (6) feet in height above grade, between said greenbelt area and the business, commercial or industrial use. Such greenbelt shall be a strip of land not less than twenty (20) feet in width which is planted and maintained with evergreens such as spruce, pines or firs from 5 to 6 feet in height, so as to create a permanent buffer; or a hedge of evergreens not less than four (4) feet in height, so as to create a permanent buffer. These plants shall be planted and shall reach such required height within five (5) years of approval of the site plan or development by the Township. The remainder of the landscaped area which is not planted with the aforementioned stock shall be in well-kept lawn. All landscaping shall be maintained in a healthy growing condition, neat and orderly in appearance. Such walls for shielding off-street parking or storage areas shall not be required when such areas are located more than 200 feet from such abutting residential use or district.
  - 2. Required walls shall be located on the property line, except as otherwise approved by the Planning Commission. Such walls, may upon approval by the Planning Commission, be locate on the opposite side of an alley right-of-way from a nonresidential district which abuts a residential district whenever the affected owners also so agree. When vehicles or open air displays generally exceed a five (5) foot height said wall shall be increased to a height not exceeding ten (10) feet, providing further that all such walls shall be of uniform height around the premises and the design of such wall is first approved by the Zoning Administrator.
  - 3. Required walls shall have no openings for vehicular traffic or other purposes, except as otherwise approved by the Planning Commission. Masonry walls, however, may be constructed with small-dispersed openings, which do not collectively exceed twenty

(20) percent of the wall surface in area. The arrangements of such openings shall be subject to approval by the Zoning Administrator.

**Section 6.30 Lighting**

- A. Purpose: The intent of this Section is to ensure site lighting is designed in such a manner that limits the impacts of light intrusion onto adjoining properties; improves roadway safety by limiting off-site glare; and limit lights pollution into the night sky by providing regulatory standards for outdoor lighting.
- B. Applicability: Uses subject to site plan approval according to Article 12.30 shall comply with the site lighting standards according to this Section. During Site Plan Review, the Planning Commission may request a photometric site lighting plan be provided by the applicant so that compliance with this section may be verified.
  - 1. Exempted areas and types - The following types of outdoor lighting shall not have to meet the requirements of this section.
    - a) Sign lighting as regulated in Article 9.
    - b) Decorative holiday lighting that is temporary in nature.
    - c) Decorative gas lamps.
    - d) Detached single family homes – however homeowners are encouraged to abide by the same standards as delineated in this section.
  - 2. Regulated lighting - The following types of lighting shall be regulated by this Ordinance:
    - a) Parking lot light and site lighting for commercial, industrial and institutional developments.
    - b) Publicly and privately-owned roadway lighting.
    - c) Building façade lighting.
    - d) Other forms of outdoor lighting, which, in the judgment of the Planning Commission is similar in character, luminosity, and/or glare to the foregoing.
  - 3. Standards – Lighting shall be designed and constructed in such a manner to:
    - a) Insure that direct or directly reflected light is confined to the development site with measured light not exceeding 1 foot-candle at all commercial property lines and 0.1 foot-candles at all residentially zoned or used property lines.
    - b) Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
    - c) Lighting fixtures shall have full cutoff feature where one hundred percent (100%) of the light from the lowest part of the light source does not shine above the horizontal plane. No light fixture shall be mounted higher than twenty-five feet (25') feet above the average grade of the site.
    - d) Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.

- e) All lighting shall meet the International Dark-Sky Association's Fixture Seal of Approval or similar standard that minimizes glare, sky glow, and short-wavelength blue-rich white light.
- f) There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.
- g) No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

**Section 6.40 Waste Receptacles**

Truck-lifted or transported receptacle areas: all such receptacle areas shall be enclosed by a six (6) foot high wooden or masonry wall to prevent the unsightly deposit or collection of solid waste and prevent children and pets from having access to these areas. Receptacle areas shall be located in either the side or rear yard only, but not within the required yard setback areas. A screen of five (5) foot tall deciduous shrubs shall be planting on four (4) foot centers around the perimeter of the enclosure. An opaque gate shall be installed on the fourth side of the enclosure to screen the storage area from view.

**Section 6.50 Mechanical Equipment**

In the NSC, GSC and I districts, all mechanical equipment including transformers, heating and cooling units, and other equipment shall be screened from view. Ground level units shall be screened by evergreen shrubs planted on four (4) foot centers to buffer the equipment from view from all roadways and parking areas. For roof-top units within twenty (20) feet of the front wall of the building, all equipment shall be screened by the parapet roof or building material that is consistent in design and materials of the façade of the building.

## Article 7 Parking & Loading Requirements

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### Section 7.00 Purpose

The orderly provision of motor vehicle parking is important to the overall character and function of the Township. Insufficient parking creates congestion and safety concerns while too much parking impacts the environment by increasing stormwater run-off, exacerbating the creation of the heat-island effect, and large expanses of poorly designed and maintained parking areas cause blight. Well-designed parking ensures proper onsite maneuverability, safe ingress and egress from parking areas, proper access for loading and unloading while ensuring emergency vehicle access.

### Section 7.10 General Requirements

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking areas with adequate access to all spaces. The maximum number of off-street parking spaces allowed to be constructed per use is detailed in Section 7.20. The Planning Commission shall not approve site plans with additional parking above the listed parking maximums unless the applicant substantiates the excess need through an in-depth analysis of the same use operating in similar locations to the Higgins Township location. All parking spaces shall be provided prior to the issuance of a certificate of occupancy as hereinafter prescribed.

- A. Off-street parking may be located within any nonrequired yard and within the rear yard setback unless otherwise provided in this Ordinance. Off-street parking shall not be permitted in a required front or side yard setback unless otherwise provided in this Ordinance.
- B. All off-street parking spaces shall not be closer than ten (10) feet to any side and rear property line and shall not infringe on the fifteen (15) foot wide frontage landscaping setback.
- C. All off-street parking areas shall be drained so as to prevent pooling of water within the parking areas, and stormwater drainage controlled to prevent any increase of drainage to abutting properties.
- D. All parking areas shall be constructed of paved material.
- E. Any off-street parking area providing space for five (5) or more vehicles shall be located at least twenty (20) feet from and be effectively screened on any side which adjoins or faces property adjoining a residentially zoned or used lot. The buffer at a minimum shall include a staggered row of evergreen plantings at least four (4) feet in height at time of planting and planted on six (6) foot centers. A fence or wall may be used to increase buffering.
- F. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the property line of the subject property.
- G. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are provided elsewhere.
- H. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

- I. In the instance of dual function of off-street parking spaces where operating hours of buildings/uses do not overlap, the Zoning Board of Appeals may grant an exception.
- J. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited.
- K. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Planning Commission considers is similar in type.
- L. When units or measurements determining the number of required parking spaces result in the requirements of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- M. All off-street parking areas that make it necessary to vehicles to back-out directly onto public road are prohibited, except for single family and duplex residential driveways.
- N. For the purpose of computing the number of parking spaces required, the definition of Useable Floor Area shall govern.
- O. No commercial repair work, servicing or selling or advertising of any kind shall be conducted on any parking area except that which is specifically permitted by this Ordinance. No items such as plastic animals, steamers, cloth signs, children’s play areas, mechanical entertaining devices, or any other similar device shall be permitted in the parking area or outside a building
- P. Off-street parking facilities for trucks, Recreational Vehicles (RVs), and vehicles pulling trailers at restaurants, service stations, and other similar and related used shall be of sufficient size to adequately serve these vehicles and not interfere with other vehicles that use the same facilities. Such truck spaces shall not be less than ten (10) feet in length and eighty (80) feet in length while the RV and vehicle and trailer spaces shall measure ten (10) feet in length and fifty (50) feet in length.
- Q. Outdoor parking of motor vehicles, in the RR and UR Districts, shall be limited to passenger vehicles, one (1) nonresidential type recreational vehicle per dwelling unit, and not more than one (1) commercial vehicle of the light delivery type, not to exceed one (1) ton single front and single rear axle, shall be permitted per dwelling unit. The outdoor parking of any other type of commercial vehicle, or bus, except for those parked on school or church property, is prohibited in all Residential Districts.
- R. Within F&FR District, parking space requirements for all types of vehicles may be provided either in garages, covered or outdoor parking areas conforming with the provisions of this Ordinance.

**Section 7.20 Required Number of Spaces**

- A. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Land Use	Parking Space Maximums
<b>Residential</b>	
<i>Single-Family, Attached, Detached &amp; Two-Family Dwellings</i>	Within the UR district, 6 driveway spaces

<b>Assisted Living Facilities and Group Homes (adult foster care)</b>	1 per 4 residents AND 0.81 per employee
<b>Hotel/Motel</b>	0.74 per unit
<b>Nursing Homes</b>	One (1) for each four (4) beds, plus one (1) for each two (2) employees in the largest working shift
<b>Senior Citizen Housing, Independent</b>	0.61 per unit
<b>Senior Citizen Housing, Assisted</b>	1 per 3 residents AND 0.81 per employee
<b>Medical</b>	
<b>Hospital</b>	3.74 per bed
<b>Medical Clinic</b>	0.83 per employee OR 3.89 per 1,000 SF
<b>Veterinary Hospital/Clinic</b>	1 per 300 SF GFA OR 1.6 per employee
<b>Recreational</b>	
<b>Par 3 Golf Course</b>	3 per hole
<b>Par 4 or Greater Golf Course</b>	4 per hole
<b>Miniature Golf Course</b>	Three (3) spaces per hole plus one (1) for each employee
<b>Roller Skating Rinks, Pool and Billiards Rooms</b>	5.8 per 1,000 SF UFA
<b>Bowling Alleys</b>	4.39 per lane
<b>Athletic Clubs, Health Studios</b>	1 per 200 SF usable floor area
<b>Retail, Office &amp; Service</b>	
<b>Automobile/Machinery Sales</b>	One (1) for each two hundred (200) square feet of usable floor area of sales room, plus one (1) for each service stall in service areas
<b>Automobile Fueling Station</b>	1 per fueling station AND 1 per employee AND 2 per service bay AND 1 per 200 SF usable floor area
<b>Restaurant Bar/Lounge</b>	0.84 per 3 seats OR 0.45 per 50 SF GFA
<b>Drive-Thru &amp; Indoor Eating</b>	1 per 2 employees AND 1 per six seats AND 8 stacking spaces per window
<b>Drive-Thru No Indoor Eating</b>	2 per service window AND 8 stacking spaces per window
<b>Supermarket, Convenience Store, Self-Service Food Store</b>	1 per 300 SF GFA
<b>Other Retail</b>	1 per 1,000 SF GFA
<b>Shopping Center</b>	2 per 1,000 SF GFA
<b>Banks, Financial Institution</b>	One (1) for each two hundred fifty (250) gross square feet of floor area, plus four (4) waiting spaces for each drive-through window
<b>Drive-in Banks, Cleaners, and Similar Businesses</b>	Five (5) parking spaces, plus one (1) parking space for each employee working during maximum employment hours
<b>Vehicle Service/Repair</b>	2 per 1,000 SF GFA
<b>Quick Oil Change</b>	7 per 1,380 SF GFA
<b>General Offices</b>	0.5 per 200 SF GFA



<b>Funeral Home and Mortuaries</b>	1 per 200 SF usable floor area, plus 1 per employee
<b>Post Office</b>	One (1) parking space for each 800 square feet of floor area, plus one (1) parking space for each employee working during maximum employment hours.
<b>Personal Service Establishments</b>	One and one-half (1.5) for each beauty, barber chair or station, plus one (1) for each employee
<b>Self-service Laundry or Dry Cleaning Stores</b>	One ( 1) space for each 4 washing and dry-cleaning machines plus one ( 1) space for each employee working during maximum employment hours.
<b>Industrial</b>	
<b>Industrial</b>	1 per 400 SF GFA
<b>Manufacturing</b>	1 per 1,000 SF GFA
<b>Warehouses, Wholesale Stores</b>	1 per 2,500 SF GFA
<b>Institutional</b>	
<b>Religious Institution</b>	One (1) for each three (3) seats or seven (7) feet of pew in the main unit of worship. In places of worship where seating is not provided such as mosques, one (1) for each thirty (30) square feet of worship room.
<b>Non-School Auditorium, Theater, Assembly Hall</b>	One (1) for each three (3) seats, or one for each sixty (60) square feet of floor area in the assembly room without fixed seats, plus one (1) for every two (2) employees
<b>Day Care, Child Care, Nursery School, or School of Special Education</b>	0.24 per student
<b>Elementary School</b>	1 per 7 students
<b>Middle School</b>	1 per 10 students
<b>High Schools</b>	1 per 4 students AND 1 per employee
<b>Libraries</b>	3 per 1,000 SF GFA
<b>Museums</b>	1 per 1,000 SF UFA

- B. For uses not included within the Parking Requirement Table, the Planning Commission shall consider a recommendation from the applicant during the site plan review to create a reasonable required parking space ratio for the undefined land use.
- C. **Waiver.** The Planning Commission may modify the minimum off-street parking requirements during the site plan review process. The applicant should demonstrate the required number of parking spaces is excessive to what is needed to operate the proposed use. The following requirements shall be followed:
  1. The Planning Commission may approve the total number of waived parking spaces up to twenty (20%) percent of the total required number of minimum parking spaces.
  2. The total number of required parking lot trees in 3 Section 6.20.C.3 shall be based on the total number of required parking spaces based on the approval by the Planning Commission.



**Section 7.30 Barrier Free Parking**

- A. Each parking lot that serves a building or use, with the exception of single- and two-family dwelling units, shall provide spaces for physically handicapped persons in accordance with the Michigan Department of Labor, Construction Code Commission, Barrier-Free Design Division.
- B. The required number of accessible parking spaces shall include the following number of spaces provided in the following table.

Total # of Parking Spaces	Minimum # Barrier Free Spaces
1 to 25 Spaces	1
26 – 50 Spaces	2
51 to 75 Spaces	3
76 – 100 Spaces	4
101 – 150 Spaces	5
151 – 200 Spaces	6

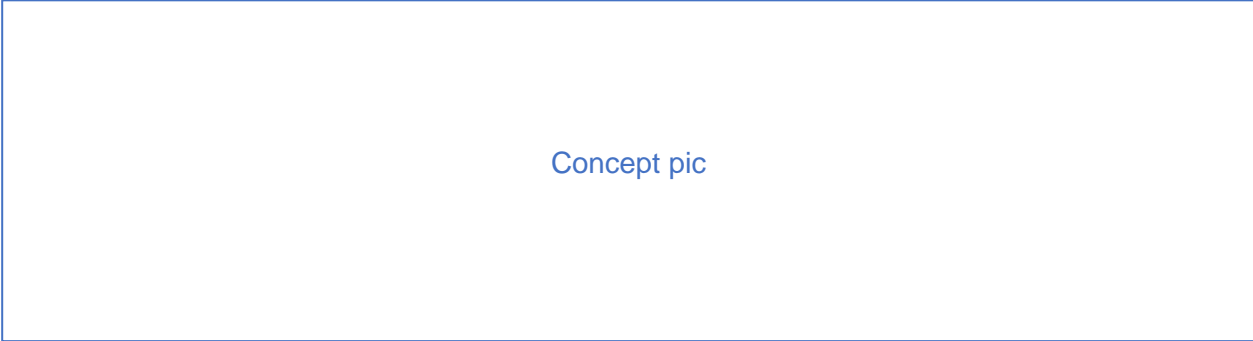
- C. In parking lots with more than one required barrier free space, one of the accessible parking spaces shall be van accessible. For parking lots with more than five required spaces, at least two of the required spaces shall be van accessible.

**Section 7.40 Parking Lot Design Requirements**

Wherever the off-street parking requirements requires the building of an off-street parking facility, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations:

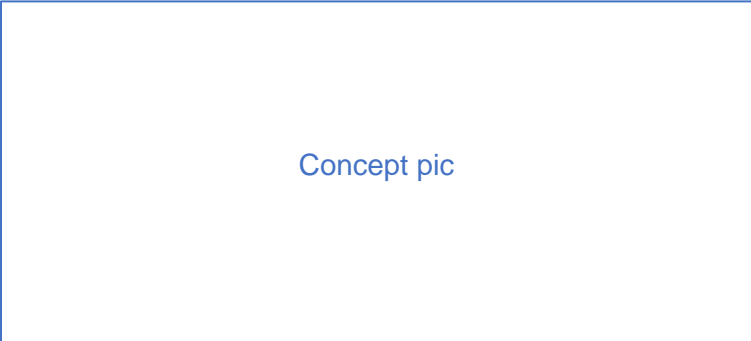
- A. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator. Applications for modifications to just the parking lots may be reviewed administratively by the Zoning Administrator.
- B. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern (Degrees)	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width of 1 Tier of Spaces Plus Maneuvering Lane	Total Width of 2 Tiers of Spaces Plus Maneuvering Lane
0 Parallel Parking	12 FT	9 FT	23 FT	20 FT	28 FT
30 to 53	12 FT	10 FT	20 FT	32 FT	52 FT
54 to 74	12 FT	10 FT	20 FT	36.5 FT	58 FT
75 to 90	20 FT	10 FT	20 FT	40 FT	60 FT



- C. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- D. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.

- E. All maneuvering lane widths shall permit one-way traffic movement, except that the 90 degree pattern may permit two-way movement.



- F. Each entrance and exist to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25) feet distant from any adjacent property located in any single-family residential use shall be at least twenty-five (25) feet distant from any adjacent property located in any single-family residential district.

**Section 7.50 Loading Space Requirements**

- A. On the same premises with every building, structure, or part thereof, involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated rights-of-way.
- B. **Location.** All loading spaces may be located in the rear or side yards of a subject Property. Loading spaces must be located a minimum of ten (10) feet from the property line.
- C. The loading space shall not interfere with required parking or maneuvering lanes. Where an alley exists or is provided at the rear of buildings, the loading requirements may be computed from the center of said alley.
- D. **Minimum Size.** All spaces shall be laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with clearance of at least fourteen (14) feet in height.
- E. Loading spaces shall be provided in the following ratio of spaces to floor area:

Gross Floor Area (square feet)	Minimum Loading Spaces Size (square feet)
1 – 1,400	None
1,401 – 20,000	1 Space
20,001 – 100,000	1 Space Plus 1 Space for Each 20,000 sq ft in Excess of 20,001 sq ft

- F. **Waiver.** The Planning Commission may modify the minimum number of load spaces requirements during the site plan review process. The applicant shall provide a rationale as to why the required number of parking spaces is excessive to what the applicant considers reasonable to operate the proposed use. The following requirements shall be followed:
  1. The Planning Commission may approve the total number of waived loading spaces up to fifty (50%) percent of the total required number of minimum loading spaces.

## Article 8 Reserved

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## Article 9 Signage

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### Section 9.00 Purpose

The purpose of this Section is to identify the following municipal interests that are considered by the Township to be compelling and important government interests. Each interest is intended to be achieved in a manner that represents the least restrictive means of accomplishing the stated interest, and in all events intended to promote an important government interest that would be achieved less efficiently absent the regulation. These important government interests are in no respect intended to target the content of the messages to be displayed on signs but seek to achieve non-speech objectives. In no respect do the regulations of signage prohibit a property owner or occupant from an effective means of conveying the desired message.

This Section provides a framework in which the identification and informational needs of all land uses may be harmonized with community interests in public health, safety and welfare, including the preservation of Township's overall rural character and that of its business and residential areas. It is intended through the provisions contained herein to give recognition to the legitimate needs of business, industry, and other activities, in attaining their identification and informational objectives, while recognizing that unrestricted or unregulated signage does not support the desired character of the Higgins Township or benefit neither private enterprise nor the community-at-large.

This Section's time, place, and manner restrictions on signage are to ensure the following government interests: traffic and pedestrian safety; security for observing children; aesthetics including maintenance of character, scenic integrity, and quality of life while promoting design creativity; avoidance of nuisance-like conditions including blight, physical clutter, and visual clutter; economic development and maintenance of property values; property identification for public safety; and vehicular and non-motorized wayfinding.

Regarding temporary signage, to balance the interests of free speech and the government's interests as stated above to limit potential for negative impacts of excessive signage and blight it causes, the Township is choosing to support free speech by allowing for temporary signs, but closely regulating this activity. The Township has determined that allowing for this component of free speech outweighs the risk, and it believes that the following regulations on temporary signage are reasonable and fair.

### Section 9.10 Signs That Do Not Need A Permit

- A. No sign except those established and maintained by the Township, County, State or Federal government, shall be located in, project into, or overhang a public right-of-way or dedicated public easement.
- B. All directional traffic signs required for the purpose of orientation, when established by Higgins Township, the Roscommon County Road Commission, the Michigan Department of Transportation, or the Federal government, shall be permitted in all use districts.
- C. Signs within the window area that do not exceed two (2) square feet.
- D. Any sign that is located completely within a building and is not visible from the outside.
- E. Signs for the sole purpose of designating an assigned house number, owner name, occupant, or building name. Identification signs shall not be counted in the total sign area allowed on the premises; however, such signs in excess of one (1) square foot in surface

display area may be allowed as part of the total sign area otherwise allowed by this Ordinance.

- F. Painting, repainting, cleaning, or other normal maintenance or repair of a sign or a sign structure, unless a structural change is made.
- G. Memorial signs or tablets, historical markers, or names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or similar materials.
- H. Seasonal decoration that does not exceed a total of four (4) square feet of gross sign area.

### Section 9.20 Prohibited Signs

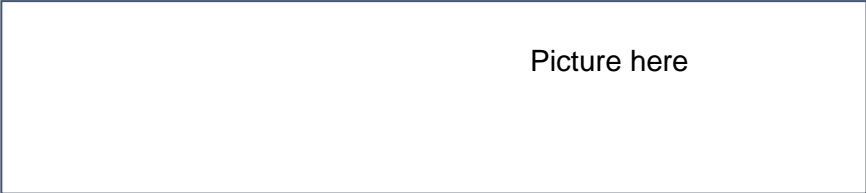
- A. **Obsolete Signs.** All signs that are obsolete, due to discontinuance of the use or activity, shall be removed within thirty (90) days of the close of said use or activity as determined by the Zoning Administrator.
- B. There shall be no flashing, oscillating, or intermittent type of illuminated sign or display; nor shall there be any streamers, windblown devices, spinners, temporary or portable signs, pennants or flags other than those permitted by specific action of the Township Board.
- C. Portable and vehicle advertising signs are hereby prohibited regardless of form, size, character, or placement. A portable sign is a freestanding sign not permanently anchored to either a building or the ground. A vehicle sign is a vehicle advertising sign when the vehicle upon which the sign is painted or attached is parked or placed upon the premises for advertising purposes.
- D. **Moving Or Animated Signs.** No sign shall contain any moving or animated parts nor have the appearance of having any movement or animation.
- E. **Inflatable Signs.** Signs that are comprised in part or wholly of a balloon or any other inflated object or character.
- F. **Road Furniture Signs.** Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings not larger than one half (1/2) square foot.

### Section 9.30 Administration of Signs.

- A. **Review And Approval.** No sign shall be erected, structurally altered, or relocated, except as otherwise provided in this Ordinance, without review and approval from the Higgins Township Zoning Administrator. Signs may be approved by the Planning Commission as part of site plan review. Otherwise, signs are reviewed and approved administratively. Upon approval, a sign permit will be issued by the Higgins Township Zoning Administrator.
- B. Sign permits shall be reviewed for location, height, aesthetics, compatibility with the surrounding buildings and facilities, and compliance with Township ordinances.
- C. **Nullification.** A sign permit shall become null and void if the work for which the permit was issued has not been completed within six (6) months after the date of the permit.
- D. **Certificate Of Compliance.** All signs shall require a final inspection and the issuance of a Certificate of Compliance. The property owner shall notify the Township immediately upon erecting the sign to request the final inspection.
- E. **Enforcement.** This Article shall be enforced by the Zoning Administrator and violations shall be addressed per Section 12.90.

**Section 9.40 General Requirements Apply to All Signs.**

- A. A permit shall be required for the erection, construction, or alteration of any sign and all new signs shall require approval by the Zoning Administrator, except as provided herein.
- B. **Sign Area.**- See definition of sign area.
- C. **Sign Height.** The sign height is measured form the level of the ground finished surface around the sign to the top of the sign edge. Sign height shall not be measured from an area of the ground that has been built up or constructed in a manner that would have the effect of allowing a higher sign height than permitted by these regulations (e.g., the height of signs erected on a berm shall be measured from the finished grade adjacent to the berm).



- D. Signs shall adhere to standards set in Section 5.9 Clear Vision Triangle. In the case of a corner lot one (1) freestanding sign per frontage is permitted.
- E. Wall mounted signs are permitted, but not project more than six (6) inches from the surface. The projecting signs must maintain a seven (7) foot clearance for pedestrians.
- F. All illuminated signs shall be internally lit unless the lighting equipment is designed as an integral part of the display. This means that the lights themselves are part of the sign structure and will in no way interfere with driver visibility or project onto adjoining property. The following shall also apply.
  - 1. The sign shall only be illuminated by stationary, shielded light sources directed solely at the sign, or internal light.
  - 2. All illuminated signs shall be placed and properly shielded to prevent the rays and illumination from being directly cast upon any residences or roadways.
  - 3. Signs must be illuminated by electrical means or devices, and wiring shall be installed in accordance with the National Electrical Code.
  - 4. The maximum luminance levels for the sign shall be 70 candelas per square foot.
  - 5. Light intensity shall be automatically adjusted at dawn, dusk, and during nighttime hours.
  - 6. Messages shall be changed no more frequently than every 30 seconds.
- G. By reason of the position, shape, or color, it may not interfere with any sign which makes use of the words "Stop", "Look", "Danger" or any similar word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic.\
- H. Signs may not obstruct any approved traffic control device, road sign, or signal from view; interfere with sight distance necessary for traffic safety; or distract from visibility of existing traffic signs or devices.
- I. Signs may not obstruct free access or egress from a required door, window, or other required exit.

- J. All signs shall be maintained so that they comply continuously with all requirements of this Ordinance and are kept in a good state of repair.
  - 1. Unsafe signs shall not be permitted to remain within the Township. Unsafe signs shall include, but not limited to structurally unsafe, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, or abandonment, and unlawfully installed, erected, or maintained.
  - 2. Property surrounding any sign shall be kept clean, sanitary, and free from obnoxious and offensive substances, weeds, rubbish, and flammable materials.

**Section 9.50 Requirements Specific to Sign Type**

- A. **Freestanding Sign.** Free standing signs shall always meet these requirements.
  - 1. Freestanding signs shall not be located closer than twenty (20) feet to any property line of an adjacent residential district. In no instance shall a freestanding sign be located closer than ten (10) feet to any property line.
- B. **Wall Sign.** Wall signs shall not project beyond or overhang the wall, or any permanent architectural feature, and shall not project above or beyond the highest point of the roof or parapet.
- C. **Digital Message Board Sign.** One (1) message board sign may be approved for each individual, freestanding business building located on its own lot, and one (1) message board sign may be approved for each complex of two or more individual offices, stores, businesses, or industries. All message board signs shall comply with the following:
  - 1. No portable message board signs shall be permitted. All such signs shall be incorporated as a part of the business' permanent, freestanding sign.
  - 2. All electrical service to message board signs shall be permanently installed, and inspected and approved by the Township. No message board sign shall obtain its electrical service from an extension cord or similar means.
  - 3. There shall be no flashing lights, arrows, or similar devices designed to attract attention as a part of any message board sign.
  - 4. Message board signs for individual businesses shall not exceed thirty-two (32) square feet, as measured on one side of a two-sided sign.

**Section 9.60 Zoning Districts Sign Requirements.**

The below information shows the types of signs allowed in each zoning district.

- A. **F&FR Zoning District.** The following requirements apply to those properties with the F&FR Forest and Forest Residential Zoning District.
  - 1. Each property is permitted to have one freestanding sign and secondary sign that is a building mounted sign (wall, projection, or other such sign that meets Township requirements).
  - 2. No illuminated signs are permitted.
  - 3. The sign maximum height is six (6) feet.
  - 4. The maximum freestanding sign area for each sign per side shall not exceed twenty-five (25) square feet.



- B. **Residential Zoning Districts.** The following requirements apply to those properties within the RR and UR Single Family Residential, and MH Mobile Home Park zoning districts.
  - 1. Each property is permitted to have one sign.
  - 2. No illuminated signs are permitted.
  - 3. The sign maximum height is four (4) feet.
  - 4. The maximum freestanding sign area for each sign per side shall not exceed six (6) square feet.
  
- C. **Commercial and Industrial Zoning Districts.** The following requirements apply to those properties within the NSC Neighborhood Service Commercial, GSC General Service Commercial, and I-1 Industrial zoning districts.
  - 1. Each property is permitted to have one freestanding sign and secondary sign that is a wall or window sign.
  - 2. Illuminated or digital sign are permitted meeting the requirements in Sec. 9.50.
  - 3. The sign maximum height is twenty-five (25) feet.
  - 4. The maximum freestanding sign area for each sign per side shall not exceed one hundred (100) square feet. The secondary wall sign shall not exceed eighty (80) square feet.

**Section 9.70 Nonconforming Signs.**

- A. Any legal sign existing at the time of adoption of this Ordinance, which does not comply with all provisions contained herein, shall be considered a legal nonconforming sign and may be permitted to continue if the sign is properly maintained and not detrimental to the health, safety, and welfare of the community.
  
- B. Legal nonconforming signs which are removed, blown down, destroyed, relocated, or which are damaged or structurally altered to an extent equal to fifty (50%) percent or more of their replacement value may only be replaced with signs that conform to this Ordinance.

**Section 9.80 Substitution Clause.**

The owner of any sign which is otherwise allowed under this section may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage on a lot or allow the substitution of an off-site commercial message in place of an on-site commercial message.

**Article 10      Reserved**

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## Article 11 Nonconformities

### Section 11.00 Purpose

The purpose of this Article is to permit legal nonconforming lots, buildings, and structures, or uses to continue until they are removed, but not to encourage their survival. The regulation within this Article shall conform to Section 208 of the Michigan Zoning Enabling Act 110 of 2006.

### Section 11.10 Legality of Nonconformities

- A. Legal nonconformities are those that exist legally before the effective date of this Ordinance, or before some amendment to this Ordinance which resulted in the nonconformity.
- B. To avoid undue hardship, in this Ordinance to require a change in the 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 diligently carried on is not required. Actual construction is hereby defined to include the placing of construction material in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.
- C. Illegal nonconformities are those that have been developed in conflict with the zoning regulations.

### Section 11.20 Nonconforming Lots

- A. A nonconforming lot may include nonconformity with minimum lot width, lot area, lot depth to width ratio, frontage to roadway, or combination of multiple factors which were established prior to effectiveness of this Ordinance or amendments.
- B. In any district a lot of record at the effective date of adoption or amendment of this Ordinance may be developed, provided it complies with any other provisions of this Ordinance.
- C. In the case of two (2) or more nonconforming contiguous lots under one (1) ownership, the lots shall be considered as separate lots and shall be considered one (1) lot as a single parcel only once combined as a single tax parcel with the owner's permission.
- D. In the situation where there are two (2) nonconforming contiguous lots, the property boundary may be adjusted to bring one (1) property closer to conformity or conforming without requiring a variance from the Zoning Board of Appeals as long as it is not increasing the nonconformity of the other parcel. These adjustments would be reviewed and approved by the Zoning Administrator and Township Assessor.
- E. A legal nonconforming lot cannot be created in error, but only by amending the lot area and/or width of the zoning districts or by rezoning of a lot.

### Section 11.30 Nonconforming Buildings

Where a lawful building exists at the effective date of adoption of this Ordinance that could not be built under the terms of this Ordinance, such building may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming building may be enlarged or altered in any way which increases its non-conformity.
- B. Should such nonconforming building be destroyed by any means to an extent of more than sixty (60%) percent of the physical building, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
  - 1. This provision does not apply to nonconforming single-family homes, which may be replaced even if completely destroyed, provided the new structure does not increase the nonconformity.
  - 2. The construction or repair shall begin within one (1) year of the day that the destruction is officially documented. The Zoning Administrator may grant up to a one (1) year extension if the applicant can show diligently pursuing reconstruction. If repairs or construction are not completed in the required timeframe, it may only be reconstructed if in full compliance of Ordinance requirements.
- C. Should such building be moved for any reason whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. If any building, manufactured home, or other structure is moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved. However, legal nonconforming manufactured housing (single-wide mobile homes) may be replaced with another single-wide as long as the replacement unit is less nonconforming than the unit being replaced, and the unit is no more than ten (10) years old when it is placed on the property. Any replacement single-wide mobile home must be fully installed and under a certificate of occupancy within one (1) year of the date of the removal of the prior mobile home.

**11.40 Nonconforming Uses of Land or Structures**

Where at the time of passage of this Ordinance, lawful use of land or structures exists which would not be permitted by the regulations imposed by this Ordinance, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater floor area of land or additional structures, intensity of activities, or more services and activities than that occupied at the effective date of adoption or amendment of this Ordinance.
- B. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.
- C. No existing structure or building devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted.

**11.50 Repair or Maintenance**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of one (1) year on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding sixty (60%) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased.

- B. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

### **11.60 Change to Another Lesser Nonconforming Use**

The Township Board of Appeals may authorize a change from one nonconforming use to another nonconforming use, provided that the proposed use would be more suitable to the Zoning District in which it is located than the nonconforming use which it is being replaced.

### **11.70 Moving Nonconformities**

- A. No building in which a nonconforming use exists may be moved to any other part of a parcel of land upon which same was located at the time of the adoption of this Ordinance.
- B. Nonconforming building or structures be moved for any reason within or into the Township for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.

### **Section 11.80 Abandonment**

- A. If Higgins Township identifies a legal nonconforming use that they believe has been abandoned, the Zoning Administrator shall submit the property to the Planning Commission (PC) for a determination of abandonment.
- B. The PC shall hold a public hearing following the requirements in Section 12.50.
- C. The PC shall determine whether intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors:
  - 1. Report such as from the Building Inspector or Central Michigan District Health Department indicating the property is or has not been suitable for occupation.
  - 2. Disconnection of utilities.
  - 3. Evidence of a “going out of business” sale.
  - 4. Signs advertising the business has been removed.
  - 5. The use has been disconnected for one (1) year, except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.
  - 6. Removal of equipment or fixtures necessary for the operation of the nonconforming use.
  - 7. Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
  - 8. Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use such as allowing the property to go into foreclosure.

### **11.90 Changes in Zoning District**

Whenever the boundaries of a Zoning District shall be changed so as to transfer an area from one district to another district, the foregoing provisions shall also apply to any existing uses that become nonconforming as a result of the boundary changes.

### **Section 11.100 Nonconforming Special Land Use**

Any use which is permitted as a special land use as provided in this Ordinance shall not be deemed a nonconforming use but shall without further action be deemed as a conforming use in such district.

### **Section 11.200 Change of Tenancy or Ownership**

There may be change of tenancy, ownership, or management of any existing nonconforming uses provided there is no change in the nature or character of such nonconforming uses.

## Article 12 Administration and Enforcement

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### Section 12.00 Intent

This article to establish the roles and responsibilities of those involved in administration of this Zoning Ordinance, to provide for issuance of zoning permits, to establish rules for enforcement of this chapter and to establish penalties for its violation.

### Section 12.10 Responsibilities

#### A. Zoning Administrator

1. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such other ordinance officer(s) as the Township Board may delegate to enforce the provisions of this Ordinance.
2. The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings and properties as necessary to carry out his/her duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of zoning compliance and occupancy until he/she has inspected such plans in detail and found them to conform with this Ordinance and until the Building Inspector has found the building plans to conform with the Building Code and issued a building permit, if required.
3. The Zoning Administrator shall have the authority to conduct periodic inspections to ensure compliance with or identify violations of the Ordinance including compliance with Site Plan Review and Special Use approvals, and respond to complaints regarding violations regarding this Ordinance.
4. The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Ordinance for the purpose of carrying out his/her duties as Zoning Administrator.
5. The Zoning Administrator shall have the authority and duty to enforce any Site Plan Review approval or Special Use conditions that may be issued by the Planning Commission or the Zoning Board of Appeals. The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the application despite violations of contracts, such as covenants or private agreements which may occur upon granting of said permit.
6. The Zoning Administrator shall have the power to grant emergency occupancy of a temporary mobile home, for a period not to exceed one (1) year, for the use of the property owner as a residence while a permanent dwelling is uninhabitable due to fire, flood, or other circumstance. One (1) permit extension of six (6) months may be granted if reconstruction or rehabilitation of the home is not complete and substantial progress is being made, as determined by the Building Inspector.
  - a. All such temporary mobile homes shall be safely anchored to the ground, properly skirted on all sides, and attached to an approved public or private water supply and sewage disposal system.
  - b. The applicant shall deposit with the Township Clerk, a cash performance guarantee, in an amount set by motion of the Township Board, to insure removal of



the temporary mobile home and proper restoration of the site after expiration of the temporary permit.

7. The Zoning Administrator shall prepare and submit to the Planning Commission and the Township Board a written record of all zoning permits issued during the previous month. The record shall state the owner's name, property location, intended use, and estimated cost of construction for each permit. The Zoning Administrator shall ensure that written records are maintained regarding all his/her actions related to the enforcement of this Ordinance.

**B. Planning Commission**

- 1 Per the Michigan Planning Enabling Act, PA 33 of 2008, as amended, the Planning Commission shall draft and approve a master plan as a guide for land use decisions within Higgins Township and serves as a foundation for this Ordinance.
- 2 The Township Planning Commission is hereby designated as the Commission specified in Section 301 of Michigan Zoning Enabling Act and shall perform the duties of said Commission as provided in the statute in connection with the amendment of this Ordinance.
- 3 The Planning Commission shall review site plan applications submitted under Section 12.30 of this Ordinance and deemed to meet the submission requirements found there. After consideration, it shall deny, approve, or conditionally approve the site plan as presented or modified during the Commission review.
- 4 The Planning Commission shall review all special land use zoning permit applications submitted under Section of this Ordinance and deemed to meet the submission requirements found in Section 12.40. Prior to deliberation upon the application, the Planning Commission shall hold a public hearing that complies with requirements found in Section 12.50. The action to deny, approve, or conditionally approve the special land use shall meet the approval standards found in Section 12.40.C, include statements of findings regarding the request, and that the proposed land use shall comply with the specific requirements delineated in Section 12.40.D.
- 5 Zoning Map and Zoning Text Amendments: Per Sections 13.10 and 13.20, the Planning Commission may initiate map or text amendments to this Ordinance by its own motion or respond to a petition of one or more property owners. The Planning Commission shall follow the procedures described in 13.20.
- 6 The Planning Commission may classify a use that is not specifically listed as part of the use regulations of any Zoning District found in the Table of Uses in Section 3.40.B. It shall record its determination of use similarity and that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each District.

**C. Zoning Board of Appeals**

The roles and responsibilities of the Zoning Board of Appeals are specifically described in Article 14.

**D. Legislative Body**

1. The Township Board shall consider recommendations from the Planning Commission regarding Zoning Ordinance text amendments and rezonings (map amendments).

2. The Township Board shall consider the hiring of Township staff and consultants necessary to assist in the implementation of this Ordinance, including the Zoning Administrator and the Code Enforcement Officer.
  3. The Township Board shall appoint individuals to serve on the Planning Commission and Zoning Board of Appeals
- E. Township Clerk
1. The Clerk shall retain a copy of all approved site plans.
  2. The Clerk shall assist in the preparation and distribution of all Public Hearing notices.
  3. The Clerk shall ensure that the records of the Planning Commission and Zoning Board of Appeals are maintained per statutory requirements.
- F. Township Treasurer
1. The Treasurer shall enable the collection of all fees required through the application of this Ordinance.

**Section 12.20 Zoning Permits**

- A. No building or structure, or part thereof, shall be hereinafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms “altered” and “repaired” shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the Township Building Code, Housing Law of Michigan, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.
- B. The Zoning Administrator shall require that all application for building permits shall be accompanied by plans and specifications including a plot plan drawn to scale, showing the following:
  1. The actual shape, location and dimensions of the lot.
  2. The shape, size, and location of all buildings or other structures, to be erected, altered, or moved and of any building or other structures already on the lot.
  3. The existing and intended use of the lot and of all such structures upon it, including in residential area, the number of dwelling units the building is intended to accommodate.
  4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.
- C. No zoning permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this Ordinance as determined by the Zoning Administrator.
- D. Temporary, removable structures, those without a permanent foundation, 200 square feet and under are exempt from requiring a zoning permit.
- E. It shall be unlawful for any person to commence excavation for, or construction of, any building, fence, shed, sidewalk, driveway or structure (except concrete work not requiring a foundation or ratwall), structural changes, repairs in any existing building or structure, or moving of an existing building without first obtaining a zoning permit and a building permit.
- F. Zoning Permits shall valid for the period of one year. The Zoning Administrator may grant a single six-month extension if an application for extension is received prior the expiration

of the Zoning Permit and reasonable just cause is provided for the delay in completion of the project.

- G. The recipient of zoning permit approval, or any building permit for the construction, erection, alteration, repair or moving of any building, structure, or part thereof, shall notify the Zoning Administrator immediately upon completion of the work authorized by such permit for a final inspection.

### Section 12.30 Site Plan Review

- A. **Purpose.** The intent of this section is to provide the Township with guidance on how to process the review of land use changes. The review process will ensure compatibility with the surrounding area, accessibility, pedestrian & vehicle circulation, parking, public utilities, drainage, environmental characteristics, and other site characteristics that may impact public health, safety, and welfare, and compliance with the rules and regulation of the Zoning Ordinance.
- B. Administrative Site Plan Review
  - 1. **When to Submit Administrative Site Plan.** The following actions may be administratively reviewed and approved by the Zoning Administrator:
    - a. Accessory uses that are incidental to the permitted use.
    - b. New accessory buildings of less than 1,000 square feet in size.
    - c. Expansions or additions of 1,500 square feet or less to existing structures, or 15% of the existing structure, whichever is less.
    - d. Change of use within an existing building, which is similar to or less intensive in nature.
    - e. Addition or construction of new site features such as, but not limited to, fences, pools, picnic areas, storage/collection bins, dumpster enclosures, landscaping, exterior lighting, load/unloading areas.
  - 2. **Application Requirements.** The required number of copies of the site plan review and associated fees are included on the administrative site plan review application.
  - 3. Required information for the site plan is below in Section 12.30.C.5. The Zoning Administrator may choose to waive informational requirements that is not necessary to determine compliance with the Zoning Ordinance.
  - 4. **Procedure.** Upon receiving a completed application and associated fee the Zoning Administrator and/or consultant may review the plans for compliance. As needed additional drafts may be requested until full compliance with the Zoning Ordinance is achieved.
  - 5. The approval for administrative site plan review shall be consistent with Section 12.30.E. to be approved by the Zoning Administrator.
  - 6. Validity of site plan shall be consistent with Section 12.30.G. of this Zoning Ordinance.
- C. Site Plan Review Process
  - 1. **When to Submit Site Plan.** A site plan shall be submitted for review by the Planning Commission and approval by the Township Board for any new construction, structural alteration, addition to, or substantial change in use of any structure, land, or combination of structure and land in all Zoning Districts.

2. No site plan shall be required for single-family residences and farm operations.
3. Whenever any such development requires site plan approval prior to the issuance of a building or occupancy permit, the procedures outlined in this Section.
4. **Application Requirements.** The required number of copies of the Site Plan Review and/or Special Land Use application and due date are noted on the Site Plan Application. The application shall include the fee for site plan review, as established by resolution of the Township Board. Upon receipt of completed application and payment of associated fee, the Zoning Administrator will forward to the Planning Commission, Township Board, Township Planner, Township Engineer and/or Township Attorney where necessary.
5. Application Form. The application shall include this minimum information:
  - a. Applicant's name and address.
  - b. Name of proposed development.
  - c. Common description of the property and complete legal description.
  - d. Dimensions of land, width, length, acreage and frontage.
  - e. Existing zoning and zoning of adjacent properties.
  - f. Proposed use of land.
  - g. Name, address, city and phone number of:
    - (1) Firm or individual who prepared site plan.
    - (2) Legal owner of property.
    - (3) Applicant (including basis of representation).
  - h. Signature of legal owner of not the applicant.
6. Site Plan Drawings and Illustrations (fully dimensioned). –
  - a. Location map "(showing site in relation to nearest major intersection).
  - b. A scale of not less than 1"=50' if the subject property is five (5) acres or less, and 1"=100' if over five (5) acres.
  - c. Date and north arrow.
  - d. Location of all existing and proposed structures and uses. Including principal and accessory buildings And designation of units by type of buildings.
  - e. Existing buildings or improvements on the site and on all land adjacent to the site within 100 feet.
  - f. Location of existing and proposed rights-of-way, widths of all abutting streets, alleys and easements.
  - g. Interior sidewalks and sidewalks within right-of-way.
  - h. All aisles, drives, parking lot dimensions, and parking areas (include the number of spaces in each). Drive or street approaches including acceleration, deceleration and passing lanes, if appropriate.
  - i. Loading and unloading area.
  - j. Designation of fire lanes.

- k. Screening and/or protective fences or walls (include material, color, and height).
- l. Trash receptacle location, enclosure material and color, gate material, and enclosure height.
- m. Elevations (front, sides and rear views) of all sides of the building(s) and types of building materials and color to be used on structures.
- n. Landscape plan. Including species and minimum planting size.
- o. Typical floor plan(s).
- p. A seal from a licensed architect, engineer, surveyor, or landscape architect. This requirement is not necessary for minor or no structural alterations of the building that do not result in increasing the parking area.
- q. Exterior lighting locations, height, intensity, and method of shielding. The Planning Commission may request a photometric plan.
- r. All utilities located on or serving the site (include well, septic system, power lines, telephone, and gas).
- s. Hazardous material location and mitigation method.
- t. Sign Information (If applying for sign approval with site plan) Otherwise, note deferring sign submittal.
- u. Preliminary approvals or final approvals from necessary federal, state, Roscommon County, or other government agencies.
- v. Any variances requested or granted by the Zoning Board of Appeals (include section and decision dates).
- w. Any additional items identified by the Planning Commission to verify compliance with the Higgins Township Ordinances.
- x. The Zoning Administrator or Planning Commission may waive any information requirements in this Section because the information is not necessary to verify compliance with the Higgins Township Ordinances.

D. Procedures.

1. The petition will be placed on the agenda of a meeting of the Planning Commission and reviewed for conformance to all requirements.
  - a. If a site plan is determined to be incomplete or otherwise unacceptable by the Planning Commission, the applicant shall be directed to prepare revised plans. The matter will not again be placed on the agenda of the Planning Commission until the applicant submits a complete site plan and fee as established by resolution of the Township Board.
2. Following the review, the Planning Commission shall review the site plan and either approve, approve with conditions, or deny the site plan.
3. Upon approval of the final site plan, the applicant and owner(s) of record, and the Chairman of the Planning Commission or their designee shall sign the approved plan. The Planning Commission shall transmit one (1) signed copy of the approved plan to the Zoning Administrator, Township Clerk, and to the applicant. One (1) copy shall be retained in the Planning Commission files.

4. The decision to deny the special land use may be appealed to the Zoning Board of Appeals within thirty (30) days from the Planning Commission's decision. Before the Zoning Board of Appeals acts to affirm or overturn the decision, the ZBA must hold a public hearing pursuant to notice requirements in Section 12.50 and consider the standards set forth in Section 14.50.
- E. **Standards for Approval.** In the process of reviewing the site plan, the Planning Commission shall consider:
1. Existing conditions of the natural environment shall be preserved in their natural state insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the adjacent and surrounding uses and development.
  2. Adequacy of traffic ingress and egress, vehicle and pedestrian circulations, and parking provided onsite to ensure safe onsite and offsite maneuverability for employees, patrons and emergency services.
  3. Adequacy of landscaping to protect adjoining properties and enhance the environment of the community. Location and design of signs so as to prevent highway visibility obstructions, driver distractions, encroachments, and adverse impacts on the community environment. Compliance with all requirements in the Higgins Township Ordinances.
  4. Adequacy of public utilities and public services to service the proposed site plan. All electrical and telecommunications services shall be installed underground wherever possible.
  5. Location and design of proposed structures and overall site plan is compatible with adjacent land uses and ensure detrimental effects on adjacent properties will be minimized.
  6. Adequacy of storm drainage including the prevention of new development-related stormwater flow from leaving the property, and protection of natural features to conserve natural resources.
  7. So as to prevent incongruous developments within the existing natural and developed environments of adjacent and surrounding properties, all storage areas, exposed equipment installations, service areas, loading and unloading areas, utility buildings and structures, similar accessory areas and structures, and landscaping and screening, shall be subject to the requirements of this Ordinance.
- F. **Special Use Approvals.** Conditional site plan approvals shall follow the guidelines in Sec. 12.40.
- G. **Validity of Site Plan.** Upon approval of a site plan by the Planning Commission, a zoning permit shall be requested by the petitioner within twelve (12) months or the site plan shall be declared to be invalid.
1. The Planning Commission may grant up to a twelve (12) months extension of the site plan based upon no major changes to the zoning ordinance compliance and no significant changes in the general area.
  2. Upon receipt of a building permit, reasonable construction shall be commenced within six (6) months, and reasonably continued, or the zoning and building permit shall be declared to be invalid, unless the petitioner requests an extension and obtains a renewed building permit from the Building Inspector.



- H. **Amendment to Site Plan.** Any incidental and minor variations as determined by the Zoning Administrator will require an administrative approval by the Zoning Administrator. These shall include, but are not limited to:
1. Movement of a building or structure no more than five (5) feet from the location originally indicated in the site plan (must still meet all other requirements unless otherwise noted).
  2. Movement of required landscaping no more than five (5) feet from the location originally indicated in the site plan.
  3. Changes required or requested by Roscommon County, state, or federal agency for safety reasons or for compliance with applicable laws that do not alter the basic design, compliance with the standards of approval, nor any specified conditions of the approved site plan.
- I. Any changes more significant than previously mentioned are considered major changes and shall be reviewed as a new application by the Planning Commission for site plan compliance.

## Section 12.40 Special Use Review

### A. Authority

Per Section 502 of the Michigan Zoning Enabling Act, PA 110 of 2006, the Planning Commission shall have the authority to grant special use permits, subject to such conditions of design and operation, safeguards and time limitations as it may determine for all special uses conditionally allowed within various districts as provided for within this Ordinance.

#### 1. Special Use Process

For all special uses, a special use application meeting the Township's minimum requirements as listed on the application form shall be submitted to the Township Clerk for review and approval by the Planning Commission. Minimum application information shall include applicant and property owner information; permit address or property identification; a sketch plan of the property showing location of buildings and structures, circulation of traffic, and location of specific uses. A fee shall be deposited in accordance with the Township's approved fee schedule at the time of application.

1. **Hearing.** With a completed application, the Planning Commission shall investigate the circumstances of each such case and shall hold a public hearing on the proposed special use. The public hearing shall meet the requirements as laid out in Section 12.50.
2. **Approval.** If the Planning Commission determines that the particular special use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon a statement of findings and conclusions relative to the special use which specifies the basis for the decision and any conditions imposed, and particular use(s) which have been allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special use so approved. In all cases where a particular special use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the Township not later than one hundred twenty (120) days thereafter, or such approval shall automatically be revoked, provided, however, the Planning Commission may grant an extension thereof for good cause shown under such terms and conditions and for such



period of time not exceeding six (6) months as it shall determine to be necessary and appropriate.

3. **Denial.** If the Planning Commission shall determine that the particular special use(s) requested does not meet the standards of this Ordinance or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the Township, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial. If a Special Use permit is denied, the applicant is required to wait for one (1) year before resubmitting the same or similar application to the Township for review
4. **Record.** The decision of a special use shall be incorporated in a statement of findings and conclusions relative to the special use under consideration. The decision shall specify the basis for the decision, and any conditions imposed.
5. **Standards for Approval.** In consideration of all applications for special use approval, the Planning Commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed special use if it is to be approved. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary within the scope of the law as set forth below.
  - a) Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
  - b) Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
  - c) Will be served adequately by essential public facilities and services; such as highways, roads, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed special use shall be able to provide adequately for any such service.
  - d) Will not be hazardous or disturbing to existing or future neighboring uses.
  - e) Will not create excessive additional requirements at public cost for public facilities, utilities, and services.
2. **Standard for Conditions** In the consideration of requiring any condition to a special approval, a statement of findings and conclusion relative the basis of the conditions shall be made. All conditions shall be meet the following:
  - a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
  - b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
3. **Revocation of Special Land Use Permit.** If any special land use fails to conform to the general standards of its approved site plan, the specific standards for the particular use, any conditions imposed as part of the special land use permit, the Performance Standards of Section 6.10, the lot area and width requirements of this Ordinance, or any

other provisions of the Zoning Ordinance, then the Planning Commission shall have the authority to revoke the Special Land Use Permit based on a site inspection by the Zoning Administrator and its own findings of fact. Prior to revoking the special land use permit, the Township shall:

- a) Have its Zoning Administrator inspect the site and use under consideration and issue a written notice of the violations found to the current permit holder by Certified US Mail.
- b) Offer the permit holder 30 days to correct all violations, without penalty.
- c) If all violations are not corrected within 30 days, the Planning Commission shall hold a revocation hearing as follows:
  - 1) The Planning Commission shall notify the permit holder by Certified U.S. Mail of the date, time and place of a hearing concerning the proposed revocation of the special land use permit.
  - 2) Public notice of the revocation hearing shall be given in the same manner as required by Section 12.50.
  - 3) During the hearing, the permit holder shall be afforded an opportunity to present any reasons for why the standards of the permit and/or this Ordinance are not being met.
  - 4) Following the hearing, the Planning Commission may revoke the special land use permit, based upon findings made in the specific case and testimony received during the hearing, and shall notify the permit holder of the findings and provide a copy of the decision in writing.

## Section 12.50 Public Hearing Process

- A. Hearing Notice Content:** Unless otherwise required by State Law or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall do all of the following:
1. Describe the nature of the request including whether the request is for a text amendment, zoning map amendment (rezoning), special land use, variance, appeal, ordinance interpretation or other purpose.
  2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request does not involve a specific property.
  3. Indicate the date, time and place of the hearing(s).
  4. Indicate when and where written comments will be received concerning the request.
- B. Recipients and Means of Notice:** Unless otherwise required by or this Ordinance where applicable, notice shall be provided to the following and shall include the information specified in (A) above.
1. To the general public, by publication of the hearing notice in a newspaper of general circulation in Higgins Township.
  2. To the owners of property for which approval is being considered, and the applicant if the applicant is different than the property owner, by mail or personal delivery.

3. To all persons to whom real property is assessed within 300 feet of the boundary of the project subject to the request, and to the occupants of all structures within 300 feet of the property, regardless of whether the property or occupant is located in the municipality in which the property subject to the application is located, by mail or personal delivery. If the name of the occupant is not known, the term "occupant" may be used in making notification.
    - a. Subsection (3) above shall not apply in the case of rezoning requests involving eleven (11) or more adjacent properties, or an ordinance interpretation request that does not involve a specific property.
    - b. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, a single 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.
  4. In the case of a text amendment or zoning map amendment, to each electric, gas and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected and the airport manager of each airport, that registers its name and mailing address with the clerk of Higgins Township in which the property is located that is subject to the public hearing, for the purpose of receiving notices of public hearings, by mail.
- C. Timing of Notice and Determination of Notice Given:** Unless otherwise required by or this Ordinance where applicable, all mail, personal and newspaper notices for public hearings shall be given not less than fifteen (15) days before the date the request will be considered, including applications for zoning map amendments (rezonings), text amendments, special land uses, variances, appeals and ordinance interpretations. The notice under subsection (B) shall be considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service.
- D. Confirmation of Notices Made by Mail or Personal Delivery:** The clerk of Higgins Township in which the property is located that is subject to the public hearing shall prepare a list of property owners and registrants, that are subject to the Public Hearing to whom notice was mailed, as well as anyone to whom personal notice was delivered.

### Section 12.60 Conditions

- A. The Planning Commission and Zoning Board of Appeals may impose conditions or limitations in granting approval as may be permitted by State law and this Ordinance which it deems necessary to fulfill the spirit and purpose of this Ordinance.
- B. The conditions may include, conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all the following:
  1. Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

2. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  3. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Ordinance; and be necessary to insure compliance with those standards.
- C. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted to its conditions.
- D. Alterations to any granted conditions must follow the same procedure required when they were first created.

### **Section 12.70 Performance Guarantees**

- A. To insure compliance with the provisions of this Ordinance, the Planning Commission may recommend and the Township Board may require that a performance guarantee be deposited with the Township to insure faithful completion of the improvements, in accordance with Section 505 of the Michigan Zoning Enabling Act.
- B. Improvements for which the Township may require a performance guarantee including, but are not limited to, accessory structures, landscaping, berms, walls, lighting, driveways and parking, streets, acceleration/deceleration lanes, traffic control devices, storm drainage, sidewalks, exterior lighting and utilities and land reclamation activities. The performance guarantee shall not cover the principal building(s).
- C. A schedule for such security shall be established by resolution of the Township Board upon the recommendation of the Planning Commission, and the guarantee shall be administered by the Treasurer and Clerk.
- D. The amount of the performance guarantee shall be sufficient to cover the estimated cost of the improvements for which the performance guarantee is required. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements to be covered by the guarantee, and such estimate shall be verified by the Building Official and/or Zoning Administrator.
- E. The Township Board shall determine the means of releasing portions of the deposit in proportion to the amount of work completed on the covered improvements. All required inspections for improvements for which the guarantee is held shall have been completed before any release shall be made.
- F. In the event that the applicant shall fail to provide improvements according to the approved final site plan, the Township Board shall have the authority to have such work completed, and to reimburse itself for costs of such work by appropriating funds from the deposited security, or may require performance by the bonding company.

### **Section 12.80 Fees**

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this Ordinance may be collected by the Zoning Administrator. The amount of such fees shall be established by resolution of the Township Board, upon recommendation of the Planning Commission, and shall cover the cost of inspection and supervision resulting from enforcement of this Ordinance.

**Section 12.90 Enforcement Procedure**

- A. Process.** The violation and enforcement process shall adhere to following procedures:
1. Identification of the violation by either citizen complaint, Zoning or Code Enforcement officer observation, or other means.
  2. Inspection of the violation shall be conducted by an authorized representative of the Township.
  3. If a violation is verified, the appropriate Township staff shall make a reasonable effort to discuss the violation with the property owner, business owner, or tenant and agree to a time period to cure the violation.
  4. If the violation is not cured within the agreed to time frame or a verbal agreement cannot be made, a formal violation shall be sent to the responsible party, formally notifying them of the violation.
  5. If the violation is remedied, it shall be noted in the Township property records. If compliance is not provided, legal action as deemed appropriate by the Township shall be taken.
- B. Enforcement and Penalty.** Any person, firm, or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine, plus costs and other sanctions, attorney fees, clean-up costs, and other expenses incurred in enforcing the Ordinance for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in a fine structure as adopted by the Township Board of Trustees, from time to time.

**Section 12.100 Violations**

Any person, firm, partnership, association and/or corporation (all herein referred to as "person") who violates, disobeys, neglects or refuses to comply with any provision of this Ordinance, any administrative decision made under the Ordinance, or any permit or approval issued under the Ordinance, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this Ordinance. Any person responsible for a violation of this Ordinance whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. Each day that a violation exists shall constitute a separate offense.

**Section 12.110 Public Nuisance Per Se**

Any building or structure which is used, erected, altered, razed, or converted or any use of any premises which is begun or changed and in violation of any provision of this Ordinance, is hereby declared to be a nuisance "per se".

## Article 13 Amendments

### Section 13.00 Intent

- A. The intent of this Article is to identify the procedure for initiation and review of amendments of the zoning district boundaries shown on the Official Zoning Map (rezoning) or the provisions of this Ordinance (text amendment). This Article ensures the implementation of the Township Master Plan and compliance with the requirements of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended.

### Section 13.10 Text Amendment Application Procedure

- A. Text amendments may be initiated by the Township Board, Planning Commission, Zoning Board of Appeals, and Township Staff.
  - 1. The Township shall send the necessary notices per the requirements in Section 12.50.
  - 2. **Approval Standards.** The Planning Commission shall hold the public hearing on the proposed text amendment and provide a recommendation to the Township Board. The standards for approval of the proposed text amendment must satisfy at least one (1) of the below requirements:
    - a) The change is necessary to clarify a provision in this Ordinance.
    - b) The change is necessary to correct a mistake or an oversight in this Ordinance.
    - c) The change is necessary to implement a goal or policy in the Township Master Plan.
    - d) The change is necessary to improve the administration of this Ordinance or to better serve the community.
  - 3. Adoption of the text amendments by the Township Board shall comply with Article IV of the Michigan Zoning Enabling Act and other relevant sections of said Act.

### Section 13.20 Rezoning Application Procedure

- A. Initiation of map amendments or rezonings can be by the Township Board, Planning Commission, property owner, or petition as stated in Section 420 of the Michigan Zoning Enabling Act.
  - 1. An amendment to this Ordinance or the Official Zoning Map also known as a rezoning, except those initiated by the Township Board or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the Township, including an application fee, which shall be established from time to time by resolution of the Township Board.
- B. **Application.** In the case of an amendment to the Official Zoning Map, the following information shall accompany the application form:
  - 1. Completed application form and fee as established by resolution of the Township Board.
  - 2. A legal description and street address of the subject property(ies), together with a map identifying the subject parcel(s) in relation to surrounding properties.
  - 3. The name and address of the owner of the subject property(ies), and a statement of the applicant's interest in the subject parcel(s) if not the owner in fee simple title.



4. The existing and proposed zoning district designation of the subject property(ies).
  5. Conditional rezoning requests shall include the applicant's proposed offer of conditions.
  6. A written description of how the requested rezoning meets requirements in subsection D below.
- C. The Township shall publish and mail the necessary notices as provided in Section 12.5.
- D. The Planning Commission shall hold the public hearing on the proposed text amendment and provide a recommendation to the Township Board. The standards for approval of the proposed text amendment must satisfy at least one (1) of the below requirements:
1. The requested amendment is in compliance with the Township Master Plan, or
  2. A mistake in the Township Master Plan or change in conditions or Township policy have occurred that are relevant to the request, or
  3. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the Township Master Plan.
- E. Adoption of the text amendments by the Township Board shall comply with Article IV of the Michigan Zoning Enabling Act and other relevant sections of said Act.
- F. Resubmit.** The same rezoning request regarding a subject property shall not resubmitted to the Township for review less than one (1) year from the decision date, unless conditions have changed or new information has been provided.

**Section 13.30 Conditional Rezoning.**

- A. **Application.** Any offer to enter into a conditional rezoning agreement shall submit to the Zoning Administrator the rezoning fee, completed application, concept plan, and written voluntary conditions associated with the proposal. It is the responsibility of the applicant or their consultant to draft the conditional rezoning agreement. Proposed conditional rezonings may only be initiated by the owner of the property and not by the Township.
1. **Procedure.** The proposed amendment shall follow all public hearing procedure and notice requirements as stated in Section 12.5.
  2. The Planning Commission shall conduct the required public hearing, and provide recommendations based upon if the requested rezoning is in compliance with the Master Plan and supports the stated purposes of the Zoning Ordinance.
  3. A conditional rezoning agreement shall not be used to allow anything that would not otherwise be permitted in the proposed new zoning district. Any proposed variations from district requirements such as density, permitted uses, or lot size, shall only be granted by the Zoning Board of Appeals (ZBA) pursuant to the variance standards contained in Section 14.60. Any agreement shall include a specific time period during which the terms of the agreement must be completed.
    - a) Review and approval of all conditional rezonings shall follow the requirements listed in Section 405 and other relevant sections of the Michigan Zoning Enabling Act.
    - b) After receipt of the recommendations of the Township Planning Commission, the Township Board shall undertake consideration of the proposed conditional rezoning. Any decision by the Township Board which results in the conditional



rezoning of property, or the amendment of the Ordinance shall be incorporated in an ordinance duly adopted and published by the Township Board.

4. If a conditional rezoning is approved by the Township Board, an affidavit outlining the approved conditions, signed by the Township Supervisor and the property owner, shall be recorded with the Register of Deeds and shall run with the land.

If applicable, any conditions shall be listed on the site plans.

- a) **Reversion of Zoning.** The Township may accept a time frame for the conditions to apply to the land, and the land would automatically revert per the terms of the rezoning agreement. If the conditions of the rezoning agreement are not satisfied within a specified timeframe within the agreement, the land shall automatically revert to its original zoning classification.
- b) **Amendment of Conditions.** The Conditions associated may be amended thru a new rezoning/map amendment application.

### **Section 13.40 Amendments Required to Conform 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 published, without necessity of a public hearing or referral thereof to any other board or agency.

## Article 14      Zoning Board of Appeals

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### Section 14.00 Purpose

The Zoning Board of Appeals (ZBA), shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act PA 110 of 2006, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

### Section 14.10 Creation & Membership

- A. The Board shall be composed of the three (3) following members:
1. One (1) member of the Zoning Board of Appeals shall be a member of the Township Planning Commission, for the period of their term of office. This member shall not serve as the Chairman of the Zoning Board of Appeals. 2. The remaining two (2) members shall be selected by the Township Board from among the electors residing in the unincorporated areas of the Township.
  2. No elected officer of the Township nor any employee or contractor of the Township may serve simultaneously as a member of, or as an employee of the Zoning Board of Appeals.
  3. The Township Board may appoint not more than two (2) alternate members for the same term as regular members of the ZBA. The alternates may sit as regular members, as specified in the Zoning Ordinance, when regular members are unable to attend a meeting or if a regular member has a conflict of interest and abstains from voting.
- B. Terms of membership for the ZBA shall be three (3) years. Vacancies for unexpired terms shall be filled for the remainder of the term.
- C. The ZBA shall elect a Chairperson and Vice Chairperson.
- D. A member of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so constitutes malfeasance in office.
- E. **Conflict of Interest.** A conflict of interest is when a member has a direct personal or financial interest or the member's spouse, household member, business associate, employer, employee or close personal friend has a personal or financial interest in the matter pending before the ZBA. If there is a conflict of interest, the following process shall take place:
- 1) The member shall identify they may have a conflict of interest to Township Staff and ZBA.
  - 2) The ZBA may choose to hold a vote on whether the member has a conflict of interest or not. The majority vote shall stand regarding if the member may participate in the discussion and vote on the subject matter.
  - 3) Upon finding there is a conflict of interest that member shall not participate in the discussion of that item on the agenda. This is an example of when an alternative member of the ZBA may participate in lieu of the member with the conflict of interest.

## Section 14.20 Duties and Responsibilities

The duties and responsibilities of the ZBA include:

- A. Processing administrative or Township Board / Planning Commission decisions regarding rezoning, site plan review, or special land use appeals.
  1. Processing non-use variances.
  2. Interpretation of the Zoning Ordinance and Zoning Map and unclear permitted uses.

## Section 14.30 Meetings and Procedures

- A. All meetings of the ZBA shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public.
  1. The Board shall cause minutes to be kept of its proceedings, which shall be filed in the office of the Township Clerk, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact; and shall also keep records of its hearings, evidence and data relevant to each case considered, and other official action.
  2. The Board shall have power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it.
  3. A minimum of two members is required for quorum, and ZBA decisions are based on a majority of the regular members. This would require at least two (2) members to vote in the same way to determine a valid decision.
  4. Any person may testify at the hearing, either in person or by duly authorized agent or attorney.
  5. The ZBA shall follow all required public notice requirements in Section 12.5.
  6. The ZBA shall state findings and the grounds for each decision. In making a decision, the ZBA may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance as noted in Section 1.10.

## Section 14.40 Application

- A. For an application to be considered by the ZBA a completed application and associated fee shall be submitted to the Zoning Administrator. The application shall include a minimum of the following information:
  1. Completed and signed application by property owner, business owner, firm or agent.
  2. Plot Plan or Site Plan identifying the subject property.
  3. Statement of the specific appeal and the reasons for the said appeal.
  4. The ZBA may require additional information to be provided that is necessary to aid in rendering a decision.
  5. The Township may require comments from the Township consultants (planning and/or engineer), other Township departments, Township attorney, or other jurisdictions.

**Section 14.50 Validity of Decisions**

- A. Any variance shall expire one (1) year from the date it is granted unless use of the property has begun or permitted construction has been undertaken pursuant to the variance.
  - 1. Any party aggrieved by a decision of the ZBA may appeal to the circuit court for Roscommon County. An appeal shall be filed within 30 days after the ZBA certifies its decision in writing or approves the minutes of its decision.

**Section 14.50 Appeals of Administrative Decisions**

- A. An appeal may be taken to the ZBA by any person, firm, or corporation, or by any officer, Department, Board or Bureau aggrieved by an administrative order, decision, requirements, or determination made by an administrative official or body charged with enforcement of the Zoning Ordinance.
  - 1. **Timeframe.** All appeals must be applied for in writing on forms provided by the Township. An application shall be filed with the Zoning Administrator. An applicant has thirty (30) days from the date of the decision to file an appeal (written correspondence or meeting date).
  - 2. **Procedure.** The ZBA shall hold the public hearing and render its decision.
  - 3. In exercising its powers, the Zoning 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 officer or body from whom the appeal is taken.
  - 4. **Administrative Appeals.** An appeal may be taken to the ZBA by any person, firm, or corporation, or by any officer, department, board, or bureau affected by a decision of an official or body responsible for administering the Zoning Ordinance. The ZBA shall also interpret the Zoning Map and rule on nonconforming uses and structures whenever the determination of the Zoning Administrator is appealed.
  - 5. **Township Board/Planning Commission Appeals.** A qualified application for an appeal of a Township Board / Planning Commission decision is from property owners or occupants within the public notice area that are deemed to be impacted by the subject application.
- B. In the case of an appeal of a Township Board/ Planning Commission decision, the board representative on the ZBA may not participate in a public hearing or vote on an appeal of a matter that they voted on as a member of the Planning Commission. They may consider and vote on other unrelated matters involving the same property.
- C. The Zoning Board of Appeals shall not have the authority to hear appeals of decisions made by the Planning Commission regarding Special Land Use
- D. **Standards For Approval.** The standards for the basis of a decision of an appeals case shall be based on at least one (1) of the following standards to be found in support:
  - 1. was the original decision arbitrary or capricious; or
  - 2. was the original decision based on an erroneous finding of a material fact; or
  - 3. did the original decision constitute an abuse of discretion; or

4. was the original decision based on erroneous interpretation of the Zoning Ordinance or zoning law.

### Section 14.60 Variances

- A. The Zoning Board of Appeals (ZBA) shall have the authority to grant only non-use variances. The completed form and associated fee shall be provided to the Township. The application shall follow the public notice requirements in Section 12.5.
- B. **Standards.** In considering dimensional variance requests, the ZBA shall make the following findings:
  1. That there are practical difficulties which prevent carrying out the strict letter of this Ordinance. These difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
  2. That a practical difficulty exists because of unique circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that does not generally apply to other property or uses in the same zoning district.
  3. That the special conditions or circumstances do not result from actions of the applicant. That the variance requested is the minimum amount necessary to mitigate the difficulty.
  4. That the variance will be in harmony with the general purpose and intent of this Ordinance and will not cause a substantial adverse effect upon surrounding property, property values, and the use and enjoyment of property in the neighborhood or district. If a lesser variance would give substantial relief and be more consistent with justice to others, it shall be so decided.
  5. That strict compliance with the provision as written would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
- C. The ZBA may grant the full request, partial, or modified variance request. In making a decision, the ZBA may impose such conditions as it may deem necessary to comply with the spirit and purpose of the Zoning Ordinance, secure public safety, and ensure substantial justice.
- D. **Resubmittal.** Upon the ZBA rendering a decision, an applicant cannot resubmit an application on the same matter until one (1) year after the case was heard or a change in condition that would modify the basis of the decision that was made at the time.

### Section 14.70 Ordinance Interpretation

- A. The Zoning Board of Appeals (ZBA) shall have the authority to do the following types of interpretations:
  1. Text Zoning Ordinance,
  2. Zoning Map (zoning district boundaries),
  3. Whether or not a specific use falls into a larger land use classification, or
  4. Classification of a use clearly not included in this Ordinance that is deemed to be a permitted use. In defining a use not clearly stated, the ZBA shall determine the appropriate definition of the use, parking, and additional requirements specific to the use as deemed necessary.

5. To permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility properties, in any permitted district to a greater height or larger area than the requirements herein established; and permit the location in any district of a public utility building, structure, or use, if the Zoning Board of Appeals shall find use, height, area, building, or structure reasonably necessary for the public convenience and service; and provided such building, structure, or use is designed, erected, and landscaped to conform harmoniously with the general architecture and plan of such district
- B. **Standards.** The following shall be the basis for an approval standard for an interpretation:
  1. Consistent with intent/purpose of the zoning district.
  2. Consistent with goals and Future Land Use Plan in the Master Plan.
- C. Upon the decision by the ZBA, an interpretation shall be maintained by the Zoning Administrator and, if necessary, may initiate a text amendment procedure to modify this Ordinance to maintain consistency based on this ruling.

**Section 14.80 Circuit Court Appeal.**

- A. The decision of the ZBA shall be final. However, a person having an interest affected by this Ordinance may appeal to Roscommon County Circuit Court.
- B. If the court finds the record of the ZBA inadequate to make the review required by this Section, or that there is additional evidence which is material and with good reason was not presented to the ZBA, the court shall order further proceedings before the ZBA on conditions which the court considers proper. The ZBA may modify its findings and decision as a result of the new proceedings or may affirm its original decision. The supplementary record and decisions shall be filed with the court. As a result of court review, it may affirm, reverse or modify the decision of the ZBA.

**Article 15      Reserved**

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## **Article 16      Enactment & Effective Date**

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- A. This Ordinance is hereby declared to have been adopted by the Township Board of the Higgins Township, Roscommon County, Michigan at a meeting thereof, duly called and held on **XXXX, XX, 2024** and is ordered to be given publication in the manner prescribed by law.
- B. This Ordinance shall become effective **on XXXX, XX, 2024**.
- C. The Higgins Township Board voted at its regular meeting to amend the Higgins Township Zoning Ordinance to delete all prefatory Zoning Ordinance numbering codes in the Zoning Ordinance except Article, Section and subsection numbering, effective.